

**Minutes of the Ordinary Meeting held in the
Council Chambers, Wandering
on Thursday 15 September 2011**

1. Declaration of Opening/Announcement of Visitors

11:03am - The President welcomed all present giving special mention to Cr Price who would not be renominating after 31 years on Council and declared the meeting open.

2. Record of Attendance/Apologies/Leave of Absence

Attendance:

BE Dowsett	President
GG Kerr	Deputy President
DF White	Councillor
KJ Price	Councillor
JC Schorer	Councillor
JR Mcneil	Councillor
KJ Barge	Councillor
M Whitely	CEO
G Mathewson	Works Supervisor (3:58pm – close)

Apologies:

Nil

3. Public Question Time

At 11.05am visitors Marcel Gelissen, Brendan Whitely and Alan Deane were invited into the meeting.

Marcel Gelissen spoke first and voiced his disappointment that a Community Football event had been arranged for the Saturday night. Mr Gelissen felt that the community event would impact negatively on their trade at the Wandering Tavern and that the proposed event was not supporting local business. Mr Gelissen left the meeting at 11.10am.

Alan Deane addressed Council in regards to Agenda Item 7.2, being the proposed subdivision for Lot 19784 Edwards Rd, Wandering. Mr Deane disagreed with the report prepared for Council by Urban and Rural Perspectives with regards to the relevance of certain matters raised in the report including the ability to built, firebreaks and fence lines, native vegetation, roads and sustainable water supply. Both Alan Dean and Brendan Whitely left the meeting at 11.42am.

4. Applications for Leave of Absence

Nil

5. Confirmation of Minutes of Previous Meetings

Shire of Wandering Ordinary Meeting held 18 August 2011

540:2011/12

Moved Cr White, Seconded Cr McNeil that the minutes of the Shire of Wandering Ordinary Meeting held 18 August 2011 to be confirmed as a true and correct record.

CARRIED 7-0

6. COUNCILLOR REPORTS

President Dowsett

Questions Without Notice

Tree on Watts Rd

Wandering Annual Fair – congratulations to everyone involved

Deputy President Kerr

Meetings Attended

Wandering Community Resource Centre

Councillor McNeil

Questions Without Notice

North Wandering Rd (just past Golf Club)

Guide Posts for culverts

Councillor Price

Questions Without Notice

North Wandering Rd bitumen stripping

Dickie Rose's corner

Bitumen Edges

Guide Posts – Codjatotine Mooterdine Rd & Kubbine Rd

541:2011/12

Moved Cr Schorer, Seconded Cr Kerr that Council adjourn for lunch at 12:28pm.

CARRIED 7-0

Council returned from lunch and commenced the meeting again at 2:04pm.

7. MATTERS REQUIRING COUNCIL DECISION

7.1 Subdivision – Lot 16 Pennington Road, Wandering

NAME OF APPLICANT: Dykstra Planning on behalf of Balmain Enterprises Pty Ltd
FILE REFERENCE: A213
AUTHOR: Messrs Joe Douglas & Carlo Famiano (Urban & Rural Perspectives)

SUMMARY:

This report recommends that a subdivision application submitted to the Western Australian Planning Commission (WAPC) by Dykstra Planning on behalf of Balmain Enterprises Pty Ltd (landowner) and referred to the Shire for assessment and comment not be supported by Council in its current proposed form.

COMMENT:

Lot 16 Pennington Road is located approximately seven (7) kilometres east of the Wandering townsite at the intersection of Pennington Road and Wandering-Pingelly Road in the locality of Wandering (see Plan 1).

Lot 16 is an irregular shaped parcel of land that comprises a total area of 90.8863 hectares (see Plan 2).

The land can generally be described as gently to moderately undulating with the natural ground level ranging from approximately 315 metres AHD in its north-western corner to approximately 360 metres AHD in its central parts.

MINUTES FOR THE MEETING HELD 15 SEPTEMBER 2011

The land has been partially cleared (i.e. approximately 66% of the total land area) and is currently used for broadacre agricultural purposes (i.e. cropping & grazing). The land also contains an existing approved and operational hay processing plant (i.e. rural industry) which is located in the southern half of the property in close proximity to Pennington Road. Improvements associated with the processing plant include a number of sheds, a large open storage area, a water storage dam and associated catchment area and numerous vehicle access tracks and parking areas (see Plan 3).

The current landowner is seeking approval to subdivide Lot 16 to create two (2) new separately titled lots, one of which will contain the existing hay processing plant and the other being the balance-of-title rural lot. Specific details of the proposed subdivision are shown in the attached Plan 4 and summarised in the following table:

Lot Particulars	Existing Land Area (Approx.)	Proposed Land Area (Approx.)
Existing Lot 16	90.88 hectares	-
Proposed Lot 1 (Balance-of-Title Rural Lot)	-	49.41 hectares
Proposed Lot 2 (Rural Industry Lot)	-	41.39 hectares

The applicant has justified the subdivision proposal on the following grounds:

1. It will enable the existing rural industry use (i.e. hay processing plant) to be contained within its own designated lot thereby:
 - i) enabling ownership of the land and business activities thereon to be sold and transferred to the current operators;
 - ii) maintaining the commercial viability of the existing rural industry business activity which is operated under a distinct and separate business structure to the existing agricultural activities being undertaken on the balance portion of the land; and
 - iii) creating opportunity for the future capitalisation of the rural industry business based on the proposed new separate land tenure.
2. It is generally consistent with the strategic land use planning direction provided by the Shire of Wandering's endorsed Local Planning Strategy as it will provide for the continuation of an existing rural industry within an area identified in the Strategy as being a future 'Rural Industry Precinct'.
3. It is consistent with the following objective of State Planning Policy No.2.5 entitled 'Agricultural and Rural Land Use Planning':

