



ORDINARY COUNCIL MEETING

MINUTES

Ordinary Meeting of the Council
held in the Council Chambers
2.45pm Tuesday 10 October 2006

Rob Stewart
CHIEF EXECUTIVE OFFICER

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS.....	1
2	RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED).....	1
3	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	2
4	PUBLIC QUESTION TIME.....	2
5	PETITIONS / DEPUTATIONS / PRESENTATIONS.....	2
6	APPLICATIONS FOR LEAVE OF ABSENCE.....	3
7	CONFIRMATION OF MINUTES.....	3
8	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....	4
9	REPORTS OF COMMITTEES AND OFFICERS.....	5
9.1	EXECUTIVE SERVICES REPORTS.....	5
9.1.1	TIMBER TOWNS VICTORIA - PROPOSAL TO FORM A NATIONAL BODY.....	5
9.2	CORPORATE SERVICES REPORTS.....	7
9.2.1	POLICY REVIEW - INSURANCE.....	7
9.3	TECHNICAL SERVICES REPORTS.....	9
9.3.1	ROAD CLOSURE – FORSTER ROAD, KENDENUP.....	9
9.4	DEVELOPMENT SERVICES REPORTS.....	11
9.4.1	DRAFT TOWN PLANNING SCHEME POLICY NO. 14 - RURAL TOURIST ACCOMMODATION AND ADDITIONAL HOUSES.....	11
9.4.2	DRAFT TOWN PLANNING SCHEME POLICY NO. 15 - COMMERCIAL PLANTATIONS.....	19
9.4.3	DRAFT TOWN PLANNING SCHEME POLICY NO. 16 - OUTBUILDINGS.....	25
9.4.4	POLICY - SCHEME AMENDMENT REQUESTS.....	31

9.4.5	MOUNT BARKER HILL LOOKOUT – CONSIDERATION OF DESIGN PROJECT	35
9.4.6	LOCATION 1051 SANDERS ROAD, KENDENUP - SECOND DWELLING	38
9.4.7	RESERVE 10338 (PORTION) LOT 2 LOWOOD ROAD, MOUNT BARKER - CHANGE OF USE FROM SERVICE TO RETAIL	41
9.4.8	LOT 30 OATLANDS ROAD, MOUNT BARKER - RECONSIDERATION OF ADDITIONS AND ALTERATIONS TO AN EXISTING RESTAURANT	44
9.4.9	LOT 4 (33) BOXHILL ROAD, PORONGURUP – ANCILLARY ACCOMMODATION	47
9.4.10	LOT 6 OF LOCATION 3205 JAMES ROAD, MOUNT BARKER - HOME BUSINESS -NATUROPATH.....	52
9.4.11	POLICY REVIEW - HALLS - FLOOR SURFACE	55
9.4.12	POLICY REVIEW - PORTABLE GRANDSTAND EQUIPMENT .	57
10	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	59
11	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING.....	59
11.1	LOT 700 (11) ALBANY HIGHWAY, MOUNT BARKER – OFFER FOR SALE.....	60
11.2	RATE EXEMPTION REQUEST - WALITJ ABORIGINAL CORPORATION.....	62
11.3	SOUTH MOUNT BARKER FOOTBALL CLUB	66
12	CONFIDENTIAL.....	70
13	CLOSURE OF MEETING.....	70

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2.54pm The Presiding Member declared the meeting open.

Working to Occupational Safety and Health Best Practices, the Chief Executive Officer, Mr Rob Stewart, read aloud the emergency exits for Councillors, staff and members of the public present in the Council Chambers.

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)

Present

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 J Moir	South Ward
Cr K Clements	Town Ward
Cr K Hart	Kendenu Ward
Cr M Skinner	East Ward
Mr R Stewart	Chief Executive Officer
Mr J Fathers	Deputy Chief Executive Officer
Mr I Bartlett	Manager Works and Services
Mr P Duncan	Manager Development Services
Ms N Selesnew	Manager Community services
Mrs K Skinner	Executive Secretary

Miss C Delmage Administration Officer

There were four (4) members of the public present.

There were no members of the media present.

Previously Approved Leave of Absence

Cr B Hollingworth 17 August – 23 November 2006 inclusive

Cr J Mark 9 - 20 October 2006 inclusive

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PETITIONS / DEPUTATIONS / PRESENTATIONS

Shane Caudwell – Lot 4 (33) Boxhill Road, Porongurup – RV/182/1898

My wife and I have submitted a submission to build a small granny flat for my parents on our property at Lot 4 Boxhill Road, Porongurup.

I hope the information I supplied with the submission explains the reasons behind the positioning and proposed size of the granny flat.

There are a few issues I feel I need to explain:

- There have been questions raised about a laundry on the proposed plan.
- The reason for siting the proposed granny flat where it has been sited is because of the terracing of our block. If at all possible, given their mobility issues, I really do not want my parents having to negotiate the ramps we will be installing, too often. Having said that, the original purpose of the area shown on the plan as a laundry was as a wet area - storage for muddy boots and wet jackets and the like. If it really is an issue, we would be willing to ensure that that area is devoid of plumbing of any sort and my wife and I will deal with my parents' laundry, if it should become necessary.
- The size of the granny flat. We settled on the floor area of the granny flat after consulting with Isabled in Albany and the Health Department. We have purposely kept the 'study' at 2.5m wide to preclude its use as a guest bedroom. After a bookshelf and computer are in place, there will effectively be no spare space.
- The size of the bedroom was decided on to allow walking frame and wheelchair access on one (1) side of the bed only. We would have preferred more room, but as no confirmation of a definitive size for granny flats was available to us, we just kept everything to the minimum viable size.

- The bathroom will have a shower stall only - no bath - and a basin and toilet. We needed to allow for the possibility of assisted bathing. This was considered the minimum practical size.
- I would like to reiterate that the sum total of both dwellings, if approved, will be less than 160m², smaller than an average three (3) bedroom house.

As for some other points that have been raised:

- We would be happy for the Council to specify construction requirements for the covered walkway that will connect the two (2) residences, if they feel the need.
- We would be happy to have a covenant put in place prohibiting any sort of subdivision of Lot 4 Boxhill Road, Porongurup. In any event, the positioning of the proposed granny flat would preclude this option.
- If required, we would be happy to sign Statutory Declarations stating that the proposed granny flat will only ever be used as family accommodation.
- In short, we just want to provide my parents with a small but comfortable granny flat that has been designed and built with their changing circumstances in mind.

Thank you for your assistance.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES

Moved Cr M Skinner, seconded Cr K Hart:

That the Minutes of the Ordinary Meeting of the Council held 26 September 2006 be confirmed.

CARRIED (7/0)

No. 311/06

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 12 October 2006 – Cr K Forbes and Mr Rob Stewart – Chief Executive Officer will meet with the Minister for Local Government in Albany.
- 13 October 2006 - Representatives from the Systemic Sustainability Review Committee will present their findings in the Council Chambers. All Councillors are encouraged to attend.
- 17 October 2006 - Cr Forbes and Cr D Williss will attend a meeting of the One Community, One College Committee.
- 17 October 2006 – A public meeting will be held in the Council Chambers to discuss matters of importance with the community.
- 18 October 2006 – Cr Forbes and Mr Stewart will meet with representatives from the Shire of Donnybrook / Balingup who will be visiting Mount Barker to look at our new administration office. All Councillors are encouraged to attend.
- 20 October 2006 – Cr Forbes will be conducting a naturalisation ceremony in the Council Chambers.
- 23 October 2006 – Cr Williss and Mr Ian Bartlett – Manager Works and Services will attend a meeting of the Regional Roads Group in Tambellup.
- 23 October 2006 – Cr Forbes and Mr Stewart will attend a meeting with representatives from Racing and Wagering of Western Australia (RWWA) in Albany

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 EXECUTIVE SERVICES REPORTS

9.1.1 TIMBER TOWNS VICTORIA - PROPOSAL TO FORM A NATIONAL BODY

Location / Address:	N / A
Attachment: (1)	Memo
Name of Applicant:	N / A
File Reference:	ED/76/1
Author:	Rob Stewart - Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	3 October 2006

Purpose

The purpose of this report is to advise of a proposition by Timber Towns Victoria (TTV) to form a National Timber Towns body.

Background

Attached to this report is a memorandum by the Chief Executive Officer relating to a visit by TTV representatives to Mount Barker on 14 September 2006.

That memo is self explanatory.

TTV is an incorporated local government association representing the interests of municipal councils in relation to forestry on both public and private land and its primary function is to provide a forum for local government to address the management of forest and forest industries and their impacts on local communities.

TTV currently has twenty member councils across Victoria. TTV was established to:

- Provide a forum for the discussion of matters affecting municipal councils in which forest industries are an important activity;
- Represent the views of local government;
- Persuade leaders in political and business arenas to pursue policies that assist in the development of sustainable forest industries;
- Promote and enhance the role of local government in forest management; and
- Promote timber as a sustainable resource.

TTV has been the representative body of the Timber Industry Road Evaluation Study (TIRES) in Victoria.

Councillors would be aware that TIRES represents not only Local Government but also producers and other government bodies. TTV emphasises that it represents only local government.

Policy Implications

Whether to support the formation of a National Timber Towns body or otherwise would effectively create a new policy.

Financial Implications

As is presently the case, the Council could expect to expend funds on lobbying, travelling, report preparation and consultants.

Strategic Implications

The long term strategic implications for effective lobbying should work towards achieving strategic outcomes including, in this case, better funding and better roads.

Officer Comment

There is nothing intrinsically wrong with creating a National Timber Towns group. TTV has been a successful lobbying group in much the same way as TIRES has been a successful lobbying group. Councillors may believe that the TIRES group is just as effective with the main difference being that TIRES has representatives from various interest groups while TTV expressively states that it represents local government only.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Cameron, seconded Cr D Williss:

That Timber Towns Victoria (TTV) be advised that the Shire of Plantagenet will discuss the concept of a National Timber Towns body with its various stakeholders including the Great Southern Development Commission, the Transport Industry and other affected Councils in the Great Southern.

CARRIED (7/0)

No. 312/06

9.2 CORPORATE SERVICES REPORTS

9.2.1 POLICY REVIEW - INSURANCE

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	RM/120/2
Author:	John Fathers - Deputy Chief Executive Officer
Authorised By:	John Fathers - Deputy Chief Executive Officer
Date of Report:	28 September 2006

Purpose

The purpose of this report is to review Council Policy No. A/I/1 – Insurance.

Background

Council Policy No. A/I/1 – Insurance reads as follows:

‘That it be Council policy not to accept responsibility for the cost of insurance of buildings erected by other organisations on land under Council control except on a prior arrangement basis.’

This Policy was last updated by the Council at its meeting held on 27 September 2005.

Statutory Environment

There are no statutory implications for this report.

Consultation

Consultation has taken place with Ms Nicole Selesnew - Manager Community Services.

Policy Implications

This policy review is presented to the Council as part the Council’s ongoing policy review cycle.

Financial Implications

There are no direct financial implications relating to this report.

Strategic Implications

The Council’s Strategic Plan Key Result Area 1, New Initiative 1.4 provides the following:

‘1.4 Ensure the administrative systems and framework of the organisation efficiently and effectively permit the functions of the organisation to be undertaken.’

To achieve this we will:

- *Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*

Policy Review – Insurance (Cont.)

- *Promote and provide access to policies, procedures, standards and legislation.'*

Officer Comment

It is generally considered to be standard practice for organisations to keep their own insurance for buildings on property under the control of local government. It is appropriate that the Council maintain a policy to clarify this position, although there is and may be other exceptions to the policy from time to time. One such example relates to fire sheds whereby the Fire and Emergency Services Authority provides funding to the Council to build, insure and maintain such structures, which may or may not be on Council property.

There may be other exceptions, however these can be dealt with on a case by case basis and the Policy provides for this. It is therefore recommended that the Policy be endorsed.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Moir, seconded Cr K Clements:

That Council Policy No. A/I/1 - Insurance:

'That it be Council Policy not to accept responsibility for the cost of insurance of buildings erected by other organisations on land under Council control except on a prior arrangement basis.'

be endorsed.

CARRIED (6/1)

No. 313/06

9.3 TECHNICAL SERVICES REPORTS

9.3.1 ROAD CLOSURE – FORSTER ROAD, KENDENUP

Impartiality Disclosure

Pursuant to Clause 1.3 of the Shire of Plantagenet Code of Conduct for Elected Members and Staff, Cr K Hart made a voluntary disclosure of impartiality regarding this matter.

Nature Of Voluntary Disclosure

The applicant's spouse is the appointed Chief Bush Fire Control Officer for Plantagenet. Cr Hart is the Chair of the Bush Fire Advisory Committee for the Shire of Plantagenet.

Location / Address:	Forster Road, Kendenup
Attachments: (1)	Locality / Site Map
Name of Applicant:	Mrs Jacqueline Burcham
File Reference:	RO/144/5
Author:	Anthony Svanberg- Engineering Cadet
Authorised By:	Ian Bartlett- Manager Works and Services
Date of Report:	27 September 2006

Purpose

The purpose of this report is to consider a request from Mrs Jacqueline Burcham for the closure of Forster Road, Kendenup.

