



# ORDINARY MINUTES

ORDINARY Meeting  
of the Council held:

**DATE:** Tuesday, 11 November 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.*

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## 1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2:47 PM The Presiding Member declared the meeting open.

Cr K Forbes AM welcomed the members of the public and Mrs J Cameron, Freeman of the Shire of Plantagenet.

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 A Budrikis

Cr K Clements

Cr S Grylls

Cr J Mark

Cr B Hollingworth

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 Cobie MacLean	Administration Officer - Planning

There were six (6) member(s) of the public in attendance.

There were nil (0) member(s) of the media in attendance.

#### **4 PUBLIC QUESTION TIME**

Millinup Road, Narrikup – Mrs Yvonne Butcher

Mrs Butcher has concerns that she has been led to believe the Shire of Plantagenet is not able to proceed with the upgrade of Millinup Road.

She would like to see the upgrade proceed and knows that the Shire is also aware of problems.

She is concerned that the Shire may be listening to groups purporting to represent all locals and would like to let the Council know that this is not the case.

Mrs Butcher has a number of questions:

- What are the Shire's plans for Millinup Road, for the future and how it will handle the upgrade?
- Is it possible that the locals who support the upgrade can show their support to the Department of Environment and Conservation (DEC)?
- What concerns locals is 'do our opinions hold any sway with the Shire and DEC'.
- Where do the locals of Millinup Road stand?
- The people who are opposing the upgrade, are they questioning the DEC's qualifications and capabilities?
- What are the processes for making the road upgrade proceed?

Cr K Forbes AM stated that a permit has been issued for the upgrade. One (1) appeal has been submitted which will hold up the process for about three (3) months. The Council has money in its budget for the upgrade and it is our intent to do the work. If the people who live on Millinup Road became more vocal in its support of the upgrade to DEC this would help the Council.

Mr I Bartlett, Manager Works and Services stated that the residents who support the upgrade should write to DEC to give weight to the Council's application.

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

Nil

## 6 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

Cr J Moir disclosed a Financial Interest in Item 11.1.1.

Cr S Grylls disclosed a Financial Interest in Item 11.1.1.

Cr B Hollingworth disclosed a Financial Interest in Item 11.1.1.

Cr J Mark declared a Voluntary Disclosure (friend) Interest in Item 11.1.1.

Cr K Forbes AM declared a Voluntary Disclosure (friend) Interest in Item 11.1.1.

## 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 19 December 2008.

**Moved Cr B Hollingworth, seconded Cr J Mark:**

**That Cr A Budrikis be granted Leave of Absence for 19 December 2008.**

**CARRIED (9/0)**

**NO. 247/08**

### Previously Approved Leave of Absence

Cr B Hollingworth 9 December 2008 to 21 December 2008 (inclusive)

Cr K Forbes AM 1 February 2009 to 25 February 2009 (inclusive)

## 8 CONFIRMATION OF MINUTES

*Moved Cr K Clements, seconded Cr B Hollingworth:*

*THAT the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 28 October 2008 as circulated, be taken as read and adopted as a correct record.*

**CARRIED (9/0)**

**NO. 248/08**

## 9 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 5 November 2008 – Western Australian Meat Industry Authority (WAMIA) Teleconference with Chief Executive Officer, Mr R Stewart and Deputy Chief Executive Officer, Mr J Fathers – regarding implementation of the State Saleyard Strategy. Other parties present being Pastoralists and Graziers (P&G), Western Australian Farmers Federation (WAFF), Livestock Transporters Association and the Shire of Katanning. We have

now signed off on an implementation process, which will involve the State purchasing the Great Southern Regional Saleyard, if endorsed by the State Government.

- 5 November 2008 – Attended a function at Le Grande in Albany to recognise the service of Len Van der Wagg to the Area Consultative Committee over many years. Len is moving to the South Coast Natural Resource Management (NRM).
- 8 November 2008 – Mr Stewart, Alison, Lyn and I attended a National Party dinner at Observation City Hotel, Perth. There were over 20 Local Government representatives in attendance. Much was made of the Resource to Regions funding for rural and remote Western Australia, but no formula or guidelines were delivered. Local Government was given a very high profile by the Nationals Leader (Hon. Brendon Grylls MLA) and he obviously sees us as an important way of changing money into projects.
- 11 November 2008 – Cr J Moir, Lyn and I attended the Remembrance Day service.
- 17 November 2008 – Cr Skinner is to represent the Council at the Bendigo Bank Annual General Meeting as neither Cr Hollingworth or Shire President are available.
- 17 to 19 November 2008 – Attendance at Australian Council of Local Government in Canberra.
- 24 November 2008 – Great Southern Zone of Western Australian Local Government Association (WALGA) annual meeting at Nyabing (Kent Shire).

## **10 ANNOUNCEMENTS BY COUNCILLORS WITHOUT DISCUSSION**

### Cr B Hollingworth

- 3 November 2008 – Attended Regional Road Group meeting in Jerramungup with Mr I Bartlett, Manager Works and Services. We were able to take up unallocated funds for Woogenellup Road to the value of \$70,000.00. We were unable to get the extra funding for the next 3km as we fell below the cut-off line. However if another Shire is unable to complete their work and the funding gets reallocated we will be first in line for that reallocation.
- 5 November 2008 – Attended a function for Mr Len Van der Wagg at Le Grande in Albany.

### Cr S Grylls

- Timber 2020 – gave a small presentation.
- Bush Fire Advisory Meeting.



Cr K Clements

- Local Emergency Management Committee (LEMC) – discussed the problems with volunteers. The Fire Brigade and St Johns Ambulance are now fully staffed. However the State Emergency Services has received no responses.
- Attended the police station with Mr R Stewart, Chief Executive Officer and Mr I Bartlett, Manager Works and Services to view the new CCTV installation and link. It has been used to resolve a number of issues already. The CCTV cameras will be extended from the Bowling Club to the Fire Brigade before Christmas, and eventually up along Langton Road also.

Cr M Skinner

- LEMC.
- Bush Fire Advisory 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

A Financial Interest was disclosed by Crs J Moir, S Grylls and B Hollingworth.

A Voluntary Disclosure (Friend) Interest was declared by Crs K Forbes AM and J Mark.

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

**File No:** RV/182/109355, DA: 43/08

**Attachments:** [Location Plan](#)  
[Special Control Area](#)  
[Original Planting Plan](#)  
[Revised Planting Plan](#)  
[Location of Weather Station](#)  
[Water Corporation Water Testing](#)  
[Proponent's Suggested Conditions](#)

**Responsible Officer:** Rob Stewart  
Chief Executive Officer

**Author:** Peter Duncan  
Manager Development Services

**Proposed Meeting Date:** 11 November 2008

**Applicant** Timbercorp

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#### **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 following a Mediation Hearing held by the State Administrative Tribunal (SAT) on 23 October 2008.

#### **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.

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The Rocky Gully village consists of twenty-one (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 SCA 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 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 was then received on 29 July 2008 which was 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 was the chemical use by plantation companies.

The Council at its meeting held on 12 August 2008 resolved at Resolution No. 145/08 as follows:

*'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.'*

Following that decision of the Council, the proponents were issued with a Decision on Application for Planning Consent on 25 August 2008. That Decision advised of the right to apply for a review of the decision in accordance with Part 14 of the Planning and Development Act 2005.

The proponents through their Solicitors (Williams & Hughes), subsequently lodged an application for a review with SAT in September 2008. The matter was listed for a Directions Hearing on 1 October 2008 which was conducted by way of a Teleconference with a member of SAT, representatives from Timbercorp, Williams & Hughes, the Chief Executive Officer and the Manager Development Services. The member issued orders that the matter be referred to mediation, the Shire President be invited to attend and any additional documentation was to be exchanged by 17 October 2008.

The Manager Development Services provided additional documentation on 8 October 2008. That consisted of an extract from the Council Minutes of 12 August 2008 and extracts of relevant part of the Council's Draft Local Planning Strategy.

The Mediation hearing was held on 23 October 2008 at the Council offices and was attended by a member of SAT, a representative from Timbercorp, a representative from Williams & Hughes, the Shire President, the Chief Executive Officer and the Manager Development Services. Proceedings at a SAT mediation hearing are confidential.

