



ORDINARY MINUTES

DATE: Tuesday, 9 June 2009

TIME: 2.45 pm

VENUE: Council Chambers, Lowood
Road, Mount Barker WA 6324

Rob Stewart
CHIEF EXECUTIVE OFFICER

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2:49 PM The Presiding Member declared the meeting open.

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

Mr Stewart then read aloud the following disclaimer:

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

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

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

2 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

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

Members Present:

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

Cr M Skinner East Ward

In Attendance:

Mr Rob Stewart Chief Executive Officer
Mr John Fathers Deputy Chief Executive Officer
Ms Nicole Selesnew Manager Community Services
Mr Peter Duncan Manager Development Services
Mr Ian Bartlett Manager Works and Services
Ms Cobie MacLean Administration Officer (Planning)

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

Previously Approved Leave of Absence:

Cr J Mark 25 May 2009 to 12 June 2009 inclusive.
Cr B Hollingworth 15 June 2009 to 12 July 2009 inclusive.
Cr D Nye-Chart 3 July 2009 to 27 July 2009 inclusive.

4 PUBLIC QUESTION TIME

Section 5.24 Local Government Act 1995

Nil

5 PETITIONS / DEPUTATIONS / PRESENTATIONS

Town Planning Scheme No. 3 - Amendment No. 51 – Item 12.1.3 - Ms Delma Baesjou – Ayton Baesjou Planning

This Amendment proposes to rezone the balance of Lot 830 to Rural Residential Area 9 – to take account of the recent land swap. There was also a revision to Subdivision Guide Plan (SGP): to reflect the approved subdivision, actual road alignment cluster the lots on the highest capability land First Stage (services)

The applicant asks the Councillors to support the Officer Recommendation to initiate this Amendment – other than the deletion of Lot 29.

A Building Envelope has been identified on proposed Lot 29. This area was previously pastured and grazed - bracken has grown up (See photos - Handout aerial photo - Figure 2, Vegetation Map prepared by Environmental Consultant). Differentiate trees (from bracken) by height/shadow. Note: denser bush along creek – Some Karri, also Red Gums. There has been considerable regeneration since the Porongurup fire. Current owner does not run livestock.

We recognise the need to address fire safety (See Light brown areas on SGP):

- Must be balanced against environmental and conservation objectives;
- Significant proportion of the bushland on Lot 830 will be protected; and
- Approx 25ha out of 64ha = Development Exclusion/Creekline Protection.

The Fire Management Plan (FMP) has been updated (since the version endorsed by Council in 2006). Prepared in accordance with Fire and Emergency Services (FESA's) Planning for Bush Fire Protection:

- Building Protection Zones;
- Hazard Separation Zones;
- Network of Strategic Fire Breaks (SFBs) (linked to adjoining subdivisions); and
- Sets out Landowner's responsibilities:
 - Maintain low fuel areas/parkland cleared state;
 - Fuel loads to be kept below 8 tonnes/ha; and
 - Provide water for fire fighting purposes.

The FMP is reinforced by the Town Planning Scheme (TPS) provisions - stipulate that Buildings are required to meet AS 3959 (Jan 2009).

AS3959, together with Draft DR05060 provide for a range of performance based solutions to ensure and adequate level of fire protection is achieved.

I ask you to bear in mind that the developers' approach to this project throughout its history has always been in agreement with all statutory authorities' recommendations and, as noted in Officer Comments, the four lots at the eastern side of the subject land, have been altered in this SGP to become 2 larger lots.

This revision reflects the developers' appreciation for the soil characteristics, location of creek lines and vegetation – and the need for sensitive, responsive subdivision. The developer considers that the creation of lot 29 is a responsible way of protecting the creekline and the vegetation along its banks. If lot 29 was to be deleted then an additional side boundary between lots 30 and 31 would be necessary. This would mean a fence across the creek and clearing for firebreaks.

Overall, the creation of lot 29 should be supported in terms of consistency and sustainability:

- The lot shapes respond to the site characteristics and natural features;
- Proposed lot 29 is basically a mirror (and smaller) image of the bush retreat on lot 28;
- A significant area of remnant riparian vegetation will be protected;
- The proposed Building Envelope can be accommodated within an existing cleared area;
- Maintenance of the Hazard Separation Zone will serve to create fire compartments along the Creekline – rather than an unbroken corridor between areas of Bush and Reserves (see Hazard Assess Plan);
- BE on Lot 29 adjoins cleared land = Low Hazard;
- Area of bush along creek is linear – less than 100m wide;
- Site can be readily serviced (roads and power); and
- Will facilitate weed management (adjoining lot to north is pasture).

Lot 29 does contain areas of regenerated bushland, but no significant vegetation needs to be removed to create a fire safe site for a house. This proposal will not necessitate removal of trees – only understorey to maintain

the parkland cleared state. Adequate levels of Fire Protection can be achieved

We seek to have this Amendment Initiated without modification:

- Ask for an Amendment to part 1 of Recommendation by deleting all the words after 'Legislative requirements'.

However if Councillors would like the opportunity for a site visit this can be arranged next week. The applicant is keen to progress (but delays in getting Amendments through DPI – Amendment 29 took 14 months). The applicant is prepared to wait until July for the Council's decision.

We request that Amendment 51 be Initiated, without Modification.



1. West from top (north east) corner



2. View west from eastern frontage



3. View east from within proposed building envelope



4. View west from road



6 DISCLOSURE OF INTEREST

Cr M Skinner declared a Financial interest in Item 12.1.2.

