



# MINUTES

Council Meeting held  
on Thursday 15 December 2011

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# Minutes

## 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Chairperson declared the meeting open at 4.22 pm.

### 1.1. SWEARING-IN OF ELECTED COUNCILLORS

In accordance with Section 2.29 of the Local Government Act 1995 a person elected as a Councillor is to make a declaration in the prescribed form before acting in the office. This was made before Shirley Humble in her capacity as a Justice of the Peace.

The Presiding Member advised that the one (1) elected Councillor is required to make a declaration of office and called them forward.

Ms Lorkiewicz came forward and made a declaration for a four (4) year term, and took the oath of alliance before Justice of the Peace, Shirley Humble, JP.

## 2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (previously approved)

### PRESENT

Councillors; Dean, Camarri, Dunnet, Gilbert, Longmore, Steer and Lorkiewicz.

Robert Jennings - Chief Executive Officer  
Vic Smith - Manager Corporate Services  
Chris Wade – Works Manager

### VISITORS

17

### APOLOGIES

Councillor Mellema

### LEAVE OF ABSENCE (previously approved)

Nil

### 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Mr M Loveland

Q1. In reference to his letter submitted dated July 2011, the response given was unsatisfactory, can it please be re-addressed.

A1. The Manager Corporate Services responded that the previous response by Mr Waddington set out the method used to establish a property owner's liability but did not go on to explain the process used to recover this liability. This appears to be the information that you are seeking.

The Council has an established process for the recovery of outstanding rates. The methods used to ensure that property owners settle their rate liabilities is as follows:

- All ratepayers are required to pay their rates in full by the due date (35 days after the issue date of the rates notice) unless they have opted to pay by instalments.
- Instalment payers pay slightly more rates to take account of the interest lost to the Shire from deferral of the liability and the additional administration involved. This encourages payment in full by the due date.
- Any ratepayer who fails to pay by the due date and has not entered into an instalment arrangement is subject to penalty interest. In most cases this is sufficient incentive to encourage payment.
- If a ratepayer fails to respond to our requests for payment the debt is passed to a collection agency. This will incur further costs for the debtor. If the Council takes legal action to recover outstanding debts all legal fees are charged to the ratepayer.
- If all of the above still does not result in payment being received the Shire is able to levy a charge against the property and recover the debt once the property is sold.

Ms P Fraser

Q2. What is going to happen to the bowling green?

A2. The Shire president responded that Council will consider its options when the move takes place. There is no proposal to sell at this stage.

Q3. What is Council going to do about the Argentine ants at the caravan park?

- A3. The Shire President responded that the Shire doesn't have the resources to deal with this issue. The Agricultural Department has a baiting bombing system and Council will contact them requesting them to deal with this issue.

Mr M Camarri

- Q4. Was the budget put together in contravention of section 6.34 of the Local Government act?

- A.4. The Manager Corporate Services responded that Section 6.34 of the Local Government Act 1995 (the Act) states:

*Unless the Minister otherwise approves, the amount shown in the annual budget as being the amount it is estimated will be yielded by the general rate is not to –*

- (a) *be more than 110% of the amount of the budget deficiency; or*  
 (b) *be less than 90% of the budget deficiency*

The budget deficiency is defined in section 6.2(2)(c) as being:

*The amount required to make up the deficiency, if any, shown by comparing the estimated expenditure with the estimated revenue and income.*

The Rate Setting Statement approved by Council as part of the Annual Budget on 31 August 2011 shows the following position:

	\$
Total Revenues	9,007,823
Less: Total Expenses	-6,085,704
	2,922,119
Less: Non-cash items included above	-5,222,352
Sub Total	-2,300,233
Add: Estimated Funds carried forward 2010/11	1,439,952
Deficiency	-860,281
Amount to be raised from rates	1,115,214

The amount to be raised from rates was therefore 129.6% of the budget deficiency. The approved Statement did not therefore comply with section 6.34 of the Act. The Statement shows that the Council intended to raise \$254,933 more than required and would carry this surplus forward into 2012/13.

The approved Statement was incorrect as it did not show an accurate figure for the estimated funds carried forward 2010/11. This figure should have been \$155,347 and is the accounting error to which the Chief Executive Officer has referred. This error affected a range of figures in the Rate Setting Statement and a revised position has been produced and was submitted for approval to Council on 24 November 2011.

The revised statement shows an estimated position as follows:

	\$
Total Revenues	9,641,987
Less: Total Expenses	-5,731,048
	3,910,939
Less: Non-cash items included above	-5,197,544
Sub Total	-1,286,605
Add: Estimated Funds carried forward 2010/11	155,347
Deficiency	-1,131,258
Amount to be raised from rates	1,117,214

The amount to be raised from rates should therefore have been 98.8% of the budget deficiency and would comply with section 6.34 of the Act. These are the corrected figures that have been submitted to the Department of Local Government.

The Council is currently not compliant with the Act as the revised statement has not yet been adopted. There appears to be no penalty that results from this position unless the matter has been referred to, and considered by, the State Administrative Tribunal in accordance with section 6.82 of the Act.

- Q5. Are the current changes in item 10.5 an attempt to avoid contravention of section 6.34 of the Local Government act and not returning these funds to ratepayers?
- A5. The Manager Corporate Services responded; No, it is normal for the financial position at the end of the year to vary from the estimated position and these variances can sometimes be quite large. Nor does the fact that the actual surplus varies from the estimated surplus make the Council non-complaint with section 6.34 of the Act.
- Q6. Was a business plan produced to justify the purchase?

A6. The Manager Corporate Services responded that the justification for the purchase of the water truck was set out in Item 10.5, which explained that the purchase cost would be recouped over the period of the construction contract from charges made to Main Roads.

Q7. Will the surplus be returned to ratepayers?

A7. The Manager Corporate Services responded that Council will be holding a full review of the budget in February 2012 and the issue of making concessions will be one of the options considered.

Ms P Twiss

Q8. Will the useless promotional signage around town be removed?

A8. The Shire President replied that the redundant signs are currently being reviewed.

Q9. Will lights be turned off by no later than 2.00am each night?

A9. The Chief Executive Officer responded that this is a Main Roads responsibility.

Q10. What is the plan for the streetscape plan for the Shire?

A10. The Chief Executive Officer responded that the Shire of Nannup is embarking on a Main Street redevelopment project with the view to provide safe movement of traffic and pedestrians in the town centre, and to enhance the town's townscaping and economic potential.

The project is to upgrade Vasse Highway (Warren Road) through Nannup Townsite. The section involved in this project is from the Vasse River Bridge to Kearney Street, which is approximately 720m.

The project aims to enhance the safety and appearance of the Main Street with the following key results:

- Improve both the on-street and off-street parking facilities.
- Improvements to drainage in the town centre which is currently subject to flooding in heavy rainfall.
- Improvement to pedestrian safety and the movement of all types of vehicles, including heavy vehicles.
- Enhancement of the appearance of the main street of Nannup.

The proposed timeframe for this project is summarised as follows:

- Conceptual design – March 2011 Completed
- Consultation Strategy – April 2011 Completed

- Preliminary Design and Consultation – On hold, awaiting confirmation of funding
- Final Design, Specifications and Contract Documents – On hold, awaiting confirmation of funding

Previous community consultation findings have been included in the process to date.

Q11. Is there anything happening to control noxious weeds?

A11. Noxious weeds within the Shire boundaries on Council controlled land are managed to a level that resources and financial capabilities allow. Other land not under Council control; for example river foreshore are managed by other agencies.

#### **4. PUBLIC QUESTION TIME**

The Chief Executive Officer gave a brief statement of the process on the strategic firebreaks/amendment 12 to assist the public gallery with their concerns.

With regard to the Cockatoo Valley firebreaks, subsequent to a meeting with Carrie Curtis and Keith Rogers, who presented a letter with signatures regarding the issue, I understand that there has been some resident concerns on the matter.

The Council hereby extends the original invitations to an information session as stated in the letter to Cockatoo residents of 2 November 2011.

The proposed time for this consultation session is 19 January 2011, 4.00pm in the Shirley Humble room.

Ms M Longmore

Q1. How can the Shire justify the proposal to impose a bush fire zone in light of fire damage from the last fire?

