



## **ORDINARY COUNCIL MEETING**

# **MINUTES**

Ordinary Meeting of the Council  
held in the Council Chambers  
2.45pm Tuesday 8 March 2005

**Rob Stewart**  
**CHIEF EXECUTIVE OFFICER**

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## 1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2.45pm The Presiding Member declared the meeting open.

The Chief Executive Officer, Mr Rob Stewart, read aloud the following disclaimer:

'No responsibility whatsoever is implied or accepted by the Shire of Plantagenet for any act, omission or statement or intimation occurring during Council / Committee meetings or during formal / informal conversations with staff.

The Shire of Plantagenet disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, or statement of intimation occurring during Council / Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation or approval made by a member or officer of the Shire of Plantagenet during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Plantagenet. The Shire of Plantagenet warns that anyone who has an application with the Shire of Plantagenet must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Plantagenet in respect of the application.'

## 2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Cr K Forbes	Shire President – Rocky Gully / West Ward
Cr D Williss	Deputy Shire President – East Ward
Cr J Cameron	Rocky Gully / West Ward
Cr K Hart	Kendenuk Ward
Cr M Skinner	East Ward
Cr K Clements	Town Ward
Cr J Moir	South Ward
Mr R Stewart	Chief Executive Officer
Mr S Bell	Executive Director Technical & Development Services
Mr J Byrne	Executive Director Corporate & Community Services (Arrived 2.50pm, withdrew 3.20pm, returned 3.24pm)
Ms D Baesjou	Manager Development Services
Mrs K Skinner	Executive Secretary
Miss C Delmage	Administration Officer – Minutes & Agenda

There were three (3) members of the public present.

There were no members of the media present.

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

Nil

### **4 PUBLIC QUESTION TIME**

Nil

### **5 PETITIONS / DEPUTATIONS / PRESENTATIONS**

#### Petition

'We, the undersigned, are residents of Kendenup who live and / or have property that access onto First Avenue, Kendenup. The last twelve months have seen a major increase in traffic using this road, due to the large influx of people who have moved here and the fact it is one of only two roads that have thoroughfare to our major access road, Beverley Street. Not only the larger movement of vehicles on this road, but increased speeds, trucks and poor maintenance has created a constant dust bowl for residents, and we request the urgent consideration for this road to be sealed.'

**Moved Cr D Williss, seconded Cr M Skinner:**

**That the petition delivered to the Council on 22 February 2005 be received.**

**CARRIED (7/0)**

**No. 34/05**

**Moved Cr J Moir, seconded Cr K Hart:**

**That the sealing of First Avenue, Kendenup be considered for inclusion in the 2005-2006 Annual Budget.**

**CARRIED (7/0)**

**No. 35/05**

### **6 APPLICATIONS FOR LEAVE OF ABSENCE**

Cr K Hart noted that the Leave of Absence granted to him by the Council at its meeting held 22 February 2005 would now not be taken.

### **7 CONFIRMATION OF MINUTES**

**Moved Cr K Hart, seconded Cr J Moir:**

**That the Minutes of the Ordinary Meeting of Council held 22 February 2005 be confirmed subject to the following changes:**

**Item 4: That the acronym KCC noted for Kendenup Concerned Citizens be removed from Page 2 to avoid confusion with the Kendenup Country Club and the Kendenup Cricket Club.**

**Item 9.1.2: That 'Moved Cr J Cameron, seconded Cr K Clements:' be recorded under Council Decision on Page 8.**

**CARRIED (7/0)**

**No. 36/05**

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

- 24 February 2005 – The Shire President, Deputy Shire President and the Executive Director Technical & Development Services met with Mr Simon Fretton from Main Roads WA in regards to Roads 2020 on the updated map on categories of roads in our Shire. It was very interesting to also see other areas surrounding the Regional Road Groups. We advised that it was important to ensure uniformity between our zone and adjoining areas when upgrading maps. The issue of Jackson Road and Settlement Road has still not been corrected. Categories still need to be changed.
- 25 February 2005 – The Steering Committee for the Lower Great Southern Regional Strategy met. The 170 page document was returned as it was considered 'not appropriate' to go out for public comment. There appeared to be no real planning direction so it was returned to the Planning Department to be produced with more meaningful content implemented before being distributed for public consideration. The Steering Committee will meet again during April.
- 1 March 2005 – The Shire President, Chief Executive Officer and Executive Director Technical & Development Services met with the Architect to discuss the new Administration Offices. Considerable progress has been made and this will be taken to the next Administration Offices Advisory Committee meeting on 15 March 2005.
- 9 March 2005 – The Shire President and the Deputy Shire President will attend the inaugural meeting of the 'One Community, One College' Committee at the Mount Barker Senior High School from 4.00pm.
- 21 March 2005 – The Shire President and Executive Director Technical & Development Services will be attending the Regional Road Group meeting in Katanning.
- 23 March 2005 – Cr D Williss and Cr M Skinner will attend the Machinery Field Day at Frost Oval as judges from 12.00 noon and Cr K Forbes will make the presentations at 3.30pm.
- 24 March 2005 – The Shire President, Chief Executive Officer and Manager Development Services will be meeting with the Heritage Council regarding the Round House / roundabout.

## 9 REPORTS OF COMMITTEES AND OFFICERS

### 9.1 DEVELOPMENT SERVICES REPORTS

#### 9.1.1 CEMETERY BUSINESS PLAN - LOCATION 1963 MITCHELL STREET, MOUNT BARKER

<b>Location / Address:</b>	<b>Location 1963 Mitchell Street, Mount Barker</b>
<b>Name of Applicant:</b>	<b>N / A</b>
<b>File Reference:</b>	<b>CP/50/2</b>
<b>Attachments (1):</b>	<b>Mount Barker Cemetery Business Plan Summary</b>
<b>Author:</b>	<b>Delma Baesjou - Manager Development Services</b>
<b>Authorised By:</b>	<b>Stephen Bell – Executive Director Technical And Development Services</b>
<b>Date of Report:</b>	<b>28 February 2004</b>

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#### **Purpose**

The purpose of this report is to consider the Draft Mount Barker Cemetery Development / Business Plan and Master Plan.

#### **Background**

The Shire of Plantagenet is seeking to extend the Mount Barker Cemetery and has agreed to purchase a 5.4ha portion of land west of the existing site, conditional upon rezoning of the land.

Previous reports on cemetery development and site investigation have been presented to the Council: refer items 9.4.1 23 April 2002, 9.4.2 13 August 2002, 12.1 26 November 2002, 9.3.3 27 May 2003, 12.1 8 July 2003, 9.1.1 13 April 2004 and 9.1.2 26 October 2004.

A report on the cemetery development project was considered by the Council at its meeting held 14 December 2004. The following resolution was adopted:

*‘That the question be adjourned to enable a workshop to be held for Councillors prior to the next Ordinary Meeting of the Council.’*

A workshop on the Cemetery Master Plan and Business Plan was held on 8 February 2005. Refinements to the Master Plan were required, including provision of additional parking areas, increased vegetation buffers to screen the site, relocation of the proposed shed and the opportunity to stage the development. It was agreed that the style of plots in the new Cemetery would include a concrete beamed lawn area below grass bronze plaques, but not the traditional full monumental kerbed gravesites. The documents have been refined to reflect the modifications required by the Council.

The revised Business Plan summary document and Master Plan are attached.

**Statutory Environment**

Shire of Plantagenet Town Planning Scheme No. 3  
Town Planning And Development Act 1928  
Town Planning Regulations 1967  
Planning Legislation Amendment Act 1996  
Town Planning Amendment Regulations 1999  
Environmental Protection Act (1986)  
Local Government Act 1995 (In particular Section 3.59)  
Local Government (Functions And General) Regulations 1996  
Cemeteries Act 1986  
Shire of Plantagenet Local Laws relating to Mount Barker, Kendenup And Rocky Gully Cemeteries.

**Consultation**

Significant consultation has occurred between Mr Peter Bentley and the Shire of Plantagenet during preparation.