"Protect agricultural land resources, wherever possible, by:

 - a) *Discouraging land uses unrelated to agriculture from locating on rural land;*
 - b) *Minimising the ad hoc fragmentation of rural land; and*
 - c) *Improving resource and investment security for agricultural and allied industry production."*
4. It complies with the Western Australian Planning Commission's Development Control Policy No.DC 3.4 entitled 'Subdivision of Rural Land' for the following reasons:
 - i) Further subdivision is identified in the Shire of Wandering's endorsed Local Planning Strategy and appropriately zoned in the Shire of Wandering Town Planning Scheme No.3; and
 - ii) It is consistent with section 4.4 of Policy No.DC 3.4 as this applies specifically to the subdivision of rural land for the purpose of accommodating uses ancillary to the current rural use of the land (i.e. the existing approved hay processing plant).
5. The land is well located and will result in the creation of two (2) new separately titled lots that are of a suitable size, adequately serviced and capable of accommodating the continued use of the land for its current approved purposes.

COMMENT

In considering the subdivision application Council is required to have due regard for any relevant provisions contained in the following planning documents prior to submitting its response to the WAPC:

- Shire of Wandering Town Planning Scheme No.3 (TPS No.3);
- Shire of Wandering Local Planning Strategy;
- WAPC Development Control Policy No. 1.1 – *Subdivision of Land (General Principles)*;
- WAPC Development Control Policy No. DC 3.4 – *Subdivision of Rural Land*;
- State Planning Policy No.2.5 - *Agricultural and Rural Land Use Planning*;
- State Planning Policy No.4.1 – *State Industrial Buffer*;
- WAPC Guideline *Planning for Bush Fire Protection (Edition 2)*; and
- EPA Position Statement No.2 – *Environmental Protection of Native Vegetation in Western Australia (Clearing of Native Vegetation with Particular Reference to the Agricultural Area)*.

It is concluded from a detailed assessment of the application to subdivide Lot 16 Pennington Road in the context of the rationale submitted by the applicant and the relevant provisions contained in the abovementioned planning documents that the subdivision proposal has scope to be supported by Council.

Notwithstanding this general conclusion, the following issues have been identified during the reporting officers' assessment of the proposal which are cause for some concern and should be addressed by the applicant and the Western Australian Planning Commission when negotiating the issuance of subdivision approval:

1. Buffer Impacts - Existing Hay Processing Plant

The application fails to acknowledge or address the implications of the designated 500 metre buffer area surrounding the existing hay processing plant on Lot 16 as depicted on Map 2 of the Shire of Wandering Local Planning Strategy. It is important to note that all land comprising Lot 16 is located within the hay plant buffer and is also significantly affected by another 500 metre buffer surrounding an existing winery located on an adjoining lot immediately to the west (see Plan 5).

A key objective of these buffer areas is to help guard against the future development of sensitive land uses (e.g. housing) within the buffers to avoid any potential conflicts with the day-to-day operation of the hay processing plant and winery (e.g. noise, dust, odour, gases, fire risk, chemical spray etc.).

Clause 10.9 of the Shire's Local Planning Strategy also expressly states that "*the local government will not generally support any proposed development within designated buffer areas that will result in an incompatible land use being located within a buffer such as residential or rural residential.*"

Given the current 'Rural' zoning classification of the subject land and the fact that the development of a new single detached dwelling and associated outbuildings on proposed Lot 1 is a permitted use within this zone that does not require Council's prior planning approval, there is concern that the future owner/occupant of any new dwelling constructed on proposed Lot 1 may be adversely affected by the day-to-day operation of the nearby hay plant and/or winery.

In the absence of any suitable planning controls over future possible residential development on proposed Lot 1, it is considered appropriate that the applicant be required to consider how these potential impacts on the future owner/occupant of Lot 1 will be managed given the land's location within two designated buffer areas. There is scope for a range of controls to be introduced at the subdivision development stage to address these issues (e.g. notifications & restrictive covenants).

Failure to address this issue early in the planning process could see the owner/occupant of any future dwelling on proposed Lot 1 submitting complaints to both the Shire of Wandering and/or the Environmental Protection Authority requesting that the existing hay plant and/or winery operations on the adjoining properties be modified or ceased. It is therefore considered paramount that this issue be suitably addressed by the applicant prior to Council supporting the future subdivision of Lot 16 as proposed.

2. Proposed Lot Boundaries

The alignment of the new common boundary between proposed Lots 1 and 2 as shown on the proposed subdivision plan is considered inappropriate for the following reasons:

- i) It fails to have due regard for the catchment area associated with a recently constructed dam in the western part of proposed Lot 2. The proposed new dividing boundary between Lots 1 and 2 appears to sever the catchment area for the dam to the extent that the catchment is contained within both lots. Given the topography of the land and the full extent of the dam's catchment area, it is considered appropriate that the dividing boundary between Lots 1 and 2 be modified so that the dam's catchment area is contained entirely within Lot 2. This will help to avoid any possible disputes between the future landowners regarding rights to the use and collection of water from the catchment area; and
- ii) It is likely to result in the clearing of additional remnant native vegetation to accommodate a new boundary fence between the two lots and the installation of fire breaks to ensure compliance with the Shire's firebreak requirements. Notwithstanding the fact that some consideration has been given to this issue in the subdivision application, it is contended, having regard for the objectives of the EPA's Position Statement No.2 entitled *Environmental Protection of Native Vegetation in Western Australia (Clearing of Native Vegetation with Particular Reference to the Agricultural Area)* which seeks to avoid any further clearing of remnant vegetation in the agricultural areas of the state, that there is scope to avoid any further clearing on the land by modifying the location of the common boundary between the two new lots so as to minimise or eliminate the need for any further clearing works.

