

**NOTICE OF AN ORDINARY MEETING OF COUNCIL**

Dear Council Member

The next Ordinary Meeting of the Shire of Bridgetown-Greenbushes will be held on **Thursday, 28 July 2016** in the Council Chambers, commencing at 5.30pm.

Signed by T Clynch, CEO



Date

21 July 2016

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## **AGENDA**

For an Ordinary Meeting of Council to be held in the Council Chambers on Thursday, 28 July 2016 commencing at 5.30pm

*Meeting to be opened by the President*

### **Acknowledgment of Country – Presiding Member**

*On behalf of the Councillors, staff and gallery, I acknowledge the Noongar People, the Traditional Owners of the Land on which we are gathered, and pay my respects to their Elders both past and present.*

### **Attendance, Apologies and Leave of Absence**

President	- Cr J Nicholas
Councillors	- J Boyle - S Hodson - D Mackman - J Moore - A Pratico - P Quinby - P Scallan - A Wilson
In Attendance	- T Clynch, CEO - M Larkworthy, Executive Manager Corporate Services - E Denniss, Executive Manager Community Services - T Lockley, Executive Assistant

### **Attendance of Gallery**

### **Responses to Previous Questions Taken on Notice**

### **Public Question Time**

### **Petitions/Deputations/Presentations**

### **Comments on Agenda Items by Parties with an Interest**

### **Applications for Leave of Absence**

## **Confirmation of Minutes**

### **C.01/0716 Ordinary Meeting held 30 June 2016**

*A motion is required to confirm the Minutes of the Ordinary Meeting of Council held 30 June 2016 as a true and correct record.*

## **Announcements by the Presiding Member Without Discussion**

### **Notification of Disclosure of Interest**

Section 5.65 or 5.70 of the Local Government Act requires a Member or Officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Member or Officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

A Member who makes a disclosure under Section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allows a Member to speak, the extent of the interest must also be stated.

## **Questions on Agenda Items by Elected Members**

## **Consideration of Motions of which Previous Notice has been Given**

### **Reports of Officers**

Reports of Officers have been divided into Departments as follows:

- CEO's Office
- Finance & Administration
- Planning & Environmental Services
- Works & Services
- Community Services

**CEO’s Office**

<b>ITEM NO.</b>	C.02/0716	<b>FILE REF.</b>	261.1
<b>SUBJECT</b>	Local Government Convention – WALGA AGM Motions		
<b>PROPONENT</b>	WALGA		
<b>OFFICER</b>	Chief Executive Officer		
<b>DATE OF REPORT</b>	18 July 2016		

Attachment 1            Extract from WALGA AGM Agenda Papers

*OFFICER RECOMMENDATION That:*

- 1. Voting delegates representing Council at the WALGA Annual General Meeting vote in accordance with the Officers recommendations outlined in the report, unless determined otherwise by Council.*
- 2. Notwithstanding Part 1, voting delegates be given authority to vote on Motions or Amendments contrary to the position determined by Council, where new information is provided in the debate. In the event of this happening a briefing is to be provided to the August 2016 Standing Committee meeting explaining the reasons and circumstances for those decision(s).*

**Background**

The Agenda papers for the WALGA Annual General meeting, which forms part of the Local Government Convention, have now been received.

During the meeting, Council’s voting delegates will be called upon to vote on the various Motions contained within the Agenda Papers.

Motions for consideration are listed below, together with an extract of the proponent’s reasons, “in brief” comments from WALGA and Officer Comments relating to either supporting or not supporting the proposed Motions. A full copy of Member and Secretariat (WALGA) comments are contained in Attachment 1.

Council’s voting delegates at the AGM will be directed to vote in accordance with the directions provided by Council unless new information arises during the debate at the AGM which in the opinion of the voting delegates, changes the prospective position of Council (this also includes the consideration of any amendments moved at the AGM). In the event of Council’s voting delegates voting contrary to the direction provided by Council, a report explaining the reasons and circumstances for those decision(s) will be submitted to the August Standing Committee meeting.

**Item 4.1 – Amendments to the WALGA Constitution (WALGA Executive)**

**Motion**

That the WALGA Constitution be amended as follows:

1. In Clause 5(7)(b) of the Constitution for “sub-clause 5(9)” read “sub-clause 5(11)”.
2. Clause 10 (2) of the Constitution be amended with the last sentence to read:  
“The President shall exercise a casting vote only, in the event of there being an equality of votes in respect of a matter considered by the State Council but excluding an election held in accordance with Clause 16.”
3. Clause 10 of the Constitution be amended by inserting as sub-clause (9):

- “(9) State Council shall adopt Standing Orders that will apply to all meetings.”
4. Clause 14(4a) and Clause 20 of the Constitution be amended by inserting as sub-clause (h) and sub-clause (j), respectively:  
“is a Councillor of an Ordinary Member that has been peremptorily suspended under Section 8.15C (2)(c) of the Local Government Act 1995”
  5. Clause 16(2)(b) of the Constitution be amended to read:  
“(b) representatives are to vote on the matter by secret ballot.”
  6. Clause 17 of the Constitution be amended by inserting as sub-clause (5):  
“(5) Where the incumbent President seeks and is re-elected for a consecutive term, that person shall not hold office beyond two (2) full consecutive terms.”

#### Extract from ‘Secretariat Comment’

In accordance with Clause 29 of the Western Australian Local Government Association (WALGA) Constitution, amendments to the Constitution must be agreed to by a special majority of State Council and by a special majority at an Annual General Meeting of WALGA. The Motion, above, was resolved by a special majority at the 2 March 2016 meeting of State Council.

The proposed amendments are outcomes of WALGA’s periodic governance review which commenced in July 2015 with the release of a discussion paper for feedback from the Local Government sector. A total of 15 responses were received from individual Local Governments, with composite responses from the Great Eastern, Central Country and East Metropolitan Zones, representing a total of 53 responses from Member Councils. The 2015 Review focused on ensuring consistency between the Constitution, Corporate Governance Charter and Standing Orders.

The proposed amendments are as follows:

#### **1. Technical Wording Amendment – Clause 5(7)(b)**

It is recommended that:

*In Clause 5(7)(b) of the Constitution for “sub-clause 5(9)” read “sub-clause 5(11)”.*

Clause 5(7) should refer to sub-clause 5(11) as this relates to the process for application to join WALGA as an Associate Member, as does clause 5(7).

#### **2. Clarify that a Casting Vote does not apply to an Election – Clause 10(2)**

It is recommended that:

*Clause 10 (2) of the Constitution be amended with the last sentence to read:*

*“The President shall exercise a casting vote only, in the event of there being an equality of votes in respect of a matter considered by the State Council but excluding an election held in accordance with Clause 16.”*

This recommendation is to explicitly state that the President shall not be entitled to a casting vote if there is an equality of votes relating to an election in accordance with Clause 16.

### **3. State Council to Adopt Standing Orders – Clause 10(9)**

It is recommended that:

*Clause 10 of the Constitution be amended by inserting as sub-clause (9):*

*“(9) State Council shall adopt Standing Orders that will apply to all meetings.”*

State Council resolved to amend the Constitution to include a clause that State Council will adopt Standing Orders to recognise the importance of meeting procedures in the efficient operation of State Council.

### **4. Suspension of Elected Members – Clause 14(4a) and Clause 20**

It is recommended that:

*Clause 14(4a) and Clause 20 of the Constitution be amended by inserting as sub-clause (h) and sub-clause (j), respectively:*

*“is a Councillor of an Ordinary Member that has been peremptorily suspended under Section 8.15C (2)(c) of the Local Government Act 1995”*

There is a requirement to clarify that an Elected Member who has been peremptorily suspended under Section 8.15C(2)(c) of the Local Government Act (where a Council is also suspended) becomes ineligible to be a Zone delegate during this period of suspension.

As a result, a consequential amendment is required to Clause 20 ‘Vacation of Office’ which applies to State Councillors and Deputy State Councillors.

### **5. Election Procedure – Clause 16(2)(b)**

*Clause 16(2)(b) of the Constitution be amended to read:*

*“(b) representatives are to vote on the matter by secret ballot.”*

Clause 16 of the Constitution refers to the election process and must follow the procedure set out under sub-clause (2).

Currently, sub-clause (2)(b) states the following (emphasis added):

*“(b) representatives or delegates are to vote on the matter by secret ballot;”*

The reference to ‘delegates’ in sub-clause (2)(b) is erroneous. The definition of both ‘Delegate’ and ‘Representative’ is set out in Clause 2(1) of the Constitution (emphasis added):

*“**Delegate**” means a councillor or officer nominated or appointed to represent an Ordinary Member and exercise voting entitlements at General Meetings of*

the Association pursuant to clauses 22 and 23 of this Constitution, or on a Zone pursuant to clause 14 of this Constitution;

**“Representative”** means a member on the State Council elected or appointed by the country and metropolitan constituencies in accordance with the provisions of sub-clause 9(1) and 9(3);

The definition of ‘delegate’ identifies that they are representatives of an Ordinary Member and limits their voting entitlement to General Meetings of the Association and Zone meetings. The reference to a ‘delegate’ in sub-clause (2)(b) is therefore inappropriate with only a ‘representative’, being a country or metropolitan constituency appointee to State Council, entitled to vote in an election conducted under Clause 16(2)(b).

## **6. Presidential Term Limit – Clause 17**

It is recommended that:

*Clause 17 of the Constitution be amended by inserting as sub-clause (5):*

*“(5) Where the incumbent President seeks and is re-elected for a consecutive term, that person shall not hold office beyond two (2) full consecutive terms.”*

The President and Deputy President are elected by State Council for two year terms following the election of State Councillors by the Zones. Following a State Councillor’s election as President, the Zone that elected that State Councillor is entitled to elect a replacement State Councillor to maintain that Zone’s representation around the State Council table.

WALGA’s original discussion paper on the governance review canvassed the issue of term limits for the President and Deputy President as currently, there is a two term limit on the position of Deputy President with no limit for the position of President. There was a majority view, amongst submissions from Local Governments and Zones, that Clause 17 of the Constitution should be amended to align the terms served by the President and Deputy President, with the President to serve a maximum of two full consecutive terms to achieve consistency with the Deputy President as currently defined in Clause 18(4).

### WALGA ‘In Brief’ Comments

- Amendments to the WALGA Constitution that were resolved by State Council in March 2016.
- Finalisation of WALGA’s periodic governance review that focused on consistency among governance documents.

### Officer Comment

The Shire of Bridgetown-Greenbushes was one of the local governments that lodged an individual submission on the WALGA Governance Review with this being determined by Council at its August 2015 meeting.

The proposed amendments to the WALGA Constitution are consistent with the submission lodged by Council and therefore officers recommend this Motion be supported.

## **Item 4.2 – Natural Disaster Recovery Support Funding (Shire of Darndaup)**

### Motion

Request that WALGA State Council investigates the development and implementation of Natural Disaster Recovery Support Funding that will provide advice and financial support for Local Governments affected by the impacts of natural disasters that meet the Western Australia Natural Disaster and Recovery Arrangements (WANDRRA) criteria.

