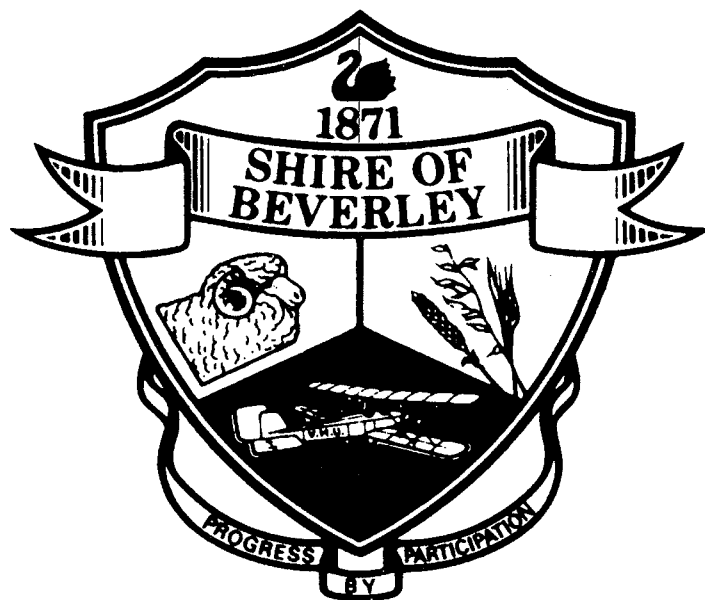


**ORDINARY COUNCIL**

**MEETING**

**MINUTES**



**28 SEPTEMBER 2010**

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**28 SEPTEMBER 2010**

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**28 SEPTEMBER 2010**

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL  
HELD IN THE COUNCIL CHAMBERS ON TUESDAY 28 SEPTEMBER 2010**

**1. COMMENCEMENT**

The President declared the meeting open at 10:08am.

**2. ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE**

Attendance

Cr DJ Ridgway	President	South Ward
Cr LC Shaw	Deputy President	West Ward
Cr MG Roberts		South Ward
Cr BM Foster		West Ward
Cr CJ Pepper		West Ward
Cr P Gogol		North Ward
Cr KM Murray		North Ward
Mr KL Byers	Chief Executive Officer	
Mrs SC Collins	Senior Administration Officer	

Apologies

Nil.

Leave of Absence

Cr JD Alexander	North Ward
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**3. PUBLIC QUESTION TIME**

Nil

**4. CONDOLENCES**

Nil.

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.



**6. CONFIRMATION OF MINUTES AND BUSINESS ARISING  
ITEM 6.2  
NOTES FROM THE FORUM TO DISCUSS TENDERS TO  
CONSTRUCT INDEPENDENT LIVING UNITS ON LOT 101 DAWSON  
STREET, BEVERLEY, HELD IN THE COUNCIL CHAMBERS ON  
FRIDAY 24 SEPTEMBER 2010  
BUSINESS ARISING  
(Continued)**

**COUNCIL RESOLUTION**

**M4/0910 Moved Cr Foster Seconded Cr Pepper  
That Council accept the Tender from Sims Construction Pty Ltd to  
construct 2 Independent Living Units on Lot 101 Dawson Street,  
Beverley at a cost of \$582,218 (GST exclusive).  
CARRIED 7-0**

**COUNCIL RESOLUTION**

**M5/0910 Moved Cr Pepper Seconded Cr Roberts  
That Council appoint Matthew Coniglio Architects to supervise the  
construction of the two Independent Living Units on Lot 101  
Dawson Street, Beverley.  
CARRIED 7-0**

**7. PRESIDENT AND COUNCILLOR REPORTS**

**7.1 PRESIDENT'S REPORT**

The President reported on various matters, including the following acknowledgments -

**7.1 SOUTH EAST AVON REGIONAL TRANSITION GROUP (SEARTG)  
The Shire President extended her thanks to Cr Shaw and to Cr Pepper  
(as proxy) for their participation at the inaugural SEARTG meeting held  
on 2 September 2010.**

**7.2 SENIORS' LUNCHEON  
The Shire President extended appreciation to Crs Gogol and Foster for  
their co-ordination of arrangements for the Seniors' Luncheon to be  
held on Thursday 4 November 2010.**

**7.3 BEVERLEY FOOTBALL CLUB  
Congratulations to the Beverley Football Club in winning the  
Premiership against Quairading on Sunday 12 September 2010.**

**7. PRESIDENT AND COUNCILLOR REPORTS**

**ITEM 7.1**

**PRESIDENT'S REPORT  
(Continued)**

**COUNCIL RESOLUTION**

**M6/0910 Moved Cr Foster** **Seconded Cr Roberts**  
**That the President's Report, be received.**  
**CARRIED 7-0**

**7.2 COUNCILLOR REPORTS**

Cr Shaw

**7.1 TOWN ENTRY STATEMENT COMMITTEE**

Cr Shaw reported on the proceedings of the inaugural meeting of the Town Entry Statement Committee which he and Cr Pepper had attended on Tuesday 14 September 2010. Cr Shaw advised that an advertisement will be placed in the Blarney inviting public input for appropriate town entry statements on Hunt Road and that a meeting would then be held around the end of October.

Cr Murray

**7.2 WHEATBELT HEALTH MEETING**

Cr Murray reported on a Wheatbelt Health meeting held in York.

Cr Pepper

**7.3 BEVERLEY TOURISM**

Cr Pepper reported that he had attended the district display exhibition at the Royal Agricultural Show and commented that our display was excellent and the exhibition well attended.

On Thursday 14 October 2010 the Beverley Tourist Bureau Committee will be holding a meeting with local business participants to discuss the direction for formulating their strategic plan.

**COUNCIL RESOLUTION**

**M7/0910 Moved Cr Roberts** **Seconded Cr Foster**  
**That the Councillor Reports, be received.**  
**CARRIED 7-0**

At 10:38am Mr Peter Wright, Shire Planner, entered the Council Chambers and joined the meeting.

## 8. OFFICERS' REPORTS

### 8.1.1 TOWN PLANNING ITEMS

---

<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.1.1.1</b>
<b>REPORT DATE:</b>	<b>24 August 2010</b>
<b>SUBJECT:</b>	<b>FINAL ADOPTION – DEVELOPER CONTRIBUTIONS FOR ROAD AND FOOTPATH UPGRADING POLICY</b>
<b>FILE REFERENCE:</b>	<b>LUP 004</b>
<b>AUTHOR:</b>	<b>Shire Planner – Peter Wright</b>

---

Appendix 2

#### **BACKGROUND**

Requirements to satisfy subdivision and development conditions relating to developer contributions for road and footpath upgrades, has previously caused concern and confusion amongst applicants. To address this matter and provide clear guidance, Council at its 27 July 2010 meeting initiated a Developer Contributions for Road and Footpath Upgrading Policy.

Following advertising the policy is being presented to Council for final adoption.

#### **COMMENT**

The policy was advertised in compliance with Clause 7.6.2 of the Shire of Beverley's Town Planning Scheme No. 2. There were no responses to the advertising of the policy.

When an application for development or subdivision is approved, if there is a nexus between the proposal and upgrading an associated road and/or footpath, Council or the Western Australian Planning Commission may require the applicant to contribute to the upgrade. Currently there are no guidelines regarding the amount of contribution required or how the contribution is calculated or to be spent.

This policy will provide a transparent and consistent basis for seeking financial contributions to road and footpath upgrades. Staff will be able to provide clear and consistent advice on the Shire's expectations. In addition applicants will be able to see that the contribution is connected to the subdivision or development, thus removing the potential perception that the Shire is inappropriately revenue raising.



**8.1.1 TOWN PLANNING ITEMS**

**ITEM 8.1.1.1**

**FINAL ADOPTION**

**- DEVELOPER CONTRIBUTIONS FOR ROAD AND FOOTPATH  
UPGRADING POLICY**

**(Continued)**

Since there was no response to the advertising and the policy will allow Council's intentions to be fulfilled in an open, transparent and equitable manner, it will be recommended the policy is adopted without modification.

**STATUTORY ENVIRONMENT**

Policies are formulated under Clause 7.6 of the Shire of Beverley's Town Planning Scheme No. 2.

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION**

**M8/0910**

**Moved Cr Foster**

**Seconded Cr Gogol**

**That Council resolve –**

- 1. That Council grant final adoption to the Town Planning Scheme Developer Contributions for Road and Footpath Upgrading Policy.**
- 2. That Council instruct the Shire Planner to advertise the final adoption in compliance with Clause 7.6.2c) of the Shire of Beverley's Town Planning Scheme No. 2.**

**CARRIED 7-0**

## 8.1.1 TOWN PLANNING ITEMS

---

<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.1.1.2</b>
<b>REPORT DATE:</b>	<b>24 August 2010</b>
<b>SUBJECT:</b>	<b>DEVELOPMENT APPLICATION – CONCERT – LOT 83 BUTCHERS ROAD, WESTDALE</b>
<b>APPLICANTS:</b>	<b>Concert and Corporate Productions</b>
<b>FILE REFERENCE:</b>	<b>BUT 51004</b>
<b>AUTHOR:</b>	<b>Shire Planner – Peter Wright</b>

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Appendix 3

### BACKGROUND

It is proposed to conduct a concert on 30 and 31 October 2010 at Lot 83 Butchers Road, Westdale. The subject site is approximately 49ha in area, zoned Farming and contains existing buildings. The application includes the erection of ancillary temporary structures which are to be removed by 5 November 2010.

It is anticipated 7,000 persons will attend the event, which includes parking and overnight camping areas. Catering will be provided and the controlled sale of alcohol is proposed in a designated secure area. For warmth and extra light, in specific locations large steel drums will be utilised as open braziers. Submitted fire, evacuation and traffic management plans are identical to those approved for a concert on the site on 25 October 2008 and 27 October 2009.

### COMMENT

Under the Shire of Beverley's Town Planning Scheme No. 2 (TPS 2) a concert is a use not listed. Clause 3.2.5 of TPS 2 states that where a land use is not listed Council may: -

- a) Determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted; or
- b) Determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of Clause 6.2 in considering an application for planning consent, following which Council may, at its discretion, permit the use.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.2**  
**DEVELOPMENT APPLICATION**  
**- CONCERT**  
**- LOT 83 BUTCHERS ROAD, WESTDALE**  
**(Continued)**

In previous years the event has attracted a substantial number of tourists, members of the travelling public and residents of Beverley. Clause 3.5 of TPS 2 states that Council will support proposals which service members of the travelling public or tourists. Given that the proposed use will not preclude agricultural use of the property for the remainder of the year and provides entertainment options not normally available in Beverley, it will be recommended Council determine that the proposed use may be consistent with the objectives and purpose of the Farming zone.

**Advertising**

In compliance with Clause 6.2 of TPS 2 the application was advertised for a period of 21 days. A total of 5 submissions were received, comprising of 3 no objections and 2 objections. A summary of the submissions received and officer's responses are detailed in the table below: -

	<u>Name &amp; Address</u>	<u>Affected Property</u>
1	A Gosling RMB 221 Beverley WA 6304	47 Turner Gully Road Westdale
	No Objection to Proposal.	Noted
1.1	Previous events have been well organised and not resulted in any negative impacts.	Noted
1.2	At last year's event the location of random breath testing by the Police caused excessive inconvenience to residents not attending the event.	This is Police operational matter not a relevant planning matter.
1.3	Random breath testing should be conducted at the entrance to the property.	See 1.2.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.2**  
**DEVELOPMENT APPLICATION**  
**- CONCERT**  
**- LOT 83 BUTCHERS ROAD, WESTDALE**  
**(Continued)**

2	<u>Name &amp; Address</u> W. Cherry 234 Holmes Road Forrestfield WA	<u>Affected Property</u> Lot 84 Butchers Road Westdale
	No Objection to Proposal.	Noted
2.1	No problems have been noted with past events.	Shire records indicate no complaints have been made in relation to past events.
2.2	Similar events should be encouraged.	Events raise the profile of Beverley and aid in economic development.

3	<u>Name &amp; Address</u> V Yancazos 19 Turner Gully Road Beverley WA 6304	<u>Affected Property</u> Lot 89 Turner Gully Road Westdale
	No Objection to Proposal.	Noted

4	<u>Name &amp; Address Withheld</u>	<u>Affected Property</u>
	Objection to Proposal.	Noted
4.1	The event conflicts with the planning intent of the Farming zone.	A concert is a use not listed in TPS 2. Council has previously determined that past events comply with the planning intent of the area.
4.2	Disturbance to noise amenity causes distress to sheep and neighbouring residents.	Shire records indicate no complaints have been received concerning disturbance to noise amenity in the past. Council must consider if the amount of the noise generated on one night of the year is an excessive impact on the amenity of neighbouring properties

8.1.1

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.2**

**DEVELOPMENT APPLICATION**

**- CONCERT**

**- LOT 83 BUTCHERS ROAD, WESTDALE**

(Continued)

4.3	Although the respondent supports the police presence, the police RBTs caused inconvenience to residents of the area and access difficulties.	See 1.2 above
4.4	Increased security measures such as locked gates and boundary checks have been required.	It is acknowledged that the sudden increase in persons in the area may cause security concerns to residents of the area. It should be noted such concerns are very limited in duration. The respondent states that for 362 days of the year there is "mostly no impact".
4.5	Possible attendees of the event trespassed and camped on the respondent's property the night before the event.	This is a police matter although it does add to the cumulative impact of anti social behaviour on security and amenity.
4.6	Items have been dumped by the side of the road near where police checks have been carried out.	See 4.5 above
4.7	Concerned over the fire risk.	The event being held at the end of October is a fire concern. The applicant has submitted a fire management plan. Should Council approve the application, further conditions of approval or advice notes may be imposed.
4.8	Persons appearing to be affected by substances have trespassed onto neighbouring properties at past events.	See 4.5 above
4.9	Requests the event be relocated.	The application is for a land use on a specific property. Council must consider the application, as submitted.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.2**  
**DEVELOPMENT APPLICATION**  
**- CONCERT**  
**- LOT 83 BUTCHERS ROAD, WESTDALE**  
**(Continued)**

5	<u>Name &amp; Address Withheld</u>	<u>Affected Property</u>
	Objection to Proposal	Noted
5.1	Concerned over the fire risk due to the event being held late in October.	See 4.7 above.

Similar events have occurred on this property previously without serious matters of concern being raised by surrounding residents. In response to the advertising of the current application two respondents have raised concerns about the fire risk, with one of the respondents also mentioning amenity and security concerns. It is assumed all other residents of the area have no objection or no opinion on the proposal.

The concert will aid in economic development and economic diversification in the Shire of Beverley. Direct economic enhancement will occur due to catering for the needs of the substantial number of persons attending the event. Indirect economic benefit will come from raising the profile of Beverley throughout the State and making Beverley a tourist destination. As such the event will aid in economic diversification in Beverley.

Entertainment options in Beverley may be considered limited for the younger age groups. This event will provide an entertainment option comparable with those in the metropolitan area and not generally available in Beverley. As such the event will aid in enhancing the amenity of the Shire.

**Fire Management**

The proposal contains a fire management plan and an emergency evacuation plan, to be implemented for the duration of the event. Concerns have been raised that the event is being held toward the start of the fire prone period of the year. Should Council approve the application it will be recommended the fire management and emergency evacuation plans be implemented as conditions of approval and the following advice note be included: -

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.2**  
**DEVELOPMENT APPLICATION**  
**- CONCERT**  
**- LOT 83 BUTCHERS ROAD, WESTDALE**  
**(Continued)**

*"The applicant is advised that unless any future events are held on or before the first weekend in October, they are likely to be refused."*

**Amenity**

Two of the respondents to the advertising mentioned difficulty in accessing their properties due Police activity, with one respondent also mentioning disturbance caused by noise and anti social behaviour.

How the police conduct their activities are police operational matters and it would not be appropriate for the Shire to attempt to influence the police. Any concerns should be sent directly to the Police by the aggrieved persons.

Anti social behaviour, including trespass and littering are Police matters. However Council should assess the cumulative impact of such behaviour on the amenity of nearby residents. There have been approximately 5,000 persons attending previous events. To date Shire records indicate no complaints of anti social behaviour have been made. In response to advertising of the current proposed event concerns of anti social behaviour have been raised by only one resident.

Given the event is a rock concert, it may be anticipated a substantial amount of noise would be generated. The respondent that mentioned the noise raised concerns about the impact on livestock (sheep) and uncomfortable levels of noise experienced by neighbours. Such a level of noise would negatively impact on the amenity of residents in the area.

Council must weigh the conflicting matters of approving a land use of limited duration that aids in economic development, provides entertainment options and caters for several thousand persons against the legitimate concerns of a resident on the impact on amenity. It will be recommended that due to the limited timeframe of the impact on amenity, Council approve the application. Should Council approve the application, in the opinion of staff it would be difficult to impose reasonable conditions of approval that would mitigate the impact on amenity apart from those limiting the duration of the event.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.2**  
**DEVELOPMENT APPLICATION**  
**- CONCERT**  
**- LOT 83 BUTCHERS ROAD, WESTDALE**  
**(Continued)**

**First Aid and Management Plans**

As components of the application, a fire risk, precaution and evacuation plan and a traffic management plan have been submitted. To cater for first aid at the 2009 concert, an ambulance and three staff were on duty from 9:00am 24 October 2009 to 9:00am 25 October 2009. Shire staff consider similar first aid arrangements should occur from 9:00am 30 October 2010 to 9:00am 31 October 2010. Should Council approve the application, it will be recommended the fire and traffic management plans and first aid arrangements as detailed, be specified as conditions of approval.

**Conclusion**

The application to conduct a concert at Lot 83 Butchers Road, Westdale is supported due to:

1. Diversification of economic activity;
2. Enhancement of amenity through provision of generally unavailable entertainment options;
3. Raising the "profile" of the Shire of Beverley;
4. Limited objections to the proposal; and
5. Direct cash injection into the local economy.

It will therefore be recommended the proposal be considered a land use that is consistent with the objectives of the Farming zone and Council grant planning approval.

**STATUTORY ENVIRONMENT**

Subject to Council determination by absolute majority, as discussed above, the application may be considered consistent with the Shire of Beverley's Town Planning Scheme No. 2.

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION**

**M9/0910 Moved Cr Gogol** **Seconded Cr Roberts**  
**That Council resolve that the proposed use is consistent with the**  
**planning objectives and purpose of the Farming zone.**  
**CARRIED 7-0**  
**ABSOLUTE MAJORITY**



**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.2**  
**DEVELOPMENT APPLICATION**  
**- CONCERT**  
**- LOT 83 BUTCHERS ROAD, WESTDALE**  
**(Continued)**

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION**

**M10/0910 Moved Cr Foster Seconded Cr Pepper**  
**That Council resolve: -**

**To grant planning approval for a concert at Lot 83 Butchers Road, Westdale, subject to the following conditions and advice notes: -**

**Conditions:**

- 1. Planning approval for a concert at Lot 83 Butchers Road, Westdale, is valid for the period of 30 October 2010 to 31 October 2010 only.**
- 2. Development shall be carried out only in accordance with the terms of the application as approved herein and any approved plan, prepared by the applicant and endorsed by Council's Shire Planner.**
- 3. All temporary structures associated with this approval shall be removed by the 5 November 2010.**
- 4. As the Water Corporation reticulated sewer is not available, acceptable ablution facilities are to be provided for the entire period of this approval, to the satisfaction of the Shire's Environmental Health Officer. (Refer to Advice Note 3.)**
- 5. The approved Fire Risk, Precaution and Evacuation Plan is to be complied with at all times, for the entire period of this approval.**
- 6. The approved Traffic Management Plan is to be complied with at all times, for the entire period of this approval.**
- 7. An ambulance and three staff qualified in first aid are to be available on-site between the hours of 9:00am 30 October 2010 to 9:00am 31 October 2010.**

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.2**  
**DEVELOPMENT APPLICATION**  
**- CONCERT**  
**- LOT 83 BUTCHERS ROAD, WESTDALE**  
**(Continued)**

**Advice Notes: -**

- 1. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.**
- 2. The applicant is advised a building licence is required prior to commencement of any building works.**
- 3. With regard to Condition 4, an application is to be submitted to the Council's Environmental Health Section and approved, prior to the commencement of the event.**
- 4. The applicant is advised that unless any future events are held on or before the second weekend in October, they are likely to be refused.**

**CARRIED 7-0**

### 8.1.1 TOWN PLANNING ITEMS

---

<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.1.1.3</b>
<b>REPORT DATE:</b>	<b>15 September 2010</b>
<b>SUBJECT:</b>	<b>SURVEY STRATA SUBDIVISION APPLICATION – LOT 23562 MAITLAND ROAD, KOKEBY</b>
<b>APPLICANTS:</b>	<b>Land Insights</b>
<b>FILE REFERENCE:</b>	<b>S945-10</b>
<b>AUTHOR:</b>	<b>Shire Planner – Peter Wright</b>

---

The Chief Executive Officer advised that Mr Mark Thomas would be attending later in the meeting to address Council on item 8.1.1.3.

**Council agreed to deal with this matter later in the meeting.**

### 8.1.1 TOWN PLANNING ITEMS

---

<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.1.1.4</b>
<b>REPORT DATE:</b>	<b>8 September 2010</b>
<b>SUBJECT:</b>	<b>SUBDIVISION APPLICATION – LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50 WESTDALE ROAD, WESTDALE</b>
<b>APPLICANTS:</b>	<b>Parkfield Farms Pty Ltd</b>
<b>FILE REFERENCE:</b>	<b>S142724</b>
<b>AUTHOR:</b>	<b>Shire Planner – Peter Wright</b>

---

The Chief Executive Officer advised that Mr Aaron Lohman would be attending later in the meeting to address Council on item 8.1.1.4.

**Council agreed to deal with this matter later in the meeting.**

## 8.1.1 TOWN PLANNING ITEMS

---

<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.1.1.5</b>
<b>REPORT DATE:</b>	<b>21 September 2010</b>
<b>SUBJECT:</b>	<b>DEVELOPMENT APPLICATION – OUTBUILDING AND RESIDING IN OUTBUILDING – LOT 127 BROOKING STREET, BEVERLEY</b>
<b>APPLICANTS:</b>	<b>S &amp; M MORTON</b>
<b>FILE REFERENCE:</b>	<b>BRO 1597</b>
<b>AUTHOR:</b>	<b>Shire Planner – Peter Wright</b>

---

Appendix 4

### BACKGROUND

The applicants are applying to construct an outbuilding prior to the construction of a dwelling. It is proposed the outbuilding be constructed prior to the applicants having an extended holiday and then the applicants intend to live in the outbuilding whilst construction is finalised on the dwelling. Planning approval has been granted for a single dwelling on the lot.

It is proposed the applicants will park the Winnebago that is to be used for the extended holiday in the outbuilding to provide the required ablutions and living facilities. The Winnebago contains cooking, sleeping, toilet and shower facilities.

The subject lot is 4048m<sup>2</sup> in area, zoned Residential R2.5 and vacant. The land is within the Avon River flood plain and is generally cleared, although there is some remnant vegetation.

### COMMENT

Due to the subject site being within the Avon River flood plain, the application was referred to the Department of Water (DOW). The DOW provided comment indicating a minimum habitable floor level. Since the applicants are requesting to reside in the outbuilding, should Council approve the application it will be recommended the floor level of the outbuilding be the same as the DOW habitable floor level, as a condition of approval.

Council's Outbuilding Policy states that ablution facilities shall not be approved in an outbuilding unless it is associated with an existing or substantially commenced dwelling. Also the policy states an outbuilding will not be permitted on a vacant Residential zoned lot unless there is an approved and substantially commenced dwelling. The objective of these provisions in the policy is to prevent outbuildings being used as unapproved de-facto dwellings.

**8.1.1**

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.5**

**DEVELOPMENT APPLICATION**

- **OUTBUILDING AND RESIDING IN OUTBUILDING**
- **LOT 127 BROOKING STREET, BEVERLEY**

**(Continued)**

The ablution facilities will be contained in the Winnebago and not be a component of the outbuilding. When the dwelling is completed the outbuilding will be used to store the vehicle. As such the ablution facilities will not be a permanent feature of the outbuilding.

The applicants acknowledge they will be residing in the outbuilding and request the Outbuilding Policy be varied in compliance with Council's Building While Residing on a Block Policy.

Under Council's Building While Residing on a Block Policy, Council may grant approval for the use of a caravan as a temporary dwelling during the period of construction of a dwelling on that site. Prior to Council approval the following must be available on site: -

- Water
- Power
- Septic tank installation

Since residing on the lot will facilitate the construction of the dwelling and the outbuilding is an integral component of the proposal. It will be recommended Council grant approval for the construction of the outbuilding and for the applicants to reside on the lot whilst the dwelling is constructed. Should Council approve the application, it will be recommended the provision of water, power, and a waste disposal system are conditions of approval.

Under the *Caravan Parks and Camping Grounds Regulations 1997* Council may grant approval for a person to reside on a lot for up to 12 months if the person holds a building license. To remove the possibility of the applicants residing on the lot permanently and to comply with statutory requirements, should Council approve the application it will be recommended a time limit be placed on residing on the lot in the outbuilding.

Approval of the application is unlikely to have a significant on the amenity of the locality. Parking the Winnebago in the outbuilding will mask the residential activity. Ultimately the external impact will be the same as if the dwelling were constructed first.