3. Sustainable Water Supply

Clause 5.17.4(b) of TPS No.3 requires the local government to have due regard for evidence of a sustainable water supply for any future subdivision of 'Rural' zoned land within the Shire. The application does not make mention of any existing or proposed water supply sources and whether or not a sustainable water supply can be provided to proposed Lots 1 and 2. This is considered a particularly important issue given the potential fire risk associated with the ongoing operation of the existing hay plant, the relatively small size of the proposed new lots, the lack of any information or guidance from the applicant regarding future fire management arrangements and the specific requirements of the WAPC's Guideline entitled *Planning for Bush Fire Protection (Edition 2)*.

It is acknowledged that rural lots of the size proposed are not required to be provided with a reticulated water supply service however the local government, by virtue of clause 5.17.4(b), is required to consider whether a sustainable water supply can be provided that does not rely on a catchment outside the proposed lots or the damming of a stream that will impact on the water availability for another lot or lots in the immediate area. There is no information or evidence to suggest that a sustainable water supply can or will be provided to proposed Lots 1 and 2 for domestic and fire fighting purposes. As such this issue needs to be addressed by the applicant prior to the issuance of subdivision approval.

In light of the above it is recommended that Council not support the subdivision of Lot 16 Pennington Road in its current proposed form and encourage the applicant to consider preparing and lodging an amended plan of subdivision with other relevant supporting information to the Western Australian Planning Commission which addresses the issues and concerns raised in this report.

FINANCIAL IMPLICATIONS

Nil

STATUTORY & TOWN PLANNING IMPLICATIONS

- Planning & Development Act (2005)
- Shire of Wandering Town Planning Scheme No.3
- Shire of Wandering Local Planning Strategy
- WAPC Development Control Policy No. 1.1 – *Subdivision of Land (General Principles)*
- WAPC Development Control Policy No. DC 3.4 – *Subdivision of Rural Land*
- State Planning Policy No.2.5 – *Agricultural and Rural Land Use Planning*
- State Planning Policy No.4.1 – *State Industrial Buffer*
- WAPC Guideline *Planning for Bush Fire Protection (Edition 2)*; and
- EPA Position Statement No.2 – *Environmental Protection of Native Vegetation in Western Australia (Clearing of Native Vegetation with Particular Reference to the Agricultural Area)*.

COMMUNITY CONSULTATION

Not required.

STRATEGIC IMPLICATIONS

Whilst the area in which Lot 16 is located is identified in the Shire's Local Planning Strategy as being the preferred location for future 'Rural Industry' type development in the Shire, it is considered prudent in light of this subdivision application and the issues identified in this report, that Council consider initiating a suitable amendment to Town Planning Scheme No.3 to rezone all land within this precinct and introduce a range of suitable planning controls to ensure that all future subdivision and/or development for 'Rural Industry' purposes proceeds in a proper and orderly manner.

RECOMMENDATIONS:

1. That Council advise the Western Australian Planning Commission that it does not support the application submitted by Dykstra Planning on behalf of Balmain Enterprises Pty Ltd (landowners) to subdivide Lot 16 Pennington Road, Wandering into two (2) new separately titled lots as proposed for the following reasons:
 - i) Clause 10.9 of the Shire's Local Planning Strategy expressly states that "*the local government will not generally support any proposed development within designated buffer areas that will result in an incompatible land use being located within a buffer such as residential or rural residential.*" The application fails to acknowledge or address the future possible implications of the designated 500 metre buffer areas surrounding the existing hay processing plant on Lot 16 and winery located on an adjoining lot immediately to the west as depicted on Map 2 of the Shire of Wandering Local Planning Strategy. There is concern that the owner/occupant of any new dwelling constructed on Proposed Lot 1, which is an as-of-right permitted use on land classified 'Rural' zone, may be adversely affected by the day-to-day operation of the nearby hay processing plant and winery due to the current lack of adequate planning control/s.
 - ii) The alignment of the new common boundary between proposed Lots 1 and 2 as shown on the proposed subdivision plan is considered inappropriate because:
 - a) It fails to have due regard for the location and extent of the catchment area associated with a recently constructed dam in the western part of proposed Lot 2. The proposed new dividing boundary between Lots 1 and 2 appears to sever the catchment area for the dam to the extent that the catchment is contained within both lots. This configuration is considered undesirable in terms of the future use and management of the land; and
 - b) It is likely to result in the clearing of additional remnant native vegetation to accommodate a new boundary fence between the two lots and the installation of fire breaks to ensure compliance with the Shire's firebreak requirements. This outcome is considered to be inconsistent with the objectives of the EPA's Position Statement No.2 entitled *Environmental Protection of Native Vegetation in Western Australia (Clearing of Native Vegetation with Particular Reference to the Agricultural Area)* which seeks to avoid any further clearing of remnant vegetation in the agricultural areas of the state.
 - iii) The lack of information or evidence submitted in support of the application to suggest that a sustainable water supply can or will be provided to proposed Lots 1 and 2 for domestic and fire fighting purposes as required by Clause 5.17.4(b) of TPS No.3.
 - iv) Subdivision of the subject land in the manner proposed may create an undesirable precedent for similar subdivisions on 'Rural' zoned land in the immediate locality and the Shire generally.
2. That Council advise Dykstra Planning and the Western Australian Planning Commission that it is willing to favourably consider an amended plan of subdivision and other relevant supporting information which suitably addresses the issues and concerns raised in this report.
3. That Council consider initiating a suitable amendment to Town Planning Scheme No.3 to rezone all land within the 'Pennington Road Rural Industry Precinct' as depicted on Map 2 of the Shire of Wandering Local Planning Strategy and introduce a range of suitable planning controls to ensure that all future subdivision and/or development for 'Rural Industry' purposes within the precinct proceeds in a proper and orderly manner.

