



ORDINARY COUNCIL MEETING

MINUTES

Ordinary Meeting of the Council
held in the Council Chambers
2.45pm Tuesday 25 September 2007

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.....	3
9	REPORTS OF COMMITTEES AND OFFICERS.....	4
9.1	COMMUNITY SERVICES REPORTS.....	4
9.1.1	APPOINTMENT OF BUSH FIRE CONTROL OFFICERS 2007/2008.....	4
9.2	EXECUTIVE SERVICES REPORTS.....	9
9.2.1	COMMITTEE MINUTES.....	9
9.2.2	ROADWISE COMMITTEE.....	11
9.2.3	ADMINISTRATION OFFICE - CHRISTMAS CLOSURE.....	14
9.3	CORPORATE SERVICES REPORTS.....	16
9.3.1	FINANCIAL STATEMENTS - AUGUST 2007.....	16
9.3.2	LIST OF ACCOUNTS - JULY AND AUGUST 2007.....	18
9.3.3	STRATA TITLE TREE FARMS – OUTSTANDING RATES.....	19
9.3.4	HEALTH LOCAL LAW REVIEW.....	22
9.3.5	POLICY REVIEW - INTERNET AND EMAIL USAGE.....	31
9.3.6	LEASE - WEST PLANTAGENET PONY CLUB.....	39

9.3.7	ROAD NAMING - SUBDIVISION LOC 4813	41
9.4	TECHNICAL SERVICES REPORTS	43
9.4.1	CHILLINUP LANDFILL SITE	43
9.4.2	TIRES - TIMBER HAULAGE	46
9.5	DEVELOPMENT SERVICES REPORTS.....	48
9.5.1	LOT 859 HEALY ROAD, NARRIKUP - COMPOSTING FACILITY UPGRADE	48
9.5.2	LOT 50 OATLANDS ROAD CORNER ALBANY HIGHWAY, MOUNT BARKER - LAND REQUIREMENT MRWA	54
9.5.3	PUBLIC OPEN SPACE STRATEGY - MOUNT BARKER	56
10	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	59
	Nil	59
11	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING.....	59
12	CONFIDENTIAL.....	59
13	CLOSURE OF MEETING.....	59

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2:45pm The Presiding Person declared the meeting open.

Working to Occupational Safety and Health Best Practices, Mr John Fathers – Deputy Chief Executive Officer, read aloud the emergency evacuation procedures for Councillors, staff and members of the public present in the Council Chambers

Mr Fathers then 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 M Skinner	East Ward
Cr K Hart	Kendenu Ward
Cr J Moir	South Ward
Cr K Clements	Town Ward
Cr B Hollingworth	Town Ward
Cr J Cameron	Rocky Gully / West Ward
Mr John Fathers	Deputy Chief Executive Officer
Ms N Selesnew	Manager Community Services
Mr P Duncan	Manager Development Services
Mrs K Skinner	Executive Secretary

Mr Eric Howard Environmental Health Officer (withdrew at 3.30pm)

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

There were no members of the media present

Apologies

Cr John Mark

Town Ward

Mr Rob Stewart

Chief Executive Officer

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PETITIONS / DEPUTATIONS / PRESENTATIONS

Chicken Composting Facility (Item 9.5.1) – proposed Upgrade - Mr Terence Stephens

Mr Stephens expressed the view that the applicant is not operating within the current guidelines and therefore the current proposal should be rejected. Mr Stephens advised that the Council and relevant government departments are not doing what they should to control the problem.

Chicken Composting Facility (Item 9.5.1) – proposed Upgrade - Mr Ross Howard – Lot 555 Spencer Road Narrikup

Mr Howard expressed the following views:

- (1) Only No. 7 and 9 conditions have been met.
- (2) The Council does not have the staff to monitor the industry.
- (3) The applicant has had the opportunity to purchase the land adjacent and should not use their land as a buffer.
- (4) Only persons sympathetic to the applicant were consulted.
- (5) The Council has no option but to cancel the licence.

Chicken Composting Facility (Item 9.5.1) – proposed Upgrade - Mr Ian Reynolds Lot 102 Spencer Road Narrikup

Mr Reynolds advised as follows:

- (1) Conditions put upon the applicant in 2003 have not been met.
- (2) If upgrade passed what checks will be put in place.
- (3) Buffer zone – reduce to 750m if covered – should be covered with a hard cover then flies and odour will be reduced.
- (4) Operating highly illegally.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Leave of Absence – Previously Approved

Councillor Hart 10 October to 22 October 2007 (inclusive)

7 CONFIRMATION OF MINUTES

Moved Cr J Cameron, seconded Cr K Hart:

That the Minutes of the Ordinary Meeting of the Council held 11 September 2007 be confirmed subject to the following changes:

Page 3 In line three (3) of Transmission line between Kojonup and Albany – Cr Jeff Moir remove the words ‘be located’ and replace with ‘examine the viability of relocation’.

CARRIED (8/0)

No. 325/07

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- Cr Forbes attended a Saleyards Strategy Group meeting with Minister Chance on 12 September 2007 and the outlook was positive.
- Crs Forbes, Skinner and Mr Lloyd attended a Saleyards Meeting in Perth on 17 September 2007. A Managers Group will be formed to benefit all West Australian Saleyards.
- Cr Forbes, Mr Howard and Mrs Skinner met representatives of the Water Corporation, Department of Agriculture and Food and Department of Environment and Conservation and Shire of Cranbrook 20 September 2007 in relation to the availability of stock water for the coming summer. Bolganup Dam is not available for domestic use and will be used for stock with a possibility of it overflowing this year. No stock water will be carted from Rocky Gully, Frankland and Cranbrook Town standpipes.
- Cr Forbes attended a Great Southern Zone Teleconference with some issues progressing further.
- A WALGA State Meeting is to be held in Perth on 3 October 2007.

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 COMMUNITY SERVICES REPORTS

9.1.1 APPOINTMENT OF BUSH FIRE CONTROL OFFICERS 2007/2008

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	ES/15/1
Author:	Nicole Selesnew - Manager Community Services
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	13 September 2007

Purpose

The purpose of this report is to:

- (a) Appoint the Shire of Plantagenet Bush Fire Control Officers for 2007 / 2008, pursuant to Section 38 of the Bush Fires Act 1954;
- (b) Appoint the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer, pursuant to Section 38 of the Bush Fires Act 1954;
- (c) Appoint the Fire Weather Officer and Deputy Fire Weather Officer, pursuant to Section 38 of the Bush Fires Act; and
- (d) Appoint the Base Radio Operator and Deputy Base Radio Operator

Background

The Shire of Plantagenet appoints delegates to the abovementioned positions annually.

Statutory Environment

Section 38 of the Bush Fires Act details the appointment and duties of Bush Fire Control Officers, Chief Bush Fire Control Officers, Deputy Chief Bush Fire Control Officer, Fire Management and Response Plan.

The role of the Base Radio Operator is defined in the Shire of Plantagenet Bush Fire Management and Response Plan.

Consultation

Minutes of the Shire of Plantagenet Bush Fire Advisory Committee meeting of 2 May 2007 confirmed nominations for the appointment of the Chief Bush Fire Control Officer, Deputy Chief Bush Fire Control Officer, Fire Weather Officer, Deputy Fire Weather Officer, Base Radio Operator and Deputy Base Radio Operator.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Appointment Of Bush Fire Control Officers – 2007 / 2008 (Cont.)

Strategic Implications

The Shire of Plantagenet Bush Fire Management and Response Plan makes reference to the appointment and duties of Bush Fire Control Officers, the Chief Bush Fire Control Officer, Fire Weather Reporting Officer and the Base Radio Operator.

Officer Comment

Nominations for the appointment of Bush Fire Control Officers for the Shire of Plantagenet for 2007 / 2008 are as follows:

Shire of Plantagenet Bush Fire Brigade	Fire Control Officer Nominee
Denbarker	Simon Grylls
	Gavin Smith
	Norm Handasyde
	Michael Jenkins
	Geoff Mather
Forest Hill	Michael Lanigan
	Matt Candy
	Len Handasyde
	Murray McLean
Kendenup	David Burcham
	Robert Lally
	Brian Harwood
	Steve Jones
	Wayne Davis
	Geoff DePledge
	Stan Hall
	Stephen Beech
	Ken Frost
	Phillip Webb
Middle Ward	Bill Sounness
	Peter Stevens
	Ian Mackie
Narpyn	Brett Bell
	Mark Wallace
	Peter Slade
	Owen Sounness
	Norm Hill
Narrakup	Bill Bentley
	Tom Rouse
	Graeme Frusher
	Warren Forbes
	Bill Hollingworth
Perillup	Robin Ditchburn
Porongurup	John Russell

Appointment Of Bush Fire Control Officers – 2007 / 2008 (Cont.)

	Brad Cluett
	Ray Williams
	Ron Thomas
Rocky Gully	Ian Higgins
	Lachlan Cameron
South Porongurup	Phillip Rule
	Kelvin Ridgway
	Richard Stan-Bishop
Woogenellup	Grant Cooper
	Trevor Pieper
	Phillip Trent
	Barry Pearce
Mount Barker Volunteer Fire and Rescue Brigade	Ray Drage
Shire of Plantagenet	Kevin Forbes
	Ray Parry

The Shire of Plantagenet Bush Fire Advisory Committee has nominated the following:

Designated Position	Officer
Chief Bush Fire Control Officer	David Burcham
Deputy Chief Bush Fire Control Officer 1	Len Handasyde
Deputy Chief Bush Fire Control Officer 2	John Russell
Fire Weather Reporting Officer	Len Handasyde
Deputy Fire Weather Reporting Officer	Rod Stan-Bishop
Base Radio Operator	Vern Drage
Deputy Base Radio Operator	Rod Stan-Bishop

The City of Albany has nominated the following for appointment as dual Bush Fire Control Officers, to operate jointly within the Shire of Plantagenet:

Bush Fire Brigade	Dual Fire Control Officer
South Stirling	Graeme Pyle
	Steve Fullerton
Kojaneerup	Tony Slattery
	Terry Bradshaw

Voting Requirements

Simple Majority

 Appointment Of Bush Fire Control Officers – 2007 / 2008 (Cont.)

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Moir, seconded Cr K Hart:

THAT:

- (1) All previous appointments for the position of Bush Fire Control Officer for the Shire of Plantagenet be cancelled.
- (2) The following be appointed as Bush Fire Control Officers, within the designated Bush Fire Brigade area, for the Shire of Plantagenet for 2007 / 2008:

Shire of Plantagenet Bush Fire Brigade	Fire Control Officer Nominee
Denbarker	Simon Grylls
	Gavin Smith
	Norm Handasyde
	Michael Jenkins
	Geoff Mather
Forest Hill	Michael Lanigan
	Matt Candy
	Len Handasyde
	Murray McLean
Kendenup	David Burcham
	Robert Lally
	Brian Harwood
	Steve Jones
	Wayne Davis
	Geoff DePledge
	Stan Hall
	Stephen Beech
	Ken Frost
Phillip Webb	
Middle Ward	Bill Sounness
	Peter Stevens
	Ian Mackie
Narpyn	Brett Bell
	Mark Wallace
	Peter Slade
	Owen Sounness
	Norm Hill
Narrikup	Bill Bentley
	Tom Rouse
	Graeme Frusher
	Warren Forbes
	Bill Hollingworth

Appointment Of Bush Fire Control Officers – 2007 / 2008 (Cont.)

