



ORDINARY MINUTES

ORDINARY Meeting
of the Council held:

DATE: Tuesday, 12 August 2008

TIME: 2.45pm

VENUE: Council Chambers

Rob Stewart
CHIEF EXECUTIVE OFFICER

MEMBERSHIP – Quorum (5)

Members:

Cr K Forbes AM - Rocky Gully / West Ward - Shire President
Cr B Hollingworth - Town Ward - Deputy Shire President
Cr K Clements - Town Ward
Cr J Mark - Town Ward
Cr J Moir - South Ward
Cr M Skinner - East Ward
Cr D Nye-Chart - East Ward
Cr S Grylls - Rocky Gully / West Ward
Cr A Budrikis - Kendenup Ward

Information and recommendations are included in the reports to assist the Council in the decision making process and may not constitute the Council's decision until considered by the Council.

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS.....	1
2	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	1
3	RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED).....	1
4	PUBLIC QUESTION TIME.....	2
	MS AGNES THOMSON	2
5	PETITIONS / DEPUTATIONS / PRESENTATIONS.....	2
	MR RAY STUBBS RELATING TO ITEM 11.1.1	2
	MS AGNES THOMSON RELATING TO ITEM 11.1.1	3
	MR PETER DRYGAN – TIMBERCORP.....	4
6	DISCLOSURE OF INTEREST	4
7	APPLICATIONS FOR LEAVE OF ABSENCE	5
	APPLICANT: CR A BUDRIKIS.....	5
	APPLICANT: CR S GRILLS.....	5
8	CONFIRMATION OF MINUTES.....	5
9	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	6
10	ANNOUNCEMENTS BY COUNCILLORS WITHOUT DISCUSSION	6
11	REPORTS OF COMMITTEES AND OFFICERS.....	8
11.1	DEVELOPMENT SERVICES REPORTS.....	8
11.1.1	LOT 2078 MILL ROAD, ROCKY GULLY - PROPOSED PLANTATION IN SPECIAL CONTROL AREA	8
11.1.2	TOWN PLANNING SCHEME NO. 3 – AMENDMENT NO. 47 – LOT 138 LOWOOD ROAD, MOUNT BARKER – RURAL TO RESIDENTIAL (R15) – SUBMISSIONS RECEIVED	13

11.1.3	LOT 18 MENSTON STREET, MOUNT BARKER – NINETEEN (19) GROUPED DWELLINGS	17
11.1.4	LOT 18 MENSTON STREET, MOUNT BARKER - TWENTY (20) LOT SURVEY STRATA SUBDIVISION	23
11.1.5	LOT 6 (13) OSBORNE ROAD, MOUNT BARKER - REDUCED SIDE SETBACK FOR CARPORT.....	28
11.1.6	DELEGATION - PRINCIPAL BUILDING SURVEYOR	30
11.1.7	LOT 14 (39) LOWOOD ROAD, MOUNT BARKER – APPLICATION FOR A PERMIT TO CONDUCT AN OUTDOOR EATING FACILITY ON A PUBLIC THOROUGHFARE	32
11.2	WORKS AND SERVICES REPORT	36
11.3	COMMUNITY SERVICES REPORTS	37
11.3.1	TRANSFER OF THE PLANTAGENET CHILD CARE CENTRE TO WANSLEA FAMILY SERVICES INCORPORATED	37
11.4	CORPORATE SERVICES REPORT.....	46
11.5	EXECUTIVE SERVICES REPORT	47
12	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	48
13	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING.....	48
13.1	FORUM ATTENDANCE – CONSTITUTIONAL RECOGNITION	48
14	CONFIDENTIAL.....	50
15	CLOSURE OF MEETING.....	50

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2:46 PM The Presiding Member declared the meeting open.

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

Mr Stewart 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 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

3 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Members Present:

Cr K Forbes AM

Cr B Hollingworth

Cr A Budrikis

Cr K Clements

Cr S Grylls

Cr J Mark

Cr J Moir

Cr D Nye-Chart

Cr M Skinner

In Attendance:

Mr R Stewart	Chief Executive Officer
Mr J Fathers	Deputy Chief Executive Officer
Ms N Selesnew	Manager Community Services
Mr P Duncan	Manager Development Services
Mr I Bartlett	Manager Works and Services
Mrs K Skinner	Executive Secretary
Mrs C MacLean	Administration Officer

There were seven (7) member(s) of the public in attendance.

There were nil member(s) of the media in attendance.

4 PUBLIC QUESTION TIME

Section 5.24 Local Government Act 1995

Ms Agnes Thomson

Ms Agnes Thomson questioned why the rates are to be paid 2 months earlier than in previous years? Ms Thomson also raised the issue that some electoral street addresses have been changed without consultation with property owners.

Mr R Stewart advised that the rates notices were sent out earlier than normal this year as the budget had been adopted earlier than normal (1 July 2008). We always attempt to send the rates notices out within two (2) weeks of the budget adoption. There is no statutory date for notices to be sent out but the statutory regulations come into effect once those notices have been sent out.

The Shire has had consultation with Landgate and affected members of the public in relation to location boundary changes. All affected properties should have received letters notifying them of these changes.

Ms Thomson stated that did not answer her question. What she was trying to ascertain is some properties within Rocky Gully which are on corners, i.e. Westfield and Bateman. This property has always been Bateman Street, and the property owners have received notification from the Electoral Commission stating that they are now Westfield Street.

Mr Stewart replied that he would contact the Electoral Commission to find out why these changes have occurred.

5 PETITIONS / DEPUTATIONS / PRESENTATIONS

Mr Ray Stubbs relating to Item 11.1.1

Regarding Lot 2087 Mills Road, Rocky Gully – Proposed plantation in Special Control Area (SCA).

Mr Stubbs stated that residents of Rocky Gully are still not happy with the proposal. Rocky Gully was decimated by farmers selling out to tree plantations. Rocky Gully is only just starting to rebuild with new dwellings and residents. If we allow trees into the SCA it reduces the chances of small lots (5 acres) to go ahead and it will slow down growth in Rocky Gully. If we allow

one tree plantation into the SCA it will open the flood gates for more. Tourist come to see the natural bush and not plantations.

Ms Agnes Thomson relating to Item 11.1.1

My name is Agnes Thomson and I am a resident and ratepayer of Rocky Gully.

On behalf of the concerned residents of Rocky Gully and surrounding areas, we appeal to the Shire of Plantagenet Councillors, to reject this proposal, as this 59ha is within the SCA.

Firstly, there are 4 members of the Council that have disclosed an interest in this plantation at Cameron's Mill Road property. These disclosures range from friendships to financial. We feel that these Councillors will not be able to make an unbiased decision, as their gains out-weigh the practicalities of this 59ha, that falls within the SCA.

At the presentation on 24 July given by Timbercorp to our community, Cr Forbes stated that the impact of health, pollution and environmental issues were not enough of a reason for Council to reject this 59ha plantation. He was then asked what would be enough reason to which there was a nil response.

If your decision today allows this area to be established, then you will be setting a precedent to allow all other tree plantation to enter the SCA, of the Town Planning Scheme No. 3, of 2006, which Council set up. We had thought to disallow these plantations in these areas. These areas set up around all of the townsites within the Plantagenet Shire. Why is Council making sure that Mount Barker is protected even further by re-zoning areas in order to stop tree plantations encroaching Mount Barker?

We would like to know who is responsible for chemical residue testing in potable water, dams and creek lines. Who will assure us and bear the costs of monitoring our water quality every 3 months to ensure that our water is maintained for human and animal consumption within Australian Drinking Water Guidelines? Also who will compensate or pay medical costs if any contamination is received by any of our residents?

We would like to know what measures are in place in the event of chemical spills, accidents, over-sprays or contamination. How will the community/s be informed to avoid contamination? Ratepayers should not have to bear this cost. Who will pay for the testing for chemicals in our surrounding areas? Who will monitor the waterways through to the Southern Ocean?

Whilst there will always be Pros and Cons to this sort of plantation, we are informing Council today that if this is to go ahead then we will be vigilant towards our health and well-being into the future as we have been made aware of the dangers of the amounts of chemicals and the toxicity of these chemicals that are used on these plantations.

Since the inception of blue gum plantations, the use of these chemicals has been scrutinised. Simazine in particular is used by Timbercorp and this chemical has been reported to cause changes in the blood, damage to testes, kidneys, liver and thyroid, gene mutations and cancer. It may leach into ground water and its persistence varies from a few months to a few years. It castrates frogs at 0.1 parts per billion.

Alphacypermethrin or fipronil is also used by Timbercorp in controlling insect attack. Alphacypermethrin is toxic to freshwater arthropods at 4 parts per trillion. Even if aerial spraying is not done they will still have to spray from the ground and this would probably be done several times a year.

The Officer Recommendation 1 – ii) that ‘no application of insecticides after the first two years from planting within the 59ha within the SCA’. But if this area comes under attack from insects we feel that Timbercorp will not allow them to destroy this area as a lot of investment dollars will have been spent on it. Will Council be watchful of these recommendations and make sure they are adhered to?

Also back in 2003, there was a positive detection for Atrozin in our Town water supply above the Australian Drinking Water Guidelines. We have to question how did this contamination happen as the closest tree plantation is approximately over 1.1kms away. What will happen if you allow this plantation to be planted at approximately 600m away from the catchment and dam?

There will always be guidelines in place for the safe use and handling of these chemicals, but once you involve the human element and natural forces, then there is always going to be the chance that incidents will and do happen. In these cases it is too late and the damage will have been done.

If your decision today is to disallow the plantation, it will show the rest of Australia and beyond that you have made a stance against this monoculture being within close proximity of our communities.

I will finish my plea with – 59ha is only a small portion of the 586.8ha of plantation and will not make any impact on Timbercorp’s multi million dollar income.