542:2011/12

Moved Cr Kerr, Seconded Cr McNeil that Council advise the Western Australian Planning Commission that it unconditionally supports the proposed subdivision.

CARRIED 7-0

7.2 Subdivision – Lot 19784 Edwards Road, Wandering

NAME OF APPLICANT: PH & KE Gow (Licensed Surveyors) on behalf of Wogolin Springs Pty Ltd & Mr Allan John Deane (Landowners)
FILE REFERENCE: A6
AUTHOR: Messrs Joe Douglas & Carlo Famiano (Urban & Rural Perspectives)

SUMMARY:

This report recommends that a subdivision application submitted to the Western Australian Planning Commission (WAPC) by PH & KE Gow (Licensed Surveyors) on behalf of the current landowners Wogolin Springs Pty Ltd and Mr Allan John Deane (tenants in common in equal shares) and referred to the Shire for assessment and comment not be supported by Council in its current proposed form.

BACKGROUND

Lot 19784 is located approximately 8 kilometres east of the Wandering townsite near the end of Deans Road in the locality of Wandering (see Plan 6).

Lot 19784 is irregularly shaped and comprises a total area of approximately 201 hectares (see Plan 7).

Despite the land being referenced in its current Certificate of Title as being located on Edwards Road, it is in fact well removed from Edwards Road and has direct frontage to a number of unnamed road reserves that are either unconstructed or built to a very basic rural standard. Primary access to the land is facilitated by Deans Road which has itself been constructed to a very basic rural standard.

Recent Landgate aerial photography indicates that the land has never been developed for any specific purpose/s and is heavily vegetated throughout its entire area (see Plan 8). The conservation significance of the existing vegetation on the land is unknown however given the density of vegetation cover and its direct connection and linkages to other areas of native vegetation in the immediate locality it would seem reasonable to assume that the existing vegetation on the property has some conservation value and is worthy of retention and protection.

The current landowners are seeking approval to subdivide Lot 19784 to create two (2) new separately titled lots. Specific details of the proposed subdivision are shown in the attached Plan 9 and summarised in the following table:

Lot Particulars	Existing Land Area (Approx.)	Proposed Land Area (Approx.)
Existing Lot 19784	201.129 hectares	-
Proposed Lot 1	-	86.286 hectares
Proposed Lot 2	-	114.843 hectares

The applicant has justified the subdivision proposal on the following grounds:

1. The Western Australian Planning Commission granted conditional approval to subdivide Lot 19784 for rural purposes back in March 2008 on the grounds that the land is two or more times the area of typical lots used in the district for farming and the proposed new lots are consistent with the size of other existing lots used for farming in the immediate locality and will allow for continued broadacre farming in the future (WAPC Reference No.136501).
2. The new subdivision proposal is very similar to that previously approved by the Western Australian Planning Commission in March 2008.
3. The current owners of Lot 19784 also own agricultural land immediately adjacent to this property and intend incorporating the proposed new lots into their existing rural landholdings to enable each owner to continue carrying on their respective enterprises independently of each other.

4. The current landowners have no intention of changing the current use of the land or to construct any new dwellings on the newly created lots.
5. The subdivision proposal is consistent with the Shire's policy regarding the subdivision of rural land in that each of the proposed new lots will comprise an area greater than 80 hectares.
6. Access to each of the proposed new lots will continue to be provided via Deans Road which is considered to be constructed to a suitable standard given the current landowners' intentions regarding the future development and use of the land.

COMMENT:

In considering the subdivision application Council is required to have due regard for any relevant provisions contained in the following planning documents prior to submitting its response to the WAPC:

- Shire of Wandering Town Planning Scheme No.3 (TPS No.3);
- Shire of Wandering Local Planning Strategy;
- WAPC Development Control Policy No. 1.1 – *Subdivision of Land (General Principles)*;
- WAPC Development Control Policy No. DC 3.4 – *Subdivision of Rural Land*;
- State Planning Policy No.2.5 - *Agricultural and Rural Land Use Planning*;
- WAPC Guideline *Planning for Bush Fire Protection (Edition 2)*; and
- EPA Position Statement No.2 – *Environmental Protection of Native Vegetation in Western Australia (Clearing of Native Vegetation with Particular Reference to the Agricultural Area)*.

It is concluded from a detailed assessment of the application to subdivide Lot 19784 Edwards Road in the context of the rationale submitted by the applicant and the relevant provisions contained in the abovementioned planning documents that the subdivision proposal has scope to be supported by Council.

Notwithstanding this general conclusion, the following issues have been identified during the reporting officers' assessment of the proposal which are cause for some concern and should be addressed by the applicant and the Western Australian Planning Commission when negotiating the issuance of subdivision approval:

1. Land Use Permissibility & Development Control

One of the stated aims of the Shire of Wandering Local Planning Strategy is to protect and enhance the environmental values and natural resources of the Shire and to promote ecologically sustainable land use and development.

