



*Heritage, Commerce and Lifestyle*

## **SHIRE OF NORTHAM**

**MINUTES  
OF THE  
SPECIAL COUNCIL MEETING  
HELD ON  
WEDNESDAY  
29 FEBRUARY 2012**

# SHIRE OF NORTHAM

Minutes of the Special Council Meeting held in the Council Chambers on  
WEDNESDAY, 29 FEBRUARY 2012 at 5:30 pm

## DISCLAIMER

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### 1. **OPENING AND WELCOME**

Cr SB Pollard declared the meeting open at 5:30pm

### 2. **DECLARATION OF INTEREST**

Parts of Division 6 Subdivision 1 of the Local Government Act 1995 requires Council members and employees to disclose any direct or indirect financial interest or general interest in any matter listed in this agenda.

The Act also requires the nature of the interest to be disclosed in writing before the meeting or immediately before the matter being discussed.

NB A Council member who makes a disclosure must not preside or participate in, or be present during, any discussion or decision making procedure relating to the disclosed matter unless the procedures set out in Sections 5.68 or 5.69 of the Act have been complied with.

Cr KD Saunders has declared an 'Indirect Financial' Interest in Item 7.1.2 – Shire of Northam Draft Local Planning Scheme No.6 – Page 26, No.8 as Spouse has financial interest in Northam Country Club.

Cr U Rumjantsev has declared an 'Impartiality' Interest in Item 7.1.2 Shire of Northam Draft Local Planning Scheme No.6 – Page 89, El Caballo Lifestyle Village, Fermora Pty Ltd – as he and with Wife Patricia are long term friends with applicant for El Caballo Lifestyle Village, as stated between 2007 – 2011.

Cr DA Hughes has declared an 'Impartiality' Interest in Item 7.1.2 - Shire of Northam Draft Local Planning Scheme No.6 – as he has known Ian Parker and John Masters for many years.

### **3. ATTENDANCE**

#### **3.1 Council**

President  
Councillors

Cr S B Pollard  
T M Little  
U Rumjantsev  
K D Saunders  
J E Williams  
R M Head  
A W Llewellyn  
D A Hughes  
D G Beresford

Executive Manager Development Services P B Steven  
Executive Manager Corporate Services D R Gobbart  
Project Manager Community Infrastructure C B Hunt

#### **3.2 Gallery**

14 members in the gallery and 2 Shire of Northam Staff members

### **4. APOLOGIES**

Chief Executive Officer N A Hale  
Executive Manager Engineering Services I R Bartlett

### **5. LEAVE OF ABSENCE**

**Nil**

## 6. PUBLIC QUESTION TIME

Various questions were raised by the gallery with respect to Item 7.1.2 - Shire of Northam Draft Local Planning Scheme No.6

### Individual Zoning Issues

Mr Stan Malinowski inquired regarding the status of the two submission submitted regarding the possible increase in density coding for Northam Country Club and Willowfield Nominees Pty Ltd.

Officer response – Officers have considered the submission, however, at this stage staff is recommending that the proposed zoning for the Northam Country Club be R30 and that the Willowfield Nominees Pty Ltd land be coded R15 given the surrounding density and the fact that the land is located within an existing and proposed Special Control Area of the Scheme. Staff also stated that at this pointy in time this is a recommendation to Council and Council can either adopt the individual recommendation or propose new ones.

Mr Aaron Lohman (Planning Consultant) and Dale West (landowner) asked various questions regarding Lot 10 Great Eastern Highway, Northam (locally known as Four Winds Farm), and specifically requested that the land be included within a development investigation area for further subdivision. Issues regarding access and

Staff Response- Staff indicated that at this stage the focus for the town growth is for infill development in Town, rather than rural living on the east side of the townsite. Issues with the proposed development in this location include access, rural vistas and proximity to existing and proposed industrial landuses.

Mr Aaron Lohman (Planning Consultant) acting on behalf of the landowners of Linley Valley Abattoirs questioned the proposed zoning for the existing abattoir and the adjoining landholdings. Questioned if the abattoir land can be zoned “Ag-Local” with an additional use clause that permits the development of an abattoir and associated uses.

Staff Response – staff indicated that the proposed zoning of the abattoir land is proposed to be included within a “Special Use” zone under Town Planning Scheme No 6. It was also clarified that the buffer included within the Scheme was 500 metres from the treatment ponds and the abattoir buildings themselves

Mr Matthew Pavlinovich questioned that given he was only notified a week ago regarding this meeting is the purpose of the meeting to adopt the Scheme or is Council going to defer it? – one week ago regarding this meeting, Agenda available on Monday. Is the purpose of the meeting to adopt or are Council going to defer it?