**8.1.1**

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.5**

**DEVELOPMENT APPLICATION**

- **OUTBUILDING AND RESIDING IN OUTBUILDING**
- **LOT 127 BROOKING STREET, BEVERLEY**

**(Continued)**

**Conditions: -**

1. **If the development, the subject of this approval, is not SUBSTANTIALLY COMMENCED within a period of 2 years from the date of this approval being granted, the approval shall lapse and be of no further effect. Where an approval has lapsed, no development shall be carried out without the further approval of the responsible authority having first been sought and obtained.**
2. **Development shall be carried out only in accordance with the terms of the application as approved herein and any approved plan, prepared by the applicant and endorsed by Council's Shire Planner.**
3. **The setback to the east boundary shall be reduced to an acceptable distance to allow surveillance of the street from the proposed dwelling, to the satisfaction of the Shire Planner.**
4. **As the Water Corporation reticulated sewer is not available, prior to residing on the lot an approved wastewater treatment system, which complies with the requirements of the Treatment of Sewage and Disposal of Effluent and Liquid Waste Regulations is to be installed or an acceptable alternative arrangement approved by the local government. Any approved system is not to be used for disposal of industrial liquid waste or other non-ablution wastes. (Refer to Advice Note 3.)**
5. **An approved potable water supply is to be established prior to occupation.**
6. **Cladding for the proposed outbuilding is to be Colorbond or similar approved material, in a colour which is in harmony with the existing built form in the area, to the satisfaction of the local government. Zincalume shall not be used for cladding.**

**8.1.1**

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.5**

**DEVELOPMENT APPLICATION**

- **OUTBUILDING AND RESIDING IN OUTBUILDING**
- **LOT 127 BROOKING STREET, BEVERLEY**

**(Continued)**

7. The outbuilding shall not be used for commercial or industrial purposes.
8. The outbuilding shall not be used for human habitation prior to April 2011 or after April 2012.
9. Should the dwelling not be substantially commenced within two years of this approval, the outbuilding shall be removed and the land rehabilitated.
10. The minimum floor level for the outbuilding is to be 194.37m AHD.
11. The applicant shall make arrangements acceptable to the local government, for the provision of power to the site.
12. The applicant shall only remove those trees and/or clear native vegetation as required for the construction of the building and any associated access. (See Advice Note 4.)

**Advice Notes: -**

1. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
2. The applicant is advised a building licence is required prior to commencement of any building works.
3. With regard to Condition 3, and acceptable setback is 2 metres or less.
4. With regard to Condition 4, an application is to be submitted to the Council's Environmental Health Section in conjunction with the Building Licence application.
5. With regard to Condition 12, the applicant is advised approval may be required from the Department of Environment and Conservation prior to the removal of trees and/or clearing of vegetation.

**CARRIED 7-0**



At 11:00am Mr Mark Thomas entered the Council Chambers and gave an address to Council in regard to item 8.1.1.3.

### 8.1.1 TOWN PLANNING ITEMS

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<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.1.1.3</b>
<b>REPORT DATE:</b>	<b>15 September 2010</b>
<b>SUBJECT:</b>	<b>SURVEY STRATA SUBDIVISION APPLICATION – LOT 23562 MAITLAND ROAD, KOKEBY</b>
<b>APPLICANTS:</b>	<b>Land Insights</b>
<b>FILE REFERENCE:</b>	<b>S945-10</b>
<b>AUTHOR:</b>	<b>Shire Planner – Peter Wright</b>

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Appendix 5

#### **BACKGROUND**

On 16 March 2010 the Western Australian Planning Commission approved a two lot subdivision of Lot 23562 Maitland Road, Kokeby (WAPC No. 141226). The purpose of the subdivision was the creation of Lots 201 and 202. It should be noted this subdivision has not been completed.

It is proposed to subdivide proposed Lot 202 into 15 survey strata lots with a common property drive. The proposed lots are to be between 20 and 44 hectares in area, with an average lot size of 24.6 hectares.

The purpose of the subdivision is to raise capital to facilitate a tree cropping proposal on the properties. No Application for Planning Approval for a tree cropping proposal over the subject land has been received by the Shire.

The land is zoned Farming and within the Be3 policy area. The combined area under consideration is approximately 381.6235ha. The subject lots are proposed to be accessed from Maitland Road by a 20 metre common property driveway. An east-west common property driveway is proposed to be 40 metre wide to match the continuation of an unmade road reserve on an adjoining property. The subject area contains 7 dams but no buildings.

Generally the land is cleared, undulating, with some remnant vegetation.

Currently the land is being used for broad acre farming.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.3**  
**SURVEY STRATA SUBDIVISION APPLICATION**  
**- LOT 23562 MAITLAND ROAD, KOKEBY**  
**(Continued)**

**COMMENT**

In the Be3 Policy area under the Shire of Beverley's Town Planning Scheme No. 2 (TPS 2), subdivision for more intensive agricultural uses may be recommended down to a minimum lot size of 20ha, provided a detailed study demonstrates the proposal will not adversely affect the use of land for agricultural purposes in the area. The supporting documentation is to include information on the following matters: -

- A suitable water supply;
- Constructed road access;
- Land management;
- Environmental considerations;
- Drainage catchment considerations;
- Bush fire management; and
- Economic feasibility.

Also under TPS 2 all proposals must demonstrate: -

- i. How land use, land management and environmental issues are to be addressed;
- ii. The reasons for more intensive agricultural development, the suitability and capability of the land and how the proposal relates to adjoining agricultural land uses; and
- iii. Landcare and other measures proposed to address land conservation, vegetation protection and rehabilitation issues affecting the land.

**Agricultural Viability**

With regard to continued viable agricultural productivity of the land, a consultant engaged by the applicant has demonstrated that using the combined land area for sandalwood plantation is an economically viable alternative to traditional broad acre farming. This is contingent on appropriate legal mechanisms maintaining tree cropping as a land use over the entire area. Based on the land capability assessment the individual subdivided lots would not be economically viable for broad acre or plantation farming.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.3**  
**SURVEY STRATA SUBDIVISION APPLICATION**  
**- LOT 23562 MAITLAND ROAD, KOKEBY**  
**(Continued)**

The applicant has stated strata titling of the property is the best method of ensuring the site continues to be used for tree cropping. The Shire could enter into a legal agreement with the strata company to ensure the continuation of tree cropping on the site. In compliance with the Western Australian Planning Commission's Development Control Policy DC3.4 a strata bylaw could be formulated that requires amalgamation of the strata lots if tree cropping ceases and an acceptable alternative is not commenced.

Should Council recommend approval of the application, it will be recommended appropriate legal mechanisms and submission of a tree cropping development application, be recommended conditions of approval.

Once established the proposed tree crops do not require any form of irrigation, therefore the existing water supplies are considered adequate.

**Amenity and Character**

Protecting the amenity and character of the area are matters that require consideration. The proposed land use of tree cropping combined with protection of remnant vegetation is anticipated to enhance visual amenity. However the increase in the number of residents in the area may be considered to detract from the aesthetic appeal. The applicant has addressed this matter through proposing building envelopes. Negative impacts on amenity and character are further mitigated by the substantial setback of the site from the road and the low level of development on surrounding properties.

To ensure Shire oversight of proposed building envelopes should Council recommend approval of the application, it will be recommended the location of the building envelopes be the subject of further discussion and approval, as a recommended condition of approval.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.3**  
**SURVEY STRATA SUBDIVISION APPLICATION**  
**- LOT 23562 MAITLAND ROAD, KOKEBY**  
**(Continued)**

**Access**

Access to all the proposed lots is to be via a common property driveway from Maitland Road. The applicant is proposing to construct the driveway to the Shire of Beverley's specifications for a public rural access road. In addition each of the proposed lots is to have access to a network of strategic firebreaks which will provide an alternative route to Maitland Road in the event of a bushfire.

Shire Works' staff advise, that due to the proposed development and subsequent potential increase in traffic, an upgrading of a section of Maitland Road in the vicinity of the proposed development, will be required. Such upgrading should be at the applicant's cost.

To enhance access to the lots, should Council recommend approval of the application, it will be recommended crossovers be provided, Maitland Road is upgraded and the common property driveway be constructed to the Shire's satisfaction, as a recommended conditions of approval.

**Environment Considerations**

There are few environmental matters that need to be addressed in the application. There is little remnant vegetation and no waterways. Where remnant vegetation occurs onsite, it is proposed to be incorporated into the sandalwood plantation, where appropriate, or protected. Building envelopes will aid in protecting sensitive environmental areas from residential use. The use of the area for plantations using native plant species (Sandalwood) will also enhance the environmental attributes of the proposal. To ensure environmental matters are adequately addressed, should Council recommend approval of the application, it will be recommended measures are implemented for environmental management, as a recommended condition of approval.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.3**  
**SURVEY STRATA SUBDIVISION APPLICATION**  
**- LOT 23562 MAITLAND ROAD, KOKEBY**  
**(Continued)**

**Fire Management**

A Fire management plan has been submitted with the subdivision application. Given the WAPC statutory timeframe for comment it was not possible or practical to have the fire management plan independently assessed. Since the proposed land use is for a tree plantation, the threat of bushfire is a significant concern. To allow adequate assessment of the fire management plan, should Council recommend approval of the application, it will be recommended Shire approval of the fire management plan be a recommended condition of approval.

With regard to the fire management plan, it is possible that not all future landowners will conduct due diligence and make themselves aware of the plan. Therefore should Council recommend approval of the application, it will be recommended placing a notification on the land titles alerting future purchasers of the presence of the fire management plan, as a recommended condition of approval.

**Residential Development**

There is a substantial residential component to this application. The proposal may be seen as a rural residential "lifestyle" development that uses tree cropping to circumvent the planning intent for the area. The locality has not been identified or zoned for any type of rural residential development under either the District Rural Strategy or TPS 2. Both the scheme and strategy have identified areas around the Beverley townsite for rural residential development. It is open to Council to conclude the proposal does not match the planning intent for the area and does not comply with orderly and proper planning. Under such circumstances Council should recommend refusal of the application.

An alternate view is that residential development may be seen as a secondary land use on the proposed lots. Persons purchasing a lot generally expect to be able to construct a dwelling on the lot. Tree cropping is a legitimate farming land use in the zone. TPS 2 does allow subdivision to a minimum lot size of 20 hectares in the area, provided agricultural viability is not compromised. Proposed building envelopes will aid in mitigating the impact on economic, environmental, landscape and amenity concerns associated with the development. As such ancillary residential use may be considered acceptable.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.3**  
**SURVEY STRATA SUBDIVISION APPLICATION**  
**- LOT 23562 MAITLAND ROAD, KOKEBY**  
**(Continued)**

It cannot be argued that residential development is required for the continued farming operations on the lots. However such development is a major component of the subdivision and the subdivision provides the economic base that makes the tree cropping proposal viable. To aid in ensuring the proposed tree cropping proposal proceeds, should Council recommend approval of the application, recommended conditions of approval will include a legal mechanisms being implemented and a development application being finalised, prior to subdivision clearance.

**Conclusion**

The application to subdivide proposed Lot 202 Maitland Road, Kokeby into 15 strata title lots to facilitate a tree cropping proposal is supported due to: -

- The proposal meets the minimum lot size of 20 hectares;
- The proposal supports the continued use of the land for viable agricultural production;
- The residential component is required to allow a farming (tree cropping) proposal to proceed; and
- Recommended conditions of approval will mitigate the impact on economic, environmental, landscape and amenity concerns.

Therefore it will be recommended the application be approved.

**STATUTORY ENVIRONMENT**

The Western Australian Planning Commission is the determining authority for all subdivision in Western Australia. Provided Council accepts the residential component is secondary to the farming component, as discussed above, the proposal complies with the Shire of Beverley's Town Planning Scheme No. 2.

At 11:15am Mr Mark Thomas left the Council Chambers.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.3**  
**SURVEY STRATA SUBDIVISION APPLICATION**  
**- LOT 23562 MAITLAND ROAD, KOKEBY**  
**(Continued)**

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION**

**M12/0910 Moved Cr Gogol Seconded Cr Roberts**  
That Council resolve to recommend to the Western Australian Planning Commission that application WAPC No. 954-10 for the strata titled subdivision of proposed Lot 202 Maitland Road, Kokeby, be approved subject to the following conditions and advice notes: -

**Conditions: -**

- 1. A Management Statement being prepared and submitted for the WAPC's consideration and written confirmation in accordance with Section 5C of the Strata Titles Act 1985 (as amended), to include the following additions to the by-laws contained in Schedules 1 and 2 of that Act: -**
  - (i) Development or redevelopment on the survey strata lots is to comply with a development approval issued by the local government.**
  - (ii) Where the land is not being used for the purpose proposed, or for some other reasonable agricultural purpose approved by the local government, the strata company will undertake to terminate the survey strata scheme and seek to amalgamate all of the survey strata lots and any common property into one lot so as to effectively cancel the survey strata plan.**
  - (iii) Amendment to or repeal of the above provisions cannot be effected without the WAPC's agreement.**
- 2. Subdivision WAPC No. 141226 for the two lot subdivision of Lot 23562 Maitland Road Kokeby being finalised and certificates of title issued.**
- 3. Prior to commencement of site works, a detailed plan identifying building envelopes on all lots on the approved survey strata plan of subdivision is to be prepared in consultation with the local government.**

8.1.1 TOWN PLANNING ITEMS  
ITEM 8.1.1.3  
SURVEY STRATA SUBDIVISION APPLICATION  
- LOT 23562 MAITLAND ROAD, KOKEBY  
(Continued)

4. A Restrictive Covenant, pursuant to section 129BA of the Transfer of Land Act 1893 (as amended) is to be placed on the Certificate of Title of proposed lot 202 advising of the existence of a restriction on the use of the land. Notice of this restriction to be included on the Deposited Plan. The restrictive covenant is to state as follows: -

*"No development is to take place outside the defined building envelope(s), unless otherwise approved by the local government."*

5. Notification in the form of a section 70A notification, pursuant to the Transfer of Land Act 1893 (as amended) is to be placed on the Certificates of Title of the proposed survey strata lot(s) advising that the use and management of the land outside the building envelope is restricted to approved tree cropping under provisions of the local government's Town Planning Scheme unless otherwise approved by the local government.
6. The applicant/owner of the land shall make arrangements to ensure that prospective purchasers of the proposed lots are advised in writing that provision of a reticulated sewerage service will not be available to the lot and that all future dwellings on the lot will need to be connected to on-site effluent disposal system(s).
7. A Notification, pursuant to section 165 of the Planning and Development Act is to be placed on the Certificates of Title of the proposed lot(s) advising of the existence of a hazard or other factor. Notice of this notification to be included on the Deposited Plan. The notification to state as follows:

*"Reticulated sewerage connection is not available to the lots, and a suitable on-site effluent disposal system complying with the specifications of the Health Department designed for long term use will be required to service any new development on each lot."*



**8.1.1**

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.3**

**SURVEY STRATA SUBDIVISION APPLICATION**

**- LOT 23562 MAITLAND ROAD, KOKEBY**

**(Continued)**

8. Notification in the form of a section 70A notification, pursuant to the Transfer of Land Act 1893 (as amended) is to be placed on the Certificate(s) of Title of the proposed lot(s) advising that no reticulated water supply can be provided to the land by a licensed water service supplier and as a consequence owners will be required to make their own arrangements to provide an adequate water supply of potable water for residential development in compliance with the Shire of Beverley's Town Planning Scheme.
9. The applicant obtaining development approval for the development of a tree crop plantation on the approved lots.
10. Suitable arrangements being made with the local government for the provision of vehicular crossovers to service the lots shown on the approved plan of subdivision.
11. Arrangements being made with the local government for the upgrading and/or construction at the applicant's cost of Maitland Road.
12. Construction of the common property driveway is to be to the satisfaction of the local government.
13. A cul-de-sac head at the end of the common property driveway being designed and constructed to the satisfaction of the local government.
14. A Fire Management Plan being prepared and implemented to the specifications of the local government and the Fire and Emergency Services Authority.
15. Notification in the form of a section 70A notification, pursuant to the Transfer of Lands Act 1893 (as amended) is to be placed on the Certificates of Title of the proposed strata title lot(s) advising that all landowners must comply with the Fire Management Plan that has been prepared and implemented for the area.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.3**  
**SURVEY STRATA SUBDIVISION APPLICATION**  
**- LOT 23562 MAITLAND ROAD, KOKEBY**  
**(Continued)**

16. Measures being taken to ensure the identification, mapping and protection of any vegetation on the site worthy of retention prior to commencement of site works.
17. The subdivider providing a written undertaking to ensure that prospective purchasers of the lots created will be advised of those provisions of the Local Government's Town Planning Scheme which relate to the use and management of the land.

**Advice Notes: -**

1. The Commission's approval to the subdivision should not be construed as an approval to development on any of the lots proposed.
2. In accordance with section 5C of the Strata Titles Act 1985, the WAPC's written confirmation of a Management Statement relates only to specific items concerning land use and development and is not to be taken as a statement as to the lawfulness of a Management Statement.

**CARRIED 6-1**

At 11:18am Mr Aaron Lohman and Mr Kim Clifton entered the Council Chambers and gave an address to Council in regard to item 8.1.1.4.

### 8.1.1 TOWN PLANNING ITEMS

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<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.1.1.4</b>
<b>REPORT DATE:</b>	<b>8 September 2010</b>
<b>SUBJECT:</b>	<b>SUBDIVISION APPLICATION – LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50 WESTDALE ROAD, WESTDALE</b>
<b>APPLICANTS:</b>	<b>Parkfield Farms Pty Ltd</b>
<b>FILE REFERENCE:</b>	<b>S142724</b>
<b>AUTHOR:</b>	<b>Shire Planner – Peter Wright</b>

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Appendix 6

#### **BACKGROUND**

It is proposed to amalgamate and subdivide Lots 12, 22, 24 and 19022 Jones Road & Lot 50 Westdale Road, Westdale, to create 30 Green Title lots. All proposed lots are to be between 20 and 27 hectares in area.

The purpose of the subdivision is to raise capital to facilitate a tree cropping proposal on the properties. The Shire is in receipt of an Application for Planning Approval for a tree cropping proposal over the subject land.

The land is zoned Farming and within the Be4 policy area. The combined area under consideration is approximately 707.73ha and comprises of two landholdings. The subject lots are accessed by Jones Road and Westdale Road and contain two dwellings with ancillary outbuildings. Generally the land is undulating, with waterways traversing the properties and some remnant vegetation.

Currently the land is being used for broad acre farming.

#### **COMMENT**

In the Be4 Policy area under the Shire of Beverley's Town Planning Scheme No. 2 (TPS 2), subdivision for more intensive agricultural uses may be recommended down to a minimum lot size of 20ha, provided a detailed study demonstrates the proposal will not adversely affect the use of land for agricultural purposes in the area. The supporting documentation is to include information on the following matters: -

**8.1.1**

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.4**

**SUBDIVISION APPLICATION**

**- LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50  
WESTDALE ROAD, WESTDALE**

**(Continued)**

- A suitable water supply;
- Constructed road access;
- Land management;
- Environmental considerations;
- Drainage catchment considerations;
- Bush fire management; and
- Economic feasibility.

Also under TPS 2 all proposals must demonstrate: -

- i. How land use, land management and environmental issues are to be addressed;
- ii. The reasons for more intensive agricultural development, the suitability and capability of the land and how the proposal relates to adjoining agricultural land uses; and
- iii. Landcare and other measures proposed to address land conservation, vegetation protection and rehabilitation issues affecting the land.

**Agricultural Viability**

With regard to continued viable agricultural productivity of the land, a consultant engaged by the applicant has demonstrated that using the combined land area for sandalwood and brushwood plantation, provides a substantially higher per hectare/per annum return than traditional broad acre farming. This is contingent on appropriate legal mechanisms maintaining tree cropping as a land use over the entire area. The economic analysis notes that the individual subdivided lots would not be economically viable for broad acre or plantation farming. Should Council recommend approval of the application, it will be recommended an appropriate legal mechanism and finalisation of the tree cropping development application, be recommended conditions of approval.

Since the proposed tree crops do not require any form of irrigation, no additional water supplies are proposed.

**8.1.1 TOWN PLANNING ITEMS**  
**ITEM 8.1.1.4**  
**SUBDIVISION APPLICATION**  
**- LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50**  
**WESTDALE ROAD, WESTDALE**  
**(Continued)**

**Amenity and Character**

Protecting the amenity and character of the area are matters that require significant consideration given the prominent location of the proposed subdivision. Brookton Highway and Westdale Road are both major regional roads. The proposed land use of tree cropping combined with revegetation is anticipated to enhance visual amenity, although the increase in the number of residents in the area may be considered to detract from the aesthetic appeal. The applicant has addressed this matter through proposing building envelopes.

A site inspection by staff indicates that some of the proposed building envelopes may be inappropriately close to low lying areas. Should Council recommend approval of the application, it will be recommended the location of the building envelopes be the subject of further discussion and approval, as a recommended condition of approval.

**Access**

Access to all the proposed lots is proposed to be via constructed public roads. The applicant referred the proposal to Main Roads and the application has been modified in accordance with Main Roads comments.

A new 20 metre wide road has been proposed to provide access to some of the proposed lots with the applicant stating that preliminary discussions on road construction and alignment have been conducted with the Shire. In relation to the 20 metre width for the proposed road the applicant states 20 metres is sufficient to easily accommodate two-way traffic, road side drainage, and allow for transportation of large farming equipment. However a site inspection by staff indicates Jones Road will require upgrading to cope with the anticipated increase in traffic.

To enhance access to the lots, should Council recommend approval of the application, it will be recommended crossovers be provided and roads be constructed to the Shire's satisfaction, as a recommended condition of approval.

**8.1.1**

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.4**

**SUBDIVISION APPLICATION**

- **LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50  
WESTDALE ROAD, WESTDALE**

**(Continued)**

**Environment Considerations**

Environmental matters are addressed in the application. Remnant vegetation is proposed to be protected by a covenant. Revegetation of creeklines and other environmentally sensitive areas is proposed and locating building envelopes away from areas of environmental concern will aid in protecting such areas from residential use. The use of the area for plantations using native plant species (Sandalwood and Melaleuca) will also enhance the environmental attributes of the proposal. To ensure environmental matters, including timeframes and ongoing maintenance, are adequately addressed, should Council recommend approval of the application, it will be recommended measures are implemented for environmental management, as a recommended condition of approval.

**Fire Management**

A Fire management plan has been submitted with the subdivision application. Given the WAPC statutory timeframe for comment it was not possible or practical to have the fire management plan independently assessed. Since the proposed land use is for a tree plantation, the threat of bushfire is a significant concern. To allow adequate assessment of the fire management plan, should Council recommend approval of the application, it will be recommended Shire approval of the fire management plan be a recommended condition of approval.

With regard to the fire management plan, it is possible that not all future landowners will conduct due diligence and make themselves aware of the plan. Therefore should Council recommend approval of the application, it will be recommended placing a notification on the land titles alerting future purchasers of the presence of the fire management plan, as a recommended condition of approval.

**8.1.1**

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.4**

**SUBDIVISION APPLICATION**

- **LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50  
WESTDALE ROAD, WESTDALE**

**(Continued)**

**Residential Development**

There is a substantial residential component to this application. The proposal may be seen as a rural residential “lifestyle” development that uses tree cropping to circumvent the planning intent for the area. The locality has not been identified or zoned for any type of rural residential development under either the District Rural Strategy or TPS 2. Both the scheme and strategy have identified areas around the Beverley townsite for rural residential development. It is open to Council to conclude the proposal does not match the planning intent for the area and does not comply with orderly and proper planning. Under such circumstances Council should recommend refusal of the application.

An alternate view is that residential development may be seen as a secondary land use on the proposed lots. Tree cropping is a legitimate farming land use and TPS 2 does allow subdivision to a minimum lot size of 20 hectares in the area, provided agricultural viability is not compromised. Persons purchasing a lot generally expect to be able to construct a dwelling on the lot. Proposed building envelopes will aid in mitigating the impact on economic, environmental, landscape and amenity concerns associated with the development. As such ancillary residential use may be considered acceptable.

It cannot be argued that residential development is required for the continued farming operations on the lots. However such development is a major component of the subdivision, which provides the economic base that makes the tree cropping proposal viable. To aid in ensuring the proposed tree cropping proposal proceeds, should Council recommend approval of the application, recommended conditions of approval will include a caveat being lodged and the development application being finalised, prior to subdivision clearance.

**Conclusion**

The application to subdivide Lots 12,22, 24 and 19022 Jones Road and Lot 50 Westdale Road, Westdale into 30 green title lots to facilitate a tree cropping proposal is supported due to: -

## 8.1.1 TOWN PLANNING ITEMS

### ITEM 8.1.1.4

#### SUBDIVISION APPLICATION

#### - LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50 WESTDALE ROAD, WESTDALE

(Continued)

- The proposal meets the minimum lot size of 20 hectares;
- The proposal supports the continued use of the land for viable agricultural production;
- The residential component is required to allow a farming (tree cropping) proposal to proceed; and
- Recommended conditions of approval will mitigate the impact on economic, environmental, landscape and amenity concerns.

Therefore it will be recommended the application be approved.

#### STATUTORY ENVIRONMENT

The Western Australian Planning Commission is the determining authority for all subdivision in Western Australia. Provided Council accepts the residential component is secondary to the farming component, as discussed above, the proposal complies with the Shire of Beverley's Town Planning Scheme No. 2.

At 11:37 both Mr Aaron Lohman and Mr Kim Clifton left the Council Chambers.

At 11:38am the meeting adjourned and resumed at 11:44am.

#### OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION

M13/0910 Moved Cr Roberts

Seconded Cr Gogol

That Council resolve to recommend to the Western Australian Planning Commission that application WAPC No. 142724 for the subdivision of Lots 12, 22, 24 and 19022 Jones Road and Lot 50 Westdale Road, Westdale, be approved subject to the following conditions and advice note: -

#### Conditions: -

1. The dwellings and any other structures proposed to be retained are to be compliant with the requirements and provisions of the Shire of Beverley's Town Planning Scheme No. 2.