A1. Cr Dean responded that legislation is not retrospective.

Q2. If a house becomes uninsurable, will the Shire compensate residents?

A2. Cr Dean responded that this is irrespective of Shire decision. Insurers will make their own assessment of the position.

Ms P Fraser

Q3. In respect to the budget, will we get an apology or refund?

A3. Manager Corporate Services responded that this issue will be discussed in the February agenda.

Q4. How did it come about?

A4. Manager Corporate Services responded that this issue will also be discussed in the February agenda.

Ms D O'Brian

Q5. Will residents of Cockatoo Valley be able to raise their questions at the meeting of the 19<sup>th</sup> January?

A5. Chief Executive Officer responded yes that will be the purpose of the public meeting.

Q6. Can the lack of response to their letter be explained?

A6. Cr Dunnet responded that the first day to discuss the letter was today.

Mr G Sharp

Q7. Will Council defer decision until resident's questions have been answered?

A7. The CEO responded that as he explained earlier there will be more consultation happening in January.

MS C Brown

Q8. Would Council consider deferring the decision in bush fire planning?

A8. Chief Executive Officer outlined the consultation process. The Shire has undertaken two rounds of advertised consultation and a public meeting. The first round of advertising received two responses. The proposal was then adjusted, then re-advertised receiving no submissions. This was then taken to Council for consideration. This has been as thorough a process as required. If people object they need to submit responses.

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

Nil

## **6. PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

**7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**8719 STEER/DUNNET**

That the Minutes of the Ordinary Council Meeting of the Shire of Nannup held in Council Chambers on 24 November 2011 be confirmed as a true and correct record.

**CARRIED 7/0**

**8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

**9. REPORTS BY MEMBERS ATTENDING COMMITTEES**

Scott River Fire Shed recovery meeting  
Critical Horizons conference  
Elected Members workshop  
Future of the RSL meeting  
Blackwood River Strategic Alliance meeting

## 10. REPORTS OF OFFICERS

AGENDA NUMBER: 10.1

SUBJECT: Final adoption of Amendment No.12 to Local Planning Scheme No. 3:  
Designated Bush Fire Prone Areas and Bush Fire Management

LOCATION/ADDRESS: Whole of Shire

NAME OF APPLICANT: Shire of Nannup

FILE REFERENCE: TPL1

AUTHOR: Steve Thompson – Consultant Planner

REPORTING OFFICER: Robert Jennings – Chief Executive Officer

DISCLOSURE OF INTEREST: The author, Edge Planning & Property receive  
planning fees for advice to the Shire therefore declare a Financial  
Interest – Section 5.65 of the Local Government Act 1995

DATE OF REPORT: 25 November 2011

- Attachments:
1. Submissions (initial consultation) – Separate Cover
  2. Schedule of Submissions (initial consultation)
  3. Submissions (additional consultation) – Separate Cover
  4. Schedule of Submissions (additional consultation)
  5. Scheme Amendment No. 12 provisions publicly advertised in August-September 2011
  6. Recommended provisions to adopt

### BACKGROUND:

#### 1. Purpose

The purpose of Amendment No. 12, to Shire of Nannup Local Planning Scheme No. 2 (LPS3), is to classify the entire municipality as a designated bush fire prone area. This will provide the statutory head of power to require new habitable buildings or additions to habitable buildings to comply with *Australian Standard AS3959-1999 Construction of Buildings in Bushfire Prone Areas*, the *Building Code of Australia* and the *Planning for Bush Fire Protection Guidelines* (Edition 2).

#### 2. Council resolutions

At the Council Meeting of 24 March 2011, the Council passed the following motion, at minute No 8575:

“That Council agree in pursuance of Section 75 of the Planning and Development Act 2005 to initiate an amendment to the Shire of Nannup Local Planning Scheme No. 3 by, adding provisions to designate a Bushfire Prone Area over the whole Shire outside the Nannup Townsite area.”

At the Council Meeting of 28 July 2011, the Council passed the following motion, at minute No 8652:

“That Council agree to the changes to the Scheme Amendment 12 as described in Attachment 1 and raised during the public submission period, as shown in the

attached table of submissions and therefore due to the substantial change to the amendment document advertise the proposed Scheme Amendment 12, to Local Planning Scheme No 3, for a further 42 day public advertising period.”

### *3. EPA decision and community/stakeholder consultation*

Following the Council meeting on 24 March 2011, the Shire wrote to the Environmental Protection Authority (EPA). The EPA on 18 April 2011 determined that the scheme amendment should not be assessed via an environmental impact assessment. The EPA decision effectively gave its “environmental clearance” to Amendment 12.

Following the receipt of the EPA decision, the Shire sought public comment on Amendment 12 for over a six week period (27 April - 10 June 2011), meeting the requirements of the Town Planning Regulations through:

- writing to relevant State Government and servicing agencies;
- placing public notices in local papers;
- details being on the Shire’s website; and
- having information available at the Shire office.

Additionally, a Community Information Forum was held on 24 May 2011, at which over 20 people from the community attended.

The Shire received 10 submissions on Scheme Amendment No. 12 through the initial consultation which are set out in Attachment 1 and summarised in the Schedule of Submissions in Attachment 2. These were considered by Council at its meeting on 28 July 2011.

Following the Council resolution on 28 July 2011, the revised documentation was re-advertised for community and stakeholder comment between 8 August – 30 September 2011 (54 days). The Shire received 5 submissions in the second round of consultation which are set out in Attachment 3 and summarised in the Schedule of Submissions in Attachment 4.

### *4. Planning and building context*

#### Planning for Bush Fire Protection Guidelines (Edition 2)

The Western Australian Planning Commission (WAPC) and the Fire and Emergency Services Authority (FESA) have developed the “Planning for Bush Fire Protection Guidelines” (Edition 2, May 2010). These guidelines are designed, in part, for local governments to use to assess the risk of bushfire hazard in a proposed development or subdivision. The focus of these guidelines is “ensuring that bush fire hazards are considered in planning decisions at all stages of the

planning process to avoid increased fire risk to life and property through inappropriately located or designed land use and development.” (page 1)

Page 4 of the guidelines, in part, states:

“Bush fire prone areas may be designated by the local government. In designated bush fire prone areas, all new habitable buildings must comply with AS3959. For the purposes of the guidelines, all areas with a moderate or extreme bush fire hazard level are considered to be bush fire prone areas for planning new subdivisions and developments and for building controls.” (page 4).

Appendix 1 sets out the methodology for determining bush fire hazard levels.

### Local Planning Scheme No. 3

Clause 10.2 of LPS3 sets out several matters to consider when dealing with applications for Council's approval of a proposed development:

- (d) any approved Statement of Planning Policy of the Commission;
- (g) any Local Planning Policy adopted by the Council under the provisions of clause 2.4;
- (n) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to bush fire or any other risk; and
- (q) whether the proposed means of access to or egress from the site are adequate.

Currently, LPS3 set out that habitable buildings in some Special Rural and Special Use zones must be constructed to AS3959-1999. Most parts of the municipality do not however have this requirement.

### State Planning Policy 3.4 - Natural Hazards and Disasters

Local government must have regard to this Policy in the preparation or amendment of local planning schemes, strategies and policies, and when providing comment and advice that deal with applications that may be affected by natural hazards. The Policy should be used by local government to determine those areas that are most vulnerable to bushfire and where development should not be recommended. It authorises the WAPC to prepare guidelines for protection from hazards which should be considered in the determination of proposals.

### Building Code of Australia

The Building Code of Australia (BCA), Parts P2.3.4 and 3.7.4, controls the building of dwellings in declared bushfire prone areas. The BCA is satisfied if the dwelling

or habitable building complies with Australian Standard AS3959-1999 Construction of Buildings in Bushfire Prone Areas.

#### 5. *Bushfire hazard assessment*

The Shire of Nannup and the Shire of Bridgetown-Greenbushes have appointed Roger Banks (fire management consultant) to prepare a bushfire hazard assessment for both municipalities. This will classify areas either as a “low”, “medium” or “extreme” hazard. The assessment will be a valuable tool for various local government functions including ranger, building and planning services. It is anticipated that this work will be completed prior to the final adoption of this amendment.