Perillup	Robin Ditchburn
Porongurup	John Russell
	Brad Cluett
	Ray Williams
	Ron Thomas
Rocky Gully	Ian Higgins
	Lachlan Cameron
South Porongurup	Phillip Rule
	Kelvin Ridgway
	Richard Stan-Bishop
Woogenellup	Grant Cooper
	Trevor Pieper
	Phillip Trent
	Barry Pearce
Mount Barker Volunteer Fire and Rescue Brigade	Ray Drage
Shire of Plantagenet	Kevin Forbes
	Ray Parry

- (3) The Chief Bush Fire Control Officer, Deputy Chief Bush Fire Control Officers 1 and 2, Fire Weather Reporting Officer, Deputy Fire Weather Reporting Officer, Base Radio Operator and Deputy Base Radio Operator for the whole of the Shire of Plantagenet be:

Designated Position	Officer
Chief Bush Fire Control Officer	David Burcham
Deputy Chief Bush Fire Control Officer 1	Len Handasyde
Deputy Chief Bush Fire Control Officer 2	John Russell
Fire Weather Reporting Officer	Len Handasyde
Deputy Fire Weather Reporting Officer	Rod Stan-Bishop
Base Radio Operator	Vern Drage
Deputy Base Radio Operator	Rod Stan-Bishop

- (4) The following officers from the City of Albany be appointed as dual Bush Fire Control Officers for the Shire of Plantagenet Bush Fire Brigade areas, adjoining their originating local authority brigade areas:

Bush Fire Brigade	Dual Fire Control Officer
South Stirling	Graeme Pyle
	Steve Fullerton
Kojaneerup	Tony Slattery
	Terry Bradshaw

CARRIED (8/0)

No. 326/07

9.2 EXECUTIVE SERVICES REPORTS

9.2.1 COMMITTEE MINUTES

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	FM/103/1, FM/103/6, RV/182/3955. CA/103/1. WM/103/3, ES/103/7
Author:	Kaye Skinner - Executive Secretary
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	17 September 2007

Purpose

The purpose of this report is to receive the following Committee Minutes:

- Audit Committee Meeting – 27 June 2007;
- Bushfire Advisory Committee Meeting – 1 August 2007;
- Chillinup Landfill Site Management Committee Meeting – 30 August 2007;
- Great Southern Regional Cattle Saleyards Committee Meeting – 24 July 2007;
- Great Southern Regional Cattle Saleyards Committee Meeting – 28 August 2007;
- Waste Management Committee Meeting – 17 July 2007; and
- Local Emergency Management Committee Meeting – 7 August 2007.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

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

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr K Clements, seconded Cr M Skinner:

That the following Committee Minutes be received.

- (i) Audit Committee Meeting – 27 June 2007;**
 - (ii) Bushfire Advisory Committee Meeting – 1 August 2007;**
 - (iii) Chillinup Landfill Site Management Committee Meeting – 30 August 2007;**
-

Committee Minutes (Cont.)

- (iv) Great Southern Regional Cattle Saleyards Committee Meeting – 24 July 2007;
- (v) Great Southern Regional Cattle Saleyards Committee Meeting – 28 August 2007;
- (vi) Waste Management Committee Meeting – 17 July 2007; and
- (vii) Local Emergency Management Committee Meeting – 7 August 2007.

CARRIED (8/0)

No.327/07

9.2.2 ROADWISE COMMITTEE

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	RO/125/17
Author:	Rob Stewart - Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	13 September 2007

Purpose

The purpose of this report is to recommend to the Council the formation of a RoadWise Committee pursuant to the provisions of the Local Government Act.

Background

Prior to the meeting of the Council held on 11 September 2007, the Great Southern RoadWise Officer, Andrea Smithson, addressed the Council regarding the purpose of RoadWise and the Local Government Road Safety Council.

Councillors will be aware that RoadWise is a joint initiative of the West Australian Local Government Association (WALGA) and many Councillors would personally know the previous RoadWise Safety Officer Mr Bob Sharpe who recently moved to Tasmania. Bob's replacement, Andrea, works out of the Shire of Plantagenet's Administration Office as part of the Council's commitment to regional cooperation.

As part of that commitment it will now be recommended that a Plantagenet Road Safety Committee be formed pursuant to the provisions of the Local Government Act.

Statutory Environment

Committees of the Council are established pursuant to Section 5.8 of the Local Government Act 1995.

It is recommended that a Plantagenet Road Wise Committee be formed pursuant to Section 5.9(2)(c) which provides that a committee is to comprise '...Council Members, Employees and Other Persons...'.

Consultation

This matter has been discussed with the RoadWise Officer and the Manager of Works and Services.

Policy Implications

There are no policy implications for this report.

Financial Implications

Although there would be some secretarial requirements for any committee formed by the Council it is expected that any such requirements would occur during normal office hours.

Strategic Implications

The Council's Strategic Plan at Key Result Area 5 (Strategic Planning) Aims to develop strategic partnership and foster regional cooperation.

RoadWise Committee (Cont)

Further, the formation of a Road Safety Committee would fit in well with the Council's recent initiative to undertake a Community Safety and Crime Prevention Survey which incorporated Road Safety questions.

Officer Comment

The purpose of the committee would be along the lines of:

- (a) To provide a structured forum for stakeholders to consider and discuss road safety issues; and
- (b) To discuss and make recommendation regarding the identification and appropriate counter measures to negative attitudinal, behavioural and environmental factors linked to enforcement, engineering, education, encouragement and evaluation of road safety initiatives.

The committee could have membership of:

- Local Government Elected Member(s);
- Local Government Technical Staff;
- Road Wise – Road Safety Officer;
- Police;
- Main Roads Western Australia;
- Department for Planning and Infrastructure;
- Health Dept of WA;
- Department of Education / Parents and Citizens;
- Service Clubs; and
- Community representatives.

Voting Requirements

Absolute Majority

OFFICER'S RECOMMENDATION

THAT:

- (1) A committee of the Council be formed pursuant to Section 5.9(2)(c) of the Local Government Act to be named the RoadWise Committee.
- (2) The functions of the committee shall be:
 - (a) To provide a structured forum for stakeholders to consider and discuss road safety issues; and
 - (b) To discuss and make recommendations regarding the identification and appropriate counter measures to negative attitudinal, behavioural and environmental factors linked to enforcement, engineering, education, encouragement and evaluation of road safety initiatives.
- (3) Membership of the Committee shall be:
 - (i) One (1) Local Government Elected Member;
 - (ii) One (1) Local Government Officer – Works and Services;
 - (iii) One (1) RoadWise Safety Officer;
 - (iv) One (1) Police Representative;
 - (v) One (1) Main Roads Representative;
 - (vi) One (1) Department of Education Representative;

RoadWise Committee (Cont)

- (vii) One (1) Parents and Citizens Representative; and
 - (viii) One (1) Community Representative.
- (4) Nominations for membership be sought by the Chief Executive Officer and a further report be presented to the Council at its meeting to be held on 9 October 2007.

COUNCIL DECISION

Moved Cr K Clements, seconded Cr J Cameron:

THAT:

- (1) A committee of the Council be formed pursuant to Section 5.9(2)(c) of the Local Government Act to be named the RoadWise Committee.
- (2) The functions of the committee shall be:
 - (a) To provide a structured forum for stakeholders to consider and discuss road safety issues; and
 - (b) To discuss and make recommendations regarding the identification and appropriate counter measures to negative attitudinal, behavioural and environmental factors linked to enforcement, engineering, education, encouragement and evaluation of road safety initiatives.
- (3) Membership of the Committee shall be:
 - (i) One (1) Local Government Elected Member;
 - (ii) One (1) Local Government Officer – Works and Services;
 - (iii) One (1) RoadWise Safety Officer;
 - (iv) One (1) Police Representative;
 - (v) One (1) Main Roads Representative;
 - (vi) One (1) Department of Education Representative;
 - (vii) One (1) Parents and Citizens Representative; and
 - (viii) One (1) Community Representative.
- (4) Nominations for membership be sought by the Chief Executive Officer and a further report be presented to the Council at its meeting to be held on 23 October 2007.

CARRIED (8/0)

(Absolute Majority)

No.328/07

Reason for Change

Councillors believed that representation for this committee should be held over until after the Ordinary Council Elections being held on 20 October 2007.

9.2.3 ADMINISTRATION OFFICE - CHRISTMAS CLOSURE

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	CU/2/2
Author:	Rob Stewart - Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	12 September 2007

Purpose

The purpose of this report is to seek approval to close the Shire's Administration Office, Recreation Centre and Libraries between Christmas and New Year December 2007 / January 2008.

Background

The Council has authorised the closure of its facilities for the period between Christmas and New Year for a number of years and this has not caused any community disquiet or inconvenience. See Council Meetings 22 October 2002, 11 November 2003, 12 October 2004, 8 November 2005 and 26 September 2006.

Policy Implications

Council's Policy Manual is silent in regard to this matter

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

The closure of the administration office is an opportunity for all members of the staff to utilise the former holidays enjoyed by officers in local government being Easter Tuesday and 2 January. Although these holidays were repealed some years ago, at arbitration they were retained to be taken at mutually convenient times and have been recognised in the recently negotiated Collective Agreement. The Chief Executive Officer has informed staff members that he would prefer these holidays to be taken between Christmas and New Year wherever possible to minimise disruption to office routine.

This year, Christmas Day falls on a Tuesday and the Council will be asked to close the Council's facilities (except for the Library) from close of business on Friday 21 December 2007. It is reasonable for the library to remain open on Saturday 22 December for its normal hours being 9.00am to 11.00am and the Recreation Centre from 9.00am to 12 noon.

This would mean that normal services would not resume until Wednesday 2 January 2008. This is one day more than the Christmas closure that has been approved in the past. Closures on days other than normal public holidays are taken out of

Administration Office – Christmas Closure (Cont)

approved leave and the Chief Executive Officer will be encouraging such approved leave to be accumulated RDO's.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr K Clements, seconded Cr B Hollingworth:

THAT:

- (1) The Shire of Plantagenet's Administration Office and the Rocky Gully Library be closed from 21 December 2007 to 1 January 2008 inclusive.**
- (2) The Mount Barker Library be closed from 11.00am 22 December 2007 to 1 January 2008 inclusive.**
- (3) The Mount Barker Community Recreation Centre be closed from 12 noon 22 December 2007 to 1 January 2008.**
- (4) The closures inclusive of public holidays be advertised locally.**

CARRIED (8/0)

No.329/07

9.3 CORPORATE SERVICES REPORTS

9.3.1 FINANCIAL STATEMENTS - AUGUST 2007

Location / Address:	N / A
Attachments: (1)	August 2007
Name of Applicant:	N / A
File Reference:	FM/65/1
Author:	John Fathers - Deputy Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	17 September 2007

Purpose

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 31 August 2007.