Background

Mrs Jacqueline Burcham has requested the closure of Forster Road between Red Gum Pass Road and the Kitchener Road reserve as she owns land on both sides of this un-constructed gazetted road. Fencing along the reserve has been removed to improve access between the titles on either side of the road reserve. An adjacent land parcel on the road reserve belongs to the State government.

Statutory Environment

Local Government Act 1995

Land Administration Act 1997

Local Government (Miscellaneous Provisions) Act 1960

Consultation

Consultation occurred with Mr Peter Duncan – Manager Development Services, who supports the retention of the Road Reserve for future planning needs.

The State Government and Department of Land Information will need to be consulted if the Road Reserve is approved for closure by the Council.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Road Closure – Forster Road, Kendenup (Cont.)**Strategic Implications**

Shire of Plantagenet Strategic Plan Key Result Area 2:

'Infrastructure aims to maximise the benefit to the community, in an equitable manner, by effectively and efficiently developing and maintaining the road network and buildings and infrastructure within the financial resources of the Shire.'

Officer Comment

Presently, no adjacent land parcels rely on the road reserve for access as they all include lots located on constructed road reserves. The road reserve is needed to facilitate future sales of existing lots which have no road access and subdivision of lots without road access. Future development in the area will depend on this road for fire safety and evacuation requirements.

Kitchener Road is not constructed. It begins at Costello Road and terminates at View Range Road. The Road Reserve for Forster Road, between Red Gum Pass and Kitchener Road is approximately 32,000m² [3.2ha] in area and 1.6km in length.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

THAT:

- (1) Forster Road Reserve remain open for the future development, fire safety and property access needs of the Kendenup townsite.
- (2) Mrs J Burcham be advised in the terms of Part (1) above.

ALTERNATIVE MOTION / COUNCIL DECISION

Moved Cr J Cameron, seconded Cr M Skinner:

That closure procedures be commenced for the unconstructed gazetted portion of Forster Road between Red Gum Pass Road and Kitchener Road subject to all costs being met by the applicant including the purchase of the Road Reserve, if required.

CARRIED (7/0)

No. 314/06

Reason For Change

The Council considered that there would be no future requirement for this portion of Road Reserve.

9.4 DEVELOPMENT SERVICES REPORTS

9.4.1 DRAFT TOWN PLANNING SCHEME POLICY NO. 14 - RURAL TOURIST ACCOMMODATION AND ADDITIONAL HOUSES

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	LP/120/4
Author:	Marta Osipowicz - Planning Officer
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	13 September 2006

Purpose

The purpose of this report is to consider Draft Town Planning Scheme Policy No. 14 - Rural Tourist Accommodation and Additional Houses.

Background

Currently the Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) and associated policies provide little to no guidance on rural tourist accommodation or the appropriateness of more than one house on rural properties.

The Council has considered a number of applications for second houses on rural lots. In most instances the second house has been approved where the house provides accommodation for workers associated with the rural enterprise. Council staff have noticed an increase in the number of enquiries regarding second houses on properties.

The proposed policy aims to provide guidelines on the appropriateness and acceptability of rural tourist accommodation and additional houses on rural land.

Statutory Environment

Planning and Development Act 2005
TPS3 – Clause 7.6 ‘Power to Make Policies’

Consultation

In accordance with Clause 7.6.2 of TPS3, the Council is required to advertise the draft policy once a week for two (2) consecutive weeks within a newspaper circulating within the area. The advertisement is required to contain details of where the draft policy may be inspected and in what form submissions can be made during a period of not less than twenty-one days.

Policy Implications

This is a new Town Planning Scheme Policy.

Financial Implications

The cost of advertising will be met from the Town Planning Advertising Budget.

Strategic Implications

Shire of Plantagenet Strategic Plan 2003, Key Result Area 4 states that the Council will ‘*Develop and Review Town Planning Policies*’.

Officer Comment

As previously indicated, the Council does not currently have any policies relating to rural tourist accommodation or additional houses on rural land. There are many residents and interested individuals keen in either commencing tourist ventures or providing an additional house for family members.

The proposed policy clearly establishes requirements for commencing tourism accommodation and sets minimum standards for development including the minimum rural lot area (10ha) where tourist accommodation and additional dwellings are acceptable.

It can be seen that the draft policy applies for tourist accommodation ventures involving up to a maximum of four (4) units such as Chalets. The draft policy states that for between five (5) to eight (8) units a Scheme Amendment will be needed to include the site in the Schedule of Additional Uses. Over eight (8) such units will require a Scheme Amendment to zone the land Tourist.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

Moved Cr K Hart, seconded Cr D Williss:

THAT:

- (1) **Draft Town Planning Scheme Policy No. 14 - Rural Tourist Accommodation and Additional Houses, as follows, be advertised in accordance with Clause 7.6.2 (a) of Town Planning Scheme No. 3 for a period of twenty-one days.**
- (2) **At the conclusion of the advertising period a further report be prepared for consideration of the Council no later than its meeting to be held 12 December 2006.**

Town Planning Scheme No. 3**Draft Town Planning Scheme Policy No. 14****Rural Tourist Accommodation & Additional Houses****Purpose**

- (1) **Commercial tourist development should generally occur within the urban areas of the Shire and that opportunities should be provided for small scale and low impact tourist accommodation and related activities in rural areas.**
- (2) **To provide the ability for the Council to consider Additional houses on rural properties.**

Objectives

- (1) **To provide for tourist accommodation in the rural areas of the Shire in a manner that does not conflict with existing or potential agricultural or horticultural pursuits.**

- (2) To provide a balance between agriculture or horticulture and tourism such that tourism does not dominate, and does not detrimentally impact, the sustainable use or availability of agricultural land.**
- (3) To acknowledge tourism as an appropriate source of employment and income to the benefit and prosperity of the community of the Shire.**
- (4) To optimise both the agricultural and tourism potential of the rural areas of the Shire without detrimental impact on the inherent beauty, amenity and value of those areas.**
- (5) To allow, under certain circumstances, additional houses and / or ancillary accommodation to be erected on rural properties over 10ha.**

This Policy applies to all land situated within the rural zone.

Proponents should be aware that proposals including more than 4 tourist accommodation units will be subject to rezoning and other procedures pursuant to the Town Planning Scheme in addition to the requirements of this policy.

In considering any application for approval for Rural Tourist Accommodation and Additional Houses, the Council will have regard to the criteria below before a decision is made.

Policy Criteria:

- (1) This policy applies for up to a maximum of four (4) tourist accommodation units on a Rural zoned property. The minimum lot size for such a proposal will be 10ha.**
- (2) All tourist accommodation units will be sited in a manner that will not impinge on the amenity or character of the area. The Council may require additional vegetation screening to be planted and established prior to approval of the proposal.**
- (3) Tourist accommodation units must be primarily accessed from a bitumen sealed road. A small scale operator (four (4) units or less) is able to access off a gravel road but should not expect the Council to upgrade the road pavement to bitumen standards. The Council may require a once off financial contribution to maintenance of the gravel road at the time of approval. This fee will be set in the Council's Annual Budget.**
- (4) Tourist accommodation will not be permitted within a minimum of 100m of existing horticultural activities on adjoining land.**

The operator may be required to display appropriate signage/ information material within the main reception area of the development and / or within accommodation units that advises patrons that development is located in an agricultural area and that agricultural activities may create nuisance or inconvenience from time to time, but are essential to the maintenance of the prosperity and character of the area.

- (5) Each tourist accommodation unit (such as a Chalet) will be a maximum of two (2) bedrooms.**

- (6) External building materials of tourist accommodation units and / or additional house must be compatible with the site's surrounding.
- (7) Every tourist accommodation unit and / or additional house requires a source of potable water to a capacity of 92,000L. Suction fittings will be required on individual domestic potable water supplies for the supply of water to fire fighting appliances in the event of a fire.
- (8) The applicant must demonstrate that efficient long-term on-site effluent disposal can be achieved without potential impact to public health, water supplies, neighbouring properties or the environment.

Conventional effluent disposal areas must not be located within 100m of any creek, river, dam or spring however, approved Aerobic Treatment Units (ATU) may allow this distance to be reduced to 50m.
- (9) The provision of all services, including augmentation of existing services, necessary as a consequence of any proposed development will be at no cost to the Council.
- (10) The Council shall determine on application the need for fire protection measures such as Building Protection zones, firebreaks, escape routes, clearing of vegetation and standpipe and hose facilities in consultation with the Fire and Emergency Service Authority.
- (11) The applicant of an additional house will be required to substantiate that the house is needed for management purposes of an existing rural enterprise or for a family member. A maximum of two (2) additional houses will be permitted on any one (1) Rural zoned lot over 10ha.
- (12) In considering additional houses, specifically for a rural enterprise, the Council will require the applicant to substantiate that progress has been made towards bringing the rural venture into operation.
- (13) Ancillary Accommodation (maximum 60m²) must be part of the main house (or connected through some physical means to the Council's satisfaction) on the property and will need to meet the standards set in the Residential Design Codes. A Statutory Declaration will be required to be submitted with the application for planning consent.
- (14) Land subdivision by way of freehold or strata title arising from the approved development of tourist accommodation or additional houses of any given site will not be supported.

Larger Rural Tourist Accommodation Proposals

Proposals for between five (5) and eight (8) tourist accommodation units in the Rural zone will require the property to be subject to an amendment to Town Planning Scheme No. 3 to include the property in the Additional Use Schedule No. 2. Such an amendment will include a development plan for the site and relevant conditions of use for the proposal. Where relevant, the above listed policy criteria will apply.

Proposals over eight (8) tourist accommodation units in the Rural zone will require the property to be subject to an amendment to Town Planning Scheme No. 3 to rezone the property to a Tourist zone. Presently no such zone exists in Town Planning Scheme No. 3 and as such the first such proposal will need to

include the necessary mechanisms into the Scheme which will include a Schedule of Tourist zones. Any such proposal for over eight (8) such units will need to show the sustainability of the development in terms of its location and site specific standards.

AMENDMENT

Moved Cr J Moir, seconded Cr M Skinner:

That the words '100m of existing horticultural activities on adjoining land' be replaced with the words '100m of lot boundaries and a minimum of 100m of existing horticultural and / or agricultural chemical use and activities on the subject land' in the first sentence of Part (4) of the Policy Criteria.

CARRIED (6/1)

No. 315/06

FURTHER AMENDMENT

Moved Cr J Cameron, seconded Cr D Williss:

That the word 'potable' be deleted after the word 'domestic' from the third line of Part (7) of the Policy Criteria.

CARRIED (6/1)

No. 316/06

FURTHER AMENDMENT

Moved Cr J Moir, seconded Cr K Clements:

That the words 'A Statutory Declaration will be required to be submitted with the application for planning consent.' be added to the end of Part (11).

LOST (3/4)

COUNCIL DECISION

THAT:

- (1) Draft Town Planning Scheme Policy No. 14 - Rural Tourist Accommodation and Additional Houses, as follows, be advertised in accordance with Clause 7.6.2 (a) of Town Planning Scheme No. 3 for a period of twenty-one days.
- (2) At the conclusion of the advertising period a further report be prepared for consideration of the Council no later than its meeting to be held 12 December 2006.

Town Planning Scheme No. 3
Draft Town Planning Scheme Policy No. 14
Rural Tourist Accommodation & Additional Houses

Purpose

- (1) Commercial tourist development should generally occur within the urban areas of the Shire and that opportunities should be provided for small scale and low impact tourist accommodation and related activities in rural areas.
- (2) To provide the ability for the Council to consider Additional houses on rural properties.

Objectives

- (1) To provide for tourist accommodation in the rural areas of the Shire in a manner that does not conflict with existing or potential agricultural or horticultural pursuits.
- (2) To provide a balance between agriculture or horticulture and tourism such that tourism does not dominate, and does not detrimentally impact, the sustainable use or availability of agricultural land.
- (3) To acknowledge tourism as an appropriate source of employment and income to the benefit and prosperity of the community of the Shire.
- (4) To optimise both the agricultural and tourism potential of the rural areas of the Shire without detrimental impact on the inherent beauty, amenity and value of those areas.
- (5) To allow, under certain circumstances, additional houses and / or ancillary accommodation to be erected on rural properties over 10ha.

This Policy applies to all land situated within the rural zone.

Proponents should be aware that proposals including more than four (4) tourist accommodation units will be subject to rezoning and other procedures pursuant to the Town Planning Scheme in addition to the requirements of this policy.

In considering any application for approval for Rural Tourist Accommodation and Additional Houses, the Council will have regard to the criteria below before a decision is made.

Policy Criteria:

- (1) This policy applies for up to a maximum of four (4) tourist accommodation units on a Rural zoned property. The minimum lot size for such a proposal will be 10ha.
- (2) All tourist accommodation units will be sited in a manner that will not impinge on the amenity or character of the area. The Council may require additional vegetation screening to be planted and established prior to approval of the proposal.
- (3) Tourist accommodation units must be primarily accessed from a bitumen sealed road. A small scale operator (four (4) units or less) is

able to access off a gravel road but should not expect the Council to upgrade the road pavement to bitumen standards. The Council may require a once off financial contribution to maintenance of the gravel road at the time of approval. This fee will be set in the Council's Annual Budget.