#### **COMMENT:**

It is recommended that Council grant final adoption to Scheme Amendment No. 12 subject to modifications set out in Attachment 6. These modifications are different to the version that was publicly advertised in the second round of consultation in August – September 2011 (set out in Attachment 5).

It is suggested that Amendment 12 is consistent with wide ranging strategies and policies. If approved by the Minister for Planning and then gazetted, Amendment 12 will assist to reduce bushfire risk to residents and visitors through classifying the entire municipality as a designated bush fire prone area.

The affect of Amendment 12 is that:

- if a property owner wishes to build or extend a habitable building in an area designated as “medium” or “extreme” hazard in the Shire wide hazard assessment, they will be subject to the relevant bushfire prone requirements pursuant to the Building Code of Australia, Australian Standard 3959 – 1999 (or any updates) and Planning for Bush Fire Protection Guidelines (Edition 2) or any updates. This, in part, will require a higher standard of house construction;
- if a proponent disputes or seeks to lower the hazard level on their land which is set out in the Shire-wide Bushfire Hazard Assessment Plan, the proponent is to arrange at their cost a Building Attack Level (BAL) assessment and a statement/report from a suitably qualified and/or experienced practitioner to address the requirements of the Planning for Bush Fire Protection Guidelines (Edition 2) or any updates;
- where the local government has accepted a recommendation for a lower hazard level, the landowner will be responsible for permanent hazard reduction measures to maintain the nominated and agreed BAL; and
- where a Fire Management Plan has been endorsed by the local government and/or the Fire and Emergency Services Authority of Western Australia, the

affected land owners will be responsible for the ongoing implementation of the “land owners’ responsibilities” as specified in that Fire Management Plan.

The modified wording in Attachment 6 is consistent with the two rounds of public consultation. The modifications seek to:

- make it clear that habitable buildings need to meet AS3959 – 1999 where the hazard level is “medium” or “extreme” and not “low” (this is consistent with the “Planning for Bush Fire Protection Guidelines”);
- clarify that only a qualified and/or experienced practitioner (fire management expert) provides technical justification to vary from AS3959 - 1999 or the Planning for Bush Fire Protection Guidelines;
- minimise duplicated local government assessment through requiring both a planning application and a building licence for dwellings. If a proponent disputes the hazard assessment level in the Shire-wide bushfire hazard assessment, it will be addressed at the building licence stage. No planning application will continue to be required for single dwellings throughout the municipality (except if the dwelling proposes to vary LPS3 setbacks for the zone or if the site is located within a Heritage Area);
- require the local government to consider relevant matters; and
- give statutory weight to the landowner maintaining the BAL/low fuel areas.

The WAPC will next assess the scheme amendment request with the final decision made by the Minister for Planning.

#### **STATUTORY ENVIRONMENT:**

Planning and Development Act, Town Planning Regulations, LPS3 and State Planning Policy 3.4 Natural Hazards and Disasters.

#### **POLICY IMPLICATIONS:**

The declaration of a designated bush fire prone area will enable the implementation of AS3959-1999. This includes addressing low fuel areas and a higher standard of building construction in areas that have the potential to be affected by a bushfire.

#### **FINANCIAL IMPLICATIONS:**

Public advertising was a budgeted cost.

#### **STRATEGIC IMPLICATIONS:**

Amendment 12 will assist to reduce bushfire risk to residents and visitors.

**VOTING REQUIREMENTS:** Simple Majority.

**RECOMMENDATION:**

That Council:

1. In pursuance of Section 75 of the Planning and Development Act 2005 grant final adoption of Amendment No. 12 to the Shire of Nannup Local Planning Scheme No. 3 through inserting a new Part in the Scheme as follows:

**'PART 13 - DESIGNATED BUSHFIRE PRONE AREAS AND BUSH FIRE MANAGEMENT**

- 13.1 The entire municipality is a Designated Bushfire Prone Area.
- 13.2 A Bushfire Hazard Assessment Plan will designate specific hazard levels throughout the municipality either as a 'low', 'medium' or 'extreme' hazard. The Bushfire Hazard Assessment Plan forms part of the Scheme for the purposes of Part 13.
- 13.3 The Bushfire Hazard Assessment Plan may be amended from time to time as part of a relevant Local Planning Policy or Policies (Clause 2.4). The Bushfire Hazard Assessment Plan is to be held at the local government office.
- 13.4 Construction and/or additions to habitable buildings throughout the municipality in areas classified as 'medium' or 'extreme' hazard, irrespective of whether or not a planning approval of the local government is required, will be subject to the relevant bushfire prone requirements pursuant to the Building Code of Australia, Australian Standard 3959 – 1999 (or any updates) and Planning for Bush Fire Protection Guidelines (Edition 2) or any updates.
- 13.5 If a proponent disputes or seeks to lower the hazard level of his land set out in the Bushfire Hazard Assessment Plan, the proponent is to arrange a Building Attack Level (BAL) assessment and a statement/report from a suitably qualified and/or experienced practitioner to address the requirements of the Planning for Bush Fire Protection Guidelines (Edition 2) or any updates.
- 13.6 Upon receipt of the site specific BAL assessment and statement/report referred to in Clause 13.5, the local government may accept a recommendation for a lower hazard level for the site than set out in the Bushfire Hazard Assessment Plan.
- 13.7 Where the local government has accepted a recommendation for a lower hazard level referred to in clause 13.6, the landowner will be

responsible for permanent hazard reduction measures to maintain the nominated and agreed BAL. The local government may require the landowner to arrange a re-assessment and a statement/report from a suitably qualified and/or experienced practitioner as required (at the landowner's expense) to ensure reduction measures are maintained at the nominated and agreed BAL.

- 13.8 Where a landowner accepts the hazard level of his land set out in the Bushfire Hazard Assessment Plan referred to in clause 13.2, the landowner will be responsible for permanent hazard reduction measures to maintain the nominated BAL. The local government may require the landowner to arrange an assessment and a statement/report from a suitably qualified and/or experienced practitioner as required (at the landowner's expense) to ensure reduction measures are maintained at the nominated BAL.
- 13.9 In considering proposals (including applications for planning approval, subdivision applications and structure plans) where there are bush fire risks, the local government is to have regard to-
- a) State Planning Policy 3.4 Natural Hazards and Disasters;
  - b) Planning for Bush Fire Protection Guidelines (Edition 2) or any updates;
  - c) any advice obtained from the Fire and Emergency Service Authority; and
  - d) any other planning consideration the local government considers relevant.
- 13.10 The local government may impose conditions to reduce bush fire risk to people and/or property including –
- a) the provision of a fire fighting water supply;
  - b) the provision of fire services access;
  - c) the preparation of a Fire Management Plan in accordance with the Planning for Bush Fire Protection Guidelines (Edition 2), or any updates, and implementation of specific fire protection measures set out in the plan; and
  - d) the implementation of measures to ensure that prospective purchasers are aware of the relevant scheme provisions, Fire Management Plan and publications addressing fire safety.
- 13.11 Where a Fire Management Plan has been endorsed by the local government and/or the Fire and Emergency Services Authority of

Western Australia, the affected land owners will be responsible for the ongoing implementation of the 'land owners' responsibilities' as specified in that Fire Management Plan.'

2. Adopt the recommendations in Attachment 2 and Attachment 4 relating to submissions and advise all individuals and agencies who lodged a submission that their comments were noted.
3. Refer Scheme Amendment No. 12 to the Western Australian Planning Commission and seek final approval by the Honourable Minister for Planning.

### **8720 DUNNET/CAMARRI**

That Council propose a second round of consultation.

**CARRIED 7/0**

Reason for change: This has far reaching consequences and would like to make sure the community are fully informed on the issue before adopting the policy.

This will not affect the timing of gazetting.