### Extract from Shire of Dardanup's Comments

The Western Australia Natural Disaster and Recovery Arrangements (WANDRRA) is jointly funded by the State and Commonwealth Governments and administered by the Department of the Premier and Cabinet (DPC), with assistance from other agencies. Through WANDRRA, the Western Australian and Commonwealth Governments provide help to people who have suffered the direct impact of a proclaimed natural disaster event.

Assistance is provided via a range of relief measures to assist communities to recover from an eligible natural disaster event including: bushfire; cyclone; earthquake; flood; landslide; meteorite strike; storm; storm surge; tornado or tsunami.

The Department of the Premier and Cabinet will activate WANDRRA if it is one of the ten events mentioned above; and the anticipated cost of eligible measures will exceed \$240,000.

### Who Can Receive Assistance?

The relief measures are intended to provide assistance for the recovery of communities and are available for:

- Individuals and families Small Business
- Primary Producers
- Local Government
- State Government Agencies

It is evident that the experience of Local Governments in this situation has found that the financial support and response through WANDRRA is not satisfactory. There is not a lot of financial support or advice for the Local Governments that are impacted to recover infrastructure and for community rebuilding.

The process to receive funding is difficult to address and it takes a long time to develop the assistance application and to get feedback on how the application is progressing.

There is also a gap in responses, and a lack of recognition and understanding of the demands on Local Government staff time that has to be diverted to the recovery, the ongoing commitment, plus initial cost demands. The response by government is slow and the problem is that the Council must deal with the problem immediately.

### WALGA 'In Brief' Comments

- Process to receive funding is difficult.
- Government response is slow.
- New source of funding is required.

### Officer Comment

Officers recommend this Motion be supported. The current WANDRRA guidelines are confusing and often local governments are forced into engaging specialist consultants to determine eligibility of works for funding under WANDRRA, noting that the works are usually undertaken during times of emergency and recovery when the determination of WANDRRA eligibility is of low importance or concern.

### **Item 4.3 – Non Operational Rail Corridors (Shire of Bridgetown-Greenbushes)**

#### Motion

That the Public Transport Authority and Brookfield Rail work with WALGA and any interested Local Governments in developing a policy and/or procedures in order to facilitate third party use of non-operational rail corridors, in particular uses that demonstrate a clear community benefit.

#### Extract from Shire of Bridgetown-Greenbushes' Comments

Large areas of the State are likely to be declared as Bushfire Prone by the Fire and Brookfield Rail has a lease until 2049 on 5,100km of rail infrastructure throughout the southern half of Western Australia. It is responsible for maintaining the network and granting access to operators.

Over the last few years the Shire of Bridgetown-Greenbushes has experienced frustrations dealing with Brookfield Rail on issues concerning the non-operational rail corridor, including:

- Refusal to allow minor landscaping;
- Refusal to allow minor encroachments of services (power) into the corridor;
- Refusal to allow formalised pedestrian crossings on the rail line even though the rail line hasn't been operational for approximately 25 years;
- Restrictions on community use of the service roads either side of the rail line, specifically as trails, but at the same time allow indiscriminate and uncontrolled vehicular use of the same roads; and
- Inconsistent requirements for and maintenance of signage on rail crossings and failure to progress rail interface agreement for management of rail crossings in the rail corridor.

Consultation with other south west local governments indicates similar concerns, including:

- Non-operational rail corridors detract from townscapes and essentially divide town sites with ugly deteriorating infrastructure;
- Non-operational rail corridors accumulate rubbish that is unsightly; and
- Non-operational rail corridors that do not have vegetation managed appropriately do present a source of significant fire fuel that under the right conditions would significantly contribute as entry points for wild fire into town sites.

Our motion focuses on the need for the Public Transport Authority to develop a policy framework for third party access to non-operational rail corridors for the purpose of allowing the corridors to be developed for appropriate community use. Such a policy should be developed in consultation with interested local governments.

#### WALGA 'In Brief' Comments

- Brookfield Rail has a lease over an extensive network of rail infrastructure in Western Australia
- This lease includes non-operational rail corridors, where in some cases rail use hasn't occurred for 20 years or more.
- There is potential for the non-operational rail corridors to be used by local governments or other third parties for a community benefit however to date it has proven difficult to get Brookfield Rail and the Public Transport Authority to recognise this potential.
- A policy to facilitate such uses should be developed with input from interested local governments

#### Officer Comment

This Motion has been provided by Council and thus is supported by Officers.

#### **Item 4.4 – Planning systems Review (City of South Perth)**

##### Motion

1. Request the Western Australian Local Government Association to advocate for an independent review of decision making in the Western Australian Planning System, including the roles of local government, delegated authorities, Joint Development Assessment Panels and State Administrative Tribunal appeal processes that gives consideration to:
  - 1.1 How the aspirations or values of the community are incorporated into the decision making framework;
  - 1.2 Improvements to the statutory framework, including Local Planning Schemes, that would improve the transparency, certainty and consistency of the decision making process;
  - 1.3 Ensure that decision making occurs at appropriate levels that promotes good and efficient decisions for the community;
  - 1.4 Ensure that Local Governments have a third party right to present local community views to the State Administrative Tribunal;
  - 1.5 The erosion of the roles of Local Government in planning for their communities.
2. In the event that the State Government is unwilling to pursue an independent review of the decision-making process, request the Western Australian Local Government Association to engage with members and advocate for practical reforms that will ensure greater accountability, transparency and procedural fairness for ratepayers through the Joint Development Assessment Panel's decision making processes.

##### Extract from City of South Perth's Comments

The Local Government sector has raised concerns including the erosion of the roles of local Government and the decisions being made by JDAPs, whereby poor planning outcomes are resulting and the communities are left blaming the local council representatives who are the minority on the JDAPs. Issues such as having a

majority of government appointees on JDAPs is perceived to be creating a culture of lack of care and limited responsibility for the outcomes of planning decisions upon the community or the longer term ramifications.

JDAPs are not required to look at any other aspects other than the application before it. This is perceived to be leading to decisions being made that will adversely impact on broader community future planning outcomes.

A number of metropolitan local government Mayors at recent forums have outlined a range of issues being encountered by JDAPs.

The key issue raised are:

- Chair of JDAPs are not independent.
- Council Policies are not being considered in deliberations.
- Council Reporting Officers are having to make a recommendation and an alternative recommendation which enables the JDAPs to be selective in their decision making.
- JDAPs are taking longer and costing the community more.
- Developers are using JDAPs to put through incomplete and inferior planning applications.

The common theme being reiterated by many local governments dealing with JDAPs, SAT and the WA planning system functions in general, is that communities are being disengaged from the decisions and believe leveraging broader community support will be the only way the local government can get a commitment from the State Government to look at its planning decision making processes.

The planning system should be focussed on good decisions. Whilst consideration to abolishing the JDAPs system has been called for, this gives no guarantee in and of itself that the decisions would be better. Clearly, locally elected Councillors have a far better understanding of the impacts of developments on the community than appointed persons, however, in some circumstances, the added expertise may be warranted for some decisions.

By way of an example, some Local Authorities in WA represent less than 1000 people and deal with relatively few applications per year. If an application for major infrastructure was applied for, understandably, the Council may not be able to gauge how their planning scheme should be applied, or what appropriate conditions may be applied, due to a lack of familiarity with the system. On the other hand, very large local authorities such as Stirling manage a population 40% of the State of Tasmania, but are not allowed to deal with a \$2 million shed, if the applicant seeks a JDAP determination. The system put in place by the State is a one size fits all planning system, rather than one that supports decision making at the appropriate level.

A previous parliamentary inquiry was held into the functionality of the regulations surrounding JDAPs, however the scope of the review did not allow for a true investigation into the need for such a mechanism. The parliamentary inquiry was not seen by the Local Government sector as being broad enough to deal with all the issues being experienced and also not seen as being truly independent nor giving voice to the community. Further review will find improvements to the planning system which will benefit the community and developers alike.

In conclusion, if the Local Government Industry wants to see real changes in JDAPS and SAT they must also look at the planning system as whole. All Local Governments must be prepared to support reforms across the entire system otherwise the issues surrounding JDAPS will continue unless fair compromise between State and Local Government can be reached.

It is fair to say that if the State Government does not agree to partner with Local Government to undertake an independent and thorough review of the entire planning system then the loggerhead will continue.

#### WALGA 'In Brief' Comments

- Issues arising from decisions of Joint Development Assessment Panels needs to be addressed.
- Issues arising from State Administrative Tribunal need to be addressed.
- Local Government Planning Policies are being disregarded in decision making.
- The Planning System is no longer providing for the voice of communities to be effectively heard.
- The State Government continues to support and protect its reforms leaving the LG sector to deal with community dissatisfaction.
- An Independent review will seek to provide a strong basis for improved advocacy in the lead up to a State election.

#### Officer Comment

Officers recommend this Motion be supported.

#### **Item 4.5 – Abolitions of DAPS (City of Subiaco)**

##### Motion

That WALGA:

1. Advocates for the abolition of Development Assessment Panels (DAPs) on the basis that:
  - 1.1. DAPs by means of their majority unelected membership are not democratic bodies representing the ratepayers and accordingly do not reflect the aspirations or values of the community;
  - 1.2. DAPs represent a significant erosion of planning powers by elected representatives who have been given a mandate by ratepayers to make these decisions; and
  - 1.3. Previous decisions made by the Joint Development Assessment Panel have gone well beyond the purpose, intent and application of relevant Local Planning Scheme and Policies adopted by each local council; and
2. Advocates for consideration of the following reforms, in the event that DAPs remain in place, to ensure greater accountability, transparency and procedural fairness for ratepayers through the Panel's assessment and decision making processes:
  - 2.1. Abolishing the current opt-in mechanism which allows applicants to choose either elected Councils or the DAP as the decision maker in favour of a Ministerial call-in power for projects of state or regional significance, with a minimal value of \$20 million, as has been adopted in the eastern states;
  - 2.2. Requiring equal membership on the DAP between Local Government and Appointed Specialist members with an independent chair approved by both State and Local Governments;

- 2.3. Requiring the DAP to set the meeting date for consideration of the development applications no later than five working days after the application being received to enable inclusion within the community consultation process;
  - 2.4. Requiring the DAP agenda and local government report and recommendation to be published no less than ten business days prior to the scheduled meeting date;
  - 2.5. Requiring a minimum of five business days between publishing the DAP agenda and the date by which ratepayers can make public presentations to the DAP, to provide more time to prepare a formal response;
  - 2.6. Mandating that respondents to the development application can nominate e-mail or Australia Post as their preferred contact method for information and requiring the local government to contact registered respondents throughout the process as deadlines are reached;
  - 2.7. Providing a public template for ratepayers to assist with the preparation of feedback as part of the Community consultation process;
  - 2.8. Requiring any changes to a development application between the community consultation period and final proposal for decision by the DAP to be published on the local government's website and to notify all respondents to the original community consultation of those changes;
  - 2.9. Removing the need for the local government to obtain the applicant's consent for further consultation or an extension of time to report the applicant's development proposal to a DAP meeting for determination; and
  - 2.10. Providing a Local Government aggrieved by a DAP decision a right of review at the State Administrative Tribunal.
3. Advise the Minister for Planning of its concerns with the actions and decisions of the Development Assessment Panels.