**8.1.1**

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.4**

**SUBDIVISION APPLICATION**

- **LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50  
WESTDALE ROAD, WESTDALE**

**(Continued)**

2. Prior to commencement of site works, a detailed plan identifying building envelopes on all lots on the approved plan of subdivision is to be prepared in consultation with the local government.
3. A Restrictive Covenant, pursuant to section 129BA of the Transfer of Land Act 1893 (as amended) is to be placed on the Certificates of Title of the proposed lots advising of the existence of a restriction on the use of the land. Notice of this restriction to be included on the Deposited Plan. The restrictive covenant is to state as follows: -  
  
*"No development is to take place outside the defined building envelope(s), unless otherwise approved by the local government."*
4. Notification in the form of a section 70A notification, pursuant to the Transfer of Land Act 1893 (as amended) is to be placed on the Certificates of Title of the proposed lot(s) advising that the use and management of the land outside the building envelope is restricted to approved tree cropping under provisions of the local government's Town Planning Scheme unless otherwise approved by the local government.
5. The applicant/owner of the land shall make arrangements to ensure that prospective purchasers of the proposed lots are advised in writing that provision of a reticulated sewerage service will not be available to the lot and that a future dwelling on the lot will need to be connected to on-site effluent disposal system(s).
6. A Notification, pursuant to section 165 of the Planning and Development Act is to be placed on the Certificates of Title of the proposed lot(s) advising of the existence of a hazard or other factor. Notice of this notification to be included on the Deposited Plan. The notification to state as follows: -

**8.1.1**

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.4**

**SUBDIVISION APPLICATION**

- **LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50  
WESTDALE ROAD, WESTDALE**

**(Continued)**

*"Reticulated sewerage connection is not available to the lots, and a suitable on-site effluent disposal system complying with the specifications of the Health Department designed for long term use will be required to service any new development on each lot."*

7. Notification in the form of a section 70A notification, pursuant to the Transfer of Land Act 1893 (as amended) is to be placed on the Certificate(s) of Title of the proposed lot(s) advising that no reticulated water supply can be provided to the land by a licensed water service supplier and as a consequence owners will be required to make their own arrangements to provide an adequate water supply of potable water for residential development in compliance with the Shire of Beverley's Town Planning Scheme.
8. The applicant obtaining development approval for the development of a tree crop plantation on the approved lots.
9. Suitable arrangements being made with the local government for the provision of vehicular crossovers to service the lots shown on the approved plan of subdivision.
10. Arrangements being made with the local government for the upgrading and/or construction at the applicant's cost of the proposed road between Jones Road and Dale Bin North Road, as shown on the proposed plan of subdivision.
11. Arrangements being made with the local government for the upgrading and/or construction of Jones Road.
12. The truck turn around areas being designed and constructed to the satisfaction of the local government.
13. A Fire Management Plan being prepared and implemented to the specifications of the local government and the Fire and Emergency Services Authority.

**8.1.1**

**TOWN PLANNING ITEMS**

**ITEM 8.1.1.4**

**SUBDIVISION APPLICATION**

- LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50  
WESTDALE ROAD, WESTDALE**

**(Continued)**

14. Notification in the form of a section 70A notification, pursuant to the Transfer of Lands Act 1893 (as amended) is to be placed on the Certificates of Title of the proposed lot(s) advising that all landowners must comply with the Fire Management Plan that has been prepared and implemented for the area.
15. Measures being taken to ensure the identification, mapping and protection of any vegetation on the site worthy of retention prior to commencement of site works.
16. Suitable arrangements being made for the revegetation of the watercourse denoted on the appended approved subdivision plan with appropriate native species.
17. The subdivider providing a written undertaking to ensure that prospective purchasers of the lots created will be advised of those provisions of the Local Government's Town Planning Scheme which relate to the use and management of the land.

**Advice Note: -**

1. The Commission's approval to the subdivision should not be construed as an approval to development on any of the lots proposed.

**LOST 2-5**

*Following are the reasons for Council voting against the Officer's recommendation in item 8.1.1.4 above: -*

1. The application has failed to demonstrate the land will continue to be used for viable agricultural production.
2. Individual lots are not agriculturally viable.
3. Intensification of green title residential development is inappropriate in the Farming zone.
4. The proposed lot sizes are below the recommended minimum lot size of 40 hectares.
5. Approval of the application will set an undesirable precedent.

**8.1.1 TOWN PLANNING ITEMS**

**ITEM 8.1.1.4**

**SUBDIVISION APPLICATION**

- **LOTS 12, 22, 24, 19022 JONES ROAD AND LOT 50  
WESTDALE ROAD, WESTDALE**

**(Continued)**

6. The proposed lot sizes are not consistent with the prevailing green title lot size for the area.
7. Approval of the application will create a substantial number of small unserviced lots.
8. The proposal will result in the intensification of residential development within a highly flammable proposed land use.
9. The cumulative effect of the proposed development will adversely affect the character and amenity of the area.
10. The application is inconsistent with orderly and proper planning for the area.

**COUNCIL RESOLUTION**

**M14/0910**

**Moved Cr Roberts**

**Seconded Cr Gogol**

**That Council recommends to the Western Australian Planning Commission that should they approve application WAPC No. 142724 for the subdivision of Lots 12, 22, 24 and 19022 Jones Road and Lot 50 Westdale Road, Westdale, that the approval be subject to the conditions and advice note as contained in the defeated motion M13/0910 above.**

**CARRIED 7-0**

### **8.1.2 INFORMATION BULLETIN REPORT – SHIRE PLANNER**

Nil.

At 12:19pm Mr Peter Wright, Shire Planner, left the meeting.

### **8.2.1 HEALTH & BUILDING SERVICES ITEMS**

Nil

### **8.2.2 INFORMATION BULLETIN REPORT – HEALTH & BUILDING SERVICES**

#### **8.2.2.1 GENERAL**

General correspondence, duties and communications for Environmental Health Officer/Building Services.

#### **8.2.2.2 HEALTH SERVICES REPORT – JULY/AUGUST/SEPTEMBER 2010**

The Environmental Health Officer's Health Services Monthly Report for July/August/September 2010 was provided under separate cover.

#### **8.2.2.3 BUILDING LICENSES ISSUED**

Building licenses issued up to 17 September 2010: -

Lic No: 16 10/ 11  
No: Lot 87 (1071)  
Dobaderry Rd,  
Beverley  
Building: Farm Shed  
Value: \$14,730

Lic No: 17 10/ 11  
No: Lot 126 Kokendin Rd,  
Talbot West  
Building: Shed  
Value: \$12,500

Lic No: 18 10/ 11  
No: 2463 Quairading Rd,  
Mawson  
Building: Shed  
Value: \$18,000

Lic No: 19 10/ 11  
No: 2463 Quairading York Rd,  
Mawson  
Building: Shed/Carport  
Value: \$18,000

Lic No: 20 10/ 11  
No: 47 Turner Gully Rd,  
Beverley  
Building: Shed Extension  
Value: \$10,000



### 8.3.1 PLANT, WORKS, RECREATION AND TOURISM ITEMS

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**SUBMISSION TO:** September Council Meeting 28 September 2010  
**AGENDA ITEM:** 8.3.1.1  
**REPORT DATE:** 21 September 2010  
**SUBJECT:** BITUMEN TENDER  
**FILE REFERENCE:** FM 009  
**AUTHOR:** Works Supervisor – Steve Vincent

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#### BACKGROUND

Tenders closed on 14 September 2010 for the supply and delivery of bitumen products and services.

#### COMMENT

The following tender prices were received: -

	<b>Primer cents / litre</b>	<b>Spreader Truck \$ / hour</b>	<b>Contract \$ per m<sup>2</sup></b>
BORAL ASPHALT	0.92	115	2.26
RnR CONTRACTING PTY LTD	0.91	110	2.65
FULTON HOGAN INDUSTRIES PTY LTD	0.95	100	2.65
BITUMEN SURFACING	0.94	100	2.59

These prices equate to the following overall costs for this year's proposed works.

**8.3.1 PLANT, WORKS, RECREATION AND TOURISM ITEMS**  
**ITEM 8.3.1.1**  
**BITUMEN TENDER**

	<b>Primer @ 27,000 L</b>	<b>Truck Hire ≈60 hours</b>	<b>Reseals @ 132,000 m<sup>2</sup></b>	<b>TOTALS</b>
BORAL ASPHALT	\$ 24,840	\$ 6,900	\$ 298,320	\$ 330,060
RnR CONTRACTING PTY LTD	\$ 24,570	\$ 6,600	\$ 349,800	\$ 380,970
FULTON HOGAN INDUSTRIES PTY LTD	\$ 25,650	\$ 6,000	\$ 349,800	\$ 381,450
BITUMEN SURFACING	\$ 25,380	\$ 6,000	\$ 341,880	\$ 373,260

In summary Boral Asphalt is \$51,390 less than Fulton Hogan Industries Pty Ltd (Pioneer), \$50,910 less than RnR Contracting Pty Ltd and \$43,200 less than Bitumen Surfacing.

To ascertain how other Shires have found Boral Asphalt, I have spoken to Shires that have recently been using Boral Asphalt. They have had no problems with Boral Asphalt supplying and laying bitumen in their areas, although there had been some cases of striping.

This year stripping has also been reported by other companies, including some in Beverley completed by RnR Contracting Pty Ltd. It has been suggested that this is due to the extremely low temperature and maybe the quality of the bitumen imported.

I have requested Boral Asphalt guarantee in writing that all contract work will be completed by 14 February 2011.

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION**

- M16/0910 Moved Cr Gogol** **Seconded Cr Roberts**  
That Council accept the Tender from Boral Asphalt for the supply of bitumen products and services as set out below: -
- Primer \$0.92 per litre;
  - Truck hire \$115.00 per hour; and
  - Full contract reseals (less aggregate) at \$2.26 per square metre.

**CARRIED 7-0**



## **8.3.2 INFORMATION BULLETIN REPORT – WORKS SUPERVISOR**

### **8.3.2.1 GENERAL – PLANT AND WORKS**

#### **8.3.2.1.1 Parks and Gardens**

- The oval has been verti mowed and fertilised.
- Clean-up after the Show including transporting public toilets and generators to and from Perth.
- Long jump pits were set up and removed for the school sports.
- Cricket pitch is being prepared ready for the cricket season.

#### **8.3.2.1.2 Footpath Maintenance**

Gravel has been placed along the edge of the new footpaths and a section of Monger Street gravel path repaired. Areas of brick paving have been raised to avoid trip hazards.

#### **8.3.2.1.3 Signs**

Historic Site and School Site signs have been put up on Top Beverley Road and Northbourne Road. Other faded signs have also been replaced.

#### **8.3.2.1.4 Caravan Park Tree**

The large tree near the laundry has been removed.

#### **8.3.2.1.5 Grading**

Shoulder grading has been completed on the Mawson and Westdale Roads. This included replacing missing and old guide posts.

#### **8.3.2.1.6 Tip Loader**

A 926 loader is available at Westrac. The asking price is \$40,000 + GST. This is a 1986 model with 8379 hours.

**Council decided not to proceed any further with this matter.**

**8.3.2 INFORMATION BULLETIN REPORT – WORKS SUPERVISOR  
(Continued)**

**8.3.2.2 CONSTRUCTION**

**8.3.2.2.1 Verge Clearing**

Preparation is underway on the areas that will be part of this year's works programme. This is including removal of dead trees and vegetation from the drains, and culvert extensions where necessary.

**8.3.2.2.2 Railway Station**

Metal dust has been laid and compacted in preparation for the artificial turf.

**COUNCIL RESOLUTION**

**M17/0910 Moved Cr Shaw** **Seconded Cr Gogol**  
**That the Works Supervisor's Information Bulletin Report, be**  
**received.**

**CARRIED 7-0**

At 12:26pm the meeting adjourned for Lunch and reconvened at 1:45pm.



**8.4.1 FINANCE ITEMS**

**SUBMISSION TO:** September Council Meeting 28 September 2010  
**AGENDA ITEM:** 8.4.1.3  
**REPORT DATE:** 21 September 2010  
**SUBJECT:** INVESTMENT OF SURPLUS FUNDS  
**FILE REFERENCE:** FM 008  
**AUTHOR:** Deputy Chief Executive Officer – Stephen Gollan

**BACKGROUND**

Council has at present surplus funds that have been invested in line with Council's policy.

**COMMENT**

Listed below are surplus funds that have been invested during the month of August 2010 with the ANZ Bank.

RESERVE	INVESTMENT	TOTAL	ACCT #	TERM	RATE	EXPIRY
Building	\$ 903,736.00	\$ 903,736.00	9899-36483	5 Months	6.00%	22/12/10
Plant	\$ 295,154.00	\$ 295,154.00	9899-36301	3 Months	5.50%	22/10/10
Annual Leave	\$ 112,997.00					
Recreation Ground	\$ 265,262.00	\$ 378,259.00	9899-36459	5 Months	6.00%	22/12/10
Office Equipment	\$ 23,688.00					
Bush Fire Fighters	\$ 90,984.00					
Avon River Development	\$ 18,259.00					
Community Bus	\$ 24,144.00					
Cropping Committee	\$ 151,571.00					
Road Construction	\$ 198,109.00	\$ 506,755.00	9899-36504	5 Months	6.00%	22/12/10
	<b>\$ 2,083,904.00</b>	<b>\$ 2,083,904.00</b>				

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION**

**M20/0910 Moved Cr Foster** **Seconded Cr Shaw**  
**That the Investment Report for the month of August 2010, be received.**

**CARRIED 7-0**

## 8.5.1 ADMINISTRATION ITEMS

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<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.5.1.1</b>
<b>REPORT DATE:</b>	<b>16 September 2010</b>
<b>SUBJECT:</b>	<b>PROPOSED WASTE AND OPERATION OF WASTE DISPOSAL FACILITIES LOCAL LAW 2010</b>
<b>FILE REFERENCE:</b>	<b>LE 010 &amp; LE 008</b>
<b>AUTHOR:</b>	<b>Chief Executive Officer – Keith Byers</b>

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Appendix 8

### BACKGROUND

The Shire's existing Health Local Laws 1999, Part 4, Division 2, Disposal of Refuse currently provides for the control of waste within the district.

The *Waste and Resource Recovery Act 2007* was proclaimed during 2008 repealing the relevant provisions of the *Health Act 1911* relating to the control of rubbish and waste. This makes it inappropriate to retain provisions relating to waste in the Health Local Law. Instead it is more appropriate to make a new local law which specifically deals with waste.

The purpose of this report is to allow the Presiding Person to: -

- (1) give notice to the meeting of the intent to make a new Waste and Operation of Waste Disposal Facilities Local Law 2010; and
- (2) give notice of the purpose and effect of the proposed Waste and Operation of Waste Disposal Facilities Local Law 2010;
- (3) for the Council to adopt the proposed Waste and Operation of Waste Disposal Facilities Local Law for advertising purposes; and
- (4) to allow for advertising of the proposed Waste and Operation of Waste Disposal Facilities Local Law 2010 for public comment.

### COMMENT

The existing provisions relating to waste and rubbish contained within the Health Local Laws 1999, (which have served the Shire well), form the basis of the proposed local law.

The proposed Waste and Operation of Waste Disposal Facilities Local Law 2010 is set out in the Appendix to this report.

There are no National Competition Policy Competitive Neutrality issues as the provisions reflect those currently contained within the Health Local Law.

**8.5.1**

**ADMINISTRATION ITEMS**

**ITEM 8.5.1.1**

**PROPOSED WASTE AND OPERATION OF WASTE DISPOSAL  
FACILITIES LOCAL LAW 2010  
(Continued)**

In making a new local law, the Shire must comply with the provisions of section 3.12 of the Act. The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of the proposed Waste and Operation of Waste Disposal Facilities Local Law 2010 is to provide for the regulation, control, management and removal of domestic and commercial waste from premises, and regulate the conduct on, and use of, Waste Disposal Facilities, within the district.

The effect of the proposed Waste and Operation of Waste Disposal Facilities Local Law 2010 is to establish obligations that owners and occupiers of premises must observe relating to the storage, cleanliness, maintenance and placement of waste receptacles and containers, and the obligations they must observe when using a waste facility.

**DISCLOSURE OF INTEREST**

No disclosure of interest has been tabled.

**CONSULTATION**

As required by section 3.12 the Local Government Act 1995, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Waste and Operation of Waste Disposal Facilities Local Law 2010, (gazettal copy), and the National Competition Policy review must be sent to the relevant Ministers (Local Government and Health) for comment.

**8.5.1 ADMINISTRATION ITEMS**  
**ITEM 8.5.1.1**  
**PROPOSED WASTE AND OPERATION OF WASTE DISPOSAL**  
**FACILITIES LOCAL LAW 2010**  
**(Continued)**

**POLICY IMPLICATIONS**

There are no policy implications for this item.

**STATUTORY ENVIRONMENT**

**Local Government Act 1995**

Section 3.12(2) of the Local Government Act 1995 and the Local Government (Functions and General) Regulations (Regulation 3) which states that for the purpose of Section 3.12(2) of the Local Government Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

**Waste Avoidance and Resource Recovery Act 2007**

**STRATEGIC IMPLICATIONS**

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION**

**M21/0910 Moved Cr Roberts** **Seconded Cr Gogol**  
**That Council: -**

- 1. Adopt the proposed Shire of Beverley Waste and Operation of Waste Disposal Facilities Local Law 2010, as contained in the appendix to this item for advertising purposes; and**
- 2. Pursuant to section 3.12 of the Local Government Act 1995, give State-wide public notice that it intends to make the Shire of Beverley Waste and Operation of Waste Disposal Facilities Local Law 2010, as contained in the appendix to this item: -**

**8.5.1**

**ADMINISTRATION ITEMS**

**ITEM 8.5.1.1**

**PROPOSED WASTE AND OPERATION OF WASTE DISPOSAL  
FACILITIES LOCAL LAW 2010**

**(Continued)**

- (a) the purpose of which is to provide for the regulation, control, management and removal of domestic and commercial waste from premises, and regulate the conduct on, and use of, Waste Disposal Facilities, within the district; and
- (b) the effect is to establish obligations that owners and occupiers of premises must observe relating to the storage, cleanliness, maintenance and placement of waste receptacles and containers, and the obligations they must observe when using a waste facility.

**CARRIED 7-0**



## 8.5.1 ADMINISTRATION ITEMS

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<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.5.1.2</b>
<b>REPORT DATE:</b>	<b>16 September 2010</b>
<b>SUBJECT:</b>	<b>PROPOSED REPEAL LOCAL LAW 2010</b>
<b>FILE REFERENCE:</b>	<b>LE 010</b>
<b>AUTHOR:</b>	<b>Chief Executive Officer – Keith Byers</b>

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Appendix 9

### BACKGROUND

The Shire of Beverley has a series of old by-laws, which are now superfluous or obsolete as a result of the introduction of the Local Government Act 1995 and/or other legislation. It is proposed that these old by-laws be repealed in accordance with section 3.12 of the Local Government Act 1995, as they no longer serve any functional purpose.

The purpose of this report is to allow the Presiding Person to: -

- (1) give notice to the meeting of the intent to make a new Repeal Local Law 2010; and
- (2) give notice of the purpose and effect of the proposed Repeal Local Law 2010;
- (3) for the Council to adopt the proposed Repeal Local Law for advertising purposes; and
- (4) to allow for advertising of the proposed Repeal Local Law 2010 for public comment.

### COMMENT

The majority of By-laws proposed to be repealed are those that were in existence prior to the introduction of the Local Government Act 1995 or other recent legislation, which are now defunct or obsolete.

The local laws to be repealed include: -

<b>By-Law</b>	<b>Gazettal Date</b>	<b>Reason for Repeal</b>
Buildings	19 January 1950	Superseded by Building Regulations 1989 & Building Code of Australia
Hawkers and Stalls	02 April 1958	Obsolete - More relevant provisions are now provided under the proposed Thoroughfares Local Law.
Beverley Pioneer Memorial Pool	25 January 1962	Local Government Property Local Law will provide better measures to regulate matters relating to the pool.

8.5.1

**ADMINISTRATION ITEMS**

**ITEM 8.5.1.2**

**PROPOSED REPEAL LOCAL LAW 2010**

**(Continued)**

Street Lawns and Gardens Draft Model No.11	18 July 1963	Obsolete – More relevant provisions are now provided under the proposed Thoroughfares Local Law.
Petrol Pumps Draft Model No. 10	18 July 1963	Obsolete – Now regulated under the <i>Dangerous Goods Safety (Storage and Handling of Non Explosives) Regulations 2007</i> .
Prevention of Damage to Streets Draft Model No.1	16 December 1963	Obsolete – Now regulated under the Local Government Act 1995.
Removal and Disposal of Obstructing Animals or Vehicles Draft Model No. 7	16 December 1963	Obsolete – Now regulated under Local Government Act 1995.
Old Refrigerators and Cabinets Draft Model No. 9	16 December 1963	Obsolete – Was introduced for safety reasons when old refrigerators had doors that locked and required pulling on the handle arm to open the door. These types of refrigerators were not produced after the early 1970's.
Extractive Industries Draft Model No. 9	16 December 1963	Obsolete – More relevant provisions are provided under the proposed Extractive Industries Local Law.
Storage of Inflammable Liquid Draft Model No. 12	4 May 1965	Obsolete – Now regulated under the <i>Dangerous Goods Safety (Storage and Handling of Non Explosives) Regulations 2007</i> .
Petrol Pumps Draft Model No. 10	17 August 1966	Obsolete – Now regulated under the <i>Dangerous Goods Safety (Storage and Handling of Non Explosives) Regulations 2007</i> .
Management, use and Letting of Beverley Town Hall and Buildings	9 February 1970	Obsolete – More relevant provisions for the hire and letting of Council facilities are provided under the proposed Local Government Property Local Law.

8.5.1

**ADMINISTRATION ITEMS**

**ITEM 8.5.1.2**

**PROPOSED REPEAL LOCAL LAW 2010**

**(Continued)**

Control of Vehicles Driven on Land which is under the Care, Control and Management of Council	23 August 1972	Obsolete – More relevant provisions are provided under the proposed Local Government Property Local Law.
Beverley Public Cemeteries	1 August 1960	Obsolete – New Cemeteries Act was introduced in 1986 and more relevant provisions are provided under proposed new Cemeteries Local Law.
Dogs	30 August 1985	Obsolete – More relevant provisions are provided under proposed new Dogs Local Law.
Trading in Public Places	5 February 1988	Obsolete - More relevant provisions are now provided under the proposed Thoroughfares Local Law.
Clearing and Removal of Trees, Scrub, Undergrowth, Refuse, Rubbish, Vehicle Bodies, Disused Material and Unsightly items/objects	13 November 1992	Obsolete – Section 3.25 of the Local Government Act 1995 and Schedule 3.1 of the Act provide the powers to regulate these matters.
Fencing	24 November 1995	It is believed that this matter can be better addressed as a local planning policy under the Shires town Planning Scheme.
Standing Orders	28 November 1997	Not required by the Shire.

In making a new local law, the Shire must comply with the provisions of section 3.12 of the Act. The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of the proposed Repeal Local Law 2010 is to provide for the repeal of defunct and obsolete local laws.

**8.5.1 ADMINISTRATION ITEMS**  
**ITEM 8.5.1.2**  
**PROPOSED REPEAL LOCAL LAW 2010**  
**(Continued)**

The effect of the proposed Repeal Local Law 2010 is more efficient and effective local government by removing outdated local laws from the public record.

**DISCLOSURE OF INTEREST**

No disclosure of interest has been tabled.

**CONSULTATION**

As required by section 3.12 the Local Government Act 1995, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Repeal Local Law 2010, (gazettal copy), and the National Competition Policy review must be sent to the relevant Ministers (Local Government and Health) for comment.

**POLICY IMPLICATIONS**

There are no policy implications for this item.

**STATUTORY ENVIRONMENT**

**Local Government Act 1995**

Section 3.12(2) of the Local Government Act 1995 and the Local Government (Functions and General) Regulations (Regulation 3) which states that for the purpose of Section 3.12(2) of the Local Government Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

**8.5.1 ADMINISTRATION ITEMS**  
**ITEM 8.5.1.2**  
**PROPOSED REPEAL LOCAL LAW 2010**  
**(Continued)**

**STRATEGIC IMPLICATIONS**

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION**

**M22/0910 Moved Cr Foster** **Seconded Cr Murray**  
**That Council: -**

- 1. Adopt the proposed Shire of Beverley Repeal Local Law 2010, as contained in the Appendix to this item for advertising purposes; and**
- 2. Pursuant to section 3.12 of the Local Government Act 1995, give State-wide public notice that it intends to make the Shire of Beverley Repeal Local Law 2010, as contained in the appendix to this item: -**
  - (a) the purpose of which is to repeal defunct and obsolete local laws; and**
  - (b) the effect being more efficient and effective local government by removing outdated local laws from the public record.**

**CARRIED 7-0**

## 8.5.1 ADMINISTRATION ITEMS

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<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.5.1.3</b>
<b>REPORT DATE:</b>	<b>16 September 2010</b>
<b>SUBJECT:</b>	<b>PROPOSED HEALTH AMENDMENT LOCAL LAW 2010</b>
<b>FILE REFERENCE:</b>	<b>LE 010 &amp; LE 008</b>
<b>AUTHOR:</b>	<b>Chief Executive Officer – Keith Byers</b>

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Appendix 10

### BACKGROUND

The current principal Health Local Law was first adopted by Council on 19 December 2000, and gazetted on 3 April 2001.

To comply with the provisions of section 3.16 of the *Local Government Act 1995*, the Shire of Beverley commenced a review of its local laws on 27 October 2009.

At the conclusion of the review process it was identified that a series of amendments were required to the principal Health Local Law. The areas of the Shire's operations that relate to health local laws have been affected by other legislation are summarised below.

#### *Food Act 2008*

Amongst other things, the Food Act 2008 regulates 'food businesses', including their registration, conduct and the imposition of fees and charges by local governments. This Act made significant amendments to the Health Act including: -

- The repeal of those Parts that deal with eating houses, including the removal of a local government's powers to make local laws in respect of eating houses (Part V, Division 3); and
- The removal of other local laws making powers such as sections 134(49), 52a, 199(14), 207 and 220.

The intention of the Food Act is to remove anomalies and different compliance regimes that exist between the large number of local laws that operate within the State, while at the same time protecting public health and maintaining the role that local governments play in maintaining standards.

#### *Waste Avoidance and Resource Recovery Act 2007*

The most relevant provisions of the *Waste Avoidance and Resource Recovery Act* (WARR) came into force on 1 July 2008.