Mr Peter Drygan – Timbercorp

The definition of the SCA area in his opinion is perhaps not clearly communicated to residents. The SCA special control is not a prohibited use. The use of chemicals in the SCA is controlled by a resolution of the Council.

Agriculture uses chemicals but the most regulated chemical users are plantations who need to comply with regulations.

6 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

Cr J Moir disclosed a Financial interest for Item 11.1.1.

Cr S Grylls disclosed a Financial interest for Item 11.1.1.

Cr B Hollingworth disclosed a Financial interest for Item 11.1.1.

Cr J Mark declared a Voluntary Disclosure (friend) interest for Item 11.1.1.

Cr K Forbes AM declared a Voluntary Disclosure (friend) interest for Item 11.1.1.

Cr J Mark disclosed a Proximity interest for Item 11.1.2.

Cr A Budrikis disclosed a Financial interest in Item 11.1.3.

Cr A Budrikis disclosed a Financial interest in Item 11.1.4.

7 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

APPLICANT: CR A BUDRIKIS

Cr A Budrikis requested Leave of Absence for 26 August 2008.

APPLICANT: CR S GRYLLES

Cr S Grylls requested Leave of Absence from 27 September 2008 to 13 October 2008 (inclusive).

Moved Cr D Nye-Chart, seconded Cr J Mark

That:

- 1. Cr A Budrikis be granted Leave of Absence for 26 August 2008.**
- 2. Cr S Grylls be granted Leave of Absence from 27 September 2008 to 13 October 2008 (inclusive).**

CARRIED (9/0)

NO. 143/08

Previously Approved Leave of Absence

Cr B Hollingworth	16 August 2008 to 23 August 2008 (inclusive)
Cr D Nye-Chart	03 October 2008 to 20 October 2008 (inclusive)
Cr B Hollingworth	15 October 2008 to 24 October 2008 (inclusive)

8 CONFIRMATION OF MINUTES

Moved Cr M Skinner, seconded Cr J Moir

THAT the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 22 July 2008 as circulated, be taken as read and adopted as a correct record.

CARRIED (9/0)

NO. 144/08

9 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 24 July 2008 – Attended opening of Forest Products Commission new premises in Albany with Minister Chance.
- 26 July 2008 – Timbercorp – Attended a meeting at Rocky Gully with Mr P Duncan and Cr S Grylls.
- 30 July 2008 – Attended meetings and Western Australian Local Government Association (WALGA) State conference in Perth - Wednesday 30 July 2008 (pm) to Sunday 3 August 2008 (lunchtime).
- 5 August 2008 – Attended a cocktail party with Cr B Hollingworth and Mr P Duncan in Albany with Minister McTiernan. We gained a brief meeting with the Minister and have been assured that we can trial a full crosswalk in Lowood Road for one (1) year. If successful it will continue. We also raised the issue of the old goods shed again and the Minister acknowledged the difficulty she is having with heritage and this building. This matter will be addressed further.
- 6 August 2008 – Annual meeting with Bush Fire Brigades and Shire, only two (2) Councillors in attendance. No issues. Presented three (3) service medals.
- 12 August 2008 – Saleyard Committee and Mr J Fathers had lunch with agents, Mr Stuart Smith and Ms Clare Appleby at the Saleyards.
- 13 August 2008 – Community meeting to promote new tip site location.
- 20 August 2008 – I have been accepted as one of the ten (10) WA representatives to attend a conference from 21 August 2008 to 22 August 2008 in Canberra to discuss the issue of Constitutional recognition for Local Government. A late item will be tabled to request financial support for this conference.
- 26 August 2008 – Chief Executive Officer's review at 9.00am.
- 26 August 2008 – Opening of One Community One College new buildings by Minister McGowan at 1.45pm.
- Could all Councillors please return their Annual Returns.

10 ANNOUNCEMENTS BY COUNCILLORS WITHOUT DISCUSSION

Cr B Hollingworth

- 24 July 2008 – Interagency meeting.
- 25 July 2008 – National Tree Planting – along old Muirs Highway and Langton Road.
- 28 July 2008 – Regional Road Group meeting in Denmark.
- 30 July 2008 to 3 August 2008 – Local Government Week.

- 5 August 2008 – Western Power forum at Recreation Centre – review of public consultation processes.
- 5 August 2008 (pm) – Minister McTiernan in Albany.

Cr J Mark

- 30 July 2008 to 3 August 2008 – Local Government Week.
- 14 August 2008 – Visitor Centre meeting.

11 REPORTS OF COMMITTEES AND OFFICERS

11.1 DEVELOPMENT SERVICES REPORTS

11.1.1 LOT 2078 MILL ROAD, ROCKY GULLY - PROPOSED PLANTATION IN SPECIAL CONTROL AREA

Councillor Forbes AM and Crs Hollingworth, Mark, Moir and Grylls each disclosed an interest in this report.

A Voluntary Disclosure (friend) interest was disclosed by Cr K Forbes AM.

A Voluntary Disclosure (friend) interest was disclosed by Cr J Mark.

A Financial interest was disclosed by Cr B Hollingworth.

A Financial interest was disclosed by Cr J Moir.

A Financial Interest was disclosed by Cr S Grylls.

3.11pm Crs Hollingworth, Moir and Grylls withdrew from the meeting.

File No: RV/182/935; DA/43/08

Attachments: [Location Plan](#)
[Special Control Area](#)
[Petition](#)
[Planting Plan](#)
[Contour Plan](#)
[Letter signed by nine \(9\) Rocky Gully residents - 29 July 2008](#)

Responsible Officer: Rob Stewart
Chief Executive Officer

Author: Peter Duncan
Manager Development Services

Proposed Meeting Date: 12 August 2008

Applicant Timbercorp

Purpose

The purpose of this report is to consider an application by Timbercorp for a blue gum plantation on Lot 2078 Mill Road Rocky Gully located within the Special Control Area 2 Rocky Gully Townsite.

Background

Council records show the owners of Lot 2078 Mill Road are Joan and Shaun Cameron.

Up to 59 hectares of Lot 2078 that falls within the Special Control Area (SCA), is proposed for plantation development as Cameron B 745 Tree Farm. A further plantation is proposed for portions of Lot 2078 outside the SCA and that is proceeding in accordance with the agreed protocol.

The subject lot lies due south of the Rocky Gully rural village and extends slightly west of the village. The northern portion of the lot is more than 730m south of the corner of Crane Street and Higgins Street and 650m west of the Rocky Gully Water Corporation dam site. There is approximately 600m of natural bush between the south west corner of the dam and the proposed plantation edge.

Rocky Gully village consists of 21 lots developed with houses and businesses, including a general store and a hotel. The village acts as a service centre for the agricultural area.

This is the first time the Special Control Area provisions of the Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) have been tested.

The proposal was advertised for public comment for a twenty-one (21) day period. At the close of advertising two (2) separate petitions had been received. One (1) contained twenty-six (26) signatures and the other three (3).

When the application was considered by the Council at its meeting held on 8 July 2008 the Council resolved at Resolution No. 128/08:

'That the question be adjourned until 12 August 2008 to enable Timbercorp to undertake community consultation.'

The presentation by Timbercorp to the Rocky Gully community was held on 24 July 2008 at the Rocky Gully Hall.

Statutory Environment

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) Special Control Area 2 Rocky Gully Townsite. Townsite Area B – Timber Plantations 'SA' use on Rural zoned land.

Clause 3.8 Special Control Areas purpose is to prohibit timber plantations within town sites and to control the development of plantations in close proximity to townsites and closely populated parts of the Scheme area. When determining an application for planning consent the Council is to consider the following:

- a. the provisions of the Shire's Commercial Plantation Policy;
- b. the Code of Practice for Timber Plantations and whether or not the proponent is a signatory to the Code;
- c. consistency with the performance standards 'Planning for Bush Fire Protection' and 'Guidelines for Fire Protection', following referral to the Fire and Emergency Services Authority, and with the Council's Annual Fire Break Notice';
- d. existing uses and development on the subject land;
- e. the location of the subject land and its relationship to surrounding land uses, especially residential, rural residential, rural small holdings, and tourist land uses;
- f. the location of the land in relation to designated haulage routes;
- g. access to and from the subject land and the existing standard of local roads and their capacity to support timber haulage vehicles;
- h. protection of native vegetation;
- i. the impact on the amenity of the area, including scenic views;

- j. where the land is located in the Porongurup SCA 5, the provisions of the Porongurup Rural Strategy;
- k. where the land is located in the Mount Barker SCA 4, the Mount Barker Rural Strategy;
- l. any submissions received as a result of advertising the application; and
- m. any other matters considered relevant.

Consultation

The proposal was advertised for a twenty one (21) day period and submissions closed on 5 June 2008. Two (2) separate submissions on a petition with twenty six (26) and three (3) signatures respectively have been received. Neither the unsigned letter that accompanied the larger petition nor the copies of the petition itself indicate the originator of the petition. The petition reads as follows:

'The Proposed Plantation at the Location of Lot 2078 Mill Road Rocky Gully. A proposal has been received by the Plantagenet Shire Council for a proposed plantation. The closeness of this plantation to the Town Water Supply will put our Water Quality in danger of being contaminated or the root system of these trees are such that our dam could be compromised. We, the undersigned are concerned citizens who urge our Plantagenet Councillors to act now to reject this proposal.'

Timbercorp has made its presentation to the Rocky Gully Community on 24 July 2008.

Financial Implications

The fee of \$ 147.20 has been paid.

Policy Implications

Town Planning Scheme Policy No. 15 (Commercial Plantations) has an objective to reduce potential adverse impacts and land use conflict from the inappropriate siting and development of plantations within the SCA.