Cr Steven Pollard responded that the Officers recommendation is to adopt, however Council may consider deferring the matter to allow further research into the issues raised.

### Avon West Precinct

Various landowners ( including Mrs Liz Brown, Mr John Masters, Mrs Janette Masters, Mr Stephen Tonkin and Aaron Lohman representing Mark Hay) within the precinct expressed concerns regarding the proposal to remove the ability to subdivide into 50 hectare lots as currently contained within the existing Town Planning Scheme and Strategy. Questions related to the issue of compensation for the loss of this ability to subdivide, the impact of the proposed landscape protection given the proximity of the railway line and marshalling yards, questions over the protection of the rural vistas and who should be responsible for this and the existing subdivision approvals that are in place for various landowners in the precinct.

Officer Response-Staff indicated that the existing provisions within the Scheme for the Avon West Precinct are proposed to be removed from the new Scheme, due to the concerns regarding rural vistas, water supply and access issues Again it was stated that this is a recommendation to Council only at this stage.

## 7. AGENDA ITEMS

### 7.1. Special Items

The Public departed the Chambers at 6:25pm.

#### Minute No. C1721

**Moved: Cr AW Llewellyn**

**Seconded: Cr DA Hughes**

**That the Council move in to committee of a whole and to discuss Item 7.1.2**

**Carried 10/0**

### 7.1.2 SHIRE OF NORTHAM DRAFT LOCAL PLANNING SCHEME NO.6

Name of Applicant:	Internal Staff Report
File Ref:	3.1.1.12
Officer:	Phil Steven / William Baston / Brooke Newman
Officer Interest	Nil
Policy:	Planning and Development Act 2005 Planning and Development Regulations 2009
Voting:	Simple Majority
Date:	22 February 2011

#### PURPOSE

For Council to consider to adopt in final the Draft Local Planning Scheme No 6 and Local Planning Strategy. The report also requests that Council request that the Minister for Planning give final consent with inclusion of the proposed density changes within the Northam townsite as a consequence of the State Government's Regional Centres Development Plan ("Supertowns") and minor modifications as a result of the submissions received during the public advertising period.

#### BACKGROUND

On the 17<sup>th</sup> March 2010, Council, at its Ordinary Council Meeting, resolved to prepare a Local Planning Scheme as follows:

- "1. That Council resolve, in pursuance of section 72 of the Planning and Development Act 2005, to prepare the Shire of Northam Local Planning Scheme with reference to an area situated wholly within the Shire of Northam and enclosed within the inner edge of the black border on a plan as attached.*
- 2. That Council, with respect to the proposed new Shire of Northam Local Planning Scheme, endorse the statement setting forth the purpose, aims and anticipated format of the Scheme as documented in Attachment 1 to this report."*

On the 6<sup>th</sup> October 2010, Council, at its Ordinary Council Meeting, resolved to adopt the draft Local Planning Scheme as follows:

- “1. That Council adopt for the purpose of public advertising Local Planning Scheme No.6 consisting of:
  - Scheme Text;
  - Scheme Map.
2. That Council forward Local Planning Scheme No.6 to the Environmental Protection Authority for assessment prior to commencing advertising for public inspection in accordance with the provisions of the Planning and Development Act 2005.
3. That Council forward Local Planning Scheme No.6 to the Western Australian Planning Commission seeking consent for advertising for public inspection in accordance with the provisions of the Planning and Development Act 2005.”

Council advertised both the Scheme and Strategy in accordance with the provisions of the Act and following closure of the advertising period a total of forty nine (49) submissions were received.

## **STATUTORY REQUIREMENTS**

Council's resolution in this matter will help to ensure compliance with the procedural requirements of the *Planning and Development Act 2005* and *Planning and Development Regulations 2009* as they apply specifically to the preparation of all new Local Planning Schemes and associated Local Planning Strategies in Western Australia.

Section 72 of the *Planning and Development Act 2005* refers to the preparation of a Local Planning Scheme.

Draft Local Planning Scheme No 6 was advertised for the required statutory timeframe. As a result of the advertising period, 49 submissions were received (see attached Schedule of Submissions).

It is proposed to resolve to request the Minister for Planning to adopt in final the Draft Local Planning Scheme No 6 incorporating provisions related to the Preliminary Northam Growth Plan and modifications as a result of submissions received during the advertising process.