Extract from City of Subiaco's Comments

1. Following the lead of the City of Vincent, a version of this motion has been passed by the following councils:
  - 1.1. Vincent, Mosman Park, Nedlands, Cambridge, Subiaco, Stirling, Bayswater, South Perth, Belmont, Cottesloe, Claremont, Peppermint Gove, and Victoria Park.
2. The following Councils are working up support for this motion:
  - 2.1. Swan, Gosnells, Cockburn and Kwinana.
3. The following local communities have been adversely affected by a DAP/SAT decision or have concerns over the loss of amenity from proposed development to be approved by the DAP:
  - 3.1. Ascot, Alfred Cove, Applecross, Bayswater, Broome, Carine, Claremont, Como, Cottesloe, Daglish, Dalkeith, Dianella, Floreat, Guildford, Gwelup, Kensington, Mandurah, Maylands, Mount Hawthorn, Mount Lawley, North Beach, North Perth, Scarborough, South Perth, Subiaco Town Centre, Subiaco East, Subiaco West, Swanbourne, Wembley, and Woodlands.
4. The communities affected by DAP development applications have raised the following concerns in their submissions to their local council:
  - 4.1. The process of updating Local Planning Schemes, costing hundreds of thousands of dollars, will not stop the DAP system from considering development applications (DA) which do not comply with these schemes and policies.

- 4.2. All ambit claims (DA) must be presented to a DAP regardless of their extreme non-compliance, costing ratepayer's councils valuable time and money preparing a Responsible Authority Report.
- 4.3. The decisions made by unelected DAP panel members are unaccountable and untouchable. The Minister has backed every controversial decision raised by the community, and they cannot be voted out at the next election.
- 4.4. Developers can appeal DAP decisions at State Administrative Tribunal (SAT), a flawed system which does not give affected parties a seat at the table to defend their amenity rights.
- 4.5. The only avenue of appeal is to the Supreme Court costing ratepayers or residents hundreds of thousands of dollars.
- 4.6. The use of discretionary clauses by the DAP/SAT system has created uncertainty and a loss of trust in the planning system. The uncertainty prevents homebuyers from knowing exactly what the rules are that govern the area / suburb / community where they may wish to invest in, buy their home, raise their family or retire. The uncertainty for those already settled concerns what changes to their living environment may be summarily visited on them. Since the residents are afforded no rights of appeal against such decisions, they are effectively left just to "hope" that they won't have to face such a decision.
- 4.7. Changing Local Planning Schemes and policies offers no hope of controlling discretion to approve any development. Discretion exists in other State Government planning/development, policy and regulations such as:
  - 4.7.1. Residential Design Codes (R-Codes) Part 2 – Judgement of merit which allows the DAP/SAT to use Design Principles (a subjective view) to approve any non-complying development. If the DAP exercise its judgement based on objectives and design principles, as the decision maker it can ignore the deemed to comply provisions, ref. 2.5.1 Exercise of judgement.
  - 4.7.2. R-Codes Part 5 – Design principles and their use are problematic for local planning schemes and policies. The State Government put in place a subjective list of design principles which are futuristic, a one size fits all approach, and open to subjective views and discretionary powers by the DAP.
  - 4.7.3. Local councils adopting Centre Activity Structure Plans are high level subjective documents which inadvertently impose significant change to the interpretation of local town planning schemes and policies. These Centre Activity Structure Plans are used by developers and their legal team to argue Judgement of merit for their development, and have unintended consequences for communities such as those affected by the State Government's plans to redevelop Western Australia's football ovals such as:
    - 4.7.3.1. Claremont Football Oval;
    - 4.7.3.2. Bassendean Football Oval;
    - 4.7.3.3. Midland Football Oval; and
    - 4.7.3.4. Subiaco Football Oval.
- 4.8. These undemocratic decisions will have irreversible consequences for Western Australia's local communities, in the City and in regional towns.

#### WALGA 'In Brief' Comments

- That WALGA advocate for the abolition of Development Assessment Panel (DAPs).

#### Officer Comment

Officers recommend this Motion be supported.

#### **Item 4.6 – Introduction of Container Deposit Scheme (Shire of Dandaragan)**

#### Motion

That WALGA:

1. Continue to actively advocate for the implementation of a Container Deposit Scheme in Western Australia; and
2. Include the implementation of a Container Deposit Scheme in the Association's Election Platform.

#### Extract from Shire of Dandaragan's Comments

WALGA has been advocating for a CDS to be implemented throughout Western Australia for a number of years. In 2008, WALGA established a Policy Statement in support of Container Deposit Legislation (CDL).

CDL has been in place in South Australia since the 1975, which imposed a deposit on a range of beverage containers. The deposit is included in the retail price of the item and refunded when the container is returned to the collection point.

Local Government has significant investment in kerbside recycling programs and landfill operations of which beverage containers make up a large percentage of material. An additional issue is that roadside litter and drainage debris consist of a higher proportion of beverage containers as well.

The introduction of CDL would provide an incentive for community organisations, individuals and the packaging companies themselves, to take responsibility for the lifecycle of their waste.

#### WALGA 'In Brief' Comments

- WALGA has advocated for a CDS over a number of years
- In 2008 WALGA established a Policy Statement in support of Container Deposit Legislation
- A CDS will assist in litter reduction and improve resource recovery

#### Officer Comment

Officers recommend this Motion be supported. This Motion was also referred to Council's Sustainability Advisory Committee (SAC) meeting on 20 July 2016 and the Committee recommended the Motion be supported. In recommending support for the Motion the SAC commented that a container deposit scheme would provide some useful incentives to local communities to collect roadside waste as there would be a return that can be invested into a community activity.

#### **Item 4.7 – Declared Pest Plant C3 Review by DAFWA (Shire of Dardanup)**

##### Motion

Request that WALGA lobby the Minister for Agriculture and Food WA to ensure that the Biosecurity and Agriculture Management Act 2007 (BAM Act) review results in the Act giving the Department of Agriculture and Food WA the responsibility to control, manage and facilitate the eradication of pest plants and weeds, including Cotton Bush, and that the Department be adequately funded to undertake eradication programs for all species that have the potential to negatively impact on the production of agriculture in Western Australia, including but not limited to Cotton Bush, wild dogs, cane toads, skeleton weed, Blackberry and Patterson's Curse.

##### Extract from Shire of Dardanup's Comments

The Biosecurity and Agriculture Management Act 2007 (BAM Act) is scheduled for review in 2017.

A number of Local Governments have endorsed and contributed financially to Regional Biosecurity Groups. It is evident that the Department of Agriculture and Food (WA) has limited resources and over the last twenty years the Department's budget has steadily declined and the ability to manage biosecurity in Western Australia has suffered because of it.

It is requested that WALGA lobby the Minister for Agriculture and Food WA to ensure that the BAM Act review results in the Act giving the Department of Agriculture and Food WA the responsibility to control, manage and facilitate the eradication of pest plants and weeds, including Cotton Bush.

It is also requested that the Department be adequately funded to undertake eradication programs for all species that have the potential to negatively impact on the production of agriculture in Western Australia, including but not limited to Cotton Bush, wild dogs, cane toads, Skeleton Weed, Blackberry and Patterson's Curse.

##### WALGA 'In Brief' Comments

- Request for WALGA to lobby the Minister for Agriculture and Food WA to ensure that the BAM Act review results in the Act giving the DAFWA the responsibility to control, manage and facilitate the eradication of pest plants and weeds, including Cotton Bush
- Department be adequately funded to undertake eradication programs

##### Officer Comment

Officers recommend this Motion be supported. This Motion was also referred to Council's Sustainability Advisory Committee (SAC) meeting on 20 July 2016 and the Committee recommended the Motion be supported. In recommending support for the Motion the SAC commented that more support / funding for DAFWA is absolutely critical, as otherwise local governments will be given ever more responsibility in this area without receiving any more funding, and the risks of Western Australia suffering a very serious incursion of pests escalates out of proportion.

#### **Item 4.8 – Renewable Energy (City of Bunbury)**

##### Motion

That the Western Australian Local Government Association advocates for reforms to the parameters applied by the WA Government regarding generation of energy through renewable sources by local governments, either individually or in partnership with private sector specifically seeking a fixed feed in tariff for extended periods to enable effective business planning and funding arrangements.

##### Extract from City of Bunbury's Comments

Local government typically incurs significant annual electricity costs in providing services to the community, ie. recreation centres, street lighting, community facilities etc.

As has been demonstrated in other areas of Australia, local governments are moving to become more reliant on renewable energy sources and on a small scale this is effective, however for local governments to invest substantial funding into renewable energy sources there is a need for long term agreements and arrangements to ensure the viability of the investment. Where a local government may seek to offset its electricity usage through the provision of renewable energy sources, the rules governing the rate of feed in tariff vary depending on the amount of electricity being generated through renewable sources and the location of the facilities, making it difficult to develop a business case to justify investment in.

A fixed feed in tariff for local government in this regard would provide certainty for local governments looking to either partly or fully offset their energy use through renewable sources, demonstrating leadership in implementing measures to tackle climate change and reliance on fossil fuel power generation.

##### WALGA 'In Brief' Comments

WALGA to advocate for changes to the rules and regulations governing feed in tariffs for renewable energy, providing for a guaranteed fixed feed in tariffs over an extended period.

##### Officer Comment

Officers recommend this Motion be supported. This Motion was also referred to Council's Sustainability Advisory Committee (SAC) meeting on 20 July 2016 and the Committee recommended the Motion be supported. In recommending support for the Motion the SAC commented that the provision of certainty through a fixed rate tariff is one of the critical things required to convince many local governments that an investment in renewable energy is not only doable, but also fiscally the right thing to do. If this Motion is adopted, it could lead on to (1) a standardised, attractive feed in tariff for all with renewable energy and (2) stand-alone area power generation from renewables.

#### **Item 4.9 – Reducing Regulatory Burden on Local Government (Shire of Toodyay)**

##### Motion

That all new legislation, regulation or quasi regulation imposed on Local Government be accompanied by an independent regulatory impact assessment including the opportunity for input from the Local Government sector.

### Extract from Shire of Toodyay's Comments

In May 2015 the State Government launched a project to launch the Reinvigorating Regulatory Reform Project. The plan purports to support four actions:

- Cutting red tape;
- Progressive deregulation and regulatory reform;
- Improving regulatory assessment;
- Ensuring success through communication and engagement.

One of the priority areas for improvement was releasing administrative burden.

Placing additional regulatory or compliance burdens on Local Government increases the cost of Local Governments performing their functions and ultimately, increases the cost to the community and business. Any increase in the cost of doing business for Local Government will in due course be funded by increased rates or reduced levels of service.

Recently the State Government conducted a series of workshops with Local Governments to seek to improve the Integrated Planning and Reporting Process which now forms part of the compliance requirement for Local Government. During that process the Department was unable to answer:

- The increased cost to the sector of the new provisions; and
- Whether a regulatory burden assessment was completed prior to implementation, and if the assessment was done, what was the outcome?