Strategic Implications

The draft Local Planning Strategy identifies the cleared land north of the subject lot and south of Muirs Highway for future rural residential development, the most southerly point of which will be approximately 300m north of the proposed tree plantation.

Officer Comment

The proposal is for a plantation on cleared grazing land west and south of Rocky Gully. The northern boundary of this land is bordered by a well vegetated water course. The subject lot is difficult to see from Muirs Highway but is visible from Mill Road. It is not visible from the existing developed lots within the townsite.

Rocky Gully has twenty one (21) lots developed with houses although a total of 79 lots are zoned Residential.

The petition received essentially raises two concerns. The first being the potential impacts on the water quality of the town water supply. The Water Corporation dam is over 600m from the plantation site and the management plan and a covering letter

submitted with the application state that all herbicides will be applied by experienced and licensed spray contractors and only 'ground based spraying is planned for the subject area'. A condition can be imposed on the planning consent to prohibit the use of aerial spraying. Another condition prohibiting insecticide application to the 59ha area within the Special Control Area after the first two (2) years of planting is warranted.

The second concern raised in the petition was the potential impact of the root system from the trees compromising the dam. As the closest point of the plantation lot to the dam is over 600m and there is an extensive area of remnant vegetation between the plantation and the dam wall, this is not a concern. There are many farm dams located within plantations which are now used for fire fighting water supplies and the tree roots have not compromised these dams.

The current application meets with the requirements under TPS3 in terms of the Shire Firebreak Notice, plantation compartment size and the management plan. Fears for the dam based upon possible tree root damage are ill founded, given the 600m of dense native vegetation between the proposed site and the dam site.

It is noted that the Management plan states that all of the consolidated areas of remnant vegetation will be retained and the removal of stock will encourage new growth within these remnant vegetation areas.

The Council adjourned consideration of this application at its meeting held on 8 July 2008 to enable the applicant (Timbercorp) to make a presentation to the Rocky Gully community to explain the details of the proposal. That presentation was held on 24 July 2008 and was attended by four (4) representatives from Timbercorp, sixteen (16) members of the public, Shire President Councillor Forbes AM, Councillor Grylls and the Manager Development Services. Timbercorp then made a presentation on the plantation proposal paying particular attention to the issues raised in the petition submitted on the development proposal. Following the presentation a range of issues were discussed.

Correspondence has recently been received on 29 July 2008 which is signed by nine (9) Rocky Gully residents who remain opposed to the plantation being established within the Special Control Area. The main issue of concern is the chemical use by plantation companies. The letter which is the first four (4) pages is attached. The full twenty-six (26) page document has been provided to Councillors by the signatories.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

Moved Cr M Skinner, Seconded Cr J Mark

That:

- 1. The proposal for a Timber Plantation on Lot 2079 Mill Road, Rocky Gully be approved subject to:**
 - i) No use of aerial spraying. All spraying for pests and weeds is to be ground based.**

- ii) No application of insecticides after the first two (2) years from planting within the 59ha within the Special Control Area.
 - iii) Compliance with the Shire of Plantagenet Annual Firebreak Notice and compliance with the Guidelines for Plantation Fire Protection.
 - iv) Compliance with the submitted Management Plan.
 - v) The submission of a harvesting plan two years prior to harvest.
2. The Water Corporation be requested to regularly monitor the water quality of the Rocky Gully town water supply dam for the presence of insecticides.

LOST (2/4)

FURTHER MOTION / COUNCIL DECISION

Moved Cr A Budrikis, seconded Cr D Nye-Chart

The proposal for a Timber Plantation on Lot 2078 Mill Road, Rocky Gully be refused as the proposal does not satisfy parts e), i), l) and m) of clause 3.8 of Town Planning Scheme No. 3 in a manner to show the proposal will be of benefit to the community and also as there is potential for an adverse impact on Rocky Gully and its town water supply.

CARRIED (4/2)

NO. 145/08

3.24pm Crs B Hollingworth, J Moir and S Grylls returned to the meeting.

**11.1.2 TOWN PLANNING SCHEME NO. 3 – AMENDMENT NO. 47 – LOT 138
LOWOOD ROAD, MOUNT BARKER – RURAL TO RESIDENTIAL (R15) –
SUBMISSIONS RECEIVED**

A Proximity interest was disclosed by Cr J Mark.

3.24pm Cr J Mark withdrew from the meeting.

File No: LP/181/47
Attachments: [Location Plan](#)
[Subdivision Concept Plan](#)
[Summary of Submission](#)
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Peter Duncan
Manager Development Services
Proposed Meeting Date: 12 August 2008

Purpose

The purpose of this report is to consider submissions received on a proposed Amendment to the Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) to rezone Lot 138 Lowood Road corner Morpeth Street from Rural to Residential (R15).

Background

Shire records indicate the owner is Ian and Andrea Preece.

A Scheme Amendment Request (SAR) was submitted in February 2007 and in accordance with Council Policy No. TP/SDC/6 copies were forwarded to the Department for Planning and Infrastructure (DPI), Department of Water (DOW) and Department of Environment and Conservation (DEC) for comment.

On 12 June 2007 a report on the SAR was considered by the Council and Resolution 213/07 was as follows:

‘THAT:

- (1) The Scheme Amendment Request for Lot 138 Lowood Road, Mount Barker be advertised to seek public feedback for a period of sixty days.*
- (2) At the conclusion of advertising a further report be prepared for the consideration of the Council at a meeting to be held no later than 14 August 2007.’*

At the close of the public advertising the SAR was considered by the Council on 11 September 2007 where at Resolution 317/07 it was resolved:

‘That the submissions received on the Scheme Amendment Request for Lot 138 Lowood Road Mount Barker be noted and:

- (1) The proponent be advised the Council will be prepared to consider a formal Amendment to the Shire of Plantagenet Town Planning Scheme No. 3.*

- (2) *This support is subject to the various matters including land capability, drainage, fire safety, any potential road works etc, being addressed to the Council's satisfaction as part of the Scheme Amendment documentation.'*

Formal Scheme Amendment documents were received on 18 March 2008 and the Council at its meeting held on 8 April 2008 resolved at Resolution No. 69/08:

'That:

1. *Amendment No. 47 to Town Planning Scheme No. 3 be initiated and referred to the Environmental Protection Authority in accordance with legislative requirements.*
2. *Once authorised by the Environmental Protection Authority, the Amendment be advertised for a period of forty-two (42) days to enable comment to be made.*
3. *After advertising, a further report be prepared for the Council to be presented no later than its meeting to be held on 12 August 2008.'*

Councillors were provided with a full copy of the Amendment document with the 8 April 2008 agenda papers.

The Environmental Protection Authority (EPA) authorised the Amendment to proceed to advertising on 21 May 2008. The necessary forty-two (42) day advertising period closed on 11 July 2008 and a total of six (6) submissions were received (see Summary of Submissions).

Statutory Environment

Planning and Development Act 2005

Town Planning Regulations 1967 – these have set procedures for Amending a Town Planning Scheme including once initiated by the Council, referral to the EPA for twenty-eight (28) days. Once cleared by the EPA a forty-two (42) day advertising period applies. The Council must consider any submissions lodged within forty-two (42) days of the close of formal advertising and refer its recommendation to the Western Australian Planning Commission (WAPC) and the Minister within twenty-eight (28) days.

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

Consultation

The SAR was advertised for comment for sixty (60) days prior to it being considered by the Council in August 2007.

This Amendment was advertised for forty-two (42) days by way of newspaper notice, letters to neighbours and Government agencies, a notice on the Council's notice board and a sign on site and a total of six (6) submissions were received.

Financial Implications

The fee of \$3,300.00 has been paid.

Policy Implications

The proposal is generally in accordance with proposals in the 2002 draft Townsite strategy but this Strategy was never finalised. It is in accordance with the draft Local

Planning Strategy adopted by the Council on 10 June 2008 and referred to the WAPC for approval to advertise for comment.

Strategic Implications

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

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

Officer Comment

The Amendment proposal includes land capability work and provides a nutrient stripping sediment retention drainage management feature near the junction of Morpeth Street and Lowood Road. Stormwater runoff is a matter needing detailed design at the subdivision stage to ensure properties down hill (to the east) are not adversely affected.

The Amendment report considers there is adequate separation from the vineyards to the south to ensure there will be no adverse impact on future residents. In the past when Amendment No. 8 to Town Planning Scheme No. 3 was finalised in 1996 a modification required by the then Minister for Planning was to retain the Rural zoning in the area bounded by Morpeth Street, Lowood Road, Warburton Road and Mount Barker Road. This was due to the then EPA separation requirements of in the order of 300-500m from vineyards to residential. The EPA has since reviewed its standards and each case is now taken on its merits with no distances specified. The EPA authorised this Amendment to proceed to advertising.

The submissions received during the formal advertising period do not raise any issues that require modification of the Amendment.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr D Nye-chart, seconded Cr K Clements

That:

- 1. The submissions lodged on Amendment No. 47 to Town Planning Scheme No. 3 be noted.**
- 2. Amendment No. 47 to Town Planning Scheme No. 3 be adopted without modification and forwarded to the Western Australian Planning Commission for the final approval of the Honourable Minister for Planning and Infrastructure.**

3. Authority be granted to the Shire President and the Chief Executive Officer to execute the documentation and affix the Common Seal of the Council to Amendment No. 47 once approved by the Honourable Minister.

CARRIED (8/0)

NO. 146/08

3.25pm Cr J Mark returned to the meeting.

**11.1.3 LOT 18 MENSTON STREET, MOUNT BARKER – NINETEEN (19)
GROUPED DWELLINGS**

A Financial interest was disclosed by Cr A Budrikis.

3.25pm Cr A Budrikis withdrew from the meeting.