Statutory Environment

Regulation 34 of the Financial Management Regulations (1996) requires a Statement of Financial Activity to be prepared each month which is to contain the following details:

- (a) annual budget estimates;
- (b) budget estimates to the end of the month;
- (c) actual amounts of expenditure and revenue;
- (d) material variances between comparable amounts in (b) and (c) above; and
- (e) the net current assets at the end of the month to which the statement relates (i.e. surplus / (deficit) position).

The statement is to be accompanied by:

- (a) explanation of the composition of net current assets, less committed assets and restricted assets;
- (b) explanation of the material variances; and
- (c) such other information considered relevant by the local government.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr D Williss, seconded Cr M Skinner:

That the financial statements for the month ending 31 August 2007 be received.

CARRIED (8/0)

No.330/07

9.3.2 LIST OF ACCOUNTS - JULY AND AUGUST 2007

Location / Address: N / A
Attachments: [List of Accounts](#)
Name of Applicant: N / A
File Reference: FM/65/3
Author: Rayona Evans - Accounts Officer
Authorised By: John Fathers - Deputy Chief Executive Officer
Date of Report: 14 September 2007

Purpose

The purpose of this report is to present the list of payments that were made during the months of July and August 2007.

Statutory Environment

Regulation 13 of the Local Government (Financial Management) Regulations 1996 defines the reporting requirements to the Council of the list of accounts.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

If any Councillor has any questions in relation to the List of Accounts please contact the Deputy Chief Executive Officer prior to the meeting.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Cameron, seconded Cr K Hart:

That the payment of accounts for the month of July and August 2007 covering electronic payments, cheques 37490 to 37626 totalling \$677,675.97 be noted.

CARRIED (8/0)

No.331/07

9.3.3 STRATA TITLE TREE FARMS – OUTSTANDING RATES

Location / Address:	N/A
Attachments: (1)	List of Properties
Name of Applicant:	N/A
File Reference:	FM/102/1
Author:	John Fathers - Deputy Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	14 September 2007

Purpose

The purpose of this report is to present the latest legal advice regarding outstanding rates owed to the Council by Valley View and Hambley tree farms.

Background

The Council will recall that substantial rates are outstanding on the above assessments and that standard debt collection attempts have thus far proved unsuccessful. Standard debt collection techniques have failed to recover outstanding rates due to a variety of factors including bankruptcy, failure to locate owners and in some circumstances the death of owners.

The tree crop managers, Integrated Tree Cropping (ITC), proposed to reimburse outstanding rates moneys from the proceeds of sale upon harvest. However, legal advice received recommended against forming an agreement with ITC as agreement would have to be sought from all owners involved and ITC did not have the authority to act on the owners' behalf.

Additional legal advice failed to recommend a definitive course of action that the Council should follow and at its Ordinary Council meeting held on 14 March 2006, the Council resolved:

'That specialised strata title and land administration legal advice be sought in relation to the recovery of rates from the owners of Location 1422, Lot 101 Albany Highway, Mount Barker known as Valley View Tree Farm and on Location 4634, Lot 51 Porongurup Road, Mount Barker known as Hambley Tree Farm.'

On 2 June 2006, at the suggestion of the Council's auditors, the Shire President and the Chief Executive Officer visited an insolvency consultant in Perth to discuss the issues.

In October 2006, a representative from Strata Asset Services visited the Shire Offices to discuss the matter. He advised that Hambley Farm was to be harvested in 2007 and Valley View farm in 2008. In his view, it was questionable whether they could withhold money from harvest to pay Shire rates as there are no clear rules in this regard. It was also advised that the proceeds from harvest of Hambley Farm would probably net around \$30,000 per lot.

Statutory Environment

Section 6.64 of the Local Government Act 1995 states:

Strata Title Tree Farms – Outstanding Rates (Cont)

'Actions to be taken

(1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and -

- (a) from time to time lease the land;
- (b) sell the land;
- (c) cause the land to be transferred to the Crown; or
- (d) cause the land to be transferred to itself.

(2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.

(3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.'

Section 6.68 of the Local Government Act 1995 states:

'Exercise of power to sell land

(1) Subject to subsection (2), a local government is not to exercise its power under section 6.64(1)(b) (in this Subdivision and Schedule 6.3 referred to as the "power of sale") in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.

(2) A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land.

(3) Schedule 6.3 has effect in relation to the exercise of the power of sale.'

Sections 30 and 31 of the Strata Titles Act refer to the termination of Strata schemes.

Consultation

Consultation has occurred with solicitors, Chalmers Legal Studio Pty Ltd.

Policy Implications

There are no policy implications for this report.

Financial Implications

As at 14 September 2007, the rates outstanding (inclusive of charges) for the Hambley Tree Farm total \$33,547.17. Five out of 30 properties have significant arrears totalling \$16285.51. The rates outstanding (inclusive of charges) for the Valley View Farm total \$180,889.26. Twenty-nine out of 61 properties have significant arrears, totalling \$147,694.75. A list showing the details of outstanding rates for each lot is attached.

Strata Title Tree Farms – Outstanding Rates (Cont)**Strategic Implications**

There are no strategic implications for this report.

Officer Comment

The latest advice from Chalmers Legal Studio is attached, together with the previous legal advice dated 15 March 2006.

The solicitors advise that as part of the decision making process in considering the transfer of lots to the Shire, the Shire should satisfy itself as to the amount of outstanding strata levies and the anticipated share of the harvest each lot will receive. If outstanding strata levies are likely to equal the anticipated share of the harvest for a lot, then by taking a transfer of that lot would not result in arrears of rates being paid, and would expose the Shire to future strata levies.

This has not been conclusively determined, although as there are clearly Shire rates, strata levies and crop fees and in some cases mortgages going back a number of years, it is unlikely that the problematic lots would have a worthwhile market value.

The Solicitors' advice is that the Shire continue with the lodgement of caveats and cause notice to be given to the plantation manager that unless all arrears of rates are paid, the Shire will apply to the District Court to have the strata scheme wound up, so as to enable the sale of the land upon which the whole plantation is conducted.

Such a notice needs to be given to the plantation manager before the commencement of harvesting. In the event that the plantation manager does not volunteer payment of arrears of rates, then it is in the Shire's interest that the scheme be wound up before harvesting.

It is considered that the Hambley Farm should not be dealt with as suggested as there is a relatively minor degree of properties with rates outstanding. The Valley View Farm continues to be a problem and it is recommended that the solicitors' phase 1 advice of giving notice to the plantation manager (ITC) that unless all arrears of rates are paid, the Shire will apply to the District Court to have the strata scheme wound up.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr K Clements, seconded Cr B Hollingworth:

That Chalmers Legal Studio Pty Ltd, acting on behalf of the Shire of Plantagenet, be instructed to give notice to Integrated Tree Cropping, the plantation manager of Location 1422, Lot 101 Albany Highway, Mount Barker known as Valley View Tree Farm that unless the Shire receives an undertaking that all arrears of rates are paid with the proceeds of the impending harvest, the Shire will apply to the District Court to have the strata scheme wound up.

CARRIED (8/0)

No.332/07

9.3.4 HEALTH LOCAL LAW REVIEW

Location / Address:	N / A
Attachments: (1)	Local Law
Name of Applicant:	N / A
File Reference:	LE/98/13
Author:	John Gilfellow - Consultant
Authorised By:	John Fathers - Deputy Chief Executive Officer
Date of Report:	30 July 2007

Purpose

The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the proposed Health Amendment Local Law, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

Background

The purpose of the Local Law is to align the existing Health Local Law with current public health requirements and update legislation and Australian Standards references in accordance with the required statutory review process.

The effect of the Local Law is to enable public health in the community to be adequately protected by current statutory mechanisms.

The Health Local Laws 1997 was gazetted on the 30 March 1998. The local law is modelled on the Model Health Local Law.

The local law is still sufficient to maintain proper health standards, however, there are a number of amendments that have to be made to the local law. Some are administrative, such as incorporating correct terminology ie Council to local government, while others need to reflect the titles of current legislation and Australian Standards.

Others need to be made because of the findings of the Joint Standing Committee on Delegated Legislation in relation to other local governments Health Local Laws.

In relation to the setting of fees, where fees are prescribed in the current local law amendments have been incorporated to allow the local government to set the fees.

Statutory Environment

Section 3.16(1) of the Local Government Act 1995 requires a local government to review each of its local laws within an eight year period since its adoption or last review.

Section 3.12(2) of the Local Government Act 1995 and the Local Government (Functions and General) Regulations (Regulation 3) which states that for the purpose of Section 3.12(2) of the Local Government Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the Purpose and Effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the Purpose and Effect of the proposed local law.

Consultation

The Shires intention to review the Health Local Law and inviting public submissions was advertised on the 12 May 2007. The submission period was open for 42 days. No public submissions were received.

A 42 day public submissions period on the proposed Health Amendment Local Law will be advertised Statewide when adopted by the Council.

In addition copies of the proposed Amendment Local Law, the principal Local Law, as amended and the National Competition Policy review must be sent to the relevant Minister for comment.

Financial Implications

Funding for the review of the local laws and for statutory advertising has been included in the 2007/08 annual budget.

OFFICER COMMENT

The following amendments are proposed for the Health Local Law:

1. Preliminary

Delete the definition of "Council" in subclause 1.3(1) and, except in subclause 1.3(1) in the definition of "water", delete "Council" wherever it appears in the Local Law and substitute "local government" or "the local government" as appropriate.

2. 1.1

(a) Insert the heading "**Citation**".

(b) In clause 1.1 delete the numerals "1997".

3. 1.3(1) Interpretation

(a) Delete the definition of "approved" and substitute the definition "**approved**" means approved by the local government".

(b) In the appropriate alphabetical position add the following definitions:

"**AS/NZS 1276.1: 1999**" means the standard published by the Standards Association of Australia as AS/NZS 1276.1: 1999 and called "Acoustics – Rating of sound insulation in buildings and of building elements – Airborne sound insulation."

"**AS 1530.2: 1993**" means the standard published by the Standards Association of Australia as AS 1530.2: 1993 and called "Methods for fire testing on buildings materials, components and structures – Tests for flammability of materials."

"**AS/NZS 1530.3: 1999**" means the standard published by the Standards Association of Australia as AS/NZS 1530.3: 1999 and called "Methods for fire tests on building materials, components and structures – Simultaneous determination of ignitability, flame propagation, heat release and smoke release."

"**AS 1668.2 – 2002**" means the standard published by the Standards Association of Australia as AS 1668.2 - 2002 and called "The use of

Health Local Law Review (Cont.)

ventilation and air-conditioning in buildings – Ventilation design for indoor air contaminant control.””

“**AS/NZS 3666.2: 2002**” means the standard published by the Standards Association of Australia as AS/NZS 3666.2: 2002 and called “Air-handling and water systems of buildings – Microbial Control – Operation and maintenance.””

(c) Insert, in the appropriate alphabetical position, the definition –

“**“local government”** means the Shire of Plantagenet”.

(d) Delete the definition of “water” and substitute “**water**” means drinking water within the meaning of the Australian Drinking Water Guidelines – 1996 as published by the National Health and Medical Research Council and amended and endorsed by the Minister for Health from time to time; and”.