Public consultation occurred during the formal advertising of Amendment 34.

Officers have also provided updates on the project to both Mr Mick Jones, representing the landowner and the solicitors acting on the Council's behalf.

In accordance with Council Resolution No. 66/04, consultation with adjoining landowners on the draft plan is required to be undertaken.

Further, Mr Wallinger has been advised of the timing of the Council's proposed consultation process.

**Policy Implications**

There are no policy implications for this report.

**Financial Implications**

The cost of Amendment 34 will be borne by the Shire of Plantagenet. The consultant's fee is approximately \$2,500.00, advertising is estimated to be \$300.00 and the cost of gazettal will be approximately \$400.00.

Preparation of the Business Plan was undertaken by Mr Peter Bentley (former assistant to the acting CEO). Additional fees from the Metropolitan Cemeteries Board are anticipated for the preparation of the Master Plan. There will be costs associated with formal advertising of the document.

These costs will be charged to Cemetery Development (GL.1050.3.133).

**Strategic Implications**

The Mount Barker Local Rural Strategy provides a framework and overall objectives to guide the future development and subdivision of private land on the periphery of the Mount Barker townsite. It is a Strategic Planning Document.

Plantagenet Location 1963 is within Precinct 4 of the Mount Barker Local Rural Strategy. Within this Precinct the Strategy indicates that subject to a number of management issues being addressed, the Council may support applications to rezone the land for rural residential development.

This project is consistent with the Shire of Plantagenet Strategic Plan. In particular new initiative 4.1 'Encourage a sense of community and improve the quality of life for

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**Cemetery Business Plan - Location 1963 Mitchell Street, Mount Barker (Cont.)**

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all residents of the Shire' and will 'Ensure that projects such as the Cemetery Development are focussed on achieving Council objectives, are completed within budget and on time'.

It will also allow for 'development of environmentally responsible public open space and natural resource management plans which appropriately reflect social and economic considerations'.

**Officer Comment**

The Business plan includes a Master Plan for the proposed new cemetery on portion of Plantagenet Location 1963 together with new management / operational guidelines that incorporate the existing Cemeteries Local Law.

It is proposed to create an entirely new Burial Management Plan and Cemetery Management Plan to take into consideration the need to standardise burial practises, monument management, niche wall construction and management.

The Cemetery Management Plan addresses issues such as landscape design and layout, garden design and horticultural issues, plot layout, infrastructure planning (roads, toilets, power, water etc) and buffer zone management.

The Burial Management Plan will address matters related directly to the plot and practices related to the actual burial.

The new site will change the way that burials and memorials are managed and therefore directly impacts upon the public.

Given the financial implications and the intent to establish contemporary management practices in relation to the cemetery, it is considered necessary to obtain Council endorsement of the Business Plan prior to advertising.

**Voting Requirements**

Simple Majority

**OFFICER'S RECOMMENDATION**

**Moved Cr D Williss, seconded Cr M Skinner:**

**THAT:**

- (1) The Draft Business Plan for the Mount Barker Cemetery, including the Master Plan and Management / Operational guidelines be endorsed for advertising for a period of six (6) weeks from the date of notification.**
  - (2) Comment on the Draft Business Plan for the Mount Barker Cemetery be invited from all adjoining land owners.**
  - (3) State wide advertising of the Draft Business Plan for the Mount Barker Cemetery be undertaken in accordance with Section 3.59 of the Local Government Act 1995 and Local Government (Functions & General) Regulations.**
  - (4) Copies of the Draft Business Plan for the Mount Barker Cemetery be made available for inspection at the Shire of Plantagenet Administration Offices, the Rocky Gully Public Library, the Mount Barker Public Library and the Shire of Plantagenet website for the duration of the advertising period.**
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- (5) A further report on this matter be prepared for the meeting of the Council to be held on 14 June 2005 at the conclusion of the submission period.

#### AMENDMENT

Moved Cr Clements, seconded Cr J Cameron:

That Part (1) of the motion be amended by adding the words ‘, subject to an appropriate parking area being established in the south east corner with access from / to Mitchell Street.’

CARRIED (7/0)

No. 37/05

#### FURTHER AMENDMENT

Moved Cr J Cameron, seconded Cr M Skinner:

That a further amendment be made to part (1) of the motion by adding after the words ‘Mitchell Street’ the words ‘and subject also to the addition of the words ‘which apply to Lot 1963’ being inserted after the word ‘Plan’ in Part (2), Page 2 of the Cemetery Business Plan.

CARRIED (7/0)

NO. 38/05

#### COUNCIL DECISION

THAT:

- (1) The Draft Business Plan for the Mount Barker Cemetery, including the Master Plan and Management / Operational guidelines be endorsed for advertising for a period of six (6) weeks from the date of notification subject to an appropriate parking area being established in the south east corner with access from / to Mitchell Street and subject also to the addition of the words ‘which apply to Lot 1963’ being inserted after the word ‘Plan’ in Part 2 Page 2 of the Cemetery Business Plan.
- (2) Comment on the Draft Business Plan for the Mount Barker Cemetery be invited from all adjoining land owners.
- (3) State wide advertising of the Draft Business Plan for the Mount Barker Cemetery be undertaken in accordance with Section 3.59 of the Local Government Act 1995 and Local Government (Functions & General) Regulations.
- (4) Copies of the Draft Business Plan for the Mount Barker Cemetery be made available for inspection at the Shire of Plantagenet Administration Offices, the Rocky Gully Public Library, the Mount Barker Public Library and the Shire of Plantagenet website for the duration of the advertising period.
- (5) A further report on this matter be prepared for the meeting of the Council to be held on 14 June 2005 at the conclusion of the submission period.

CARRIED (7/0)

No. 39/05

**9.1.2 PLANTATION - EUCALYPTUS GLOBULUS - DONALDSON**

<b>Location / Address:</b>	<b>Part Lot 20 &amp; Part Location 537 Boyup Road, Mount Barker</b>
<b>Attachments: (2)</b>	<b>Plantation Plan Locality Plan</b>
<b>Name of Applicant:</b>	<b>Great Southern Property Managers Limited</b>
<b>File Reference:</b>	<b>LP/118/2</b>
<b>Author:</b>	<b>Delma Baesjou - Manager Development Services</b>
<b>Authorised By:</b>	<b>Stephen Bell – Executive Director Technical &amp; Development Services</b>
<b>Date of Report:</b>	<b>15 February 2005</b>

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**Purpose**

The purpose of this report is to consider an application for a Tree Plantation on Location Part Lot 20 & Part Location 537 Boyup Road, Mount Barker.

**Background**

The subject land is zoned 'Rural' under the Shire of Plantagenet Town Planning Scheme No. 3. The application is for 90.4 ha of additional Tree Cropping Area within the 380.17 ha properties. Planting will be Eucalyptus Globulus.

On 23 May 2000 the Shire of Plantagenet granted conditional Planning Consent for portion of the subject land to be developed for Plantation.

Shire records show the current owners to be Great Southern Managers Australia Limited.

**Statutory Environment**

Shire of Plantagenet Town Planning Scheme No. 3.

**Policy Implications**

There are no Local Government policy implications for this report, however Planning Commission Bulletin 56 Farm Forestry Policy, once adopted, will affect the way the Council deals with applications for Plantations.

**Financial Implications**

There are no financial implications for this report.

**Strategic Implications**

The proposal is consistent with the Shire of Plantagenet Strategic Plan, in particular 'New Initiative 4.3: Encourage establishment of new businesses which provide employment and/or service to the tourist industry and contribute to the prosperity of Plantagenet (and to) Focus on the diverse rural sector.'

**Officer Comment**

It is the proponent's intention to plant trees on all cleared areas of the property, as shown on the site plan. The estimated size of the net plantable area is 90.4ha. This area may vary either up or down by approximately 10% over the whole property once

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**Plantation – Eucalyptus Globulus – Donaldson (Cont.)**

operations have commenced. It is possible that individual paddock trees will be removed, following issue of a clearing permit and any other necessary approvals.