File No: RV/182/1598

Attachments: [Location Plan](#)
[Development Application Plans \(various\)](#)
[Summary of Submissions](#)

Responsible Officer: Peter Duncan
Manager Development Services

Author: Juliet Albany
Planning Officer

Proposed Meeting Date: 12 August 2008

Applicant Yaran Property Group

Purpose

The purpose of this report is to consider an application for nineteen (19) grouped dwellings at Lot 18 Menston Street Mount Barker following public advertising.

Background

Council records show the owners to be Yaran Pty Ltd.

A subdivision application for nineteen (19) survey strata lots was received on 22 May 2008 and a report is also on this agenda.

The land is zoned Residential R10/20 and as it was coded prior to the gazettal of the RCodes in 2002. The average site area dispensation of 450m² per lot applies rather than the current R20 average of 500m² per lot. The proposal is for nineteen (19) grouped dwellings on lots ranging from 438 - 482m², with an average 475.9m².

The land has some regrowth but is quite degraded.

Lot 177 Marmion Street to the west received subdivision approval from the Western Australian Planning Commission (WAPC) for a 13 lot green title subdivision in September 2007 (WAPC 133963). The Lot 177 subdivision plan has a public road to its east boundary with this subject Lot 18 and there is an opportunity now to connect Menston Street and Marmion Street through the two lots.

Staff have been liaising with the proponents and several alterations have been made to the plans originally submitted including extending the internal accessway to meet the roadway on the Lot 177 proposal.

Statutory Environment

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No3 (TPS3) zoned Residential R10/20 – grouped dwellings are an 'SA' use in this zone and require advertising for twenty one (21) days to obtain public comment.

WAPC Residential Design Codes (R Codes) 29 April 2008

WAPC Development Control Policy 1.3 Strata Titles (DC1.3)

WAPC Development Control Policy 2.2 Residential Subdivision (DC 2.2)

WAPC Liveable Neighbourhoods

Consultation

The Manager Development Services has consulted with the applicant and most of the concerns raised have been addressed in revised plans the subject of this report.

The proposal was advertised for twenty one (21) days and three (3) submissions have been received all of which express concerns over the necessity for more high density development, the likeness to remote mining camps and slums and the general undesirable nature of a development nearing completion on Marion and Montem Streets (see Summary of Submissions).

Financial Implications

The fee of \$7,796.00 has been paid.

Policy Implications

There are no policy implications for this report.

Strategic Implications

Shire of Plantagenet Strategic Plan 2003, Key Result Area 4 Development Services advocates

'Supporting sustainable and managed growth within existing urban settlements and encourage the development of a variety of housing opportunities. The Shire also seeks to plan a safe and healthy living environment.'

Officer Comment

Under the R Codes this land is able to be developed and subdivided into lots averaging 450m² and in this case the average lot size is 475.9m².

Of the nineteen (19) dwellings, three (3) face Menston Street and sixteen (16) face the internal accessway which is to be common property. Five (5) dwellings are double storey and these face the internal accessway. The proposed dwellings facing Menston Street are single storey and complementary to the traditional Mount Barker homes in the area.

The proposed internal accessway connects to a proposed road on the neighbouring Lot 177 Marmion Street which will enable pedestrian and vehicular traffic connection between Marmion and Menston Streets. The internal accessway is 7.2m wide and will accommodate two way traffic and a 1.2m wide footpath on one side. Trees will be required with a landscaping plan to formalise the street appearance.

The proposed dwellings are to be of light construction with raised floors on stumps similar to traditional Mount Barker homes.

The R Codes address the internal layout of dwellings only in terms of the effects of habitable room windows on neighbours and overshadowing of neighbours.

WAPC's Liveable Neighbourhoods document at Design Element 3 (Lot layout) states that guidelines should 'be prepared specifying appropriate setbacks from the northern property boundary to enable good winter sun access to suitably located and sized windows'.

Two (2) of the three (3) designs proposed for these grouped dwellings do not address the site in terms of solar access and light for indoor and outdoor living areas particularly given Mount Barker's climate. There is a need to ensure the designs that provide for south facing living areas allow adequate winter early morning and afternoon sun penetration. This can be achieved by placing the living areas across the building not down one side as currently proposed.

Dwellings 1, 2, 3, 5, 7, 9, 10, 11, 12, 14, 15 and 16 are to the 'Montem-B' design. All provide living areas on one side of the house limiting the potential for winter solar access and light particularly in south facing rooms.

Dwellings 4, 6, 8, 13 and 17 are to the 'Yaran-08' design which has the kitchen located with less potential sun and light than the toilet and laundry area. The proposed design for dwelling 19 'Montem-A' places bedrooms on the north side of the house where living areas should be for winter sun access. Detailed comments are provided as advice notes for the applicant as part of the recommended conditional approval.

The RCodes require five (5) visitor car parking bays and seven (7) bays are shown on the plans but these need to be provided as visually and physically separate from private parking areas, be well signed / marked and included as part of the common property.

The proposal includes seven (7) lots with three (3) car parking bays (two (2) bay car ports and one (1) visitor bay) located side by side and fronting the internal accessway. This means that much of the lot frontage is given to paved individual driveways. The RCodes require a maximum of 50% of the lot frontage to be used for car parking, no single driveway may be wider than 6m and driveways may not be closer than 0.5m from the boundary. WAPC DC1.3 at 3.3.6 states 'it is accepted that participants within any such scheme should have some flexibility in determining the standards that they require for those services, e.g. the width, alignment, parking and drainage of roads and driveways where these do not directly affect public facilities or other adjoining land.' Good tree planting could offset the effect of paved driveways dominating the frontage and make the development more attractive. A landscaping plan is a requirement of the R Codes.

The store sheds provided for each dwelling are poorly located near rear boundaries and should be re-located to be close to the dwelling and easily accessible from the dwelling.

The clothes drying areas should be closer to the dwelling, and should not be visually dominant in the main part of the outdoor living area. The five (5) two storey dwellings have no shelter over the front door and as such an awning or verandah roof should be provided.

The three (3) submissions received refer to this as high density housing however it meets the R20 standards of the RCodes and R20 is classified as a low density code. The land has been coded R10/20 for many years. The comparison with an incomplete development nearby is somewhat unfair as once all of the landscaping has been carried out and the builders' fences and storage containers are removed, it will improve in appearance.

The proponents intend to subdivide the dwellings by way of a survey strata subdivision with no public open space. This will attract a 10% public open space condition on the subdivision. This can be provided by way of a cash-in-lieu payment to the Council.

The application meets all of the relevant RCode standards with the exception of the front boundary setbacks to Menston Street for dwellings 1 and 2. The setback should be 6.0m whereas 5.0m is provided to dwelling 1 and 4.2m is provided to dwelling 2. The Council does have the power to agree to these setbacks through the RCodes. In this case the variation of the front setbacks is appropriate as it breaks up the streetscape by providing some variety in the house spacing.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr K Clements, seconded Cr D Nye-Chart

That the proposal for nineteen (19) grouped dwellings at Lot 18 Menston Street Mount Barker be approved subject to:

- 1. The development being generally in accordance with the plans dated 19 May 2008 including reduced front setbacks shown to dwellings 1 and 2.**
- 2. A plan clearly showing adequate fencing for all proposed lots with heights and materials indicated to the satisfaction of the Manager Development Services.**
- 3. The submission and approval of a landscaping plan showing as well as planting of shrubs and ground covers on the lots, trees planted along the boundaries of the internal accessway at a minimum of one (1) tree on each lot front and street trees for Menston Street. Street trees are to accord with the Mount Barker Townscape Review 2002 list of species.**
- 4. The store sheds are to be re-sited to be closer to the dwellings wherever possible.**
- 5. Clothes lines are to be re-sited out of view of the main living areas and are to be as close to the dwellings as possible.**
- 6. An awning or verandah is to be provided over the entry to the 'Yaran-08' design dwellings (i.e. 4, 6, 8, 13 and 17) to provide adequate shelter.**
- 7. Five (5) of the visitors parking bays required are to be relocated so that two (2) bays are aligned on either side of the front boundaries between units 18 and 17, and units 7 and 6 and the fifth bay is to be located on the front (west) boundary of unit 13. All seven (7) visitor bays are to be excluded from the adjoining lots and included within the common property and are to be clearly signed for visitors parking. A sign on the Menston Street entrance is to indicate the presence of visitor parking on the site.**

8. That the upper floor of the 'Yaran-08' design proposed for units 4, 6, 8, 13 and 17 is to have a highlight window only on the western wall of the upstairs landing. All windows to habitable rooms on the upstairs level are to be on the north and south walls only.
9. The provision of reticulated sewerage.
10. All dwellings are to be constructed on site and not transported in.
11. The internal accessway is to be designed and aligned to meet the proposed road on Lot 177 Marmion Street to the west.
12. The provision of a footpath to the Menston Street frontage that continues in colour and/or texture across the internal accessway intersection with Menston Street.
13. All drainage is to be contained on site and a drainage management plan is to be submitted to the satisfaction of the Manager Works and Services.
14. Construction is not to commence until the Council has approved detailed engineering plans and specifications of works, including earthworks, roads and paths, drainage, clearing, landscaping / rehabilitation and soil stabilisation measures, both during and after construction.
15. Building licence applications, including full plans and specifications are to be completed and approved prior to construction commencing.
16. Construct, drain and seal the private accessway and visitors parking to the satisfaction of the Manager Works and Services.
17. Construct drain and seal all crossovers to the satisfaction of the Manager Works and Services.
18. Fencing in front of the building setback line to be a maximum of 1.2m in height.
19. Dwellings are not to be occupied until landscaping has been completed to the satisfaction of the Manager Development Services.

