

## **1.2 FINAL ADOPTION OF DRAFT POLICY - KEEPING OF LIVESTOCK**

(ALL WARDS) (SPS)

### **KEY ISSUES AND RECOMMENDATION**

- To date the City has not had a comprehensive policy to provide guidance to landowners or City staff in relation to the keeping of livestock. The purpose of this policy is to provide guidance to landowners, City staff and Councillors in relation to the keeping of livestock.
- This policy is generally based on the Agriculture Western Australia document titled “Stocking Rate Guidelines for Rural Small Holdings - Swan Coastal Plain and Darling Scarp” (AGWA Guidelines). These AGWA Guidelines provide a detailed guide to the keeping of livestock within the Swan Coastal Plain and Darling Scarp.
- The draft policy has been advertised for an extended period of 42 days following the Councils resolution to adopt the policy for the purposes of advertising on 13 October 2004, in accordance with Clause 2.4A of Town Planning Scheme No. 9.
- 15 submissions were received from various interest groups, individuals and organisations with the majority of submissions expressing opposition to the policy on the basis that it would result in onerous and unreasonable restrictions on the existing rights of landowners to keep livestock.
- It is considered appropriate to make modifications to the draft policy in light of the submissions received.

It is recommended that the Council adopt a modified policy as outlined in this report.

### **AUTHORITY/DISCRETION**

Council can adopt planning policies under Clause 2.4A of Town Planning Scheme No. 9 (TPS9).

Clause 2.4A provides for a procedure under which Council is to adopt a policy. In exercising discretion on planning matters the Scheme requires the Council to have due regard to relevant 2.4A policies.

### **BACKGROUND**

The Draft Policy has been developed to provide a comprehensive approach to the keeping of livestock within the City, based on the AGWA Guidelines. The City’s Planning staff as a working practice currently use the AGWA Guidelines as an assessment tool when considering applications for the keeping of livestock. This policy formalises this approach to assessment, as well as relating it more directly to the City.

## **DETAILS OF THE PROPOSAL**

This policy applies to all development applications for the keeping of livestock within the City of Swan but does not apply to applications for intensive animal husbandry such as piggeries, stockyards, feedlots etc.

The objectives of the policy are to ensure that:

- Livestock keeping is undertaken in a sustainable manner;
- The keeping of livestock does not have a significant negative impact on the natural environment; and
- The keeping of livestock does not impact detrimentally on the amenity of adjoining landowners.

## **OTHER RELEVANT PREVIOUS DECISIONS OF COUNCIL**

That the Council resolve to:

- (1) Advertise the draft policy “Keeping of Livestock” for public comment for a period of 42 days, in accordance with Clause 2.4A of Town Planning Scheme No. 9.
- (2) Consider the proposed policy after the close of the advertising period along with any submissions received during the submission period.
- (3) Revoke Policy E2.11 - Stables and the Keeping of Horses.

## **PUBLIC CONSULTATION**

In accordance with Clause 2.4A of Town Planning Scheme No. 9, the policy was advertised for public comment for a period of 42 days, in excess of the standard advertising period of 28 days, due to the high level of public interest expressed by interested parties prior to the commencement of the public consultation period.

Following advertising of the draft policy, the Council must consider any submissions received and resolve to adopt the policy with or without modification, or to refuse to adopt the policy. If Council adopts the policy it then must publish a notice in a local newspaper advising of that decision.

A total of 15 submissions were received. Of the submissions received two were supportive of the policy and suggested minor modifications to its content. The majority of submission however objected to the policy with most of the objections focusing on the perceived impact of the policy on landowners who currently keep livestock. Clearly there is a need to explain in future that the planning system cannot impact on the rights of landowners to continue to use their land providing they have established their use lawfully. The vast majority of rural land in the City of Swan that is currently used for the keeping of livestock has been used for this purpose either before there was a requirement to obtain planning approval or has been established through planning approvals. This policy will not impact upon any of these landowners and will only affect newly established rural – residential properties where livestock keeping is proposed.

The attached Schedule of Submissions details the content of each of the submissions received and provides a response to each of the matters raised.

It is considered appropriate to make a number of modifications to the draft policy in light of the submissions received. A significant portion of the objections received were from horse owners who pointed out the lack of any mention of supplementary feeding that often takes place where horses are grazed. Supplementary feeding greatly reduces the level of grazing pressure on the land and hence it is considered appropriate to modify the policy to make specific mention of supplementary feeding as a mechanism by which the impact of grazing pressure on the land can be reduced. Section 5.2 of the policy should be modified to make specific mention of supplementary feeding as a feature of property management plans which can reduce grazing pressure.

The draft policy included a requirement for a buffer of 100 metres between land where livestock is to be kept and a dam. This setback requirement is more appropriate to dams used for drinking water and is clearly not appropriate for dams constructed primarily for the watering of stock. A number of submissions objected to this buffer requirement and it is considered appropriate to remove this buffer requirement altogether.