AGENDA NUMBER: 10.2

SUBJECT: Application for Planning Approval – Accommodation to support hospital, residence, sheds and ancillary development

LOCATION/ADDRESS: Lot 3 of Nelson Location 778 Balingup-Nannup Road, Nannup

NAME OF APPLICANT: Mystic River Pty Ltd - Mr Wally Moroz

FILE REFERENCE: A157

AUTHOR: Steve Thompson – Consultant Planner

REPORTING OFFICER: Robert Jennings – Chief Executive Officer

DISCLOSURE OF INTEREST: Edge Planning & Property receive planning fees for advice to the Shire therefore declare a Financial Interest – Section 5.65 of the Local Government Act 1995

DATE OF REPORT: 2 December 2011

- Attachment:
1. Location Map
  2. Local Planning Scheme No. 3 provisions for application site including endorsed Structure Plan
  3. Extract of information provided by applicant
  4. Submissions – Separate Cover
  5. FESA advice on Fire Management Plan (May 2009)

## **BACKGROUND:**

### Site details

The site subject to this Planning Application is Lot 3 of Nelson Location 778 Balingup-Nannup Road which is shown in Attachment 1. The site is approximately 12 kilometres north-east of the Nannup townsite.

The site is 34.5567 hectares in area, is largely cleared (with native vegetation predominantly in the south-east), has a mixture of slopes from moderate to steeply sloping, and contains an existing building (approved as a day hospital), residence, sheds, a large dam and smaller dams.

Adjoining and surrounding land is predominantly used for the grazing of livestock and tree plantations. There are also tourist and vineyard operations.

### Previous planning

The site was subject to Scheme Amendment No. 6 which was granted final approval by the Minister for Planning on 11 March 2010 and then gazetted on 26 March 2010. This rezoned the site from the “Agriculture” zone to the “Special Use” zone to enable the development of a private hospital with associated accommodation. Attachment 2 sets out the Local Planning Scheme No. 3 (LPS3) zoning provisions for the application site including the endorsed Structure Plan.

At the Council Meeting on 24 June 2010, the Council passed the following motion, at minute No 8407:

“That Council in relation to the planning application 015/10 to establish a “Day Hospital” resolve to:

Endorse the approval by the Manager Development Services under delegation 105, the planning application subject to compliance with the conditions in the WAPC 853/6/17/3 Pt6 rezoning approval (Conditions and structural plan dated 1st Feb 10 thereto) of 11 March 2010 for the rezoning of Lot 3 of Nelson Location 778 Balingup Road.

Consider that the change to the endorsed Structural Plan dated 1st February 2010 is minor and is approved.

As no car parking is shown an additional condition that ten (10) car parks are to be provided for stage 1.

All issues raised by residents to be addressed as soon as possible.”

The planning approval in June 2010 enabled the establishment of a day hospital and medical centre accommodating a maximum of 30 patients at any one time, along with changing the use of an existing dwelling and garage. A Building Licence was then issued by the Shire. The applicant has been progressively implementing the approvals since then.

#### Current Planning Application

The applicant has lodged an application for planning approval for the second stage of the proposal (Attachment 3). The applicant seeks approval for:

- the establishment of a residential building (accommodation for a maximum of 20 people), along with a manager’s office, common room and pool enclosure;
- a residence;
- a shed of 200m<sup>2</sup>;
- a shed of 84m<sup>2</sup>;
- a rainwater tank; and
- reclassifying the existing residence as a caretakers dwelling.

The applicant has provided a number of reports into various elements of the development including a Fire Management Plan, Emergency Management and Evacuation Plan, Farm Management Plan and Landscape Protection Plan. These reports are available to Councillors on request.

## Consultation

As set out in LPS3, there is no statutory requirement to publicly advertise this recent Planning Application. However, in accordance with Council's Local Planning Policy LPP - 005, consultation occurred for a 14 day period. The Shire administration invited public comment on the Planning Application through writing to 11 adjoining/nearby landowners and 4 State Government agencies, placing a notice in the local paper, details on the Shire website and having details available at the Shire office.

At the time of writing this report, the Shire had received six submissions on the Planning Application and these are provided in full in Attachment 4. Four submissions have been received from adjoining/nearby landowners and two submissions have been received from State Government agencies. The submissions from adjoining/nearby landowners generally oppose the application, while State Government agencies raise no objection.

The submissions which oppose the application raise a number of matters including:

- safety and security of patients, staff, visitors and surrounding residents;
- bushfire risks – the site is fire prone and patients/clients will add to the risks;
- evacuation of patients and duty of care considerations;
- impacts on amenity/lifestyle including a loss of tranquility;
- impacts on tourism and a detrimental impact on property values;
- logistical challenges given the site's relatively isolated location, including the availability of police, medical, ambulance and fire fighting services;
- traffic impacts and safety;
- there is no public transport service; and
- management of patients on-site and off-site.

Any late submissions will be separately reported to Councillors under separate cover.

The Shire's CEO and the Consultant Planner met with Mr and Mrs Avery, Mr Collett and Mr Sharp on 2 December 2011. At this meeting, they communicated their strong opposition to the Planning Application.

Previously, there was considerable consultation on Scheme Amendment No. 6 in 2009 for over a two month period which included a public meeting on 4 June 2009. 56 submissions were previously received on Scheme Amendment No. 6.

## Planning framework

The site is zoned “Special Use” in LPS3 with statutory provisions for the site outlined in Attachment 2. Uses which can legally be approved by the local government on the property are:

- hospital and medical centre (maximum of 30 patients at any one time);
- residential building (maximum occupation of 20 persons);
- caretakers dwelling;
- single dwelling;
- home office;
- home occupation;
- agriculture – extensive;
- recreation – private; and
- rural pursuit.

Under LPS3 a “D” use, means that the use is not permitted unless the local government has exercised its discretion by granting planning approval. Unlike an “A” use there is no specific requirement for public advertising.

The site is located in Precinct NR1 in the Shire of Nannup Local Planning Strategy. Precinct objectives include to:

- “Protect and enhance landscape values of Nannup-Balingup corridor along Blackwood River valley.
- Provide for the sustainable use of land within the agricultural zones, and outside the Townsite Strategy Area, for a range of rural pursuits.”

## **COMMENT:**

### 1. Overview

It is recommended that Council approve the Planning Application subject to conditions. This follows assessment against LPS3 (including that the application is generally consistent with endorsed structure plan), the Local Planning Strategy, Local Planning Policies, State Planning Policies, and given no objections were received from State Government agencies.

Some of the key issues with the application are outlined below.

### 2. Is the development appropriate for this site?

While noting opposition from adjoining/nearby landowners, it is concluded that the development is conditionally appropriate for this site for reasons including:

- the Minister for Planning supported the range of land uses through granting approval to Scheme Amendment No. 6 on 11 March 2010;
- LPS3 enables the proposed uses in Special Use Zone No. 12;
- the development is generally consistent with the endorsed structure plan;
- the Council supported planning approval to the first stage of the development on 24 June 2010;
- the area is not priority agricultural/prime agricultural land as defined by the Department of Agriculture and Food;
- there are suitable buffers from adjoining properties; and
- the Fire & Emergency Services Authority (FESA) endorsed the Fire Management Plan (FMP) for the property which was communicated to the Shire on 13 March 2009 (Attachment 5).

### 3. Fire management

FirePlan WA (fire management consultants) assessed the site as having a medium, high and extreme bushfire hazard and prepared a comprehensive FMP at the scheme amendment stage. FESA assessed and then endorsed this FMP (Attachment 5). Recently, FESA provided comments on the Planning Application (Attachment 4) highlighting the need for a FMP. A recent telephone discussion with the FESA officer confirmed that they receive numerous planning referrals for comment and they did not undertake a comprehensive check of the file and their previous advice.

Given the FirePlan WA assessment, previous FESA endorsement of the FMP and that the applicant has substantially implemented the FMP including low-fuel areas, water supplies and building construction standards, it is suggested that measures can comply with the State Government's "Planning for Bushfire Protection Guidelines (edition 2)" document.

Recommended conditions relating to reducing bushfire risks are again obtaining FESA endorsement to the FMP, ensuring the FMP recommendations are implemented and requiring all habitable buildings to be constructed in accordance with Australian Standard AS3959-1999.

### 4. Emergency management and evacuation

The applicant has prepared an Emergency Management and Evacuation Plan (Attachment 3), including setting out that the entire site is a smoke free environment. Besides being a LPS3 requirement, the plan is essential given the site's relatively isolated location. The plan identifies the procedures in the event of an emergency. Whilst not limited to bush fire emergencies, this is likely to be the main focus given the level of risk. Should Council resolve to grant Planning Approval, it is recommended that the plan should be periodically reviewed to ensure it remains current.