ADVICE NOTES:

- i) The applicant is encouraged to retain any native vegetation wherever practicable.
- ii) The solar access and the provision of useful spaces in the designs could be improved. All dwellings could be located closer to the western boundaries and the emphasis placed on:
 - a) gaining greater access to eastern and/or northern sun to indoor living areas, particularly the kitchen and family rooms;
 - b) gaining larger more useful outdoor areas with good solar access for more efficient use of the land for gardens and or recreation.

- iii) The proposed 'Montem-B' could be improved by placing the living areas across one end rather than down one side. It would improve the solar access for those units orientated to the north.
- iv) The 'Yaran-08' should be redesigned to locate the kitchen on the north east corner and place the laundry and toilet in the centre. This would provide the units with good solar access for living areas particularly in winter;
- v) Redesign the 'Montem-A' on Lot 19 to create improved winter sun access to internal living areas.
- vi) Designs should incorporate an understanding of the 'Designing out Crime' Guidelines and the objectives of such design. The placement of front doors in most units could be improved in terms of security and privacy.
- vii) If the development the subject of the approval is not substantially commenced within a period of twenty-four (24) months the approval shall lapse and be of no further effect. Where the approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.
- viii) The Developer is encouraged to landscape to a high standard.

EQUALITY (4/4)

CASTING OF SECOND VOTE

Pursuant to Section 5.21 (3) of the Local Government Act (1995), the Presiding member exercised the discretion to cast a second vote, such vote being cast in the affirmative.

CARRIED (5/4)

NO. 147/08

11.1.4 LOT 18 MENSTON STREET, MOUNT BARKER - TWENTY (20) LOT SURVEY STRATA SUBDIVISION

A Financial interest was disclosed by Cr A Budrikis.

File No: LP/158/821, RV/182/1598, WAPC 821-08

Attachments: [Location Plan](#)
[Subdivision Plan](#)

Responsible Officer: Peter Duncan
Manager Development Services

Author: Juliet Albany
Planning Officer

Proposed Meeting Date: 12 August 2008

Applicant Yaran Property Group

Purpose

The purpose of this report is to respond to the Western Australian Planning Commission (WAPC) regarding a proposal for a twenty (20) lot survey strata subdivision, consisting of nineteen (19) survey strata lots and one (1) common property lot at Lot 18 Menston Street, Mount Barker.

Background

Council records show the owners to be Yaran Pty Ltd.

A development proposal for nineteen (19) grouped dwellings on this land has been received and a report on that proposal forms part of this agenda.

Lot 18 Menston Street backs onto Lot 177 Marmion Street, which is subject to an approved subdivision of thirteen (13) green title lots and a public road that ends on the boundary with Lot 18.

This proposal recognises the advantage of linking Marmion and Menston Streets and provides a plan with an internal accessway linking to Lot 177. This internal accessway is offset from the Margaret Street junction to the east and is considered a safer design than a four way intersection.

The lot has some regrowth but it is degraded.

Statutory Environment

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No.3 (TPS3) – Zoned Residential (R10/20)

Residential Design Codes (R Codes) 29 April 2008 Part 6 Design Element 6 iv. 'in the case of grouped dwellings in areas coded R 20 as at October 2002 the average site area shall be 450m² where applications are made prior to and including 30 April 2009.'

WAPC Liveable Neighbourhoods

WAPC State Planning Policy 3 (SPP3) – Urban Growth and Settlement

Consultation

The Manager Development Services has earlier discussed the proposed development and subdivision with the applicant resulting in this current lot layout that facilitates the through link of a road from Menston Street to Marmion Street.

Financial Implications

There are no financial implications for this report.

Policy Implications

WAPC SPP3 – 5.1 Creating sustainable communities states: ‘making the most efficient use of land in existing urban areas through the use of vacant and under utilised land and buildings, and higher densities where these can be achieved without detriment to neighbourhood character and heritage values; the cost-effective use of urban land and buildings, schools and community services, infrastructure systems and established neighbourhoods; promoting and encouraging urban development that is consistent with efficient use of energy.’

Strategic Implications

The Key Result Area 4 Development Services of the Shire of Plantagenet Strategic Plan 2003, aims *‘to support sustainable and managed growth within existing urban settlements in the Shire and encourage the development of a variety of housing opportunities.’*

Officer Comment

Under the R Codes land coded R20 prior to 2002 is able to be subdivided into lots averaging 450m² and this proposal has an average lot size of 475.9m².

The purpose of the split codes such as R10/20 is such that land which is to be serviced by reticulated sewerage may be developed with the higher density than land that has no such service which will retain the lower density.

The development of nineteen (19) grouped dwellings on this site has been advertised in accordance with the requirements of TPS3 and the comments received from the three (3) submitters relate to questioning the necessity for more high density housing, the likeness to remote mining camps and the development of slums. R20 is actually a low density code in the R Codes.

The visitor car parking bays shown in the development plans must be located within the common property lot to ensure there are no disputes over ownership of the bays.

No public open space has been provided and a cash-in-lieu contribution will be required to be paid in respect to the 10% allocation required.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

Moved Cr K Clements, seconded Cr J Moir

That the proposed survey strata subdivision of Lot 18 Menston Street be supported subject to:

1. A nutrient stripping / sediment retention stormwater drainage plan shall be prepared and submitted for approval by the Manager Works and Services prior to the commencement of any site works. This may involve setting of the verges to a particular gradient to the satisfaction of the Manager Works and Services.
2. The private accessway being constructed, drained and sealed to meet with the adjoining future road reserve on Lot 177 Marmion Street and the accessway design is to include a 1.2m footpath on the north side to the specifications and satisfaction of the Manager Works and Services.
3. The subdivider is to provide cash in lieu to the Shire of Plantagenet for ten percent (10%) Public Open Space in accordance with S153 of the Planning and Development Act 2005.
4. An indicative Strata Management Plan including how rubbish collection, mail delivery, internal infrastructure and maintenance will be managed is required to be sighted by the Manager Development Services.
5. Adjust the common property and the relevant survey strata lot boundaries to ensure the seven (7) visitor car parking bays shown in the development application are located within the common property and visually separate from individual lot car parking bays as required for the development application.
6. Provision of underground power to all lots.
7. All lots are to be connected to reticulated water and sewerage systems.
8. All cleared material is to be mulched and retained / stockpiled on site and used to mulch the cleared areas.
9. Menston Street is to be upgraded, drained, kerbed and sealed to the satisfaction of the Manager Works and Services. This will include the construction of a footpath.
10. The provision of street trees on the Menston Street verge, in accordance with the Mount Barker Townscape Review 2002 species list to the satisfaction of the Manager Development Services.
11. The provision of street trees along the boundary of the private accessway at one (1) tree for each lot and in accordance with the Mount Barker Townscape Review 2002 species list to the satisfaction of the Manager Development Services.
12. The provision of street lights to the private driveway and also at its intersection with Menston Street to the satisfaction of the Manager Works and Services.

13. Construction can commence only when detailed engineering specifications and plans for all works, including earth works, roads and paths, drainage, clearing, soil stabilisation, landscaping / revegetation and rehabilitation measures have been received and approved by the Manager Works and Services.

ADVICE NOTES

- i) The developer is reminded of the start of the Bushfire season in December and the need to reduce / clear all boundaries of fire load including mulch for the summer months;
- ii) The applicant is encouraged to retain any native vegetation wherever practicable.

AMENDMENT

Moved Cr D Nye-Chart, seconded Cr M Skinner

That advice note ii) be deleted.

CARRIED (6/2)

NO. 148/08

COUNCIL DECISION

That the proposed survey strata subdivision of Lot 18 Menston Street be supported subject to:

1. A nutrient stripping / sediment retention stormwater drainage plan shall be prepared and submitted for approval by the Manager Works and Services prior to the commencement of any site works. This may involve setting of the verges to a particular gradient to the satisfaction of the Manager Works and Services.
 2. The private accessway being constructed, drained and sealed to meet with the adjoining future road reserve on Lot 177 Marmion Street and the accessway design is to include a 1.2m footpath on the north side to the specifications and satisfaction of the Manager Works and Services.
 3. The subdivider is to provide cash in lieu to the Shire of Plantagenet for ten percent (10%) Public Open Space in accordance with S153 of the Planning and Development Act 2005.
 4. An indicative Strata Management Plan including how rubbish collection, mail delivery, internal infrastructure and maintenance will be managed is required to be sighted by the Manager Development Services.
 5. Adjust the common property and the relevant survey strata lot boundaries to ensure the seven (7) visitor car parking bays shown in the development application are located within the common property and visually separate from individual lot car parking bays as required for the development application.
-

6. Provision of underground power to all lots.
7. All lots are to be connected to reticulated water and sewerage systems.
8. All cleared material is to be mulched and retained / stockpiled on site and used to mulch the cleared areas.
9. Menston Street is to be upgraded, drained, kerbed and sealed to the satisfaction of the Manager Works and Services. This will include the construction of a footpath.
10. The provision of street trees on the Menston Street verge, in accordance with the Mount Barker Townscape Review 2002 species list to the satisfaction of the Manager Development Services.
11. The provision of street trees along the boundary of the private accessway at one (1) tree for each lot and in accordance with the Mount Barker Townscape Review 2002 species list to the satisfaction of the Manager Development Services.
12. The provision of street lights to the private driveway and also at its intersection with Menston Street to the satisfaction of the Manager Works and Services.
13. Construction can commence only when detailed engineering specifications and plans for all works, including earth works, roads and paths, drainage, clearing, soil stabilisation, landscaping / revegetation and rehabilitation measures have been received and approved by the Manager Works and Services.

ADVICE NOTES

- i) The developer is reminded of the start of the Bushfire season in December and the need to reduce / clear all boundaries of fire load including mulch for the summer months.

CARRIED (8/0)

NO. 149/08

3.37pm Cr A Budrikis returned to the meeting.