### **Statutory Environment**

Planning and Development Act 2005 – Part 14 – Applications for Review.

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 closing in June 2008. Timbercorp made its presentation to the Rocky Gully community on 24 July 2008.

The mediation hearing was held on 23 October 2008.

### **Financial Implications**

The application for Planning Consent fee of \$147.20 was paid.

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### **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.

Council Policy TP/SDC/7 State Administrative Tribunal – Councillor Attendance at Hearings reads as follows:

**‘OBJECTIVE:**

*To provide guidance as to which Councillors may attend a State Administrative Tribunal (SAT) hearing when invited to do so.*

**POLICY:**

- 1. When the SAT invites or requests the Council to nominate a Councillor to attend a mediation hearing, compulsory conference or final hearing in respect to an application for a review lodged against a Council decision, then that Council representative shall be the Shire President or the Deputy Shire President.*
- 2. As mediation hearings and compulsory conferences of the SAT are confidential and private, any consideration of a matter in respect to these must remain confidential and be considered behind closed doors by the Council where the SAT has asked the Council for further consideration of the matter at hand.’*

### **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 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 seventy-nine (79) lots are zoned Residential.

The initial petition received in June 2008 essentially raised 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 was recommended that prohibited the use of aerial spraying. Another condition recommended was prohibiting insecticide application to the 59ha area within the Special Control Area after the first two (2) years of planting.

The second concern raised in the earlier 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. The maximum distance blue gum root systems spread is 70m.

The application satisfies 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.

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.

In the Review documentation provided by the Appellant, an email from the Water Corporation's Manager Service Delivery advised:

- '- There is no adverse impact on the catchment area in terms of its capacity to collect water for the Town water supply.
- We consider that there would be no impact on the integrity of the assets in the scheme given that the fringe of the plantation is approximate 600m from the dam structure.
- We would be concerned if it was proposed to conduct any aerial spraying of the plantation as this could potentially contaminate the water supply, given its relatively close proximity to the surface catchment and dam. It is suggested that a notice be placed on the land title to the effect that no aerial spraying is permitted on the land due to a potential adverse impact on drinking water quality.'

Since the Mediation Hearing held on 23 October 2008 the Appellant has now submitted additional information consisting of:

- a revised planting plan received on 30 October 2008 showing compartment boundaries being adjusted to match the SCA boundary and including an additional buffer to the south of the SCA boundary (copy attached);
- a plan showing the location of the official weather station to the south of the subject land (copy attached);
- confirmation from the Water Corporation that it regularly monitors the town dam water supply (copy attached);
- details of the chemicals used in the plantation operation consisting of Glyphosate, Urea, Haloxyfop 520, Simazine 900DF, Alpha Cypermethrin, Amitrol 240. All of these are typically used in conventional agricultural activities;
- suggested conditions (copy attached); and
- a report on the use of chemical pesticides in plantations of September 2006.

The SAT member at the conclusion of the Mediation Hearing advised that Mediation had been abandoned and issued the following orders:

1. By 31 October 2008, the applicant must file with the Tribunal and provide to the respondent any amendments to the application it would want approved and any submissions in support of the application, together with supporting evidence.
2. By 17 November 2008 the respondent must file with the Tribunal and provide to the applicant its submissions and any supporting evidence in response to the applicant's submissions.

3. By 17 November 2008, the respondent must file with the Tribunal and give to the applicant, without prejudice to its final position in the proceedings, a set of all of the conditions which it contends should be imposed if the Tribunal considers that approval of the application subject to conditions is appropriate (draft conditions).
4. By 24 November 2008, the applicant is to file with the Tribunal and provide to the respondent any comments in reply to the respondent's response submissions.
5. By 24 November 2008 the applicant must file with the Tribunal and give to the respondent a document which:
  - (a) identifies any of the draft conditions which it objects to;
  - (b) gives brief reasons for each objection; and
  - (c) sets out any alternative or additional conditions it will contend should be imposed if the Tribunal considers that approval of the application subject to conditions is appropriate.
6. Subject to any further order the matter is to be determined entirely on the documents pursuant to s 60(2) of the *State Administrative Tribunal Act 2004* (WA).
7. The parties have liberty to apply to vary these orders depending upon the outcome of the respondent's consideration of its response to the applicant's submissions at its meeting of 11 November 2008.'

The Council is required by the SAT to respond to that additional information by 17 November 2008.

It is considered with the additional information now provided, all of the points listed under Clause 3.8 of TPS3 have been adequately satisfied and the application could be approved with revised conditions.

### **Voting Requirements**

Simple Majority

### **OFFICER RECOMMENDATION / COUNCIL DECISION**

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

**That:**

1. **The proposal for a Timber Plantation on Lot 2078 Mill Road, Rocky Gully be approved subject to:**
  - a) **Development being in accordance with the revised planting plan received on 30 October 2008;**
  - b) **The establishment of the buffer zone in the position marked orange on the revised planting plan;**
  - c) **There will be no use of aerial spraying in the Special Control Area;**
  - d) **All spraying for pests and weeds is to be ground based;**

- e) There will be no application of insecticides at any time when the prevailing wind at that time is from the west or south or any compass point between those limits;
  - f) Compliance with the Shire of Plantagenet Annual Firebreak Notice and compliance with the Guidelines for Plantation Fire Protection;
  - g) Compliance with the submitted Management Plan; and
  - h) The submission of a harvesting plan two (2) years prior to harvest.
2. No objection is raised to the State Administrative Tribunal Mediator determining the matter.

**EQUALITY (3/3)**

**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 (4/3)**

**NO. 249/08**

3.17 pm Crs Moir, Grylls and Hollingworth returned to the meeting.



**11.1.2 TOWN PLANNING SCHEME NO. 3 - AMENDMENT NO. 48 - LOTS 11 AND 12 WARBURTON ROAD, MOUNT BARKER - SUBMISSIONS RECEIVED**

<b>File No:</b>	<b>LP/181/48</b>
<b>Attachments:</b>	<a href="#"><u>Location Plan</u></a> <a href="#"><u>Existing Subdivision Guide Plan</u></a> <a href="#"><u>Proposed Subdivision Guide Plan</u></a> <a href="#"><u>Summary of Submissions</u></a> <a href="#"><u>Schedule of Modifications</u></a> <a href="#"><u>Enlargement of Subdivision Guide Plan</u></a> <a href="#"><u>Showing Changes</u></a>
<b>Responsible Officer:</b>	<b>Rob Stewart</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Peter Duncan</b> <b>Manager Development Services</b>
<b>Proposed Meeting Date:</b>	<b>11 November 2008</b>
<b>Applicant</b>	<b>Dykstra Planning</b>

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**Purpose**

The purpose of this report is to consider submissions received on the proposed Amendment to Shire of Plantagenet Town Planning scheme No. 3 to alter the subdivision guide plan and relevant provisions of this existing Rural Residential zone.

**Background**

Shire records indicate the owners of the subject land are:

Lot 11 – Alfred John McLaren.

Lot 12 – Island Views Pty Ltd.

Amendment No. 20 to the Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) rezoned the subject land from Rural to Rural Residential. That Amendment was finalised on 16 June 1998.

The land was originally described as Location 4777. Following the rezoning, Lot 4777 was subdivided into the current Lots 11 and 12.

A Scheme Amendment Request (SAR) was not considered necessary in advance of this formal Scheme Amendment as in this instance the land is already zoned Rural Residential. The current proposal involves intensifying the level of subdivision by increasing the lot yield from fifteen (15) lots to thirty-five (35) lots ranging in size from 1ha to 7.8ha.

The land to the west consisting of Lot 752 and 2 Warburton Road is presently the subject of Amendment No. 46 to TPS3 to rezone that land from Rural to Rural Residential. That Amendment was advertised for comment closing on 4 September 2008 and the Council considered submissions at its meeting held on 14 October 2008. The consultants who have prepared this subject Amendment No. 48 have been liaising with the consultants who prepared the earlier Amendment No. 46.

All Councillors were provided with a full copy of the Amendment document with the 13 May 2008 agenda papers.