4. 2.1.5 Toilets

In subclause (a) of clause 2.1.5 (2) delete “AS 1276” and substitute “AS/NZS 1276.1: 1999”.

5. 2.1.11 Installation

(a) Delete the word “Country” from the title of the Act and substitute the word “Metropolitan”.

(b) After the year “1909” insert the words “and the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974”.

6. 2.2.4 Kitchens

(a) In the subparagraph 2.2.4(2)(c)(i) delete the word “millilitres” before the word “deep” and substitute the word “millimetres”.

(b) In the paragraph 2.2.4(4)(a) after the words “requirements of”, insert the words “the Office of Energy and”.

7. 3.1.1

(a) Insert the missing clause title “Dwelling House Maintenance”.

(b) In subclause (1), delete the word “Country” from the title of the Act and substitute the word “Metropolitan”.

8. 3.2.4 Ventilation

(a) In paragraph (b) of clause 3.2.4(2) delete “AS1668.2” and substitute “AS1668.2: 2002”

(b) In paragraph (a) of clause 3.2.4(3) delete “AS3666.2 - 1989” and substitute “AS/NZS 3666.2: 2002”

(c) Delete paragraph (b) of clause 3.2.4(3) and substitute “(b) in use at all times the building is occupied, if it is a building without approved natural ventilation.”

9. 3.5.1 Application and Licensing of Morgues

Health Local Law Review (Cont.)

- (a) In subclause (2)(c) delete the words “prescribed in Schedule (12)” where they appear and substitute the words “as fixed by the local government from time to time under Section 344C of the Act”.
- (b) In subclause (3) delete the words “prescribed in Schedule (12)” where they appear and substitute the words “as fixed by the local government from time to time under Section 344C of the Act”.

10 4.2.4 Use of Receptacles

In subparagraph (viii) of paragraph (a) after the word “objects” add the words “unless placed in a durable, impervious and leak proof container”.

11. 4.2.10 Burning Rubbish or Refuse

- (a) In paragraph (d) of subclause (2) delete “in AS 1875 – 1976” and substitute “by the local government”
- (b) In subclause (3) delete the words “Fire Rules of the Local Fire Brigade issues by the Western Australian Fire Brigades Board” and substitute “local fire rules”.

12 5.1.2 Footpaths etc. to be kept clean

Delete the words “in a clean condition” and after the last word “premises”, insert the words “,clear of any rubbish, matter or things coming from or belonging to the premises”.

13 5.2.6 Disposal of Dead Animals

In subclause (3) of clause 5.2.6 substitute the word “immediately” with the words “as soon as possible”.

14. 5.7.2 Ventilation

In subclause (1) delete “AS 1668.2 Part 2 1991” and substitute “AS 1668.2 – 2002”.

15. 5.7.3 Exhaust Air Discharge Points and Exhaust Registers

- (a) In sub-paragraphs (a) and (b) of paragraph (a)(i) delete “AS 1668.2 Part 2 1991” and substitute in both places “AS 1668.2 – 2002”.
- (b) Renumber sub-paragraphs (a) and (b) of paragraph (a)(i) as (A) and (B) respectively.

16. 8.1.1 Interpretation

Insert, in the appropriate alphabetical position, the definition – “**Food Standards Code**” means the Australian New Zealand Food Standards Code as defined in the Commonwealth *Food Standards Australia New Zealand Act 1991*.”

17. 8.1.3 Application for Registration

- (a) Delete the title “Application for Registration’ and substitute “**Application for Registration**”.
- (b) In paragraph (i) of subclause (c) delete the words “prescribed in Schedule (12)” where they appear and substitute the words “as fixed by the local government from time to time under Section 344C of the Act”.

Health Local Law Review (Cont.)**18. 8.1.5 Renewal of Registration**

In subclause (b) delete the words “prescribed in Schedule (12)” where they appear and substitute the words “as fixed by the local government from time to time under Section 344C of the Act”

19 8.2.2 Kitchen

In paragraph (b) delete the words “the requirements of the *Health (Food Hygiene) Regulation 1993*” and substitute the words “any of the requirements of Standard 3.2.3 of the Food Standards Code”.

20. 8.2.7 Fire Prevention and Control

In subclause 8.2.7 (2), delete the words “advised by the Western Australian Fire Brigades Board” and substitute “required by the Building Code”.

21. 8.2.11 Sleeping Accommodation, Short Term Hostels and Recreation Campsites

In paragraph (a) of subclause 8.2.11 (3) delete “AS 1530.2 and AS 1530.3” and substitute “AS 1530.2 - 1993 and AS/NZS 1530.3: 1999”

22. 9.2.7 Offensive Material

In paragraph (d), delete the words “and at such more frequent intervals as may be directed” and substitute the words “or at such other intervals as may be approved or directed”.

23. Schedule 1 Application for Registration of a Lodging House

In the table entitled “Laundry Facilities”, delete the entry: “Coppers”.

24. Schedule 12 Prescribed Fees

Delete Schedule 12

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr K Hart, seconded Cr B Hollingworth:

That the proposed amendments to the Shire of Plantagenet Health Local Law, as listed below, be adopted and advertised for public comment.

(1) Preliminary

Delete the definition of “Council” in subclause 1.3(1) and, except in subclause 1.3(1) in the definition of “water”, delete “Council” wherever it appears in the Local Law and substitute “local government” or “the local government” as appropriate.

(2) 1.1

(a) Insert the heading “Citation”.

(b) In clause 1.1 delete the numerals “1997”.

(3) 1.3(1) Interpretation

- (a) Delete the definition of “approved” and substitute the definition
““approved” means approved by the local government”.
- (b) In the appropriate alphabetical position add the following definitions:
- “AS/NZS 1276.1: 1999” means the standard published by the Standards Association of Australia as AS/NZS 1276.1: 1999 and called “Acoustics – Rating of sound insulation in buildings and of building elements – Airborne sound insulation.”
- “AS 1530.2: 1993” means the standard published by the Standards Association of Australia as AS 1530.2: 1993 and called “Methods for fire testing on buildings materials, components and structures – Tests for flammability of materials.”
- “AS/NZS 1530.3: 1999” means the standard published by the Standards Association of Australia as AS/NZS 1530.3: 1999 and called “Methods for fire tests on building materials, components and structures – Simultaneous determination of ignitability, flame propagation, heat release and smoke release.”
- “AS 1668.2 – 2002” means the standard published by the Standards Association of Australia as AS 1668.2 - 2002 and called “The use of ventilation and air-conditioning in buildings – Ventilation design for indoor air contaminant control.”
- “AS/NZS 3666.2: 2002” means the standard published by the Standards Association of Australia as AS/NZS 3666.2: 2002 and called “Air-handling and water systems of buildings – Microbial Control – Operation and maintenance.”
- (c) Insert, in the appropriate alphabetical position, the definition –
““local government” means the Shire of Plantagenet”.
- (d) Delete the definition of “water” and substitute “water” means drinking water within the meaning of the Australian Drinking Water Guidelines – 1996 as published by the National Health and Medical Research Council and amended and endorsed by the Minister for Health from time to time; and”.
- (4) 2.1.5 Toilets
In subclause (a) of clause 2.1.5 (2) delete “AS 1276” and substitute “AS/NZS 1276.1: 1999”.
- (5) 2.1.11 Installation
- (a) Delete the word “Country” from the title of the Act and substitute the word “Metropolitan”.
- (b) After the year “1909” insert the words “and the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974”.
- (6) 2.2.4 Kitchens
- (a) In the subparagraph 2.2.4(2)(c)(i) delete the word “millilitres” before the word “deep” and substitute the word “millimetres”.

- (b) In the paragraph 2.2.4(4)(a) after the words “requirements of”, insert the words “the Office of Energy and”.
- (7) 3.1.1
- (a) Insert the missing clause title “Dwelling House Maintenance”.
- (b) In subclause (1), delete the word “Country” from the title of the Act and substitute the word “Metropolitan”.
- (8) 3.2.4 Ventilation
- (a) In paragraph (b) of clause 3.2.4(2) delete “AS1668.2” and substitute “AS1668.2: 2002”
- (b) In paragraph (a) of clause 3.2.4(3) delete “AS3666.2 - 1989” and substitute “AS/NZS 3666.2: 2002”
- (c) Delete paragraph (b) of clause 3.2.4(3) and substitute “(b) in use at all times the building is occupied, if it is a building without approved natural ventilation.”
- (9) 3.5.1 Application and Licensing of Morgues
- (a) In subclause (2)(c) delete the words “prescribed in Schedule (12)” where they appear and substitute the words “as fixed by the local government from time to time under Section 344C of the Act”.
- (b) In subclause (3) delete the words “prescribed in Schedule (12)” where they appear and substitute the words “as fixed by the local government from time to time under Section 344C of the Act”.
- (10) 4.2.4 Use of Receptacles
- In subparagraph (viii) of paragraph (a) after the word “objects” add the words “unless placed in a durable, impervious and leak proof container”.
- (11) 4.2.10 Burning Rubbish or Refuse
- (a) In paragraph (d) of subclause (2) delete “in AS 1875 – 1976” and substitute “by the local government”
- (b) In subclause (3) delete the words “Fire Rules of the Local Fire Brigade issues by the Western Australian Fire Brigades Board” and substitute “local fire rules”.
- (12) 5.1.2 Footpaths etc. to be kept clean
- Delete the words “in a clean condition” and after the last word “premises”, insert the words “,clear of any rubbish, matter or things coming from or belonging to the premises”.
- (13) 5.2.6 Disposal of Dead Animals
- In subclause (3) of clause 5.2.6 substitute the word “immediately” with the words “as soon as possible”.
- (14) 5.7.2 Ventilation
- In subclause (1) delete “AS 1668.2 Part 2 1991” and substitute “AS 1668.2 – 2002”.

(15) 5.7.3 Exhaust Air Discharge Points and Exhaust Registers

(a) In sub-paragraphs (a) and (b) of paragraph (a)(i) delete “AS 1668.2 Part 2 1991” and substitute in both places “AS 1668.2 – 2002”.

(b) Renumber sub-paragraphs (a) and (b) of paragraph (a)(i) as (A) and (B) respectively.

(16) 8.1.1 Interpretation

Insert, in the appropriate alphabetical position, the definition – “Food Standards Code” means the Australian New Zealand Food Standards Code as defined in the Commonwealth *Food Standards Australia New Zealand Act 1991*.”

(17) 8.1.3 Application for Registration

(a) Delete the title “Application for Registration’ and substitute “Application for Registration”.

(b) In paragraph (i) of subclause (c) delete the words “prescribed in Schedule (12)” where they appear and substitute the words “as fixed by the local government from time to time under Section 344C of the Act”.

(18) 8.1.5 Renewal of Registration

In subclause (b) delete the words “prescribed in Schedule (12)” where they appear and substitute the words “as fixed by the local government from time to time under Section 344C of the Act”

(19) 8.2.2 Kitchen

In paragraph (b) delete the words “the requirements of the *Health (Food Hygiene) Regulation 1993*” and substitute the words “any of the requirements of Standard 3.2.3 of the Food Standards Code”.