**11.1.5 LOT 6 (13) OSBORNE ROAD, MOUNT BARKER - REDUCED SIDE
SETBACK FOR CARPORT.**

File No: RV/182/1151
Attachments: [Location Plan](#)
[Site Plan](#)
[Section](#)
Responsible Officer: Peter Duncan
Manager Development Services
Author: Juliet Albany
Planning Officer
Proposed Meeting Date: 12 August 2008
Applicant E Goddard

Purpose

The purpose of this report is to consider an application for a carport addition to an existing dwelling with a reduced setback to the side boundary.

Background

The applicant proposes to extend an existing workshop to the rear of the property and to add a carport, with a solid side wall built up to the side boundary.

Statutory Environment

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No 3 (TPS3) Zoned Residential (R12.5/20)

Residential Design Codes (RCodes)

Consultation

Council staff have liaised with the applicant on a number of occasions.

Financial Implications

There are no financial implications for this report.

Policy Implications

There are no policy implications for this report.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

The proposal is for a 9m long carport with a solid metal clad side wall. The carport is to be attached to the northern side of the existing house and is to extend to the side boundary adjoining Lot 44. The neighbour Mrs Nixon has indicated in a letter that

she does not want the existing fence interfered with but does not mind a wall up to the boundary.

The applicant wishes to use the carport for two cars parked side by side and believes that the carport will have a beneficial cooling effect on the existing house in summer. The existing workshop to the rear of the property is to be extended.

The RCodes at Table 2a for walls with no major openings, requires a 1m setback for a wall length of up to 9m and no higher than 3.5m. The RCodes state that the term 'up to a boundary' means either on the boundary or between the boundary and the setback required by Tables 1, 2a and 2b.

The RCodes allow for a 0m setback on one side boundary for a wall up to 9m in length and not higher than 3m.

The existing house is set back from the boundary 5.95m. The required setback of 1m for the proposed carport would reduce the available space for parking two (2) cars side by side, making it difficult to park successfully. A reduction in the setback for the carport from the required 1m would ensure a useful double carport.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION / COUNCIL RESOLUTION

Moved Cr M Skinner, seconded Cr D Nye-Chart

That the proposed 9m long carport on Lot 6 Osborne Road, Mount Barker be approved with a reduced setback of 0m from the side boundary, subject to:

- 1. The development being in accordance with the plans dated 16 June 2008.**
- 2. There being no interference with the side boundary fence unless with the complete support of the owner of the adjoining Lot 44 Osborne Road.**

CARRIED (9/0)

NO. 150/08

11.1.6 DELEGATION - PRINCIPAL BUILDING SURVEYOR

File No: PE/21/1
Responsible Officer: John Fathers
Acting Chief Executive Officer
Author: Peter Duncan
Manager Development Services
Proposed Meeting Date: 12 August 2008

Purpose

The purpose of this report is to recommend to the Council the delegation of power to the Principal Building Surveyor to enable the issue of a building approval certificates in respect to unauthorised building works under Section 374AA(4)(a) of the Local Government (Miscellaneous Provisions) Act 1960.

Background

The Council reviewed its delegations to officers at its meeting held on 13 May 2008 and updated delegations on 12 June 2008 when a particular issue of building licences reviewed due to amendments to the Local Government (Miscellaneous Provisions) Act 1960 (the Act). Those amendments related to the qualification of building surveyors in Western Australia, the delegation of authority to building surveyors, building approval certificates and revised building licence application fees.

Previous provisions in the Act did not allow for Councils to issue approvals for unauthorised building work that had been commenced or completed without a building licence, or which was not built in compliance with, or was a departure from, approved plans and specifications.

Some Councils have been issuing orders to demolish unauthorised works, which generates a right of review to the State Administrative Tribunal, and the matter was resolved on that basis. This has caused a considerable administrative burden on the Department of Justice, Councils and inconvenience to members of the public.

From 1 July 2008 the Act and the *Building Regulations 1989* (the Regulations) provide for the issue of a building approval certificate in relation to unauthorised building work when an owner has submitted an application to the Council, paid all relevant fees and demonstrated to the Council that the building work complies with all of the relevant standards.

The building approval certificate is issued to the building owner or authorised agent of the building owner. Builder, or owner builder, registration is not required for an application for a building approval certificate. Similarly, the requirement for a Council to ensure that a building licence is not issued to a person without the necessary indemnity insurance (Section 374AC of the Act) is not required for an application for a building approval certificate which is for a retrospective approval.

Statutory Environment

The Local Government (Miscellaneous Provisions) Act 1960 provides authority to the Council to delegate to a person appointed to the office of Building Surveyor the power to issue building licences and building approval certificates.

The Act and Regulations will require that any person given such authority to approve building licences or building approved certificates must hold the relevant qualification certificate.

Financial Implications

There are no financial implications for this report.

Policy Implications

There are no policy implications for this report.

Legal Implications

From 1 July 2008, breaches of these provisions may attract maximum and daily penalties of \$50,000.00 and \$5,000.00 per day for unauthorised building work. Furthermore the penalties for permitting the occupation of an unauthorised building are up to \$4,000.00 and \$150.00 per day.

Officer Comment

Owners and builders should be mindful that performing unauthorised building work is an offence under the Act and the Council or the Builders Registration Board under the *'Builders' Registration Act 1939*, may prosecute for such breaches. It should be noted however that the offences for these breaches continue to apply only to the person who commits the offence i.e. the builder or original owner who commences unauthorised building work or who allows an unauthorised building to be occupied, not a person who may subsequently become the owner. A notice will be placed in the 'Shire Flyer' advising of the requirements of the Act.

Voting Requirements

Absolute Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr D Nye-Chart, seconded Cr B Hollingworth

That the following be added to Delegation LG 046 (authority to issue building licences):

'The power to issue a building approval certificate for unauthorised building work be delegated to the Principal Building Surveyor in accordance with Section 374AA(4)(a) of the Local Government (Miscellaneous Provisions) Act 1960.'

CARRIED (9/0)

NO. 151/08

(Absolute Majority)

11.1.7 LOT 14 (39) LOWOOD ROAD, MOUNT BARKER – APPLICATION FOR A PERMIT TO CONDUCT AN OUTDOOR EATING FACILITY ON A PUBLIC THOROUGHFARE

File No:	RV/182/1381
Attachments:	Site Plan Location Plan
Responsible Officer:	Peter Duncan Manager Development Services
Author:	Eric Howard Environmental Health Officer
Proposed Meeting Date:	12 August 2008
Applicant	P and N Hueppauff

Purpose

The purpose of this report is to consider an application for a permit to conduct an Outdoor Eating Facility (Alfresco Dining) on a Public Thoroughfare adjacent to the Mount Barker Hotel / Sail Inn Café food business located at Lot 14 (39) Lowood Road, Mount Barker.

Background

The operators of the Hotel and Sail Inn Café wish to locate eight (8) small tables and seating for twenty (20) persons on the footpath directly in front of the café and hotel to enable customers to consume food purchased from the café. Alfresco dining will be available during the café's business hours, varying from between 9.00am and 9.00pm seven (7) days per week.

The alfresco dining tables will be arranged against the building wall and will occupy a total area of approximately 25.0m² leaving an unobstructed access pathway for pedestrian movement along the footpath between the tables and verandah posts.

Statutory Environment

Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law 2001 (Local Law) - Part 6 Division 3 – Outdoor eating facilities on public places –This requires the issue of a permit and the Council may consider the following matters:

- (a) the Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
 - (b) any abutting food premises are registered in accordance with the *Health Act 1911* and whether the use of the premises is permitted under the town planning scheme;
 - (c) the Facility will comply with any local law made under section 172 of the *Health Act 1911*;
 - (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
-

- (e) the Facility would -
 - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
 - (ii) impede pedestrian access; and
- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

Health Act 1911

Health (Food Hygiene) Regulations 1993

Australia New Zealand Food Safety Standards 2000

Consultation

The Environmental Health Officer has been liaising with operators of retail premises to ensure appropriate applications are made to the Council for alfresco dining activities.

Financial Implications

The application fee of \$110.00 has been paid.

Policy Implications

Council officers utilise a 'Draft Information and Application Form' with this type of application.

Strategic Implications

The Shire of Plantagenet Strategic Plan – Key Result Area 4 aims *'to encourage and guide local development, retain local business and encourage new businesses that will create long-term sustainable local employment.'*

Officer Comment

Should the Council grant approval for a permit to operate an outdoor eating facility on a public thoroughfare, the following conditions may be imposed:

- The permit is valid for a period of twelve (12) months or unless otherwise stated in the permit and a period effective from 1 July to 30 June the following year is a preferred approach;
- The permit holder shall apply in writing prior to expiry of the permit, for renewal for a further twelve (12) month period;
- The permit is transferable;
- The applicant providing proof of public risk insurance for the proposed trading area;
- A statement indemnifying the Local Government in respect to any injury to persons or damage to property which may occur in connection with the use of the public thoroughfare by the permit holder; and
- The permit may be cancelled if the permit holder does not comply with any conditions of the permit or any other written law related to activities regulated by the permit.

In addition to the above mentioned suggested conditions, the permit holder should:

- Ensure that the facility is conducted at all times in accordance with the provisions of the Local Law and the Health Act 1911;
- Ensure that the eating area is kept in a clean and tidy condition at all times;
- Maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
- Be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the facility;

Whenever, in the opinion of the Council, any work is required to be carried out to a facility, the Council may give a notice to the permit holder.

The proposed alfresco dining facility will not conflict with the town centre retail base. Adequate toilet facilities are provided within the hotel and café. The proposed dining area will not obstruct sight lines of vehicular traffic in the vicinity and pedestrian free access and movement will not be unreasonably impeded.