**8.5.1 ADMINISTRATION ITEMS**  
**ITEM 8.5.1.3**  
**PROPOSED HEALTH AMENDMENT LOCAL LAW 2010**  
**(Continued)**

This Act repealed various provisions of the Health Act 1911 that dealt with the powers of local governments in relation to the collection and removal of rubbish, and had the effect of transferring the powers of a local government to make local laws about waste to the WARR Act (item 4 of Schedule 4).

In terms then of dealing with the parts of the old Health Bylaws that relate to waste, it is proposed that a separate local law will be made that deals only with waste under the WARR Act.

*New Public Health Act*

The State Government has been aiming to have updated legislation in place for some time to replace the Health Act 1911. The Health Department of WA has advised that its promulgation is imminent. This however, has been the case for some considerable time, and there appears to be no immediate prospect of it happening.

The purpose of this report is to allow the Presiding Person to: -

- (1) give notice to the meeting of the intent to make a new Health Amendment Local Law; and
- (2) give notice of the purpose and effect of the proposed Health Amendment Local Law;
- (3) for the Council to adopt the proposed Health Amendment Local Law; and
- (4) to allow for advertising of the Health Amendment Local Law for public comment.

**COMMENT**

The proposed amendments to Shire of Beverley Health Local Law are set out in the Appendix to this report.

In making a new local law, the Shire must comply with the provisions of section 3.12 of the Act. The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

**8.5.1 ADMINISTRATION ITEMS**  
**ITEM 8.5.1.3**  
**PROPOSED HEALTH AMENDMENT LOCAL LAW 2010**  
**(Continued)**

The purpose of the proposed Health Amendment Local Law is to incorporate updated provisions into the principal Health Local Law that reflect current terminology and meet legislative requirements.

The effect of the proposed Health Amendment Local Law is that the provision of sanitary conveniences, the maintenance of dwelling houses, nuisances, the keeping of animals, pest control, infectious diseases, lodging houses, and offensive trades are regulated within the district.

**DISCLOSURE OF INTEREST**

No disclosure of interest has been tabled.

**CONSULTATION**

As required by section 3.12 the Local Government Act 1995, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

In addition, copies of the proposed Health Amendment Local Law, (gazettal copy), and the National Competition Policy review must be sent to the relevant Ministers (Local Government and Health) for comment.

**POLICY IMPLICATIONS**

There are no policy implications for this item.



**8.5.1 ADMINISTRATION ITEMS**  
**ITEM 8.5.1.3**  
**PROPOSED HEALTH AMENDMENT LOCAL LAW 2010**  
**(Continued)**

**STATUTORY ENVIRONMENT**

Local Government Act 1995

Section 3.12(2) of the Local Government Act 1995 and the Local Government (Functions and General) Regulations (Regulation 3) which states that for the purpose of Section 3.12(2) of the Local Government Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Health Act 1911

Food Act 2008

Food Standards Code

**STRATEGIC IMPLICATIONS**

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION**

**M23/0910**

**Moved Cr Foster**  
**That Council: -**

**Seconded Cr Roberts**

- (1) Adopt the proposed Shire of Beverley Health Amendment Local Law 2010, as contained in the appendix to this item for advertising purposes;**
- (2) Pursuant to section 3.12 of the Local Government Act 1995, give State-wide public notice that it intends to make the Shire of Beverley Health Amendment Local Law 2010, as contained in the appendix to this item: -**
  - (a) the purpose of which is to incorporate updated provisions into the principal Health Local Law that reflect current terminology and meet legislative requirements; and**

**8.5.1**

**ADMINISTRATION ITEMS**

**ITEM 8.5.1.3**

**PROPOSED HEALTH AMENDMENT LOCAL LAW 2010**

**(Continued)**

- (b) the effect is that the provision of sanitary conveniences, the maintenance of dwelling houses, nuisances, the keeping of animals, pest control, infectious diseases, lodging houses, and offensive trades are regulated within the district.

**CARRIED 7-0**

## 8.5.1 ADMINISTRATION ITEMS

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<b>SUBMISSION TO:</b>	<b>September Council Meeting 28 September 2010</b>
<b>AGENDA ITEM:</b>	<b>8.5.1.4</b>
<b>REPORT DATE:</b>	<b>21 September 2010</b>
<b>SUBJECT:</b>	<b>PROPOSED EXTRACTIVE LOCAL INDUSTRIES LOCAL LAW 2010</b>
<b>FILE REFERENCE:</b>	<b>LE 010 &amp; LE 011</b>
<b>AUTHOR:</b>	<b>Chief Executive Officer – Keith Byers</b>

---

Appendix 11

### BACKGROUND

As developmental pressures continue to increase on fringe metropolitan local governments, there will be an increasing need to supply raw materials to meet development demands. The demands for raw materials from extractive industries, such as gravel, clay and sand, will inevitably extend into those local governments that adjoin the fringe metropolitan area.

Currently the Shire of Beverley does not have a local law that regulates extractive industries within the district. To ensure that appropriate regulatory measures are in place preceding the forecast demand it is proposed that the Shire consider making an Extractive Industries Local Law.

The purpose of this report is to allow the Presiding Person to: -

- (1) give notice to the meeting of the intent to make a new Extractive Industries Local Law 2010; and
- (2) give notice of the purpose and effect of the proposed Extractive Industries Local Law 2010;
- (3) for the Council to adopt the proposed Extractive Industries Local Law for advertising purposes; and
- (4) to allow for advertising of the proposed Extractive Industries Local Law 2010 for public comment.

### COMMENT

The proposed Extractive Industries Local Law will allow Council to regulate extractive industries through an application and licensing system where conditions can be imposed. The local law will: -

1. apply through-out the district;
2. apply to every excavation activity, except where expressly exempted;
3. not apply to the extraction of minerals under the *Mining Act 1978*;

## 8.5.1

### ADMINISTRATION ITEMS

#### ITEM 8.5.1.4

#### PROPOSED EXTRACTIVE INDUSTRIES LOCAL LAW 2010

#### (Continued)

4. not apply to an extractive industry on Crown Land;
5. will not apply to an extractive industry on a lot by an owner or occupier where the material extracted is not sold and used solely on that lot or an adjacent lot owned or occupied by the person carrying out the extractive industry; and
6. allow the Shire to grant an authorisation, with conditions, for the carrying out of an extractive industry where the extraction is carried out solely for the benefit of a local community or sporting organisation.

In making a new local law, the Shire must comply with the provisions of section 3.12 of the Act. The *Local Government (Functions and General) Regulations* (Regulation 3) states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose of the proposed Extractive Industries Local Law 2010 is to establish requirements and conditions with which extractive industry proposals, within the district, must comply with.

The effect of the proposed Extractive Industries Local Law 2010 is to provide for the regulation, control and management of extractive industry proposals.

#### DISCLOSURE OF INTEREST

No disclosure of interest has been tabled.

#### CONSULTATION

As required by section 3.12 the Local Government Act 1995, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

**8.5.1 ADMINISTRATION ITEMS**  
**ITEM 8.5.1.4**  
**PROPOSED EXTRACTIVE INDUSTRIES LOCAL LAW 2010**  
**(Continued)**

In addition, copies of the proposed Extractive Industries Local Law 2010, (gazettal copy), and the National Competition Policy review must be sent to the relevant Ministers (Local Government and Health) for comment.

**POLICY IMPLICATIONS**

There are no policy implications for this item.

**STATUTORY ENVIRONMENT**

Local Government Act 1995

Section 3.12(2) of the Local Government Act 1995 and the Local Government (Functions and General) Regulations (Regulation 3) which states that for the purpose of Section 3.12(2) of the Local Government Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

**STRATEGIC IMPLICATIONS**

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION**

**M24/0910 Moved Cr Gogol Seconded Cr Pepper**  
**That Council: -**

- 1. Adopt the proposed Shire of Beverley Extractive Industries Local Law 2010, as contained in the appendix to this item for advertising purposes; and**
- 2. Pursuant to section 3.12 of the Local Government Act 1995, give State-wide public notice that it intends to make the Shire of Beverley Extractive Industries Local Law 2010, as contained in the appendix to this item: -**

**8.5.1**

**ADMINISTRATION ITEMS**

**ITEM 8.5.1.4**

**PROPOSED EXTRACTIVE INDUSTRIES LOCAL LAW 2010**

**(Continued)**

- (a) the purpose of which is to establish the requirements and conditions with which extractive industries, within the district, must comply with; and**
- (b) the effect is to provide for the regulation, control and management of extractive industry proposals.**

**CARRIED 7-0**



**8.5.2 INFORMATION BULLETIN REPORT – CHIEF EXECUTIVE OFFICER**

**8.5.2.1 8 YEAR PERIODIC WARD AND REPRESENTATION REVIEW**  
(File Reference: GOV 004)

Council has received correspondence from the Department of Local Government advising that the 8 year periodic ward and representation review is due and needs to be submitted to the Local Government Advisory Board by 31 December 2010, to allow adequate time to comply with the various statutory requirements if implemented for the 2011 elections.

**COUNCIL RESOLUTION**

**M26/0910 Moved Cr Roberts Seconded Cr Foster**  
**That Council seek permission from the Department of Local Government to defer a ward representative review for 2 years pending the outcome of the regional transition group.**  
**CARRIED 7-0**

**9. INFORMATION BULLETIN – GENERAL SECTION – PART ONE AND TWO**

The September Information Bulletin was provided under separate cover.

**COUNCIL RESOLUTION**

**M27/0910 Moved Cr Foster Seconded Cr Shaw**  
**That the September Information Bulletin, be received.**  
**CARRIED 7-0**

**10. TABLED CORRESPONDENCE**

- SOUTH WEST DEVELOPMENT COMMISSION
  - South West Active Ageing Research Project
- DEPARTMENT OF LOCAL GOVERNMENT
  - Implementing the Principles of Multiculturalism Locally
- WALGA
  - State Council Agenda – October 2010
- WHEATBELT DEVELOPMENT COMMISSION
  - Draft Report for Wheatbelt-Wide Forum - 8 September 2010
- MINISTER FOR INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT AND LOCAL GOVERNMENT
  - National Awards for Local Government – 2010 Winners
- DEPARTMENT OF LOCAL GOVERNMENT
  - Strategic Plan 2010 - 2015



**11. OTHER BUSINESS**

**11.1 MEETINGS**

Council agreed to hold the following meetings: -

Development Services Committee Meeting to be held on Tuesday 5 October 2010, commencing at 10:00am.

Workshop Meeting to be held on Friday 15 October 2010, commencing at 9:00am.

**12. CLOSURE**

There being no further business the meeting closed at 2:26pm.

I hereby certify these Minutes as being confirmed in accordance with Section 5.22 of the Local Government Act 1995.

Presiding Member

Date

# APPENDIX LIST

## 28 SEPTEMBER 2010

		Commencement Page of Appendix Item
Appendix 1	Item 6.2 – Notes from the Forum to Discuss Tenders to Construct Independent Living Units on Lot 101 Dawson Street, Beverley held on 24 September 2010	1
Appendix 2	Item 8.1.1.1 – Final Adoption - Developer Contributions for Road and Footpath Upgrading Policy	3
Appendix 3	Item 8.1.1.2 – Development Application - Concert - Lot 83 Butchers Road, Westdale	7
Appendix 4	Item 8.1.1.5 – Development Application - Outbuilding and Residing in Outbuilding - Lot 127 Brooking Street, Beverley	9
Appendix 5	Item 8.1.1.3 – Survey Strata Subdivision Application - Lot 23562 Maitland Road, Kokeby	13
Appendix 6	Item 8.1.1.4 – Subdivision Application - Lots 12, 22, 24, 19022 Jones Road and Lot 50 Westdale Road, Westdale	15
Appendix 7	Item 8.4.1.1 – Schedule of Accounts for the month of August 2010	17
Appendix 8	Item 8.5.1.1 – Proposed Waste and Operation of Waste Disposal Facilities Local Law 2010	23
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## SHIRE OF BEVERLEY

### NOTES FROM THE FORUM TO DISCUSS TENDERS TO CONSTRUCT INDEPENDENT LIVING UNITS ON LOT 101 DAWSON STREET, BEVERLEY, HELD IN THE COUNCIL CHAMBERS ON FRIDAY THE 24<sup>TH</sup> SEPTEMBER, 2010

#### PRESENT

Cr DJ Ridgway (President), Cr LC Shaw (Deputy President), Cr JD Alexander,  
Cr BM Foster, Cr P Gogol, Cr MG Roberts, Cr CJ Pepper, Cr KM Murray,  
Mr KL Byers (Chief Executive Officer) and Mr SP Gollan (Deputy Chief Executive  
Officer)

#### APOLOGIES

Cr C Egberts

#### GENERAL BUSINESS

The Chief Executive Officer reported that the following tenders had been received for  
the construction of four and two independent living units on Lot 101 Dawson Street,  
Beverley:

Tenderer	Price 2 Units	Price 4 Units
Sims Construction Pty Ltd	\$ 582,218	\$ 1,164,436
Briklay Pty Ltd	\$ 594,678	\$ 1,189,355
WA Country Builders	\$ 646,932	\$ 1,125,432
Myers Construction	\$ 443,402	\$ 886,805
CPD Group Pty Ltd	\$ 458,100	\$ 861,770
Westeel Homes		\$ 1,130,812

Unfortunately the tender of Westeel Homes could not be considered as it had been received after the time for receiving tenders had expired. The tenders of CPD Group Pty Ltd and Myers Construction had also been withdrawn.

The architect Mr Matthew Coniglio forwarded for the Forum's consideration an evaluation sheet comparing the tenders of Briklay Pty Ltd, Sims Construction Pty Ltd and WA Country Builders to construct two units.

**It was recommended by Cr Alexander and Cr Roberts that Council at its meeting on the 28<sup>th</sup> September 2010 adopt a proposal to construct two Independent Living Units on Lot 101 Dawson Street, Beverley. This recommendation received unanimous agreement.**

**It was recommended by Cr Shaw and Cr Roberts that Council at its meeting on the 28<sup>th</sup> September 2010 give favourable consideration to the tender of Sims Construction Pty Ltd to construct 2 units on Lot 101 Dawson Street, Beverley at a cost of \$582,218 (GST exclusive). This recommendation received unanimous agreement.**

**It was further recommended by Cr Foster and Cr Roberts that Council at its meeting on the 28<sup>th</sup> September, 2010, appoint Matthew Coniglio to supervise the construction of the abovementioned units. This recommendation received unanimous agreement.**

## **CLOSURE**

The Forum retired at 9:30am.



## **DRAFT DEVELOPER CONTRIBUTIONS FOR ROAD AND FOOTPATH UPGRADING POLICY**

### **PURPOSE**

This policy sets the basis for seeking contributions for the upgrading of the Shire's road and footpath network as a result of the subdivision and development of land. The policy will allow a consistent approach to be applied to all subdivisions and relevant development and will provide guidance on Council's decision making. The policy will also provide certainty to the community in estimating the costs of the subdivision and development process.

ADOPTION DATE:

### **AUTHORITY TO PREPARE AND ADOPT A PLANNING POLICY**

The Shire of Beverley, pursuant to Clause 7.6 of the Shire of Beverley Town Planning Scheme No.2, hereby makes this Town Planning Scheme Policy regarding subdivision and development contributions for road and footpath upgrading throughout the Shire of Beverley. This policy will be incorporated into future schemes when Town Planning Scheme No.2, or greater, is revoked.

### **OBJECTIVES**

- To provide a basis for seeking financial contributions to the upgrading of the road and footpath network as a result of the subdivision process.
- To provide a basis for seeking financial contributions to the upgrading of the road and footpath network as a result of development proposals.
- To ensure consistency in the recommendations made to the Western Australian Planning Commission on subdivision applications.
- To provide clear and consistent advice to the community on the Shire's expectations for road and footpath upgrading.

### **DEFINITIONS**

'Road' shall have the definition applied to it under the Road Traffic Act 1974 which includes any highway, road or street open to, or used by, the public and includes every carriageway, footway, reservation, median strip and traffic island thereon.

'Footpath' shall mean any land or thoroughfare used by pedestrians and/or cyclists and shall include pathways, dual use paths and any other walkway designed for this use.

## STATUTORY POWERS

This Policy relates to determinations made by the Western Australian Planning Commission under the Planning and Development Act 2005. This Act gives the Commission the power to require developer contributions as part of the subdivision of land.

Where a development proposal requires the upgrading of the road and or footpath network, Council may require developer contributions under Clause 6.3.2 of the Shire of Beverley's Town Planning Scheme No. 2.

This Policy has regard to the information contained within the Western Australian Planning Commission's State Planning Policy 3.6 - Development Contributions for Infrastructure. The objectives of the policy are:

- To promote the efficient and effective provision of public infrastructure and facilities to meet the demands arising from new growth and development;
- To ensure that development contributions are necessary and relevant to the development to be permitted and are charged equitably among those benefiting from the infrastructure and facilities to be provided;
- To ensure consistency and transparency in the system for apportioning, collecting and spending development contributions; and
- To ensure the social well-being of communities arising from, or affected by development.

This Policy adopts and implements these principles for seeking developer contributions as part of the subdivision and development process.

## POLICY

1. All applications for subdivision or development approval made within the Shire of Beverley, where there is an identified nexus between the requirement for a road and/or footpath upgrade and the proposal, will be subject to the provisions of this policy. This policy does not supersede or influence any other requirement for developer contributions as part of the subdivision or development approval process toward other facilities or infrastructure, such as public open space, community facilities, etc.
2. In making recommendations to the Western Australian Planning Commission on applications for subdivision where at least one additional lot will be created from the parent lot/s, the Council will consider seeking a financial contribution to be made towards the upgrading of the road and/or footpath network.
3. The Council reserves the right to seek a financial contribution towards the upgrading of the road and/or footpath network in the case of boundary rationalisation applications where no additional lots will be created, if it is considered warranted under certain circumstances.
4. When determining a development application, if in the opinion of Council the development generates the requirement for a road and/or footpath upgrade, the Council will seek a financial contribution to be made towards the upgrading of the road and/or footpath network.

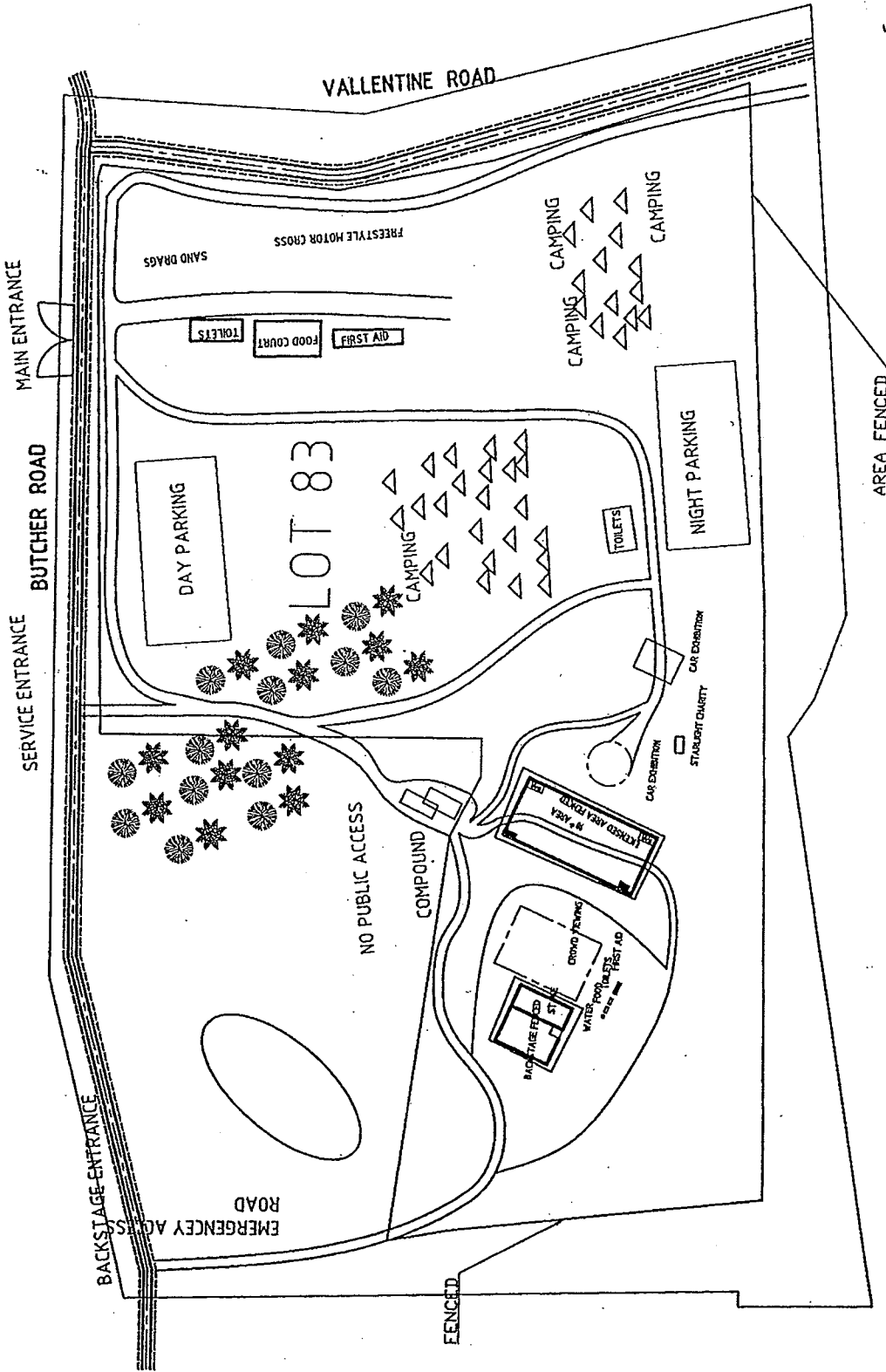
5. Contributions towards the upgrading of the road and footpath network will be based on the standards contained in Table No 1 of this policy. The standards will be reviewed as part of Council's periodic review of the Shire of Beverley's Policy Manual. Thereby allowances can be made for changing community expectations.
6. The road and footpath upgrading contribution will be a pro-rata calculation of 50% of the road/footpath as contained in Table No 1, based on the per kilometre / per metre frontage of the parent lot/s to the road. Where a secondary street exists, the Council reserves the right to seek a contribution for the secondary street in addition to the primary street frontage, however the Council will take into account traffic movements and existing rights of entry.
7. If a subdivision requires that the created lots be provided with constructed road access that does not currently exist, this policy shall not supersede any requirements for the developer to pay the full construction costs to provide this road access.
8. Nothing in this policy shall prohibit Council from seeking the construction of a footpath network within a subdivision at the developer's expense.
9. In terms of the expenditure of the financial contributions made as part of the subdivision of land, the following principles shall apply:
  - a) Should the applicant not construct the road, the construction/upgrading of the road(s) shall comply with the Shire's Works Program; and
  - b) The upgrading of any footpath network shall occur within three (3) years following the completion of all subdivisions affecting a particular area, or prior to this date as determined by Council.
10. The Council may vary the requirements of this policy, where it is considered that full compliance with the policy is impractical or such variation is warranted in the circumstances of the subdivision or development.
- 11. This Policy does not apply to main roads**

**TABLE NO. 1**

Standard				
Zone	Road Width (metres)	Road Surface	Kerbing/ Drainage	Comment
Residential R5 and above	6	Two coat – Chip Seal	Yes	
Residential R2.5 and below	6	Two coat – Chip Seal		
Town Centre	As appropriate	Asphalt	Yes	
Industrial	7	Asphalt	Yes	Kerbing to be provided if appropriate
Rural Residential	6-7	Two coat seal	Yes	Kerbing to be provided if appropriate
Farming	7	Gravel – 150mm thick		A sealed road standard may be required in specific circumstances.
Footpaths where identified in strategy or structure plan	1.6	Concrete – 100mm thick		Mesh to be placed in all crossovers







DESIGNED BY: ALI SHEIKH  
 CHECKED BY: RHETT PACE

DRAFTING CONSULTANT  
 CIVIL AND STRUCTURAL ENGINEERING  
 Managing director  
 Mob: 0424286721  
 Email: rhp@pace@bartenderz.com.au