Gather any group of elected members or Local Government employees together and they will be able to list new compliance requirements imposed in the last five years. The list will be long, but will include:

- Integrated Planning and Reporting Framework;
- Regulation 17 of the Local Government (Audit) Regulations
- New deemed provisions in all Local Planning Schemes;
- Changes to Planning for Bushfire Protection;
- Introduction of Fair Value Accounting for Assets;
- Changes to reporting requirements for gifts;
- Introduction of My Council website;
- Introduction of Registered Biosecurity Groups (while reducing State Government services); and
- Changes to compliance and reporting requirements for rates.

Many of these changes are important and worthwhile and have been embraced by the sector. Others are clearly reactions to political issues of the day, but will remain as requirements long after the issues have passed.

### WALGA 'In Brief' Comments

- The State Government is committed to red tape reduction.
- Increased Local Government compliance requirements have not been subject to the same level of scrutiny.
- All new legislation, regulation or quasi-regulation should be subject to a regulatory impact assessment.

Officer Comment

Officers recommend support of the Motion.

**4.10 – Most Accessible Regional City in Australia Awards (City of Bunbury)**

Motion

That the Western Australian Local Government Association:

1. Develop assessment criteria to formally recognise the contribution that Western Australian local governments are taking to promote and improve accessibility within their jurisdictions.
2. Conduct an annual awards process coinciding with Local Government Week to recognise local governments nominated for work undertaken in no. 1 above based on metropolitan, Regional and remote categories.
3. Nominate the winning local government from each category for the National Awards for Local Government – Disability Access and Inclusion Awards conducted by the Department of Infrastructure and Regional Development.

Extract from City of Bunbury's Comments

The City of Bunbury's first objective in the Community and Culture Key Priority Area of its Strategic Community Plan is to Establish Bunbury as the most accessible regional city in Australia by 2020, by providing services and information that are accessible and inclusive for community members of all abilities.

The City recognises access and inclusion as being a key component in enhancing community well-being and the quality of life for the people who live and work in Bunbury, and considers this philosophy to be applicable to all local governments throughout Western Australia.

It is suggested that making provision for such awards in Western Australia can then naturally feed into the national awards for Disability Access and Inclusion administered by the Federal Department of Infrastructure and Regional Development, where no Western Australian local government has ever been successful in winning that category.

WALGA 'In Brief' Comments

- Introduce an annual awards program coinciding with LG Week to acknowledge local governments promoting and improving accessibility in Western Australia

Officer Comment

Officers recommend support of the motion.

**Item 4.11 – Discussion Paper Excessive Force (Shire of Bridgetown-Greenbushes)**

Motion

That WALGA, recognising that a significant role of local government is to lobby and advocate to higher levels of government on matters of concern to local constituents, advocate to the State Government for a discussion paper to be prepared on the

issue of decriminalising the use of excessive force by members of the public when such force is effected in the course of defending family and property from intruders.

#### Extract from Shire of Bridgetown-Greenbushes' Comments

The issue of decriminalising the use of excessive force in the defence of family and property has been raised at the local community level, including at many community forums throughout the State.

How are members of the public expected to lobby for Government to consider and review this issue? Individually approaching Members of Parliament is unlikely to generate momentum for this issue to be added to the ever-increasing list of judicial reviews, statutory reviews, etc. Alternatively individual members of the public could band together to instigate petitions to the government on this issue. History however would question the effectiveness of such an approach. By raising the issue at the WALGA AGM and hopefully having the Motion carried would add weight to the issue with the decision being reflective of an overall community wish for this issue to be discussed.

The Motion is not seeking an immediate change to the criminal code or other related legislation. Such a Motion would be presumptuous and would ignore the processes required to effect legislative change. The Motion instead seeks the development of a discussion paper in order to allow widespread debate, from the community level to the judicial level, on the issues concerning the use of force by property owners when defending family and property.

There have, in recent years, been some well publicised incidents of property owners being charged for causing injury to intruders in the course of defending family and property.

The motion deliberately uses the term “excessive force” as that is the term often used when persons are charged after causing injury to intruders in the course of defending family and property. Even if a property owner uses “appropriate” force the reality is that if injury or death is caused to the intruder the judicial determination would be that the force used in defending family or property was excessive in the circumstances.

The Motion isn't condoning the use of excessive force – it is simply seeking some discussion on the issue as it is an issue of concern to the broader community.

#### WALGA 'In Brief' Comments

- There have, in recent years, been some well publicised incidents of property owners being charged for causing injury to intruders in the course of defending family and property.
- This is an issue of concern to the broader community and it has been raised at many community forums across the State.
- Local Government has an advocacy role to take on matters of concern raised by the community even when they are not directly related to local government service provision.
- The Motion is merely seeking the development of a discussion paper in order to allow widespread debate of this issue in the community.

Officer Comment

This Motion has been provided by Council and thus is supported by Officers.

Statutory Environment – Nil

Policy/Strategic Plan Implications – Nil

Budget Implications – Nil

Fiscal Equity – Not Applicable

Whole of Life Accounting – Not Applicable

Social Equity – Not Applicable

Ecological Equity – Not Applicable

Cultural Equity – Not Applicable

Risk Management – Not Applicable

Voting Requirements – Simple Majority

**Corporate Services**

<b>ITEM NO.</b>	C.03/0716	<b>FILE REF.</b>	131
<b>SUBJECT</b>	June 2016 Financial Activity Statements and List of Accounts Paid in June 2016		
<b>OFFICER</b>	Executive Manager Corporate Services		
<b>DATE OF REPORT</b>	20 July 2016		

Attachment 2      June 2016 Financial Activity Statements

Attachment 3      List of Accounts Paid in June 2016

***OFFICER RECOMMENDATIONS***

- 1. That Council receives the June 2016 Financial Activity Statements as presented in Attachment 2.*
- 2. That Council receives the List of Accounts Paid in June 2016 as presented in Attachment 3.*

**Summary/Purpose**

Regulation 34 of the Local Government (Financial Management) Regulations 1996 (the Regulations) requires a local government to prepare each month a statement of financial activity reporting on the sources and applications of its funds. Further, where a local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the municipal and trust funds, a list of those accounts paid in a month are to be presented to the council at the next ordinary meeting (see Reg 13 of the Regulations).

### Background

In its monthly Financial Activity Statement a local government is to provide 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) of the Local Government Act;
- (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.

Each of the Financial Activity Statements 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 sub-regulation (1)(d); and
- (c) such other supporting information as is considered relevant by the Local Government.

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.

The Financial Activity Statement and accompanying documents referred to in sub-regulation 34(2) are to be:

- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
- (b) recorded in the minutes of the meeting at which it is presented.

Note that this is a preliminary report to 30 June 2016 and is subject to change as end-of-year figures are finalised including transfers to and from reserves, final calculation of depreciation and asset revaluations. Council will receive a final report following completion of the annual audit due to commence 24 October 2016.

### Statutory Environment

Section 6.4 (Financial Report) and Section 6.8 (Expenditure from municipal fund not included in annual budget) of the Local Government Act 1995, and Regulations 13 (List of Accounts) and 34 (Financial activity statement report) of the Local Government (Financial Management) Regulations 1996 apply.

### Integrated Planning

- Strategic Community Plan 2013
  - Objective 4: A collaborative and engaged community
  - Outcome 4.2: A high standard of governance and accountability
  - Strategy 4.2.3: Ensure compliance with relevant legislation

- Corporate Business Plan - Nil
- Long Term Financial Plan - Nil
- Asset Management Plans - Nil
- Workforce Plan – Nil
- Other Integrated Planning - Nil

#### Policy

F.6. Purchasing Policy - To ensure purchasing is undertaken in an efficient, effective, economical and sustainable manner that provides transparency and accountability.

F.7. Reporting Forecast Budget Variations Policy - To set a level of reporting detail (in Financial Activity Statement) that ensures that the council is satisfied with the implementation of its annual budget.

#### Budget Implications

Expenditure incurred in June 2016 and presented in the list of accounts paid, was allocated in the 2015/16 Budget as amended.

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity – Not applicable

Ecological Equity – Not applicable

Cultural Equity – Not applicable

Risk Management – Not Applicable

Continuous Improvement – Not applicable

Delegated Authority – Not Applicable

Voting Requirements – Simple Majority

## **Planning & Environmental Services**

<b>ITEM NO.</b>	C.04/0716	<b>FILE REF.</b>	344
<b>SUBJECT</b>	Proposed Road Naming – Dairy Lane and Parish Lane, Bridgetown		
<b>PROPONENT</b>	Shire of Bridgetown-Greenbushes		
<b>OFFICER</b>	Manager Planning		
<b>DATE OF REPORT</b>	18 July 2016		

Attachment 4	Public Submissions
Attachment 5	Proposed Road Naming Plan
Attachment 6	Road Naming Background Information

### *OFFICER RECOMMENDATION: That Council*

- 1. Noting the four submissions of support received from affected landowners, as per Attachment 4, pursuant to section 26 of the Land Administration Act 1997 supports the naming of both Dairy Lane and Parish Lane, Bridgetown, with additional support for the alternative names of Ashley Lane and Tracey Lane respectively, as per Attachment 5.*
- 2. Directs the Chief Executive Officer to seek support from Landgate's Geographic Names Committee in relation to Point 1. above.*

### Summary/Purpose

Following the formal dedication of two former laneways as public roads in September 2015, public consultation has been carried out seeking feedback for proposed road naming. Noting the four submissions of support received it is recommended that Council supports the proposed road naming as Dairy Lane and Parish Lane, with additional support for the respective alternative names of Ashley Lane and Tracey Lane.

### Background

As background, a written request was made on the 21 March 2012 by St Brigid's Parish on behalf of the owners, Catholic Diocese of Bunbury, for the closure and ceding of land to the Crown of two Rights-of-Way (ROW) generally adjoining Somme Street and Barlee Street, Bridgetown.

Following public consultation Council supported this request at the Ordinary Meeting on 27 September 2012 and resolved (in part):

*"C.11/0912 That Council:*

- 3. Supports the proposed closure of two Rights-of-Way adjoining Somme Street and Barlee Street, Bridgetown (being portions of Lot 66 on Deposited Plan 2955) for ceding to the Crown for gazettal as public roads, pursuant to sections 52 and 58 of the Land Administration Act 1997, subject to both roads being cul-de-sac no through roads only.*
- 4. Directs the Chief Executive Officer to forward relevant information to the Western Australian Planning Commission and the Department of Regional Development and Lands requesting approval from the Minister for Lands in relation to Point 3. above."*

On 23 September 2015, the Department of Lands approved the closure of the two ROW's and dedication as public roads and Shire staff have now initiated the process to formally name both new roads.

A preliminary check through Landgate's website indicates preliminary approval of the proposed names, however Landgate's policies now require at least one alternative name is proposed for each proposal. All four proposed names were selected having local historical significance, with the background information provided in Attachment 6.

The road reserve proposed to be named 'Dairy Lane' runs north from Somme Street and is approximately 118 metres long, terminating at Forrest Street, however can not be connected to Forrest Street due to the steep topography. Eight properties have frontage to the road reserve, with three houses having primary access. On Lot 101 (29) Barlee Street, Bridgetown, a small shed still remains, used as the depot for the town and district milk run from c.1968 until c.1985, with the milk truck from Bunbury accessing the block via the laneway, which is formed as a gravel track.