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The Council at its meeting held on 13 May 2008 resolved at Resolution 69/08:

*'That:*

1. *Amendment No. 48 to Town Planning Scheme No. 3 be initiated subject to the document being modified in the text to:*
  - a. *delete special provision 8.1 and introduce a revised 8.1 to require reticulated scheme water to all lots; and*
  - b. *delete special provisions 9.2 and 9.3 and replace with revised provisions that require the use of Aerobic Treatment Unit systems on all lots and to not allow the use of conventional on-site effluent disposal systems.*
  - c. *confirm the location of the Water Corporation pipeline from Bolganup Dam and adjust the document accordingly with easements being noted.*
2. *Once modified the Amendment be referred to the Environmental Protection Authority in accordance with legislative requirements.*
3. *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.*
4. *After advertising, a further report be prepared for the Council to be presented no later than its meeting to be held on 9 September 2008.'*

The consultants modified the documents as requested and a copy was referred to the Environmental Protection Authority (EPA). The EPA authorised the Amendment to proceed to advertising on 28 July 2008. The necessary forty-two (42) day advertising period closed on 7 October 2008 and a total of twenty (20) 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 Environmental Protection Authority (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 Residential.

### **Consultation**

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 twenty (20) 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 Results 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 proposes to introduce a new Subdivision Guide Plan over the subject Lots 11 and 12 and also to alter relevant land use controls within this zone. The land use controls propose to remove the ability to establish horticultural ventures due to the reduced lot sizes now proposed and potential land use conflict which could occur.

With the intensification of lot sizes, it is proposed to now provide reticulated scheme water to all lots. The intensification of lot sizes is proposed due to the close proximity of the land to Mount Barker and to be consistent with the proposals for the adjoining Lots 752 and 2 the subject of Amendment No. 46.

The Amendment documentation includes land capability work together with a Fire Management Plan. The proposed Subdivision Guide Plan showing the reconfigured layout includes new subdivisional roads with connections through to adjoining lots to the west which will help with long term connectivity for access and fire safety.

It is proposed to use on-site effluent disposal on all lots due to the land capability and the distance to the existing sewer network. The Amendment will require the use of Aerobic Treatment Unit (ATU) systems on all lots in an attempt to achieve a better long term environmental outcome.

As a result of the advertising and the twenty (20) submissions received some modifications to the proposed Amendment are warranted. The modifications proposed are listed in the Schedule of Modifications attached.

### **Voting Requirements**

Simple Majority

### **OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr J Mark, seconded Cr D Nye-Chart:**

**That:**

- 1. The submissions lodged on Amendment No. 48 to Town Planning Scheme No. 3 be noted.**

2. **Amendment No. 48 to Town Planning Scheme No. 3 be adopted with the modifications listed in the attached Schedule of Modifications and be forwarded to the Western Australian Planning Commission for the final approval of the Honourable Minister for Planning.**
3. **Authority be granted to the Shire President and the Chief Executive Officer to affix the Common Seal of the Council to Amendment No. 48 once approved by the Honourable Minister.**

**CARRIED (8/1)**

**NO. 250/08**

**11.1.3 LOTS 105, 500 AND 1330 MITCHELL STREET, Warburton Road and Marmion Street, Mount Barker - Scheme Amendment Request**

<b>File No:</b>	<b>LP/181/23</b>
<b>Attachments:</b>	<a href="#"><u>Scheme Amendment Request</u></a>
<b>Responsible Officer:</b>	<b>Rob Stewart</b> Chief Executive Officer
<b>Author:</b>	<b>Peter Duncan</b> Manager Development Services
<b>Proposed Meeting Date:</b>	<b>11 November 2008</b>
<b>Applicant</b>	<b>Ayton Taylor Burrell</b>

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**Purpose**

The purpose of this report is to consider a Scheme Amendment Request (SAR) to rezone Lots 105, 500 and 1330 Mitchell Street, Warburton Road and Marmion Street, Mount Barker from Rural to Rural Residential.

**Background**

The Shire records show the owners of the subject land are:

Lot 105 – H Griffiths and L Welsh

Lot 500 – L Welsh

Lot 1330 – P Wallinger

Lot 1067 – D and P Pomery

Lot 502 – M and J Garland

Lot 503 – Great West Corporation Pty Ltd

The Mount Barker Local Rural Strategy of August 1997 refers to these lots as included in Precinct 4.

The SAR was submitted in September 2008 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 by 6 October 2008.

The DPI in a letter dated 9 October 2008 offered the following comments:

*'This Office has subsequently reviewed the submission and recommends that Council in its consideration of the matter should take the following comments into account:*

- The Shire of Plantagenet's Mt Barker Local Rural Strategy – August 1997 strategically designates the area (i.e. Precinct 4) as suitable for additional rural residential development, subject to further investigations*
  - WAPC's Statement (sic) of Planning Policy No. 11 Agricultural and Rural Land Use Planning outlines that lot sizes in the Rural Residential Zone should range from 1 ha to 4 ha in area depending on local conditions, and be provided with a reticulated potable water supply. The proposal does not reflect these*
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requirements. The lot sizes within the indicated range should be determined by a detailed site assessment.

- The Mt Baker (sic) Local Rural Strategy outlines that any proposal must be integrated with the Pwakenback (sic) Catchment Management Plan. Additional revegetation of the visual exposed upper slopes in the eastern portion of the subject land is recommended. The proposal does not reflect these requirements.
- A flood analysis study of Pwackenbak Creek should be undertaken to inform the proposal's subdivisional design. In particular, such information should be a major determinant in setting the separation distances of effluent disposal systems, roads and building envelopes from the creek.
- Attention should be given to promoting better public access through the subject site utilising the creek corridor, as well as road connectivity through the upgrading of Marion Street along the subjects land's frontage to its intersection with Mt Barker Road.
- To ensure the continued separation of the existing vineyards and grazing on Lots 502 and 503, as part of the rezoning process and the preparation of the subdivision guide plan with special further investigations will need to be undertaken to demonstrate whether a buffer of 100 metres from future house sites is suitable so as to ensure there are no land use conflicts. Such investigations should focus on farm management practices, vegetative cover, local topographical and climatic conditions, drainage flows, and soil types. Alternatively, to avoid potential impacts Council should consider whether all of the land holdings within Precinct 4, apart from the cemetery, be concurrently zoned Rural Residential rather than in the proposed fashion.

Please note these comments are preliminary advice by this Office for consideration of Council. Individual officers should not be identified in any Council report or communication.'

The DoW in a letter 26 September 2008 offered the following comments:

#### **'Waterway Protection**

The proposal identified that the Pwackenback (sic) Creek crosses the lots and that the creek area has a low capability for development and should be included in a development exclusion or creekline protection area, and proposes that the creekline protection area may be contained within future lots. The DoW supports this and recommends the following condition:

- The Pwackenback (sic) creek be contained within a fenced Creek line protection area and a foreshore management plan prepared at the subdivision stage detailing management requirements including revegetation and weed management.

In addition, the DoW notes and supports the use of the proposed road to delineate the creek foreshore, however the proponent needs to ensure the road alignment is adequately set back from the creek floodplain to protect the waterway and also the road infrastructure from potential flooding.

The DoW would also recommend that any further development of the Lot 502 to the west considers maintaining the road alignment to follow the creek for its length back to Marmion St, to maintain a well delineated boundary with the waterway and facilitate public access along this corridor.