- (4) Tourist accommodation will not be permitted within a minimum of 100m of lot boundaries and a minimum of 100m of existing horticultural and / or agricultural chemical use and activities on the subject land.

The operator may be required to display appropriate signage/ information material within the main reception area of the development and / or within accommodation units that advises patrons that development is located in an agricultural area and that agricultural activities may create nuisance or inconvenience from time to time, but are essential to the maintenance of the prosperity and character of the area.

- (5) Each tourist accommodation unit (such as a Chalet) will be a maximum of two (2) bedrooms.
- (6) External building materials of tourist accommodation units and / or additional house must be compatible with the site's surrounding.
- (7) Every tourist accommodation unit and / or additional house requires a source of potable water to a capacity of 92,000L. Suction fittings will be required on individual domestic water supplies for the supply of water to fire fighting appliances in the event of a fire.
- (8) The applicant must demonstrate that efficient long-term on-site effluent disposal can be achieved without potential impact to public health, water supplies, neighbouring properties or the environment.

Conventional effluent disposal areas must not be located within 100m of any creek, river, dam or spring however, approved Aerobic Treatment Units (ATU) may allow this distance to be reduced to 50m.

- (9) The provision of all services, including augmentation of existing services, necessary as a consequence of any proposed development will be at no cost to the Council.
- (10) The Council shall determine on application the need for fire protection measures such as Building Protection zones, firebreaks, escape routes, clearing of vegetation and standpipe and hose facilities in consultation with the Fire and Emergency Service Authority.
- (11) The applicant of an additional house will be required to substantiate that the house is needed for management purposes of an existing rural enterprise or for a family member. A maximum of two (2) additional houses will be permitted on any one (1) Rural zoned lot over 10ha.
- (12) In considering additional houses, specifically for a rural enterprise, the Council will require the applicant to substantiate that progress has been made towards bringing the rural venture into operation.
- (13) Ancillary Accommodation (maximum 60m²) must be part of the main house (or connected through some physical means to the Council's

satisfaction) on the property and will need to meet the standards set in the Residential Design Codes. A Statutory Declaration will be required to be submitted with the application for planning consent.

- (14) Land subdivision by way of freehold or strata title arising from the approved development of tourist accommodation or additional houses of any given site will not be supported.

Larger Rural Tourist Accommodation Proposals

Proposals for between five (5) and eight (8) tourist accommodation units in the Rural zone will require the property to be subject to an amendment to Town Planning Scheme No. 3 to include the property in the Additional Use Schedule No. 2. Such an amendment will include a development plan for the site and relevant conditions of use for the proposal. Where relevant, the above listed policy criteria will apply.

Proposals over eight (8) tourist accommodation units in the Rural zone will require the property to be subject to an amendment to Town Planning Scheme No. 3 to rezone the property to a Tourist zone. Presently no such zone exists in Town Planning Scheme No. 3 and as such the first such proposal will need to include the necessary mechanisms into the Scheme which will include a Schedule of Tourist zones. Any such proposal for over eight (8) such units will need to show the sustainability of the development in terms of its location and site specific standards.

CARRIED (7/0)

No. 317/06

9.4.2 DRAFT TOWN PLANNING SCHEME POLICY NO. 15 - COMMERCIAL PLANTATIONS

A Financial Interest was declared by Cr J Cameron for Item 9.4.2

Nature Of Interest: Financial

4.06pm Cr J Cameron withdrew from the meeting.

Location / Address: N / A
Name of Applicant: N / A
File Reference: LP/120/5
Author: Peter Duncan - Manager Development Services
Authorised By: Rob Stewart - Chief Executive Officer
Date of Report: 27 September 2006

Purpose

The purpose of this report is to consider Draft Town Planning Scheme Policy No. 15 - Commercial Plantations.

Background

The Shire of Plantagenet has been experiencing significant change, particularly in its rural areas. This change has also been occurring in many other inland rural municipalities within the State.

Changes that have been occurring within the Shire include:

- Increase in plantation development;
- Declining reliance upon traditional farming especially sheep and cattle;
- Increase in viticulture;
- Changing population structure;
- Increasing awareness of residents' rights and demands to particular processes;
- Broader awareness of the scenic and quality of life attributes of the Shire;
- Increase in tourism; and
- Increase in lifestyle developments.

For some time now the community and tree farming industry have expressed concern with planning controls over plantations. These were summarised by Thompson McRobert Edgeloe consultants in 2001 as:

- (A) *On one side there is Government Policy promoting regional development including the plantation industry. This originates from the recognised:-*
- *Environmental and economic benefits of plantations to the State;*
 - *General public concern with the logging of native forest and an expectation that timber production will be eventually transferred to private land;*
 - *The desire to establish value adding industries and processing within the State to provide long term benefit to the State as a whole;*
 - *The need to promote regional economic objectives; and*
 - *Investment opportunities in commercial tree farming.*
-

Draft Town Planning Scheme Policy No. 15 – Commercial Plantations (Cont.)

(B) *On the other side the local community is:-*

- *Undergoing a process of wider structural change;*
- *Becoming more concerned with the development of the Shire and wishes to participate and contribute to the process; and*
- *Feeling threatened by large organisations and Government which appears to be unsympathetic to their concerns.'*

In November 1999 the Draft Commercial Plantation Forestry Policy was prepared to provide the commercial tree farming industry, landowners, investors and the community with an understanding of the most appropriate locations for commercial tree farming within the Shire and to assist the Council in determining Applications for Planning Consent.

The Draft Policy was advertised for public comment in February 2000 and the Council received 125 submissions.

The Draft Commercial Plantation Forestry Policy consisted of:

- (1) The Policy Statement;
- (2) The Policy Map; and
- (3) The Policy Report.

At its meeting on 24 April 2001 the Council considered a report on the submissions and a draft policy prepared by TME and resolved at Item 9.5.6:

'Moved Cr McGready Seconded Cr Seeber that:

Council resolve to:

1. *Receive the Summary of Public Submissions and the Draft Commercial Plantation Forestry Policy prepared by Thompson McRobert Edgeloe (TME).*
2. *Following a briefing of Council in the afternoon of 15th May 2001 request the Acting Chief Executive Officer organise a community workshop to be held on the evening of 15th May 2001 to explain and gain feedback on the Policy and Amendment 28.*
3. *In consultation with TME evaluate the outcomes of the workshop and present the Final Policy to a Council meeting as early as possible*

CARRIED 12/0'

A community workshop was held in May 2001. Following that, work was done on improving Amendment No. 28 to Town Planning Scheme No. 3 rather than on the draft policy.

Amendment No. 28 was finalised and published in the Government Gazette on 19 September 2006 and it introduced provisions specifically dealing with plantations. This Policy must now be endorsed as it is referred to in the finalised Amendment.

Statutory Environment

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 – Clause 7.6 'Power to Make Policies'

Consultation

In accordance with Clause 7.6.2 the Council is required to advertise the draft policy once a week for two (2) consecutive weeks within a newspaper circulating within the area. The advertisement is required to contain details of where the draft policy may be inspected and in what form submissions can be made during a period of not less than twenty-one days.

Policy Implications

This is a new Town Planning Scheme Policy.

Financial Implications

The cost of advertising will be met from the Town Planning Advertising Budget.

Strategic Implications

Shire of Plantagenet Plan 2003, Key Result Area 4 states that the Council will '*Develop and Review Town Planning Policies*'.

Officer Comment

The draft Town Planning Scheme Policy No. 15 has been prepared to reinforce the recently introduced provisions relative to plantations in Town Planning Scheme No. 3 through Amendment No. 28. That Amendment and the draft policy have been in the course of preparation for many years.

The State Government is yet to release its policy on plantations.

The earlier draft policy of 2000 was quite long and included many provisions which have since been modified and included within the Scheme through Amendment No. 28.

This proposed draft policy emphasises the five (5) new special control areas where planning consent is required or where plantations are not permitted. It also advises that planning consent is not required for plantations outside the special control areas provided a plantation management plan is submitted to the Council, prior to any planting.

This proposed draft policy makes reference to the Code of Practice for Timber Plantations in WA 2006, which was recently revised and updated. The code required things such as harvesting management plans two (2) years prior to harvest and aerial spray application management plans should it be proposed to use this practice.

As this draft policy is based on the standards of Amendment No. 28 and does not introduce any new provisions the twenty-one day advertising is appropriate.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr M Skinner, seconded Cr K Hart:

THAT:

- (1) Draft Town Planning Scheme Policy No. 15 - Commercial Plantations, as follows, be advertised in accordance with Clause 7.6.2(a) of Town Planning Scheme No. 3 for a period of twenty-one days.
- (2) At the conclusion of the advertising period a further report be prepared for consideration of the Council no later than its meeting to be held 12 December 2006.

Town Planning Scheme No. 3

Draft Town Planning Scheme Policy No. 15

Commercial Plantations

Definition

Timber Plantation means the use of land for planting, growing, maintenance and harvesting of trees for the production of timber products.

Objectives

- (1) To encourage the integration of plantations with existing agricultural uses.
- (2) To reduce potential adverse impacts and land use conflict from the inappropriate siting and development of plantations.
- (3) To promote the development of plantations that integrate traditional agricultural activities.
- (4) To support the rehabilitation of cleared land and assist in the reduction in salinity, waterlogging and erosion.
- (5) To ensure there is an appropriate means of access to plantations and that the existing road network and public safety is not affected by heavy vehicles and that the local road network is not damaged by heavy vehicles.
- (6) To ensure that the development, management and harvesting of plantations is in accordance with the Code of Practice for Plantations and the Guidelines for Plantation Fire Protection and the Council's Firebreak Notice.

After many years of development, Amendment No. 28 to Town Planning Scheme No. 3 was finalised and published in the Government Gazette on 19 September 2006. That Amendment introduced provisions which specifically deal with timber plantations. This Town Planning Scheme Policy is aimed at assisting in the method of dealing with timber plantations.

In considering any application for approval for plantations, the criteria below will be considered.

Policy Criteria:

- (1) This policy applies to the whole of the municipal district of the Shire of Plantagenet, excluding State Forest and Crown Reserves.**
- (2) Plantations are a 'P' (permitted) use in the Rural zone and planning consent of the Council is not required for such a use where criteria specified in Clause 5.1.2(g) of Town Planning Scheme No. 3 are satisfied.**
- (3) Town Planning Scheme No. 3 contains five (5) Special Control Areas wherein an application for planning consent is required or alternatively where plantations are not permitted. The Special Control Areas are:**
 - (i) Kendenup Townsite**
 - (ii) Rocky Gully Townsite**
 - (iii) Narrikup Townsite**
 - (iv) Mount Barker**
 - (v) Porongurup**

For ease of reference, the Special Control Area Maps for these five (5) areas are attached to this Policy.

- (4) Clause 3.8.4 of Town Planning Scheme No. 3 lists the matters the Council will consider when determining an application for planning consent where such an application is required. These are listed below:**
 - (a) The provisions of the Shire's Commercial Plantation Policy;**
 - (b) The Code of Practice for Timber Plantations and whether or not the proponent is a signatory to the Code;**
 - (c) Consistency with the performance standards of 'Planning for Bush Fire Protection' and 'Guidelines for Fire Protection', following referral to the Fire and Emergency Services Authority, and with Council's 'Annual Fire Break Notice';**
 - (d) Existing uses and development on the subject land;**
 - (e) The location of the subject land and its relationship to surrounding land uses, especially residential, rural residential, rural small holdings, and tourist land uses;**
 - (f) The location of the land in relation to designated haulage routes;**
 - (g) Access to and from the subject land and the existing standard of local roads and their capacity to support timber haulage vehicles;**
 - (h) Protection of native vegetation;**
 - (i) The impact on the amenity of the area, including scenic views;**
 - (j) Where the land is located in the Porongurup SCA 5, the provisions of the Porongurup Rural Strategy;**
 - (k) Where the land is located in the Mount Barker SCA 4, the Mount Barker Rural Strategy;**
 - (l) Any submissions received as a result of advertising the application; and**
 - (m) Any other matters considered relevant.**
- (5) Although planning consent is not required in the rural districts not part of a Special Control Area, in accordance with clause 5.1.2(g)(3) of Town Planning Scheme No. 3 proponents will need to submit to the Council:**
 - (a) A plantation management plan prior to the commencement of any site works or plantings; and**

- (b) A harvesting plan two (2) years prior to the anticipated harvesting date.
- (6) The Council will address any particular road needs as part of the consideration of the harvesting management plan.
- (7) The issue of aerial spraying of plantations to control insect damage is a matter the Council will have regard to. The Council requires plantation operators provide advice before a plantation is to be aurally sprayed in order that monitoring of spray drift can be carried out by Council officers. The Council will be prepared to accept a specific protocol to be prepared by the proponent in the form of an aerial spray application management plan which addresses the Code of Practice and the following points:
 - (a) Restrictions on the wind direction and wind speed under which aerial spraying may occur;
 - (b) Provisions for a buffer zone adjacent to any urban area that is not to be aurally sprayed, the width of which can be negotiated depending on the chemical types and any restrictions on wind direction that may apply; and
 - (c) An aerial spraying record to be logged by the pilot and submitted to the Shire prior to and following application events.
- (8) The Council recognises the intentions of the timber industry in its Code of Practice for Timber Plantations in WA and supports the thrust of such a document. The Council will administer this Town Planning Scheme Policy on the understanding that all operators will abide by the Code of Practice.