The road reserve proposed to be named 'Parish Lane' runs west from Barlee Street and is approximately 130 metres in length, terminating at the St Brigid's Primary School oval. There is no recognisable formed track although there is some evidence of occasional use. Although both former laneways were owned by the Catholic Diocese of Bunbury, this road reserve still adjoins the back of the St Brigid's Parish land.

Although twelve properties have secondary frontage to the un-named road, six properties front Somme Street with access to the new road reserve constrained by Somme Creek. In discussion with some Steere Street landowners the un-named track is only useable during the dry summer months.

The proposal was advertised for public comment, with the 28 day submission period closing on 23 June 2016. Correspondence was forwarded to seventeen landowners with properties adjoining one of the newly dedicated roads. An advertisement was published in the local newspaper and notices posted on the Shire's noticeboards and website also. Four submissions were received from affected landowner, all in support of the proposed naming and historical connection.

Noting the above, it is recommended that Council support the proposed naming of Dairy Lane and Parish Lane and respective alternative names of Ashley Lane and Tracey Lane, with support to be sought from the Minister for Lands through Landgate's Geographic Names Committee.

#### Statutory Environment

- Land Administration Act 1997

Under Part 2, Division 3 of the Land Administration Act 1997, section 26 states (in part):

“(2) *Subject to section 26A, the Minister may by order —*

- (c) *name, rename and cancel the name of any topographical feature, road or reserve.*

- (3) *An order made under subsection (2) may include such matters enabled to be effected under an order made under another provision of this Act as the Minister thinks fit.*

Furthermore, section 26A states (in part):

- “(5) *A person must not –*
- (a) *assign a name to the area or road unless the name is first approved by the Minister;*
  - (b) *alter or change a name that has been so assigned, whether initially or from time to time, to the area or road unless the Minister first approves of the alteration or change of that name.”*

Section 26 of the Land Administration Act therefore provides the local government power to initiate road naming through a public consultation process. Following consultation the local government can then resolve to name a road through a formal request to the Minister for Lands. The final decision therefore for any road naming rests with the Minister for Lands, upon advice from Landgate’s Geographic Names Committee.

#### Policy Implications

- Landgate’s Policies and Standards for Geographical Naming in Western Australia

The ‘Policies and Standards for Geographical Naming in Western Australia,’ version 01: 2015, released by Landgate’s Geographic Names Committee (GNC), requires all road naming proposals to have strong local community support, preferred name sources including features, pioneers, war casualties and historical events and names from Aboriginal languages identified with the general area.

Genitive apostrophes (ie. Butcher’s) and duplication of names or similar sounding names within the Shire or an adjoining Shire are no longer allowed and all submissions must have an alternative name supplied, in case of GNC not being able to permit the first name of choice. Road naming changes should conform to the relevant policy and have the support of those residents affected by the name change. Local government support is required, however ultimately the Minister for Lands is the final authority.

Under Section 2.1.2 ‘Laneways and Short Roads’ of the GNC Policies and Standards, *“The increase in urban density in new developments and urban redevelopment has resulted in many narrow short lanes and rights-of-way requiring names. Laneways shall be named if a name is required for addressing purposes or has been created as a public road by survey.*

*The naming of such roads is supported with a preference for use of the road type LANE and short names consisting of no more than six letters. The leg of a battle-axe lot shall not be considered a laneway.*

*Roads which are regarded as short, e.g. a small cul-de-sac or private road with five or less address sites, that are not proposed to be lengthened or will not have additional address sites needed in the future, may not need a separate name. Any address numbers required may be assigned on to the road on which it connects.”*

The proposed road naming is considered in accordance with Landgate's requirements.

#### Strategic Plan

Strategic Community Plan 2012

##### *Economic Objective*

- Outcome 1.5 – Maintain an appropriate standard of transport networks, roads and pathways.

##### *Social Objective*

- Outcome 3.4 Maintain a safe community.

Outcome 3.4.4 – Continue to monitor emergency risk, preparedness and response.

#### Budget Implications

Should Council support the naming, costs of approximately \$300 will be incurred for appropriate street signage for Dairy Lane, with funds available in the current budget. Signage for Parish Lane would be deferred pending future construction.

Fiscal Equity – Not applicable

Whole of Life Accounting

Social Equity – Not applicable

Ecological Equity – Not applicable

Cultural Equity – Not applicable

#### Risk Management

Naming of the roads will improve the legibility of the local road network and reduce the Shire's infrastructure asset responsibilities.

#### Continuous Improvement

The content of the submissions received has assisted consideration of the proposed road naming.

#### Delegated Authority

Delegation only exists for the approval of subdivisional road names. Following public consultation, proposals to name a new road need to be referred to Council for determination.

Voting Requirements - Simple Majority

<b>ITEM NO.</b>	C.05/0716	<b>FILE REF.</b>	128813
<b>SUBJECT</b>	Bank Guarantee and Outstanding Matters - Four Seasons Estate		
<b>PROPONENT</b>	Shire of Bridgetown-Greenbushes		
<b>OFFICER</b>	Manager Planning		
<b>DATE OF REPORT</b>	19 July 2016		

Attachment 7 Original Four Seasons Estate Subdivision Guide Plan and Deposited Plan 54560 (Stage One of WAPC 128813)

*OFFICER RECOMMENDATION: That Council gives 'in-principle' support to the Chief Executive Officer releasing the \$165,000 Bank Guarantee to KordaMentha Pty Ltd, as appointed receivers and managers for Four Seasons Estate Pty Ltd, in exchange for payment of \$150,000 to the Shire of Bridgetown-Greenbushes for completion of outstanding works for Four Seasons Estate subdivision.*

#### Summary/Purpose

A number of outstanding matters remain for the Four Seasons Estate subdivision in Bridgetown. KordaMentha Pty Ltd, as receivers for the original developer, have offered a cash payment to the Shire to undertake completion of outstanding matters. This report is presented to provide background information to Council and to seek 'in-principle' support to receive the \$150,000 payment to progress resolution of outstanding matters for Four Seasons Estate.

#### Background

As background, the Four Seasons Estate subdivision was rezoned to 'Special Rural' (SR6) zone and 'Special Residential' (SRes1) zone via Amendment No. 35 to the Shire's Town Planning Scheme No. 4 (TPS4), with the amendment gazetted in September 1999. Amendment No. 35 included adoption of a Subdivision Guide Plan (see Attachment 1), now known as a Structure Plan, for subdivision of the land into 105 lots. The Western Australian Planning Commission (WAPC) granted conditional approval on 25 October 2005 for subdivision of the land into 105 lots (WAPC 128813).

In January 2006 the Shire granted subdivision clearance for Stage One of the subdivision (see Deposited Plan in Attachment 7) with outstanding infrastructure and landscaping works bonded via lodgment of bank guarantees. Stage One excluded existing Lot 150 (future Lots 1 to 7) abutting the eastern boundary of the estate, the subject of Amendment No. 69 presented to Council in January 2016 (C.07/1116).

An application was received in March 2008 requesting clearance of conditions for Stage Two (Lot 150) of the subdivision, for creation of proposed Lots 1 to 7. At the time a number of conditions affecting both Stages One and Two remained outstanding and the Shire was not prepared to grant clearance of the conditions.

The Shire currently holds a Bank Guarantee No. 552601357 to the value of \$165,000 for outstanding landscaping works pursuant to Conditions 10 and 12 of the subdivision approval. Although the subdivision approval (WAPC 128813) lapsed in October 2008 there still remains a number of outstanding matters yet to be resolved, discussed below.

Condition 7 – A Bushfire Management Plan endorsed by the Department of Fire and Emergency Services was never provided to the Shire.

Condition 10 - A Development Plan for Public Open Space (POS) Reserve 48836 (Lot 15 Sunridge Drive) was not submitted nor the POS developed. The Shire previously sought a \$50,000 contribution to enable development of the reserve, to enable a reduction in the landscaping works Bank Guarantee, however a contribution was never received.

Condition 12 – A Landscape Master Plan was required to address the landscaping of stream protection area affecting Lots 35 to 39 Sunridge Drive and Lot 151 Dexter Rise; drainage lines (where necessary) on Lots 66-107; street trees within the internal road reserves. A Landscape Master Plan was never submitted to the Shire for approval and therefore never implemented.

The original subdivider, Four Seasons Estate Pty Ltd, went into receivership in 2009 with KordaMentha Pty Ltd being appointed as receivers and managers for the subdivision estate. The Shire has been in liaison with KordaMentha since 2009 seeking to have the outstanding conditions resolved which would then allow release of the \$165,000 bank guarantee. Despite Shire efforts no progress has been made to date to complete the outstanding matters.

In late 2015 KordaMentha wrote to the Shire offering to make a \$120,000 cash payment to the Shire, to allow the release of the bank guarantee, with the Shire to take steps to resolve the outstanding matters. Following further negotiation Shire staff have now reached an 'in-principle' agreement for KordaMentha to make a \$150,000 cash payment to the Shire based on the following elements:

- Preparation of Bushfire Management Plan
- Development of Reserve 48836
- Preparation of Landscape Master Plan
- Implementation of Street Tree Planting
- Implementation of Stream Protection Area Works
- Implementation of Drainage Works
- Shire Project Management Contingency

Whilst estimating the potential costs is difficult and the final expenditure may vary, Shire staff are confident that the outstanding matters can be resolved within the agreed monetary contribution, using private consultants, local community groups and Shire resources where available.

Based on the above, the Shire is seeking 'in-principle' support from Council to accept the \$150,000 monetary contribution, which can then be presented to Council as unbudgeted income and expenditure within the coming months.

Statutory Environment - Nil

Policy Implications - Nil

Strategic Plan

Strategic Community Plan 2012

*Economic Objective*

- Outcome 1.2 Ensure infrastructure and services are provided for future development in keeping with the environment.
- Outcome 1.5 Maintain an appropriate standard of transport networks, roads and pathways.

#### *Environment Objective*

- Outcome 2.3 Improve parkland areas and public open spaces.
- Outcome 2.4 Protect and better utilise the river and natural landscape as an asset to the Shire.
- Outcome 2.4.1 Identify opportunities for protecting and enhancing the health of the Blackwood river and its tributaries.
- Outcome 2.5 Our communities are 'fire prepared'.
- Outcome 2.5.4 Investigate the need for policies and strategies concerning fire management on private properties.
- Outcome 2.6 An effective drainage network.
- Outcome 2.8 Natural resources are used efficiently and effectively.
- Outcome 2.10 Increased resilience to manage environmental threats.
- Outcome 2.10.1 Monitor the Shire's risk management profile and exposure to risk.

#### *Social Objective*

- Outcome 3.1 Maintain a high standard of lifestyle, recreational and cultural facilities.
- Outcome 3.4 Maintain a safe community.
- Outcome 3.4.1 Monitor the Shire's risk management profile and exposure to risk.
- Outcome 3.4.4 Continue to monitor emergency risk, preparedness and response.