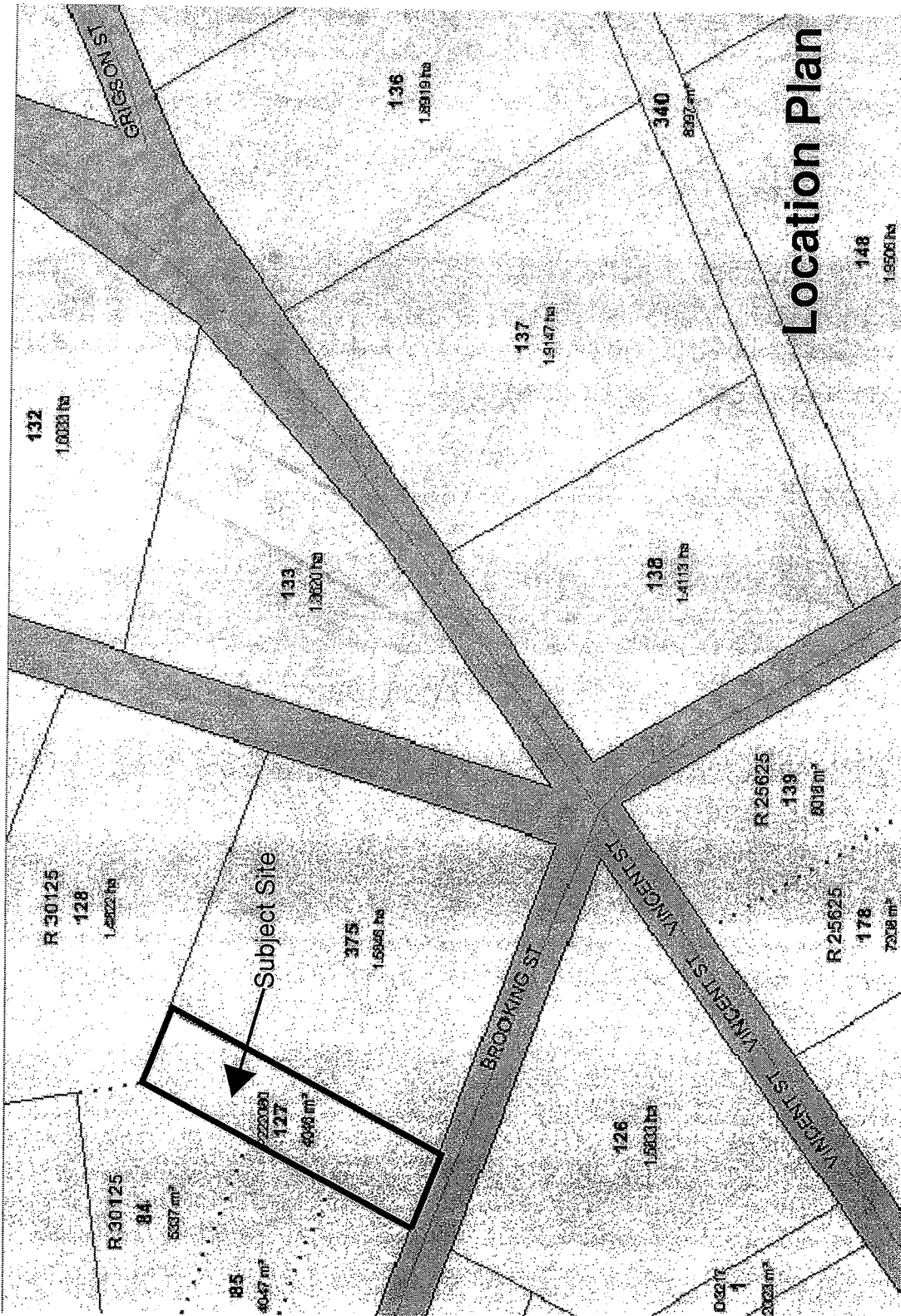
WESTDALE ROCK SITE PLAN

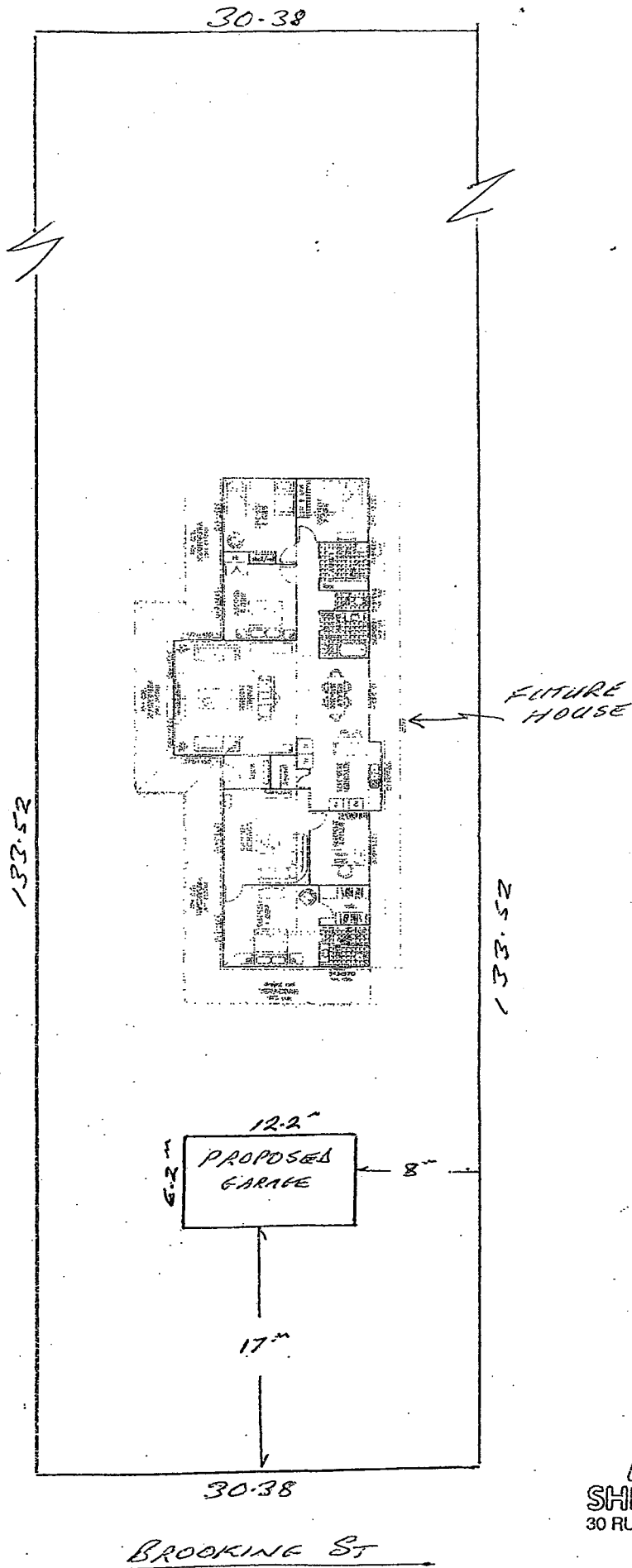
DEPARTMENT  
 OF  
 CIVIL AND STRUCTURAL ENGINEERING



DATE: 20-05-2010  
 SCALE: 1:1  
 DWG NO: 1/1

A3





**AVALON**  
**SHEDS & STABLES**  
 30 RUNYON RD, MIDVALE 8056  
 Ph: 9274 7774

**Specifications:**

**FOOTINGS** SLAB - MIN 80MM+FG3  
 400x400x450mm deep  
 Concrete 20Mpa at 28 days  
 Suitable for class "M" (AS 2870)

**COLUMNS**  
 Maximum Wall Height  
 Up to 3.0m  
 3.0m to 3.5m  
 3.5m to 4.2m

**Base plate**  
 50x50x3mm SHS x 300mm  
 long welded to columns

**TRUSSES**  
 Chords  
 50x50x1.6mm SHS  
 Web members  
 50x50x2.5mm SHS  
 Fully welded  
 Apex Connection  
 Fly bracing

**PURLINS/GIRTS**  
 Maximum span 4.0m  
 Maximum span 5.0m

**CLADDING**  
 Timberock 0.47 Hi-Ten  
 Purlins

Girts  
 Cordeck 0.47 Hi-Ten  
 Purlins

Girts  
 1000mm End Span  
 1700mm Internal Span  
 2100mm End Span  
 2400mm Internal Span

900mm End Span  
 1200mm Internal Span  
 1350mm End Span  
 1800mm Internal Span

**NOTES**  
 All wall and roof cladding to be fixed in accordance with the manufacturer's specifications  
 Bridging and bracing to fixed in accordance with the relevant Australian Standard  
 Purlins/girts are to be bolted to 2nos. 65x65mm plate fully welded to truss/columns with 2nos. M12 MS bolts  
 Garage door to be fixed in accordance with the manufacturer's specifications  
 Square line gutters used, inverted, silicone sealed and strapped at 1200mm max cts.  
 Rainwater pipes installed as required

*John Colley*

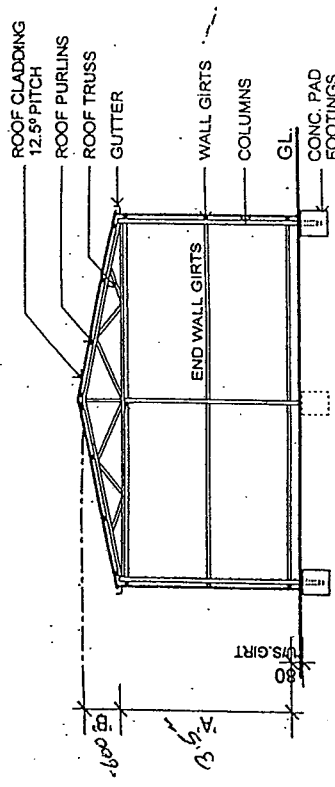
Structural Engineer, John Colley (CP, ERM)  
 Phone (08) 9572 1190

Design Wind Speed 41 MPS  
 Importance Factor 0.9  
 Terrain Category 2

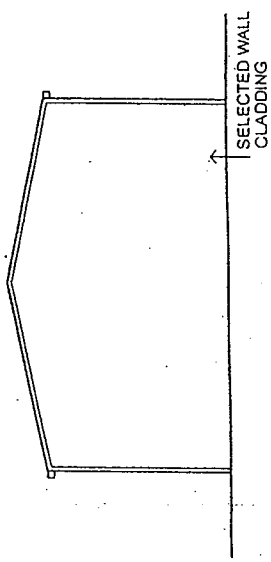
Proposed garaged/shed: **S MORTON**  
 For **LOT 27 BUCKING ST**  
 Site address **REVERLEY**

Approximate external dimensions of structure:  
 (A) Wall height 3.5m (B) Ridge height 4.1m  
 (C) Length 12.2m (D) Width 6.2m

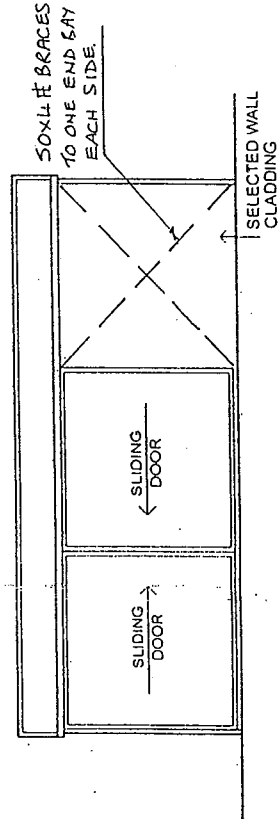
**AVALON SHEDS & STABLES**  
 30 RUNYON ROAD, MIDVALE, WA, 6056  
 Phone: (08) 9274 7774 Fax (08) 9274 6909  
 Email: mail@avalonsheds.com.au



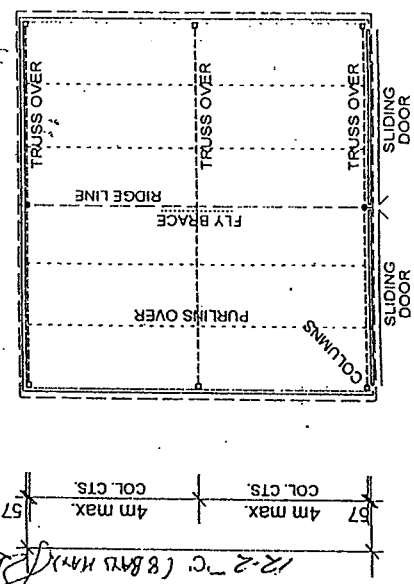
**SECTION**



**FRONT ELEVATION**

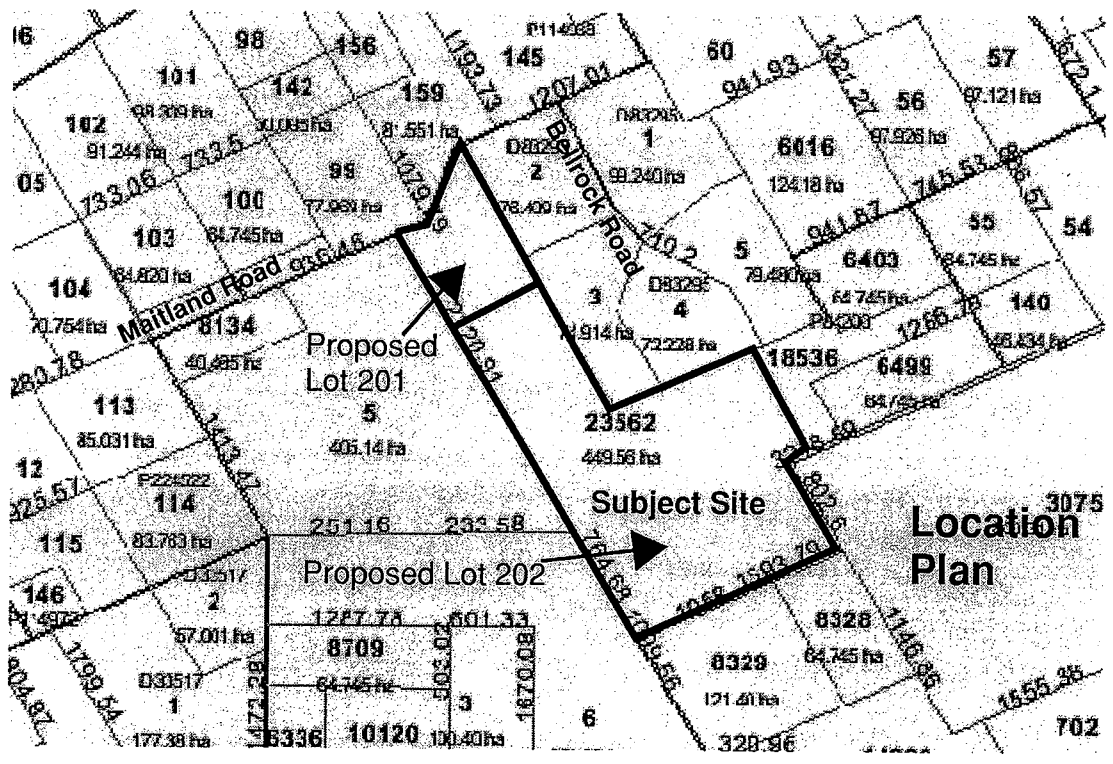


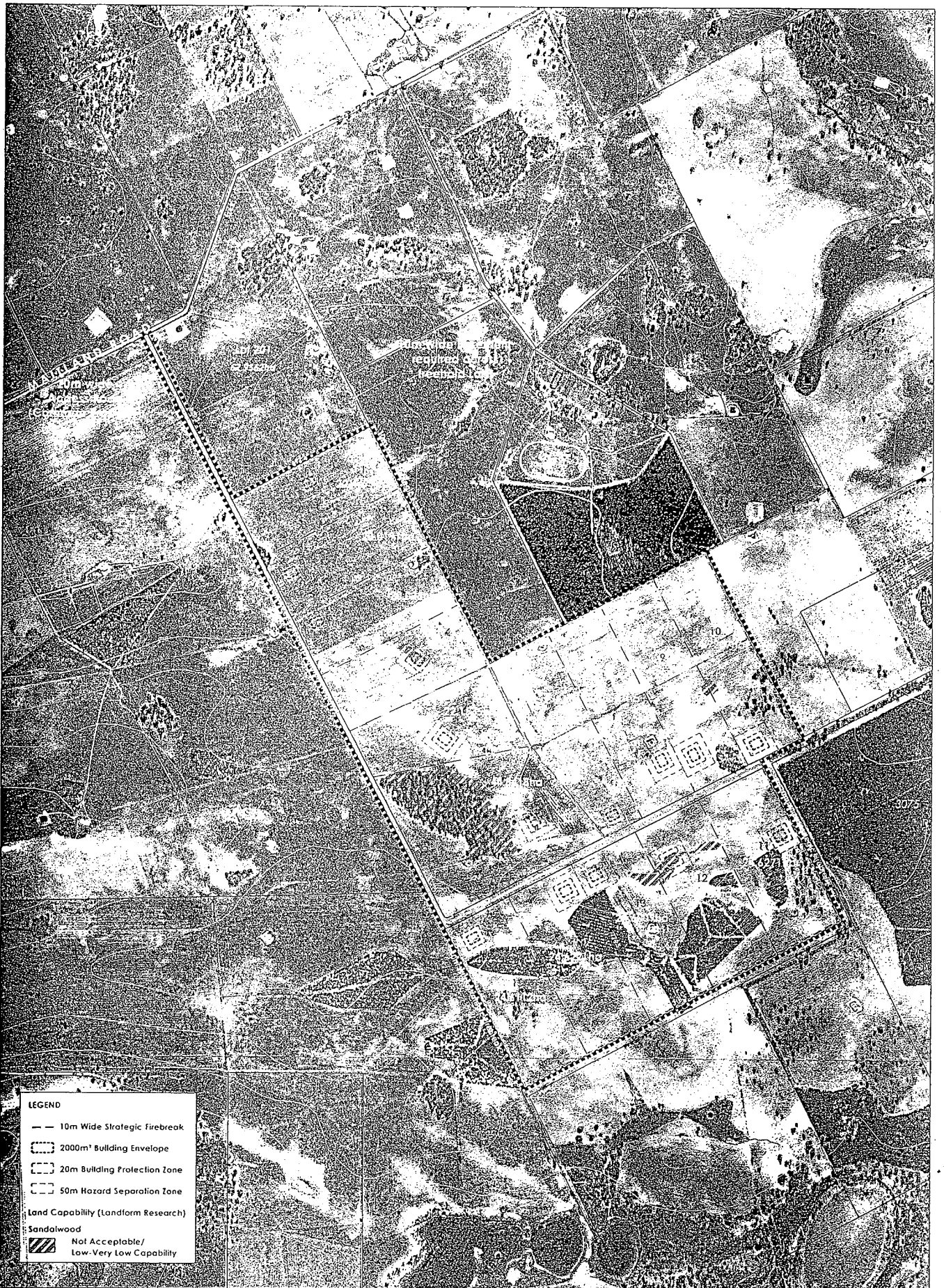
**SIDE ELEVATION**



**PLAN**

*roof above (BUSHLAND)*  
*WALLS above (PAPERBARK)*

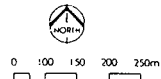




- LEGEND**
- 10m Wide Strategic Firebreak
  - ⋯ 2000m² Building Envelope
  - - - 20m Building Protection Zone
  - · - · 50m Hazard Separation Zone
- Land Capability (Landform Research)**
- Sandalwood
  - Not Acceptable/ Low-Very Low Capability

**LOT SUMMARY**

Lot Yield	15 Strata Lots
Lot Size	min. 20.01ha
	max. 44.84ha
	ave. 24.62ha
Total Area of Lots	369.11ha
Access Road	12.51ha



**PROPOSED RURAL STRATA SUBDIVISION**  
**LOT 202 MAITLAND ROAD,**  
**KOKEBY**

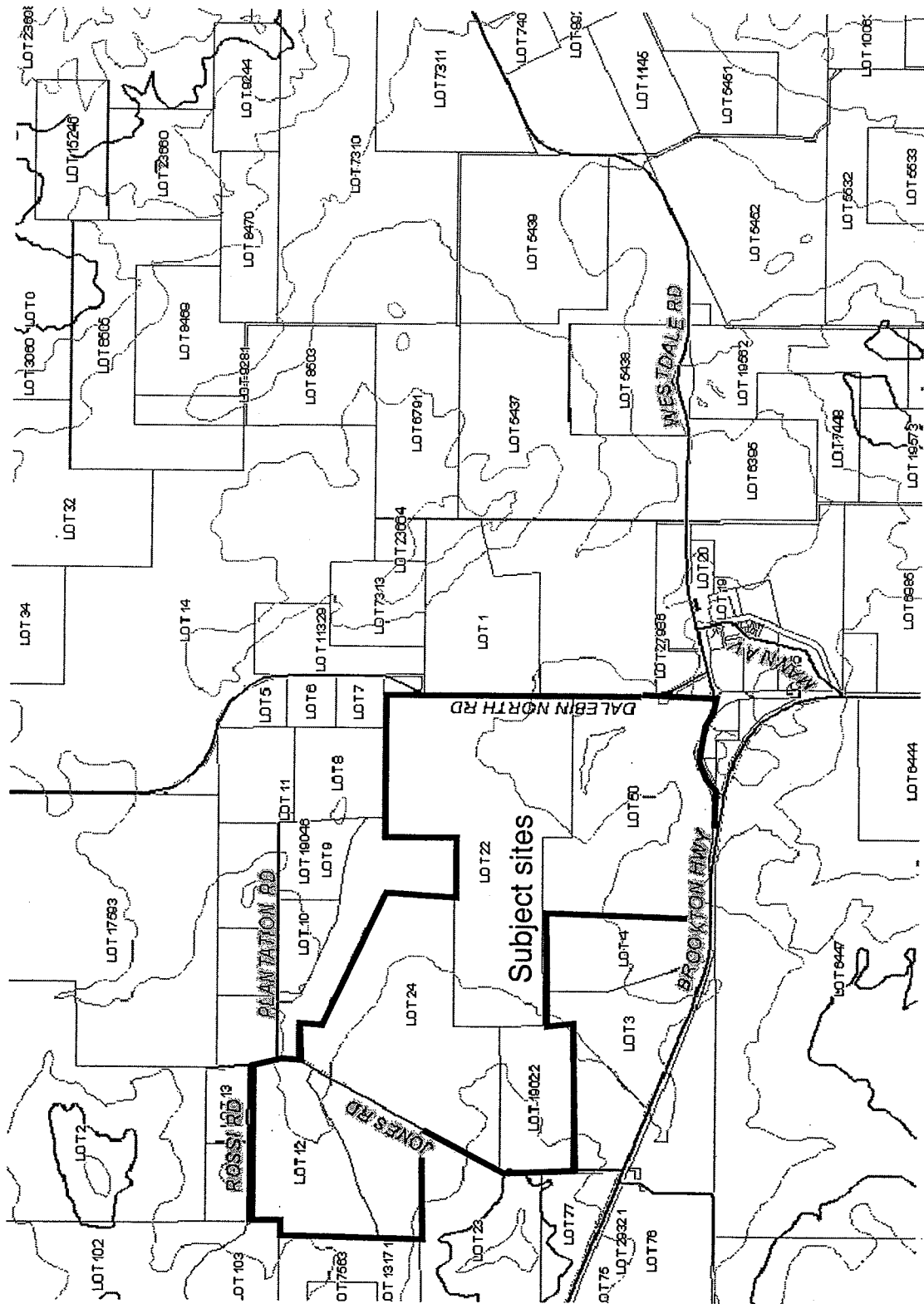


1/1 ALVAN STREET MT LAWLEY W.A. 6050 phone: (08) 9371 8381  
 PO BOX 289 MT LAWLEY, W.A. 6102 email: 202@landform.com.au

Plan No: 822-332 Date: 18 July 2010 Scale: 1:15,000

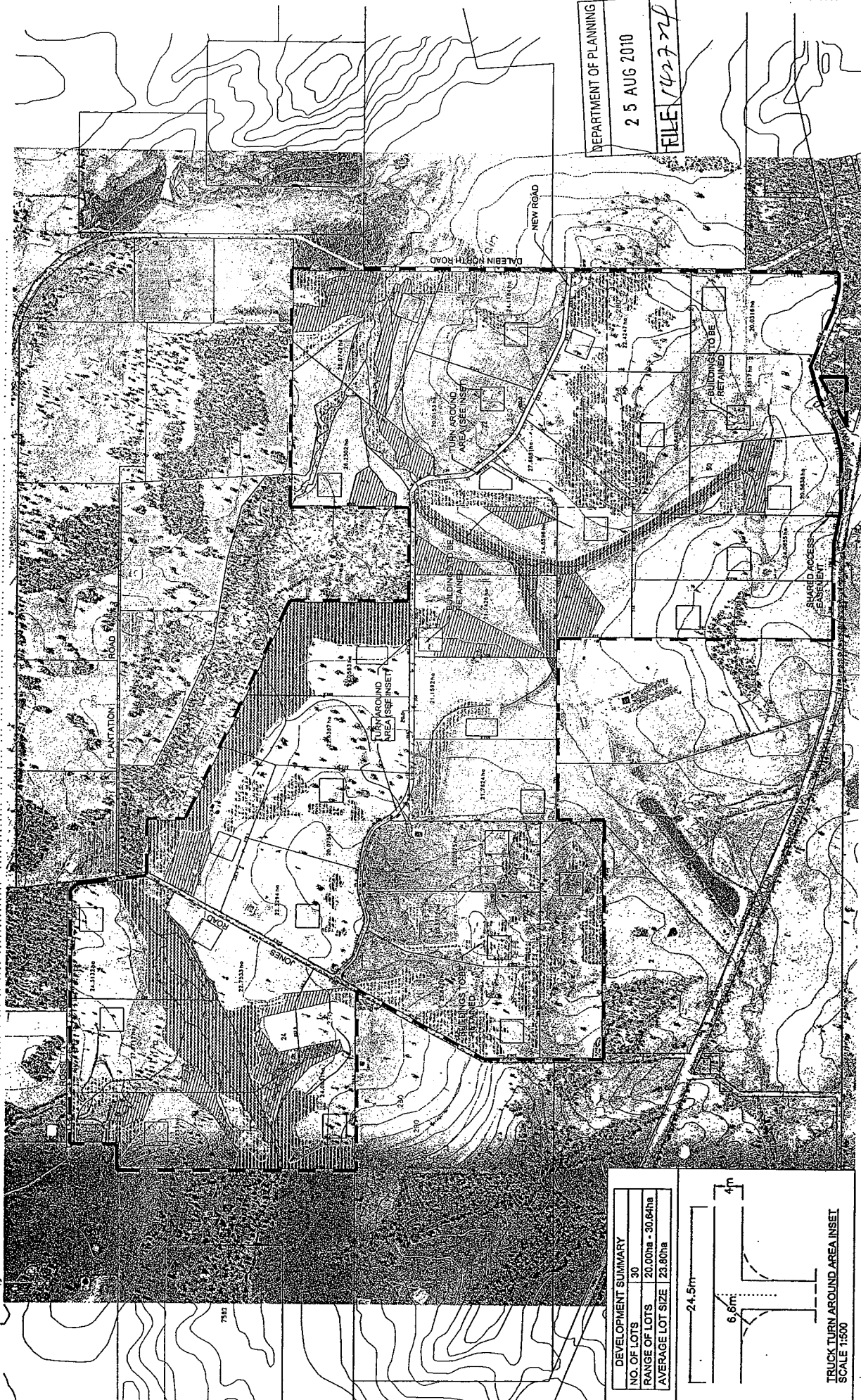
**SHIRE OF BEVERLEY**

DATE: 18 JUL 2010  
 TIME: 10:40 AM  
 SHEET: 10



Location Plan





DEPARTMENT OF PLANNING  
25 AUG 2010  
FILE 142722

title: subdivision concept plan  
address: lot 12, 24, 22 & 1023 Jones road and lot 30 versatile road, versatile  
post / south west 13: 33° 13' 20" S 200m  
mid west 05: 150° 15' 00" W 200m  
figure 13: 1:1000

date: 20 August 2010  
author: A. Latham  
client: Partfield Farms  
scale: 1:15,000 @ A3  
sheet: 06/1002