Once the planting and management plans have been finalised a copy will be forwarded to the Shire of Plantagenet for its records.

The proponent advises the plantation will be established and maintained in accordance with the Code of Practice for Timber Plantations in Western Australia, that firebreaks will be in accordance with the annual Fire Break Notice issued by the Shire of Plantagenet and compartment sizes will not exceed the maximum size permitted by the Shire of Plantagenet.

In the supporting letter, the proponent states 'I refer to the decision of the Minister for Planning dated 18 December 2000 in the appeal by Great Southern Managers Australia Limited against the decision of the Shire of Plantagenet to refuse Planning Consent for the establishment of a eucalyptus plantation on Lot 2, Location 3906 Millinup Road, Porongurups ("Bird Decision"). Based on the Bird Decision, there is no requirement under the Shire of Plantagenet's Town Planning Scheme No. 3 for by (sic) Great Southern Managers Australia Limited to apply for planning consent to establish blue gum plantations on the above properties, as they are all zoned "Rural" under the Town Planning Scheme.' The application for Planning Consent is being submitted to avoid any possible argument in the future as to whether or not the planting of the trees is lawful.

Officers advise it is in the applicant's interest to investigate and possibly set aside areas of land to access road building materials in the event that gravel is required to repair or upgrade the local road system.

**Voting Requirements**

Simple Majority

**OFFICER'S RECOMMENDATION / COUNCIL DECISION**

**Moved Cr K Clements, seconded Cr M Skinner:**

**That planning consent be granted in respect of Application No. 02/05 for Part Lot 20 and Part Location 537 Boyup Road, Mount Barker to be developed for the purpose of Rural Use (90.4ha of Eucalyptus Globulus Plantation) generally in accordance with the proposal dated 11 February 2005 subject to the following conditions:**

- (1) A detailed planting plan showing final compartment sizes, fire access and water points being submitted to the Council.**
- (2) The applicant being responsible for any undue damage to local roads caused by the harvesting operation.**
- (3) A separate harvesting plan being submitted to the Council two years prior to harvesting of the subject land.**

**ADVICE NOTES**

If the development, the subject of this approval, is not substantially commenced within a period of 24 months, the approval shall lapse and be of no further effect.

There is an obligation to comply with relevant statutes including:

- The Environmental Protection Act 1986
- The Code of Practice for Plantations
- The Shire of Plantagenet Annual Fire Break Notice

It is in the applicant's interest to investigate and possibly set aside areas of land to access road building materials in the event that gravel is required to repair the local road system should it be damaged during harvesting operations.

**CARRIED (7/0)**  
**No. 40/05**

**9.1.3 PLANTATION – EUCALYPTUS GLOBULUS - HANDASYDE**

<b>Location / Address:</b>	<b>Part Location 2144 Simpson Road, Mount Barker</b>
<b>Attachments: (2)</b>	<b>Plantation Plan Locality Plan</b>
<b>Name of Applicant:</b>	<b>Great Southern Plantation Managers Limited</b>
<b>File Reference:</b>	<b>LP/118/3</b>
<b>Author:</b>	<b>Delma Baesjou - Manager Development Services</b>
<b>Authorised by:</b>	<b>Stephen Bell - Executive Director Technical &amp; Development Services</b>
<b>Date of Report:</b>	<b>15 February 2005</b>

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**Purpose**

The purpose of this report is to consider an application for a Tree Plantation on Part Location 2144 Simpson Road, Mount Barker.

**Background**

The subject land is zoned 'Rural' under the Shire of Plantagenet Town Planning Scheme No. 3. The application is for 47.2 ha of additional Tree Cropping Area within the 396.99 ha property. Planting will be Eucalyptus Globulus.

On 28 March 2000 the Shire of Plantagenet granted conditional Planning Consent for portion of Location 2144 to be developed for Plantation.

Shire records show the current owners to be Great Southern Managers Australia Limited.

**Statutory Environment**

Shire of Plantagenet Town Planning Scheme No. 3.

**Policy Implications**

There are no Local Government policy implications for this report, however Planning Commission Bulletin 56 Farm Forestry Policy, once adopted, will affect the way the Council deals with applications for Plantations.

**Financial Implications**

There are no financial implications for this report.

**Strategic Implications**

The proposal is consistent with the Shire of Plantagenet Strategic Plan, in particular 'New Initiative 4.3: Encourage establishment of new businesses which provide employment and/or service to the tourist industry and contribute to the prosperity of Plantagenet (and to) Focus on the diverse rural sector.'

**Officer Comment**

It is the proponent's intention to plant trees on all cleared areas of the property, as shown on the site plan. The estimated size of the net plantable area is 47.2 ha. This area may vary either up or down by approximately 10% over the whole property once

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**Plantation - Eucalyptus Globulus – Handasyde (Cont.)**

operations have commenced. It is possible that individual paddock trees will be removed, following issue of a clearing permit and any other necessary approvals.

Once the planting and management plans have been finalised a copy will be forwarded to the Shire of Plantagenet for its records.

The proponent advises the plantation will be established and maintained in accordance with the Code of Practice for Timber Plantations in Western Australia, that firebreaks will be in accordance with the annual Fire Break Notice issued by the Shire of Plantagenet and compartment sizes will not exceed the maximum size permitted by the Shire of Plantagenet.

In the supporting letter, the proponent states 'I refer to the decision of the Minister for Planning dated 18 December 2000 in the appeal by Great Southern Managers Australia Limited against the decision of the Shire of Plantagenet to refuse Planning Consent for the establishment of a eucalyptus plantation on Lot 2, Location 3906 Millinup Road, Porongurups ("Bird Decision"). Based on the Bird Decision, there is no requirement under the Shire of Plantagenet's Town Planning Scheme No. 3 for by (sic) Great Southern Managers Australia Limited to apply for planning consent to establish blue gum plantations on the above properties, as they are all zoned "Rural" under the Town Planning Scheme.' The application for Planning Consent is being submitted to avoid any possible argument in the future as to whether or not the planting of the trees is lawful.

Officers advise it is in the applicant's interest to investigate and possibly set aside areas of land to access road building materials in the event that gravel is required to repair or upgrade the local road system.

**Voting Requirements**

Simple Majority

**OFFICER'S RECOMMENDATION / COUNCIL DECISION**

**Moved Cr K Clements, seconded Cr D Williss:**

**That planning consent be granted in respect of Application No. 04/05 for the development of Rural Use (47.2ha of Eucalyptus Globulus Plantation) on Portion Location 2144 generally in accordance with the proposal dated 9 February 2005 subject to the following conditions:**

- (1) Submission of a detailed planting plan showing final compartment sizes, fire access and water points.**
- (2) The applicant will be responsible for any undue damage to local roads caused by the harvesting operation.**
- (3) A separate harvesting plan is to be submitted to the Council two years prior to harvesting of the subject land.**

**ADVICE NOTES**

**If the development, the subject of this approval, is not substantially commenced within a period of 24 months, the approval shall lapse and be of no further effect.**

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Plantation - Eucalyptus Globulus – Handasyde (Cont.)

**There is an obligation to comply with relevant statutes including:**

- **The Environmental Protection Act 1986**
- **The Code of Practice for Plantations**
- **The Shire of Plantagenet Annual Fire Break Notice**

**It is in the applicant's interest to investigate and possibly set aside areas of land to access road building materials in the event that gravel is required to repair the local road system should it be damaged during harvesting operations.**

**CARRIED (7/0)**

**No. 41/05**



**9.1.4 PLANTATION - EUCALYPTUS GLOBULUS - HAY**

<b>Location / Address:</b>	<b>Part Location 6581 St Werburghs Hay River Road, Mount Barker</b>
<b>Attachments: (2)</b>	<b>Plantation Plan Locality Plan</b>
<b>Name of Applicant:</b>	<b>Great Southern Plantation Managers Limited</b>
<b>File Reference:</b>	<b>LP/118/3</b>
<b>Author:</b>	<b>Delma Baesjou - Manager Development Services</b>
<b>Authorised by:</b>	<b>Stephen Bell – Executive Director Technical &amp; Development Services</b>
<b>Date of Report:</b>	<b>15 February 2005</b>

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**Purpose**

The purpose of this report is to consider an application for a Tree Plantation on Part Location 6581 St Werburghs Hay River Road, Mount Barker.