The applicants have previously provided alfresco dining in this area and now wish to formalise the activity.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr D Nye-Chart, seconded Cr J Moir

That in accordance with Part 7 of the Shire of Plantagenet – Activities in Thoroughfares and Public Places and Trading Local Law 2001, a permit be issued to P and N Hueppauff to conduct an outdoor eating facility on a public thoroughfare adjacent to the Mount Barker Hotel and Sail Inn Café, Lot 14 (39) Lowood Road, Mount Barker subject to:

- 1. The outdoor eating facility occupying a maximum area of 25m² adjacent to the Mount Barker Hotel and Sail Inn Café in accordance with the application dated 23 July 2008.**
- 2. The facility being operated and maintained in accordance with the provisions of:**
 - a) Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law 2001;**
 - b) Health Act 1911;**
 - c) Health (Food Hygiene) Regulations 1993;**
 - d) Australia New Zealand Food Safety Standards 2000.**
- 3. The permit is valid for a period of twelve (12) months, effective from 1 July 2008 until 30 June 2009.**

4. The permit holder shall apply in writing prior to expiry of the permit, for renewal for a further twelve (12) month period.
5. The applicant providing proof of public liability insurance to the value of \$5,000,000.00 for the proposed trading area.
6. A statement from the permit holder indemnifying the Council in respect to any injury to persons or damage to property which may occur in connection with the use of the public thoroughfare.
7. All signage to be in accordance with Council requirements.

CARRIED (9/0)

NO. 152/08

11.2 WORKS AND SERVICES REPORT

Nil

11.3 COMMUNITY SERVICES REPORTS

11.3.1 TRANSFER OF THE PLANTAGENET CHILD CARE CENTRE TO WANSLEA FAMILY SERVICES INCORPORATED

File No:	CS/151/2
Attachments:	<u>Wanslea Family Services - Annual Report 2007</u>
Responsible Officer:	John Fathers Acting Chief Executive Officer
Author:	Nicole Selesnew Manager Community Services
Proposed Meeting Date:	12 August 2008
Applicant	Wanslea Family Services Incorporated

Purpose

The purpose of this report is to consider transferring the management of the Plantagenet Day Care Centre to Wanslea Family Services Incorporated (Wanslea).

Background

In recent years attempts have been made to identify likely persons, associations or organisations willing to take over the running of the Plantagenet Day Care Centre.

Ms Tricia Lee, Executive Director of Wanslea, met with Mr Rob Stewart, Chief Executive Officer of the Shire of Plantagenet, on 28 November 2007 to discuss the possibility of Wanslea managing the Plantagenet Day Care Centre. Ms Lee's enquiries were raised after hearing anecdotally that the Council was concerned about the operating costs of the Day Care Centre and had questioned the continuation of the service.

Following the meeting in November, correspondence has been exchanged between Wanslea and the Shire confirming Wanslea's interest in managing the service.

At the Ordinary Meeting of the Council held on 12 February 2008, the Council resolved:

'That the Chief Executive Officer be authorised to undertake formal discussions regarding the Mount Barker Child Care Centre being run by another suitably experienced and licensed organisation and that such discussions take into account :

- 1. The interest of staff members employed at the Mount Barker Child Care Centre should be protected as a matter of priority.*
- 2. The Council would need assurances that service levels at the Child Care Centre would not decrease.*
- 3. The Council would accept the negotiation of a peppercorn lease for the premises in Marmion Street should the service be run by a non-profit organisation.'*

Discussions with the Wanslea executive have continued, culminating in a series of meetings with Ms Lee and Ms Sandi Burton (Great Southern and Goldfields Region

Co-ordinator) and Shire officers, Plantagenet Day Care Centre staff, the Plantagenet Day Care Centre Parent Advisory Group Committee and interested parents.

The outcomes of the meetings which have since been confirmed in correspondence received from Wanslea on 14 July 2008, were:

- confirmation of Wanslea's interest in managing the Plantagenet Day Care Centre;
- the willingness to develop a transition process that will minimise disruption for staff, parents and children; and
- a transfer of management from the Shire to Wanslea being achieved on 1 January 2009 (provided endorsement from the Council for the change to occur).

Statutory Environment

The Plantagenet Day Care Centre must comply with the following legislation to maintain the licence to provide child care:

- Children and Community Services Act 2004;
- Children and Community Services (Child Care) Regulations 2006; and
- National Child Care Accreditation Council.

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'.*

Wanslea is a charitable, not for profit organisation and as such, would be an exempt disposition.

Consultation

Consultation has occurred with executive and regional Wanslea staff, the Chief Executive Officer, all permanent Child Care Centre staff, the Child Care Centre Parent Advisory Group Committee and interested parents.

The Parent Advisory Group Committee also sent a letter to all Centre users advising of the possible change in management and encouraging parents to attend the meeting with Wanslea staff to ask questions or raise concerns about the proposed changes.

Financial Implications

The 2008 – 2009 Annual Budget lists an anticipated \$52,945 operating deficit for the Child Care Centre, of which \$43,077 is indirect or non-cash expenditure (eg administration services allocation and depreciation).

The 2007 – 2008 financial reports show total operating expenditure equalling \$298,092.41 and total operating revenue equalling \$279,303.91, resulting in an operating deficit for the Centre of \$18,788.50 (of which \$6,846.43 is indirect or non-cash expenditure).

If the transition of the Centre management is to proceed, the Shire will no longer be responsible for financing the operating or capital costs for the Centre nor will it receive any income from the service.

The lease for the Lot 7 Marmion Street (Day Care Centre premises) will be a peppercorn lease (\$1 per annum) as per the Council resolution on 12 February 2008. The peppercorn lease agreement will be subject to Wanslea acknowledging the minimum cost when setting fee structures for the centre. Wanslea has requested a five year lease with an option to extend for another five years.

Wanslea has requested a 'walk in walk out' lease arrangement, transferring all operating equipment with the centre. An equipment audit will need to be completed which will identify the value of the equipment however it is estimated to be worth \$55,000 (including all playground equipment).

Wanslea will be responsible for the costs associated with applying for a licence to run the centre. The Shire will be responsible for forwarding staff annual leave accruals and other entitlements to Wanslea for the staff that remain with the centre following the transfer.

Policy Implications

There are no policy implications for this report.

Strategic Implications

The Shire's Strategic Plan, Key Result Area 3 (Community Services) states:

'Community services aims to deliver, or facilitate the delivery of, a range of services which respond to, and reflect, the physical, social and cultural well being of the community.'

New Initiative 3.1 states:

'Review the utilisation, and economic and social value to the community, of the Council's current community services and facilities.'

To achieve this we will:

- *Evaluate different options for providing community services and facilities...'*

Officer Comment

Wanslea's focus is providing services for the community, families and children through partnerships and direct service delivery. The Administration Centre is based in Scarborough with offices in East Victoria Park, Mandurah, Albany and Kalgoorlie.

Wanslea is comprised of a board of ten including Associate Professor Margaret Sims, specialising in early childhood studies and Julia Johnson, Family Court Lawyer. The Executive Director, Ms Tricia Lee, co-ordinates a staff base in excess of 100 people (70 full time equivalent positions) including a Clinical Manager, Manager of Specialist

Services, Manager of Children's Services, Manager Out of Home Care and the Great Southern Area Co-ordinator.

Wanslea has been operating for 60 years as a non-profit, charity organisation. The agency's income is derived from government grants and providing services that are run on a fee for service basis (supported by government subsidies where appropriate). The 2006 / 2007 Annual Report highlights revenue of \$6.3million for the year, with an operating surplus of \$263,532 (please refer to the attached Annual Report).

Some of the key programs offered through Wanslea are:

- Grandcare – offering support to grandparents who have full time care of their grandchildren;
- Placement Services - crisis foster care, foster care for children with complex needs and support for young people moving from foster care to independent living;
- Family Day Care, In Home Care and Outside School Hours Care;
- Mental Health Support – assistance for children to understand and live with parents that have a mental illness;
- Alcohol and Drugs Trial - a partnership program with Cyrenian House to provide support to mothers recovering from addiction while re-establishing themselves in the community;
- Healthy Start – assisting parents that have a learning difficulty; and
- My Time – assistance for families with children with special needs.

Wanslea programs delivered in the Great Southern region include:

- Mobile Community Hub service - a mobile service which provides parenting and play resources for small communities, including Kendenup and Rocky Gully;
- Aboriginal Early Years Support Service – support for parents of children including information on nutrition, school readiness etc, held at the Mount Barker Playgroup facility twice a week and funded until 2011;
- Outreach Service – extra support for parents of children 0-5 to assist the children integrate into the school system, including several families in Mount Barker;
- New Family Members – education assistance for families expecting a new baby;
- Grandcare and My Time; and
- Family Day Care centres - care which is provided from a carers home and is limited to a small number of places. There is one Family Day Care centre in Mount Barker and Kojonup, 15 in Albany and interest to establish Family Day Care centres in Kendenup and Denmark.

The Wanslea staff base has extensive experience within children's services, including owning and operating Day Care Centres, experience in outside school hours care and vacation care and a well developed knowledge of Child Care licencing and regulations. While Wanslea's business focus has been supporting

Family Day Care they have recently obtained licences to manage the City of Fremantle and Mount Hawthorn Day Care Centres.

Wanslea also has a partnership with a Registered Training Organisation enabling them to deliver relevant Certificate and Diploma units directly to staff. There is also a number of career opportunities within the Wanslea organisation for staff wishing to progress a career in child care or community services.

The proposal from Wanslea to manage the Plantagenet Day Care Centre has merit:

- the experience and support that Wanslea is able to provide the Plantagenet Day Care Centre, in particular the Centre Co-ordinator, is well in advance of the support that the Shire is able to provide;
- Wanslea is also able to deliver training courses directly to staff compared to the current scenario which involves staff enrolling in training with an external training provider, such as TAFE; and
- opportunity for career development is readily accessible through Wanslea compared to the Shire.