DEVELOPMENT SUMMARY	
NO. OF LOTS	30
RANGE OF LOTS	20.00ha - 30.64ha
AVERAGE LOT SIZE	23.80ha

24.5m  
6.6m  
4m

**TRUCK TURN AROUND AREA INSET**  
SCALE 1:500

- Legend
- SUBJECT SITE
  - WATER COURSES
  - DAMS
  - ▨ VEGETATION (COVENANT)
  - ▨ VEGETATION (COVENANT)
  - ▨ P. O. S. V. REVEGETATION (170.89ha)
  - ▨ P. O. S. V. REVEGETATION (170.89ha)
  - ▨ H.M.S. V. SANDALWOOD (48.29ha)
  - ▨ H.M.S. V. SANDALWOOD (48.29ha)
  - HYPOTHETICAL BUILDING ENVELOPES
  - CONTOURS
  - EXISTING LOT BOUNDARIES
  - EXISTING LOT NUMBERS
- Note: Expansion of zones see report Plantation and

GREG ROWE & associates  
PLANNING & DEVELOPMENT  
ACHIEVEMENT



CHEQUE DETAIL - Municipal and Trust Accounts - AUGUST 2010

TYPE	NUM	DATE	NAME	DETAILS	AMT PAID	TOTALS
Liability Chq	05/08/2010	COLONIAL FIRST STATE-MOULTON CLARE	SUPER CONTRIB: FE 04 AUG 10		0.00	0.00
Liability Chq	05/08/2010	CSRF - CATHOLIC SUPER & RETIREMENT FL	SUPER CONTRIB: FE 04 AUG 10		0.00	0.00
Liability Chq	05/08/2010	WALGSP - SUPER	SUPER CONTRIB: FE 04 AUG 10		0.00	0.00
EFT Pymt	17/08/2010	ADVANCED AUTO LOGIC P/L	SUNDRY PLANT: GREASE		-287.00	
EFT Pymt	17/08/2010	AVON TOURISM INC	2010 ROYAL SHOW DISPLAY SPONSORSHIP		-5,500.00	
EFT Pymt	17/08/2010	AVON TRADING	JUL 2010 HARDWARE SUPPLIES		-1,802.37	
EFT Pymt	17/08/2010	AVON WASTE	BIN COLLECT @ \$1.62 per BIN, GST INC & RECYCLING BINS		-4,182.20	
EFT Pymt	17/08/2010	BEV ELECT SERVICES (SMITH K)	VARIOUS ELECTRICAL WORK		-1,763.30	
EFT Pymt	17/08/2010	BEV FARM SERVICES	WEED SPRAYING - RURAL: CHEMICALS		-1,328.36	
EFT Pymt	17/08/2010	BEV GAS & PLUMBING	AMENITIES BLDG: NEW GAS REGULATOR, SEWERAGE		-618.75	
EFT Pymt	17/08/2010	BEV NEWS - Barry & Pauline	JUL 2010 ACCOUNT		-1,378.95	
EFT Pymt	17/08/2010	BEV STEEL FABRICATION	WATER TANK - SPLO4: PARTS		-101.50	
EFT Pymt	17/08/2010	BEV SUPERMARKET & LIQUOR	JUL 2010 PURCHASES		-828.92	
EFT Pymt	17/08/2010	BOC LIMITED	JUL 2010: CYLINDER RENTAL		-70.08	
EFT Pymt	17/08/2010	BUNNINGS BUILDING SUPPLIES P/L	HARDWARE PURCHASES		-719.46	
EFT Pymt	17/08/2010	CAFE 6304	CATERING: VARIOUS		-450.00	
EFT Pymt	17/08/2010	CANNON HYGIENE	20010/2011 SANITARY BIN SERVICE FEE		-1,397.48	
EFT Pymt	17/08/2010	CCS STRATEGIC	REC GROUNDS FEASIBILITY & CSRFF: 1st INSTAL		-13,811.60	
EFT Pymt	17/08/2010	CENTRAL COUNTRY ZONE WALGA	2010/2011 SUBSCRIPTIONS		-2,695.00	
EFT Pymt	17/08/2010	COLONIAL FIRST STATE-MOULTON CLARE	SUPER CONTRIB: FE 04 AUG 10		-47.00	
EFT Pymt	17/08/2010	COURIER AUSTRALIA	FREIGHT CHARGES: 13 JUL - 03 AUG 2010		-190.17	
EFT Pymt	17/08/2010	COVENTRYS	VARIOUS PARTS		-279.84	
EFT Pymt	17/08/2010	CSRF - CATHOLIC SUPER & RETIREMENT FL	SUPER CONTRIB: FE 04 AUG 10		-135.74	
EFT Pymt	17/08/2010	CUTTING EDGES EQUIPMENT PARTS	VARIOUS BLADES, TEETH		-8,365.87	

## CHEQUE DETAIL - Municipal and Trust Accounts - AUGUST 2010

TYPE	NUM	DATE	NAME	DETAILS	AMT PAID	TOTALS
EFT Pymt	17/08/2010	ELECTRICAL DISTRIBUTORS OF WA P/L	VARIOUS PARTS		-508.58	
EFT Pymt	17/08/2010	FULTON HOGAN INDUSTRIES	2TNS EZ STREET		-1,342.00	
EFT Pymt	17/08/2010	GOLLAN Stephen	SEAVROC DINNER - 6 AUG 10 LOC GOVT WEEK		-320.00	
EFT Pymt	17/08/2010	HEMPFIELD SMALL MOTORS	WATER TANK - SPLO4: PARTS		-261.00	
EFT Pymt	17/08/2010	HITACHI CONSTRUCTION MACHINERY (AUS PARTS & SERVICES: VARIOUS			-3,261.69	
EFT Pymt	17/08/2010	HOTEL BEV - MAXWELL	ORD COUNCIL MEET - 27 JUL 10		-491.30	
EFT Pymt	17/08/2010	JASON SIGNMAKERS	VARIOUS ROAD SIGNS & RURAL NUMBERING		-457.60	
EFT Pymt	17/08/2010	JTAGZ	DOG TAGS RE 2013-2015 EXP DATES		-346.50	
EFT Pymt	17/08/2010	KARANNJOHUP	SPRAYER - PASTURE PAK SILVAN		-3,000.00	
EFT Pymt	17/08/2010	KAY Lyn	YOUTH COORDINATOR: 26 JUL - 13 AUG 2010		-1,350.00	
EFT Pymt	17/08/2010	LANDGATE (DOLA)	TITLE SEARCHES		-0.99	
EFT Pymt	17/08/2010	LANDGATE (VGO)	VARIOUS VALUATION FEES		-134.00	
EFT Pymt	17/08/2010	LEWIS Alison	AUG 2010 BLARNEY ISSUES		-200.00	
EFT Pymt	17/08/2010	LGIS INSURANCE BROKING	10/11 INSURANCE POLICIES: VARIOUS		-49,408.78	
EFT Pymt	17/08/2010	LGIS LIABILITY	10/11 PUBLIC LIABILITY & INDEMINTY INSURANCE		-14,658.02	
EFT Pymt	17/08/2010	LGIS PROPERTY	10/11 PROPERTY INSURANCE 1 of 2 INSTAL		-28,351.97	
EFT Pymt	17/08/2010	LGIS WORKCARE	WORKERS COMP 10/11 - 1st INSTA		-28,061.00	
EFT Pymt	17/08/2010	MALCOLM THOMPSON PUMPS	AQUAPLUS PUMP - WATER TRUCK		-1,111.22	
EFT Pymt	17/08/2010	MATTHEW CONIGLIO ARCHITECT	INDEPENDENT LIVING UNITS - ARCHITECTURAL SERVICES		-2,200.00	
EFT Pymt	17/08/2010	MIDALIA STEEL	TOWN HALL: TRENCH MESH		-167.01	
EFT Pymt	17/08/2010	MSA CONSTRUCTION	2010-07 (JUL): RELIEF "BUILDING INSPECTOR"		-3,910.50	
EFT Pymt	17/08/2010	NNT - NEAT N TRIM	UNIFORMS: SALKILLD LOIS		-168.00	
EFT Pymt	17/08/2010	OFFICEWORKS	STATIONERY PURCHASES		-182.45	
EFT Pymt	17/08/2010	ORICA/SPECTRUM	2010-07 JUL CHLORINE CYLINDER RENTAL (ORICA)		-38.87	

CHEQUE DETAIL - Municipal and Trust Accounts - AUGUST 2010

TYPE	NUM	DATE	NAME	DETAILS	AMT PAID	TOTALS
EFT Pymt	17/08/2010	PURSLOWE TINETTI FUNERAL HOMES	REFUND: DOUBLE PYMT INV 6419		-897.75	
EFT Pymt	17/08/2010	QUAIRADING EARTHMOVING	HAMERSLEY ST: EXCAVATOR HIRE		-1,034.00	
EFT Pymt	17/08/2010	REMASTONE	TOWN HALL FRONTAGE: RECON LSTONE BLOCKS		-278.70	
EFT Pymt	17/08/2010	ROSHER E & MJ	BE423 - MOWO4: PARTS		-721.05	
EFT Pymt	17/08/2010	RSA WORKS	I/SECTION YORK WILLIAMS & WESTDALE RD: ROAD SAFETY AUDIT		-1,650.00	
EFT Pymt	17/08/2010	SHIRE OF YORK	RANGER SERVICES: DOG CONTROL - 02 JUL 10		-297.38	
EFT Pymt	17/08/2010	SLEEPS TRANSPORT	TOWN HALL FRONTAGE: CONCRETE		-924.00	
EFT Pymt	17/08/2010	SNAP OSBORNE PARK	PRINTING: RATES NOTICES, DL ENVELOPES		-2,079.75	
EFT Pymt	17/08/2010	TAFEWA CY OCONNOR	WA BUILDING SERVICES ACT W/SHOP - 10-11 AUG 10		-365.00	
EFT Pymt	17/08/2010	TESTEL	ELECT EQUIP SAFETY CHECK: ALL BUILDINGS		-3,320.90	
EFT Pymt	17/08/2010	TOTAL PACKAGING	DOG POO BAGS		-171.60	
EFT Pymt	17/08/2010	WA BOILER SPARES & SERVICES	CHANGEROOMS: WATER HEATER		-1,127.50	
EFT Pymt	17/08/2010	WALGSP - SUPER	SUPER CONTRIB: FE 04 AUG 10		-5,564.27	
EFT Pymt	17/08/2010	WORMALD FIRE SYSTEMS	SERVICING OF FIRE EXTINGUISHERS		-1,031.69	
EFT Pymt	17/08/2010	WALGA - WA LOCAL GOVERNMENT ASSOC ADVERTISING: "THE WEST" (EARLY PYMT DISCOUNT APPLIED)			-1,822.94	-207,171.60
Liability Chq	19/08/2010	ATO - AUSTRALIAN TAX OFFICE	2010-08 (AUG) PAYG TAX		0.00	0.00
Liability Chq	19/08/2010	COLONIAL FIRST STATE-MOULTON CLARE	SUPER CONTRIB: FE 18 AUG 10		0.00	0.00
Liability Chq	19/08/2010	CSRF - CATHOLIC SUPER & RETIREMENT FL	SUPER CONTRIB: FE 18 AUG 10		0.00	0.00
Liability Chq	19/08/2010	LGRCEU	2010:08 (AUG) UNION FEES		0.00	0.00
Liability Chq	19/08/2010	SHIRE OF BEVERLEY	2010-08 AUG - SAL DEDUCT (RATES)		0.00	0.00
Liability Chq	19/08/2010	WALGSP - SUPER	SUPER CONTRIB: FE 18 AUG 10		0.00	0.00
EFT Pymt	20/08/2010	BURLOWS	RLWY STN GALLERY: WOOD FOR STAGE SIDE PANELS		-3,401.38	-3,401.38
EFT Pymt	20/08/2010	COLONIAL FIRST STATE-MOULTON CLARE	SUPER CONTRIB: FE 18 AUG 10		-78.33	
EFT Pymt	20/08/2010	CSRF - CATHOLIC SUPER & RETIREMENT FL	SUPER CONTRIB: FE 18 AUG 10		-135.74	

CHEQUE DETAIL - Municipal and Trust Accounts - AUGUST 2010

TYPE	NUM	DATE	NAME	DETAILS	AMT PAID	TOTALS
EFT Pymt		20/08/2010	FUEL DISTRIBUTORS OF WA P/L	6,990 L DIESEL & O L ULP	-8,755.67	
EFT Pymt		20/08/2010	LGRCEU	AUG 10 UNION FEES	-104.40	
EFT Pymt		20/08/2010	WALGSP - SUPER	SUPER CONTRIB: FE 18 AUG 10	-5,966.06	-15,040.20
D/Debit		31/08/2010	DPI - LICENSING SERVICES	JUL/AUG 10 LICENSING PAYMENTS	-57,190.45	-57,190.45
D/Debit		31/08/2010	CBA - MERCHANT BANKING	JUL 2010 TRANSACTION FEES	-75.60	-75.60
D/Debit		31/08/2010	CBA - MERCHANT BANKING	JUL 2010 ACCESS FEE	-27.89	-27.89
D/Debit		31/08/2010	ANZ - ONLINE BANKING/BANK FEES	JUL 2010 FEES	-66.57	-66.57
EFT Pymt		31/08/2010	WESTNET PTY LTD	AUG 2010 INTERNET ACCESS	-66.00	-66.00
Cheque #	745	17/08/2010	ACMA - AUST COMM & MEDIA AUTH	LAND MOBILE APPART LIC - BEAMING HILL, SHEAHANS ROAD	-93.00	-93.00
Cheque #	746	17/08/2010	AUST POST	JUL 2010 POSTAGE	-832.43	-832.43
Cheque #	747	17/08/2010	GIBSON RAISON	TITLES: 53 BUTCHERS RD, L304 TALBOT WEST RD	-845.00	-845.00
Cheque #	748	17/08/2010	SYNERGY	STREET LIGHTS: 25 JUN - 23 JUL 10	-1,520.00	-1,520.00
Cheque #	749	17/08/2010	TELSTRA	VOID: CHQ PYMT TO BE REISSUED AS CREDIT INCORRECTLY APPLIED	0.00	0.00
Cheque #	750	17/08/2010	ORIGIN ENERGY	5 WRIGHT ST: 2010/11 LP GAS CYLINDER RENTAL	-29.00	-29.00
Cheque #	751	17/08/2010	TELSTRA	AUG 10 TELEPHONE ACCOUNTS	-1,169.19	-1,169.19
Gen Journal	1427	12/08/2010		JUN 10 # - CREDIT CARD	-241.93	-241.93
<b>WAGES &amp; SALARIES</b>					<b>-287,770.24</b>	<b>-287,770.24</b>
EFT Pymt		8/07/2010	WAGES & SALARIES	FE - 04 AUG 10	-33,125.84	
EFT Pymt		22/07/2010	WAGES & SALARIES	FE - 18 AUG 10	-35,890.27	
<b>WAGES &amp; SALARIES</b>					<b>-69,016.11</b>	<b>-69,016.11</b>

CHEQUE DETAIL - Municipal and Trust Accounts - AUGUST 2010

TYPE	NUM	DATE	NAME	DETAILS	AMT PAID	TOTALS
<b>TRANSFERS TO TRUST</b>						
G J	1433	20/08/2010		WAGES DEDUCTS: AUG 10 ADV RATE PYMTS	-340.00	
				TRANSFERS TO TRUST	-340.00	-340.00
<b>UNPRESENTED PAYMENTS for CURRENT BANK STATEMENT</b>						
				Cheque #		
				UNPRESENTED PAYMENTS for CURRENT BANK STATEMENT	0.00	0.00
<b>PAYMENTS PRESENTED IN CURRENT BANK # RELATING TO PRIOR MONTHS' TRANSACTIONS</b>						
				Cheque # 744 30/07/2010 WATER CORPORATION		
				10/11 SERVICE & SEWERAGE FEES: VARIOUS	-13,548.75	
				PAYMENTS PRESENTED IN CURRENT BANK # RELATING TO PRIOR MONTHS' TRANSACTIONS	-13,548.75	-13,548.75
<b>OTHER AMENDMENTS/GENERAL JOURNALS</b>						
				OTHER AMENDMENTS/GENERAL JOURNALS	0.00	0.00
<b>INVESTMENTS</b>						
				INVESTMENTS	0.00	0.00
				<b>TOTAL EXPENDITURE for MUNICIPAL ACCOUNT</b>		<b>-370,675.10</b>

CHEQUE DETAIL - Municipal and Trust Accounts - AUGUST 2010

TYPE	NUM	DATE	NAME	DETAILS	AMT PAID	TOTALS
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**TRUST ACCOUNT DETAILS**

No transactions for the month of AUGUST 2010

TOTAL EXPENDITURE for TRUST ACCOUNT

0.00

TOTAL EXPENDITURE as reconciled to the AUGUST 2010 BANK RECONCILIATIONS

Municipal Account Expenditure

-370,675.10

Trust Account Expenditure

0.00

Total Expenditure for AUGUST 2010

-370,675.10

# **SHIRE OF BEVERLEY**

## **WASTE AND OPERATION OF WASTE DISPOSAL FACILITIES**

**LOCAL LAW 2010**



WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007

LOCAL GOVERNMENT ACT 1995

*Shire of Beverley*

WASTE AND OPERATION OF WASTE DISPOSAL FACILITIES LOCAL LAW 2010

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LOCAL GOVERNMENT ACT 1995

*Shire of Beverley*

WASTE AND OPERATION OF WASTE DISPOSAL FACILITIES LOCAL LAW 2010

Under the powers conferred by the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Beverley resolved on the insert adoption resolution date here to make the following local law.

PART 1—PRELIMINARY

**1.1. Citation**

This local law may be cited as the *Shire of Beverley Waste and Operation of Waste Disposal Facilities Local Law 2010*.

**1.2. Commencement**

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

**1.3 Application**

This local law applies throughout the district.

**1.4 Definitions**

In this local law unless the context otherwise requires—

“**Act**” means the *Waste Avoidance and Resource Recovery Act 2007*;

“**authorised person**” means a person authorised by the local government to carry out duties and functions at or in respect of the facility;

“**CEO**” means the Chief Executive Officer of the Shire of Beverley;

“**collection day**” means the day of the week on which waste is collected and removed by the local government or its contractor;

“**collection time**” where used in connection with any premises, means the time of the day on which waste is collected and removed from the premises by the local government or its contractor;

“**district**” means the district of the local government;

“**EHO**” means the local government’s Environmental Health Officer;

“**facility**” means the property and buildings at the Beverley Waste Disposal Facility located on Reserve 30609 and any other Shire operated Waste Disposal Facility used for the disposal, treatment and recycling of waste material;

“**local government**” means the Shire of Beverley;

“**Local Government Act**” means the *Local Government Act 1995*;

“**occupier**” where used in relation to land, has the meaning given in section 1.4 of the *Local Government Act 1995*;

“**owner**”, in relation to premises comprised of or on land, has the meaning given in section 1.4 of the *Local Government Act 1995*;

“**public place**” includes a street, way or place which the public are allowed to use, whether the street, way or place is or is not on private property;

“**receptacle**” where used in connection with any premises means—

- (a) a polyethylene cart fitted with wheels, a handle and a lid and having a capacity of at least 120 litres; or
- (b) a container provided by the local government or its contractor for the deposit, collection and

recycling of specific materials; and supplied to the premises by the local government or its contractor;

**“regulations”** means the Waste Avoidance and Resource Recovery Regulations 2008;

**“street”** has the same meaning as in the Local Government Act 1995;

**“street alignment”** means the boundary between the land comprising a street and the land that abuts thereon, but where a new street alignment is prescribed under the *Local Government (Miscellaneous Provisions) Act 1960*, means the new street alignment so prescribed;

**“waste”** includes matter—

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment;
- (b) prescribed by the regulations to be waste;

**“waste facility”** means premises used for the storage, treatment, processing, sorting, recycling or disposal of waste; and

**“waste service”** means—

- (a) the collection, transport, storage, treatment, processing, sorting, recycling or disposal of waste; or
- (b) the provision of receptacles for the temporary deposit of waste; or
- (c) the provision and management of waste facilities, machinery for the disposal of waste and processes for dealing with waste.

## PART 2—WASTE SERVICES

### 2.1. Provision of Waste Service

The local government shall undertake or contract for the efficient execution of a waste service in those parts of the district to which this local law applies.

### 2.2. Obligations of the Owner or Occupier

- (1) Owners or occupiers shall—
  - (a) not remove any waste from the premises other than in accordance with this local law;
  - (b) pay to the local government the annual waste collection rate imposed under section 66 of the Act;
  - (c) pay to the local government the annual receptacle charge made in lieu of, or in addition to the annual waste collection rate, under section 67 of the Act.
- (2) The local government may in writing authorise the occupier of premises within its district to remove or dispose of house and trade waste from or on the premises if—
  - (a) the waste on the premises is not available for removal at regular periods and is of such a nature or quantity as to be unsuitable for removal by the local government or its contractor; or
  - (b) there is installed on the premises efficient apparatus for the destruction of the waste and the apparatus is used to dispose of the waste on the premises without causing a nuisance or permitting the discharge of smoke into the atmosphere in such quantities or of such a nature as to cause annoyance to persons.
- (3) Where any waste is removed from the premises under a written authority of a local government, the person removing it shall—
  - (a) dispose of it at the place set apart by the local government for the disposal of waste; and
  - (b) pay to the local government the fee for the disposal as determined by the local government from time to time under sections 6.16 and 6.19 of the *Local Government Act 1995*.

### 2.3. Receptacles

An owner or occupier of premises shall—

- (a) ensure the premises are provided with a receptacle for the depositing of waste and maintain the receptacle in a serviceable condition;
- (b) at all times keep the lid of the receptacle closed except when depositing waste or cleaning the receptacle;
- (c) except for a reasonable period before and after collection time, keep the receptacle on the premises and located—
  - (i) behind the street alignment and so as not to be visible from a street or public place; or
  - (ii) in such other position as is approved by the local government;
- (d) on each collection day at or prior to 6.00am place the receptacle out in the street in a position, prescribed by the local government, where it is visible from the carriageway of the street or the right of way, but so that it does not obstruct any thoroughfare, land, footpath, cycleway or other carriageway and positioned with the handle facing away from the kerb line, or placed in such other position as is approved by the local government.

### 2.4. Exemption

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause 2.3(c) or (d).
- (2) The local government may grant or refuse, with or without conditions, an application for exemption from compliance under this clause.
- (3) An exemption granted under this clause shall state—
  - (a) the premises to which the exemption applies;
  - (b) the period during which the exemption applies; and
  - (c) any conditions imposed by the local government.
- (4) The local government may rescind the exemption or from time to time vary conditions imposed by it under this clause by giving written notice of the variation to the person to whom the exemption was given.

### 2.5. Use of Receptacles

An owner or occupier of premises shall—

- (a) not deposit or permit to be deposited in a receptacle—
  - (i) more than 70 kilograms of waste;
  - (ii) hot or burning ash;
  - (iii) oil, motor spirit or other flammable liquid;
  - (iv) liquid paint, solvent or other liquid;
  - (v) bricks, concrete, building rubble, asbestos, earth or other like substances;
  - (vi) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed impervious and leak-proof container;
  - (vii) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed impervious and leak-proof container;
  - (viii) syringes, needles, surgical hardware, broken glass, sharps or other sharp objects unless placed in a durable, impervious and leak proof container;
  - (ix) cytotoxics, radioactive substances and dangerous chemicals;
  - (x) sewage, manure, nightsoil, faeces or urine;
  - (xi) any object which is greater in length, width or breadth than the corresponding dimension of the receptacle or which will not allow the lid of the receptacle to be

tightly closed;

- (xii) waste which is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious container; or
- (xiii) hazardous products including ammunition and flares;
- (b) at all times keep the receptacle in a clean condition;
- (c) whenever directed to do so by an EHO, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the receptacle;
- (d) take all reasonable steps to prevent—
  - (i) fly breeding and keep the receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease; and
  - (ii) the emission of offensive and noxious odours from the receptacle; and
- (e) ensure that the receptacle does not cause a nuisance to the occupiers of adjoining premises.

#### **2.6. Ownership of Receptacles**

- (1) A receptacle supplied by the local government or its contractor, remains the property of the local government or its contractor, as the case may be.
- (2) The owner or occupier of a premises supplied with a receptacle remains responsible for any waste placed or deposited in the receptacle until such time as it has been removed by the local government or its contractor.

#### **2.7. Damage to Receptacles**

- (1) Where a receptacle is supplied under section 2.6 a person shall not—
  - (a) damage, destroy or interfere with a receptacle; or
  - (b) except as permitted by this local law or as authorised by the local government, remove a receptacle from any premises.
- (2) If the receptacle of a premises is damaged, defective, lost or stolen, the owner or occupier of the premises shall notify the local government within 7 days after the event.

#### **2.8. Use of Other Containers**

- (1) In the case of premises consisting of more than 3 dwellings, any premises used for commercial or industrial purposes or food premises, the local government may authorise waste to be deposited in a container other than a receptacle.
- (2) The owner or occupier of premises who is authorised under this clause to deposit waste in a container shall—
  - (a) unless approved by the local government not deposit or permit to be deposited in the container anything specified in clause 2.5(a) (ii) to (xiii);
  - (b) take all reasonable steps to prevent fly breeding in, and the emission of offensive or noxious odours from the container;
  - (c) whenever directed by an EHO to do so, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the container;
  - (d) cause the container to be located on the premises in an enclosure constructed and located as approved by the local government;
  - (e) ensure that the container is not visible from the street but is readily accessible for the purposes of collection; and
  - (f) ensure that the container does not cause a nuisance to an occupier of adjoining premises.
- (3) An owner or occupier shall—
  - (a) ensure that there are a sufficient number of containers provided to contain all waste

which accumulates or may accumulate in or from the premises;

- (b) ensure that each container on the premises—
  - (i) has a close fitting lid;
  - (ii) is constructed of non-absorbent and non-corrosive material; and
  - (iii) is clearly marked, for the use of, and is used only for, the temporary deposit of waste;
- (c) keep or cause to be kept each container thoroughly clean and in good condition and repair;
- (d) place any waste in, and only in, a container marked for that purpose;
- (e) keep the cover on each container except when it is necessary to place something in, or remove something from, it; and
- (f) ensure that each container is emptied at least weekly or as directed by the EHO.