It is recommended that the Emergency Management and Evacuation Plan be separately assessed by FESA with required measures implemented prior to occupation by patients.

#### 5. On-going management

Various submissions raise issues relating to the safety, security and management of patients/visitors, along with logistical challenges including the availability of police, medical, ambulance and fire fighting services. While noting the site's relatively isolated location, it is suggested that many of these safety, security and management issues primarily relate to duty of care considerations for the operator.

It is highlighted that on-going management is a critical issue which, of course, can only be addressed following the site being used for the approved purpose. Significantly, the responsibility for appropriate on-going management rests with the landowner/operator to ensure that patients and visitors are responsible and do not create inappropriate impacts, including noise, fire, litter etc. to adjoining/nearby properties.

There are various recommended planning conditions that seek to minimise land use impacts and encourage appropriate neighbourly relations. This includes a recommended condition requiring the applicant to prepare and gain approval for an appropriate Management Plan. It is suggested that the Management Plan, amongst matters, should:

- address the responsibility for patient/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
- outline the approach to maximise the safety and security of patients and visitors;
- seek the operation to be a good neighbour and be considerate including noise, litter and the approach to reducing fire risks;
- acknowledge that the development is located in an agricultural area and that the impacts of agricultural pursuits should be expected and tolerated;
- highlight the requirement to not enter adjoining private land; and
- set out that the operator and/or manager will live on the property.

It is also noted that adjoining/nearby landowners have a common law right that addresses trespass.

#### 6. Traffic impacts and public transport

The proposed development, if approved and implemented, will create additional traffic on Balingup-Nannup Road. It is suggested that the road can however adequately handle expected traffic from the development. Balingup-Nannup Road will be upgraded in accordance with "Roads 2025 Regional Road Development

Strategy” (Main Roads WA and Western Australia Local Government Association) and the Council’s Capital Works Program, along with allocating/securing funding.

Most of the municipality is not serviced by public transport service, including the Balingup-Nannup Road. While it would be preferable if public transport services were available, it is suggested that the lack of a public transport service is not a sound reason to refuse this Planning Application.

#### 7. Vehicular access to Balingup-Nannup Road

The existing crossover is located to maximise vehicular sight distances in both directions. It is suggested that the existing crossover should be sealed and drained to the satisfaction of the Council. Given the first section of the driveway closest to the Balingup-Nannup Road is steep, it is suggested that at least the first 25 metres of the driveway is sealed at the proponent’s cost.

Condition/Special Provision 15 of LPS3’s SU12 states:

“As a condition of planning approval the local government may require the upgrading of Balingup-Nannup Road in the vicinity of the entrance to the subject land along with construction of passing bays to facilitate safe vehicular access to the site.”

It is suggested that while a sealed crossover is appropriate, passing bays are not warranted at this stage. This follows advice from the Shire’s Works Manager, site inspection and vehicle numbers on this section of the Balingup-Nannup Road. The need for passing bays could be re-examined following patients occupying the property, re-examining traffic numbers/impacts and through a future Planning Application.

#### 8. Detrimental impact on property values

No professional evidence has been provided to verify this claim.

#### 9. Visual impact

This matter is considered appropriately addressed given the development will have limited or no visual impact when viewed from the Balingup-Nannup Road. Impacts can be further reduced with the retention of existing vegetation and through additional replanting. A recommended condition includes the implementation of the Landscape Protection Plan.

### **STATUTORY ENVIRONMENT:**

Planning and Development Act 2005 and LPS3.

**POLICY IMPLICATIONS:** Nil**FINANCIAL IMPLICATIONS:** Nil**STRATEGIC IMPLICATIONS:**

The facility is expected to be used by people from the South West, Perth and from other parts of Western Australia. It has potential to provide employment, support local business and draw people to the Shire.

**RECOMMENDATION:**

That Council approve the Planning Application for a residential building, manager's office, common room, pool enclosure, residence, two sheds, rainwater tank and reclassifying the existing residence as a caretakers dwelling on Lot 3 of Nelson Location 778 Balingup-Nannup Road, Nannup as set out in Attachment 3 subject to the following conditions:

1. This approval shall expire if the development hereby approved has not been substantially commenced within a period of two years from the date hereof, or within any extension of that time (requested in writing prior to the approval expiring) that may be granted by the local government. Where the Planning Approval has lapsed, no further development is to be carried out.
2. The development hereby approved is to be carried out in accordance with the plans and specifications submitted with the application, addressing all conditions, or otherwise amended by the local government and shown on the approved plans and these shall not be altered and/or modified without the prior knowledge and written consent of the local government.
3. The approved development is limited to accommodate a maximum of 20 persons staying overnight in the residential building.
4. The driveway and car parking shall be laid out and constructed to the satisfaction of the local government prior to occupation.
5. The vehicular crossover, to a distance of a least 25 metres from the Balingup-Nannup Road, is to be designed, constructed, sealed and drained at the proponent's expense to the satisfaction of the local government prior to 15 December 2013.
6. All habitable buildings are constructed in accordance with Australian Standard AS3959-1999.
7. A Fire Management Plan is to be approved by the local government and the Fire & Emergency Services Authority and then implemented prior to

occupation. Following this, measures and recommendations in the approved Fire Management Plan are to be maintained to the satisfaction of the local government.

8. The Emergency Management and Evacuation Plan is to be approved by the local government and the Fire & Emergency Services Authority and then implemented prior to occupation. Following this, measures in the approved Emergency Management and Evacuation Plan are to be maintained to the satisfaction of the local government.
9. The proponent is to submit details of stormwater design which gains approval by the local government and is installed prior to occupation.
10. An adequate on-site potable water supply must be provided in accordance with the Australian Drinking Water Guidelines prior to occupation.
11. A wastewater disposal system acceptable to the local government and approved by the Department of Health is installed prior to occupation.
12. The Landscape Protection Plan is to be implemented to the satisfaction of the local government by 15 December 2013.
13. The proponent is to submit and gain local government approval for a Management Plan, prior to occupation, which addresses the responsibility for the behaviour of clients/patients and visitors and the management measures to be implemented to minimise adverse impacts on the amenity of the locality.
14. A schedule of all materials to be used on the external surfaces of the buildings (which excludes Zinalume) shall be submitted to the satisfaction of the local government prior to the issue of a Building Licence.

#### Advice

- A) The proponent is advised that this Planning Approval is not a Building Licence. A Building Licence must be formally applied for and obtained before the commencement of any site and/or development works.
- B) The proponent is advised that the approved development must comply with all relevant provisions of the Health Act, 1911 (as amended) and the Building Code of Australia.
- C) In relation to Condition 5, the gates and fencing are to be suitably located and designed to ensure there are sufficient areas to enable vehicles to park in the crossover and/or on the property without impeding traffic or compromising safety on Balingup-Nannup Road.

- D) In relation to Conditions 7 and 8, these plans should be regularly reviewed to ensure they comply with best practice to assist in managing risk.
- E) In relation to Condition 10, the local government may require water samples to be taken and independently analysed. Should the local government be required to arrange the testing, it will be at the cost of the landowner/operator.
- F) In relation to Condition 13, the Management Plan is to:
- address the responsibility for patient/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
  - outline the approach to maximise the safety and security of patients and visitors;
  - seek the operation to be a good neighbour and be considerate including noise, litter and the approach to reducing fire risks;
  - acknowledge that the development is located in an agricultural area and that the impacts of agricultural pursuits should be expected and tolerated;
  - the requirement to not enter adjoining private land; and
  - set out that the operator and/or manager will live on the property.
- G) All fire fighting equipment is to be clearly indicated on plans submitted for a Building Licence.
- H) The proponent is advised that the development may be accompanied by responsibilities inherent under the 'Disability Discrimination Act, 1992'. It is recommended that the proponent seek to apprise himself of those requirements.
- I) The proponent is advised that development of the subject property in accordance with this Planning Approval may result in the method of rating for the property being reviewed.
- J) It is the responsibility of the proponent/landowner to advise the local government when all conditions relating to the development have been satisfied.
- K) The local government will separately consider the possible need for passing bays following patients/clients occupying the property, monitoring traffic volumes/impacts and through the submission of a future Planning Application.