Wanslea has also indicated a willingness to work in partnership with key stakeholders, such as parents and the management committee if they were to manage the Plantagenet Day Care Centre. The Annual Report (attached) reinforces their focus on developing partnerships to complement their range of services.

If the transition in management was to progress, Wanslea would manage the service from the Regional Office based in Albany. Ms Lee, has indicated that the number of staff positions at the Centre would remain the same with the addition of a part time Administration Officer to assist the Co-ordinator.

The number of places for children available at the Centre will remain the same (28 places) and the level of care presently provided to children will be maintained.

Wanslea has a focus on early learning, literacy and numeracy skills and incorporate theories from early brain development theory into the programs offered at their centres. It would therefore be fair to assume that some of the centre policies and procedures, developed in the past by Shire staff with parents input, may change to reflect those of Wanslea's. Despite any changes, all policies and procedures must remain compliant with the Child Care Regulations 2004 which are audited regularly by the Department for Community Development.

One point of concern is the continued employment of centre staff if a change in management occurs. Wanslea's policy is to interview prospective staff members and review relevant records prior to employing staff, which does not guarantee a continued position for staff during a changeover.

Ms Lee spoke to the staff about the recruitment process and emphasised that the interviews will be informal and based on building a relationship between Wanslea and the prospective employee. Staff will be welcome to have a support person present during their interview. Ms Lee also emphasised that pre-existing medical conditions will not impact negatively on a persons employment provided they are able to carry out their job without detriment to their health. Wanslea's intent is to re-employ the existing staff, however no guarantees will be provided.

Shire officers spoke with staff from the City of Fremantle Day Care Centre, which was transferred to Wanslea on 1 August 2008, regarding the staff employment / transfer process. The indication from staff was that the process was intimidating at first,

however following the interviews they felt reassured about the process and their new prospective employer. The transition was relatively smooth. All but one staff member were offered contracts with Wanslea.

If the Council endorses the transition of Centre management to Wanslea, the staff recruitment process will be started as soon as practical.

Another concern raised by Shire staff, Child Care Centre staff and parents was whether the fees for the Centre would increase.

Wanslea staff stated that fees may increase in order to comply with Wanslea's policy of fee for service delivery, however consideration would also have to be given to the demographic of the community using the service to ensure the service was not priced beyond the community's ability to pay. Any surplus that is accrued is returned to the service.

The provision of a peppercorn lease will assist minimise Wanslea's operating costs and minimise fee increases where possible. Further, the Shire has increased the centre fees three times over the past eighteen months which will minimise any further increases Wanslea will need to make to ensure the centre runs on a fee for profit basis.

If the Council endorses a change in management of the Plantagenet Day Care Centre, the following process will need to occur:

- the Shire working with Wanslea to ensure the appropriate paperwork is in place for a business transfer from one agency to another, including:
 - transfer of staff benefits where appropriate;
 - completing an equipment audit to detail the transfer of equipment from one organisation to the other;
 - completing a structural safety audit for the building;
 - preparing a Memorandum of Understanding between the two agencies that confirms the number of places to be offered at the centre, the level of care to be provided to the children, the number of staff positions to be retained and other details necessary for the continued operation of the service at the existing (or improved) level; and
 - completing a lease for the building based on a five year period, with the opportunity to renew for another five years, with a walk-in walk-out arrangement.
- providing the information required for Wanslea to prepare a submission to the Department for Community Development for a new licence to operate the Plantagenet Day Care Centre. The licence application process takes a minimum of 3 months and will involve an audit of the centre including policies, procedures and infrastructure. The license application will highlight a nominated date for the new licence to take effect, being 1 January 2009; and
- once the new licence application has been endorsed, the Shire then completes the paperwork to relinquish its license to operate the Day Care Centre from the nominated date, being 1 January 2009.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

Moved Cr K Clements, seconded Cr B Hollingworth

That:

1. The management of the Plantagenet Day Care Centre be transferred from the Shire of Plantagenet to Wanslea Family Services Incorporated on 1 January 2009, subject to:
 - a) Wanslea Family Services Incorporated having secured a licence from the Department for Community Development to operate the Plantagenet Day Care Centre; and
 - b) The completion of a Memorandum of Understanding between the Shire of Plantagenet and Wanslea Family Services Incorporated that includes:
 - i) the number of positions for children available at the Plantagenet Day Care Centre;
 - ii) a minimum level of care and service offered within the Centre; and
 - iii) a minimum number of staff positions required at the Centre.
2. The Shire's licence to operate the Plantagenet Day Care Centre be relinquished on 1 January 2009, or at such a time as Wanslea Family Services Incorporated has successfully obtained a licence to operate the Plantagenet Day Care Centre.
3. The Chief Executive Officer be authorised to finalise the terms of a lease for Lot 7 Marmion Street with Wanslea Family Services Incorporated, for the purpose of conducting a Day Care Centre service. The lease terms to include:
 - a) A period of five years with a five year option;
 - b) The rent for the lease set at one dollar (\$1) per annum;
 - c) All outgoings will be the responsibility of Wanslea Family Services Incorporated; and
 - d) Termination of the lease if Wanslea Family Services Incorporated loses or does not renew the Department for Community Development licence to operate the Plantagenet Day Care Centre.
4. Authority be granted to the Shire President and the Chief Executive Officer to affix the Shire of Plantagenet's Common Seal to the agreements between the Shire of Plantagenet and Wanslea Family Services Incorporated referred to in Parts One and Three above.

AMENDMENT

Moved Cr J Moir, seconded Cr M Skinner

That the words 'with a five year option' be deleted from point 3 a).

LOST (3/6)

COUNCIL DECISION

That:

1. The management of the Plantagenet Day Care Centre be transferred from the Shire of Plantagenet to Wanslea Family Services Incorporated on 1 January 2009, subject to:
 - a) Wanslea Family Services Incorporated having secured a license from the Department for Community Development to operate the Plantagenet Day Care Centre; and
 - b) The completion of a Memorandum of Understanding between the Shire of Plantagenet and Wanslea Family Services Incorporated that includes:
 - i) the number of positions for children available at the Plantagenet Day Care Centre;
 - ii) a minimum level of care and service offered within the Centre; and
 - iii) a minimum number of staff positions required at the Centre.
2. The Shire's license to operate the Plantagenet Day Care Centre be relinquished on 1 January 2009, or at such a time as Wanslea Family Services Incorporated has successfully obtained a license to operate the Plantagenet Day Care Centre.
3. The Chief Executive Officer be authorised to finalise the terms of a lease for Lot 7 Marmion Street with Wanslea Family Services Incorporated, for the purpose of conducting a Day Care Centre service. The lease terms to include:
 - a) A period of five years with a five year option;
 - b) The rent for the lease set at one dollar (\$1) per annum;
 - c) All outgoings will be the responsibility of Wanslea Family Services Incorporated; and
 - d) Termination of the lease if Wanslea Family Services Incorporated loses or does not renew the Department for Community Development license to operate the Plantagenet Day Care Centre.

4. Authority be granted to the Shire President and the Chief Executive Officer to affix the Shire of Plantagenet's Common Seal to the agreements between the Shire of Plantagenet and Wanslea Family Services Incorporated referred to in Parts One and Three above.

CARRIED (9/0)

NO. 153/08

11.4 CORPORATE SERVICES REPORT

Nil

11.5 EXECUTIVE SERVICES REPORT

Nil

12 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING**

Moved Cr K Clements, seconded Cr J Mark

That the new business of an urgent nature namely:

- Forum Attendance – Constitutional Recognition
- be introduced to the meeting.

CARRIED (8/1)

NO. 154/06

13.1 FORUM ATTENDANCE – CONSTITUTIONAL RECOGNITION

File No: GR/97/10
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: John Fathers
Deputy Chief Executive Officer
Proposed Meeting Date: 12 August 2008

Purpose

The purpose of this report is to seek authority for the Shire President to attend the Constitutional Recognition of Local Government Expert's Forum to be held in Canberra from 21 – 22 August 2008.

Background

A national campaign is underway to achieve constitutional recognition for local government at the referendum promised by the Rudd government by the end of the current term of government.

The national campaign organised by the ALGA included a WA Forum as part of Local Government Week on 1 August. This will now be followed by a national Experts Forum in Canberra on 21 – 22 August 2008. WALGA can select up to 10 delegates to represent WA at the Forum, which will be made up of approximately 100 State and Territory Association representatives. The Shire President, Cr Kevin Forbes AM has been selected as one of WALGA's representatives.

Consultation

The Acting Chief Executive Officer was consulted regarding this issue.

Financial Implications

ALGA has provided no external funding for this event, however there are no registration fees applicable. Accommodation will be approximately \$360.00 with air

fares approximately \$865.00. Total expenses would be in the vicinity of \$1,500.00 and will be charged to Councillor Conferences and Training which has sufficient funds available.

Policy Implications

Council Policy CE/CS/1 - Elected Member Expenses to be reimbursed applies.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

The purpose of the Experts Forum is to discuss, debate and review the business papers for the Local Government Constitutional Summit. A special National General Assembly is to be held in Melbourne from December 8th to 11th.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr K Clements, seconded Cr M Skinner

That:

- 1. The Shire President be authorised to attend the Constitutional Recognition of Local Government Expert's Forum to be held in Canberra from 21 – 22 August 2008.**
- 2. All Conference expenses are met in accordance with Council Policy No, CE/CS/1 and charged to Budget Item 20026.29.58 (Councillor Conferences and Training).**

CARRIED (9/0)

NO. 155/08

14 CONFIDENTIAL

15 CLOSURE OF MEETING

4:04 PM The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON _____ **DATE:** ____ / ____ / ____