## **CONFORMITY WITH THE PLAN FOR THE FUTURE**

**Goal -** To maintain a balance between maintenance of our lifestyle and sense of community with population growth and accompanying development.

**Goal -** To anticipate the land use needs within the Shire and implement planning decisions that ensures availability of appropriately zoned land that compliments orderly and environmentally sustainable growth and development.

The adoption of a new Local Planning Scheme and associated Local Planning Strategy for all land within the Shire's municipal district is consistent with the general strategic direction contained in the Shire's "Plan for the Future 2010" document.

## **BUDGET IMPLICATIONS**

The current budget allocation for the 2011 / 2012 Budget is \$20,000.

## **OFFICER'S COMMENT**

In order to formally progress the Shire's proposed new Local Planning Scheme and associated Local Planning Strategy, Council is required to pass a resolution to incorporate modifications as a result of the submissions received during the advertising process, and to allow for the short term recommendations of the Preliminary Northam Growth Plan to be included in the draft and request the Minister for Planning to adopt in final the Draft Local Planning Scheme No 6.

### **Schedule of Submissions**

There were number of submissions received relating to various issues. The main issues being:

#### **1. Avon West Precinct**

Under the existing Shire of Northam Local Planning Strategy, the land identified within the "Avon West Precinct" carried a provision to allow for subdivision with a minimum lot size of 50ha.

The Draft Local Planning Strategy No 6 proposes to remove this provision. There are a number of reasons for the Shire's approach as follows:

- A. The topography of the land. It is not considered that the land contained within the Avon West Precinct is suitable for subdivision due to the steep slopes and granite/rocky outcrops.

There is a small amount of low lying level land within the area and it is envisaged that this area should be continued to be farmed.

The construction of dwellings and effluent disposal is difficult to achieve on land incorporating steep slopes and granite/rocky outcrops. Similarly, there would be numerous difficulties with constructing roads due to high granite outcrops and significant creeklines which traverse the entire area.

- B. It is envisaged that this area should be protected as an environmentally significant area and should be utilised as a "rural vista" for the approach to Northam from Toodyay. Agricultural landuses should be encouraged and the protection of the hills and steep slopes are considered to be essential to achieving the rural vista desired for this area. It is considered that construction of dwellings and ancillary outbuildings would destroy the agricultural/rural attraction of the area.

It is not supported that remnant vegetation be removed from the land as this also lends itself to promoting a vegetated natural rural landscape for the area.

- C. There has been a considerable lack of subdivision activity in the area since the adoption of the previous Local Planning Strategy in December 2004. In the last four years, a subdivision has been approved in the area but to date, only one lot has been cleared from the approved subdivision.

This trend clearly identifies the area as being low demand and carries with it a high cost to develop.



- D. The Avon West Precinct has a number of extractive industries present. Some of these are not currently operating but, due to remaining resources, may at some point in the future, recommence operation.

Subdivision where extractive industries and basic raw materials have been identified should not be encouraged and the Department of Mines and Petroleum have made a submission on landuse conflicts between basic raw materials extractions and rural living subdivisions.

- E. A number of the lots within the Avon West Precinct contain parcels that abut the Avon River. Foreshore management is difficult to achieve due to the lack of interest from Government Departments to take over the management of the area. Allowing residential development on land with river frontage is not encouraged as it is difficult to control contaminants, pests and livestock from destroying the natural foreshore and the river in general.

Residential development is also not encouraged in areas identified as having a flood risk.

## **2. Mining of Basic Raw Materials and Minerals**

Submissions received from the Department of Mines and a number of mining companies has identified the need to modify the landuse definitions within the Draft Local Planning Scheme No 6.

Basic raw materials and minerals are identified under the Mining Act 1987 as follows:

*“minerals means naturally occurring substances obtained or obtainable from any land by mining operations carried out on or under the surface of the land, but does not include -*

- (a) soil; or*
- (b) a substance the recovery of which is governed by the Petroleum and Geothermal Energy Resources Act 1967 or the Petroleum (Submerged Lands) Act 1982; or*
- (ba) without limiting paragraph (b), geothermal energy resources as defined in the Petroleum and Geothermal Energy Resources Act 1967 section 5(1); or*
- (c) a meteorite as defined in the Museum Act 1969; or*
- (d) any of the following substances if it occurs on private land -*
  - (i) limestone, rock or gravel; or*
  - (ii) shale, other than oil shale; or*
  - (iii) sand, other than mineral sand, silica sand or garnet sand; or*
  - (iv) clay, other than kaolin, bentonite, attapulgite or montmorillonite;”*

The above definition can be explained as meaning that all basic raw materials are classified as “minerals” and are governed by the Mining Act 1987 except (when present on privately owned land) minerals identified under (d) above. Minerals defined under (d) above are governed by the Mining Act 1987 only when present on Crown land.