### **Stormwater Management**

Section 5.5 of the proposal indicates the requirement for stormwater management to be considered on the subdivision guide plan, and the DoW notes that indicative locations of stormwater basins have been provided on the preliminary concept plan. The DoW would require the following condition:

- *Development and Implementation of a Stormwater management (sic) Plan, following the principles outlined in the DoW 'Stormwater management (sic) Manual for WA'*

The DEC in a letter dated 10 October 2008 offered the following comments:

*'Based on the information provided, the Albany Office of the Department of Environment and Conservation has no general comments to offer. However, as recently indicated in the colour attachment to our comments regarding Town Planning Scheme No. 3 Amendment No. 46, Pwackenback (sic) Creek provides a potential local corridor linkage for Quenda within public reserves immediately to the east. We therefore endorse the need for the creek to be re-vegetated and fenced as proposed in section 5.0 on page 4 and section 5.2 on page 6 of the scheme amendment request document.*

*Furthermore, additional protection of Mount Barker's Quenda population should be encouraged by:*

- *Leaving the creek line vegetation fully intact with any proposed protective fire buffers and adjacent fences being located outside existing native vegetation or the areas to be re-vegetated.*
- *In view of the Quenda population there should be restrictions imposed on the keeping of cats. There should be a requirement that all first and subsequent purchasers within the proposal are provided with an information sheet explaining the reasons for this and also discouraging the keeping of dogs.*
- *There should be a Transfer of Land Act Section 70A Notification on all titles to alert first and subsequent purchasers of those lots adjoining or directly opposite the creek line that native vegetation along the creek line and inside any proposed strategic firebreaks is to be maintained and protected for its conservation values and with no damage to, or clearing of, the native vegetation. There should also be restrictions on the exercising or unleashed entry of dogs into the creek line vegetation.'*

### **Statutory Environment**

Planning and Development Act 2005.

Town Planning Regulations 1967 – set the procedure for Amending a Town Planning Scheme.

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Lots 500 and the northern portion of 105 are zoned Rural Residential with a different lot pattern to that now proposed. The other lots are zoned Rural.

### **Consultation**

The SAR has been referred to the three government agencies in accordance with the Council's SAR Policy to obtain early feedback.

**Financial Implications**

The fee of \$550.00 has been paid.

**Policy Implications**

Council Policy No. TP/SDC/6 – Scheme Amendment Requests applies.

**Strategic Implications**

Mount Barker Local Rural Strategy – 1997 – discussed in SAR.

**Officer Comment**

From the comments offered by the government agencies any subsequent formal Scheme Amendment document will need to address the following matters as well as those proposed in the SAR:

- justification of lot sizes below 1 ha. These lots are a more efficient use of land but the Western Australian Planning Commission (WAPC) policy states a 1 ha to 4 ha lot size range, therefore justification is required.
- integrate the design with the Pwakenbak Catchment Management Plan.
- prepare a flood analysis over the creekline to determine 1:100 year flood levels and adjust design if necessary.
- use creek corridor as well as road for better public access. It is noted that the DoW in its comment has requested the creek area be fenced which will be in conflict with the DPI suggestion.
- justify the proposed 100m buffer to the vineyards to ensure land use conflict is avoided.
- ensure linkages for the Quenda are provided in the Creek Management plan.
- consider restrictions on cats and dogs in the special provisions in view of the Quenda population.

If the SAR is advertised there may be additional matters needing to be addressed in a formal Scheme Amendment.

In accordance with Council Policy No. TP/SDC/6, the Council can decide to seek community feedback on the SAR. In this case it is considered worthwhile to advertise the proposal to gain input before the Council makes a decision on whether the proposal proceeds to the detailed Scheme Amendment stage or not.

A sixty (60) day advertising period is generally applied. Notification will involve letters to property owners, a sign erected in a prominent location and notices in the press and on the Council's notice board.

**Voting Requirements**

Simple Majority



**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr K Clements, seconded Cr D Nye-Chart:**

**That:**

- 1. The Scheme Amendment Request for Lots 105, 500 and 1330 Mitchell Street, Warburton Road and Marmion Street, Mount Barker be advertised to seek public feedback for a period of sixty (60) 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 10 February 2009.**

**CARRIED (9/0)**

**NO. 251/08**

**11.1.4 LOT 67 BRAIDWOOD ROAD, MOUNT BARKER - PROPOSED DAM**

**File No:** RV/182/400895  
**Attachments:** [Location Plan](#)  
[Site Plan](#)  
**Responsible Officer:** Rob Stewart  
Chief Executive Officer  
**Author:** Peter Duncan  
Manager Development Services  
**Proposed Meeting Date:** 11 November 2008  
**Applicant:** A and S Spicer

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**Purpose**

The purpose of this report is to consider a proposal to construct a dam at Lot 67 Braidwood Road, Mount Barker.

**Background**

The Council records show the owners are A and S Spicer.

This subject lot 67 forms part of a Rural Residential zone created in 2005 when Amendment No. 34 to Town Planning Scheme No. 3 was finalised.

**Statutory Environment**

Planning and Development Act 2005

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

– Special Provision 6.2 reads: ‘All Dams require the approval of Council prior to construction.’

**Consultation**

There has been no consultation for this report.

**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 proposed dam is to be located 60m from the front boundary and 15m from the southern side boundary. Boundary setbacks in this particular zone are 15m from the front and 5m from the side boundaries.

The lot is 2.019 ha in area and this dam will only occupy a small area of the lot.

**Voting Requirements**

Simple Majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

Moved Cr D Nye-Chart, seconded Cr K Clements:

That the proposed dam at Lot 67 Braidwood Road, Mount Barker be approved subject to:

1. Development being in accordance with the plan dated 25 September 2008.
2. Discharge of overflow from the dam is to be in a manner not likely to cause erosion of land or the silting of the roadside drainage system.

CARRIED (9/0)

NO. 252/08

**11.1.5 LOT 131 ORMOND ROAD, MOUNT BARKER - GARAGE WITH REDUCED SIDE BOUNDARY SETBACK**

**File No:** RV/182/2272

**Attachments:** [Location Plan](#)  
[Aerial Photo](#)  
[Site Plan](#)  
[Elevations](#)  
[Letter from Applicant](#)

**Responsible Officer:** Rob Stewart  
Chief Executive Officer

**Author:** Peter Duncan  
Manager Development Services

**Proposed Meeting Date:** 11 November 2008

**Applicant** G & S Corke

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**Purpose**

The purpose of this report is to consider a proposal for a garage on Lot 131 Ormond Road, with a reduced side boundary setback of 2.0m rather than the 15.0m required.

**Background**

Shire records show the owners to be G & S Corke.

This subject Lot 131 Ormond Road is located within a Rural Residential zone created in 1996 through Amendment No. 8 to Town Planning Scheme No. 3 (TPS3).

**Statutory Environment**

Planning and Development Act 2005

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

– Special Provision 5.3 reads as follows:

‘5.3 Houses and outbuildings shall be set back a minimum of 15 metres from any boundary of a lot unless otherwise approved by Council. In approving any setback relaxation, Council shall take into account the topography, lot shape and vegetation on the site.’

**Consultation**

The proposed garage location has been discussed with the applicant.

**Financial Implications**

There are no financial implications for this report.

**Policy Implications**

Town Planning Scheme Policy No. 16 (Outbuildings) limits outbuildings to a maximum wall height of 3.5m and a maximum cumulative floor area of 150m<sup>2</sup> for Rural Residential zones. The wall height in this instance is to be 3.0m. The

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cumulative floor area of all outbuildings on site including the new garage (54m<sup>2</sup>) will total 323m<sup>2</sup>. The larger shed to the east of the house is already 216m<sup>2</sup> in area. Given the large size of the lot (over 2ha), the total area of outbuildings is considered acceptable in this instance.

The Council must have regard to a Town Planning Scheme Policy but is not bound to adhere to limits such as the 150m<sup>2</sup> area where a variation is considered reasonable.

### **Strategic Implications**

There are no strategic implications for this report.

### **Officer Comment**

The proponent has submitted a letter explaining why he prefers a 2.0m side boundary setback for the garage (copy attached). The external walls of the garage are to be green in colour. The garage location is well screened by vegetation to the house on the western end of Lot 266 to the west. No difficulties are seen with the area of the garage being 54m<sup>2</sup> given the size of the lot being in excess of 2ha.

### **Voting Requirements**

Simple Majority

### **OFFICER RECOMMENDATION / COUNCIL DECISION**

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

**That the proposed garage for Lot 131 Ormond Road, Mount Barker be approved with a reduced side boundary setback of 2.0m subject to development being in accordance with the plans dated 15 and 20 October 2008.**

**CARRIED (9/0)**

**NO. 253/08**

**11.1.6 LOT 554 ALBANY HIGHWAY, KENDENUP - RELOCATED DWELLING**

<b>File No:</b>	<b>RV/182/3019</b>
<b>Attachments:</b>	<a href="#">Location Plan</a> <a href="#">Site Plan</a> <a href="#">Photographs</a>
<b>Responsible Officer:</b>	<b>Rob Stewart</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Peter Duncan</b> <b>Manager Development Services</b>
<b>Proposed Meeting Date:</b>	<b>11 November 2008</b>
<b>Applicant</b>	<b>J Duggan</b>

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**Purpose**

The purpose of this report is to consider an application for a relocated dwelling at Lot 554 Albany Highway, Kendenup.