A number of submissions expressed the view that the policy is not clear as to when planning approval is and is not required for the keeping of livestock. While it is not normally the role of a local planning policy to explain when planning approval is and is not required, some clarification is considered appropriate in this case due to the ambiguity in Scheme Clause 8.3.6.1, which only states that planning approval is necessary where it is proposed to keep livestock in a manner contrary to the recommendations of the Department of Agriculture. It is considered appropriate to add to the final paragraph in the rationale section of the policy (Section 4.0) to clearly state that this scheme clause is interpreted to mean that planning approval is not required to keep stock within the base (dry) stocking rate. This approach is consistent with that contained within the AGWA Guidelines document which forms the basis of this policy.

A submission recommends that property management plans should provide information regarding likely water use requirements. This is considered appropriate and hence it is recommended to modify Appendix 1 of the policy which lists information that should be included in a property management plan that accompanies a development application for the keeping of livestock to include water use.

## **CONSULTATION WITH OTHER AGENCIES AND/OR CONSULTANTS**

The draft policy was referred to a number of local interest groups and to a number of state government agencies including; Susannah Brook Catchment Group, Gidgegannup Progress Association, The Friends of Gidgegannup Regional Land Restoration, Department for Planning & Infrastructure, Department of Environment, Woorooloo Brook Land Conservation District Committee, Eastern Hills Catchment Management Program, Swan Valley Planning Committee, Agriculture WA, Gidgegannup Hills and Equestrian Association and the Department of Indigenous Affairs.

Comments were also sought from the neighbouring local governments of the Shire of Mundaring, Shire of Chittering and Shire of Toodyay.

A number of the local interest groups provided substantial comments which are outlined in the attached schedule of submissions.

## **REPORT**

While a majority of the submissions received objected to the content of the draft policy, a number of the grounds for the objections can be addressed through undertaking the modifications to the policy as recommended in this report. A common theme in the objections received was that landowners with existing livestock perceived the policy as impacting upon their existing rights to graze their land. This is clearly not the case given that the planning system recognises the rights of land uses to continue providing they were lawfully established. The public should be made more aware of this fact in the future when advertising policies such as this which could be misconstrued in such a manner.

A majority of the objectors are horse owners who expressed the view that the policy discriminates against them, although it is not altogether clear why this view was held, making specific mention of supplementary feeding as a means of reducing grazing pressure on land is particularly relevant to horse owners and should address these concerns somewhat. It is noted that this policy does not make any distinction between horses and other livestock, this approach is considered much better than previous practice and as a result the former policy titled 'Stables and the Keeping of Horses' was revoked at the Ordinary Meeting of Council on 13 October 2004, recognising that all livestock should be treated in a similar manner.

Nearly all of the submissions received suggested modifications to the policy, it is considered appropriate to incorporate many of these suggested modifications as outlined in this report.

Clearly there will be a need to review the policy after it has been in operation for a reasonable amount of time, in order to identify any deficiencies that may exist and recommend any further modifications that should be made.

The policy will undoubtedly be of considerable benefit to City Officers in providing a practical framework for the assessment of development applications for the keeping of livestock and hence it is recommended that the Council adopt the policy and bring it into immediate operation.

## **OPTIONS AND IMPLICATIONS**

Option 1: The Council may resolve to adopt the proposed policy with or without modification. It is recommended that the Council adopt a modified policy, incorporating the modifications recommended in this report. This is the recommended option.

Implications: The adoption of the policy will provide City Officers and the public with the basis for which all applications for the keeping of livestock will be assessed in a consistent manner.

Option 2: The Council may resolve not to adopt the proposed policy. This is not the recommended option.

Implications: The policy will not proceed and the existing lack of guidance for the assessment of applications for the keeping of livestock other than horses will continue.

## **CONCLUSION**

It is recommended that Council resolve to adopt the policy subject to a number of modifications as detailed in this report.

The policy clearly expresses the Council's position in regards to the assessment of development applications for the keeping of livestock and will ensure a consistent approach is taken to the assessment of applications of this nature in the future.

## **ATTACHMENTS**

Nil

## **APPENDICES**

- Modified draft policy indicating new text in bold and italics and deleted text in strikethrough
- Schedule of Submissions

## **STRATEGIC IMPLICATIONS**

Nil

## **STATUTORY ENVIRONMENT**

The Draft Policy once adopted will provide a framework for the assessment of development applications for the keeping of livestock.

## **FINANCIAL IMPLICATIONS**

If adopted, the Council will be responsible for the cost of publishing a notice in a paper circulating in the district.

## **RECOMMENDATION**

That the Council resolve to:

- (1) Note the comments made by the submitters.
- (2) Note that the policy has been modified taking into consideration some of the comments made by the submitters.
- (3) Adopt the amended policy "Keeping of Livestock" as a Clause 2.4A policy under Town Planning Scheme No. 9.

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- (4) Publish a notice in a newspaper circulating in the district advising that the policy has been adopted with amendments and shall have the status as a Clause 2.4A policy under Town Planning Scheme No. 9.
- (5) Advise all those that made submissions accordingly.

**CARRIED**