Minerals that are covered by the Mining Act 1987 are governed by the Department of Mines and Petroleum and exclude Local Government jurisdiction.

## **3. Landuse Issues (El Caballo, Linley Valley Abattoir and Hepple’s Abattoir)**

It is proposed to control landuse issues regarding the El Caballo resort by applying a “Special Control Area” over the land which will allow for development in a controlled and sustainable manner.

The Linley Valley Abattoir is proposed to be retained as a “Special Use Area” and not “Agriculture-Local” with an “Additional Use”. This will ensure the future expansion of the abattoir and control the issue of sensitive landuses via the imposition of the 500m buffer area. It is, however, proposed to exclude existing residential land from the “Special Control Area” and rezone those to “Rural Residential”. These landholdings are currently utilised for residential purposes.

#### **4. Individual Rezoning Requests**

A number of individual rezoning requests have been made and each have been assessed on their merits. Comments have been made regarding these individual requests and reference is made to the schedule of submissions attached.

#### **Schedule of Modifications**

A schedule of modifications has been prepared which details proposed changes to the text and maps of both the Local Planning Scheme No 6 and Local Planning Strategy No 6 and has been attached to this report.

#### **Northam Growth Plan**

The draft Local Planning Scheme No 6 embodies the principles of ‘sustainable and liveable’ community. As such, it is recommended that Council resolve that a modified draft including Northam Growth Plan provisions for higher density zoning within the townsite of Northam.

A large number of properties within the townsite of Northam have been identified for higher density development and for additional “Mixed Use/Commercial” development. Maps detailing these proposed zoning changes are attached to this report.

Until such time as Local Planning Scheme No 6 and Local Planning Strategy No 6 have been adopted in final by the Minster and gazetted, the Shire’s current Local Planning Strategy and Town Planning Scheme No 3 and the Northam townsite Local Planning Strategy and Town Planning Scheme No 5 will continue to operate.

### **RECOMMENDATION**

**That Council pursuant to the Planning and Development Act 2005, resolve as follows to:**

- 1. adopt in final Local Planning Scheme No 6 with modifications as outlined in the Schedule of Modifications (Scheme) and consisting of:**
  - (a) Scheme Text;**
  - (b) Scheme Map.**

2. **adopt in final Local Planning Strategy No 6 with modifications as outlined in the Schedule of Modifications (Strategy) and consisting of:**
  - (a) **Strategy Text;**
  - (b) **Strategy Map.**
3. **endorse the Chief Executive Officer and the Shire President to duly sign the Draft Local Planning Scheme No 6 and Local Planning Strategy No 6.**
4. **forwards the finally adopted and duly signed Local Planning Scheme No 6 and Local Planning Strategy No 6 to the Western Australian Planning Commission seeking Minister's Consent in accordance with the provisions of the Planning and Development Act 2005 and Town Planning Regulations.**

#### **ALTERNATE MOTION**

##### **Minute No C.1722**

**Moved: Cr RM Head  
Seconded: CrTM Little**

**That Council defer any formal adoption process until our regular March meeting, to allow time for affected parties to explain their positions and for an orderly adoption process to occur.**

**CARRIED 10/0**

##### **Minute No.C.1723**

**Moved: Cr RM Head  
Seconded: Cr U Rumjanstev**

**That Council move out of committee of a whole.**

**Carried 10/0**

### 7.1.1 SHIRE OF NORTHAM SUPERTOWNS PROGRAMME BUSINESS CASES

Name of Applicant:	Internal Staff Report
File Ref:	3.1.8.13
Officer:	Chadd Hunt / William Baston
Officer Interest	Nil
Policy:	Nil
Voting:	Simple Majority

#### PURPOSE

For Council to consider the endorsement of four business cases associated with the State Government's Regional Centres Development Plan (SuperTowns) programme. The Royalties for Regions initiative is aimed at encouraging selected regional communities located in the southern half of the State to plan and prepare for what is predicted to be a doubling of the State's population over the next 40 years.