**Background**

This lot is currently vacant and Shire records show the owner to be J Duggan. The house is located at Kensington in Perth.

**Statutory Environment**

Planning and Development Act 2005.  
Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Rural.

**Consultation**

Public consultation has not been carried out for this proposal as it is not a mandatory requirement of TPS3.

**Financial Implications**

The fee of \$276.00 has been paid. A \$5,000.00 bond will be required as a condition of approval.

**Policy Implications**

Council Policy No. TP/SDC/5 – Housing – Relocation Second Hand Houses – requires various conditions to be satisfied including a \$5,000.00 bond, engineer's certification and removal of asbestos cladding if being brought into the Shire. The bond is required to ensure the house is completed to an acceptable standard. The bond is refundable upon completion of the house.

**Strategic Implications**

There are no strategic implications for this report.

**Officer Comment**

The subject lot is zoned Rural and is on the west side of Albany Highway south of Sturdee Road.

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The applicant has obtained a report from a structural engineer which shows the building is structurally sound to relocate. The external wall sheeting included asbestos and this has been removed from the house. The roof is corrugated zincalume.

### **Voting Requirements**

Simple Majority

### **OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr S Grylls, seconded Cr D Nye-Chart:**

**That Planning Consent be granted for a relocated dwelling at Lot 554 Albany Highway, Kendenup subject to:**

- 1. Development being in accordance with plans dated 24 October 2008.**
- 2. Payment of a refundable bond of \$5,000.00 prior to the issue of a building licence.**

### **Advice Notes:**

- i) This Planning Consent is not an authorisation to commence construction. A building licence must be obtained from the Council's Building Surveyor prior to commencing work.**
- ii) The \$5,000.00 bond will only be refunded when the dwelling is completed to an acceptable standard both structurally and aesthetically.**

**CARRIED (9/0)**

**NO. 254/08**

**11.1.7 POLICY REVIEW - TP/SDC/6 - SCHEME AMENDMENT REQUESTS**

**File No:** LP/120/7  
**Responsible Officer:** Rob Stewart  
 Chief Executive Officer  
**Author:** Peter Duncan  
 Manager Development Services  
**Proposed Meeting Date:** 11 November 2008

**Purpose**

The purpose of this report is to review Council Policy No TP/SDC/6 – Scheme Amendment Requests.

**Background**

At its meeting held on 10 October 2006 the Council resolved at Resolution 321/06:

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

<u>SCHEME AMENDMENT REQUESTS</u>		
<i>DIVISION</i>	<i>BUSINESS UNIT</i>	<i>RESPONSIBILITY AREA</i>
<i>Tech &amp; Dev Services</i>	<i>Town Planning</i>	<i>Statutory: Development Control</i>
<i>REVIEW DATE</i>	<i>LAST REVIEWED</i>	

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

**(1) Initial Enquiry**

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

**(2) Scheme Amendment Request (SAR)**

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

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

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



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

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

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

(4) *SAR Submitted to the Council*

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

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

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

(9) *Community Feedback*

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

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

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

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

- policy issues to be addressed in the amending report;*
- environmental issues;*
- servicing issues (eg: full testing of groundwater tables prior to document lodgement) and the provision of a fire management plan;*
- design requirements on subsequent development;*
- developer commitments required by the Council from Scheme Amendment process;*

- *mechanisms for cost sharing of common cost items such as public open space, drainage, roads, footpaths, etc; and*
- *any other matters considered relevant to the Council.*

(11) Scheme Amending Documents

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

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

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

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

### **Statutory Environment**

Planning and Development Act 2005

Town Planning Regulations

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

### **Financial Implications**

The Council's Schedule of Fees and Charges includes a fee of \$550.00 for the lodgement of such a Scheme Amendment Request to cover the cost of assessing such a proposal and reporting to the Council.

### **Policy Implications**

The policy forms part of the Council's Policy Manual.

### **Strategic Implications**

This policy on Scheme Amendment Requests means a more efficient method of processing preliminary planning proposals involving zoning changes.

### **Officer Comment**

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

Since original adoption of the policy in October 2006 a total of five (5) SAR's have been prepared by consultants on behalf of developers / landowners.

Some minor changes are proposed to the policy as follows:

1. The inclusion of an Objective to be consistent with other Council policies.
2. The introduction of numbers for the separate parts under section 4.

3. The inclusion of a second sentence at paragraph one of part (5) as follows  
*'The feedback period shall be for forty-two (42) days.'*

The reason for 3 above is to clarify the time for advertising as it can range from twenty-one (21) days to sixty (60) days. The forty-two (42) day period has been selected as that matches the standard time period for a formal Town Planning Scheme Amendment.

### **Voting Requirements**

Simple Majority

### **OFFICER RECOMMENDATION / COUNCIL DECISION**

Moved Cr J Mark, seconded Cr K Clements:

That amended Council Policy No. TP/SDC/6 – Scheme Amendment Requests:

#### **SCHEME AMENDMENT REQUESTS**

<b>DIVISION</b>	<b>BUSINESS UNIT</b>	<b>RESPONSIBILITY AREA</b>
Development Services	Town Planning	Statutory: Development Control

#### **OBJECTIVE:**

To allow proponents to gain an indication of support or otherwise from the Council prior to preparing formal and detailed Town Planning Scheme Amendment documents.

#### **POLICY:**

This process is used to determine if there are any specific issues that will need addressing in the formal Amendment documentation and whether the Council will entertain such a proposal.

#### **1. Initial Enquiry**

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

#### **2. Scheme Amendment Request (SAR)**

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

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

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

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

3. Referral of SAR to DPI, DEC and DoW

Once received, the SAR will be referred to the Department for Planning and Infrastructure (DPI), the Department of Environment and Conservation (DEC) and the Department of Water (DoW) for comments. The Departments will provide their responses on the SAR within twenty-eight (28) days.

4. SAR Submitted to the Council

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

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

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

5. Community Feedback

A decision of the Council under 4a) above to seek community feedback on the SAR shall be in the form of a letter to adjoining landowners, and relevant agencies, a sign on site, plus an advertisement in the local press, asking for feedback on the SAR. The feedback period shall be forty-two (42) days.

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

6. Response to Applicant if SAR Agreed to by the Council

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

- a) policy issues to be addressed in the amending report;

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

7. **Scheme Amending Documents**

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

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

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

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

be endorsed.

CARRIED 9/0  
NO. (255/08)

**11.2 WORKS AND SERVICES REPORTS**

Nil.

**11.3 COMMUNITY SERVICES REPORTS**

Nil.

**11.4 CORPORATE SERVICES REPORTS****11.4.1 ROAD NAMING - WALLINGER ROAD**

**File No:** RO/107/1  
**Responsible Officer:** John Fathers  
Deputy Chief Executive Officer  
**Author:** Donna Stevens  
Senior Administration Human Resource Officer  
**Proposed Meeting Date:** 11 November 2008

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**Purpose**

The purpose of this report is to consider the submission received during the advertising period for the proposed naming of Wallinger Road.

**Background**

At its meeting held on 24 September 2008, the Council resolved:

*'That:*

- 1. The proposal to apply the name Wallinger Road to the unnamed road reserve located east off Lake Barnes Road as shown in the attached plan be advertised for public comment.*
- 2. Subject to no objections being received during the advertising period the road naming proposal for Wallinger Road be forwarded to the Geographic Names Committee for endorsement.'*

At that meeting it was noted that *'The name Wallinger is a pioneering family in the Narrikup Area. Also mentioned in "Rich and Beautiful" by Rhoda Glover.'*

During the advertising period one submission was received from Mr R and Mrs A Carter. Mr and Mrs Carter proposed that either of the following names be considered for the road name:

- Morton Road; or
- Bayliss Road.