(20) 8.2.7 Fire Prevention and Control

In subclause 8.2.7 (2), delete the words “advised by the Western Australian Fire Brigades Board” and substitute “required by the Building Code”.

(21) 8.2.11 Sleeping Accommodation, Short Term Hostels and Recreation Campsites

In paragraph (a) of subclause 8.2.11 (3) delete “AS 1530.2 and AS 1530.3” and substitute “AS 1530.2 - 1993 and AS/NZS 1530.3: 1999”

(22) 9.2.7 Offensive Material

In paragraph (d), delete the words “and at such more frequent intervals as may be directed” and substitute the words “or at such other intervals as may be approved or directed”.

(23) Schedule 1 Application for Registration of a Lodging House

In the table entitled “Laundry Facilities”, delete the entry: “Coppers”.

- (24) **Schedule 12 Prescribed Fees**
Delete Schedule 12.

CARRIED (8/0)

No.333/07

9.3.5 POLICY REVIEW - INTERNET AND EMAIL USAGE

Location / Address:	N/A
Name of Applicant:	N/A
File Reference:	IT/120/2
Author:	Donna Stevens - Senior Administration/Human Resources Officer
Authorised By:	John Fathers - Deputy Chief Executive Officer
Date of Report:	12 September 2007

Purpose

The purpose of this report is to review Policy IT/I/1 – Internet and Email Usage.

Background

At its ordinary meeting held on 16 December 2003 the Council adopted an Internet and Email Usage Policy. Prior to this adoption there was no policy in place that governed the usage of the email and internet by staff.

Statutory Environment

Initiative 1.2 of the Strategic Plan states:

‘Ensure organisational practices reflect professional and legal standards and enable internal and external customers to access and retrieve information appropriately and with a high level of confidence.’

Policy Implications

This report recommends that minor changes to the policy be made to reflect changes to the organisation’s structure.

Financial Implications

There are no financial implications for this report.

Strategic Implications

The Internet and Email Usage Policy was adopted to assist the Council in meeting its obligations under the following Acts by reducing exposure to unprofessional or inappropriate conduct via email and the internet:

- Sexual Discrimination Act 1984;
- Equal Opportunity Act 1984;
- Spam Act 2003; and
- State Records Act 2000.

Officer Comment

Since the original adoption of this policy the organisation has undergone a structural change. The only changes to this document will reflect the new divisions and positions within the organisation. All references to the Executive Director of Corporate & Community Services have been altered to the Deputy Chief Executive Officer.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr B Hollingworth, seconded Cr J Moir:

That the following amended Policy No IT/I/1 – Internet and Email Usage:

'DIVISION AREA	BUSINESS UNIT	RESPONSIBILITY
---------------------------	----------------------	-----------------------

Corporate Services	Information Technology	Internet
--------------------	------------------------	----------

OBJECTIVE: To ensure that the Council's investment in computer hardware, software and services is used in the most productive manner to the greatest possible benefit of the Shire of Plantagenet.

To ensure that all the Shire's business emails are preserved and available as corporate knowledge in accordance with the State Records Act 2000.

POLICY: The Council will ensure that employee use of the Council's internet and email systems are in accordance with the following:

Email Content

- (1) All emails sent or received via the Shire's email system are the property of the Shire, although the Shire does not accept responsibility for items of an informal nature that are transmitted through its system without consent.
- (2) Employees should only give their Shire of Plantagenet email address to people and organisations that are business partners of the Shire of Plantagenet.
- (3) No employee may send or distribute email containing non-business related material such as jokes. This includes sound files, (eg. WAV), movie files, (eg. AVI) or any form of such material.
- (4) No employee may send or distribute e-mail containing expletives or pornography or for sending messages that are abusive, obscene, libellous and insulting or in bad taste. Further discussion on the ethics of email use attached as an appendix to this policy.
- (5) No employee may send or distribute e-mail containing derogatory, inflammatory, insulting or libellous information about any other Shire employee, customer, associate or any other person whatsoever.
- (6) No Shire employee may conduct any business of a private nature via the Shire's email/internet system other than legitimate Shire business.
- (7) Any Shire employee receiving questionable material (as described above in points 3, 4 and 5) should immediately forward all such material to the Chief Executive Officer or their supervisor for appropriate action and then delete all local copies.

- (8) Employees may not use email/Internet or electronic messaging systems to infringe copyright or other intellectual property rights of third parties.
- (9) All staff are required to protect the confidentiality provisions of the Shire, exercise due care and adhere to confidentiality agreements when handling data or information on or from the Council's information systems.
- (10) Unauthorised advertising or promotion of products or services via the email/internet system IS NOT permitted.
- (11) Electronic records produced or received by an officer in the course of public duties are deemed to be public records. All such records shall be captured in accordance with the Council's Record Keeping Plan.
- (12) Staff are discouraged from e-mailing matters of a legal or contractual nature. This type of correspondence should be handled by written letter sent through Australia Post. Email is the preferred means of exchanging standard administrative and technical information and other informal correspondence. It should not be used for formal documents recording significant decisions or approvals or which otherwise warrant becoming part of the permanent record.
- (13) No attachment should be opened or stored unless the employee can positively identify the sender.

Monitoring Emails

The Shire has installed an e-mail management system. This system is capable of capturing all email business transactions and to trap and report all questionable e-mails. The Shire's employees should be aware that all emails are being monitored to ensure that this policy is being adhered to.

Consequences of Non-Compliance

Employees found to be acting in contravention of the above directives will be warned by the appropriate manager and requested not to re-offend. Employees who continue to disregard the above directives will be formally warned and then may face suspension pending court action and/or dismissal if the offence is considered to be of a serious nature.

Note – any offence associated with pornography or insulting behaviour will be automatically classified as being of a serious nature.

Whilst spam filters are in place, the Shire of Plantagenet is powerless to prevent any inappropriate e-mail being received at a particular email address, but it will in no way condone any pornographic or offensive email being forwarded on to any person; either as a knowing recipient of the material, or as an unknowing recipient of the material.

The Shire of Plantagenet considers such material totally inappropriate to the workplace and expects that any person who receives such material will immediately delete it from the system.

Should you receive such e-mail you should report this to the Chief Executive Officer or your supervisor, as it is our practice to advise the organisation that

hosts the sender, that such email is being sent from their organisation and to request them to prohibit the sending of such e-mail to us.

The sending of offensive or pornographic e-mail may expose the Council to claims of sexual harassment, which further emphasise the reasons behind the obvious restrictions placed upon this type of material.

Given the Shire of Plantagenet's strong opposition to this matter, it must be understood that any person who is found to store this material in their own private folders, or who forwards this material onto any other person, either within our internal network or by external email, will have their email services terminated immediately and face the disciplinary actions detailed above.

Capturing Email

Staff are reminded to forward all email that needs to be retained as a record (in accordance with the Council's Record Keeping Plan) to the Records Officer for capturing in our record keeping system.

Format of Outgoing Email

When sending email (as with other forms of communication) you are conveying the Council's image. As such, the standard e-mail template must be used by all staff. The template is defined as follows:

- (a) Font – Times New Roman (size 11)
- (b) Signature – to be as follows:
 - Title
 - Shire of Plantagenet
 - Telephone – (08) 9892 XXXX
 - Facsimile – (08) 9892 XXXX
 - Email – name@plantagenet.wa.gov.au
 - Web – www.plantagenet.wa.gov.au
- (c) Spelling – each employee's email settings are to have the 'spell check' feature automatically turned on.

Internet Usage

The Internet is a resource, which is to be used for work, related purposes and inappropriate use, including any violation of the conditions and rules, may result in the cancellation of the access. The Chief Executive Officer will determine appropriate use and may deny, revoke, suspend or close any user access at any time.

Encounter of Controversial Material

Whilst the Shire utilises a software programme which prohibits access to particular sites, access by employees to sites on the internet which could be construed as obscene, sexual, racist, discriminatory, or unacceptable for business are not to be intentionally visited. It is the user's responsibility not to initiate access to such material. Deliberate accessing of such sites is expressly banned and renders the employee to formal disciplinary procedures. If such a site is accessed unexpectedly, it is expected that the user will immediately terminate the connection.

The exception to this rule would apply to Information Technology staff ONLY for the monitoring of sites visited by other users. Any decision by the Chief Executive Officer to restrict access to Internet material shall not be deemed to impose any duty on the Shire to regulate the content of the material on the Internet.

Downloading Software

Downloading of software through the Internet is strictly prohibited. The reason for this prohibition is that the Shire can be exposed to action arising from possible copyright infringement issues and the Shire's computing network can be open to disruption from virus attacks.

If a user has identified any software package that is useful for the Shire's operations and can be downloaded through the Internet, they must be referred to the Deputy Chief Executive Officer for evaluation. The software will be evaluated on the following guidelines:

- (a) Compatibility with the Shire's hardware and existing software
- (b) Software licensing arrangements
- (c) Copyright and other intellectual property rights
- (d) Availability of budget funds
- (e) Virus protection
- (f) Ethical and moral issues

No software is to be either downloaded through the Internet or purchased from any other means unless approved (based on the above criteria) by the Deputy Chief Executive Officer.

APPENDIX: ETIQUETTE AND ETHICS FOR THE EFFECTIVE USE OF E-MAIL

Since e-mail is not quite like other methods of communications, a distinct etiquette for its use has evolved. Following are some guidelines that have been adapted from the 'The Business of Electronic Mail', issued by Telstra, Melbourne (1997)'.

Email Ethics

- (1) Use good judgment by not sending messages that are libellous, defamatory, abusive and obscene or in bad taste. All users of email systems must act with courtesy and refrain from the use of inflammatory or offensive language at all times. Remember that you may be legally liable for any libellous or defamatory statements made.
- (2) Never forget that a person is receiving the email. It is very easy to make critical or intemperate comments across email when the recipient of these comments and the impact it has on them does not confront you.
- (3) Like the information in Council's paper based record, the contents of Council's email system are also part of the public record. It may therefore be subjected to public access and scrutiny under disclosure law such as the Freedom of Information Legislation. Hence email content needs to be objective in nature with all system users endeavouring to avoid the use of subjective comments.

Email Etiquette**(4) Read and respond to Messages.**

Check your email regularly; ignoring a message is discourteous and confusing to the sender. If you receive a message intended for another person, do not just ignore it; return it to the sender. Answer messages in a timely manner, informing senders when their requests cannot be accommodated. Delete messages as soon as they have been answered or the issue resolved. For messages that must be retained, develop an orderly filing system.

(5) All Capital Letters give the effect of SHOUTING!

Many people interpret the use of all capitals in email to indicate shouting, anger or rudeness. Shouting is most effective if it is reserved for special occasions. In any case, studies show that proper use of upper and lower case assists word recognition and makes a message easier to read. Capitalise words only to HIGHLIGHT an important point or distinguish a title or heading.

(6) Be courteous.

While conciseness is good, it should never be at the expense of common courtesy; say please and thank you.

(7) Review before Sending.

Reading a message before sending will not only reveal spelling and grammatical mistakes, but if you put yourself in the place of the recipient you will detect whether your message is sensible and is going to be well received and understood. Human conversation uses gesture and tone to convey the meaning of words. An email message can contain words which were humorously intended by the author but which, without the accompanying expression or inflection if the words were spoken, seem insulting to the recipient. If you must use sarcasm or express emotion in a message, clearly label it.