Given the current 'Rural' zoning classification of Lot 19784 and the fact that the development of a new single detached dwelling and associated outbuildings on each of the proposed new lots is a permitted use within this zone that does not require Council's prior planning approval, there is concern that any future residential development on each of the new lots may have a detrimental impact upon the environmental values and natural resources of the land due to the need to clear large areas of native vegetation to accommodate new buildings, vehicle accessways and hazard separation zones for fire safety purposes.

In the absence of any suitable planning controls over future possible residential development on each of the proposed new lots, it is considered appropriate that the applicant be required to consider how each lot could be developed and used in the future to minimise the extent of any clearing works required and its potential impacts on the environmental values and natural resources of the land. There is scope for a range of controls to be introduced at the subdivision development stage to address this issue (e.g. restrictive covenants).

2. Proposed Lot Boundaries

The EPA's Position Statement No.2 entitled *Environmental Protection of Native Vegetation in Western Australia (Clearing of Native Vegetation with Particular Reference to the Agricultural Area)* seeks to avoid any further clearing of remnant vegetation in agricultural areas to help protect and enhance the environmental values and natural resources of these parts of the state.

The alignment of the new common boundary between proposed Lots 1 and 2 as shown on the

proposed subdivision plan is inconsistent with the objectives of the EPA's abovementioned position statement as it is likely to result in the clearing of a significant amount of native vegetation to accommodate a new boundary fence between the two lots and the installation of fire breaks to ensure compliance with the Shire's firebreak requirements.

In light of the above concerns it is considered appropriate that the applicant be required to consider what measures could be put in place to either eliminate or minimise the need for any clearing works along the common boundary between proposed Lots 1 and 2 to help protect and enhance the environmental values and natural resources of the land and the district generally.

3. **Vehicle Access Arrangements**

A key objective of the Western Australian Planning Commission's (WAPC's) Development Control Policy No.DC1.1 entitled *Subdivision of Land (General Principles)* is to ensure that constructed vehicle access from the gazetted public road system is provided to any new lot that is created in the state. As previously mentioned primary access to Lot 19784 is facilitated by Deans Road which has been constructed to a very basic rural standard.

In considering the subdivision proposal Council may wish to consider what arrangements should be made with the subdivider to provide for suitable upgrades to and/or the construction of Deans Road where it abuts proposed Lots 1 and 2 to ensure that a suitable means of access is provided, particularly for emergency vehicles in the event of a bush fire.

The landowners' have contended that Deans Road has been constructed to a suitable standard given their intentions not to change the current use of the land or to construct any new dwellings on the newly created lots. Notwithstanding the landowners' stated intentions it should be noted that there are no guarantees that the current use of the land will not be changed in the future or that any dwellings will not be constructed, particularly in the event that the land is on-sold. As such Council must consider whether suitable upgrades to and/or construction of Deans Road where it abuts proposed Lots 1 and 2 should be required and what standards will be applied to these works should the WAPC decide to grant approval to the subdivision application.

The imposition of any condition/s requiring suitable upgrades to and/or the construction of Deans Road is considered to be an important issue that is likely to have significant cost implications for the subdivider and may be a deciding factor in whether or not the project proceeds. Further discussion and negotiation with the landowners regarding this issue is therefore recommended prior to the issuance of subdivision approval.

4. **Sustainable Water Supply**

Clause 5.17.4(b) of TPS No.3 requires the local government to have due regard for evidence of a sustainable water supply for any future subdivision of 'Rural' zoned land within the Shire. The application does not make mention of any existing or proposed water supply sources and whether or not a sustainable water supply can be provided to proposed Lots 1 and 2. This is considered a particularly important issue given the potential fire risk associated with the significant amount of native vegetation on the land, previous concerns raised regarding current vehicle access arrangements, the lack of any information or guidance from the applicant regarding future fire management arrangements and the specific requirements of the WAPC's Guideline entitled *Planning for Bush Fire Protection (Edition 2)*.

It is acknowledged that rural lots of the size proposed are not required to be provided with a reticulated water supply service however the local government, by virtue of clause 5.17.4(b), is required to consider whether a sustainable water supply can be provided that does not rely on a catchment outside the proposed lots or the damming of a stream that will impact on the water availability for another lot or lots in the immediate area. There is no information or evidence to suggest that a sustainable water supply can or will be provided to proposed Lots 1 and 2 for domestic and fire fighting purposes. As such this issue needs to be addressed by the applicant prior to the issuance of subdivision approval.

In light of the above it is recommended that Council not support the subdivision of Lot 19784 Edwards Road in its current proposed form and encourage the applicant to consider preparing and lodging an amended plan of subdivision with other relevant supporting information to the Western Australian Planning Commission which addresses the issues and concerns raised in this report.

FINANCIAL IMPLICATIONS

Nil

STATUTORY & TOWN PLANNING IMPLICATIONS

- Planning & Development Act (2005)
- Shire of Wandering Town Planning Scheme No.3
- Shire of Wandering Local Planning Strategy
- WAPC Development Control Policy No. 1.1 – *Subdivision of Land (General Principles)*
- WAPC Development Control Policy No. DC 3.4 – *Subdivision of Rural Land*
- State Planning Policy No.2.5 – *Agricultural and Rural Land Use Planning*
- WAPC Guideline *Planning for Bush Fire Protection (Edition 2)*
- EPA Position Statement No.2 – *Environmental Protection of Native Vegetation in Western Australia (Clearing of Native Vegetation with Particular Reference to the Agricultural Area).*

COMMUNITY CONSULTATION

Not required.