**Background**

The subject land is zoned 'Rural' under the Shire of Plantagenet Town Planning Scheme No. 3. The application is for an additional 94.8ha of Tree Cropping Area within the 302.571ha property. Planting will be Eucalyptus Globulus.

On 23 May 2000 the Shire of Plantagenet granted conditional Planning Consent to Australian Plantation Timber Ltd for portion of the subject land to be developed for Plantation.

Shire records show the current owners to be Great Southern Property Managers Limited.

**Statutory Environment**

Shire of Plantagenet Town Planning Scheme No. 3.

**Policy Implications**

There are no Local Government policy implications for this report, however Planning Commission Bulletin 56 Farm Forestry Policy, once adopted, will affect the way the Council deals with applications for Plantations.

**Financial Implications**

There are no financial implications for this report.

**Strategic Implications**

The proposal is consistent with the Shire of Plantagenet Strategic Plan, in particular 'New Initiative 4.3: Encourage establishment of new businesses which provide employment and/or service to the tourist industry and contribute to the prosperity of Plantagenet (and to) Focus on the diverse rural sector.'

**Officer Comment**

It is the proponent's intention to plant trees on all cleared areas of the property, as shown on the site plan. The estimated size of the net plantable area is 94.8ha. This

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**Plantation - Eucalyptus Plantation – Hay (Cont.)**

area may vary either up or down by approximately 10% over the whole property once operations have commenced. It is possible that individual paddock trees will be removed, following issue of a clearing permit and any other necessary approvals.

Once the planting and management plans have been finalised a copy will be forwarded to Council officers.

The proponent advises the plantation will be established and maintained in accordance with the Code of Practice for Timber Plantations in Western Australia, that firebreaks will be in accordance with the annual Fire Break Notice issued by the Shire of Plantagenet and compartment sizes will not exceed the maximum size permitted by the Shire of Plantagenet.

In the supporting letter, the proponent states 'I refer to the decision of the Minister for Planning dated 18 December 2000 in the appeal by Great Southern Managers Australia Limited against the decision of the Shire of Plantagenet to refuse Planning Consent for the establishment of a eucalyptus plantation on Lot 2, Location 3906 Millinup Road, Porongurups ("Bird Decision"). Based on the Bird Decision, there is no requirement under the Shire of Plantagenet's Town Planning Scheme No. 3 for by (sic) Great Southern Managers Australia Limited to apply for planning consent to establish blue gum plantations on the above properties, as they are all zoned 'Rural' under the Town Planning Scheme.' The application for Planning Consent is being submitted to avoid any possible argument in the future as to whether or not the planting of the trees is lawful.

The adjacent section of St Werburghs Hay River Road is formed, but only to the standard of a track of variable width. The road is extensively tree lined and there is very little gravel pavement. It is anticipated that when harvesting occurs St Werburghs Hay River Road will not withstand use by heavy vehicles (B Doubles) and extensive maintenance will be required. In addition, as the road is narrow in sections, widening will be required to accommodate B Doubles.

Officers advise it is in the applicant's interest to investigate and possibly set aside areas of land to access road building materials in the event that gravel is required to repair or upgrade the local road system.

**Voting Requirements**

Simple Majority

**OFFICER'S RECOMMENDATION / COUNCIL DECISION**

**Moved Cr K Clements, seconded Cr J Moir:**

**That planning consent be granted in respect of Application No. 03/05 for the development of Rural Use (94.8ha of Eucalyptus Globulus Plantation) on Part Location 6581 St Werburghs Hay River road generally in accordance with the proposal dated 9 January 2005 subject to the following conditions:**

- (1) A detailed planting plan showing final compartment sizes, fire access and water points being submitted to the Council.**
- (2) The applicant being responsible for the upgrade and widening of St Werburghs Hay River Road to accommodate transportation associated with the harvesting operation.**

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**Plantation - Eucalyptus Plantation – Hay (Cont.)**

- (3) The applicant being responsible for any undue damage to local roads caused by the harvesting operation.**
- (4) A separate harvesting plan being submitted to the Council two years prior to harvesting of the subject land.**

**ADVICE NOTES**

**If the development, the subject of this approval, is not substantially commenced within a period of 24 months, the approval shall lapse and be of no further effect.**

**There is an obligation to comply with relevant statutes including:**

- The Environmental Protection Act 1986**
- The Code of Practice for Plantations**
- The Shire of Plantagenet Annual Fire Break Notice**

**The adjacent section of St Werburghs Hay River Road is formed, but not gravel sheeted / constructed.**

**It is in the applicant's interest to investigate and set aside areas of land to access road building materials in the event that gravel is required to repair and upgrade St Werburghs Hay River Road to enable the transportation of timber off site.**

**CARRIED (7/0)**

**No. 42/05**

### 9.1.5 PLANTATION - TILLGAREE

<b>Location / Address:</b>	<b>Lot 1 of Location 2987 &amp; Portion of Location 2191 Yellanup Road, Narrikup</b>
<b>Attachments: (2)</b>	<b>Proposed Plantation Plan Locality Plan</b>
<b>Name of Applicant:</b>	<b>Integrated Tree Cropping Limited (ITC)</b>
<b>File Reference:</b>	<b>LP/118/10</b>
<b>Author:</b>	<b>Delma Baesjou - Manager Development Services</b>
<b>Authorised by:</b>	<b>Stephen Bell - Executive Director Technical And Development Services</b>
<b>Date of Report:</b>	<b>1 March 2005</b>

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#### **Purpose**

The purpose of this report is to consider an application for a Tree Plantation on Lot 1 of Location 2987 And Portion of Location 2191 Yellanup Road, Narrikup.

#### **Background**

The subject land is zoned 'Rural' under the Shire of Plantagenet Town Planning Scheme No. 3. The application is for approximately 88 ha of Tree Cropping Area within the 131ha property. Planting will be Eucalyptus Globulus, however small experimental areas of other mixed species may be planted as well.

Shire records show the current owners to be Alexander David And Jennifer Robin Campbell.

#### **Statutory Environment**

Shire of Plantagenet Town Planning Scheme No. 3

#### **Policy Implications**

There are no Local Government policy implications for this report, however Planning Commission Bulletin 56 Farm Forestry Policy, once adopted, will affect the way the Council deals with applications for Plantations.

#### **Financial Implications**

There are no financial implications for this report.

#### **Strategic Implications**

The proposal is consistent with the Shire of Plantagenet Strategic Plan, in particular 'New Initiative 4.3: Encourage establishment of new businesses which provide employment and/or service to the tourist industry and contribute to the prosperity of Plantagenet (and to) Focus on the diverse rural sector.'

#### **Officer Comment**

It is the proponent's intention to plant trees in three (3) compartments, as shown on the site plan. The estimated size of the net plantable area is 88ha.

Once the planting and management plans have been finalised a copy will be forwarded to the Shire of Plantagenet.

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**Plantation - Tillgaree (Cont.)**

The proponent advises the plantation will be established and maintained in accordance with the Code of Practice for Timber Plantations in Western Australia, that firebreaks will be in accordance with the annual Fire Break Notice issued by the Shire of Plantagenet and compartment sizes will not exceed the maximum size permitted by the Shire of Plantagenet.

Officers advise it is in the applicant's interest to investigate and possibly set aside areas of land to access road building materials in the event that gravel is required to repair or upgrade the local road system.