#### BACKGROUND

On the 4<sup>th</sup> July 2011, Northam was selected, along with eight other regional towns, as being part of the SuperTowns Programme. The initial nine towns were chosen using the following criteria:

- Potential for population expansion;
- Potential for economic expansion and diversification;
- Strong local governance capabilities; and
- Generation of net benefits to Western Australia.

The other towns selected were Jurien Bay, Morawa, Margaret River, Manjimup, Collie, Esperance, Boddington and Katanning.

SuperTowns aims to prepare the communities for expansion so they can provide an attractive choice for people wanting to live in regional towns, especially as metropolitan density rises, and to attract investment to drive and sustain economic growth.

#### STATUTORY REQUIREMENTS

There is no specific legislation that relates to the State Government's Regional Centres Development Plan. Four background documents are available from the Department of Regional Development and Lands (RDL) which provide the governance framework for the SuperTowns Program, these are:

- Regional Centres Development Plan;
- SuperTowns Growth Plan Toolkit 2011-12;
- Minimum Requirements of a Growth Plan Required by 29 February 2012; and
- Royalties for Regions Business Case Proposal.

As Council is aware a Preliminary Growth Plan has been prepared and endorsed by Council and has been submitted to both the Department of Planning and Wheatbelt Development Commission for consideration. The plan is able to be refined and the final consolidated version is to be submitted by August/September 2012.

## **CONFORMITY WITH THE PLAN FOR THE FUTURE**

**Goal -** To maintain a balance between maintenance of our lifestyle and sense of community with population growth and accompanying development.

**Goal -** To anticipate the land use needs within the Shire and implement planning decisions that ensures availability of appropriately zoned land that compliments orderly and environmentally sustainable growth and development.

The endorsement of the business case proposals will ensure the Shire of Northam will be able to submit for funding for recognized projects in the initial funding round opening 24<sup>th</sup> February and closing 6<sup>th</sup> March 2012.

## **BUDGET IMPLICATIONS**

SuperTowns have provided the Shire of Northam with financial assistance through the *SuperTowns Development Planning Fund 2011-12*, to support activities associated with developing a Growth Plan and a Feasible Implementation Plan. At this stage there is additional funding available to complete the finalisation of the Growth Plan.

Further project funding is now available for the Shire of Northam to apply for funding to implement priority projects identified in the Growth Plan and the Feasible Implementation Plan. It has been stated that each of the selected SuperTowns are able to submit of up to four (4) business cases each into the initial funding round. The business cases are to be assessed on the following selection criteria –

- potential to stimulate and sustain economic and population growth in the community (40%);
- project readiness and viability (30%); and
- leveraging financial or other resources for the project (30%).

It is expected that these priority projects will be transformational in nature, acting as a catalyst to unlock the community's growth potential and continue to drive progress in their community.

It is anticipated that funding from other sources may be required to fund these projects.

## **OFFICER'S COMMENT**

The four business cases have been created from the recommendations from the Preliminary Northam Growth Plan (as adopted by Council in January 2012) and inclusive of the Feasible Implementation Plan component.

It is clear that the business cases that will be submitted are an opportunity for Council and the State Government to undertake significant development within the Northam locality which will be of benefit to the Avon Sub Region. As indicated above the business cases are being considered as competitive in nature and subsequently the details of the business cases are being treated confidentially.

The proposed business cases include a resourcing component which will enable the projects to be developed through the employment of additional staff and/or external contractors. It is also apparent that following the submission of the business cases there will be a need for refinement following the feedback and clarification from the Steering Committee's initial assessment.

## **COUNCIL DECISION**

### **Minute No C.1724**

**Moved: Cr RM Head**

**Seconded: Cr TM Little**

**That Council,**

- 1. endorse the following four business cases in the order of priority as submitted and submit them along with the Preliminary Northam Growth Plan to the Department of Regional Development and Lands:**
  - 4. Health and Emergency Services Precinct;**
  - 3. Revitalise Northam;**
  - 2. Environment; and**
  - 1. Community and Social.**
  
- 2. records its appreciation for the work of its officers, particularly Will Baston, Chadd Hunt and other officers for their contribution to this process.**

**CARRIED 10/0**

**8. DECLARATION OF CLOSURE**

There being no further business the Presiding Officer declared the meeting closed at 6:45pm.

“I certify that the Minutes of the Special Meeting of Council held on 29 February 2012 have been confirmed as a true and correct record.”

\_\_\_\_\_ Shire President

\_\_\_\_\_ Date