(8) Sign-off your Messages.

Include your name and affiliation at the end of a message. Not only is this courteous, but it serves the practical function of reassuring the reader that the message has not been truncated in its travels. This is particularly important if sending through a gateway to a different mail system, where a message can sometimes be truncated on the way to its destination.

(9) Forwarding Earlier Messages.

Be professional and careful what you say about others in email. In the case of your own messages, you should say clearly in the message if you do not want all or part of its contents relayed. In the case of messages you receive from others, think first of any possible damage or embarrassment to the originator before forwarding it. It may be possible to remove sensitive parts of the message before sending it on to others. Do not edit and resend a message that you have received without indicating that changes have been made to the original. Remember that

e-mail is not confidential; it is neither absolutely private nor absolutely secure. The recipient of a message has control of the content and can use it how they choose. If you wish to on-forward a previously received e-mail to a third party, you should, as a matter of courtesy, seek permission from the originator that you are relaying their message.

(10) Email Responsibly.

Do not waste resources by sending inconsequential messages and do not accumulate large amounts of email which are no longer required. Try to avoid irrelevancies and try to keep messages succinct and brief. Focus on one subject per message. Always define the topic of a message in the email subject header to make it easy for the recipient to quickly review their list of messages.

(11) Message Distributions.

Keep the list of recipients and carbon copies (cc) to a minimum. It is too easy to widely disseminate messages that are of limited or no interest to most recipients (commonly referred to as junk mail).

(12) Large File Attachments.

Do not send email messages enclosing large file attachments and distribute these widely (eg everyone in mailing lists) as they can cause email servers and gateways to fail. It can also cause traffic problems on the network. A preferred approach is to make the file accessible to other users by placing it in a shared folder or directory and informing users of its availability.

(13) Assume the competence and honesty of the sender.

Giving someone the benefit of the doubt is a good starting point, especially if you do not know them and they're hundreds of kilometres away. There have been examples of replies to messages that appear to assume the sender is incompetent or an idiot when the recipient has misunderstood the context or intent of the message.

(14) Use Receipts.

If a message is important, then you need to be sure that it is received and read. In this case make sure you ask for a delivery receipt and a read-receipt. This will cause a message to be sent to you automatically to tell you when the message has been delivered to the recipient's mail box, and when the recipient has opened your message to read it.

(15) Keep a Copy.

Before removing mail messages from your Sent Mail folder, make sure that any important matters they relate to are closed.

(16) Schedule a reminder.

If you have an electronic diary, or indeed any sort of diary, schedule a reminder to check on the status of an important message after an appropriate period.

(17) Treat email as a permanent, official record.

What you write can be used in evidence. Keep this in mind before you click the send button. Even if you do not think the matter is important enough to keep a copy, your recipient may keep a copy. Assume that any message you send is permanent and could be modified and/or forwarded throughout the world without your knowledge or consent.'

be adopted.

CARRIED (8/0)

No.334/07

9.3.6 LEASE - WEST PLANTAGENET PONY CLUB

Location / Address:	N/A
Name of Applicant:	N/A
File Reference:	RV/182/4669
Author:	Donna Stevens - Senior Administration/Human Resources Officer
Authorised By:	John Fathers - Deputy Chief Executive Officer
Date of Report:	14 September 2007

Purpose

The purpose of this report is to consider a lease agreement for the West Plantagenet Pony Club for the use of reserves 13892, 9020 and 13852 Martagallup Road, Kendenup.

Background

The Shire currently has in place a licence that permits the West Plantagenet Pony Club to utilise reserves 13982, 9020 and 13852 Martagallup Road, Kendenup for the purposes of pony club. This licence is now due for renewal.

Statutory Environment

Section 3.58 of the Local Government Act 1995 'Disposing of Property' applies to the disposition of property, including leasing.

Under Functions and General Regulations a disposition of land is an exempt disposition, and is excluded from the application of section 3.58, if:

'the land is disposed of to a body, whether incorporated or not –

- the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
- the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions.'

The lease to the West Plantagenet Pony Club would be an exempt disposition.

Consultation

Consultation has occurred with Denise Trotter from the West Plantagenet Pony Club.

Policy Implications

There are no policy implications for this report.

Financial Implications

The Shire doesn't not receive any financial gain from this lease.

Strategic Implications

There are no strategic implications to this report.

Lease – West Plantagenet Pony Club (Cont)**Officer Comment**

As the lease term will be five years a formal lease agreement is being recommended rather than a licence of use.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr D Williss, seconded Cr B Hollingworth:

THAT:

- (1) A lease be entered into with the West Plantagenet Pony Club for the lease of Reserves 13892, 9020 and 13852 Martagallup Road, Kendenup, with the following terms:
 - (a) for a period of five (5) years;
 - (b) the rent will be one dollar (\$1) per annum;
 - (c) all outgoings be the responsibility of the West Plantagenet Pony Club;
 - (d) the West Plantagenet Pony Club is responsible for insurance costs, including a minimum of \$10 million public liability insurance, contents and building insurance.
- (2) Authority be granted to the Shire President and the Chief Executive Officer to affix the Shire of Plantagenet's Common Seal to the agreement between the Shire of Plantagenet and the West Plantagenet Pony Club for the lease of the Reserves 13892, 9020 and 13852 Martagallup Road, Kendenup.

CARRIED (8/0)

No.335/07

9.3.7 ROAD NAMING - SUBDIVISION LOC 4813

Location / Address:	Loc 4813 Marmion Street – Braidwood Highlands Subdivision
Attachments:	<u>Map - Loc 4813 Marmion Street Subdivision</u>
Name of Applicant:	N/A
File Reference:	RO/107/1
Author:	Donna Stevens - Senior Administration/Human Resources Officer
Authorised By:	John Fathers - Deputy Chief Executive Officer
Date of Report:	13 September 2007

Purpose

The purpose of this report is to consider a road naming proposal for the roads created within the Location 4813 Marmion Street, Braidwood Highlands Subdivision.

Background

A request was received from the Developer of Braidwood Highlands, Mr David Engledow to consider using any of the following three names within the subdivision:

- Wilson;
- Braidwood; and
- Mokare.

Mr Engledow selected the names Wilson and Braidwood as ‘...Dr Thomas Braidwood Wilson first explored the Mount Barker area in December 1829 and was the person who named Mount Barker after Captain Collett Barker who was the commandant of the Albany settlement.’

His third selection Mokare was after ‘...a Noongar man from the Minang clan who guided the original expedition of the Mount Barker and Denmark areas headed by Thomas Braidwood Wilson.’

These selections are not listed on the Council Road Name Register.

A map highlighting the two roads that requiring naming within the subdivision is attached.

Statutory Environment

The Land Administration Act 1997 governs the road naming process.

Consultation

Consultation has occurred with Ayton Taylor Burrell’s Senior Planner Delma Baesjou.

Policy Implications

Council Policy I/RR/1 – Future Street and Reserve Names, requires additions and deletions to the Road Name Register be made by Council decision only. As the names proposed in this report are not currently on the Road Name Register as a Council resolution is required to utilise them.

Road Naming - Subdivision Loc 4813 (Cont)**Financial Implications**

All costs associated with advertising and signage are the responsibility of the Developer.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

This report recommends that the names Braidwood Road and Mokare Rise be applied to the roads within the subdivision.

To avoid duplication in road names within the Shire the name Wilson is not recommended as suitable. Previous advice from the Geographic Names Committee has also been that roads with the same name won't be approved if they are within a 50 kilometre distance from each other, which may be the case with the current Wilson Road and the Braidwood Heights Subdivision.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr B Hollingworth, seconded Cr J Moir:

THAT:

- (1) The proposal to apply the name Braidwood Road to the main access road that intersects Marmion Street and Mokare Rise to the short road providing access to lots 8 and 9 of the Location 4813 Marmion Street subdivision be advertised for public comment.**
- (2) Subject to no objections being received during the advertising period the road naming proposal for the Location 4813 Marmion Street subdivision be forwarded to the Geographic Names Committee for endorsement.**

CARRIED (8/0)

No.336/07

9.4 TECHNICAL SERVICES REPORTS

9.4.1 CHILLINUP LANDFILL SITE

Location / Address:	Lot 501 Chillinup Road
Name of Applicant:	N / A
File Reference:	RV/182/3395
Author:	Rob Stewart - Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	17 September 2007

Purpose

The purpose of this report is to bring to the attention of the Council resolutions coming out of the Chillinup Landfill Site Management Committee held 30 August 2007.

Background

Councillors will be aware that Lot 501 (Diagram 91675) being the Chillinup Landfill Site is owned in equal shares by the City of Albany and the Shires of Cranbrook, Denmark, Gnowangerup and Plantagenet with the Shire of Plantagenet acting as trustee.

Councillors will also be aware that the landfill site was leased by the Great Southern Regional Council and with the disestablishment of that Regional Council, issues of administration regarding the land reverted to the Shire of Plantagenet as trustee.

At its meeting held on 13 March 2007 the Council resolved:

'THAT:

- (1) Arrangements be undertaken for the land known as Lot 501 Chillinup Road, Takalarup within the Shire of Plantagenet to be sold by Auction pursuant to Section 3.58 of the Local Government Act 1995 in January 2008.*
- (2) The lease of the land be extended to 31 January 2008 and this extension be advertised pursuant to Section 3.58 seeking submissions.'*

The lease with the present lessee has been extended. The lessee has been advised that the land will most likely be disposed of early in the new calendar year.

Statutory Environment

The provisions of Section 3.58 of the Local Government Act 1995 relating to the disposition of land would apply.

Consultation

The issues the subject of this report have been discussed at a meeting of the Chillinup Landfill Site Management Committee. All owner Councils were present except for the City of Albany.

Policy Implications

There are no policy implications for this report.

Chillinup Landfill Site (Cont.)**Financial Implications**

Action has been taken to acquire a sworn valuation of the land. The valuation itself is confidential and will be distributed to Councillors under separate cover. I have attached the summary of the valuation received for the Chillinup Landfill site. I have also attached a summary of a report received from the Forest Products Commission regarding alternative uses.

Strategic Implications

The Council's Strategic Plan at Key Result Area 2 (Infrastructure) notes the Strategic Aim to:

'Protect the community's health by managing waste in a timely, effective, economic and environmentally safe manner.'

The Strategic Plan also notes measures of success for waste and recycling to be measured on:

Development of the waste management plan which reflects legislative requirements and community demands.

Level of customer satisfaction.

Internal and external bench marketing.

Demonstrative pursuit of continuous improvement initiatives.

Councillors will recall that the Great Southern Regional Council was originally formed to manage waste produced in the City of Albany and the Shires of Cranbrook, Denmark, Gnowangerup and Plantagenet. The Regional Council was not successful due mainly to the lead distances to the Chillinup Landfill Site. As a result, the Shire of Plantagenet resolved that the land was excess to its needs and should be sold. During discussions at that meeting it was believed that any funds raised as a result of the sale should be directed to waste management.