According to their submission both the Morton and Bayliss families were *'...long term residents in the Narrikup district...were involved in the community...and lived along Lake Barnes Road.'*

The unnamed road reserve *'...runs along side the property which was previously owned by Don Morton...who was a leading horse trainer in Albany and Mount Barker.'*

---

*'The Bayliss family owned and/or farmed in the early days immediately adjoining and/or adjacent to this road'.*

No other submissions were received.

### **Statutory Environment**

The Land Administration Act 1997 governs the road naming process.

### **Consultation**

The naming proposal was advertised for a two week public consultation period.

### **Financial Implications**

All costs associated with advertising and signage will be the responsibility of the Shire. It is estimated that this will cost approximately \$500.00.

### **Policy Implications**

Council Policy I/RR/1 – Future Street and Reserve Names provides a list of Council approved names.

### **Strategic Implications**

There are no strategic implications for this report.

### **Officer Comment**

None of the suggested road names currently exist within the Shire and could be considered. Based on the information received, the name 'Wallinger' seems to have the better historical application, having been mentioned in the 'Plantagenet - Rich and Beautiful' by Rhoda Glover, whereas Morton and Bayliss cannot be located in the Narrikup Chapter.

It is suggested that the name 'Wallinger' be used on this occasion, with the names put forward by Mr and Mrs Carter being listed in the road names register for future consideration.

### **Voting Requirements**

Simple Majority

### **OFFICER RECOMMENDATION**

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

**That:**

- 1. The proposal to name the unnamed road reserve located east of Lake Barnes Road, 'Wallinger Road' be forwarded to the Geographic Names Committee for endorsement.**
- 2. The names 'Morton' and 'Bayliss' be listed in the road names register for future use in the Narrikup area.**

**AMENDMENT**

**Moved Cr D Nye-Chart, seconded Cr B Hollingworth:**

**That Part 2 be deleted and the motion be re-cast accordingly.**

**CARRIED (9/0)**

**NO. 256/08**

**COUNCIL DECISION**

**That the proposal to name the unnamed road reserve located east of Lake Barnes Road, 'Wallinger Road' be forwarded to the Geographic Names Committee for endorsement.**

**CARRIED (9/0)**

**NO. 257/08**



**11.4.2 ROAD NAMING – HOTCHIN ROAD**

<b>File No:</b>	<b>LP/158/63 &amp; RO/107/1</b>
<b>Attachments:</b>	<a href="#"><u>Subdivision Map - Hotchin Road location</u></a>
<b>Responsible Officer:</b>	<b>John Fathers</b> <b>Deputy Chief Executive Officer</b>
<b>Author:</b>	<b>Donna Stevens</b> <b>Senior Administration Human Resource Officer</b>
<b>Proposed Meeting Date:</b>	<b>11 November 2008</b>

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**Purpose**

The purpose of this report is to consider the proposal to name the new subdivisional road within the St Werburghs Road WAPC 132326 subdivision.

**Background**

A request has been received from Harley Survey Group to apply the name Hotchin within the WAPC 132326 Subdivision of St Werburghs Road. A map showing the location of this proposed road is attached.

The name Hotchin has been selected from the Council's Future Street and Reserve Names Register.

Len Hotchin of Perillup owned a small local store and post office during the early days of war service land settlement. With the introduction of the telephone line, Mr Hotchin and his wife provided near 24 hour service from their store for the western part of the Shire for many years until the line was extended.

**Statutory Environment**

The Land Administration Act 1997 governs the road naming process.

**Consultation**

Consultation has occurred with the Harley Survey Group's Operations Co-ordinator, Simona Damm.

**Financial Implications**

This report recommends that the subdivision developers meet the cost of all signage.

**Policy Implications**

The road name proposed in this report has been selected in accordance with Council Policy I/RR/1 – Future Street and Reserve Names.

**Strategic Implications**

There are no strategic implications for this report.

**Voting Requirements**

Simple Majority

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**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr B Hollingworth, seconded Cr D Nye-Chart:**

**That:**

- 1. The proposal to apply the name 'Hotchin Road' to the new road within the WAPC 132326 St Werburghs Road Subdivision, as shown on the attached map be advertised for public comment.**
- 2. The cost of all signage be paid by the developers of WAPC 132326 St Werburghs Road Subdivision.**
- 3. Subject to no objections being received, the proposal be forwarded to the Geographic Names Committee for endorsement.**

**CARRIED (9/0)**

**NO. 258/08**

**11.4.3 ROAD RENAMING - HOCKLEY STREET**

<b>File No:</b>	<b>RO/107/1</b>
<b>Attachments:</b>	<a href="#"><u>Map showing Hockley Street and Hockley View Future Street and Reserve Name List</u></a>
<b>Responsible Officer:</b>	<b>John Fathers Deputy Chief Executive Officer</b>
<b>Author:</b>	<b>Donna Stevens Senior Administration Human Resource Officer</b>
<b>Proposed Meeting Date:</b>	<b>11 November 2008</b>

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**Purpose**

The purpose of this report is to rename Hockley Street, Mount Barker.

**Background**

At its meeting held on 12 February 2008, the Council resolved to apply the names Adams Drive and Hockley View within the subdivision of Lot 155 Mount Barker Road.

This approval was endorsed by the Geographic Names Committee on 7 April 2008.

Unfortunately, it was not known that there was an existing Hockley Street and we are now in the situation where two Hockleys (Hockley Street and Hockley View) are in existence. This will now need to be rectified. It is suggested that the original Hockley Street be changed to avoid this duplication.

**Statutory Environment**

The Land Administration Act 1997 governs the road naming process.

**Consultation**

Consultation has occurred with the Shire's Manager of Development Services, Peter Duncan.

**Financial Implications**

All costs associated with advertising and signage will be the responsibility of the Council.

**Policy Implications**

This report considers names from Council Policy I/RR/1 – Future Street and Reserve Names.

**Strategic Implications**

There are no strategic implications for this report.

**Officer Comment**

Given the close proximity of the two roads, this report recommends that the name of Hockley Street be changed to eliminate any confusion that may arise from having duplicated road names.

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There are no rateable properties located on the unconstructed Hockley Street so there would be no impact on land owners.

The name Burnell Street was selected alphabetically from the Council's Future Street and Reserve Names Policy, as the first name that did not apply to a specific area eg. Baesjou (locality of Woogenellup) and Beech (locality of Narrikup).

Norman Burnell was a Councillor between 1968 and 1971. The Norm Burnell Scholarship at the Mount Barker Community College was named after Cr Burnell.

A copy of the Future Street and Reserve Names Policy is attached should the Council wish to select an alternative name.

### **Voting Requirements**

Simple Majority

### **OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr J Mark, seconded Cr D Nye-Chart:**

**That:**

- 1. The proposal to rename Hockley Street to 'Burnell Street' be advertised for public comment.**
- 2. Subject to no objections being received during the advertising period, the renaming proposal be forwarded to the Geographic Names Committee for endorsement.**

**CARRIED (9/0)**

**NO. 259/08**

## 11.5 EXECUTIVE SERVICES REPORTS

### 11.5.1 ALBANY REGIONAL HOSPITAL - CITY OF ALBANY

**File No:** GR/97/32  
**Responsible Officer:** Rob Stewart  
Chief Executive Officer  
**Author:** Rob Stewart  
Chief Executive Officer  
**Proposed Meeting Date:** 11 November 2008

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#### **Purpose**

The purpose of this report is to advise that the City of Albany seeks the Council's support in writing to the Premier seeking the Government's support for the construction of a new hospital facility in Albany.

#### **Background**

The initial submission by the City of Albany regarding the Albany Hospital went to the former Premier prior to the State Elections. During the electoral process certain undertakings were made regarding capital works for the hospital.

#### **Consultation**

The City of Albany is seeking the support of all Councils within the Great Southern Zone and the matter was considered at the meeting of the Great Southern Zone of the Western Australian Local Government Association at its meeting held on 25 September 2008. At that meeting it was resolved that the Zone write to the Premier and Health Minister stating its support for a new hospital in Albany that should be of a size and level of appointment which can provide for the delivery of all essential and specialist services currently provided to the Great Southern Region and expandable to meet demand created by forecast population growth.