#### **2.9. Suitable Enclosure**

- (1) An owner or occupier of premises—
  - (a) consisting of more than three (3) dwellings; or
  - (b) used for commercial or industrial purposes, or a food premises shall if required by the local government provide a suitable enclosure for the storage and cleaning of receptacles on the premises.
- (2) An owner or occupier of premises required to provide a suitable enclosure under this clause shall keep the enclosure thoroughly clean and disinfected.
- (3) For the purposes of this clause, a “suitable enclosure” means an enclosure—
  - (a) of sufficient size to accommodate all receptacles used on the premises but in any event having a floor area not less than a size approved by the local government;
  - (b) constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the local government;
  - (c) having walls not less than 1.8 metres in height and having an access way of not less than 1 metre in width and fitted with a self-closing gate;
  - (d) containing a smooth, non-slip and impervious floor—
    - (i) of not less than 75 millimetres in thickness; and
    - (ii) which is evenly graded to an approved liquid refuse disposal system;
  - (e) which is easily accessible to allow for the removal of the receptacles;
  - (f) provided with a ramp into the enclosure having a gradient no steeper than 1:8 unless otherwise approved by the local government; and
  - (g) provided with a tap connected to an adequate supply of water.

#### **2.10. Building Construction**

- (1) During all periods of construction on any building site, the builder shall—
  - (a) when requested by an EHO, provide and maintain on such site a waste disposal bin, being either—
    - (i) a bin of not less than 4 cubic metres in capacity; or
    - (ii) a receptacle or other container approved by the EHO;
  - (b) keep such site free of waste and offensive matter; and
  - (c) maintain the street verge immediately adjacent to such site free of waste or offensive matter.
- (2) On completion of construction, the builder shall immediately clear the site and the adjacent street verge of all waste, waste materials and offensive matter and all waste bins provided by the builder.

- (3) In subclauses (1) and (2), "waste" includes all discarded stones, brick, lime, timber, iron, tiles, bags, plastics and any broken, used or discarded matter.

**2.11. Deposit of Waste**

- (1) A person shall not deposit or cause or permit to be deposited any waste in or on any street or on any land other than a waste facility.
- (2) The driver of a vehicle, upon entering a waste facility, shall present or display a current pass issued by the local government, to the attendant or person in charge of the site and shall not deposit any waste until authorised to do so by that attendant or person in charge.
- (3) A person shall not deposit waste in or on a waste facility except—
- (a) at such place on the site as may be directed by the person in charge of the facility; or
  - (b) if the person in charge is not in attendance at the facility, as may be directed by a notice erected on the site.

**2.12. Removal from Waste Facility**

- (1) A person shall not remove any waste from a waste facility without the written approval of the local government.
- (2) A person who obtains approval from the local government shall comply with any conditions imposed by the local government and set out in the approval.

**2.13. Removal of Waste from Premises or Receptacle**

- (1) A person shall not remove any waste from premises unless that person is—
- (a) the owner or occupier of the premises;
  - (b) authorised to do so by the owner or occupier of the premises; or
  - (c) authorised in writing to do so by the local government.
- (2) A person shall not, without the approval of the local government or the owner of a receptacle, remove any waste from the receptacle or other container provided for the use of the general public in a public place.
- (3) Where the local government provides—
- (a) a collection service for recyclable material, the occupier of premises shall comply with and observe the directions given by the local government in relation to that collection;
  - (b) a collection for bulk material, the occupier of premises shall comply with and observe the directions given by the local government in relation to that collection.
- (4) Where additional collection services are provided upon request by the occupier of premises, fees as set by the local government from time to time under sections 6.16 and 6.19 of the *Local Government Act 1995* shall be paid.

**2.14. Burning Waste**

- (1) A person shall not—
- (a) without the approval of the local government; and
  - (b) except in accordance with the terms and conditions to which the approval is subject, set fire to, or cause to be set on fire, any waste either—
    - (i) in any incinerator; or
    - (ii) on the ground.
- (2) Subject to subclause (3), an approval of the local government is issued subject to the following conditions—
- (a) the material to be burnt—
    - (i) does not include any plastic, rubber, food scraps, green garden cuttings and other material which may become offensive when burnt; and
    - (ii) is of such quantity, or of such a nature, as to be unsuitable for removal by the local

- government's waste collection service;
- (b) there is no other appropriate means of disposal;
- (c) burning shall not take place—
  - (i) during any period for which an air dispersion alert has been issued by the Bureau of Meteorology; or
  - (ii) where there is no current dispersion alert, outside the hours of 10.00am to 6.00pm;
- (d) an incinerator must meet the standards specified by the local government; and
- (e) an incinerator unit used for fire must be located—
  - (i) at least 3 metres from a fence, building or inflammable matter; and
  - (ii) in such a position so as not to create a nuisance or be offensive to other persons.
- (3) Subject to subclause (1) and (2), the local government may grant approval to clear by burning fire breaks or vacant blocks of grass, straw, hay, undergrowth, herbage and other similar vegetation.

### 2.15. Waste Removal Vehicles

A vehicle used by the local government or its contractor for the collection and transport of waste shall—

- (a) be provided with a compartment in which all waste shall be deposited for removal, and of which the interior is constructed from or surfaced with impermeable material; and
- (b) have a cover over the compartment at all times when the vehicle is engaged in the transport of waste.

### 2.16. Method of Removal of Waste

A person engaged in the removal of waste from premises shall—

- (a) convey all waste from the receptacles of the occupier of the premises and deposit the waste in the portion of the collection vehicle intended to hold the waste; and
- (b) replace the receptacle in the position it was lifted from.

## PART 3—OPERATION OF WASTE DISPOSAL FACILITIES

### 3.1 Definitions

In this Part unless the context otherwise requires—

**“Act”** means the *Local Government Act 1995*;

**“authorised person”** means a person authorised by the local government to carry out duties and functions at or in respect of the facility;

**“fauna”** and **“flora”** have the meaning given to them in Section 6 of the *Wildlife Conservation Act 1950*.

**“sewage”** means any kind of sewage, nightsoil, faecal matter or urine, and any waste composed wholly or in part of liquid;

**“toxic, poisonous or prohibited waste”** means and includes all items listed under Schedule 1 of the *Environmental Protection (Controlled Waste) Regulations 2004*; and

**“waste”** means all manner of material discarded as being no longer required by the person owning or in possession of that material.

### 3.2 Application

All persons using or entering upon a facility shall be subject to the provisions of this local law.

### 3.3 Vehicle Speed Limits

The drivers of all vehicles entering a facility shall observe the speed limits as depicted on standard signs erected in proximity to the access roadways.



### **3.4 Authorised Person to be Obeyed**

All persons using or entering a facility shall act in accordance with any lawful instruction given by an authorised person.

### **3.5 Persons may be Directed to Leave Facility**

In the event of a person contravening any clause of this local law or failing to obey the instructions of an authorised person then, and in addition to any penalty imposed by this local law, an authorised person may request the person to leave the facility and failure to do so shall constitute a contravention of this local law.

### **3.6 Person to Comply with Signs and Directions**

No person shall place or dispose of waste at a facility other than at a place designated by notice or by an instruction of an authorised person under clause 3.4.

### **3.7 Removal of Waste**

No person shall remove or carry away from a facility any waste unless authorised to do so by an authorised person.

### **3.8 Liability for Damage to Local Government Property**

No person shall damage, deface or otherwise cause a loss in value in any building, sign, plant and equipment of the local government situated on a facility.

### **3.9 Lighting of Fires**

No person shall light any fire within the precincts of a facility unless so authorised by an authorised person for purposes of protection or lessening of a fire hazard.

### **3.10 Removing or Damaging any Flora**

No person shall dig up, remove or otherwise damage native flora and growth at a facility unless so authorised by an authorised person.

### **3.11 Taking or Injuring any Fauna**

No person shall trap, chase, worry or otherwise injure or maim any native fauna at a facility unless so authorised by an authorised person.

### **3.12 Facility Opening Hours**

The local government may from time to time set and amend the hours of operation of a facility and such hours will be displayed for public information.

### **3.13 Admission and Waste Disposal Fees**

- (1) The local government may, under and in accordance with sections 6.16 to 6.19 of the Act, from time to time set and amend a scale of fees and charges payable for admission to dispose of or dump waste at a facility and such scale may specify classes and differing classes to which differing fees and charges shall apply.
- (2) No person shall enter a facility to dispose of or dump waste without paying the appropriate admission fee or charge except in those circumstances where so authorised by the local government.
- (3) It shall be an offence for any person to enter upon a facility and dump any sewage or waste without paying the appropriate charge.

### **3.14 Dumping of Sewage, Toxic, Poisonous or Prohibited Waste**

No person shall dispose of or dump at a facility any sewage, toxic, poisonous or prohibited waste that does not comply with the facility operating licence or registration.

### **3.15 Dumping of Tyres**

No person shall dispose of or dump at a facility tyres of any kind, except for the purpose of recycling.

**PART 4 - OFFENCES AND PENALTIES**

**4.1 General**

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a maximum penalty of \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

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Dated: [date].

The Common Seal of the Shire of Beverley was affixed by authority of a resolution of the Council in the presence of—

D RIDGWAY, Shire President

K BYERS, Chief Executive Officer.

Consented to—

KEIRAN McNAMARA, Director General, Department of Environment and Conservation.

Dated [date].

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# LOCAL GOVERNMENT ACT 1995

## *Shire of Beverley*

### Repeal Local Law 2010

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Beverley resolved on Insert adoption resolution date here to adopt the following local law.

#### **1 Citation**

This local law is cited as the *Shire of Beverley Repeal Local Law 2010*.

#### **2 Operation**

This local law comes into operation fourteen days after the date of its publication in the *Government Gazette*.

#### **3 Repeal**

The following Local Laws are hereby repealed—

- (a) Buildings as published in the *Government Gazette* on 19 January 1950;
- (b) Hawkers and Stalls as published in the *Government Gazette* on 2 April 1958 and as amended and published in the *Government Gazette* on 16 November 1965;
- (c) Beverley Pioneer Memorial Pool as published in the *Government Gazette* on 25 January 1962, and as amended and published in the *Government Gazette* on 15 February 1962, 21 June 1966, 13 August 1968, and 25 January 1974;
- (d) Street Lawns and Gardens Draft Model No 11 as published in the *Government Gazette* on 18 July 1963;
- (e) Petrol Pumps Draft Model No. 10 as published in the *Government Gazette* on 18 July 1963;
- (f) Prevention of Damage to Streets Draft Model No 1 as published in the *Government Gazette* on 16 December 1963;
- (g) Removal and Disposal of Obstructing Animals or Vehicles Draft Model No 7 as published in the *Government Gazette* on 16 December 1963;
- (h) Old Refrigerators and Cabinets Draft Model No 8 as published in the *Government Gazette* on 16 December 1963;
- (i) Extractive Industries Draft Model No 9 as published in the *Government Gazette* on 16 December 1963;
- (j) Storage of Inflammable Liquid Draft Model No 12 as published in the *Government Gazette* on 4 May 1965;
- (k) Petrol Pumps Draft Model No. 10 as published in the *Government Gazette* on 17 August 1966;
- (l) Management, Use and Letting of Beverley Town Hall and Buildings as published in the *Government Gazette* on 9 February 1970 and as amended and published in the *Government Gazette* on 31 October 1975 and 22 June 1979;
- (m) Control of Vehicles Driven on Land which is vested in or under the Care, Control or Management of the Shire of Beverley as published in the *Government Gazette* on 23 August 1972;
- (n) Beverley Public Cemeteries as published in the *Government Gazette* on 1 August 1960 and as amended and published in the *Government Gazette* on 17 March 1966, 28 November 1968, 25 January 1974, 4 March 1977, 9 November 1979, 23 October 1981, 26 October 1984 and 17 May 1991;
- (o) Dogs as published in the *Government Gazette* on 30 August 1985 and as amended and published in the *Government Gazette* on 4 November 1988;
- (p) Trading in Public Places as published in the *Government Gazette* 5 February 1988;
- (q) Clearing and Removal of Trees, Scrub, Undergrowth, Refuse, Rubbish, Vehicle Bodies, Disused Materials and Unsightly Items/Objects from Land as published in the *Government Gazette* on 13 November 1992;

- (r) Fencing as published in the *Government Gazette* on 24 November 1995; and
  - (s) Standing Orders as published in the *Government Gazette* on 28 November 1997.
- 

Dated: [date].

The Common Seal of the Shire of Beverley was affixed by authority of a resolution of the Council in the presence of—

D J RIDGWAY, Shire President.

K L BYERS, Chief Executive Officer.

**HEALTH ACT 1911**  
**LOCAL GOVERNMENT ACT 1995**  
Shire of Beverley  
**HEALTH AMENDMENT LOCAL LAW 2010**

Under the powers conferred by section 342 of the *Health Act 1911*, and in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Beverley resolved on Insert adoption resolution date here to make the following local law.

**1. Citation**

This local law is cited as the *Shire of Beverley Health Amendment Local Law 2010*.

**2. Commencement**

This local law comes into operation fourteen days after the date of its publication in the *Government Gazette*.

**3. Application**

This local law shall apply throughout the district of the Shire of Beverley.

**4. Principal local law**

In this local law, the *Shire of Beverley Health Local Laws 2000*, published in the *Government Gazette* on 3 April 2001 is referred to as the principal local law. The principal local law is amended as follows.

**5. Arrangement amended**

The arrangement is amended as follows –

- (1) Insert, immediately after item “3.5.1”, the following text “3.5.2 Revocation of licence”;
- (2) In Part 4, delete the heading Division 2 and all sections there under;
- (3) In Part 4, amend the heading Division 3 by deleting the number “3” and substituting the number “2”;
- (4) Renumber items “4.3.1” to “4.3.3”, inclusive, to “4.2.1” to “4.2.3”, respectively;
- (5) Insert, immediately after item “5.4.7”, the following text “5.4.8 Restrictions on feeding wild birds”;
- (6) Insert, immediately after item “6.2.3”, the following text -  
“6.2.4 Measures to be taken by an owner or occupier  
6.2.5 Measures to be taken by occupier  
6.2.6 Removal of undergrowth or vegetation  
6.2.7 Filling in excavations etc  
6.2.8 Drains, channels and septic tanks  
6.2.9 Drainage of land”
- (7) Delete item 6.3.6;
- (8) Renumber items “7.1.1” to “7.1.10”, inclusive, to “7.1.2” to “7.1.11”, respectively;
- (9) Insert, immediately before renumbered item “7.1.2”, the following text, “7.1.1 Environmental Health Officer may visit, inspect and report”;
- (10) Amend item “8.3.1” by inserting, before the word “keeper” the words “Duties of”, and after the word “keeper” deleting the words “or manager to reside in the lodging house”;
- (11) Delete item “9.1.8”.

**6. Part 1 Section 1.3 amended**

Section 1.3 is amended as follows-

- (a) In the definition of **“approved”** delete the words **“Council of the Shire of Beverley”** and insert **“local government”**;
- (b) Insert, in the appropriate alphabetical order, the definition **““Food Standards Code”** means the Australian New Zealand Food Standards Code as defined in the *Commonwealth Food Standards Australia New Zealand Act 1991;*”
- (c) Insert, in the appropriate alphabetical order, the definition **““local government”** means the Local Government of the Shire of Beverley and its officers;”
- (d) Insert, in the appropriate alphabetical order, the definition **““Morgue”** means a place for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation;”
- (e) The definition of **“water”** is deleted and the definition **““water”** means drinking water within the meaning of the Australian Drinking Water Guidelines as published by the National Health and Medical Research Council in 2004 and amended and endorsed by the Minister for Health from time to time;” is inserted.

**7. Part 2 Section 2.1.1 amended**

Section 2.1.1 is amended by inserting, in the appropriate alphabetical order, the definition **““Guidelines”** means the Guidelines for Concerts, Events and Organised Gatherings as published by the Department of Health, and amended from time to time;”

**8. Part 2 Section 2.1.4 amended**

Section 2.1.4 is deleted and the following inserted –

- “(1) The organiser of an outdoor festival shall provide sanitary conveniences in accordance with the recommendations contained within the Department of Health document Guidelines for Concerts, Events and Organised Gatherings;
- (2) Where, under sub-section (1), the number of a particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number;
- (3) The Environmental Health Officer may vary the requirements of sub-section (1) upon the written request of the organiser.”

**9. Part 2 Section 2.1.5 amended**

Section 2.1.5 is amended by inserting the following after subsection (b)-

- “(c) the floor of any internal toilet shall be-
  - (i) of concrete or of other approved impervious material of an approved thickness; and
  - (ii) graded to a floor waste outlet and proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and
- (d) the floor of any external toilet shall be –
  - (i) of concrete or of other approved impervious material of an approved thickness; and
  - (ii) graded to the door or alternatively an approved outlet.”

**10. Part 2 Section 2.1.8 amended**

Section 2.1.8 is amended by inserting a new subsection (2) as follows –

- “(2) A mechanical ventilation system provided under subsection (1) shall be maintained in good working order and condition.”

**11. Part 2 Section 2.1.11 amended**

Section 2.1.11 is amended by inserting a new subsection (2) as follows –

“(2) Every temporary sanitary convenience shall be installed in accordance with the requirements of the *Health (Temporary Sanitary Convenience) Regulations 1997*.”

**12. Part 2 Section 2.2.1 amended**

Section 2.2.1 (1)(a) is amended by deleting the words “an adequate ceiling” and substituting the words “a ceiling that complies with the requirements of the Building Code”.

**13. Part 2 Section 2.2.4 amended**

Subsection 2.2.4 is amended as follows-

(a) Delete subsection 2.2.4(2) and substitute the following-

“A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with cooking facilities and a sink supplied with hot and cold water, which are adequate in the opinion of an Environmental Health Officer.”

(b) In subsection 2.2.4 (3), delete the words “stove, oven” and substitute “cooking facilities”; and

(c) In subsection (4)(a), delete the words “the Office of Energy” and substitute “Energy Safety”.

**14. Part 3 Section 3.1.1 amended**

Paragraph (m) of section 3.1.1 is amended by deleting the words “the Office of Energy” and substituting “Energy Safety”.

**15. Part 3 Section 3.1.2 amended**

Paragraph (b) of subsection 3.1.2, is amended by inserting after the word “property” the text “, and ensure stormwater is disposed of directly into an appropriate drain or soak-well or directly onto a paved surface, provided the paved surface has an adequate fall away from any building structure.”

**16. Part 3 Section 3.2.4 amended**

Subsection 3.2.4 is amended as follows –

(a) In subsection (2)(b), insert the numbers “-2002” after the numbers “1668.2”;

(b) In subsection (3)(a), delete the numbers “3666:1989” and insert “/NZS 3666.2-2002”.

(c) In subsection (5), insert, after the word “notice”, the word “made”.

**17. Part 3 Division 5 amended**

Division 5 is amended by inserting a new section 3.5.2 as follows –

**“3.5.2 Revocation of Licence**

(1) Subject to subsection (3), the Council may, at any time, revoke the licence of a morgue for any reason, which in the opinion of the Council, justifies the revocation.

(2) Without limiting the generality of subsection (1), the Council may revoke a licence upon any one or more of the following grounds –

(a) That the morgue has not, to the satisfaction of the Council, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;

(b) That the proprietor of the morgue has –

(i) Been convicted of an offence against these local laws in respect of a morgue;

(ii) not complied with a requirement of this Part; or

(iii) not complied with a condition of licence;

(c) that the Council, having regard to a report from the Police Service, is satisfied that the

proprietor or manager is not a fit and proper person; and

- (d) that by reason of alterations or additions or neglect to repair and renovate, the condition of the morgue is such as to render it, in the opinion of the Council, unfit to remain registered.
- (3) Before revoking the licence of a morgue under this section, the Council shall give notice to the proprietor requiring him or her, within a time specified in the notice, to show cause why the licence should not be revoked.
- (4) Whenever the Council revokes the licence of a morgue, it shall give the proprietor notice of the revocation and the licence shall be revoked as from the date on which the notice is served on the proprietor."

**18. Part 4 Section 4.1.4 amended**

Paragraph (c) of Section 4.1.4 is amended by deleting the words "the Council or", and inserting after the word "Health", the words ", the Chief Executive of the Department of Environment and Conservation or the local government".

**19. Part 4 Division 2 deleted**

In Part 4 delete all of Division 2.

**20. Part 5 Section 5.1.2 amended**

Delete the existing section 5.1.2 and insert the following –

**"5.1.2 Footpaths etc, to be kept clean**

An owner or occupier of premises shall keep any footpath, pavement, area or right of way immediately adjacent to the premises clean and clear from refuse and other obstacles which are or have been in the possession or control of the owner or occupier which the owner or occupier has caused or allowed to be on the footpath, pavement, area or right of way."

**21. Part 5 Section 5.1.3 amended**

Section 5.1.3 is amended by –

- (1) deleting the following " (1) Subject to subsection (2), an" and substituting the word "An", and;
- (2) Deleting subsection (2).

**22. Part 5 Section 5.1.6 amended**

Section 5.1.6 is amended by deleting the last word "therefrom" and substituting the words "there from".

**23. Part 5 Section 5.2.3 amended**

Section 5.2.3 is amended by inserting a new subsection (3) as follows –

- "(3) The owner or occupier of premises where rabbits are kept, shall ensure that all rabbits are kept in a suitable enclosure that effectively prevents them from escaping."

**24. Part 5 Section 5.2.6**

Section 5.2.6 is amended by inserting a new subsection (4) as follows –

- "(4) The requirements of subsections (2) and (3) shall not limit the practice by farmers, pastoralists and the like of disposing of carcasses on rural land in a manner that is not likely to pollute or be dangerous or injurious to health."

**25. Part 5 Section 5.3.1 amended**

Section 5.3.1 is amended as follows –

- (a) Delete the word "and" at the end of the definition "horse";
- (b) In the definition "large animal" insert, after the words "same animal" the text ", or any other large animal the subject of an approval under section 5.3.2; and";
- (c) Insert, in the appropriate alphabetical position, the definition "'stable" means any building in



which a horse is stabled or kept and includes any shed, loose box, stall, or shelter used for the keeping, stabling, feeding, watering, grooming, sheltering, shoeing or veterinary treatment of horses.”.

**26. Part 5 Section 5.4.3 amended**

Section 5.4.3 is amended as follows –

- (a) In subsection (a), delete the word “is” where it is first used and substitute the word “are”;
- (b) In subsection (b), after the word “enclosure” insert the words “provided with a floor consisting of concrete, brick paving or any other suitable impervious surface.”;
- (c) In subsection (d), delete the word “is” where it is first used and substitute the word “are”;
- (d) In subsection (d), after the words “distance”, delete the word “and”;
- (e) In subsection (e), after the word “Officer”, insert the word “and”; and
- (f) After subsection (e), insert a new subsection (f) as follows:

“(f) a structure or enclosure in which poultry is kept is situated no closer than 1.2m to any side or rear property boundary.”

**27. Part 5 Section 5.4.5 amended**

Section 5.4.5 is amended in subsection (b), by inserting after the word “cote,” the words “cage or enclosure”;

**28. Part 5 Section 5.4.6 amended**

Section 5.4.6 is amended as follows –

- (a) In subsection (1), delete the words “the Council” and substitute the words “Environmental Health Officer”;
- (b) In subsection (2), delete the words “the Council” and substitute the words “Environmental Health Officer made”;

**29. Part 5 Section 5.4.7 amended**

In subsection (1), delete the words “The Council” and substitute the words “An Environmental Health officer”.

**30. Part 5 New Section 5.4.8**

After Section 5.4.7 (2), insert a new section 5.4.8, as follows –

**“5.4.8 Restrictions on Feeding Wild Birds**

A person shall not feed a pigeon, dove, seagull, ibis, raven or other wild bird, so as to cause a nuisance or be injurious or dangerous to health.”.

**31. Part 6 Section 6.1.3 amended**

- (a) Amend the title of section 6.1.3 by deleting the words “by an Occupier”.
- (b) Amend paragraph (h) by inserting, after the word “is”, the word “collected”.

**32. Part 6 Section 6.1.5 amended**

Subsection (3) of section 6.1.5 is amended by inserting after the word “section”, the words “, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.”.

**33. Part 6 New Sections 6.2.4, 6.2.5, 6.2.6, 6.2.7, 6.2.8 and 6.2.9**

After Section 6.2.3 (3), insert the following new Sections in the correct numerical order –

**“6.2.4 Measures to be taken by an Owner or Occupier**

An owner or occupier of premises -

- (a) where there is a fountain, artificial pool, artificial pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, shall take adequate and reasonable measures to prevent mosquitoes breeding; and
- (b) where there is a water tank, well, cistern, vat or barrel, shall -
  - (i) keep it protected with a mosquito-proof cover; and
  - (ii) screen all openings, other than the delivery exit, with wire mesh having openings no larger than 1.2 millimetres.

#### **6.2.5 Measures to be taken by Occupier**

An occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall -

- (a) frequently change the water; and
- (b) keep the water clean and free from vegetable matter and slime.

#### **6.2.6 Removal of Undergrowth or Vegetation**

- (1) Where it appears to the Environmental Health Officer that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, the Environmental Health Officer may direct, orally or in writing, the owner or occupier of the premises to cut down and remove within a specified time the undergrowth or vegetation.
- (2) An owner or occupier of premises shall comply with a direction from, and within the time allowed by, the Environmental Health Officer under this section.