#### Budget Implications

Nil. A subsequent report will need to be presented to Council to accept any monetary contribution as unbudgeted income and its associated expenditure.

#### Fiscal Equity – Not applicable

#### Whole of Life Accounting

The offered monetary contribution will facilitate the completion of outstanding works such as development of public open space, street trees, stream lining and drainage works. Once implemented the Shire will need to assess asset management requirements so estimation of whole of life accounting at this time is difficult.

#### Social Equity – Not applicable

#### Ecological Equity

Completion of outstanding stream lining and drainage works, planting of street trees, plus development of the POS reserve, may improve local environmental outcomes.

#### Cultural Equity

The stream protection area is a tributary to Geegelup Brook, which is a tributary to the Blackwood River, so any works on the creekline will require consideration of Aboriginal heritage issues.

### Risk Management

Improvements to the Shire’s drainage infrastructure network may reduce the Shire’s risk profile. All infrastructure and development works will need to be undertaken in accordance with applicable Australian Standards.

Continuous Improvement – Not applicable

### Delegated Authority

Whilst the CEO has discretion to return the bank guarantee this report is presented to Council for information and to seek ‘in-principle’ support for potential payment of \$150,000 to the Shire to complete the outstanding works.

Voting Requirements - Simple Majority

<b>ITEM NO.</b>	C.06/0716	<b>FILE REF.</b>	A35227
<b>SUBJECT</b>	Proposed Building Envelope Modifications (Setback Variations)		
<b>PROPONENT</b>	Clayton Roberts		
<b>LOCATION</b>	Lot 51 (RSN 21) Statesmen Court, Kangaroo Gully		
<b>OFFICER</b>	Manager Planning		
<b>DATE OF REPORT</b>	20 July 2016		

Attachment 8      Location Plan  
Attachment 9      Proposed Modified Building Envelope  
Attachment 10     Applicant’s Correspondence

*OFFICER RECOMMENDATION: That Council pursuant to Clause 3.4.4 and Clause 7.6.4 of Town Planning Scheme No. 4, and provisions of the Building Envelopes Policy TP.5, varies the setback requirements under Clause 4.5.6 of Town Planning Scheme No. 4 and approves the building envelope modifications for Lot 51 (RSN 21) Statesmen Court, Kangaroo Gully, as per Attachment 9, subject to the following conditions:*

- 1. The modified building envelope is to be setback 20 metres from the front boundary and 9 metres from the western side boundary, as shown on the approved plan.*
- 2. All existing and future development including the dwelling, outbuildings and water tanks are to be contained within the approved modified building envelope.*
- 3. All existing vegetation outside of the approved modified building envelope is to be retained other than if removal is required for installation of a firebreak or construction of a driveway.*

### Summary/Purpose

To consider a development application for a proposed modified building envelope, including setback variations to the front and side boundaries, for Lot 51 (RSN 21) Statesmen Court, Kangaroo Gully. Noting that no submissions were received from affected landowners it is recommended that approval be granted subject to conditions.

### Background

A development application has been received seeking approval to modify the building envelope, to accommodate three existing water tanks constructed/installed outside of the current envelope, on Lot 51 (RSN 21) Statesmen Court, Kangaroo Gully.

The property is zoned 'Special Rural SR15' under Town Planning Scheme No. 4 and has an approximate area of 2.5055 hectares. The current building envelope has setbacks of 20 to 23 metres from the southern front boundary, 29 metres at the closest point from the western and eastern side boundaries, and approximately 100 metres to the northern rear boundary.

The application seeks to extend the envelope by 3 metres towards the front boundary (approximate area 90m<sup>2</sup>), to accommodate an existing small water tank located adjacent to an existing outbuilding, resulting in a 20 metre setback. The application also seeks to extend a portion of the envelope westwards by 20 to 23 metres (approximate area of 650m<sup>2</sup>) to accommodate two existing large water tanks, resulting in a 9 metre reduced setback to the eastern side boundary. To balance the proposed 740m<sup>2</sup> extensions (total approximate are 740m<sup>2</sup>) the applicant seeks to reduce the north-western portion of the envelope by approximately 600m<sup>2</sup>, resulting in a small increase of only 140m<sup>2</sup> for the envelope (see Attachment 9).

The application was referred to landowners of three surrounding properties with the submission period closing 12 July 2016, however no submissions were received, therefore deemed to have no objection to the proposal.

Under Clause 4.5.6 of TPS4, all development including outbuildings and water tanks must be contained within a defined building envelope or outside of an approved building envelope with setback no closer than 25 metres to a front boundary or 20 metres to a side boundary. The proposed setbacks of 20 metres to the front boundary and 9 metres to the western side boundary therefore represent variations to the required setbacks.

The applicant has provided a written submission justifying the application, stating that previous Shire staff in 2005 raised no concerns regarding placement of the water tanks outside of the approved envelope, and the tanks have not caused any issues with the neighbours or Shire beforehand, with the tanks installed for easy Fire Brigade access.

Shire staff recently granted development approval for a single house on the subject property and during that assessment became aware of the tanks being located outside of the current envelope. Shire staff invited the landowner to apply to modify the building envelope, rather than relocate the tanks, with staff assisting with the proposed site plan.

The envelope modifications are necessary to accommodate the existing water tanks. Noting the reduced setbacks of the envelope, no impact upon the amenity of surrounding properties or the wider locality is expected by current or future development. Given that no objections were raised by affected landowners and the proposed modifications are considered reasonable, it is recommended that approval be granted for the building envelope modifications including the setback variations.

### Statutory Environment

- Town Planning Scheme No. 4

Clause 3.4.4 of TPS4 provides Council with the power to waive or modify a development requirement. *“The power conferred by this clause may only be exercised if the Council is satisfied that:*

- (a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;*
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development of the locality or the inhabitants of the locality or upon the likely future development of the locality.”*

Under Clause 4.5.6 (ii) of TPS4 requires development to be contained within a defined building envelope. Council may permit construction of buildings in areas other than the building envelope if it is satisfied that the proposed location thereof will not be detrimental to the landscape or the environment but in any case the distance from a lot boundary will not be less than 25 metres to a road frontage or 20 metres from the side or rear boundaries of a lot.

The reduced 20 metre setback to the front boundary and reduced 9 metre setback to the western side boundary, will accommodate the existing water tanks and any future development including the recently approved single house. The modifications are not expected to have an adverse effect upon the amenity of surrounding properties or the wider locality.

Clause 7.6.4 of TPS4 states *“A Town Planning Scheme Policy shall not bind the Council in respect of any application for Planning Approval but the Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve before making its decision.”*

Council has discretion to waive any policy requirements where Council is satisfied that the provisions and objectives of the policy have been considered.

### Policy Implications

- Shire of Bridgetown-Greenbushes Building Envelopes Policy

Under the Shire’s Building Envelopes Policy TP.5, the purpose of a building envelope is to ensure buildings are sited on a suitable location on a lot taking into account topography, vegetation, amenity, watercourses, physiographic features and access.

The policy provides scope for minor alterations of a building envelope of no more than 20 metre extensions to cater for unforeseen physiographic constraints or other circumstances. The Policy states that no intrusion into the specific setback area is permitted however Council may vary the 25 and 20 metre setbacks required by TPS4, therefore permitting the proposed modifications, if it is satisfied that the proposal will not have a detrimental impact upon the landscape or the environment.

Given the terms of the policy, circumstances exist that could allow Council to vary the setback requirements of the TPS4 and approve this application as the proposal does not represent a substantial increase in the area of the building envelope, the changes are needed to accommodate existing development, and any future development within the modified envelope is not expected to have an adverse effect upon the amenity of the surrounding properties or the wider locality.

Budget Implications

The applicable development application fee has been paid.

Strategic Plan Implications - Nil

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity

The proposed building envelope modifications are not anticipated to have any adverse impacts on surrounding landowners.

Ecological Equity – Not applicable

Cultural Equity – Not applicable

Risk Management – Not applicable

Continuous Improvement

No submissions were received from surrounding landowners therefore deemed to have no objections.

Delegated Authority

Shire staff do not have delegated authority to approve the proposed building envelope with a setback less than 25 metres from the front boundary and 20 metres to a side boundary, so determination by Council is required.

Voting Requirements – Simple Majority

<b>ITEM NO.</b>	C.07/0716	<b>FILE REF.</b>	A42313
<b>SUBJECT</b>	Retrospective Approval for Rural Pursuit (Keeping of Goats)		
<b>PROPONENT</b>	Susan Kemp		
<b>LOCATION</b>	Strata Lot 117 (44) Robinia Way, Kangaroo Gully		
<b>OFFICER</b>	Manager Planning		
<b>DATE OF REPORT</b>	20 July 2016		

Attachment 11	Locality Plan
Attachment 12	Submissions
Attachment 13	Applicant's Submission/Proposed Management Plan

*OFFICER RECOMMENDATION: That Council notes the submissions received, as per Attachment 12, and pursuant to Clause 5.3.2 of Town Planning Scheme No. 4 grants retrospective approval for the rural pursuit (keeping of two goats) on Strata Lot 117 (44) Robinia Way, Kangaroo Gully, per Attachment 13, subject to the following conditions:*

- 1. Approval is granted for the keeping of two goats only on the property and managed in accordance with the approved plan and Livestock and Pasture Management Plan. Any variation to the type and/or number of stock being kept on the property will require separate development approval.*
- 2. Stock proof fencing is to be maintained around the perimeter of the grazing/holding yard.*
- 3. In the event that the Shire receives valid complaints regarding the keeping of the animals the Shire reserves the right to reduce the number of animals being kept, to impose additional conditions, or to withdraw the approval.*
- 4. All structures are to be wholly located within the approved building envelope, having setbacks of 10 metres from the front and rear boundaries and setbacks of 5 metres from the side boundaries.*
- 5. This approval is specifically granted to the current landowner/residents and can not be transferred to any subsequent landowners or residents.*

#### Summary/Purpose

An application has been received seeking retrospective development approval for the keeping of two goats on Strata Lot 117 (44) Robinia Way, Kangaroo Gully. Noting the content of the submissions received, it is recommended that retrospective approval be granted subject to conditions.

#### Background

The Shire contacted the landowner in December 2015 advising that the keeping of two goats at the rear of the property is defined as a Rural Pursuit and that development approval from the Shire would be required. The Shire then wrote to the landowner formally in February 2016, inviting her to apply for retrospective approval, with the development application then received on 15 June 2016.

The subject property is located within the Bridgetown Gardens Estate, is zoned 'Special Use SR1' and has an approximate area of 3070m<sup>2</sup>. 'Rural Pursuit' is listed

as an 'AA' discretionary use in this zone pursuant to Schedule 6 under Town Planning Scheme No. 4 (TPS4).