Legal Implications

It is reasonable to note the potential downside of owning real property in conjunction with other Councils. The Governance set up at present (a committee formed by the Shire of Plantagenet with other Councils appointed as *'other persons'* pursuant to the Act) is similar to the set up that was in place for the Great Southern Regional Cattle Saleyards. Legal advice received by the Shire of Plantagenet relating to the Saleyards indicated that the governance issues were very difficult to overcome as in that instance the joint venture committee and subsequently the committee appointed by the City of Albany, did not have power that would override that of either Council. In that circumstance, unless the Council decisions were exactly the same, any action was effectively stopped.

Similar legal implications apply to the Chillinup situation.

The Shire of Plantagenet is now in the situation that only two of the five owner Councils have resolved unconditionally that they would like the land to be sold. The Shire of Plantagenet and the City of Albany will be unable to act unilaterally and it would not be possible for the Shire of Plantagenet to purport to sell the land in its entirety although each local government's 20% portion could potentially be sold either to the other joint tenants or to private persons. It would be difficult to see how a sale to private persons would maximise returns.

Chillinup Landfill Site (Cont.)

If the time line set down for the sale of the land is to be adhered to, a decision is necessary immediately related to any further instruction that should possibly be given to the Chief Executive Officer.

Officer Comment

The decisions of the Chillinup Landfill Site Management Committee at its meeting held on 30 August 2007 were developed as a result of a cautionary approach by Council representatives.

The Shire of Gnowangerup has indicated in the past that it would prefer to keep the land and utilise it for trees or similar but that it would not necessarily prevent the sale of the land if a majority of other Council's wished to sell.

The Shire of Cranbrook has indicated that the valuation received appeared low and that a further valuation should be undertaken.

The Shire of Denmark in the past has said that the Chillinup site could be used as 'backup' but that the likelihood of being used by Denmark was low due to the lead distances.

All Councils present at the meeting referred to the Zero Waste proposals being put forward by the State Government. The Committee was also advised of the position of Plantagenet with regard to O'Neill Road Waste Site and its limited life expectancy.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Cameron, seconded Cr K Hart:

THAT:

- (1) The Shires of Cranbrook, Denmark and Gnowangerup be advised that the Shire of Plantagenet is still of the opinion that Lot 501 Chillinup Road (former Chillinup Waste Site) must be sold immediately in its entirety as the land is unsuitable for waste disposal and seeks the urgent concurrence of the other owner Councils to agree formally to this position.**
- (2) The City of Albany be advised of the Shire's action in relation to (1) above.**

CARRIED (7/1)

No.337/07

9.4.2 TIRES - TIMBER HAULAGE

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	TT/117/1
Author:	Rob Stewart - Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	29 August 2007

Purpose

The purpose of this report is to bring to the attention of the Council a request from the Timber Industry Road Evaluation Study (TIRES) Great Southern seeking 'in principle' support for 24 hour operations on timber haulage routes.

Background

Members will be aware that the aim of TIRES is to pursue adequate road infrastructure funding to support the long term sustainability of the plantation industry and other related industries.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

Key Result 2 (Infrastructure) of the Council's Strategic Plan notes that the aim of infrastructure is to 'maximise the benefit to the community, in an equitable manner, by effectively and efficiently developing and maintaining the road networks and buildings infrastructure within the financial resources of the shire'.

Officer Comment

The TIRES group seeks the Council's support for an agreement for 24 hour operations and notes that particulars would need to be negotiated with each individual local government to ensure flexibility relating to local situations.

Councillors may recall timber hauling operating on the Porongurup Road approximately 12 months ago which created some problems as trucks were proceeding through the Porongurup Village and past the caravan / camping ground. This necessitated some site meetings and negotiations with locals. A satisfactory outcome was negotiated but the situation did not really get solved until the harvesting finished.

TIRES notes that night time hauling would avoid school buses and normal day time traffic. This would be a welcome development.

There is no particular reason to object to 24 hour movement of log haul trucks but it would be necessary to have route by route approval to ensure sensitive areas were avoided. For example, this may include hospitals or tourism areas.

TIRES – Timber Haulage (Cont.)

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr D Williss, seconded Cr B Hollingworth:

That the Timber Industry Roads Evaluation Study (TIRES) be advised that the Shire of Plantagenet is pleased to support in principle 24 hour operations of timber industry movements noting that in some instances night time operations should not be approved due to residential, tourist or other sensitive uses such as hospitals.

CARRIED (8/0)

No.338/07

9.5 DEVELOPMENT SERVICES REPORTS

9.5.1 LOT 859 HEALY ROAD, NARRIKUP - COMPOSTING FACILITY UPGRADE

A Financial Interest was disclosed by Cr M Skinner

Nature of Interest: Financial

3.34pm Cr Skinner withdrew from the meeting

Location / Address:	Lot 859 Healy Road, Narrikup
Attachments: (6)	Location Plan Site Plan Site Details Layout Plan Summary of Submissions Plan Showing Buffers
Name of Applicant:	Paul Hault
File Reference:	RV/182/364
Author:	Peter Duncan - Manager Development Services
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	12 September 2007

Purpose

The purpose of this report is to consider submissions received following the advertising of a development application for an extension of an existing noxious industry (a Chicken Composting Facility) by way of 'composting facility upgrade'.

Background

In June 2003 following public advertising the Council approved an application for a Noxious Industry (Chicken Composting Operation of up to 1,000 tonne capacity) in accordance with plans dated 7 March 2003 and subject to a range of 9 conditions.

The first five conditions relate to the then Department of Environment standards and were imposed by the Council on advice from that Department, because the Department only licences Compost facilities of 1,000 tonnes and over. The conditions related to the compost facility being protected from the weather for initial stages of composting and upon a hard stand, stormwater runoff, containment of contaminated water, no nutrient export, exotic pests being satisfactorily addressed.

- Conditions 6 – 9 relate to fire breaks, access ways and crossovers, on site signage and finally *'total production shall not exceed 1000 tones of organic material per year.'*

At that time in 2003, the then owner of the adjoining Lot 860 (G.J. Barber) was supportive and advised he would be building on Lot 860 in the near future.

On 17 March 2006 the Shire received a copy of a letter from the Department of Environment and Conservation (DEC) Albany Office, to Paul Hault (the owner) regarding results of an inspection that raised the following concerns:

Lot 859 Healy Road, Narrikup – Composting Facility Upgrade (Cont.)

'The facility is not constructed on an impermeable surface that minimises the infiltration of leachate from the compost into the ground. This could result in leachate from the compost contaminating the soil, groundwater or nearby surface waters.'

'There is no drainage system to control runoff from the compost areas. This could result in contaminated runoff entering the surrounding soils and groundwater, nearby surface waters and damaging local native vegetation.'

On 19 June 2006 the Shire received a copy of a letter from the DEC to Paul Hault in response to a request for an upgrade of the Composting facility to over 1,000 tonnes of compost per year. This letter reiterated the need for impermeable clay liner for the composting facility and stormwater and wastewater control and leachate pond.

On 9 March 2007 the DEC advised the Council that it was advertising a proposal for compost manufacturing and soil blending at Lot 859 Healy Road, Narrikup as the proponent proposed to exceed 1,000 tonnes per annum.

The Council at its meeting held on 24 July 2007 when considering the proposed upgrade of the facility resolved at resolution 262/07:

'That the proposal to extend the existing noxious industry (Chicken Composting Facility) to a facility handling over 1,000 tonnes of compost a year and soil blending be advertised for a period of twenty-one days.'

The Council when considering submissions received resolved at its meeting held on 11 September 2007 at resolution 303/07:

'That the question be adjourned until the next meeting of the Council to be held on 25 September 2007 pending inspection by Councillors.'

Statutory Environment

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Rural – A noxious industry is an 'SA' use and requires formal advertising.

Environmental Protection Act 1986
Environmental Protection Regulations 1987
Health Act 1911 (as Amended)
Health Local Laws part 9 Offensive Trades
Health (Poultry Manure) Regulations 2001
Contaminated Sites Act 2003

Consultation

The proposal was advertised for 21 days by way of a sign on site, notices in the press, letters to adjoining landowners and a notice on the Council's notice board. At the close of advertising on 28 August 2007 a total of fifteen (15) submissions had been received and these are contained in the attached Summary of Submissions.

The matter has been discussed with the Council's Environmental Health Officer who is a neighbour of submitter number 8 in Youngs Siding.

Policy Implications

There are no policy implications for this report.

Financial Implications

The necessary fee of \$100.00 has been paid.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

The proponent is seeking to extend the operation as a chicken composting facility (noxious industry).

Under TPS3, Industry – Noxious – means an industry in which the processes involved constitute an offensive trade within the meaning of the Health Act 1911 (as Amended). Twenty one (21) days advertising is required and this has been carried out.

The physical environment in which this facility operates is a low lying area, with seasonal intermittent swamp pans, it slopes west and north to Lake Eyrie (a fauna flora Conservation reserve). The Department of Water has been monitoring this lake for some time.

Consultants employed by the proponent state that soil sampling undertaken in June 2006 showed the soils to be generally sandy silt to an average depth of 650mm over laterite or clay. Test pit 4 struck ground water at 1500mm. The composting waste pit is located approximately 500m from the lake edge and the composting area is approximately 700m from the lake edge.

The applicant has now applied to increase his capacity for composting to over 1,000 tonnes per annum, which requires a licence from the DEC.

During the advertising there were fifteen (15) submissions received of which eight (8) raised no objections and seven (7) objected to the expansion. Those who raised objections did so on the basis of odours, perceived health risk and flies during the summer months. Of those who raised no objections, some said they did not have problems with the odour issue.

With the upgrade works now proposed and the need for a works approval from the DEC, the chances of odours coming from the site should actually be reduced as importantly there is a licence condition requiring the covering of all material immediately with at least 150mm of cover material. The DEC issued its works approval for this facility on 26 July 2007.

With the upgraded facility there will be an impervious surface under the composting area and this will remove any question of potential site contamination from effluent leaching downwards into the groundwater as could be the situation in the existing facility. The proponent will need to clean up the former site.

It is considered appropriate to place an upper limit on the amount of compost material received to ensure the operation does not get too large when odours could become an issue in the future. The DEC works approval does refer to a design capacity of 1,200 tonnes per annum.

The opposing submissions raised environmental and health standards which will need to be monitored and controlled by the DEC as part of the works approval. Council staff will also need to monitor and report any issues to the DEC.

Submission 8 refers to the DEC works approval as being withdrawn but as of 30 August 2007 this was not correct.

Lot 859 Healy Road, Narrikup – Composting Facility Upgrade (Cont.)

At the Council's meeting held on 11 September 2007 during a presentation made by persons opposed to the proposal it was stated the works approval of the DEC had been withdrawn. Checking with the DEC on 12 September 2007 revealed this was not correct and that the approval had not been withdrawn. An appeal is being considered and it may be the Minister for the Environment upholds the appeal and the approval is withdrawn but that matter had not been determined as at 12 September 2007.

One issue which may be difficult to resolve is that of Lot 860 to the north purchased by the owners in April 2007. This does not have a house on it but should the owners wish to erect a house then it will be within a 1,000m buffer required by the DEC for odour reasons. The buffer reduces to 750m for covered compost. Regardless of a DEC works approval or not, the facility is operating from this site and has been for some time. The enforcement of conditions is critical as is the covering of the compost after delivery of material.