- L) Part 14 of the Planning and Development Act 2005 provides the right to apply to the State Administrative Tribunal for review of some planning decisions and the proponent may wish to take professional advice to determine whether or not such a right exists in the present instance. The State Administrative Tribunal Rules 2004 require that any such applications for review be lodged with the Tribunal.

### **8721 DUNNET/DEAN**

That Council approve the Planning Application for a residential building, manager's office, common room, pool enclosure, residence, two sheds, rainwater tank and reclassifying the existing residence as a caretakers dwelling on Lot 3 of Nelson Location 778 Balingup-Nannup Road, Nannup as set out in Attachment 3 subject to the following conditions:

1. This approval shall expire if the development hereby approved has not been substantially commenced within a period of two years from the date hereof, or within any extension of that time (requested in writing prior to the approval expiring) that may be granted by the local government. Where the Planning Approval has lapsed, no further development is to be carried out.
2. The development hereby approved is to be carried out in accordance with the plans and specifications submitted with the application, addressing all conditions, or otherwise amended by the local government and shown on the approved plans and these shall not be altered and/or modified without the prior knowledge and written consent of the local government.
3. The approved development is limited to accommodate a maximum of 20 persons staying overnight in the residential building.
4. The driveway and car parking shall be laid out and constructed to the satisfaction of the local government prior to occupation.
5. The vehicular crossover, to a distance of a least 25 metres from the Balingup-Nannup Road, is to be designed, constructed, sealed and drained at the proponent's expense to the satisfaction of the local government prior to 15 December 2013.
6. All habitable buildings are constructed in accordance with Australian Standard AS3959-1999.
7. A Fire Management Plan is to be approved by the local government and the Fire & Emergency Services Authority and then implemented prior to occupation. Following this, measures and recommendations in the approved Fire Management Plan are to be maintained to the satisfaction of the local government.

8. The Emergency Management and Evacuation Plan is to be approved by the local government and the Fire & Emergency Services Authority and then implemented prior to occupation. Following this, measures in the approved Emergency Management and Evacuation Plan are to be maintained to the satisfaction of the local government.
9. The proponent is to submit details of stormwater design which gains approval by the local government and is installed prior to occupation.
10. An adequate on-site potable water supply must be provided in accordance with the Australian Drinking Water Guidelines prior to occupation.
11. A wastewater disposal system acceptable to the local government and approved by the Department of Health is installed prior to occupation.
12. The Landscape Protection Plan is to be implemented to the satisfaction of the local government by 15 December 2013.
13. The proponent is to submit and gain local government approval for a Management Plan, prior to occupation, which addresses the responsibility for the behaviour of clients/patients and visitors and the management measures to be implemented to minimise adverse impacts on the amenity of the locality.
14. A schedule of all materials to be used on the external surfaces of the buildings (which excludes Zincalume) shall be submitted to the satisfaction of the local government prior to the issue of a Building Licence.

#### Advice

- A) The proponent is advised that this Planning Approval is not a Building Licence. A Building Licence must be formally applied for and obtained before the commencement of any site and/or development works.
- B) The proponent is advised that the approved development must comply with all relevant provisions of the Health Act, 1911 (as amended) and the Building Code of Australia.
- C) In relation to Condition 5, the gates and fencing are to be suitably located and designed to ensure there are sufficient areas to enable vehicles to park in the crossover and/or on the property without impeding traffic or compromising safety on Balingup-Nannup Road.
- D) In relation to Conditions 7 and 8, these plans should be regularly reviewed to ensure they comply with best practice to assist in managing risk.

- E) In relation to Condition 10, the local government may require water samples to be taken and independently analysed. Should the local government be required to arrange the testing, it will be at the cost of the landowner/operator.
- F) In relation to Condition 13, the Management Plan is to:
- address the responsibility for patient/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
  - outline the approach to maximise the safety and security of patients and visitors;
  - seek the operation to be a good neighbour and be considerate including noise, litter and the approach to reducing fire risks;
  - acknowledge that the development is located in an agricultural area and that the impacts of agricultural pursuits should be expected and tolerated;
  - the requirement to not enter adjoining private land; and
  - set out that the operator and/or manager will live on the property.
- G) All fire fighting equipment is to be clearly indicated on plans submitted for a Building Licence.
- H) The proponent is advised that the development may be accompanied by responsibilities inherent under the 'Disability Discrimination Act, 1992'. It is recommended that the proponent seek to apprise himself of those requirements.
- I) The proponent is advised that development of the subject property in accordance with this Planning Approval may result in the method of rating for the property being reviewed.
- J) It is the responsibility of the proponent/landowner to advise the local government when all conditions relating to the development have been satisfied.
- K) The local government will separately consider the possible need for passing bays following patients/clients occupying the property, monitoring traffic volumes/impacts and through the submission of a future Planning Application.
- L) Part 14 of the Planning and Development Act 2005 provides the right to apply to the State Administrative Tribunal for review of some planning decisions and the proponent may wish to take professional advice to determine whether or not such a right exists in the present instance. The State Administrative Tribunal

Rules 2004 require that any such applications for review be lodged with the Tribunal.

**CARRIED 6/1**

Voting for the motion: Dean, Camarri, Dunnet, Gilbert, Longmore and Steer

Voting against the motion: Lorkiewicz

AGENDA NUMBER: 10.3  
 SUBJECT: Graphite Road – Federal Blackspot Project  
 LOCATION/ADDRESS: Graphite Road, Nannup  
 NAME OF APPLICANT: Shire of Nannup  
 FILE REFERENCE: WRK32  
 AUTHOR: Bret Howson (Consultant Project Manager)  
 REPORTING OFFICER: Robert Jennings — Chief Executive Officer  
 DISCLOSURE OF INTEREST: Nil.  
 DATE OF REPORT: 5<sup>th</sup> December 2011

Attachment: Location Map

### **BACKGROUND:**

The Shire of Nannup successfully applied for a Federal Blackspot Grant for safety improvement to Graphite Road. This funding is available for the 2011/2012 financial year.

Due to the timeframe for assessment and design, the works need to commence in January 2012. As it is proposed to tender the construction works, this item is seeking the Council's endorsement for the tender selection criteria. In addition due to there not being a Council meeting in January 2012, the Council is requested to endorse the Chief Executive Officer to award the tender prior to the end of January 2012.

### **COMMENT:**

This section of Graphite Road (6.40 to 10.40slk) has a seal width of 7.0m and compacted, unsealed shoulder width of 1.0m. The land is undulating and the road has a number of crests and curves, many with poor visibility around or over the full length of the crest or curve.

The road is bordered by large forest trees which cast shadows across the road. This tends to hide the guideposts, signage and seal edge.

The road has a number of accidents relating to vehicles leaving the road way and colliding with objects. The following chart is a summary of accidents to be treated for this project.

<b>No</b>	<b>SLK</b>	<b>Type</b>	<b>Time</b>
1.	6.49	Hit animal	17.55
2.	7.00	Off bend left	15.00
3.	8.31	Off bend left	8.00
4.	9.69	Off bend left	18.00
5.	10.19	Off bend right	12.00
6.	10.39	Off bend right	9.30

Shire Officers have completed a survey of the centerline, seal edge, shoulder edge and drain and produced a full set of design drawings, technical specifications and tender documents for the proposed works.

It is proposed to widen the shoulders to give greater compacted surface for an errant vehicle to gain control and return to the road. In some areas the shoulder widening will include the improvement of the road geometry with full lane reconstruction from the centerline of the road.

The proposal is to install reflectorised guideposts and curve warning makers which will highlight the edge of road, and it is proposed to install these as per Main Roads guidepost and signage standards.