Under Schedule 1 – Interpretations of TPS4 *“Rural Pursuit - means the use of land for any of the purposes set out hereunder and shall include such buildings normally associated therewith:*

- (a) *the growing of vegetables, fruit, cereals or food crops;*
  - (b) *the rearing or agistment of goats, sheep, cattle or beasts of burden;*
  - (c) *the stabling, agistment or training of horses;*
  - (d) *the growing, and/or selling for wholesale purposes only of trees, shrubs, or flowers for replanting in domestic, commercial or industrial gardens, but does not include a retail nursery;*
  - (e) *the sale of produce grown solely on the lot;*
- but does not include the following except as approved by the Council:*
- (i) *the processing, treatment or packing of produce;*
  - (ii) *the breeding, rearing or boarding of domestic pets.”*

The proposal was referred to landowners of four surrounding properties, plus the Strata Council of Bridgetown Gardens Estate, given the land adjoins the common property, with three submissions in total received (see Attachment 12). Two submissions were from immediately adjoining landowners supporting the continued keeping of the two goats, seen to management of the grassland within the property.

The Strata Council of Bridgetown Gardens Estate however have objected to the proposal, indicating the their approval was not sought, and the keeping of animals other than domestic pets is inappropriate on residential lots in the estate, contravening the Strata Survey Scheme Scheduled By-Law 15.

The applicant submitted a short covering letter and completed Livestock and Pasture Management Plan (see Attachment 13) contending that the two animals are well cared for, create no nuisance to adjoining neighbours, are valued family pets, and vital to maintaining the property. The applicant has constructed a 1266m<sup>2</sup> yard at the rear of the property, including a small holding yard on the southern side and small shed used as a shelter. A new 24m<sup>2</sup> shed is proposed and to be setback 5 metres from the southern side boundary and at least 10 metres from the rear boundary. The animals are kept as pets and also to assist management of the pasture, which is a common practice throughout the Shire.

Having regard to the Shire's Guidelines for the Keeping of Stock (adopted by Council in July 2015), and details provided by the applicant, the subject goats have a Dry Sheep Equivalent (DSE) of 1.0. The area to be grazed is approximately 0.1266 ha. Based on the Soil type Bu with a DSE 10 rating, approximately 1.26 goats could be kept on the land without significant additional management measures. Noting the daily watering and feeding, collection of manure during dry weather, plus rotational grazing, Shire staff are satisfied that the keeping of two goats is reasonable on this property.

Noting the submissions received, the proposal is consistent with Town Planning Scheme No. 4 requirements and Guidelines for the Keeping of Stock, and no detrimental impacts upon the neighbours are anticipated. As such, it is recommended that Council grant retrospective approval subject to conditions.

### Statutory Environment

- Shire of Bridgetown-Greenbushes Town Planning Scheme No. 4

Under Schedule 6 – Special Use zones, the following provisions are applicable to the application:

- (c) The following uses are permissible within the zone: “AA” Rural Pursuit.

Development approval is required for the keeping of the two goats defined as Rural Pursuit.

- (e) Buildings setbacks shall be as follows:

- i) For the lots adjacent to Lot 910 to the east the setback to the adjacent boundary is not less than 10 metres;
- ii) For other lots set back to rear and front boundaries will be 10 metres and 5 metres for side boundaries.

All buildings and structures shall be contained within these specified building envelopes. No relocation/extension of the building envelopes shall be permitted.

Whilst the existing shelter as seen on recent aerial photography is located only 3.5 metres from the southern boundary, a new proposed shed is to be constructed setback 5 metres from the southern side boundary and approximately 15 metres from the rear boundary, located within the building envelope.

- i) Boundary fencing shall be maintained so as to prevent the escape of stock.

Existing fencing appears appropriate to contain the two animals.

- k) The subdivider shall develop a Management Statement in consultation with the Council addressing the following (inter alia) issues: -

- Keeping of Animals
- Management of Grazing Animals

Part 5 – Rural Pursuits and Enterprises of the Bridgetown Gardens Estate – Management Plan, addresses objectives, rural pursuits, development by the estate, development by lessees, grazing, agricultural controls, animal husbandry, reduction in stocking rates, and estate nursery.

‘Section 2 Rural pursuits’ sets out an objective to integrate residential lots with grazing and animal husbandry, and Section 7 Animal husbandry states *“Where rural pursuit activities involve the keeping of animals, the stocking rate shall not be such as to result in overgrazing or be likely to cause erosion.”*

The Shire is satisfied that the keeping of two goats on this property is not causing any erosion issues or creating a nuisance for nearby residents at this time.

- q) Large grazing animals such as cattle and horses, with a propensity to damage vegetation and fencing shall not be permitted unless approved by the Local Government.

Whilst goats are not large animals, they can have a propensity to damage vegetation and fencing, and retrospective approval has now been sought.

- r) With the intention of preventing land degradation, Council may, with advice of Agriculture Western Australia, require reduction in stock numbers on the land.

The Shire is satisfied that the keeping of two goats on this property is not causing any erosion issues or creating a nuisance for nearby residents at this time.

- s) At the time of submitted an application for planning approval for the use of “Rural Pursuit” the applicant is to submit the following supporting information:
- an analysis of potential land use conflict between the proposed use and nearby residential uses and other approved uses for the common land;
  - land capability for the proposed use;
  - water availability for the proposed use;
  - access to and from the proposed site;
  - transport implications associated with transport of the product off the site; and
  - any other matter considered relevant by the local government.”

The applicant has provided some basic information, including a Livestock and Pasture Management Plan based on the template provided in the Shire’s Guidelines for the Keeping of Stock. The Shire understands that the animals are domestic pets, and are not being bred or raised for any commercial purposes, and no access, or transport issues are anticipated. The land is capable of sustaining 1.26 goats without substantial management measures, and with reticulated water available, and other daily management, the land appears capable of sustaining the animals.

The grazing and holding yard are separated by 15 metres from the landowner’s dwelling, 7 metres from the dwelling to the north, and 10 metres from the dwelling to the south. Under the Shire’s Health Local Law (which is not applicable in this case as the land is outside of a designated townsite) large animals should be separated by 30 metres from a habitable building. Noting however that the two immediately adjoining landowners have provided written support for the continued keeping of the animals the existing separation distances seem reasonable at this time.

#### Policy Implications

- Shire of Bridgetown-Greenbushes Guidelines for the Keeping of Stock

The Shire’s Guidelines for the Keeping of Stock was adopted by Council in July 2015 to assist applicants to plan for and manage the keeping of stock at appropriate levels. The Guidelines also assist Shire staff in assessing proposal and noting the details provided and management measures proposed, Shire staff are satisfied that the keeping of two goats on this property is reasonable at this time.

#### Strategic Plan Implications - Nil

#### Budget Implications

The applicable development application has been paid.

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity – Not applicable

Ecological Equity

Based on the management measures demonstrated by the applicant, and that adjoining residents are satisfied the animals do not present a nuisance, there appears no evidence of detrimental impact upon the local environment.

Cultural Equity – Not applicable

Risk Management – Not applicable

Continuous Improvement

The content of the three submissions received has assisted consideration of the proposal.

Delegated Authority

Nil. Council approval is required as an objection has been received and Shire staff do not have delegated authority to approve the application.

Voting Requirements – Simple Majority

<b>ITEM NO.</b>	C.08/0716	<b>FILE REF.</b>	A38421
<b>SUBJECT</b>	Retrospective Approval for Rural Pursuit (Keeping of Two Alpacas)		
<b>PROPONENT</b>	Linda Richards (also on behalf of Kevin Humphrys)		
<b>LOCATION</b>	Strata Lot 33 (14) Robinia Way and Strata Lot 70 (4) Golden Ash Rise, Kangaroo Gully		
<b>OFFICER</b>	Manager Planning		
<b>DATE OF REPORT</b>	20 July 2016		

Attachment 14      Locality Plan

Attachment 15      Submissions

Attachment 16      Applicant's Submission/Proposed Management Plan

*OFFICER RECOMMENDATION: That Council notes the submissions received, as per Attachment 15, and pursuant to Clause 5.3.2 of Town Planning Scheme No. 4 grants retrospective approval for the rural pursuit (keeping of two alpacas) on Strata Lot 33 (14) Robinia Way and Strata Lot 70 (4) Golden Ash Rise, Kangaroo Gully, per Attachment 16, subject to the following conditions:*

- 1. Approval is granted for the keeping of two alpacas only on the properties in accordance with the ongoing compliance with the approved Livestock and Pasture Management Plan. Any variation to the type and/or number of stock being kept on the property will require separate development approval.*
- 2. Stock proof fencing is to be maintained around the perimeter of the grazing/holding yard.*

3. *In the event that the Shire receives valid complaints regarding the keeping of the animals the Shire reserves the right to reduce the number of animals being kept, to impose additional conditions, or to withdraw the approval.*
4. *All structures are to be wholly located within the approved building envelope, having setbacks of 10 metres from the front and rear boundaries and setbacks of 5 metres from the side boundaries.*
5. *This approval is specifically granted to the current landowner/residents and can not be transferred to any subsequent landowners or residents.*

#### Summary/Purpose

An application has been received seeking retrospective development approval for the keeping of two alpacas on Strata Lot 33 (14) Robinia Way and Strata Lot 70 (4) Golden Ash Rise, Kangaroo Gully. Noting the content of the submissions received, it is recommended that retrospective approval be granted subject to conditions.

#### Background

The Shire contacted the landowner in late 2015 advising that the keeping of two alpacas at the rear of the property is defined as a Rural Pursuit and that development approval from the Shire would be required. The Shire then wrote to the landowner in February 2016, inviting her to apply for retrospective approval, with the development application then received on 20 May 2016.

The two adjoining, subject properties are located within the Bridgetown Gardens Estate, is zoned 'Special Use SR1', with areas of 2693m<sup>2</sup> (Robinia Way) and 3636m<sup>2</sup> (Golden Ash Rise). 'Rural Pursuit' is listed as an 'AA' discretionary use in this zone pursuant to Schedule 6 under Town Planning Scheme No. 4 (TPS4).

Under Schedule 1 – Interpretations of TPS4 "*Rural Pursuit - means the use of land for any of the purposes set out hereunder and shall include such buildings normally associated therewith:*

- (f) *the growing of vegetables, fruit, cereals or food crops;*
- (g) *the rearing or agistment of goats, sheep, cattle or beasts of burden;*
- (h) *the stabling, agistment or training of horses;*
- (i) *the growing, and/or selling for wholesale purposes only of trees, shrubs, or flowers for replanting in domestic, commercial or industrial gardens, but does not include a retail nursery;*
- (j) *the sale of produce grown solely on the lot;*  
*but does not include the following except as approved by the Council:*
  - (iii) *the processing, treatment or packing of produce;*
  - (iv) *the breeding, rearing or boarding of domestic pets."*

The proposal was referred to landowners of four surrounding properties, plus the Strata Council of Bridgetown Gardens Estate, given the land adjoins the common property. The submission period closed on 13 July 2016 during which time two submissions were received (see Attachment 15).

One submission was received from adjoining landowners to the south, supporting the continued keeping of the two alpacas. The Strata Council of Bridgetown Gardens Estate however have objected to the proposal, indicating that their approval was not sought, and the keeping of animals other than domestic pets is inappropriate

on residential lots in the estate, contravening the Strata Survey Scheme Scheduled By-Law 15. Notwithstanding the submission of the Strata Council, the Shire of Bridgetown-Greenbushes can approve the proposal.