STRATEGIC IMPLICATIONS

Nil

RECOMMENDATIONS:

1. That Council advise the Western Australian Planning Commission that it does not support the application submitted by PH & KE Gow (Licensed Surveyors) on behalf of the current landowners Wogolin Springs Pty Ltd and Mr Allan John Deane to subdivide Lot 19784 Edwards Road, Wandering into two (2) new separately titled lots as proposed for the following reasons:
 - i) There is concern that any future possible residential development on proposed Lots 1 and 2, which is an as-of-right permitted use on land classified 'Rural' zone, will result in the clearing of a significant amount of native vegetation which is inconsistent with one of the stated aims of the Shire of Wandering Local Planning Strategy being to protect and enhance the environmental values and natural resources of the Shire and to promote ecologically sustainable land use and development.
 - ii) The alignment of the new common boundary between proposed Lots 1 and 2 as shown on the proposed subdivision plan is cause for concern as it is likely to result in the clearing of additional remnant native vegetation to accommodate a new boundary fence between the two lots and the installation of fire breaks to ensure compliance with the Shire's firebreak requirements. This outcome is considered to be inconsistent with the objectives of the EPA's Position Statement No.2 entitled *Environmental Protection of Native Vegetation in Western Australia (Clearing of Native Vegetation with Particular Reference to the Agricultural Area)* which seeks to avoid any further clearing of remnant vegetation in the agricultural areas of the state.
 - iii) The landowners'/subdividers' apparent reluctance to make the commitments required to provide for suitable upgrades to and/or the construction of Deans Road where it abuts proposed Lots 1 and 2 to ensure that a suitable means of access is provided to the new lots, particularly for emergency vehicles in the event of a bush fire.
 - iv) The lack of information or evidence submitted in support of the application to suggest that a sustainable water supply can or will be provided to proposed Lots 1 and 2 for domestic and fire fighting purposes as required by Clause 5.17.4(b) of TPS No.3.
 - v) Subdivision of the subject land in the manner proposed may create an undesirable precedent for similar subdivisions on 'Rural' zoned land in the immediate locality and the Shire generally.
2. That Council advise PH & KE Gow (Licensed Surveyors) and the Western Australian Planning Commission that it is willing to favourably consider an amended plan of subdivision and other relevant supporting information which suitably addresses the issues and concerns raised in this report.

Attachment 3

543:2011/12

Moved Cr White, Seconded Cr McNeil that Council do not support the current subdivision application on the basis that Council feel that amalgamating a portion of Avon Location 19784 with Avon Location 7114 would be a more appropriate course of action.

CARRIED 7-0

7.3 Wagin Regional Waste Group

NAME OF APPLICANT: Wagin Regional Waste Group
FILE REFERENCE: 13.1.6
AUTHOR: John Case – Project Manager

SUMMARY:

The Wagin Group of Councils Strategic Waste Management Plans identified that a Regional Landfill Site is a priority, particularly for some members. A preferred site has been identified at Tarwonga that would satisfy the soil permeability requirements of the Department of Environmental Conservation's best practice for a Landfill site. To ensure that land continues to be available, a MOU is required with the landowner subject to relevant approvals processes being approved by the Community, Planning Commission and DEC.

BACKGROUND:

The Wagin Group of Council's steering Committee held a telephone conference on 1st August to discuss the next step for the Strategic Waste Project Regional Landfill site.

The project had previously, at the groups meeting on 23rd July, recognised that both Tarwonga and Piesseville sites were preferences and that a feasibility study should be conducted on both to identify the relevant merits of each. Since then, the owners of the Piesseville site have removed permission to include their land in the project and as a consequence the project now has one site only as the preferred regional landfill site.

The time taken to investigate further sites was discussed by the steering committee who elected to get an agenda item to councils for support of the Tarwonga MOU.

COMMENT:

One council, Lake Grace, have earlier written to the committee advising that they no longer intend to participate in the Regional Landfill site, however are still considering membership and may re-apply to join the group at a later date.

Early in the project it was apparent that the funding for the capital costs would need to be found by all participants and the majority view of the responses from a motion put to each of the group's councils at the December 2010 meetings was that the capital costs would be equally divided. It is now evident that land purchase may be able to be funded by Royalties for Regions funds, or at least some part of it.

Additional funding in phase 1 of the Waste Authority Regional Funding Program 2011/12 – 2015/16 will be available to the group, however the details of the items that can be funded have not been published as yet, and will be released at RFP workshops at a later date.

The remainder of the membership need to consider their continued support of the process being undertaken and membership of the group.

RECOMMENDATION:

To confirm that our Council will continue membership of the Regional Landfill Group and confirm our agreement that an MOU be signed with the Tarwonga site Landowner subject to relevant approvals processes being approved by the Community, Planning Commission and DEC.

544:2011/12

Moved Cr Price, Seconded Cr White that confirm that our Council will continue membership of the Regional Landfill Group and confirm our agreement that an MOU be signed with the Tarwonga site Landowner subject to relevant approvals processes being approved by the Community, Planning Commission and DEC on the basis of getting Regional CLGF funding for the project.

CARRIED 7-0

7.4 Australia Day Citizenship Awards 2012

NAME OF APPLICANT: Australia Day Council
FILE REFERENCE: 18.1.9
AUTHOR: CEO

SUMMARY:

The Australia Day Council have called for nominations for Citizenship Awards for presentation at the upcoming 2012 ceremonies. The nomination period closes Friday 25 November 2011, however the nomination period can be extended until Friday 6 January if required.