#### **6.2.7 Filling in Excavations etc.**

Unless written permission to the contrary is obtained from the Council, a person who cuts turf or removes soil or other material from any land shall forthwith ensure that each excavation is filled in with clean sound material and made level with the surrounding surface so as not to retain water.

#### **6.2.8 Drains, Channels and Septic Tanks**

An owner or occupier of land shall -

- (a) cause all drains and channels in or on the land to be kept in good order and free from obstruction; and
- (b) where a septic tank is installed on the land -
  - (i) apply an approved larvicide according to the directions on the container, into the septic tank system, whenever directed to do so by an Environmental Health Officer; and
  - (ii) provide, and keep in sound condition at all times, wire mesh having openings no larger than 1.2 millimetres covering any inlet vent to the tank.

#### **6.2.9 Drainage of Land**

An owner or occupier of land upon which there is water liable to become a breeding place for mosquitoes shall, when required by the Council, effectively drain the land and, for that purpose, shall -

- (a) make or provide drains on the land;
- (b) remove all irregularities in the surface of the land;
- (c) if necessary, adjust the surface of the land or raise the level of the surface in such a manner that -
  - (i) the water on the land may flow into the drains without obstruction; and
  - (ii) no water shall remain on any portion of the land other than the drains; and
- (d) keep all drains in good order and free from obstruction.

### **34. Part 6 Section 6.3.1 amended**

Section 6.3.1 is amended by inserting, in the appropriate alphabetical position, the definition  
““contemporary rodenticide bait” means the exclusion of Warfarin baits due to resistance and

inclusion of Bromadiolone or Coumatetralyl or any future Department of Health approved rodenticide.”

**35. Part 6 Section 6.3.6 deleted**

Delete section 6.3.6.

**36. Part 7 New Section 7.1.1**

(1) In Part 7, Division 1, insert a new Section 7.1.1 as follows -

**“7.1.1 Environmental Health Officer may visit, inspect and report**

An Environmental Health Officer –

- (a) may visit and inspect any house, its occupants, fixtures and fittings; and
- (b) who has reason to believe that there has been a breach of the Act, any regulation made under the Act or these local laws relating to infectious diseases shall, as soon as possible, submit a written report on the matter to the Council.”; and

(2) Renumber sections “7.1.1” to “7.1.10”, inclusive, to “7.1.2” to “7.1.11”, respectively.

**37. Part 7 Renumbered Section 7.1.2 amended**

Subsection (1) of renumbered section 7.1.2 is amended by deleting the words “Council or an” and substituting the word “An”.

**38. Part 7 Renumbered Section 7.1.3 amended**

Renumbered Section 7.1.3 is amended as follows –

- (a) In subsection (1), delete the word “Council” where-ever it appears and substitute the words “Environmental Health Officer”; and
- (b) In subsection (1), delete, after the word “direct”, the words “an Environmental Health Officer”;
- (c) In subsection (2), delete, after the word “enable,”, the words “an Environmental Health Officer”;
- (d) In subsection (4), insert, after the word “section,” the words “other than compensation or damages for loss or damage because the Council or any of its staff acted negligently or in breach of duty.”.

**39. Part 7 Renumbered Section 7.1.11 amended**

Subsection (3) of renumbered Section 7.1.11 is amended by inserting, after the word “section,”, the words “other than compensation or damages for loss or damage because the Council or any of its staff acted negligently or in breach of duty.”.

**40. Part 8 Section 8.1.2 amended**

Paragraph (b) of Section 8.1.2 is amended by deleting the number “111” and substituting the number “8.1.3”.

**41. Part 8 Section 8.1.3 amended**

Paragraph (c) of Section 8.1.3 is amended by deleting the words “prescribed in Schedule 12” and substituting the words “as fixed from time to time by the Council under section 344C of the Act and sections 6.16 to 6.19 of the Local Government Act 1995”.

**42. Part 8 Section 8.1.4 amended**

Section 8.1.4 is amended by deleting the word “Council” and substituting the words “Environmental Health Officer”.

**43. Part 8 Section 8.1.5 amended**

Paragraph (b)Section 8.1.5 is amended by deleting the words "prescribed in Schedule 12" and substituting the words "as fixed from time to time by the Council under section 344C of the Act and sections 6.16 to 6.19 of the Local Government Act 1995".

**44. Part 8 Section 8.1.6 amended**

Section 8.1.6 is amended by deleting the word "Council" and substituting the words "Environmental Health Officer".

**45. Part 8 Section 8.2.2 amended**

Section 8.2.2 is amended as follows –

(a) Delete paragraph (b) and substitute with the following –

"(b) may be required by the local government to comply with any of the requirements of Standard 3.2.3 of the Food Standards Code; and"

(b) Insert a new paragraph (c) as follows –

"(c) has a hand wash basin and a double bowl sink or dishwashing facility, each provided with an adequate supply of hot and cold water."

**46. Part 8 Section 8.2.5 amended**

In Section 8.2.5 -

(a) insert a new subsection (1) as follows –

"(1) For the purposes of this section –

"**communal toilet**" means a room which has more than one toilet with each toilet being divided from the other toilets with a cubicle surrounding it, whether or not the walls of that cubicle extend to the floor or the ceiling or both of the room;

"**communal bathroom**" means a room which has more than one shower or more than one bath or any combination of more than one shower and one bath, whether or not they are divided by cubicles, designed with the intention that the bathroom may be used by more than one person at any particular time;

"**individual toilet**" means a room that has walls extending from the floor to the ceiling and contains a single toilet;

"**individual bathroom**" means a room which has only one shower or only one bath or only one shower and only one bath and is designed to be used by only one person at any particular time."; and

(b) Renumber subsections "1" to "5", inclusive, to "2" to "6", respectively and subsection "6" to "8"; and

(c) Amend paragraph (b) of subsection (2) by inserting, before the word "wash", the word "hand";

(d) Amend subsection (6) by deleting the word "Each" and substituting the words "Subject to subsection (8) each communal"; and inserting after the word "and", the word "communal";

(e) Insert a new subsection (7) as follows –

"(7) Subject to subsection (8) each individual toilet and individual bathroom shall –

(a) be so situated, separated and screened so as to ensure privacy;

(b) be apportioned to each sex;

(c) be fitted with a mechanism by which the door may be locked from the inside and the individual toilet or individual bathroom as approved by an Environmental Health Officer; and

(d) be provided with adequate electric lighting."

**47. Part 8 Section 8.2.7 amended**

Subsection (2) of Section 8.2.7 is amended by deleting the words "advised by the Fire and Emergency Services Authority of Western Australia and approved by Council" and substituting the words "required by the Building Code".

**48. Part 8 Section 8.2.11 amended**

Paragraph (8)(a) of Section 8.2.11 is amended by inserting –

- (a) after the numbers "1530.2", the following "-1993"; and
- (b) after the numbers "1530.3", the following "-1999".

**49. Part 8 Section 8.3.1 amended**

Section 8.3.1 is deleted and the following is substituted –

**"8.3.1 Duties of Keeper**

No keeper of a lodging house shall absent themselves from such house, unless they leave a reputable person in charge thereof."

**50. Part 8 Section 8.3.9 amended**

Section 8.3.9 is amended as follows –

- (1) In paragraph (c) the word "hand", after the word "wash", is deleted and inserted before the word "wash"; and
- (2) In paragraph (h) delete the numbers "139" and substitute the number "8.3.10".

**51. Part 9 Section 9.1.2 amended**

Section 9.1.2 is amended by deleting the word "Town" and substituting the word "Local"

**52. Part 9 Section 9.1.4 amended**

Paragraph (b) of Section 9.1.4 is amended by deleting the words "*Offensive Trades (Fees)*" and substituting the words "*Health (Offensive Trades Fees)*".

**53. Part 9 Section 9.1.5 amended**

Section 9.1.5 is amended by inserting, after the numbers "11", the words "and list relevant conditions".

**54. Part 9 Section 9.1.8 deleted**

Section 9.1.8 is deleted.

**55. Part 9 Section 9.2.4 amended**

- (a) Amend the title of section 9.2.4 by inserting the word "hand" after the word "and".
- (b) Delete the word "hand", after the word "wash", and insert it before the word "wash".

**56. Part 9 Section 9.2.6 amended**

Section 9.2.6 is amended by –

- (1) inserting the number (1) before the word "The"; and
- (2) inserting a new subsection (2) as follows –
  - "(2) The occupier shall manage and operate the premises such that odours emanating from the premises do not unreasonably interfere with the health, welfare, convenience, comfort or amenity of any person."

**57. Part 9 Section 9.2.7 amended**

Section 9.2.7 is amended by inserting –

- (a) in paragraph (d), after the word “directed”, the words “by an Environmental Health Officer”; and
- (b) in paragraph (e), after the word “efficient”, the words “and approved”.

**58. Part 9 Section 9.2.11 amended**

Section 9.2.11 is amended by inserting a new subsection (2) as follows –

- “(2) While any premises remain registered under this Division, a person shall not, without the written permission of the Environmental Health Officer, make or permit any change or alteration whatsoever to the premises internally.”.

**59. Schedule 1 amended**

In Schedule 1 delete the words “Wash hand basins” and substitute the words “Hand wash basins” in both places where they appear.

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Dated: [date]

The Common Seal of the Shire of Beverley was affixed by authority of a resolution of the Council in the presence of—

D RIDGWAY, Shire President.

K BYERS, Chief Executive Officer.

Consented to—

Dr TARUN WEERAMANTHRI, Executive Director Public Health.

Dated: [date].

**Local Government Act 1995**

**SHIRE OF BEVERLEY**

**PROPOSED  
EXTRACTIVE INDUSTRIES  
LOCAL LAW**

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**LOCAL GOVERNMENT ACT 1995**

**Shire of Beverley**

**EXTRACTIVE INDUSTRIES LOCAL LAW 2010**

Under the powers conferred by the *Local Government Act 1995*, and under all other powers enabling it, the Council of the Shire of Beverley resolved on [Insert Adoption Resolution date here] to adopt the following local law.

**PART 1 - PRELIMINARY**

**1.1 Citation**

This local law is cited as the *Shire of Beverley Extractive Industries Local Law 2010*.

**1.2 Commencement**

This local law comes into operation fourteen days after the date of its publication in the *Government Gazette*.

**1.3 Content and Intent**

This local law provides for the regulation, control and management of extractive industries within the district.

**1.4 Definitions**

In this local law, unless the context otherwise requires –

“**Act**” means the *Local Government Act 1995*;

“**carry on an extractive industry**” means quarrying and excavating for stone, gravel, sand, and other material;

“**CEO**” means the Chief Executive Officer of the local government;

“**district**” means the district of the local government;

“**excavation**” includes quarry;

“**land**”, unless the context otherwise requires, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates;

“**licence**” means a licence issued under this local law;

“**licensee**” means the person named in the licence as the licensee;

“**local government**” means the Shire of Beverley;

“**occupier**” has the meaning given to it in the Act;

“**owner**” has the meaning given to it in the Act;

“**person**” does not include the local government;

“**secured sum**” means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

“**site**” means the land specified by the local government in a licence.

**1.5 Application**

(1) The provisions of this local law –

(a) subject to paragraphs (b), (c), (d) and (e);

(i) apply and have force and effect throughout the whole of the district; and

- (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;
  - (b) do not apply to the extraction of minerals under the *Mining Act 1978*;
  - (c) do not apply to the carrying on of an extractive industry on Crown land;
  - (d) do not apply to the carrying out of an extractive industry on a lot by the owner or occupier of that lot where the material extracted is not sold and is used solely on that lot or on an adjacent lot owned or occupied by the person carrying out the extractive industry; and
  - (e) do not affect the validity of any licence issued under the local law repealed by clause 1.3 of this local law if that licence is currently in force at the date of gazettal of this local law.
- (2) Notwithstanding any other provision, the local government may waive any requirement or provision of this local law (including a requirement to hold a valid licence), where the local government is satisfied on receiving a written application for an exemption under this clause that the extractive industry is to be carried out solely for the benefit of a local community or sporting organisation (whether incorporated or not), provided that where the local government is so satisfied:
- (a) The extractive industry may only be carried out if the local government has authorised it in writing;
  - (b) The local government may impose conditions on the authorisation pursuant to which the extractive industry must operate (including in a case where the CEO otherwise waives the requirement to hold a valid and current licence);
  - (c) The person carrying out the extractive industry must comply with any conditions imposed by the local government on the authorisation;
  - (d) Failure to comply with any condition imposed by the local government is deemed to be an offence pursuant to clause 2.1(b);
  - (e) The local government may from time to time vary or delete and condition previously imposed, and may impose a new condition or conditions; and
  - (f) The local government may at any time determine that the extractive industry authorised pursuant to this clause must cease, provided that the local government must give written notice to the person carrying out the extractive industry which allows a minimum 28 days for the cessation of operations.

## 1.6 Repeal

### PART 2 - LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY

#### 2.1 Extractive Industries Prohibited Without Licence

A person must not carry on an extractive industry –

- (a) unless the person is the holder of a valid and current licence; and
- (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

**Penalty:** \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

#### 2.2 Applicant To Advertise Proposal

- (1) Unless the local government first approves otherwise, a person seeking the issue of a licence shall, before applying to the local government for a licence –
  - (a) forward by registered mail a notice in the form determined by the local government from time to time to –

- (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within twenty-one days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government.
- (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and
- (b) as soon as practicable after complying with the requirements of paragraph (a) –
  - (i) forward a copy of the notice to the CEO; and
  - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.
- (2) The local government may, within 14 days after receiving a copy of a notice referred to in sub-clause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices –
  - (a) in the form determined by the local government from time to time;
  - (b) the content, size and construction of which have been approved by the CEO;
  - (c) specifying particulars of the proposed excavation; and
  - (d) inviting objections or comments within 21 days from the placement of the notice.

### **2.3 Application For Licence**

- (1) Subject to subclause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicant, the owner of the land and any occupier of the land to the CEO together with –
  - (a) 3 copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing –
    - (i) where the proposed excavation surface area is:
      - (I) not to exceed 5ha, the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
      - (II) to be greater than 5ha, the existing and proposed land contours based on the Australian Height Datum and plotted at 5 metre contour intervals;
    - (ii) the land on which the excavation site is to be located;
    - (iii) the external surface dimensions of the land;
    - (iv) the location and depth of the existing and proposed excavation of the land;
    - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
    - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
    - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;

- (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
  - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
  - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- b) 3 copies of a works and excavation programme containing -
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
  - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
  - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
  - (iv) details of the depth and extent of the existing and proposed excavation of the site;
  - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
  - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
  - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
  - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
  - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
  - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
  - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
  - (xii) a description of the measures to be taken to comply with the Environmental Protection (Noise) Regulations 1997;
  - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
  - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
  - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) 3 copies of a rehabilitation and decommissioning programme indicating -
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
  - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
  - (iii) the method by which topsoil is to be replaced and revegetated;

- (iv) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
  - (v) how rehabilitated areas are to be maintained;
  - (vi) the programme for the removal of buildings, plant, waste and final site clean up; and
  - (vii) how any face is to be made safe and batters sloped.
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
- (e) a certificate from a licensed surveyor certifying the correctness of -
- (i) the plan referred to in paragraph (a); and
  - (ii) the datum peg and related point referred to in paragraph (d);
- (f) evidence that the requirements of clause 2.2(1) and (2) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) the consent in writing to the application from the owner of the excavation site;
- (i) any other information that the local government may reasonably require;
- (j) the licence application fee specified by the local government from time to time;
- (k) copies of any environmental approval required under any environmental legislation; and
- (l) copies of any geotechnical information relating to the excavation site;
- (2) All survey data supplied by an applicant for the purpose of sub clause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (3) Where in relation to a proposed excavation -
- (a) the surface area is not to exceed 5000m<sup>2</sup>; and
  - (b) the extracted material is not to exceed 5000m<sup>3</sup>;
- the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraphs (b), (d), (e) and (i) of subclause (1).

### **PART 3 - DETERMINATION OF APPLICATION**

#### **3.1 Determination Of Application**

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government may, in respect of an application for a licence -
- (a) refuse the application; or
  - (b) approve the application -
    - (i) over the whole or part of the land in respect of which the application is made; and
    - (ii) on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for a licence, it shall -
- (a) determine the licence period, not exceeding 21 years from the date of issue; and
  - (b) approve the issue of a licence in the form determined by the local government

from time to time.

- (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of -
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30<sup>th</sup> June, imposed and determined by the local government from time to time under and in accordance with sections 6.16 to 6.19 of the Act;
  - (b) payment of the secured sum if any, imposed under clause 5.1;
  - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
  - (d) a copy of the public liability insurance policy required under clause 7.1(1) shall issue the licence to the applicant.
- (5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters -
- a) the orientation of the excavation to reduce visibility from other land;
  - b) the appropriate siting of access thoroughfares, buildings and plant;
  - c) the stockpiling of material;
  - d) the approval of the number and size of trucks entering and leaving the site each day and the route or routes to be utilised by those trucks;
  - e) the hours during which any excavation work may be carried out;
  - f) the hours during which any processing plant associated with, or located on, the site may be operated;
  - g) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
  - h) the depths below which a person shall not excavate;
  - i) distances from adjoining land or thoroughfares within which a person must not excavate;
  - j) the safety of persons employed at or visiting the excavation site;
  - k) the control of dust and wind-blown material;
  - l) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
  - m) the prevention of the spread of dieback or other disease;
  - n) the drainage of the excavation site and the disposal of water;
  - o) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
  - p) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
  - q) requiring the licensee to meet all conditions imposed under the development approval issued by the local government in relation to the extractive industry;
  - r) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;

- s) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law;
- t) any other matter for properly regulating the carrying on of an extractive industry; and
- u) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence.

### **3.2 Payment Of Annual Licence Fee**

On or before 30 June in each year, a licensee shall pay to the local government the annual licence fee imposed and determined by the local government from time to time, under and in accordance with sections 6.16 to 6.19 of the Act.

## **PART 4 - TRANSFER, CANCELLATION AND RENEWAL OF LICENCE**

### **4.1 Transfer Of Licence**

- (1) An application for the transfer of a licence shall –
  - a) be made in writing;
  - b) be signed by the licensee and the proposed transferee of the licence;
  - c) be accompanied by the current licence;
  - d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
  - e) include any information that the local government may reasonably require; and
  - f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may –
  - a) refuse the application; or
  - b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO;
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

### **4.2 Cancellation Of Licence**

- (1) The local government may cancel a licence where the licensee has –
  - (a) been convicted of an offence against –
    - (i) this local law; or
    - (ii) any other law relating to carrying on an extractive industry; or
  - (b) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
  - (c) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
  - (d) failed to pay the annual licence fee under clause 3.2; or

- (e) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause –
  - (a) the local government shall advise the licensee in writing of the cancellation;
  - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
  - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

**4.3 Renewal Of Licence**

- (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal –
  - (a) the fee determined by the local government from time to time;
  - (b) a copy of the current licence;
  - (c) a plan showing the contours of the excavation carried out to the date of that application;
  - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3(1) (b) and (c); and
  - (e) any other things referred to in clauses 2.3 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).
- (3) If –
  - (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
  - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,  
then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.3 and 3.1.
- (4) Upon receipt of an application for the renewal of a licence, the local government may –
  - (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.

**PART 5 - SECURED SUM AND APPLICATION THEREOF**

**5.1 Security For Restoration And Reinstatement**

- (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that –
  - (a) as a condition of a licence; or
  - (b) before the issue of a licence,  
the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.
- (2) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.



## **5.2 Use By The Local Government Of Secured Sum**

- (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either –
  - (a) within the time specified in those conditions; or
  - (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then; subject to the local government giving the licensee 14 days notice of its intention to do so –
  - (c) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
  - (d) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.
- (2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.
- (3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

## **PART 6 – LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS**

### **6.1 Limits On Excavation Near Boundary**

Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within –

- (a) 20 metres of the boundary of any land on which the excavation site is located;
- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 40 metres of any thoroughfare; or
- (d) 40 metres of any watercourse.

Penalty \$2,000

### **6.2 Prohibitions**

A licensee shall not -

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;
- (b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Minerals and Energy; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

Penalty: \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

### 6.3 Blasting

- (1) A person shall not carry out or permit to be carried out any blasting in the course of excavating unless –
- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
  - (b) subject to sub-clause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
  - (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
  - (d) in compliance with any other conditions imposed by the local government concerning-
    - (i) the time and duration of blasting;
    - (ii) the purposes for which the blasting may be used; and
    - (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty: \$5,000.00 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

- (2) A person shall not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior approval of the local government.

Penalty \$2,000

### 6.4 Obligations Of The Licensee

A licensee shall -

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign -
  - (i) is not more than 200 metres apart;
  - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
  - (iii) bears the words "DANGER EXCAVATIONS KEEP OUT";
- (c) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

## PART 7 - MISCELLANEOUS PROVISIONS

### 7.1 Public Liability

- (1) A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.
- (2) The licensee shall provide to the local government a copy of the policy taken out under sub-clause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

### 7.2 Mines Safety and Inspection Act and Environmental Protection Act

- (1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site shall –
  - (a) comply with all applicable provisions of that Act or those Acts; and
  - (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.
- (2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

### 7.3 Notice Of Cessation Of Operations

- (1) Where a licensee intends to cease carrying on an extractive industry –
  - (a) temporarily for a period in excess of 12 months; or
  - (b) permanently,the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.
- (2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.
- (3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

### 7.4 Works To Be Carried Out On Cessation Of Operations

Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 7.3 –

- a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is –
  - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
  - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;

- c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

## **PART 8 - OBJECTIONS & APPEALS**

### **8.1 Objections & Appeals**

When the local government makes a decision as to whether it will -

- a) grant a person a licence under this local law; or
- b) renew, vary, or cancel a licence that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Local Government (Functions and General) Regulations 1996 shall apply to that decision.

## **PART 9 – MODIFIED PENALTIES**

### **9.1 General**

An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.

### **9.2 Modified Penalties**

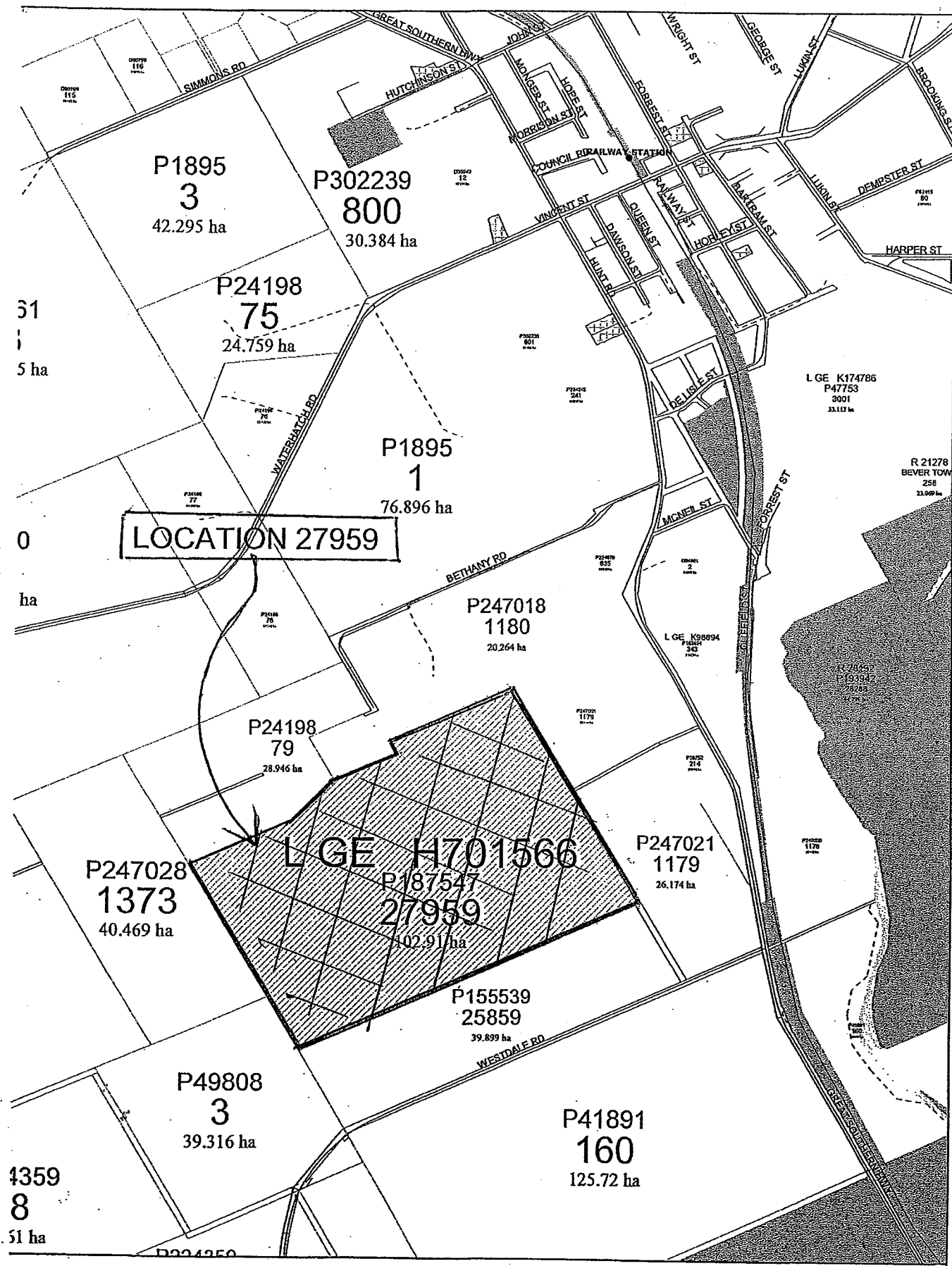
The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in the Schedule.

### **9.3 Forms**

For the purposes of this local law –

- (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.





Scale : 1:15000 (Geographical)  
 MGA : SW=491022.0E,6443511.8N Zone 50 / NE=494038.7E,6448146.7N Zone 50  
 Lat/Long : 116°54'17.278", -32°08'41.228" / 116°56'12.540", -32°06'10.767" H 263mm by W 201mm

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