AMENDMENT

Moved Cr J Moir,

That the word 'urban' be removed from Part (7) (b) of the Policy.

MOTION LAPSED FOR WANT OF A SECONDER

THE ORIGINAL RECOMMENDATION WAS PUT TO THE VOTE

CARRIED (6/0)

No. 318/06

4.13pm Cr J Cameron returned to the meeting.

9.4.3 DRAFT TOWN PLANNING SCHEME POLICY NO. 16 - OUTBUILDINGS

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	LP/120/6
Author:	Peter Duncan - Manager Development Services
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	28 September 2006

Purpose

The purpose of this report is to consider Draft Town Planning Scheme Policy No. 16 - Outbuildings.

Background

The Council is regularly required to consider proposals for outbuildings that exceed the maximum floor area of 60m² set by the Residential Design Codes.

Statutory Environment

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Clause 7.6 ‘Power to Make Policies’

Consultation

In accordance with TPS3 Clause 7.6.2, the Council is required to advertise a draft policy once a week for two (2) consecutive weeks within a newspaper circulating within the area. The advertisement is required to contain details of where the draft policy may be inspected and in what form submissions can be made during a period of not less than twenty-one days.

Policy Implications

This is a new Town Planning Scheme Policy.

Financial Implications

The cost of advertising will be met from the Town Planning Advertising Budget.

Strategic Implications

Shire of Plantagenet Strategic Plan 2003, Key Result Area 4 indicates that the Council will ‘*Develop and Review Town Planning Policies*’.

Officer Comment

The draft Town Planning Scheme Policy No. 16 has been prepared to provide guidance and direction when considering proposals to erect outbuilding in particular zones.

The main parts of the draft policy set maximum wall heights and maximum floor areas for outbuildings based on the particular zone. These are summarised briefly in the table below:

Draft Town Planning Scheme Policy No. 16 – Outbuildings (Cont.)

Zone	Maximum Wall Height	Maximum Cumulative Floor Area
Residential	3.0m	80m ²
Rural Residential & Landscape Protection	3.5m	150m ²
Rural Smallholding	3.5m	200m ²
Rural	No Limit	No Limit
Rural within Special Control Areas (Mount Barker, Narrikup, Rocky Gully, Kendenup)	3.5m	200m ²

In respect to maximum wall height and floor area in a Residential zone the Residential Design Codes set a wall height at 2.4m and maximum area at 60m². In the rural parts of the state these RCode standards are considered impractical hence the larger wall and floor area proposals. The revised figures are based on past experience of these land uses and the need in many instances to store equipment and vehicles used to maintain larger properties such as Rural Residential and Rural Smallholdings.

In the Rural zones there are not proposed to be any limits, however, where they are in close proximity to townsites, the Rural Smallholding limits are proposed. These areas close to townsites have been identified in TPS3 by their inclusion in Schedule 14 (Special Control Areas) created by Amendment 28.

The maximum floor area of the outbuildings is also based on a cumulative total for area of all outbuildings on the lot. This will prevent the situation of a person for example attempting to erect three (3) 80m² outbuildings on the one Residential zoned property.

The policy also provides guidance in dealing with boundary setbacks for outbuildings in the Residential zone.

The use of outbuildings for residential, commercial or industrial purposes is not allowed for vacant lots in the Residential, Rural Residential, Landscape Protection or Rural Smallholding zones.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

Moved Cr J Moir, seconded Cr D Williss:

THAT:

- (1) Draft Town Planning Scheme Policy No. 16 - Outbuildings, as follows, be advertised in accordance with Clause 7.6.2(a) of Town Planning Scheme No. 3 for a period of twenty-one days.
- (2) At the conclusion of the advertising period a further report be prepared for consideration of the Council no later than its meeting to be held 12 December 2006.

Town Planning Scheme No. 3
Draft Town Planning Scheme Policy No. 16

Outbuildings

Definition

- (1) An outbuilding is defined in the Residential Design Codes as an enclosed non-habitable structure that is required to meet the standards of the Building Code of Australia and is detached from any dwelling.
- (2) Cumulative floor area means the total area of all outbuildings on a lot.

Objectives

- (1) To protect the amenity of the locality in which the outbuilding is proposed.
- (2) To set standards in respect to size (height and cumulative area), boundary setbacks and use of the outbuilding.

In considering any application for approval for an outbuilding, the criteria below will be considered.

Policy Criteria:

- (1) This policy applies to the whole municipal district of the Shire of Plantagenet excluding Crown Reserves. It applies to all land zoned Rural, Residential, Rural Residential, Landscape Protection and Rural Smallholding.
- (2) For outbuildings proposed on Residential zoned land, the required rear setback shall be determined in accordance with side setback calculations detailed within the Residential Design Codes.
- (3) On Residential zoned land an outbuilding shall not be sited on a lot nearer to the frontage of the lot than the setback of the building to which it is appurtenant, or less than half the front setback from any other street boundary of the lot, other than in accordance with the minimum standards as stated in the Residential Design Codes and Building Code of Australia.
- (4) An outbuilding may be built on a boundary of a lot following receipt by the Council of written approval from the adjoining landowner stating no objections to the construction of an outbuilding on the boundary with the proviso that no openings are located in the wall on the boundary and Building Code of Australia standards are met.
- (5) The Council will consider the visual amenity of residential areas and the safety of pedestrians when determining approvals for outbuildings to be located on a lot boundary.
- (6) Outbuildings proposed for Residential zones are limited to being single storey with a maximum wall height of 3m and a maximum cumulative total floor area of 80m².
- (7) Outbuildings proposed for Rural Residential and Landscape protection zones are limited to have a maximum wall height of 3.5m and a maximum cumulative total floor area of 150m².

Draft Town Planning Scheme Policy No. 16 – Outbuildings (Cont.)

- (8) Outbuilding proposed for Rural Smallholding zones are limited to have a maximum wall height of 3.5m and a maximum cumulative floor area of 200m².**
- (9) Outbuildings proposed for Rural zones are not limited in respect to wall height or cumulative floor area unless they are proposed to be erected on land within the Special Control Areas for Kendenup (SCA1), Rocky Gully (SCA2), Narrikup (SCA3) and Mount Barker (SCA4) as shown in Schedule No. 14 to Town Planning Scheme No. 3. Within these Special Control Areas, the limits applicable at Part (8) will apply.**
- (10) In respect to outbuildings proposed for vacant Residential, Rural Residential, Landscape Protection or Rural Smallholding lots, the Council will not allow their use for residential, commercial or industrial purposes. Written confirmation in the form of a Statutory Declaration or similar to this affect may be required of the property owner in making such an application.**
- (11) A building licence will be required for outbuildings in all zones.**

AMENDMENT

Moved Cr K Hart, seconded Cr K Clements:

That the words ‘unless they are proposed to be erected on land within the Special Control Areas for Kendenup (SCA1), Rocky Gully (SCA2), Narrikup (SCA3) and Mount Barker (SCA4) as shown in Schedule No. 14 to Town Planning Scheme No. 3. Within these Special Control Areas, the limits applicable at Part (8) will apply’ be removed from Part (9) of the Policy Criteria.

CARRIED (7/0)

No. 319/06

COUNCIL DECISION

THAT:

- (1) Draft Town Planning Scheme Policy No. 16 - Outbuildings, as follows, be advertised in accordance with Clause 7.6.2(a) of Town Planning Scheme No. 3 for a period of twenty-one days.**
- (2) At the conclusion of the advertising period a further report be prepared for consideration of the Council no later than its meeting to be held 12 December 2006.**

Town Planning Scheme No. 3
Draft Town Planning Scheme Policy No. 16

Outbuildings

Definition

- (1) An outbuilding is defined in the Residential Design Codes as an enclosed non-habitable structure that is required to meet the standards of the Building Code of Australia and is detached from any dwelling.
- (2) Cumulative floor area means the total area of all outbuildings on a lot.

Objectives

- (1) To protect the amenity of the locality in which the outbuilding is proposed.
- (2) To set standards in respect to size (height and cumulative area), boundary setbacks and use of the outbuilding.

In considering any application for approval for an outbuilding, the criteria below will be considered.

Policy Criteria:

- (1) This policy applies to the whole municipal district of the Shire of Plantagenet excluding Crown Reserves. It applies to all land zoned Rural, Residential, Rural Residential, Landscape Protection and Rural Smallholding.
- (2) For outbuildings proposed on Residential zoned land, the required rear setback shall be determined in accordance with side setback calculations detailed within the Residential Design Codes.
- (3) On Residential zoned land an outbuilding shall not be sited on a lot nearer to the frontage of the lot than the setback of the building to which it is appurtenant, or less than half the front setback from any other street boundary of the lot, other than in accordance with the minimum standards as stated in the Residential Design Codes and Building Code of Australia.
- (4) An outbuilding may be built on a boundary of a lot following receipt by the Council of written approval from the adjoining landowner stating no objections to the construction of an outbuilding on the boundary with the proviso that no openings are located in the wall on the boundary and Building Code of Australia standards are met.
- (5) The Council will consider the visual amenity of residential areas and the safety of pedestrians when determining approvals for outbuildings to be located on a lot boundary.
- (6) Outbuildings proposed for Residential zones are limited to being single storey with a maximum wall height of 3m and a maximum cumulative total floor area of 80m².
- (7) Outbuildings proposed for Rural Residential and Landscape protection zones are limited to have a maximum wall height of 3.5m and a maximum cumulative total floor area of 150m².

Draft Town Planning Scheme Policy No. 16 – Outbuildings (Cont.)

- (8) Outbuilding proposed for Rural Smallholding zones are limited to have a maximum wall height of 3.5m and a maximum cumulative floor area of 200m².**
- (9) Outbuildings proposed for Rural zones are not limited in respect to wall height or cumulative floor area.**
- (10) In respect to outbuildings proposed for vacant Residential, Rural Residential, Landscape Protection or Rural Smallholding lots, the Council will not allow their use for residential, commercial or industrial purposes. Written confirmation in the form of a Statutory Declaration or similar to this affect may be required of the property owner in making such an application.**
- (11) A building licence will be required for outbuildings in all zones.**

CARRIED (7/0)

No. 320/06

9.4.4 POLICY - SCHEME AMENDMENT REQUESTS

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	LP/120/7
Author:	Peter Duncan - Manager Development Services
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	11 September 2006

Purpose

The purpose of this report is to introduce a new policy to consider Scheme Amendment Requests prior to formal Town Planning Scheme Amendment documentation being prepared and submitted.

Background

Presently there is no procedure set for a proponent to seek early comment from the Council in regard to a Scheme Amendment to rezone land. The only formal procedure set is for the preparation of full Scheme Amendment documents which can be an expensive exercise for a landowner with no indication of likely success or failure of the Amendment.

Some other Local Governments have been using a Scheme Amendment Request procedure for some time now and consider it to be very successful. These include the City of Albany and the Shire of Denmark.

Statutory Environment

Planning and Development Act 2005
Town Planning Regulations
Shire of Plantagenet Town Planning Scheme No. 3

Consultation

The matter has been discussed with Mr Rob Stewart - Chief Executive Officer.

Policy Implications

The proposed policy will need to be added to the Council's Policy Manual.

Financial Implications

The Council's Schedule of Fees and Charges will need to be adjusted to include a fee of \$500.00 (exc GST) for the lodgement of such a Scheme Amendment Request to cover the cost of assessing such a proposal and reporting to the Council. These fees will be the subject of a separate report to the Council on 24 October 2006.

Strategic Implications

Such a policy on Scheme Amendment Requests will mean a more efficient method of processing preliminary planning proposals involving zoning changes.

Officer Comment

Following is a copy of a draft Scheme Amendment Requests Policy, numbered TP/SDC/6, for inclusion in the Council's Policy Manual. It will not be treated as a

Policy – Scheme Amendment Requests (Cont.)

formal Town Planning Scheme Policy adopted under the Scheme as it deals with a procedure before a formal Scheme Amendment is actually prepared.

As stated in the draft policy, the Scheme Amendment Request (SAR) is to be a maximum of six (6) A4 pages and is to specifically address the broader strategic issues and not a detailed site analysis. The SAR will look at existing and proposed zonings, impacts on structure plans / strategic documents, integration of development with adjoining lots, precedent, services and any special outcomes.

The SAR will be referred to the Department for Planning and Infrastructure, the Department of Environment and Conservation and the Department of Water for preliminary comment within twenty-eight days, then a report will be placed before the Council. If the Council determines, the SAR will need to be advertised for feedback before submissions are considered and a decision made on the SAR. This SAR process, if adopted, will provide proponents with some early indication of the likely support or otherwise of their proposal before the preparation and submission of full formal documentation.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Moir, seconded Cr J Cameron:

That Council Policy No. TP/SDC/6 - Scheme Amendment Requests, as follows, be adopted and included in the Council's Policy Manual.