COMMENT:

Nominations also need to be called for Citizenship Awards presentations at the Australia Day breakfast to be held in Wandering since the last nominations called were for the 2010 Australia Day presentation.

RECOMMENDATION:

That Council call for nominations for Citizenship Awards and if appropriate lodge any outstanding nominations with the Australia Day Council of Western Australia.

[Attachment 4](#)

545:2011/12

Moved Cr Price, Seconded Cr Barge that Council advertise for Citizenship Award nominations immediately with the nomination period to close at 4.00pm on Friday 25 November 2011.

CARRIED 7-0

7.5 Bridgewood Holdings Pty Ltd

NAME OF APPLICANT: Bridgewood Holdings Pty Ltd
FILE REFERENCE: 23.1.10
AUTHOR: CEO

SUMMARY:

Notification has been received from Bridgewood Holdings Pty Ltd and Garry Young of their intention to obtain an exploration license. Details of the mining tenement application are attached with the proposed area shown to the south west of West Dale.

COMMENT:

Any objections to the proposed exploration license must be lodged with the Department of Mines and Petroleum by 27 September 2011.

RECOMMENDATION:

For Council information.

[Attachment 5](#)

7.6 2011 National Local Roads and Transport Congress

NAME OF APPLICANT: ALGA
FILE REFERENCE: 18.1.36
AUTHOR: CEO

SUMMARY:

Details of the upcoming National Local Roads and Transport Congress to be held in Mt Gambier on 16-18 November 2011 are attached for Council information. The cost of registration is \$960 and accommodation costs start from \$100 night.

COMMENT:

Current delegates for the Regional Road Group Hotham Group Sub Committee are Cr Dowsett and Cr Price and there are sufficient funds in the 2011/12 Budget should these delegates wish to attend the 2011 National Local Roads and Transport Congress.

RECOMMENDATION:

For Council information.

[Attachment 6](#)

7.7 Skid Steer Loader

NAME OF APPLICANT: CEO
FILE REFERENCE: 22.1.1
AUTHOR: CEO

SUMMARY:

Provision was made in the Budget for the purchase of a skid steer loader with road broom and plant trailer. Pricing has been requested from a number of suppliers and attached is the pricing and skid steer specifications that have been received to date.

COMMENT:

Currently we have only received firm pricing from Toyota and Westrac and are waiting on Hitachi (John Deere) and Case to forward through their pricing. Pricing for the other machines will be made available at the meeting.

RECOMMENDATION:

For Council discussion.

[Attachment 7](#)

All pricing for the skid steer loaders were submitted to Council for discussion.

546:2011/12

Moved Cr Schorer, Seconded Cr Barge that Council purchase a Toyota SDK8 Skid Steer Loader with the bucket broom for \$45,200 (GST Exclusive).

CARRIED 7-0

7.8 Lot 3 Pollard Road, Wandering – Living In Shed

NAME OF APPLICANT: D Chambers & A Timmins
FILE REFERENCE: A378
AUTHOR: EHO/BS

SUMMARY:

Recent inspections and investigation of file records have revealed that the shed constructed on Lot 3 Pollard Road is being used for habitation purposes without the approval of Council. Further, it has also revealed some illegal building work has been undertaken with the construction of a deck.

MINUTES FOR THE MEETING HELD 15 SEPTEMBER 2011

A building licence for a shed (Class 10(a) building) was issued on 17 January 2008 Permit No 22/07/08. This structure was obviously built.

A letter was sent to the owner on 18 June 2009 asking if the shed and lean to had been built according to the approval issued and that the shed is or will not be used for human habitation. This letter was sent because the Health and Building Officer, Mr Friend, had observed that a deck had been built that was not in the approved plans as well as windows and glass door had been installed that were also not in the approved plans.

On 20 July 2011 a letter was sent to the owners raising the same issues and stating that a response to the June 2009 letter had not been received. This letter also asked for copies of any approvals to be forwarded because they could not be located in the file.

A copy of the building licence was duly received as well as notes regards a meeting with Greg Powell (the then CEO) and Steve Friend (the then Health and Building Officer) stating "advise shed inspected by Ron (Rod) Wood Temporary Dwelling until house built will be converted to games room/office once house built. Fire alarm had to be fitted prior to use" This meeting took place on 24 June 2009.

To confirm this assertion I contacted Mr Wood who visited the area on 10 August 2011 to have a look at the site and refresh his memory. He stated that approval to live in the shed was not given by him and such approval could only be given by Council under the provisions of the Health Act and that if applied for it would have gone to Council. I also spoke to Mr Friend by telephone and he has no recollection of meeting with the owner and the then CEO. He also stated that he finished his employment with the Shire of Wandering on 19 June 2009.

The above circumstances were communicated to the owner in a letter dated 10 August 2011 and once again asking for copies of any approval documents so that I could present them to Council at this meeting. As of 7 September no response had been received.

A search of the minutes has also revealed that Council has not received any application to use the shed for habitation purposes.

An inspection of the site was conducted on 24 August 2011 and it appears from what was observed on the site that the shed is being used for habitation purposes and illegal building work in the form of a deck and installation of windows and glass sliding door had been undertaken.

No one was present on the site when the inspection was conducted so access to the internal of the shed was not gained.

COMMENT:

There are two issues that Council need to be mindful of the first is the illegal building of the deck and installation of the windows and glass sliding door in the shed and secondly the use of the shed for habitation purposes.

The Local Government (Miscellaneous Provisions) Act provides for Council to use Section 401 (1) of the act to order the removal of the illegal building as outlined below. Alternatively Council could look at issuing a Building Approval Certificate once all the necessary documents and certifications have been provided for the structure in question.