It may be possible that the DEC could withdraw its works approval as stated above as the Opus International Environmental Assessment did not contain full factual information in that it stated 'Paul Houtt has conducted public consultation by telephoning and speaking in person with the owners/occupiers of the surrounding properties to Lot 859 ... there have not been any complaints from neighbouring properties received by Mr Houtt in the past, and similarly there have been no objections raised in relation to the extension'. The owners of Lot 860 to the north (R Stephens and D Box) in their submissions (numbered 9 and 10 in the Summary of Submissions) do not favour the facility.

The Council has not received formal complaints about this facility since its approval in 2003 other than those raised during this advertising and at its meeting held on 11 September 2007.

The DEC buffer distances for a composting facility vary from 1,000m for outdoor uncovered to 750m and 500m for outdoor covered, and 250m for an enclosed facility and 150m for 'in-vessel' composting.

The odour matter is an issue which is difficult to monitor but Council must recognise this as a potential difficulty for Lot 860 to the north. As the compost is to be covered with 150mm of cover then it could be interpreted that the 750m buffer should apply. Attached is a plan showing the 750m and 1,000m buffer distances.

It is considered the most appropriate course of action for the Council is to support the proposal to relocate the compost to the correctly prepared area but limit the amount of composted material to 1,000 tonne per annum and require the odour to be constantly monitored. If the odour becomes an issue then the facility may need to be enclosed within an appropriate building.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

THAT:

- (1) The proposal to extend the existing noxious industry (chicken composting facility) at Lot 859 Healy Road, Narrikup be approved subject to:

Lot 859 Healy Road, Narrikup – Composting Facility Upgrade (Cont.)

- (a) Development being in accordance with the application dated 18 June 2007 and the Opus International Environmental Assessment in respect to the design.
 - (b) The existing composting site being cleaned up and rehabilitated.
 - (c) The compost facility being limited to a maximum tonnage of 1,000 tonne of compost product per annum.
 - (d) The correct installation of the appropriate hardstand or impervious area.
 - (e) Appropriate management of stormwater runoff including any uncontaminated stormwater being diverted or channelled away from the operation.
 - (f) Contaminated water should be directed to the lined leachate-holding dam.
 - (g) The activity to be managed so as to not result in any nutrient export from the site or detriment to the environment.
 - (h) Measures being taken to minimise and control/manage any potential problems with flies and exotic predators, including foxes, feral cats, rats and mice.
 - (i) Appropriate management of odour impacts by the covering of the compost. Should odour impacts not be managed to the satisfaction of the Department of Environment and Conservation, the facility may need to be contained within an appropriate building.
 - (j) Installation of a fire break, not less than 5m wide, around the site. The crossover and access ways are to be maintained by the developer.
 - (k) Any on site advertising signage shall comply with Town Planning Scheme No. 3.
- (2) The Chief Executive Officer will require the Council's Environmental Health Officer to carry out monthly inspections of the site for a period of 12 months to monitor the development.

COUNCIL DECISION

Moved Cr D Williss, seconded Cr B Hollingworth:

THAT:

- (1) **The proposal to extend the existing noxious industry (chicken composting facility) at Lot 859 Healy Road, Narrikup be approved subject to:**
- (a) **Development being in accordance with the application dated 18 June 2007 and the Opus International Environmental Assessment in respect to the design.**
 - (b) **The existing composting site being cleaned up and rehabilitated.**
 - (c) **The compost facility being limited to a maximum tonnage of 1,000 tonne of compost product per annum.**

Lot 859 Healy Road, Narrikup – Composting Facility Upgrade (Cont.)

- (d) The correct installation of the appropriate hardstand or impervious area for all of the composting operation.
 - (e) Appropriate management of stormwater runoff including any uncontaminated stormwater being diverted or channelled away from the operation.
 - (f) Contaminated water should be directed to the lined leachate-holding dam by appropriate bunding.
 - (g) The activity to be managed so as to not result in any nutrient export from the site or detriment to the environment.
 - (h) Measures being taken to minimise and control/manage any potential problems with flies and exotic predators, including foxes, feral cats, rats and mice This will involve the development and implementation of a vermin management plan to the satisfaction of the Council's Environmental Health Officer and the Department of Agriculture and Food.
 - (i) Appropriate management of odour impacts by the covering of the compost. Should odour impacts not be managed to the satisfaction of the Department of Environment and Conservation, the facility may need to be contained within an appropriate building.
 - (j) Installation of a fire break, not less than 5m wide, around the site and an operational fire fighting vehicle be kept on site during the prohibited and restricted burning periods.
 - (k) The crossover and access ways are to be maintained by the developer.
 - (l) Any on site advertising signage shall comply with Town Planning Scheme No. 3.
 - (m) The maintenance of a daily wind direction and speed monitoring record by the proponent.
- (2) The Chief Executive Officer will require the Council's Environmental Health Officer to carry out monthly inspections of the site for a period of 24 months to monitor the development.

CARRIED (7/0)

No.339/07

3.48pm Cr Skinner returned to the meeting

9.5.2 LOT 50 OATLANDS ROAD CORNER ALBANY HIGHWAY, MOUNT BARKER - LAND REQUIREMENT MRWA

Location / Address:	Lot 50 Oatlands Road corner Albany Highway, Mount Barker
Attachments: (2)	Location Plan Plan showing land area required
Name of Applicant:	Main Roads Western Australia
File Reference:	RV/182/1453
Author:	Peter Duncan - Manager Development Services
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	12 September 2007

Purpose

The purpose of this report is to consider a request from Main Roads Western Australia (MRWA) for the 'Taking' of 102m² of land off Lot 50 Oatlands Road, for road widening.

Background

Albany Highway through Mount Barker was upgraded some years ago and as part of that upgrading the junction with Oatlands Road was altered. The works at the road junction included widening, drainage and the construction of a footpath.

Statutory Environment

Land Administration Act – Section 56 allows agencies such as MRWA to dedicate land 'Taken' on a land dealings plan.

Consultation

This matter has been discussed with officers of MRWA and the Council's Works and Services department.

Policy Implications

There are no policy implications on the Council in this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

This proposed 'Taking' of 102m² off the Certificate of Title of Lot 50 rectifies an anomaly created when MRWA upgraded the intersection of Albany Highway and Oatlands Road. The upgrading included widening of the highway, drainage works and a bitumen footpath. Portion of the works carried out by MRWA were actually constructed partially on Lot 50.

Lot 50 Oatlands Road Corner Albany Highway, Mount Barker - Land Requirement MRWA (Cont)

The 'Taking' of land is effectively a resumption of the 102m² and MRWA will be required to have the 102m² valued and pay that amount plus compensation to the land owner.

The proposed lot/road reserve boundary will reflect the as constructed situation and as such is supported.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Moir, seconded Cr B Hollingworth:

That the Taking of the 102m² of land at Lot 50 Oatlands Road, Mount Barker the subject of Main Roads WA Drawing 200701-012, and also to its dedication under Section 56 of the Land Administration Act, be approved.

CARRIED (8/0)

No.340/07

9.5.3 PUBLIC OPEN SPACE STRATEGY - MOUNT BARKER

Location / Address:	Mount Barker
Attachments: (1)	Strategy
Name of Applicant:	N/A
File Reference:	LP/118/29
Author:	Peter Duncan - Manager Development Services
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	5 September 2007

Purpose

The purpose of this report is to consider the Mount Barker Public Open Space Strategy. It will guide the use and expenditure of funds received from subdividers in lieu of providing Public Open Space (POS) at the time of subdivision of residential land.

Background

The provision of cash-in-lieu of setting aside land for POS has been in existence in town planning legislation for many years.

When a developer/landowner subdivides residential land into three (3) lots or more, 10% of the land must be provided as POS. The 10% requirement has been in place since 1956.

Statutory Environment

Planning and Development Act 2005 – S.153 contains the powers for the collection of cash-in-lieu of providing land for POS.

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Clause 5.7 enables the Council to accept cash-in-lieu of POS and to use the funds for the purchase of additional POS or for the improvement of existing facilities.

Consultation

This POS Strategy has been discussed with the Chief Executive Officer, the Albany Regional Manager of the Department for Planning and Infrastructure and the Deputy Chief Executive Officer.

Policy Implications

There are no policy implications for this report.

Financial Implications

This POS Strategy will provide the basis for the expenditure of funds paid in lieu of providing POS by subdividers. Those funds are held in the Council's Trust Fund. The POS Strategy provides details of the location of the particular subdivision.

Strategic Implications

This POS Strategy will provide guidance of the expenditure of cash-in-lieu funds in Mount Barker.

Public Open Space Strategy – Mount Barker (Cont)

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.'

Officer Comment

This Mount Barker POS Strategy has been prepared to guide the expenditure of cash-in-lieu funds. Before funding can be used for a particular purpose such as upgrading of a park, the approval of the Honourable Minister for Planning and Infrastructure must be obtained each time funds are to be used. This Strategy covers the Mount Barker area only as this is where cash-in-lieu contributions have been received from subdivisions. If and when needed, the strategy can be expanded to include areas such as Kendenup, Narrikup and Rocky Gully.

Public Open Space is required to be provided when Residential Zoned land is to be subdivided into three (3) lots or more. It is not required when land is zoned Rural Residential, Rural Smallholdings or Rural due to the large size of those lots.

Cash-in-lieu funds can only be expended on a facility in reasonably close proximity to the particular contributing subdivision. This Strategy provides guidance as to where funds can be spent by creating a series of planning precincts.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

THAT:

- (1) The Mount Barker Public Open Space Strategy be adopted and referred to the Department for Planning and Infrastructure for its information.
- (2) Staff be required to maintain and update the Mount Barker Public Open Space Strategy each time a cash-in-lieu contribution is received for a subdivision.

COUNCIL DECISION

Moved Cr K Clements, seconded Cr B Hollingworth:

THAT:

- (1) **The Mount Barker Public Open Space Strategy be received and referred to the Department for Planning and Infrastructure for its information.**
- (2) **Staff be required to maintain and update the Mount Barker Public Open Space Strategy each time a cash-in-lieu contribution is received for a subdivision.**

Public Open Space Strategy – Mount Barker (Cont)

- (3) Staff be required to develop a program for the expenditure of cash-in-lieu funds for the improvement of reserves in accordance with the Mount Barker Public Open Space Strategy for the first Ordinary Meeting of the Council to be held in 2008.

MOTION TO ADJOURN THE QUESTION

Moved Cr J Moir, seconded Cr K Hart:

That the question be adjourned to enable a Workshop to assist in the development of a program for the expenditure of cash-in-lieu funds for the improvement of reserves and the Mount Barker Public Open Space Strategy prior to any decision being made.

CARRIED (8/0)

No.341/07

Reason For Change

Councillors believed that a workshop to assist in the development of a program for the expenditure of cash-in-lieu funds for the improvement of reserves and the Mount Barker Public Open Space Strategy prior to any decision being made.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

12 CONFIDENTIAL

Nil

13 CLOSURE OF MEETING

4.04pm The Presiding Member declared the meeting closed.

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