SCHEME AMENDMENT REQUESTS

DIVISION	BUSINESS UNIT	RESPONSIBILITY AREA
Tech & Dev Services	Town Planning	Statutory: Development Control
REVIEW DATE	LAST REVIEWED	

This policy has been established to allow proponents to gain an indication of support or otherwise from the Council prior to preparing formal and detailed Town Planning Scheme Amendment documents. This process is used to determine if there are any specific issues that will need addressing in the formal Amendment documentation and whether the Council will entertain such a proposal.

(1) Initial Enquiry

Once a written enquiry is received, a letter will be forwarded to the enquirer advising whether or not the proponent should prepare a Scheme Amendment Request report and what the request should contain / address.

(2) Scheme Amendment Request (SAR)

The SAR document is to be a maximum of six (6) A4 pages and address specifically strategic issues and not detailed site analysis. The following are to be addressed in the SAR:

- existing and proposed zonings;

Policy – Scheme Amendment Requests (Cont.)

- impacts of structure plans and strategic documents on site and proposed zoning;
- the proposed method of integration of development on the site with adjoining lots;
- any precedent set by the proposed zoning;
- services available to the lot(s);
- any special outcomes proposed to be introduced through the rezoning process.

Four (4) copies plus a digital version are to be supplied to the Council.

A fee is payable prior to the SAR being assessed. Such a fee will be set in the Schedule of Fees and Charges in the Council's Annual Budget.

(3) Referral of SAR to DPI, DEC and DoW

Once received, the SAR will be referred to the Department for Planning and Infrastructure (DPI), the Department of Environment and Conservation (DEC) and the Department of Water (DoW) for comments. The Departments will provide their responses on the SAR within twenty-eight days.

(4) SAR Submitted to the Council

The SAR is to be submitted with an officer's report and recommendation to the Council for consideration. Potential outcomes are:

- (5) The Council decides to seek community feedback on the SAR if the application warrants it.
- (6) The Council agrees to the SAR to allow further detailed documentation of the proposal and a subsequent assessment process to initiate the Scheme Amendment. (Note: detailed documentation may identify unresolved issues not known on initial SAR and as such the Amendment may not be initiated.)
- (7) The Council considers the proposal to be unacceptable and advises the proponent that it would be unlikely to support a request to initiate a Scheme Amendment.
- (8) The Council may acknowledge there is potential for the land to be rezoned but advise the applicant that the proposal is premature until the Council has agreed to and the Western Australian Planning Commission has endorsed, a suitable structure plan or planning strategy for the locality to co-ordinate and integrate development in accordance with adopted strategic documents.

Note: Applicants who proceed after being advised as above do so at their own risk and cost.

(9) Community Feedback

A decision of the Council as per 4(a) above to seek community feedback on the SAR shall be in the form of a letter to adjoining landowners, and relevant agencies, a sign on site, plus an advertisement in the local press, asking for feedback on the SAR.

Submissions received during this process shall be summarised and forwarded to the Council for further consideration.

(10) Response to Applicant if SAR Agreed to by the Council

A decision to allow the applicant to proceed with further documentation as per 4(b) above will be transmitted in a letter from the Council and will detail such matters as:

- policy issues to be addressed in the amending report;
- environmental issues;
- servicing issues (eg: full testing of groundwater tables prior to document lodgement) and the provision of a fire management plan;
- design requirements on subsequent development;
- developer commitments required by the Council from Scheme Amendment process;
- mechanisms for cost sharing of common cost items such as public open space, drainage, roads, footpaths, etc; and
- any other matters considered relevant to the Council.

(11) Scheme Amending Documents

The Council required number of draft Scheme Amending documents (including a digital version) will be submitted with the appropriate fees and a formal request to initiate a Scheme Amendment. The format of the documents must meet the standards set in the Town Planning Regulations.

The Council staff shall review the draft Scheme Amending documents and make recommendations on potential changes / modifications. Staff shall prepare a report to the Council on the Scheme Amendment.

The Council may decide to initiate, decline to initiate, or require modifications prior to initiating the Amendment.

The procedures for Scheme Amendments as laid down in the Town Planning Regulations will be followed.

CARRIED (7/0)

No. 321/06

9.4.5 MOUNT BARKER HILL LOOKOUT – CONSIDERATION OF DESIGN PROJECT

Location / Address:	Mount Barker Hill (Tower Road Reserve & Reserve 15162)
Attachments: (2)	Concept Plan Costings
Name of Applicant:	Rotary Club of Mount Barker
File Reference:	RV/182/4710
Author:	Marta Osipowicz - Planning Officer
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	12 September 2006

Purpose

The purpose of this report is to consider a submission by the Mount Barker Rotary Club (the Club) for proposed improvements to the Mount Barker Hill Lookout.

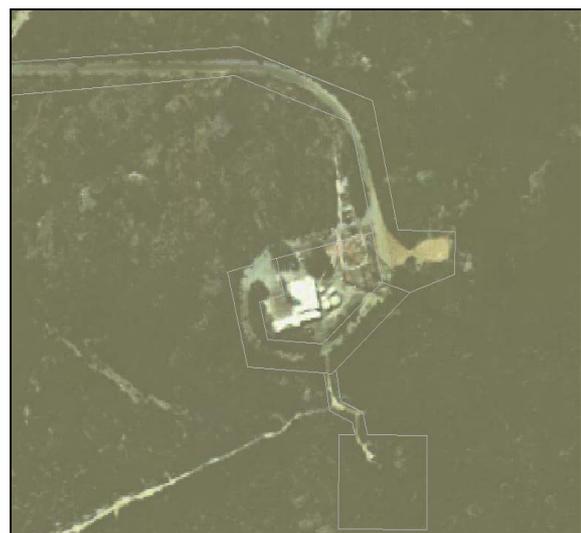
Background

At the Council meeting held 14 February 2006 the Council resolved:

'That the Mount Barker Rotary Club be advised their proposal to engage a Landscape Architect to prepare a Mount Barker design concept for the upgrading of the Mount Barker Hill lookout is supported.'

The Club engaged Landscape Architect, Ms Sally Malone to undertake a concept plan for the upgrade of Mount Barker Hill Lookout. The upgrades are to be primarily undertaken within the Council's road reserve (Tower Road) with some works extending into Reserve 15162.

Several Councillors visited the site on 26 September 2006.



The diagrams above show the Road Reserve and Recreation Reserve 15162.

Attached is a copy of the Concept plan together with the proposed costing schedule.

Statutory Environment

Local Government Act 1995

Mount Barker Hill Lookout – Consideration Of Design Project (Cont.)

Land Administration Act 1997 – Reserve 15162 vested in Council for the purpose of Parkland

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Reserve 15162 is within a Scheme Parks and Recreation Reserve

Consultation

There has been no consultation for this report.

Policy Implications

Policy CE/ED/1 – Tourism applies.

Financial Implications

The Club is seeking in-principle support recognising the Council has financial constraints. The project is intended to be funded through various grants.

Strategic Implications

Mount Barker Hill Lookout improvements are not identified within the Strategic Plan 2003 but have strategic benefits, particularly for tourism.

Officer Comment

At the Townscape Review Steering Committee meeting held 10 August 2006 the 'Lookout Concept' plan was presented. Committee members provided initial support for the proposal.

The proposal primarily seeks to:

- Improve the amenity of the area from a community and tourist viewpoint;
- Protect the environmental qualities of the area; and
- Create an iconic landmark in Mount Barker.

The proposal includes the following main features:

- Revegetation;
- Reinstating bush tracks;
- Creating a viewing platform;
- Improving the appearance of the existing viewing platform;
- Rationalising parking and traffic movement areas;
- Bus and caravan parking areas;
- Providing interpretation signs; and
- Improving seating and rubbish facilities.

The site visit on 26 September 2006 revealed the site plan may be inaccurate and as such, the project will require an accurate survey to be undertaken. It would appear an accurate survey has not been included in the costings attached to the Concept plan.

Following this, the turning circle, and so on, will need to be checked and adjusted. Concerns are raised with regard to the bus and caravan parking locations and the associated turning movements. The parking spaces noted on the plan will have to be in accordance with engineering standards. It may be preferable to only provide two (2) disabled parking bays at the head of the turning circle and not have regular bays there.

Due to the vegetation in the vicinity of the lookout deck and the associated fire risk, the deck should be constructed of metal rather than timber. The location of the

Mount Barker Hill Lookout – Consideration Of Design Project (Cont.)

lookout deck should ensure no removal of vegetation is required as the proposed plan appears to have the deck well into the bushland. The location of the picnic tables may also need relocation as it appears bushland would need to be removed which is not desirable.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr D Williss, seconded Cr J Cameron:

That the Mount Barker Rotary Club be advised that their concept plan for the development of the Mount Barker Hill Lookout is supported subject to a further plan being provided to the Council based on an accurate survey of the subject area showing:

- **Limited removal of bushland;**
- **Safe parking and turning areas;**
- **Plans that meet Council engineering standards particularly in terms of bus and caravan parking turning areas and the dimensions of the car parking spaces;**
- **A metal viewing platform; and**
- **Five (5) carparking bays being replaced with two (2) disabled bays.**

CARRIED (7/0)

No. 322/06

9.4.6 LOCATION 1051 SANDERS ROAD, KENDENUP - SECOND DWELLING

Location / Address:	Location 1051 Sanders Road, Kendenup
Attachments: (3)	Site Plan Floor Plan Elevation
Name of Applicant:	K & T Skinner on behalf of MB Skinner (Athelston Stud)
File Reference:	RV/182/150
Author:	Marta Osipowicz - Planning Officer
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	27 September 2006

Purpose

The purpose of this report is to consider an application for the construction of a second dwelling for workers accommodation at Location 1051 Sanders Road, Kendenup.

Background

The proposal includes the construction of a second dwelling on a rural property approximately 64ha. In the past the Council has allowed the construction of second dwellings where the dwelling would house workers associated with the rural enterprise.



The above denotes the location of the subject lot. Shire records indicate the owners are Peter Lindsay and Margaret Barbour Skinner.

Statutory Environment

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Rural

Consultation

There has been no consultation for this report.

Policy Implications

The proposed application has been considered in relation to the draft Town Planning Scheme Policy No. 14 - Rural Tourist Accommodation and Additional Houses, also included in this Agenda.

Financial Implications

There are no financial implications for this report.

Strategic Implications

Shire of Plantagenet Strategic Plan, under Key Result Area 4 – Development Services, aims to:

‘Encourage and guide local development in accordance with the Strategic Plan and Town Planning Scheme No. 3 (as amended)’ and also to,

‘Protect existing rural land from inappropriate land uses.’

Officer Comment

The application is for a second dwelling for Athelston Stud. The Council has allowed second dwellings on rural lots where the dwelling was occupied by staff or members associated with the operations of the rural enterprise. The draft policy referred to above allows for second dwellings to be constructed for this purpose.

The second dwelling will be sited near to the old cottage on the subject lot and as such, services are already available. The old cottage is intended to be used for office purposes. The second dwelling will not result in vegetation clearing as the subject lot is generally free of trees. The main residence on the property is located to the south east of the proposed new house site.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Cameron, seconded Cr K Hart:

That planning consent be granted in respect of Application No. 42/06 for a Second Dwelling at Location 1051 Sanders Road, Kendenup in accordance with the plans dated 12 September 2006, subject to the following conditions:

- (1) The second dwelling being provided with a source of potable water to a capacity of 92,000L.**
- (2) The proposed second dwelling being provided with an approved on site effluent disposal system to the satisfaction of the Environmental Health Officer.**
- (3) The cottage (marked as ‘Old Cottage’ on the attached plan) is not to be used for residential purposes.**

ADVICE NOTES:

- (i) If the development, the subject of this approval, is not substantially commenced within a period of twenty-four months, the approval shall lapse and be of no further effect. Where approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.
- (ii) This planning approval is not an authorisation to commence construction. A building licence must be obtained from the Council's Building Services Department prior to commencing any work of a structural nature.
- (iii) It is advised that there is a right to apply for a review in accordance with Part 14 of the Planning and Development Act 2005 and any rules or Regulations made pursuant to the Act. Such an application must be lodged within twenty-eight days of the date of this decision.

CARRIED (7/0)

No. 323/06

9.4.7 RESERVE 10338 (PORTION) LOT 2 LOWOOD ROAD, MOUNT BARKER - CHANGE OF USE FROM SERVICE TO RETAIL

Location / Address: Portion of Reserve 10338 Lowood Road, Mount Barker
Name of Applicant: CF Lilley
File Reference: RV/182/1687
Author: Marta Osipowicz - Planning Officer
Authorised By: Peter Duncan - Manager Development Services
Date of Report: 25 September 2006

Purpose

The purpose of this report is to consider an application for a change of use of the building on 534m² of Reserve 10338 Lowood Road, Mount Barker.