**Voting Requirements**

Simple Majority

**OFFICER'S RECOMMENDATION / COUNCIL DECISION**

Moved Cr D Williss, seconded Cr J Moir:

That planning consent be granted in respect of Application No. 07/05 for the development of Rural Use (Plantation) on Lot 1 of Location 2987 And Portion of Location 2191 Yellanup Road, Narrikup generally in accordance with the proposal dated 28 February 2005 subject to the following conditions:

- (1) A detailed planting plan showing final compartment sizes, fire access and water points being submitted to the Council.
- (2) The applicant being responsible for any undue damage to local roads caused by the harvesting operation.
- (3) A separate harvesting plan being submitted to the Council two years prior to harvesting of the subject land.

**ADVICE NOTES**

If the development, the subject of this approval, is not substantially commenced within a period of 24 months, the approval shall lapse and be of no further effect.

There is an obligation to comply with relevant statutes including:

- The Environmental Protection Act 1986
- The Code of Practice for Plantations
- The Shire of Plantagenet Annual Fire Break Notice

It is in the applicant's interest to investigate and possibly set aside areas of land to access road building materials in the event that gravel is required to repair the local road system.

**CARRIED (7/0)**

**No. 43/05**

**9.1.6 SETBACK RELAXATION FOR SHED & HOME OCCUPATION - LOT 32  
MOUNT BARKER ROAD, MOUNT BARKER**

<b>Location / Address:</b>	<b>Lot 32 Mount Barker Road, Mount Barker</b>
<b>Attachments: (3)</b>	<b>Site Plan Shed Plan Locality Plan</b>
<b>Name of Applicant:</b>	<b>Colin And Bev Wardle</b>
<b>File Reference:</b>	<b>RV/182/2165</b>
<b>Author:</b>	<b>Delma Baesjou - Manager Development Services</b>
<b>Authorised by:</b>	<b>Stephen Bell – Executive Director Technical And Development Services</b>
<b>Date of Report:</b>	<b>28 February 2005</b>

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**Purpose**

The purpose of this report is to consider two (2) Development Applications for Lot 32 Mount Barker Road, Mount Barker. Application 05/05 is for a setback relaxation for a proposed shed and Application No. 06/05 for a Home Occupation (Cleaning Business).

**Background**

The proposed steel framed, zincalume shed is to be 9m by 20m, approximately 3m high, 8m from the southern side boundary and 50m from the Mount Barker Road boundary. It is intended to use the shed for the storage of vintage machinery associated with the Jolly Frog Bed and Breakfast and equipment associated with the proposed Home Occupation.

The subject land is zoned Rural Residential under the Shire of Plantagenet Town Planning Scheme No. 3. The Special Provisions of the Mount Barker Hill Rural Residential zone apply.

The applicants currently run a cleaning business in Katanning and intend relocating the business to the Mount Barker area.

The subject land has previously been used for the purpose of Bed and Breakfast accommodation. Renewal of the annual licence is pending finalisation of the change of ownership.

Shire records show the registered landowner to be Colin Ralph Wardle and Beverley Ann Ewers-Verge.

**Statutory Environment**

Shire of Plantagenet Town Planning Scheme No. 3, in particular Schedule V – Rural Residential Zones, Area 1.

The subject land is within the area covered by the Mount Barker Hill Rural Residential zone. Clause 2.0 (b) of the Special Provisions lists Home Occupation as one of the uses that 'may be permitted at the discretion of Council (AA)'.  
Clause 4.0 of the Special Provisions sets out:

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**Setback Relaxation For Shed & Home Occupation Application - Lot 32 Mount Barker Road, Mount Barker - (Cont.)**

'A person shall not construct erect or commence to construct or erect

- (i) a building within 20m of any boundary of a lot unless, where the topography or shape of the lot or flora thereon require otherwise, the Council approves a lesser distance and if it does so, a person shall not construct or erect or commence to construct or erect a building within the distance approved by the Council;
- (ii) a dwelling house having an internal floor area of less than 45m<sup>2</sup>;
- (iii) a building in a manner or of materials that would in the opinion of the Council destroy the amenity of the area or not blend in with the landscape'.

**Consultation**

There was no formal consultation for this report. The proponent has indicated the matter has been discussed with the adjoining land owner and no objections were raised.

**Policy Implications**

There are no policy implications for this report.

**Financial Implications**

There are no financial implications for this report.

**Strategic Implications**

The proposal is consistent with the Shire of Plantagenet Strategic Plan, in particular the aim to 'Retain local business and encourage new businesses that will create sustainable local employment.' and 'New Initiative 4.3 - Encourage establishment of new businesses which provide employment and/or service to the tourist industry and contribute to the prosperity of Plantagenet.'

**Officer Comment**

The Town Planning Scheme contains the following objective of the zone:

*'The purpose of the Mount Barker Hill rural residential zone is to provide for rural residential living and small scale rural and tourist uses providing they do not impact detrimentally on the environment or the amenity of adjoining property.'*

The proponent wishes to build a shed 8m from the side boundary of the lot and is seeking a relaxation of the 20m side setback requirement set out in Schedule V of the Shire of Plantagenet Town Planning Scheme No. 3.

In this instance the proposal to vary the setback is considered acceptable. The site is relatively flat and is screened from the road and adjoining properties.

The proposed Home Occupation is considered to be an acceptable land use, subject to compliance with the definition and standards contained in the Shire of Plantagenet Town Planning Scheme No. 3.

**Note**

Councillors are advised that the decision making required for this application will fall within the proposed delegation to the Chief Executive Officer in accordance with Amendment 36 of Shire of Plantagenet Town Planning Scheme No. 3. It is expected

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Setback Relaxation For Shed & Home Occupation Application - Lot 32 Mount Barker Road, Mount Barker - (Cont.)

that a report regarding such delegations will be presented to the Council at its meeting to be held on 12 April 2005.

### **Voting Requirements**

Simple Majority

### **OFFICER'S RECOMMENDATION**

Moved Cr K Hart, seconded Cr M Skinner:

**THAT:**

- (1) Planning consent be granted in respect of Application No. 05/05 for Lot 32 Mount Barker Road, Mount Barker to be developed for the purpose of Dwelling House (Outbuilding) with a reduced boundary setback of 8m, in accordance with the plans dated 28 February 2005, subject to the following conditions:
- (a) No portion of the structure being set back less than 8 metres from the side lot boundary.
  - (b) All storm water being contained onsite and disposed of to the satisfaction of the Council.
  - (c) The vegetation buffer along the property boundary being maintained to ensure that the development is screened from Mount Barker Road and the adjacent properties.

### **ADVICE NOTES**

- (i) If the development, the subject of this approval, is not substantially commenced within a period of 24 months the approval shall lapse and be of no further effect. Where the approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.
  - (ii) The applicant is advised that there is an obligation to comply with relevant statutes applicable to the development in particular, The Building Code of Australia 2004.
- (2) Planning consent be granted in respect of Application No. 06/05 for Lot 32 Mount Barker Road, Mount Barker to be developed for the purpose Home Occupation (Cleaning Business), in accordance with the plans dated 28 February 2005, subject to the following conditions:
- (a) The activity not causing injury to or prejudicially affecting the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury or prejudicial affection due to the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste water, or waste products.
  - (b) No person not a member of the occupier's family being employed in the activity.
  - (c) The activity occupying an area not greater than 20 square metres.
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Setback Relaxation For Shed & Home Occupation Application - Lot 32 Mount Barker Road, Mount Barker - (Cont.)

- (d) Advertising signage not exceeding 0.2 square metres in area.
- (e) The activity not resulting in the requirement of a greater number of vehicle parking facilities than normally required in the zone in which it is located and not resulting in a substantial increase in the amount of vehicular traffic in the vicinity.

#### ADVICE NOTES

- (i) This approval is subject to annual renewal by the Shire of Plantagenet.
- (ii) If the development, the subject of this approval, is not substantially commenced within a period of 12 months the approval shall lapse and be of no further effect. Where the approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.

#### AMENDMENT

Moved Cr J Moir, seconded Cr J Cameron:

That a further Part (d) be added to Part (1) being:

- (d) No objection being received from the owner of adjacent Lot 1 for the proposed development.