The applicant submitted a covering letter prepared by the owner of Strata Lot 70 and completed a Livestock and Pasture Management Plan (see Attachment 16). The applicant has contended that the two animals are well cared for, create no nuisance to adjoining neighbours, are valued family pets, and vital to maintaining the properties. The applicant has created a holding yard at the rear of her house, with access to the adjoining vacant land, with approximately 4450m<sup>2</sup> in total available for grazing. The animals are kept as pets and also to assist management of the pasture, which is a common practice throughout the Shire.

Having regard to the Shire's Guidelines for the Keeping of Stock (adopted by Council in July 2015), and details provided by the applicant, the subject alpacas have a Dry Sheep Equivalent (DSE) of 0.8. The area to be grazed is approximately 0.4450 ha. Based on the Soil type Bu with a DSE 10 rating, approximately 5.5 alpacas could be kept on the land without significant additional management measures. Noting the daily watering and feeding, collection of manure during dry weather, Shire staff are satisfied that the keeping of two alpacas is reasonable on these two properties.

Should the landowners consent be withdrawn for use of Strata Lot 70 and/or the property sold, the keeping of two alpacas solely on Strata Lot 33 may be difficult, as the 800m<sup>2</sup> holding yard may only permit the keeping of one alpaca. The recommended approval would therefore lapse and a separate approval would be required, or the animals will need to be removed from both properties.

Noting the submissions received, the proposal is consistent with Town Planning Scheme No. 4 requirements and Guidelines for the Keeping of Stock, and no detrimental impacts upon the neighbours are anticipated. As such, it is recommended that Council grant retrospective approval subject to conditions.

#### Statutory Environment

- Shire of Bridgetown-Greenbushes Town Planning Scheme No. 4

Under Schedule 6 – Special Use zones, the following provisions are applicable to the application:

(c) *The following uses are permissible within the zone: "AA" Rural Pursuit.*

Development approval is required for the keeping of the two alpacas defined as Rural Pursuit.

(e) *Buildings setbacks shall be as follows:*

- For the lots adjacent to Lot 910 to the east the setback to the adjacent boundary is not less than 10 metres;*
- For other lots set back to rear and front boundaries will be 10 metres and 5 metres for side boundaries.*

*All buildings and structures shall be contained within these specified building envelopes. No relocation/extension of the building envelopes shall be permitted.*

No proposed shelter structures are proposed at this time.

i) *Boundary fencing shall be maintained so as to prevent the escape of stock.*

Existing fencing appears appropriate to contain the two animals.

k) *The subdivider shall develop a Management Statement in consultation with the Council addressing the following (inter alia) issues: -*

- *Keeping of Animals*
- *Management of Grazing Animals*

Part 5 – Rural Pursuits and Enterprises of the Bridgetown Gardens Estate – Management Plan, addresses objectives, rural pursuits, development by the estate, development by lessees, grazing, agricultural controls, animal husbandry, reduction in stocking rates, and estate nursery.

‘Section 2 Rural pursuits’ sets out an objective to integrate residential lots with grazing and animal husbandry, and Section 7 Animal husbandry states *“Where rural pursuit activities involve the keeping of animals, the stocking rate shall not be such as to result in overgrazing or be likely to cause erosion.”*

The Shire is satisfied that the keeping of two alpacas on these properties are not causing any erosion issues or creating a nuisance for nearby residents at this time.

q) *Large grazing animals such as cattle and horses, with a propensity to damage vegetation and fencing shall not be permitted unless approved by the Local Government.*

Whilst alpacas are not large animals or have a propensity to damage vegetation and fencing, retrospective approval has still been sought.

r) *With the intention of preventing land degradation, Council may, with advice of Agriculture Western Australia, require reduction in stock numbers on the land.*

The Shire is satisfied that the keeping of two alpacas on this property is not causing any erosion issues or creating a nuisance for nearby residents at this time.

s) *At the time of submitted an application for planning approval for the use of “Rural Pursuit” the applicant is to submit the following supporting information:*

- *an analysis of potential land use conflict between the proposed use and nearby residential uses and other approved uses for the common land;*
- *land capability for the proposed use;*
- *water availability for the proposed use;*
- *access to and from the proposed site;*
- *transport implications associated with transport of the product off the site;*
- *and*

- *any other matter considered relevant by the local government.”*

The applicant has provided some basic information, including a Livestock and Pasture Management Plan based on the template provided in the Shire’s Guidelines for the Keeping of Stock. The Shire understands that the animals are domestic pets, and are not being bred or raised for any commercial purposes, and no access or transport issues are anticipated. The land is capable of sustaining 5.5 alpacas without substantial management measures, and with reticulated water available, and other daily management, the land appears highly capable of sustaining the two animals.

The holding yard abuts the landowner’s dwelling and is separated by 10 metres from the dwelling to the north, with the grazing yard separated by 11 metres from the dwelling to the south. Under the Shire’s Health Local Law (which is not applicable in this case as the land is outside of a designated townsite) large animals should be separated by 30 metres from a habitable building. Noting however that no objections were raised by adjoining landowners, the separation distances to adjoining properties is considered reasonable at this time. Shire staff advocate however a minimum 5 metre separation be achieved between the holding yard and the proponent’s dwelling, with a condition recommended.

#### Policy Implications

- Shire of Bridgetown-Greenbushes Guidelines for the Keeping of Stock

The Shire’s Guidelines for the Keeping of Stock was adopted by Council in July 2015 to assist applicants to plan for and manage the keeping of stock at appropriate levels. The Guidelines also assist Shire staff in assessing proposal and noting the details provided and management measures proposed, Shire staff are satisfied that the keeping of two alpacas on these properties is reasonable at this time.

Strategic Plan Implications - Nil

#### Budget Implications

The applicable development application has been paid.

Fiscal Equity – Not applicable

Whole of Life Accounting – Not applicable

Social Equity – Not applicable

#### Ecological Equity

Based on the management measures demonstrated by the applicant, and that immediately adjoining residents are satisfied that the animals do not present a nuisance, there appears no evidence of detrimental impact upon the local environment.

Cultural Equity – Not applicable

Risk Management – Not applicable

### Continuous Improvement

The content of the two submissions received has assisted consideration of the proposal.

### Delegated Authority

Nil. Council approval is required as an objection has been received and Shire staff do not have delegated authority to approve the application.

Voting Requirements – Simple Majority

**Works & Services** - Nil

**Community Services** - Nil

### **Consideration of Standing Committee Recommendations**

C.09/0716	Standing Committee Minutes – 14 July 2016 – Attachment 17
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<i>Note: All Attachments referenced in the Standing Committee Recommendations below are as per the Standing Committee Agenda.</i>
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C.10/0716	Full Review of Strategic Community Plan – Community Engagement Proposals
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Committee Recommendation      Moved Cr Pratico, Seconded Cr Nicholas

SC.02/0716 That Council:

1. Notes the receipt of the following two reports and request the CEO to upload these reports onto the Shire website and place hard copies in the library for community information:
  - Review of Strategic Community Plan: Report of Findings Community Survey 2015/16 (Attachment 2)
  - Review of Strategic Community Plan: Results of Community Survey Undertaken in 2015 (Attachment 3)
2. Note that the contents of the Community Survey 2015/16 will be used to inform the process for full review of the Strategic Community Plan including discussion and consideration at the proposed community workshops to be held in that review process.
3. Endorses the Community Engagement Strategy (Attachment 1) for the full review of the Strategic Community Plan and authorises the CEO to engage an external facilitator to facilitate the proposed community workshops and community drop-in sessions as described in the Strategy, subject to the inclusion of a 'ratings survey' to be held at the end of the community engagement process.

C.11/0716	Outsourcing Service Delivery at the Bridgetown Leisure Centre
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Committee Recommendation Moved Cr Nicholas, Seconded Cr Hodson

SC.03/0716 That Council:

1. Commit to running the Bridgetown Leisure Centre for a period of 2 years prior to exploring the options available to outsource/privatize service delivery at the Bridgetown Leisure Centre via a tender process.
2. Note the importance of clearly identifying and quantifying the reasons, purposes and desired outcomes it wishes to achieve in pursuing outsourcing/privatisation of service deliver at the Bridgetown Leisure Centre.
3. Note the value of accruing usage and financial data pertaining to the operations at the Bridgetown Leisure Centre over a 2 – 3 year period to allow internal operating assessments of performance and internal benchmarking of any future tender submissions received for the outsourcing/privatisation of service delivery at the Bridgetown Leisure Centre.

C.12/0716	Rolling Action Sheet
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Committee Recommendation Moved Cr Scallan, Seconded Cr Pratico

SC.04/0716 That the information contained in the Rolling Action Sheet be noted.

C.13/0716	Adoption of En Bloc Items
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*A motion is required to adopt the En Bloc Items.*

**Receival of Minutes from Management Committees** - Nil

**Urgent Business Approved by Decision**

**Responses to Elected Member Questions Taken on Notice**

**Elected Members Questions With Notice**

**Notice of Motions for Consideration at the Next Meeting**

### **Matters Behind Closed Doors (Confidential Items)**

In accordance with Section 5.23(2) of the Local Government Act the CEO has recommended this Item be considered behind closed doors as the subject matter relates to the following matters prescribed by Section 5.23(2):

- A matter affecting an employee or employees

In accordance with Clause 4.2 of the Standing Orders Local Law the contents of this item are to remain confidential and must not be disclosed by a member to any person other than a member of Council or an employee of the Council to the extent necessary for the purpose of carrying out his or her duties.

Note the author of this report, CEO Tim Clynh, declares a financial interest in this item as any prospective changes (or not) to Policy A.19 'Supplementary Superannuation Contributions for Employees' could have a consequence to his own remuneration package under his contract of employment.

<b>ITEM NO.</b>	C.14/0716	<b>FILE REF.</b>	
<b>SUBJECT</b>	Renewal of Contract of Employment – Executive Manager Works & Services (Lindsay Crooks)		
<b>OFFICER</b>	Chief Executive Officer		
<b>DATE OF REPORT</b>	20 July 2016		

### **Closure**

*The President to close the Meeting*

### **List of Attachments**

<b>Attachment</b>	<b>Item No.</b>	<b>Details</b>
1	C.02/0716	Extract from WALGA AGM Papers
2	C.03/0716	June 2016 Financial Activity Statements
3	C.03/0716	List of Accounts Paid in June 2016
4	C.04/0716	Public Submissions
5	C.04/0716	Proposed Road Naming Plan
6	C.04/0716	Road Naming Background Information
7	C.05/0716	Original Four Seasons Estate Subdivision Guide Plan and Deposited Plan 54560 (Stage One of WAPC 128813)
8	C.06/0716	Location Plan
9	C.06/0716	Proposed Modified Building Envelope
10	C.06/0716	Applicant's Correspondence
11	C.07/0716	Locality Plan
12	C.07/0716	Submissions
13	C.07/0716	Applicant's Submission/Proposed Management Plan
14	C.08/0716	Locality Plan
15	C.08/0716	Submissions
16	C.08/0716	Applicant's Submission/Proposed Management Plan
17	C.09/0716	Standing Committee Minutes 14 July 2016

Agenda papers checked and authorised by T Clynch, CEO		21.7.16
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