Background

The building was previously used for mechanical repairs. The proposal is for a change of use from service to retail selling new and used furniture and general household goods.

At its meeting held 22 August 2006 the Council resolved:

'That Gray & Lewis on behalf of the Public Transport Authority be advised the Council does not support the proposed disposal of 534m² of railway land in Lowood Road north of Muir Street from Reserve 10338 as the Council wishes the area from Muir Street some 150m north be vested in the Council for carparking and landscaping purposes.'



Shire records indicate the reserve to be vested with Public Transport Authority of Western Australia (PTAWA).

Statutory Environment

Planning and Development Act 2005

Reserve 10338 (Portion) – Lot 2 Lowood Road, Mount Barker – Change Of Use From Service To Retail (Cont.)

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Local Scheme Reserve 'Railway'

Land Administration Act – Crown Reserve 'Railway'

Consultation

There has been no consultation for this report.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

Shire of Plantagenet Strategic Plan 2003, Key Result Area 4 aims to:

'Retain local business and encourage new businesses that will create long-term sustainable local employment.'

Officer Comment

The applicant currently operates a second hand goods business from Marion Street. The owner of the premises has sold the property and requires the applicant to vacate by 28 October 2006.

The subject location is 534m² of Reserve 10338 and the building has previously been used for mechanical repairs. The proposed retail use is considered to be more in keeping with the commercial nature of Lowood Road and will be an improved use along the main street.

The land is not to be freehold but rather the applicant will be leasing the premises and this is not in conflict with the Council's earlier decision at its meeting held 22 August 2006 which related to creating a freehold title. The lease term is to be ten (10) years.

The applicant intends on repainting the building to improve its appearance.

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. 43/06 for a Change of Use from Service Industry (Mechanical Repairs) to Retail at Portion of Reserve 10338 Lowood Road, Mount Barker subject to the following conditions:

- (1) Details of the proposed external colour scheme being provided to staff to ensure it is in keeping with the character of the town centre.**
- (2) All external signage being to the Council's standards.**

Reserve 10338 (Portion) – Lot 2 Lowood Road, Mount Barker – Change Of Use From Service To Retail
(Cont.)

ADVICE NOTES:

- (i) If the development, the subject of this approval, is not substantially commenced within a period of twenty-four months, the approval shall lapse and be of no further effect. Where approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.
- (ii) This planning approval is not an authorisation to commence construction. A building licence must be obtained from the Council's Building Services Department prior to commencing any work of a structural nature.
- (iii) It is advised that there is a right to apply for a review in accordance with Part 14 of the Planning and Development Act 2005 and any rules or Regulations made pursuant to the Act. Such an application must be lodged within twenty-eight days of the date of this decision.

CARRIED (7/0)

No. 324/06

9.4.8 LOT 30 OATLANDS ROAD, MOUNT BARKER - RECONSIDERATION OF ADDITIONS AND ALTERATIONS TO AN EXISTING RESTAURANT

Location / Address:	Lot 30 Oatlands Road, Mount Barker
Attachments: (4)	Site Plan x 2 Photograph of Existing Structure Artist Impression of Proposed Additions
Name of Applicant:	P & R Truphet
File Reference:	RV/182/2193
Author:	Marta Osipowicz - Planning Officer
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	27 September 2006

Purpose

The purpose of this report is to reconsider a Council decision made at its Meeting held 22 August 2006 for additions and alterations to an existing restaurant at Lot 30 Oatlands Road, Mount Barker.

Background

The Council resolved at its meeting held 22 August 2006:

'That planning consent be refused in respect of Application 26/06 for development of Retail (Shop) Outlet on Lot 30 Oatlands Road, Mount Barker for the following reasons;

- (1) *The proposed land use is inconsistent with the objective of the zone.*
- (2) *The proposed structure does not meet the 15m side boundary setback required in the zone.*
- (3) *The proposed land use would set an undesirable precedent for other similarly zoned properties.*

ADVICE NOTES:

- (i) *The proposed land use should be located within the Commercial zone.*
- (ii) *It is advised that there is a right to apply for a review in accordance with Part 14 of the Planning and Development Act 2005 and any rule or Regulations made pursuant to the Act. Such an application must be lodged within twenty-eight days of the date of this decision.'*

The applicant is seeking reconsideration of the Council's decision. The applicant has provided some additional justification in support of the application and has made some minor modifications to the floor area of the proposed addition.

The owners of the subject property are Peter and Raneer Truphet.

Lot 30 Oatlands Road, Mount Barker – Reconsideration Of Additions & Alterations To An Existing Restaurant (Cont.)

The subject lot is on the corner of Oatlands Road and Martin Street.

Statutory Environment

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Rural Residential

Consultation

Consultation was undertaken as part of the planning process.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

Shire of Plantagenet Strategic Plan, Key Result Area 4 aims to:

'Encourage and guide local development in accordance with the Strategic Plan and Town Planning Scheme No. 3'.

Additionally, to 'encourage establishment of new businesses, which provide employment and / or service the tourist industry and contribute to the prosperity of Plantagenet'.

Officer Comment

Additional information and justification has been provided by the applicants. The proposal has been slightly modified by way of ensuring a compliant setback is achieved from the northern boundary of 15m. The floor area of the proposed addition is now 175.2m², a reduction in floor area of 29.2m². The proposed addition will match the existing Kelly's building.

The proposal does not include the construction of additional ablution facilities with the restaurant currently having two (2) toilets (one male and one female). This allows for a maximum number of fifty patrons regardless of floor area.

Lot 30 Oatlands Road, Mount Barker – Reconsideration Of Additions & Alterations To An Existing Restaurant (Cont.)

The applicants have justified the proposal by indicating that essentially the existing Kelly's will remain as is but allowing tables to be more widely spaced. The retail component is in the form of memorabilia however the primary function will remain a restaurant. The expansion will create additional employment and ensure a much needed venue for tourists and local residents is maintained and enhanced. The applicants have also noted that a precedent has been established as a result of the Council's decision at its meeting held 13 December 2005 regarding the proposal to operate a shop at Lot 31 Oatlands Road for the purpose of 'Cottage Industry – Private Recreation and Shop'.

Given the additional information and modifications to the proposed plan it is considered the retail component will not be detrimental to the amenity of the area.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr M Skinner, seconded Cr K Clements:

That planning consent be granted in respect of Application No. 26/06 for Additions and Alterations to an Existing Restaurant and inclusion of Retail (Shop) on Lot 30 Oatlands Road, Mount Barker in accordance with the amended plans dated 25 September 2006:

- (1) The maximum capacity of the restaurant shall be limited to fifty people.**
- (2) The additions / alterations to be in keeping with the existing structure.**

ADVICE NOTES:

- (i) If the development, the subject of this approval, is not substantially commenced within a period of twenty-four months, the approval shall lapse and be of no further effect. Where approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.**
- (ii) This planning approval is not an authorisation to commence construction. A building licence must be obtained from the Council's Building Services Department prior to commencing any work of a structural nature.**
- (iii) It is advised that there is a right to apply for a review in accordance with Part 14 of the Planning and Development Act 2005 and any rules or Regulations made pursuant to the Act. Such an application must be lodged within twenty-eight days of the date of this decision.**

CARRIED (7/0)

No. 325/06

9.4.9 LOT 4 (33) BOXHILL ROAD, PORONGURUP – ANCILLARY ACCOMMODATION

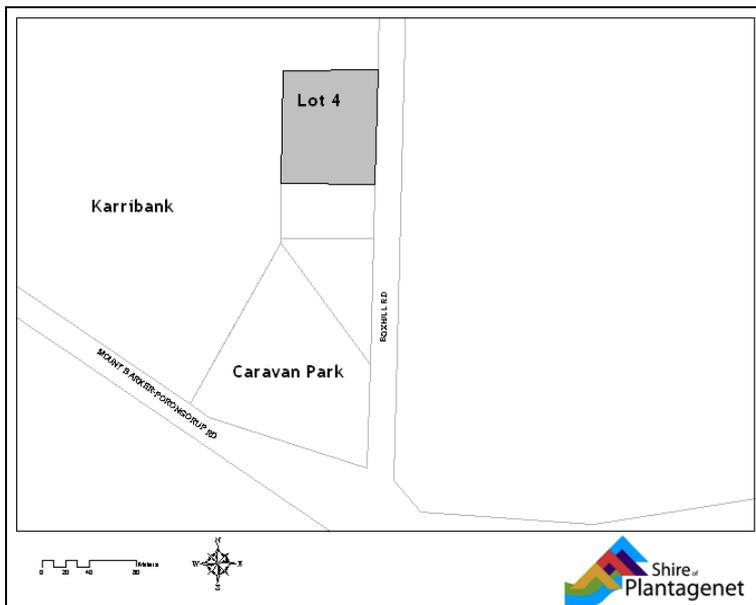
Location / Address:	Lot 4 (33) Boxhill Road, Porongurup
Attachments: (2)	Floor Plan Site Plan
Name of Applicant:	S & A Caudwell
File Reference:	RV/182/1898
Author:	Marta Osipowicz - Planning Officer
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	19 September 2006

Purpose

The purpose of this report is to consider an application for the construction of ancillary accommodation at Lot 4 (33) Boxhill Road, Porongurup.

Background

The proposal entails the construction of ancillary accommodation for the purpose of housing the applicants' extended family members. The subject lot is 7,661m².



The above denotes the location of the subject lot. Shire records indicate the owners are Adele Mae and Shane Peter Caudwell.

Statutory Environment

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Rural

Consultation

There has been no consultation for the report.

Policy Implications

The proposed application has been considered in accordance with the draft Town Planning Scheme Policy No. 14 - Rural Tourist Accommodation and Additional Houses (TPS14).

Financial Implications

There are no financial implications for this report.

Strategic Implications

Shire of Plantagenet Strategic Plan 2003, Key Result Area 4 states that it will,

‘Support sustainable and managed growth within existing urban settlements in the Shire and encourage the development of a variety of housing opportunities.’

The strategic objectives of Precinct C in the Porongurup Rural Strategy are:

‘To consolidate existing residential and tourist development and create an attractive centre and focal point for the Porongurup community,’ and

‘To ensure further subdivision and development does not detrimentally impact on places of heritage value, their setting and surrounding landscape qualities.’

Officer Comment

The proposed draft TPS14 is considered applicable as a reference document in this instance. The development proposal entails the construction of ancillary accommodation for the purpose of housing extended members of the family. The proposed policy notes that construction of ancillary accommodation must meet the criteria set out in the Residential Design Codes.

The applicants have engaged Town Planning Consultants Ayton, Taylor and Burrell to provide additional justification on their behalf. The consultants offer the following justification for the proposal:

- The lot size is considerably more residential in nature than rural;
- The proposal meets the intent of Precinct C of the Porongurup Rural Strategy; and
- The proposal meets the intent of State Planning Policy No. 2.5 – ‘Agriculture and Rural Land Use Planning’ in relation to second dwellings on rural lots.

The proposed ancillary accommodation is 81.4m² which is greater in area than that permitted by the Residential Design Codes. The Codes permit a maximum floor area of 60m² and the proposed policy stipulates this requirement is to be met. Despite the collective floor area of the existing dwelling and the proposed ancillary accommodation being 156.4m² on the subject rural lot, the ancillary accommodation should be no greater than 60m². The dwelling must be ancillary to the main dwelling and as such should be reduced by removing the laundry facility to ensure it remains ancillary.

The submitted site plan is a little deceptive. It appears the dwelling is a significant distance from the main residence. The applicant has indicated the ancillary accommodation will be 15m from the corner of the existing dwelling. This distance is acceptable subject to the covered walkway being constructed. The slope of the lot dictates the ancillary accommodation must be located where it is shown.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

Moved Cr J Moir, seconded Cr D Williss:

That planning consent be granted in respect of Application No. 44/06 for Ancillary Accommodation at Lot 4 (33) Boxhill Road, Porongurup in accordance with the plans dated 18 September 2006, subject to the following conditions:

- (1) Revised drawings being submitted in conjunction with the Building Licence incorporating a reduced floor area from 81.4m² to 60m² including the deletion of the laundry facility to ensure the structure remains ancillary.
- (2) Plans and details of the undercover walkway, connecting the existing dwelling and the proposed ancillary accommodation, being submitted in conjunction with the Building Licence showing the buildings (house and ancillary accommodation) will be a maximum of 15m apart.
- (3) The ancillary accommodation being provided with a source of potable water to a capacity of 92,000L.
- (4) External building materials must be compatible with the site's surroundings.
- (5) The proposed ancillary accommodation being provided with an approved on site effluent disposal system to the satisfaction of the Environmental Health Officer.
- (6) A Statutory Declaration being submitted in conjunction with the Building Licence stating that the applicants are constructing the proposed ancillary accommodation for the habitation of family members only.

ADVICE NOTES:

- (i) If the development, the subject of this approval, is not substantially commenced within a period of twenty-four months, the approval shall lapse and be of no further effect. Where approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.
- (ii) This planning approval is not an authorisation to commence construction. A building licence must be obtained from the Council's Building Services Department prior to commencing any work of a structural nature.
- (iii) It is advised that there is a right to apply for a review in accordance with Part 14 of the Planning and Development Act 2005 and any rules or Regulations made pursuant to the Act. Such an application must be lodged within twenty-eight days of the date of this decision.