#### **Financial Implications**

There are no financial implications for this report.

#### **Policy Implications**

There are no policy implications for this report.

#### **Strategic Implications**

The Council's Strategic Plan at Key Result Area 5: (Strategic Planning) notes:

*'The development of Strategic Partnerships (and) fostering of regional cooperation.'*

#### **Officer Comment**

The Albany Hospital is the major health facility of the Great Southern and a new hospital, or at least improvements to it will benefit the whole of the Great Southern.

#### **Voting Requirements**

Simple Majority

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**OFFICER RECOMMENDATION / COUNCIL DECISION****Moved Cr J Mark, seconded Cr S Grylls:**

**That the Premier of Western Australia the Hon Colin Barnett MEd MLA and the Hon Dr Kim Hames MB BS JP MLA Minister for Health be advised that the Shire of Plantagenet supports the need for a new Albany Regional Hospital as the Hospital is the primary provider of health care in the Great Southern and should be capable of providing for the delivery of essential and specialist health services in the region both in the present and in the future.**

**CARRIED (9/0)****NO. 260/08**

**11.5.2 COMMUNITY EMERGENCY SERVICES MANAGER - PROPOSED EMPLOYMENT**

**File No:** PE/136/55  
**Responsible Officer:** Rob Stewart  
Chief Executive Officer  
**Author:** Rob Stewart  
Chief Executive Officer  
**Proposed Meeting Date:** 11 November 2008

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**Purpose**

The purpose of this report is to advise the Council that the Chief Bush Fire Control Officer, Mr David Burcham, believes that it would be advantageous for the Council to engage a Community Emergency Services Manager under a scheme with the Fire and Emergency Services Authority (FESA) where the costs of such engagement are shared equally.

**Background**

FESA has developed a program to engage either Community Fire Managers or Community Emergency Services Managers to work with local governments to assist local governments with the carrying out of their duties pursuant to the Bush Fires Act 1954 and the Emergency Management Act 2005.

Although approaches have been made in the past to FESA regarding the possibility that such an officer may be made available for Plantagenet, it was felt that either Plantagenet did not have the necessary programs and policies in place or that there may be insufficient work for such an officer in Plantagenet.

Due to the efforts of the Council's staff, appropriate plans and administrative networks are in place and further, with the advent of the Emergency Services Levy, workloads have been increasing. The increasing work loads have very much revolved around administration, leaving some other important areas, such as education, outside of the Council's ability to provide.

**Statutory Environment**

Bush Fires Act 1954

Emergency Management Act 2005

**Consultation**

The matter was most recently raised by the Chief Bush Fire Control Officer with the Chief Executive Officer (CEO). As a result the CEO spoke with Mr Russell Gould, District Manager FESA Great Southern who arranged for Mr Merv Austic, Stakeholder Relations Coordinator – Bushfire Brigades to visit Mount Barker. Other people in attendance at the meeting in Mount Barker on 29 October 2008 included Ms Nicole Selesnew Manager Community Services, Mr Ray Parry – Ranger, Mr John Tonkin Area Manager FESA Great Southern along with Mr Gould, the CEO and the Chief Bush Fire Control Officer.

The matter was discussed at some length with a consensus being reached that funding should be sought from the Council to match that of FESA to engage a Community Emergency Services Manager on a three (3) year contract.

### **Financial Implications**

To employ the Community Emergency Services Manager on a shared basis with FESA would involve the Council in approximately \$70,000.00 of expenditure per annum. This includes contribution for salary, vehicle, mobile telephone and uniform. Other costs for the Council would involve the provision of office space. The Council's adopted Strategic Plan is silent with regard to Bush Fire and Emergency Service response. This is no doubt due to the Council's very specific responsibilities pursuant to the applicable legislation mentioned earlier.

### **Policy Implications**

There are no policy implications for this report.

### **Officer Comment**

Responsibilities that Community Emergency Services Managers and Community Fire Managers in other local authorities undertake include:

Fire Prevention Planning, Awareness Programs, School Education Programs, Cause of accidental and suspicious fires, Strategic firebreak network, Unallocated Crown land and unmanaged reserves program, Fire Protection Standards, assessing Subdivision Fire Management Plans for the Shire, Pre-season fire forum, Training for Bush Fire Brigades, Shire Emergency Services Directory, Brigade Memberships, Evacuation Centres, Bush Fire Advisory Committee, Bush Fire Brigade Administration, Evaluation of Incident Reports, Exercise planning, Emergency Water Supplies, Risk to Resource Model, Incident Recovery and Local Emergency Management Committee (LEMC) Plans and Meetings.

FESA representatives note though that the scope of works is negotiable.

The engagement of such a position would allow the Council to provide specialist bushfire and emergency service within the district. The fact that we are now in a position to consider such an engagement is a positive testament to the work done over the past few years especially by the Manager Community Services Ms Nicole Selesnew and the Council's Ranger Mr Ray Parry. Also, the Shire's general preparedness and readiness to take the next step is due in no small part to the efforts of Shire President Councillor Kevin Forbes AM who was recently awarded a Queens Birthday Honour due to his leadership in Bush Fire Management (among other things).

### **Voting Requirements**

Simple Majority



**OFFICER RECOMMENDATION**

Moved Cr B Hollingworth, seconded Cr A Budrikis:

That consideration be given, during consideration of the 2009 / 2010 budget for an allocation of \$70,000.00 for the shared engagement with the Fire and Emergency Services Authority (FESA) of a Community Emergency Services Manager subject to the Council's organisational chart being amended in due course by Council resolution and subject also to a satisfactory Memorandum of Understanding being entered into with FESA also subject to Council resolution.

**AMENDMENT**

Moved Cr J Moir, seconded Cr D Nye-Chart:

That after the word 'resolution' the following words be added: 'and that a further report be presented to the Council addressing financial and ratepayer benefits and changes of staff duties'.

**CARRIED (9/0)**

**NO. 261/08**

**COUNCIL DECISION**

That consideration be given, during consideration of the 2009 / 2010 budget for an allocation of \$70,000.00 for the shared engagement with the Fire and Emergency Services Authority (FESA) of a Community Emergency Services Manager subject to the Council's organisational chart being amended in due course by Council resolution and subject also to a satisfactory Memorandum of Understanding being entered into with FESA also subject to Council resolution and that a further report be presented to the Council addressing financial and ratepayer benefits and changes of staff duties.

**CARRIED (9/0)**

**NO. 262/08**

4.20 pm Cr D Nye-Chart withdrew from the meeting.

4.22 pm Cr D Nye-Chart returned to the meeting.

**11.5.3 POLICY REVIEW - RATE INCENTIVE PRIZE**

**File No:** RV/120/4  
**Responsible Officer:** Rob Stewart  
Chief Executive Officer  
**Author:** Rob Stewart  
Chief Executive Officer  
**Proposed Meeting Date:** 11 November 2008

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**Purpose**

The purpose of this report is to re-present Council Policy A/PA/8 – Rate Incentive Prize.

**Background**

At its meeting held on 28 October 2008 the Council resolved to adjourn Policy discussion so that further explanation on the definition of ‘partner’ could be received.

**Consultation**

Consultation has taken place with Ms Cherie Delmage Accountant and Mr John Fathers Deputy Chief Executive Officer.

**Financial Implications**

There are no financial implications for this report.

**Policy Implications**

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

**Strategic Implications**

There are no strategic implications for this report.

**Officer Comment**

The following officer comment was presented to the Council at its meeting held on 28 October 2008:

*‘This policy is presented to the Council as part of its ongoing review cycle. A continuation of the policy is considered appropriate, however, some amendments are suggested. Firstly, Plantagenet Community Financial Services Ltd (Bendigo Community Bank) has agreed to contribute a regular annual donation and the policy may be amended to reflect this.*

*It is suggested that an alternative 2nd prize may be accommodation in a Perth hotel. A Perth hotel is considered more appropriate than a local one as many local people would see more benefit in a stay away than one locally. Investigations reveal that there are many hotels that offer accommodation promotions to other local governments. If such sponsorship could be accessed, the traditional wine prize could be allocated to 3<sup>rd</sup> place. If the Council agrees with this, it is considered that part 6 of the policy could be amended accordingly.’*

It has always been the intention of the Council to exclude Councillors, Staff and their immediate families from the prize draw. This is a reasonable proposition and ensures that in the eyes of the public the competition is beyond reproach.