### **Summary of Works**

- Survey centreline, seal edge, shoulder edge and bottom of drain or batter lines only.
- Re-grade all shoulders to improve width to 1.5m and install new guide post and advanced curve warning signs
- Widen culverts where necessary
- Improve road geometry at 8.50slk curve and improve other areas of crossfall
- Raised pavement marker along centreline
- Install curve warning lateral direction markers on curves as required

### **General Timeframe**

- Design, scope and contract documents – 30 September to 30<sup>th</sup> November,
- Advertise and award tender – 30<sup>th</sup> November to 30<sup>th</sup> January,
- Pre-construction activities – 1<sup>st</sup> February to 10<sup>th</sup> February,
- Construction – 10<sup>th</sup> February to 30<sup>th</sup> March
- Finalise April 2012

As it is proposed to tender for the construction work for Graphite Road, Shire Officers have prepared the relevant documentation to be able to advertise, assess and award this tender. It is the Officer's recommendation that the following qualitative weighting criteria be used for the assessment of respondents.

Description of Qualitative Criteria	Weighting %
<b>A) Value for Money</b> i. Price;	70%

Description of Qualitative Criteria	Weighting %
<b>B) Relevant Experience in providing this service</b> <ul style="list-style-type: none"> <li>i. Provide details of similar services;</li> <li>ii. Demonstrate competency and proven track</li> <li>iii. record of achievement in this field;</li> </ul>	20%
<b>C) Respondent's Resources</b> Respondents should demonstrate their ability and sustain the necessary ; <ul style="list-style-type: none"> <li>i. Plant, equipment and materials necessary to supply and provide service;</li> <li>ii. Any contingency measures or back up of resources including personnel (where applicable).</li> </ul>	10%

Due to the timeframe required to complete this works and reconcile the Federal Government Funding allocation, Shire officers will be recommending that the Council endorse delegated authority to award this tender prior to the end of January 2012.

#### **STATUTORY ENVIRONMENT:**

The preparation, assessment and award of this tender shall comply with Part 4 (Provision of Goods and Services) of the Local Government (Functions and General) Regulations 1996 Division 2 – Tendering for Goods and Services.

**POLICY IMPLICATIONS:** Nil.

#### **FINANCIAL IMPLICATIONS:**

As mentioned previously in this item, the Shire has successfully applied \$400,000 for the total project. This is 100% funded from the Federal Government's Blackspot Project with no contribution required from Council. All works will be completed within the budget allocation.

#### **STRATEGIC IMPLICATIONS:**

Program 12: Transport.

Sub Program 12.1: Road Maintenance Program

Critical Success Factor: To ensure that road maintenance matters are recognised and undertaken.

Action Title: Development and implementation of significant road maintenance initiatives.

**VOTING REQUIREMENTS:** Simple Majority.

**RECOMMENDATION:**

That Council:

1. Endorse the tender selection criteria for the Graphite Road Blackspot Project as:

Description of Qualitative Criteria	Weighting %
<b>A) Value for Money</b> ii. Price;	70%
<b>B) Relevant Experience in providing this service</b> iv. Provide details of similar services; v. Demonstrate competency and proven track vi. record of achievement in this field;	20%
<b>C) Respondent's Resources</b> Respondents should demonstrate their ability and sustain the necessary ; iii. Plant, equipment and materials necessary to supply and provide service; iv. Any contingency measures or back up of resources including personnel (where applicable).	10%

2. Delegate authority to the Chief Executive Officer to award the tender for the Graphite Road Blackspot Project prior to the 31<sup>st</sup> January 2012.

**8722 DUNNET/GILBERT**

That Council:

1. Endorse the tender selection criteria for the Graphite Road Blackspot Project as:

Description of Qualitative Criteria	Weighting %
<b>A) Value for Money</b> iii. Price;	70%

Description of Qualitative Criteria	Weighting %
<p><b>B) Relevant Experience in providing this service</b></p> <ul style="list-style-type: none"> <li>vii. Provide details of similar services;</li> <li>viii. Demonstrate competency and proven track</li> <li>ix. record of achievement in this field;</li> </ul>	20%
<p><b>C) Respondent's Resources</b></p> <p>Respondents should demonstrate their ability and sustain the necessary ;</p> <ul style="list-style-type: none"> <li>v. Plant, equipment and materials necessary to supply and provide service;</li> <li>vi. Any contingency measures or back up of resources including personnel (where applicable).</li> </ul>	10%

2. Delegate authority to the Chief Executive Officer to award the tender for the Graphite Road Blackspot Project prior to the 31<sup>st</sup> January 2012.

**CARRIED 7/0**

AGENDA NUMBER:	10.4
SUBJECT:	2011/2012 Budget Amendment
LOCATION/ADDRESS:	Nannup
NAME OF APPLICANT:	N/A
FILE REFERENCE:	FNC 9
AUTHOR:	Vic Smith – Manager Corporate Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	1 December 2011

Attachment: 2011/12 Amended Budget pages:

1. Amended Rate Setting Statement
2. Amended Note 6 – Reserves Funds
3. Amended Note 7– Net Current Assets
4. Amended Note 8 – Rating Information

### **BACKGROUND:**

Council adopted the 2011/12 Budget at the Ordinary Meeting held on the 31 August 2011. In accordance with the requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996* a copy of the adopted budget was submitted to the Department of Local Government (DLG).

The DLG reviewed the Budget and sought clarification of some of the notes forming part of the budget. These notes were reviewed and where necessary amended and a copy of the amended notes returned to the Department.

### **COMMENT:**

Council considered the amended statements at its meeting on 24 November 2011 but the absolute majority required to amend the budget was not achieved. The statements have been reviewed by the Manager Corporate Services and are resubmitted for approval.

### **COMPLIANCE WITH THE LOCAL GOVERNMENT ACT 1995**

Questions have been raised regarding the Council's compliance with the Local Government Act 1995 (the Act). Section 6.34 of the Act states:

*Unless the Minister otherwise approves, the amount shown in the annual budget as being the amount it is estimated will be yielded by the general rate is not to –*

- (c) be more than 110% of the amount of the budget deficiency; or*
- (d) be less than 90% of the budget deficiency*

The budget deficiency is defined in section 6.2(2)(c) of the Act as being:

*The amount required to make up the deficiency, if any, shown by comparing the estimated expenditure with the estimated revenue and income.*

The Rate Setting Statement approved by Council as part of the Annual Budget on 31 August 2011 shows the following position:

	\$
Total Revenues	9,007,823
Less: Total Expenses	<u>-6,085,704</u>
	2,922,119
Less: Non-cash items included above	<u>-5,222,352</u>
Sub Total	-2,300,233
Add: Estimated Funds carried forward 2010/11	<u>1,439,952</u>
Deficiency	<u>-860,281</u>
Amount to be raised from rates	1,115,214

The amount to be raised from rates was therefore 129.6% of the budget deficiency. The approved Statement did not therefore comply with section 6.34 of the Act. The Statement shows that the Council intended to raise \$254,933 more than required and would carry this surplus forward into 2012/13.

The Council is currently not compliant with the Act as a revised statement has not yet been adopted. There appears to be no automatic penalty that results from this position unless the matter has been referred to, and considered by, the State Administrative Tribunal in accordance with section 6.82 of the Act.

This resulted in a Department for Local Government request to adjust the statement, which was accordingly actioned by officers and brought to Council for adoption on 24 November 2011.

The actual surplus (subject to audit) was reported to Council on 24 November 2011 as \$589,518. This did not arise because of a mistake in the accounts. It is normal for the financial position at the end of the year to vary from the estimated position and these variances can sometimes be quite large. The fact that the actual surplus varies from the estimated surplus when the budget was set does not make the Council non-complaint with section 6.34 of the Act.

## **CORRECTIONS TO THE STATEMENTS**

The Statement approved by Council on 31 August was incorrect because it did not show an accurate figure for the estimated funds carried forward for 2010/11. This

figure should have been \$155,347 and is the accounting error to which the Chief Executive Officer has previously referred. This error affected a range of figures in the Rate Setting Statement and a revised position has been produced.

The revised statement as presented in Attachment 1 shows an estimated position at the time the budget was set as follows:

	\$
Total Revenues	9,641,987
Less: Total Expenses	<u>-5,731,048</u>
	3,910,939
Less: Non-cash items included above	<u>-5,197,544</u>
Sub Total	-1,286,605
Add: Estimated Funds carried forward 2010/11	<u>155,347</u>
Deficiency	<u>-1,131,258</u>
Amount to be raised from rates	1,117,214

The amount to be raised from rates should therefore have been 98.8% of the budget deficiency and would comply with section 6.34 of the Act. These are the corrected figures that have been submitted to the Department of Local Government.