AMENDMENT

Moved Cr D Williss, seconded Cr J Cameron:

That the words 'incorporating a reduced floor area from 81.4m² to 60m²' be removed from Part (1) of the recommendation.

CARRIED (7/0)

No. 326/06

COUNCIL DECISION

That planning consent be granted in respect of Application No. 44/06 for Ancillary Accommodation at Lot 4 (33) Boxhill Road, Porongurup in accordance with the plans dated 18 September 2006, subject to the following conditions:

- (1) Revised drawings being submitted in conjunction with the Building Licence including the deletion of the laundry facility to ensure the structure remains ancillary.
- (2) Plans and details of the undercover walkway, connecting the existing dwelling and the proposed ancillary accommodation, being submitted in conjunction with the Building Licence showing the buildings (house and ancillary accommodation) will be a maximum of 15m apart.
- (3) The ancillary accommodation being provided with a source of potable water to a capacity of 92,000L.
- (4) External building materials must be compatible with the site's surroundings.
- (5) The proposed ancillary accommodation being provided with an approved on site effluent disposal system to the satisfaction of the Environmental Health Officer.
- (6) A Statutory Declaration being submitted in conjunction with the Building Licence stating that the applicants are constructing the proposed ancillary accommodation for the habitation of family members only.

ADVICE NOTES:

- (i) If the development, the subject of this approval, is not substantially commenced within a period of twenty-four months, the approval shall lapse and be of no further effect. Where approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.
- (ii) This planning approval is not an authorisation to commence construction. A building licence must be obtained from the Council's Building Services Department prior to commencing any work of a structural nature.
- (iii) It is advised that there is a right to apply for a review in accordance with Part 14 of the Planning and Development Act 2005 and any rules or

Lot 4 (33) Boxhill Road, Porongurup – Ancillary Accommodation (Cont.)

Regulations made pursuant to the Act. Such an application must be lodged within twenty-eight days of the date of this decision.

CARRIED (7/0)

No. 327/6

9.4.10 LOT 6 OF LOCATION 3205 JAMES ROAD, MOUNT BARKER - HOME BUSINESS -NATUROPATH

Location / Address:	Lot 6 of Location 3205 James Road, Mount Barker (cnr Albany Highway)
Attachments: (1)	Floor Plan
Name of Applicant:	Elizabeth Johnson
File Reference:	RV/182/500
Author:	Marta Osipowicz - Planning Officer
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	29 September 2006

Purpose

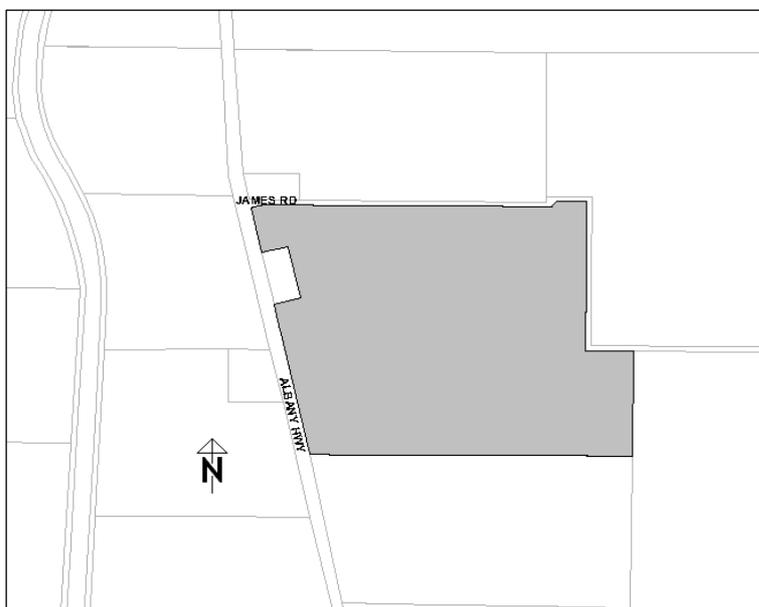
The purpose of this report is to consider an application for a Home Business for the purpose of operating as a Naturopath from Lot 6 of Location 3205 James Road, Mount Barker.

Background

The proposal includes patients coming to the property for consultation therefore it does not fall within the definition of Home Occupation. In this instance the proposal is a Use Not Defined in Schedule 1 or listed within the Zoning Table of Town Planning Scheme No. 3.

As per clause 3.2.5 *'if the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use categories the Council may:*

- (a) determine that the use is not consistent with the objectives and purpose of the particular zone and is therefore not permitted; or*
- (b) determine by absolute majority that the proposed use is consistent with the objectives and purpose of the zone and thereafter follow the 'SA' procedure of Clause 6.2 in considering an Application for planning consent.'*



Shire records show the owner to be Philip Rogerson.

Statutory Environment

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Rural

Consultation

The proposed development application shall require advertising in accordance with Clause 6.2.3 (a) and (b).

Policy Implications

There are no policy implications for this report.

Financial Implications

The cost of advertising to be met from the Town Planning Advertising Budget.

Strategic Implications

Shire of Plantagenet Strategic Plan, Key Result Area 4 aims to:

'Encourage and guide local development in accordance with the Strategic Plan and Town Planning Scheme No. 3 (as amended)' and also to,

'Protect existing rural land from inappropriate land uses.'

Officer Comment

The Home Business is for the applicant to operate from home as a Naturopath. It is envisaged by the applicant that only one patient would be seen at any one time with approximately ten (10) cars per week estimated. The hours of operation would be 11.00am to 5.00pm Monday to Friday.

The Scheme currently does not define or list Home Business within the Zoning Table. Amendment No. 41 will introduce the definition into the Scheme but only allow Home Business to be considered within the Residential zone. Typically Home Businesses are envisaged within Residential areas as a land use that is more intensified than a Home Occupation but not as intense as Commercial businesses within the Commercial zone. The proposal will not interfere with the predominantly rural land use associated with the subject lot.

Voting Requirements

Absolute Majority (Use Not Listed)

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr D Williss, seconded Cr J Cameron:

THAT:

- (1) The application for Home Business at Lot 6 of Location 3205 James Road, Mount Barker be advertised in accordance with Clause 6.2.3 (a) and (b) of the Shire of Plantagenet Town Planning Scheme No. 3 for a period of twenty-one days.**
- (2) At the conclusion of the advertising period a further report be prepared for the consideration of the Council at its meeting to be held on 12 December 2006.**

CARRIED (7/0)

No. 328/06

(Absolute Majority)

9.4.11 POLICY REVIEW - HALLS - FLOOR SURFACE

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	CP/120/4
Author:	Alan Watkins - Principal Building Surveyor
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	30 August 2006

Purpose

The purpose of this report is to review Council Policy No. A/PA/3 Halls – Floor Surface.

Background

Council Policy No. A/PA/3 reads as follows:

‘That the use of all non-slip floor materials in the halls not be permitted.’

This means floors in all halls are to remain slippery.

Statutory Environment

There are potential legal implications with either slippery or non slip floors depending upon the activity being carried out in the hall.

Consultation

Consultation has taken place with Mr Rob Stewart – Chief Executive Officer, Mr John Fathers – Deputy Chief Executive Officer, Ms Nicole Selesnew – Manager Community Services, Mr Peter Duncan - Manager Development Services.

Policy Implications

This policy review is presented to the Council as part of the ongoing Council Policy review cycle.

Financial Implications

There are no financial implications for this report.

Strategic Implications

The Council’s strategic Plan Key Result Area 1, New Initiative 1.4 provides the following:

‘1.4 Ensure the Administrative system and framework of the organisation efficiently and effectively permit the functions of the organisation to be undertaken.

To achieve this we will:

- Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*
- Promote and provide access to policies, procedures, standards and legislation.’*

Policy Review – Halls – Floor Surface (Cont.)**Officer Comment**

This Policy essentially means that the floors in the Council's halls are to remain slippery. In the past, some ability to slip on floors has been desirable for activities such as dancing, badminton and table tennis. In recent times there is the added difficulty of litigation if persons slip on the floor and injure themselves.

A Policy actually requiring floors to be slippery has the danger of putting the Council in an adverse position in respect to potential legal action resulting from injuries sustained from a fall on a slippery floor. The Policy should be revoked.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Moir, seconded Cr K Hart:

That Council Policy No. A/PA/3 Halls – Floor Surface:

'That the use of all non-slip floor materials in the halls not be permitted.'

be revoked.

CARRIED (7/0)

No. 329/06

9.4.12 POLICY REVIEW - PORTABLE GRANDSTAND EQUIPMENT

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	CP/120/6
Author:	Alan Watkins - Principal Building Surveyor
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	29 September 2006

Purpose

The purpose of this report is to review Council Policy No. A/PA/6 - Portable Grandstand Equipment.

Background

Presently the wording of this Policy reads:

'That Grandstand equipment be made available for district public purposes provided the equipment is only moved by crane lift.'

After discussions with Council Staff it has been established that the Council owns three (3) portable grandstands which have been out on loan for approximately four (4) to five (5) years to the Albany Trotting Association situated on Lancaster Road, Albany.

Because of the dilapidated condition of the grandstands, the arrangement with the Trotting Association was that they would be allowed to borrow them free of charge provided that they restore them to a condition suitable for use by the public.

After a recent inspection of the structures by Mr Peter Duncan - Manager Development Services, it was determined that the required work to restore them has not been carried out and the grandstands are in a bad state of disrepair and are unsafe. Present Worksafe standards mean extensive work would be required to make them safe.

Consultation

Consultation has taken place with Mr Peter Duncan - Manager Development Services and Mr David Cooper - Depot Storeman.

Policy Implications

The policy review is presented as part of the ongoing Council policy review cycle.

Financial Implications

There are no financial implications for this report unless the Council wishes to retrieve the structures and attempt to make them safe.

The structures are not recorded on the Council's Asset Register.

Strategic Implications

The Council's strategic Plan Key Results Area 1, New Initiative 1.4 provides the following:

Policy Review – Portable Grandstand Equipment (Cont.)

'1.4 Ensure the administrative system and frame work of the organisation efficiently and effectively permit the functions of the organisation to be undertaken.

To achieve this we will:

- Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*
- Promote and provide access to policies, procedures, standards and legislation.'*

Officer Comment

The portable grandstands on loan to the Albany Trotting Association are in a dilapidated state and would not appear to comply with any safety requirements. The Council may be placing itself in a precarious position if the stands are being used by the public and have not been brought back to a safe state as the Council are still the owners.

If the Council requires the stands to be returned then it would mean transporting them back to Plantagenet and a considerable amount of money spent on rectification, which has not been budgeted for.

It is considered the appropriate action is that the Council donate the stands to the Albany Trotting Association thereby allowing the Policy to be repealed.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr D Williss, seconded Cr J Moir:

That Council Policy No. A/AP/6 – Portable Grandstand Equipment:

'That Grandstand equipment be made available for district public purposes provided the equipment only be moved by crane lift.'

be revoked.

CARRIED (7/0)

No. 330/06

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Moved Cr K Hart, seconded Cr K Clements:

That new business of an urgent nature, namely:

- South Mount Barker Football Club
- Lot 700 (11) Albany Highway, Mount Barker – Offer For Sale
- Rate Exemption Request – Walitj Aboriginal Corporation

be introduced into the meeting.

CARRIED (6/1)

No. 331/06

MOTION TO ADJOURN

Moved Cr M Skinner, seconded Cr K Hart:

4.54pm The Presiding Member adjourned the meeting until 5.20pm.

CARRIED (7/0)

No. 332/06

RESUMPTION

5.20pm The Presiding Member resumed the meeting.

Present

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 J Moir	South Ward
Cr K Clements	Town Ward
Cr K Hart	Kendenu Ward
Cr M Skinner	East Ward
Mr R Stewart	Chief Executive Officer
Mr J Fathers	Deputy Chief Executive Officer
Mr I Bartlett	Manager Works and Services
Mr P Duncan	Manager Development Services
Ms N Selesnew	Manager Community services
Mrs K Skinner	Executive Secretary
Miss C Delmage	Administration Officer

11.1 LOT 700 (11) ALBANY HIGHWAY, MOUNT BARKER – OFFER FOR SALE

Location / Address: N / A
Name of Applicant: N / A
File Reference: RV/182/2072
Author: Rob Stewart – Chief Executive Officer
Authorised By: Rob Stewart – Chief Executive Officer
Date of Report: 10 October 2006

Purpose

The purpose of this report is to consider the offer of sale for Lot 700 (11) Albany Highway, Mount Barker (Old Station House)

Background

At its ordinary meeting held on 13 June 2006 the Council resolved:

'That the applicants for the leasing of Lot 700 (11) Albany Highway, Mount Barker (known as the Old Station House) be advised that it is the intention of the Council to dispose of the subject property by sale.'

As requested the above property was listed with local Real Estate offices.

The Council has received an offer on the property for \$190,000 from Barry Neil and Valerie May Hegarty of Parmelia.