The simplest way to get around the issue of the definition 'immediate family' is to provide such a definition without resorting to legal definitions which, in any case, vary from state to state and in the Federal arena.

The policy could simply state:

'Councillors and Employees of the Shire of Plantagenet and the immediate families of employees and Councillors are excluded from entering the competition. "Immediate family" means spouse, de facto spouse, parent, child, and sibling, whether or not they live in the same household as the employee or Councillor. The Shire of Plantagenet reserves the right to decide, in its absolute discretion whether or not the entry requirements have been fulfilled.'

### **Voting Requirements**

Simple Majority

### **OFFICER RECOMMENDATION**

**Moved Cr M Skinner, seconded Cr D Nye-Chart:**

**That amended Council Policy A/PA/8 – Rate Incentive Prize:**

#### **OBJECTIVE:**

**To encourage ratepayers to pay the full amount of their assessed rates and charges by the due date.**

#### **POLICY:**

- 1. An annual Rate Incentive Prize will be offered by the Council.**
- 2. Prizes will be awarded to first, second (and third if applicable) entries drawn at random.**
- 3. Only ratepayers with their rate account paid in full by the due date will be eligible.**
- 4. One (1) entry per assessment notice (not per ratepayer) is to be entered into the draw.**
- 5. All Councillors and employees and their immediate families are excluded from entering the competition. 'Immediate family' means spouse, de facto spouse, parent, child, and sibling, whether or not they live in the same household as the employee or Councillor. The Shire of Plantagenet reserves the right to decide, in its absolute discretion whether or not the entry requirements have been fulfilled.**

6. First prize will be a bank account / voucher with the Mount Barker Bendigo Community Bank. The Council will seek sponsorship from local organisations and a Perth hotel for the remaining Rate Incentive Prizes.'

be endorsed.

#### AMENDMENT

Moved Cr K Clements, seconded Cr B Hollingworth:

That all words in point 5 up to and including the word 'Councillor' in line 4 be deleted and replaced with the words 'Rateable properties which any Councillor, senior member of staff or manager has an ownership interest in will be ineligible.'

CARRIED (9/0)

NO. 263/08

#### COUNCIL DECISION

That amended Council Policy A/PA/8 – Rate Incentive Prize:

##### OBJECTIVE:

To encourage ratepayers to pay the full amount of their assessed rates and charges by the due date.

##### POLICY:

1. An annual Rate Incentive Prize will be offered by the Council.
2. Prizes will be awarded to first, second (and third if applicable) entries drawn at random.
3. Only ratepayers with their rate account paid in full by the due date will be eligible.
4. One (1) entry per assessment notice (not per ratepayer) is to be entered into the draw.
5. Rateable properties which any Councillor, senior member of staff or manager has an ownership interest in will be ineligible. The Shire of Plantagenet reserves the right to decide, in its absolute discretion whether or not the entry requirements have been fulfilled.
6. First prize will be a bank account / voucher with the Mount Barker Bendigo Community Bank. The Council will seek sponsorship from local organisations and a Perth hotel for the remaining Rate Incentive Prizes.'

be endorsed.

CARRIED (9/0)

NO. 264/08

**11.5.4 RATING OF COUNCIL OWNED AND VESTED LAND - SPORTING AND COMMUNITY ORGANISATIONS**

**File No:** RV/64/2  
**Responsible Officer:** Rob Stewart  
Chief Executive Officer  
**Author:** Rob Stewart  
Chief Executive Officer  
**Proposed Meeting Date:** 11 November 2008

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**Purpose**

The purpose of this report is to bring to the Council's attention anomalies regarding the rating status of sporting and community associations occupying Council land through leasing arrangements and to suggest a policy position to address these anomalies.

**Background**

A number of sporting and community organisations within the District have, or are negotiating, leasing agreements for Council property.

The Council's administration is examining all arrangements where clubs and other organisations utilise Council property to ensure that proper leasing or licensing arrangements are in place.

**Statutory Environment**

Section 3.58 of the Local Government Act 1995 covers the procedures that a local government must utilise to dispose of property, which includes leasing.

Section 6.26 of the Local Government Act 1995 provides what land within a district is rateable land.

Sub-section (2)(b) of Section 6.26 notes that land is not rateable land while it is owned by the local government and is used for the purposes of that local government other than for purposes of a trading undertaking.

Land is also not rateable when it is used by a religious body, a school, for charitable purposes, agricultural or horticultural show purposes, and land owned by Cooperative Bulk Handling Limited.

Normally, when land is leased, it will become rateable. 'Rateable' in this instance also includes other taxes and charges levied by other bodies such as the Water Corporation.

**Financial Implications**

The Council leases, licenses or otherwise rents, in the order of thirty (30) parcels of land and / or facilities to community, sporting, government or commercial interests. Some pay rent, but not rates. Some pay rates but not rent. Some pay both. Some are non-rateable pursuant to the provisions of s.6.26 of the Act. This indicates an inconsistent application of standards, affecting the Council's ability to generate revenue in an equitable manner, and creating an environment where similar organisations are treated differently.

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## **Policy Implications**

This report will recommend a new Policy.

## **Strategic Implications**

There are some benefits, grant wise, in raising all rates that are legitimately able to be raised. This means that even though a Council may think that a sporting organisation should not pay rates, this is possibly best handled by a donation equivalent to those rates, so that the rates are actually levied.

## **Officer Comment**

The creation of policy and its application in this area will need to be carefully considered. For example, the Speedway Club pays rates for land that is leased from the Council, but only a peppercorn rent. Other bodies, such as the Mount Barker Football Club don't pay rates as that club does not lease land, but rather rents it, from the Council. The West Plantagenet Pony Club, since entering into a lease said that it cannot afford the rates and would not have entered into a lease if it had seen the rating provision in the lease. The Club is charged no rent.

Should the Council conclude that all sporting and / or community organisations be non-rateable (or be eligible for a donation) organisations which are competent to pay rates will not, such as the Speedway Club.

It should also be remembered that a lease gives to the lessee many legal rights, almost as if the land was owned by the organisation. Also, sporting and community organisations provide an invaluable service to the community by maintaining structure and social fabric.

This line of reasoning therefore leads to the examination of each lease or other arrangement in its own right. This would need to be based on a default situation that assumed rateability in the first instance, subject to late review by the Council. There is little doubt that this will lead to a pressure for individual organisations to be classified as non rateable. It may also create equity issues where agreements are already in place.

## **Voting Requirements**

Simple Majority

## **OFFICER RECOMMENDATION**

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

**That new Council Policy No. A/PA/14 'Sporting and Community Organisations Using Council Land - Rateability' as follows:**

### **'OBJECTIVE:**

**To ensure that all sporting and community associations leasing property owned by or vested in the Council are treated equitably with regard to rating and other charges.**

**POLICY:**

That any sporting or community organisations leasing land and / or facilities from the Council:

1. Shall be treated as rateable unless specifically exempted from rates pursuant to the Local Government Act 1995.
2. May apply annually for a grant from the Council equivalent to either full or partial rates. Every application shall be considered on its merits and non-rateability should not be assumed.'

be adopted.

LOST (1/8)

**FURTHER MOTION / COUNCIL RESOLUTION**

That new Council Policy No. A/PA/14 'Sporting and Community Organisations Using Council and Vested Land - Rateability' as follows:

**'OBJECTIVE:**

To ensure that all sporting and community associations leasing property owned by or vested in the Council are treated equitably with regard to rating and other charges.

**POLICY:**

Any sporting or community organisation leasing or renting land and / or facilities from the Council shall be non-rateable.'

be adopted.

CARRIED (6/3)

NO. 265/08

**12 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

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

Nil

**14 CONFIDENTIAL**

Nil

**15 CLOSURE OF MEETING**

5:00 pm      The Presiding Member declared the meeting closed.

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