The main reason for the error was that adjustments relating to the Council's reserves had not been included in the budget figures. These corrections have been made and affect Notes 6 and 7 to the budget setting statements. Revised versions of Notes 6 and 7 are included as Attachments 2 and 3.

The other change to the statements concerns the amount of rates to be raised. The statement approved on 31 August 2011 did not include interim rates of \$2,000. This affected Note 8 to the budget statements. An amended Note 8 is submitted for approval as Attachment 4.

The numbers of properties being shown on this statement in the various categories has also been queried and the statement has been reviewed. The numbers of properties shown on the statement and their corresponding rateable values have been compared with the data on the rating system used to calculate the rate liabilities for 2011/12. This review revealed discrepancies in both the number of properties and the total rateable value in each category. The statement has therefore been amended to more closely reflect the data held on the rating system.

**STATUTORY ENVIRONMENT:** Local Government Act 1995 s 6.2 & 6.8 (b)

**POLICY IMPLICATIONS:** Nil.

**FINANCIAL IMPLICATIONS:** Nil.

**STRATEGIC IMPLICATIONS:** Nil.

**VOTING REQUIREMENTS:** Absolute Majority.

**RECOMMENDATION**

1. That Council by Absolute Majority incorporate into the 2011/12 Budget the following amended notes correcting the reserve transfers as follows:
  - (a) Amended Rate Setting Statement (Attachment 1);
  - (b) Amended Note 6 – Reserves Funds (Attachment 2); and
  - (c) Amended Note 7 (Attachment 3) – Net Current Assets.
2. That Council by Absolute Majority incorporate into the 2011/12 Budget the following amended notes correcting the level of interim rates and property details as follows:
  - (a) Amended Note 8 (Attachment 4) – Rating Information.

**8723 STEER/LONGMORE**

1. That Council by Absolute Majority incorporate into the 2011/12 Budget the following amended notes correcting the reserve transfers as follows:
  - (a) Amended Rate Setting Statement (Attachment 1);
  - (b) Amended Note 6 – Reserves Funds (Attachment 2); and
  - (c) Amended Note 7 (Attachment 3) – Net Current Assets.
2. That Council by Absolute Majority incorporate into the 2011/12 Budget the following amended notes correcting the level of interim rates and property details as follows:
  - (a) Amended Note 8 (Attachment 4) – Rating Information.

**CARRIED 7/0**

AGENDA ITEM: 10.5  
 SUBJECT: Accounts for Payment  
 LOCATION/ADDRESS: Nannup Shire  
 FILE REFERENCE: FNC 8  
 AUTHOR: Tracie Bishop – Administration Officer  
 AUTHORISING OFFICER: Vic Smith – Manager Corporate Services  
 DISCLOSURE OF INTEREST:  
 DATE OF REPORT: 1 December 2011

Attachment: Schedule of Accounts for Payment.

**COMMENT:**

The Accounts for Payment for the Nannup Shire Municipal Account fund and Trust Account fund are detailed hereunder and noted on the attached schedule are submitted to Council.

**Municipal Account**

Accounts paid by EFT	2909 – 3015	\$1,004,236.01
Accounts paid by cheque Vouchers	18703– 18742	\$96,554.69
Accounts paid by direct debit	99269 - 99274I	\$24,055.71

**Trust Account**

Accounts paid by cheque Voucher	22752	\$160.00
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**STATUTORY ENVIRONMENT:**

Local Government (Financial Management) Regulation 13.

**POLICY IMPLICATIONS:** Nil.

**FINANCIAL IMPLICATIONS:**

As indicated in the Schedule of Accounts for Payment.

**STRATEGIC IMPLICATIONS:** Nil.

**VOTING REQUIREMENTS:** Simple majority.

**RECOMMENDATION:**

That the List of Accounts for Payment for the Nannup Shire Municipal Account fund totalling \$1,125,006.41 in the attached schedule be accepted.

**8724 LORKIEWICZ/DUNNET**

That the List of Accounts for Payment for the Nannup Shire Municipal Account fund totalling \$1,125,006.41 in the attached schedule be ~~accepted~~ endorsed.

**CARRIED 7/0**

*Pursuant to Section 5.23 (2) of the Local Government Act 1995 the following item deals with:*

*(b) the personal affairs of any person, and*

*and hence Council is advised to close the meeting to members of the public by resolution.*

### **8725 GILBERT/STEER**

(Procedural Recommendation)

That the meeting be closed to members of the public in accordance with Sections 5.23(2) (a) of the Local Government Act 1995.

(The following report is confidential in accordance with Section 5.23(2) (a) of the Local Government Act 1995, being a matter effecting a past employee.)

**CARRIED 7/0**

The meeting was closed to the public at 5.16pm.

Cr Longmore declared an impartiality interest in the following item.

AGENDA NUMBER: 10.6  
 SUBJECT: 2012 Premier's Australia Day Active Citizenship Awards  
 LOCATION/ADDRESS: Nannup  
 NAME OF APPLICANT:  
 FILE REFERENCE: REC 11  
 AUTHOR: Louise Stokes – Community Development Officer  
 DISCLOSURE OF INTEREST: Relation to a nominee by Author  
 REPORTING OFFICER: Robert Jennings – Chief Executive Officer  
 DATE OF REPORT: 29 November 2011

### **8726 LORKIEWICZ/DUNNET**

1. Premier's Australia Day Active Citizenship Award to be received by withheld.
2. Premier's Australia Day Active Citizenship Award for a person under 25 years to be received by withheld.
3. Premier's Australia Day Active Citizenship Award for a community group or event to be received by withheld.

**CARRIED 6/1**

Voting for the motion: Dean, Dunnet, Gilbert, Longmore, Lorkiewicz and Steer.

Voting against the motion: Camarri.

*Pursuant to Section 5.23 (2) of the Local Government Act 1995 the following item deals with:*

*(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting*

*and hence Council is advised to close the meeting to members of the public by resolution.*

AGENDA NUMBER: 10.7

SUBJECT: Expression of Interest, Supper Room

LOCATION/ADDRESS: Nannup

NAME OF APPLICANT:

FILE REFERENCE: REC 4

AUTHOR: Louise Stokes – Community Development Officer

DISCLOSURE OF INTEREST:

DATE OF REPORT: 30 November 2011

### **8727 LORKIEWICZ/GILBERT**

1. That the Shire of Nannup negotiate a lease agreement with the Nannup Community Resource Centre.
2. The Nannup Community Resource Centre be requested to meet with the Nannup Youth Advisory Council to determine if there are opportunities within the premises for a youth space and activities to be established.
3. That A Taste of Nannup and the Youth Advisory Council be advised that their Expression of Interest in the lease of the Supper Room were unsuccessful.
4. Advise the Youth Advisory Committee that the Nannup Community Resource Centre may contact them regarding opportunities within the premises.

**CARRIED 5/2**

Voting for the motion: Dean, Dunnet, Gilbert, Longmore and Steer.

Voting against the motion: Camarri and Lorkiewicz.

**8728 DUNNET/LONGMORE**  
(Procedural Recommendation)

That the meeting be opened to members of the public in accordance with Sections 5.23(2) (a) of the Local Government Act 1995.

**CARRIED 5/2**

Voting for the motion; Dean Dunnet, Gilbert, Longmore and Steer.  
Voting against the motion; Camarri and Lorkiewicz.

The meeting was opened to the public at 5.25pm.

**11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

(a) OFFICERS

Nil,

(b) ELECTED MEMBERS

**GILBERT/**

That Council introduce new business of an urgent nature introduced by decision of meeting being:

**11(b).1 Review of fire breaks in Cockatoo Valley Decision**

That Council undertake a review of its decision of May 2011 relating to fire breaks in Cockatoo Valley.

The review to be considered at the February 2012 meeting of Council.

Meanwhile residents of Cockatoo Valley be required to undertake reduction measures to the satisfaction of the Nannup Brook Fire Control Officer and the Community Emergency Services Manager.

**LOST**

Reason: 3 votes that were required for the item to be considered were not received.

**12. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**13. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil

**14. CLOSURE OF MEETING**

There being no further business to discuss the Shire President declared the meeting closed at 5.35 pm.