Statutory Environment

Section 3.58 of the Local Government Act 1995 and the Local Government (Function and General) Regulations govern the disposal of land by a local government.

Consultation

Consultation has occurred with Roy Weston Mount Barker and Mr Rob Stewart - Chief Executive Officer.

Policy Implications

There are no policy implications for this report.

Financial Implications

Any proceeds from the sale of this property, will be in addition to budgeted funds.

The Real Estate Agent's total commission is \$7,134.00.

Strategic Implications

There are no strategic implications for this report.

Voting Requirements

Absolute Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr K Hart, seconded Cr D Williss:

THAT:

- (1) Pursuant to Section 3.58 of the Local Government Act 1995, the Council advertise its intent to dispose by sale Lot 700 (11 Albany Highway, Mount Barker to Barry Neil Hegarty and Valerie May Hegarty.**
- (2) Any submissions received during the advertising period be considered by the Council prior to accepting the Offer of Sale.**
- (3) The Chief Executive Officer be delegated the authority to finalise the sale of the above blocks subject to no submissions being received at the conclusion of the advertising period.**

CARRIED (7/0)

No. 333/06

(Absolute Majority)

11.2 RATE EXEMPTION REQUEST - WALITJ ABORIGINAL CORPORATION

Location / Address: N / A
Name of Applicant: N / A
File Reference: RV/182/484
Author: Rob Stewart - Chief Executive Officer
Authorised By: Rob Stewart - Chief Executive Officer
Date of Report: 5 October 2006

Purpose

The purpose of this report is to present to the Council a request from the Walitj Aboriginal Corporation to exempt the land that the corporation owns at 1210 Hay River Road, Redmond from rates.

Background

At its meeting held on 14 December 2004 the Council resolved with regard to another Aboriginal Corporation:

‘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.’*

At that meeting the Council was advised that the applicant regarding that rate exemption (The Mount Barker Aboriginal Progress Association) was claiming an exemption from rates under Clause (g) of Section 6.26(2) of the Local Government Act 1960.

The Council was also advised of a legal precedent resulting from the case of Shire of Ashburton vs Bindi Bindi Community Aboriginal Corporation.

In that case, the Shire of Ashburton was claiming an amount representing outstanding rates and rubbish charges on a Reserve owned by the crown and occupied by an incorporated Aboriginal Association. In delivering his findings Justice Wheeler stated that the definition of ‘charitable’ as used in the Local Government Act 1995:

‘...should comprise four principal divisions, they being: the relief of poverty; the advancement of education; the advancement of religion; and other purposes beneficial to the community not falling under any of the preceding heads.’

Taking note of previous legal findings, he found in favour of the Aboriginal Association on the grounds that the advancement of Aboriginal people in general was considered a charitable purpose and as the Crown owned the land and the land is not used for a public purpose, s 6.26(2)(a) and (g) would apply.

Rate Exemption Request – Walitj Aboriginal Corporation (Cont.)

Statutory Environment

Section 6.26 (2) states (among other things) the following:

‘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 —*
 - (g) *Land used exclusively for charitable purposes;’*

Consultation

The matter of the definition of ‘charitable’ has been raised with the Western Australian Local Government Association. Although it is acknowledged that the section of the Act is open to interpretation, it is generally considered that the interpretation has been defined through Case Law, notably the Bindi Bindi case referred to above.

Subsequently, further cases relating to the definition ‘charitable’ have been found in favour of ‘charitable’ organisations, most notably with the City of Stirling and Aged Care accommodation. The definition of ‘charitable’ seems to have been widened to include organisations that may in fact be making profits.

Policy Implications

There are no policy implications for this report.

Financial Implications

The amount of rates outstanding as at 5 October 2006 is \$5,943.17 and increasing at \$1.67 per day is made up as follows:

Arrears

Waste Management	\$11.75
Legal Fees	\$224.80
	<u>\$236.55</u>

Current

ESL	\$35.00	
Rates	\$5,620.56	
Waste Management	\$50.00	
Penalty Interest (Accrued/Posted)	\$1.06	
	<u>\$5,706.62</u>	<u>\$5,943.17</u>
Penalty Interest Accrued but unposted (\$5,943.10)	=	\$53.69

Strategic Implications

There are no strategic implications for this report.

Officer Comment

In its letter to the Council, the Walitj Aboriginal Corporation notes its constitution states:

Rate Exemption Request – Walitj Aboriginal Corporation (Cont.)

'To provide direct relief from poverty, sickness, suffering, destitution, misfortune and helplessness to members of Walitj Aboriginal Corporation without discrimination and to include, without limiting the generality of the above, the following:

- (a) to support the social development of its members in all ways;*
- (b) to bring about the self support of its members by the development of economic projects and industries;*
- (c) to support education, job training, health services, work and housing for its members;*
- (d) to help and encourage its members to manage their affairs upon their own land;*
- (e) to help and encourage its members to keep and renew their traditional culture;*
- (f) to top help to build trust and friendship between its members and other members of the community;*
- (g) to participate with other Aboriginal Associations in projects for their mutual benefits;*
- (h) to receive and spend grants of money from the government of the Commonwealth or of the State or from other sources.'*

In the absence of any clearly defined definition of the word 'charitable' in the Local Government Act, case law becomes the next best interpretation. It is clear that the Walitj Aboriginal Corporation has a case for having its land declared non rateable by the Council pursuant to the Local Government Act due to the Bindi Bindi case.

However, it is recommended that the property not be declared non rateable but that a donation of an equivalent amount be made to the corporation. It is further recommended that this donation be budgeted on an annual basis upon application from the corporation such that the Council can review its position regularly in case the constitution of the incorporated body changes.

Voting Requirements

Special Majority

OFFICER'S RECOMMENDATION

Moved Cr D Williss, Seconded Cr K Hart:

THAT:

- (1) The Walitj Aboriginal Corporation be advised that due to the imprecise definition of 'charitable' in the Local Government Act (1995) the Council is not inclined to grant the organisation non rateable status but will for the 2006/2007 rateable year donate to the organisation the equivalent of the 2006/2007 rates subject to the payment of all arrears for previous years' rates.**
- (2) The Walitj Aboriginal Corporation be further advised that the donation will be reviewed annually upon application by the incorporated body.**

AMENDMENT

Moved Cr J Moir, seconded Cr K Hart:

THAT:

- (1) The words 'but will for the 2006 / 2007 rateable year donate to the organisation the equivalent of the 2006 / 2007 rates subject to the payment of all arrears for previous years' rates' be deleted from Part (1) of the Motion.
- (2) The following be added as Part (2) of the Motion:
'The Council will consider donating the equivalent of the 2007 / 2008 rates subject to the payment of all previous year's outstanding rates and charges. '
- (3) Part (2) of the Motion be renumbered Part (3).

LOST (2/5)

MOTION TO ADJOURN QUESTION

Moved Cr J Cameron, seconded Cr M Skinner:

That the question be adjourned pending the Chief Executive Officer seeking legal advice and a further report be presented to the Council at its meeting to be held 28 November 2006.

CARRIED (7/0)

No. 334/06

11.3 SOUTH MOUNT BARKER FOOTBALL CLUB

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	FM/48/2
Author:	Rob Stewart - Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	5 October 2006

Purpose

The purpose of this report is to advise that a response has been received by the South Mount Barker Football Club relating to the Council's resolution of 12 September 2006.

Background

At its meeting held on 12 September 2006 the Council resolved:

'That the attached Memorandum of Understanding be presented to the South Mount Barker Football Club subject to:

- (1) Point 3 including the change: The words 'No objections are raised for' being deleted and replaced with the words 'South Mount Barker Football.'*
- (2) Offer from the Council to purchase the three (3) lighting poles, in working order and a fair and reasonable condition for a total of \$3,000.00.*
- (3) No further fixtures and / or fittings being removed from any buildings located at Sounness Park.'*

Statutory Environment

This matter has largely evolved due to outstanding rental moneys owed by the South Mount Barker Football Club to the Council. Regulation 5 of the Local Government (Financial Management) Regulations 1996 provides that (among other things) efficient systems and procedures are to be established by the Chief Executive Officer of a local government for the proper collection of all money owing to the local government.

Consultation

This matter has required consultation between Councillors, representatives of the South Mount Barker Football Club, the Council's legal advisers and has also involved other users of Sounness Park.

Policy Implications

There are no policy implications for this report. The debt stands at \$7,307.12.

Financial Implications

As the recommendation attached to this report effectively covers a relatively large outstanding debt, this constitutes a financial implication.

Strategic Implications

One of the Council's aims within its infrastructure key result area is to:

South Mount Barker Football Club (Cont.)

'Manage public open space and natural resources to equitably meet the community's social and economic needs in an environmentally responsible manner.'

By finalising issues with the South Mount Barker Football Club, especially with regard to ownership of assets there will be opportunities for the Council to adequately plan for the future of not only Sounness Park but also Frost Park.

Officer Comment

The South Mount Barker Football Club's letter of 26 September 2006 (received 4 October 2006) notes that the lights formerly situated at Sounness Park have now been sold and '*...have found a good home with another sporting organisation in Albany.*'

The letter also notes that in the opinion of the Football Club Board, the Council has no interest in the liquor licence nor the South Mount Barker Football Club name and therefore cannot agree to these parts of the Memorandum of Understanding (MOA).

At the Board meeting on 13 September 2006 it was resolved:

- '(a) The Shire of Plantagenet withdraws its claim against the Club for outstanding ground rental of Sounness Park and takes no further collection action.*
- (b) To conform with requirements of Directors the Board of the South Mt Barker Football Club Inc will immediately initiate the process of calling an Annual General Meeting of Members to approve the transfer of the Change Rooms and Clubrooms/Social Club Bar to the Shires asset register, date to be advised. Given the Board's total support this should be a formality. The Shire of Plantagenet to draw up relevant documentation for signing at the conclusion of this meeting.*
- (c) Also to fulfil requirements of Board Members the Board of the South Mt Barker Football Club Inc will immediately move to have all buildings valued to determine their market value.*
- (d) The Board requests that a lease arrangement be entered into between the South Mt Barker Football Club and the Shire of Plantagenet for the leasing of the Clubrooms/Social Club Bar "only" to the South Mt Barker Football Club Inc for a period of twelve months at the original proposed fee of \$10. The Club will retain its license for that period of time.*
- (e) The South Mt Barker Football agrees to allow other sporting Clubs wishing to use South's facility by arrangement consistent with its constitution and those previously entered in to.*
- (f) The South Mt Barker Football Club will remove all of its property from the Change Rooms and attached kitchen before 1 November 2006.'*

This result is generally acceptable. The Council has previously indicated its intention to use the infrastructure at Sounness Park owned by the South Mount Barker Football Club as payment of outstanding rental. Parts (a) and (b) are therefore acceptable.

With regard to part (c) the Council's advice is that the infrastructure is valueless as it is not easily moveable and is situated on Council property.

With regard to part (d) there is no reason why a lease could not be entered into between the South Mount Barker Football club and the Council for up to twelve months.

South Mount Barker Football Club (Cont.)

Part (e) is also in line with previous Council decisions.

With regard to part (f) it would be necessary to identify what property the club believes it owns. Generally fixtures would not be removed and although the changerooms should be demolished the clubrooms still have some utility.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

That the South Mount Barker Football Club (Inc) be advised that the Council accepts the position of the South Mount Barker Football Club as set out in its letter dated 26 September 2006 noting that:

- (1) Subject to the club formally relinquishing any rights that the Club believes it has over infrastructure of any sort at Sounness Park (including the Clubroom and Changeroom), and subject to such infrastructure being acknowledged as the property of the Council, the Council will record that infrastructure as full payment of outstanding moneys owed by the Club to the Council.
- (2) The Council is happy to enter into a lease arrangement for the infrastructure for the Clubrooms such lease being drawn in favour of the South Mount Barker Football Club for the leasing of the clubrooms for a period of twelve months at a fee of \$10.00.
- (3) No objections are raised for the Club to retain its liquor licence for the period of the lease.
- (4) The Council is pleased that the Club will continue to permit other users to utilise the clubrooms.
- (5) No objections are raised for the Club to remove Club property from the changerooms prior to demolition, subject to agreement as to what constitutes 'property'.

ALTERNATIVE MOTION / COUNCIL DECISION

Moved Cr K Clements, seconded Cr J Cameron:

THAT:

- (1) **South Mount Barker Football Club vacate the buildings at Sounness Park by 1 November 2006.**
- (2) **Should South Mount Barker Football Club require the use of Sounness Park or its facilities, the Club may use it under the same conditions as any other user.**
- (3) **No objections are raised by the Council for the Club to remove Club property from the changerooms subject to the Council being in agreement as to what constitutes 'property'.**

CARRIED (7/0)

No. 345/06

South Mount Barker Football Club (Cont.)

Reason For Change

The Council considered that it should revert to the position it took at its meeting held 25 July 2006 to maintain equity in the position taken with other sporting clubs.

12 CONFIDENTIAL

Nil

13 CLOSURE OF MEETING

6.35pm The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON _____ **DATE:/..../....**