CARRIED (4/3)

No. 44/05

#### COUNCIL DECISION

THAT:

- (1) Planning consent be granted in respect of Application No. 05/05 for Lot 32 Mount Barker Road, Mount Barker to be developed for the purpose of Dwelling House (Outbuilding) with a reduced boundary setback of 8m, in accordance with the plans dated 28 February 2005, subject to the following conditions:
  - (a) No portion of the structure being set back less than 8 metres from the side lot boundary.
  - (b) All storm water being contained onsite and disposed of to the satisfaction of the Council.
  - (c) The vegetation buffer along the property boundary being maintained to ensure that the development is screened from Mount Barker Road and the adjacent properties.
  - (d) No objection being received from the owner of adjacent Lot 1 for the proposed development.

Setback Relaxation For Shed & Home Occupation Application - Lot 32 Mount Barker Road, Mount Barker - (Cont.)

#### ADVICE NOTES

- (i) If the development, the subject of this approval, is not substantially commenced within a period of 24 months the approval shall lapse and be of no further effect. Where the approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.
  - (ii) The applicant is advised that there is an obligation to comply with relevant statutes applicable to the development in particular, The Building Code of Australia 2004.
- (2) Planning consent be granted in respect of Application No. 06/05 for Lot 32 Mount Barker Road, Mount Barker to be developed for the purpose Home Occupation (Cleaning Business), in accordance with the plans dated 28 February 2005, subject to the following conditions:
- (a) The activity not causing injury to or prejudicially affecting the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury or prejudicial affection due to the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste water, or waste products.
  - (b) No person not a member of the occupier's family being employed in the activity.
  - (c) The activity occupying an area not greater than 20 square metres.
  - (d) Advertising signage not exceeding 0.2 square metres in area.
  - (e) The activity not resulting in the requirement of a greater number of vehicle parking facilities than normally required in the zone in which it is located and not resulting in a substantial increase in the amount of vehicular traffic in the vicinity.

#### ADVICE NOTES

- (i) This approval is subject to annual renewal by the Shire of Plantagenet.
- (ii) If the development, the subject of this approval, is not substantially commenced within a period of 12 months the approval shall lapse and be of no further effect. Where the approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.

CARRIED (7/0)

No. 45/05

## 9.2 TECHNICAL SERVICES REPORTS

### 9.2.1 HANDOVER OF BUSHFIRES TO THE FIRE AND EMERGENCY SERVICES AUTHORITY (FESA)

<b>Location / Address:</b>	<b>N / A</b>
<b>Name of Applicant:</b>	<b>Bush Fire Advisory Committee</b>
<b>File Reference:</b>	<b>GR/97/6</b>
<b>Author:</b>	<b>Stephen Bell - Executive Director Technical And Development Services</b>
<b>Authorised By:</b>	<b>Rob Stewart - Chief Executive Officer</b>
<b>Date of Report:</b>	<b>28 February 2005</b>

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#### **Purpose**

The purpose of this report is for the Council to consider a recommendation from the Shire of Plantagenet Bush Fire Advisory Committee not to sign the Fire and Emergency Services Authority (FESA) Operational Response Agreement to allow the handover of bushfires to the FESA under certain circumstances.

#### **Background**

By letter dated 26 October 2004, FESA provided documentation to the Shire of Plantagenet about the process of handing over the control of bushfires to FESA under certain circumstances. The documentation contained an *Operational Response Agreement* that needed to be signed by respective local governments where the control of incidents was to be handed over to FESA.

At its meeting of 3 November 2004, the Bush Fire Advisory Committee discussed the FESA proposal. At that meeting it was noted that the Western Australian Local Government Association (WALGA) was undertaking research into the matter and that it would be raised again at the 2 February 2005 meeting of the Bush Fire Advisory Committee once more information was available.

The Local Government News, Issue No 46.04, indicates that WALGA has reviewed the contents of the agreement and supports in principle the approach taken with regards to the formal agreement for the handover over bushfires from local government to FESA. However, WALGA encourages all Council's to carefully review the proposal and make their own decision as to whether they wish to sign the agreement or not.

At its meeting of 2 February 2005, the Shire of Plantagenet Bush Fire Advisory Committee considered the FESA request and it was resolved:

*'That it be a recommendation to the Council:*

*That the Operational Response Agreement for the hand over of bush fires to the Fire and Emergency Services Authority (FESA) not be signed, as the mechanism for the hand over of bush fires already exists under Section 13(4) and (5) of the Bush Fires Act 1954.'*

#### **Statutory Environment**

Bush Fires Act 1954

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**Handover Of Bushfires To The Fire And Emergency Services Authority (Cont.)****Consultation**

There has been consultation with the Shire of Plantagenet Bushfire Advisory Committee and the Western Australian Local Government Association.

**Policy Implications**

There are no policy implications for this report.

**Financial Implications**

There are no financial implications for this report.

**Strategic Implications**

The Shire of Plantagenet Strategic Plan is silent in regards to Bush Fire operations.

**Officer Comment**

Section 13(4) and (5) of the Bush Fires Act 1954 provides the mechanism by which the control of bush fires can be handed over to FESA at the request of a local government. Therefore, it is unclear why a formal agreement needs to be signed by the Shire of Plantagenet to enact a process that already exists under the Bush Fires Act.

At this stage, the Bush Fire Advisory Committee has recommended that the Shire of Plantagenet not sign the Operational Response Agreement as the mechanism already exists under Section 13(4) and (5) of the Bush Fires Act 1954 and until such time as it is determined whether any benefits arise from entering into a formal agreement.

**Voting Requirements**

Simple Majority

**OFFICER'S RECOMMENDATION / COUNCIL DECISION**

**Moved Cr D Williss, seconded Cr K Hart:**

**THAT:**

- (1) The Operational Response Agreement for the hand over of bush fires to the Fire and Emergency Services Authority not be signed, as the mechanism for the hand over of bush fires already exists under Section 13(4) and (5) of the Bush Fires Act 1954.**
- (2) The Fire and Emergency Services Authority be notified of the Council's decision in regards to the handover of bushfires and non signing of the Operational Response Agreement.**

**CARRIED (6/1)**

**No. 46/05**

**9.3 EXECUTIVE SERVICES REPORTS****9.3.1 MINUTES****RAINBOW COAST REGIONAL COUNCIL - 10 FEBRUARY 2005  
WASTE MANAGEMENT COMMITTEE – 23 NOVEMBER 2004**

**Location / Address:** N / A

**Attachments: (2)** Minutes – Rainbow Coast Regional Council  
Minutes – Waste Management Committee

**Name of Applicant:** N / A

**File Reference:** ED/103/5; WM/103/2

**Author:** Cherie Delmage - Administration Officer Minutes And Agenda

**Date of Report:** 23 February 2005

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**Purpose**

The purpose of this report is to receive the Minutes from the Rainbow Coast Regional Council Meeting held 10 February 2005 and the Minutes from the Waste Management Committee held on 23 November 2004.

**Policy Implications**

There are no policy implications for this report.

**Financial Implications**

There are no financial implications for this report.

**Strategic Implications**

There are no strategic implications for this report.

**Officer Comment**

Any issues or recommendations arising from these Minutes will be the subject of a separate report to the Council.

**Voting Requirements**

Simple Majority

**OFFICER'S RECOMMENDATION / COUNCIL DECISION**

**Moved Cr M Skinner, seconded Cr D Williss:**

**That the Minutes of the Rainbow Coast Regional Council Meeting held 10 February 2005 and the Minutes of the Waste Management Committee Meeting held 23 November 2004 be received.**

**CARRIED (7/0)**

**No. 47/05**

## 9.4 CORPORATE SERVICES REPORTS

### 9.4.1 COMPLIANCE AUDIT - 2004

<b>Location / Address:</b>	<b>N / A</b>
<b>Attachments: (1)</b>	<b>Compliance Audit - 2004</b>
<b>Name of Applicant:</b>	<b>N / A</b>
<b>File Reference:</b>	<b>CM/19/1</b>
<b>Author:</b>	<b>Donna Stevens - Senior Administration Officer</b>
<b>Authorised By:</b>	<b>Rob Stewart – Chief Executive Officer</b>
<b>Date of Report:</b>	<b>21 February 2005</b>

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#### **Purpose**

The purpose of this report is to enable the Council to fulfil its Statutory Obligations with regard to the compliance audit.