401. Notice of required alterations

(1) A local government may, during or after the erection of a building in its district, give to the builder or owner of the building, written notice of anything, in the construction of the building —

(a) which tends to render the building unsafe or prejudicial to the public interest;

(b) which is not in compliance with, or is a departure from, the plans and specifications for the building, of which plans and specifications the approval of the local government has been obtained as required by this Act;

(ba) which is a contravention of this Act; or

(c) which, where permission of the local government is required for carrying it out, has been carried out without that permission; and requiring him to pull down or so alter the building as to remove the cause of the objection and on being served with the notice the builder or owner shall comply with the requisition, unless he applies to the State Administrative Tribunal under subsection (3) for a review of the decision to make the requisition and the State Administrative Tribunal sets aside the decision.

The use of the shed for habitation is covered under Section 144 of the Health Act (see below)

144. Building not erected as dwelling not to be converted into one

No person shall convert into or adapt or use as a dwelling any building not originally constructed or erected as a dwelling-house, and no person shall let, or lease, or sublet, or sublease, or otherwise permit, whether for any consideration or gratuitously, the use of, the building as a dwelling, without having first obtained the consent of the local government of the district in which the building is situated, and complied (in case a conditional consent is given) with such conditions as the local government has seen fit to impose.

Consent in this case has not been given and I would recommend that consent not be given until an inspection of the internal of the shed has been undertaken.

Should Council consider consenting to the use of the shed under this Section of the Health Act then strict conditions should be applied.

RECOMMENDATION:

1. That Council require the owners of Lot 3 Pollard Road Wandering to;
2. Submit an application for a building approval certificate for the deck attached to the shed located on the above Lot. The plans are required to be inspected and certified by a structural engineer.
3. Approve the shed to be used as a dwelling subject to an inspection by the Environmental Health Officer/Building Surveyor and compliance with any conditions with regards to using the shed as a dwelling as is imposed by said officer.
4. Permits the shed to be used as a dwelling once the conditions imposed by the Environmental Health Officer/Building surveyor have been satisfied until 22 September 2012, and
5. Requires an application for a residence to be submitted by the owners by 22 March 2012

Cr Kerr left the meeting at 3.18pm and returned at 3.27pm

547:2011/12

Moved Cr Price, Seconded Cr that McNeil that Council require the owners of Lot 3 Pollard Road Wandering to;

- 1. Submit an application for a building approval certificate for the deck attached to the shed located on the above Lot. The plans are required to be inspected and certified by a structural engineer**
- 2. Approve the shed to be used as a dwelling subject to an inspection by the Environmental Health Officer/Building Surveyor and compliance with any conditions with regards to using the shed as a dwelling as is imposed by said officer**
- 3. Permits the shed to be used as a dwelling once the conditions imposed by the Environmental Health Officer/Building surveyor have been satisfied until 22 September 2012, and**
- 4. Requires an application for a residence to be submitted by the owners by 22 March 2012**

CARRIED 7-0

7.9 List of Accounts – August 2011

NAME OF APPLICANT: Finance Officer
FILE REFERENCE: N/A
AUTHOR: Finance Officer

SUMMARY:

Attached is a list of accounts for Council consideration.

RECOMMENDATION:

That all Cheque, EFT, wages, transport payments, transfers to investments, credit card payments, creditor payments and other vouchers from the Municipal and Trust Fund totalling \$714,638.78 be passed for payment.

[Attachment 8](#)

548:2011/12

Moved Cr McNeil, Seconded Cr Schorer that all Cheque, EFT, wages, transport payments, transfers to investments, credit card payments, creditor payments and other vouchers from the Municipal and Trust Fund totalling \$714,638.78 be passed for payment.

CARRIED 7-0

7.10 Financial Reports – August 2011

NAME OF APPLICANT: CEO
FILE REFERENCE: N/A
AUTHOR: CEO

SUMMARY:

Separately attached are the monthly Financial Statements for the period ending 31 August 2011.

RECOMMENDATION:

That Council endorse the monthly Draft Financial Statements for the period ending 31 August 2011.

[Attachment 9](#)

549:2011/12

Moved Cr White, Seconded Cr Kerr hat Council endorse the monthly Draft Financial Statements for the period ending 31 August 2011.

CARRIED 7-0

8. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

8.1 Works Supervisor Vehicle Changeover

NAME OF APPLICANT: CEO
FILE REFERENCE: 22.1.1
AUTHOR: CEO

SUMMARY:

The current Works Supervisor vehicle is approaching 40,000km's and some changeover prices have been obtained with Narrogin Toyota being the cheapest changeover price of \$3,750 (GST Inclusive).

COMMENT

Provision for \$10,000 was allowed in the budget, however it was agreed when the budget was adopted that the vehicle would only be traded if the changeover was significantly less than the amount provided in the budget.

RECOMMENDATION:

For Council Discussion.

550:2011/12

Moved Cr Schorer, Seconded Cr Barge that Council purchase the Toyota Hilux 4x4 Dual Cab from Narrogin Toyota for a changeover of \$3,750 (GST Inclusive)..

CARRIED 7-0

9. NEXT MEETING

Next Ordinary Council meeting to be held on Thursday 20 October 2011 at a time to be confirmed.

10. CLOSURE OF MEETING

There being no further business the meeting closed at 4:56pm

**These Minutes were confirmed by Council at the Ordinary Council Meeting
on Thursday 20 October 2011.**

CR B E DOWSETT, Chairman