#### **Background**

A compliance audit is required to be completed once in each calendar year.

#### **Statutory Environment**

The compliance audit is required pursuant to Section 7.13 of the Local Government Act (1995).

A compliance audit return is to be:

- (a) Presented to the Council at a meeting of the Council;
- (b) Adopted by the Council; and
- (c) Recorded in the minutes of the meeting at which it is adopted.

Further, after the compliance audit return has been presented to the Council a certified copy of the return together with:

- (a) A copy of the relevant section of the minutes referred to in the regulations; and
- (b) Any additional information explaining or qualifying the compliance audit,

is to be submitted to the Executive Director by 31 March of the next following period to which the return relates.

#### **Consultation**

Consultation has occurred with appropriate Council officers.

#### **Policy Implications**

There are no policy implications for this report.

#### **Financial Implications**

There are no financial implications for this report.

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**Compliance Audit – 2004 (Cont.)****Strategic Implications**

The compliance audit report ensures that appropriate organisation practices are provided in financial management, administration, information technology and trading undertakings (Key Result Area 1).

**Officer Comment**

The completed compliance audit is attached to this report and should be examined by Councillors. The report has a few minor non-compliance issues which are detailed below:

Thoroughfares

The Shire does not keep a register of gates and other devices constructed across public thoroughfares.

Policy changes will be implemented and a gate register developed to ensure future compliance.

Meeting Process

Not all minutes were made available to the public within five (5) business days after the committee meeting.

A timely effort will be made to ensure that all minutes are made available to the public within the required time frame.

Disclosure Of Interest

Not all annual returns were lodged by elected members by 31 August 2004.

Elected members will be well informed of deadlines for returns and will be reminded prior to due date to ensure they meet their responsibilities.

Finance

Not all expenditure from the municipal fund was authorised in advance by absolute majority resolution.

Systems of control have been implemented to ensure future compliance.

**Voting Requirements**

Simple Majority

**OFFICER'S RECOMMENDATION / COUNCIL DECISION**

**Moved Cr K Hart, seconded Cr D Williss:**

**That the Compliance Audit Return for the calendar year 1 January 2004 to 31 December 2004 for the Shire of Plantagenet be adopted and submitted to the Executive Director of the Department of Local Government and Regional Development.**

**CARRIED (7/0)**

**No. 48/05**

**9.4.2 GREAT SOUTHERN REGIONAL CATTLE SALEYARDS JOINT VENTURE -  
ASSIGNMENT OF LEASE OF CANTEEN**

<b>Location / Address:</b>	<b>N / A</b>
<b>Name of Applicant:</b>	<b>N / A</b>
<b>File Reference:</b>	<b>CA/126/1</b>
<b>Author:</b>	<b>Donna Stevens - Senior Administration Officer</b>
<b>Authorised By:</b>	<b>John Byrne – Executive Director Corporate And Community Services</b>
<b>Date of Report:</b>	<b>22 February 2005</b>

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**Purpose**

The purpose of this report is to seek approval from the Council for the assignment of the Great Southern Regional Cattle Saleyards canteen from Peter John Williams and Bernadette Sheila Grundy to Sofica Valcan.

**Background**

By letter dated 16 February 2005, the City of Albany seeks the Shire of Plantagenet's approval to the assignment of the lease of the canteen at the Saleyards.

At its meeting held 9 March 2004 the Council resolved:

*'That authority be granted to the Shire President and the Chief Executive Officer to affix the Seal of the Shire of Plantagenet to the deed of assignment of lease between the Shire of Plantagenet, the City of Albany, Robert John Laidler, Peter John Williams and Bernadette Sheila Grundy relating to Portion of Lot 3 on Plan 19319 for the purpose of a canteen.'*

**Statutory Environment**

Pursuant to Section 3.58 of the Local Government Act 1995 a local authority, when disposing of property, shall comply with the provisions of that section.

**Policy Implications**

There are no policy implications for this report.

**Financial Implications**

There are no financial implications for this report.

**Strategic Implications**

There are no strategic implications for this report.

**Officer Comment**

There are no impediments for the granting of authority for the assignment of this lease. The City of Albany has complied with the advertising provisions of Section 3.58 of the Local Government Act 1995.

**Voting Requirements**

Simple Majority

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**OFFICER'S RECOMMENDATION / COUNCIL DECISION**

**Moved Cr D Williss, seconded Cr J Moir:**

**That authority be granted to the Shire President and the Chief Executive Officer to affix the common seal of the Shire of Plantagenet to the Deed of Assignment of lease between the Shire of Plantagenet, the City of Albany, Peter John Williams and Bernadette Sheila Grundy to Sofia Valcan relating to Portion of Lot 3 on Plan 19319 for the purpose of a canteen.**

**CARRIED (7/0)**

**No. 49/05**

**9.4.3 RATE EXEMPTION – 8 MONTEM STREET, MOUNT BARKER**

<b>Location / Address:</b>	<b>N / A</b>
<b>Name of Applicant:</b>	<b>Department of Indigenous Affairs</b>
<b>File Reference:</b>	<b>RV/182/1696</b>
<b>Author:</b>	<b>Rob Stewart – Chief Executive Officer</b>
<b>Authorised By:</b>	<b>Rob Stewart – Chief Executive Officer</b>
<b>Date of Report:</b>	<b>1 March 2005</b>

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**Purpose**

The purpose of this report is to advise the Council that a response has now been received from the Department of Indigenous Affairs regarding the Council's resolution to declare No. 8 Montem Street, Mount Barker as being utilised for a charitable purpose and is therefore no longer rateable.

Further, recommendation will be made to the Council regarding policy in this matter.

**Background**

At its meeting held on 14 December 2004 the Council resolved:

*'THAT:*

- (1) Pursuant to Section 6.26 (2) (g) of the Local Government Act 1995, Lot T2/Location T22 Montem Street Mount Barker, being otherwise rateable land, is hereby declared to be utilised for a charitable purpose and therefore no longer rateable while it continues to be used as a charitable purpose.*
- (2) Rates outstanding on the property for the 2004/2005 financial year be reversed.*
- (3) Rates outstanding for previous years, prior to the declaration, to remain payable.'*

By letter dated 22 December 2004 the Department of Indigenous Affairs was advised of the Council's decision.

By letter dated 28 January 2005 the Regional Manager for the Department of Indigenous Affairs responded *'I do not believe that the Mount Barker Aboriginal Progress Association is liable to pay any outstanding rates for previous years.'*

**Statutory Environment**

Section 6.26 (2) states the following (inter alia):

*'6.26. Rateable land*

- (1) Except as provided in this section all land within a district is rateable land.*
- (2) The following land is not rateable land —*
  - (a) land which is the property of the Crown and —*
    - (i) is being used or held for a public purpose; or*
    - (ii) is unoccupied, except —*

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**Rate Exemption – 8 Montem Street, Mount Barker (Cont.)**

- (I) *where any person is, under paragraph (e) of the definition of “owner” in section 1.4, the owner of the land other than by reason of that person being the holder of a prospecting licence held under the Mining Act 1978 in respect of land the area of which does not exceed 10 hectares or a miscellaneous licence held under that Act; or*
- (II) *where and to the extent and manner in which a person mentioned in paragraph (f) of the definition of “owner” in section 1.4 occupies or makes use of the land;*
- (g) *Land used exclusively for charitable purposes;’*

**Policy Implications**

The section of the Act regarding ‘*land used exclusively for charitable purposes*’ is open to broad interpretation. The Local Government Act does not provide any definition of ‘*charitable*’ and, in the case of the Montem Street property, legal precedent was used to declare the land non rateable. That case revolved around the words of the constitution of the body owning the land rather than the actual use to which the land was put.

Councillors will recall that at the meeting of the Council held on 22 February 2005 an application to declare land non rateable in Kendenup based on the word ‘*charitable*’ in the subject organisations charter was deemed sufficient to declare the land owned by that organisation as non rateable.

The declaration of land as ‘*non rateable*’ effectively reduces the amount of revenue available to the Council to undertake necessary works and is not a status that should be granted easily, especially when the Act is unclear as to the status of charitable organisations.

**Financial Implications**

There are no financial implications for this report.

**Strategic Implications**

There are no strategic implications for this report.

**Officer Comment**

The danger with declaring land non rateable is that the rates that would otherwise be charged effectively must be levied over all other rateable property in the district. As more land is declared non rateable, there is a bigger burden on the balance of ratepayers.

Further danger with regard to the declaration of land as being non rateable is that it effectively disappears from the budget process. The Council may therefore choose to consider an alternative approach to declaring land non rateable through the use of the donations system which is reviewed by the Council each year during its budget process. With this scenario, the Council would in fact not declare land non rateable but would, on an annual basis, grant donations for the equivalent (or other) amount.

The Council may also like to take this matter up at a WA Local Government Association level for further examination.

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Rate Exemption – 8 Montem Street, Mount Barker (Cont.)

### **Voting Requirements**

Simple Majority

### **OFFICER'S RECOMMENDATION**

**Moved Cr K Clements, seconded Cr M Skinner:**

**THAT:**

**(1) It be a policy of the Council:**

The Council will, with relation to declarations pursuant to Section 6.26 (2)(g) of the Local Government Act 1995 generally refrain from granting non rateable status where discretion is available to the Council but will give consideration annually during the budget process to granting donations to the subject organisation as part of the normal donation scheme, subject to the Council's policies from time to time.

**(2) The issue of the definition of 'charitable' pursuant to the Local Government Act 1995 be raised at the next meeting of the Great Southern Zone of Western Australian Local Government Association.**

### **MOTION TO ADJOURN QUESTION**

**Moved Cr J Cameron, seconded Cr K Hart:**

**That the question be adjourned until the outcome of the West Australian Local Government Association's review of the definition of 'charitable' is known.**

**CARRIED (7/0)**

**No. 50/05**

**9.4.4 SOUTH MOUNT BARKER FOOTBALL CLUB - USE OF SOUNNESS PARK**

<b>Location / Address:</b>	<b>N / A</b>
<b>Name of Applicant:</b>	<b>N / A</b>
<b>File Reference:</b>	<b>CP/174/3; RC/92/1</b>
<b>Author:</b>	<b>Rayona Evans - Accounts Officer</b>
<b>Authorised By:</b>	<b>John Byrne – Executive Director Corporate &amp; Community Services</b>
<b>Date of Report:</b>	<b>21 February 2005</b>

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**Purpose**

The purpose of this report is to seek permission from the Council to no longer permit the use of Sounness Park by South Mount Barker Football Club.

**Background**

South Mount Barker Football Club has a long standing debt with the Shire. The debt consists of outstanding Annual Ground Rental from 1999 to 2004. Ground rental is set in the Council's Annual Schedule of Fees and Charges. Agreed payment plans have not been met. Efforts made by staff to recover this debt have been unsuccessful, resulting in the debt being referred to the debt collection agency, Dun & Bradstreet. Dun & Bradstreet has indicated there has been no success to date with the recovery.

**Consultation**

Consultation has occurred with the Account Manager of Dun & Bradstreet, Hazel Johnston and Shire of Plantagenet Chief Executive Officer, Rob Stewart and Executive Director Corporate and Community Services, John Byrne.

**Policy Implications**

Policy PD5 of the Policy Manual defines the Council's requirements for debt recovery.

**Financial Implications**

Total debt outstanding currently stands at \$7,000.00.

**Strategic Implications**

There are no strategic implications for this report.

**Officer Comment**

The Shire of Plantagenet has done all in its power to accommodate South Mount Barker Football Club, with correspondence being sent regularly and agreed payment plans being put in place. The continued use of Sounness Park by the Club is now considered inappropriate.

**Voting Requirements**

Simple Majority

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Rate Exemption – 8 Montem Street, Mount Barker (Cont.)

### **MOTION TO PROCEED BEHIND CLOSED DOORS**

**Moved Cr J Cameron, seconded Cr K Hart:**

**3.40pm That the Council move into a Confidential Section to discuss items under the terms of the Local Government Act 1995 as follows:**

- (1) Section 5.23 (2)(d): Legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;**
- (2) Section 5.23 (2)(f)(i): A matter that if disclosed, could be reasonably expected to –**
  - (i) Impair the effectiveness of any lawful method or procedure for preventing, detecting, investigation or dealing with any contravention or possible contravention of the law.**

**CARRIED (7/0)**

**No. 51/05**

### **OFFICER'S RECOMMENDATION**

**THAT:**

- (1) Due to the non payment of ground rental fees, the South Mount Barker Football Club be denied further use of Sounness Park; and**
- (2) The South Mount Barker Football Club and the Great Southern Football League be advised of the Council's decision in (1) above.**

**The Chief Executive Officer withdrew this item pending legal advice.**

### **MOTION TO PROCEED IN PUBLIC**

**Moved Cr K Hart, seconded Cr J Moir:**

**4.02pm That the meeting proceed in public.**

**CARRIED (7/0)**

**No. 52/05**

## 10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Councillor Moir had previously given notice pursuant to Clause 3.7 of Standing Orders that he intends to move:

That Council Resolution No. 33/05 of 22 February 2005:

*'Moved Cr K Hart, seconded Cr D Williss:*

*THAT:*

- (1) Pursuant to Section 6.26(2)(g) of the Local Government Act 1995, Lot 3, Location 27 Hassell Avenue, Kendenup being otherwise rateable land, is hereby declared to be utilised for a charitable purpose and therefore no longer rateable while it continues to be used as charitable purpose.*
- (2) Rates paid on the property for 2004/2005 financial year be reimbursed.*
- (3) Rates outstanding for previous years, prior to the declaration remain payable.*

*CARRIED (4/3)*

*No. 33/05'*

be revoked.

### Reasons For Revocation

- Inconsistent with a previous decision not to grant a rate exemption to Mount Barker Lodge.
- No clear definition of charitable.
- All community groups have the opportunity to apply annually to the Shire for financial assistance.

Councillors Skinner and Clements have advised in writing that they support the revocation pursuant to Local Government Act 1995 Section 5.25 (e), Local Government (Administration) Regulations 1996 Part 10 (1) (b)

The Presiding Member invited Cr Moir to move the motion.

**Moved Cr J Moir, seconded Cr M Skinner:**

**That Council Resolution No. 33/05 of 22 February 2005:**

***'THAT:***

- (1) Pursuant to Section 6.26(2)(g) of the Local Government Act 1995, Lot 3, Location 27 Hassell Avenue, Kendenup being otherwise rateable land, is hereby declared to be utilised for a charitable purpose and therefore no longer rateable while it continues to be used as charitable purpose.***
- (2) Rates paid on the property for 2004/2005 financial year be reimbursed.***

(3) *Rates outstanding for previous years, prior to the declaration remain payable.'*

be revoked.

**MOTION TO ADJOURN QUESTION**

Moved Cr D Williss, seconded Cr K Hart:

That this question be adjourned until further explanation on the definition of 'charitable' is received.

**CARRIED (4/3)**

**No. 53/05**



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

Nil

**12 CONFIDENTIAL**

Nil

**13 CLOSURE OF MEETING**

4.15pm      The Presiding Member declared the meeting closed.

**CONFIRMED: CHAIRPERSON** \_\_\_\_\_ **DATE: ..../..../....**