Part 5 Division 6 Local Government Act 1995

7 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

Moved Cr J Moir, seconded Cr M Skinner:

That:

1. Leave of absence for Cr B Hollingworth previously approved for 15 June 2009 to 12 July 2009 be altered to 1 July 2009 to 12 July 2009.
2. Leave of absence for Cr D Nye-Chart previously approved for 3 July 2009 to 27 July 2009 be altered to 3 July 2009 to 29 July 2009.

CARRIED (8/0)

NO. 148/09

8 CONFIRMATION OF MINUTES

Moved Cr M Skinner, seconded Cr B Hollingworth:

THAT the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 26 May 2009 as circulated, be taken as read and adopted as a correct record.

CARRIED (8/0)

NO. 149/09

9 COMMITTEE MINUTES

Nil

10 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 29 May 2009 – Cr Clements, Mr Duncan and I met with Ministers Waldron and Redman to discuss Thoroughbred Racing and the Recreation Plan. This was received well by both Ministers and they are confident we will get support for funding.
- 2 June 2009 – budget discussions.
- 3 June 2009 – Western Australia Local Government Association Meeting. Increase in waste levies affecting metropolitan Councils. These may progress to rural Councils.

- 4 June 2009 – Crs Skinner, Grylls, Hollingworth and I attended a meeting at Frost Pavilion presented by the Western Australian Farmers Federation regarding Timbercorp and Great Southern Plantations. In many cases the timber does not belong to the land owner or the timber company but a third party.
- 11 June 2009 – Day Care celebrations to be held at 4.30 PM – please attend.
- 11 June – 12 June 2009 – Mr Stewart and I will be attending workshops at the City of Albany regarding structural reform of Local Government in the Great Southern. The City of Albany is bringing a facilitator from Perth to conduct the workshops.
- 16 June 2009 – Public Draft budget meeting – 8.00 PM – please attend.

11 ANNOUNCEMENTS BY COUNCILLORS WITHOUT DISCUSSION

Cr K Clements

- 29 May 2009 – Cr Forbes AM, Mr Duncan and I met with Ministers Waldron and Redman to discuss the Recreation Plan. Regional Recreation funding has been changed to two funding rounds per year. There are also different levels to progress application more efficiently.
- Water Corporation workshop – ‘Water Forever’ program.

Cr S Grylls

- Timber 2020.
- Forest Hill Hall Committee meeting – approval for building, applying for Lotterywest Grants to complete.

Cr B Hollingworth

- Attended the Budget session.

12 REPORTS OF COMMITTEES AND OFFICERS

12.1 DEVELOPMENT SERVICES REPORTS

12.1.1 LOT 141 HENTON PEAK HEIGHTS, MOUNT BARKER – HOUSE WITH REDUCED STREET BOUNDARY SETBACK

File No:	RV/182/4922
Attachments:	Location plan Site plan Letter from Builder Letter from Neighbour (Lot 140 Henton Peak Heights) Letter from Neighbour (Lot 142 Henton Peak Heights)
Responsible Officer:	Peter Duncan Manager Development Services
Author:	Vincent Jenkins Planning Officer
Proposed Meeting Date:	9 June 2009
Applicant:	Scott Park Homes

PURPOSE

The purpose of this report is to consider a proposal for a house on Lot 141 Henton Peak Heights, Mount Barker, with a reduced street boundary setback.

BACKGROUND

Council records show the registered owners of lot 141 are Ms K Bradley and Mr S L Hall.

The proponent (Scott Park Homes) submitted an application for a building licence to construct a new house on Lot 141 Henton Peak Heights. The original application indicated the street boundary setback to be 4.5m where a setback of 6.0m is required by the Residential Design Codes (RCodes). The proposed house location was discussed with the applicant and an amended plan was received indicating a street boundary setback of 6.0m and this was subsequently approved.

The Principal Building Surveyor (Mr Alan Watkins) conducted a site inspection after receiving information from a local builder and ascertained that the concrete floor slab for the house was constructed with a 4.5m street boundary setback. Mr Watkins immediately informed the applicant and advised them to stop construction. At this stage the concrete slab and the internal pine walls had already been constructed. The applicant was further advised that the matter can only be resolved by the Council granting approval to a reduced street boundary setback. The applicant was requested to provide a letter explaining their request to reduce the street boundary setback. In addition the applicant was requested to consult with adjoining owners and provide their written support.

A letter of objection was received from the adjoining owners of lot 140 to the east. Those owners are concerned that a reduced street boundary setback would affect their privacy as the location of the media/lounge room of the proposed house would now look directly onto their ensuite bathroom. They are also concerned that the reduction in street setback would set a precedent for future inconsistent streetscape and devalue their property.

A letter of objection was also received from the adjoining owner of lot 142 to the west. This owner is concerned that a reduced street boundary setback will impede his view along Henton Peak Heights to the reserve located 100m to the east. He is also concerned about potential restriction of development options on his property and the devaluation thereof.

The reason provided by the proponent for the location of the house was that the builder provided the superseded site plan to the site works operator and the grano worker.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

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

Residential Design Codes (RCodes).

Discretion exists for the Council to vary standards at clause 2.5.2 as follows:

'Discretion shall be exercised having regard to the following considerations:

- a) *the stated purpose and aims of the scheme;*
- b) *the provisions of parts 1-7 of the codes, as appropriate;*
- c) *the performance criterion or criteria in the context of the coding for the locality that corresponds to the relevant provision;*
- d) *the explanatory guidelines of the codes that correspond to the relevant provisions;*
- e) *any local planning strategy incorporated into the scheme;*
- f) *a provision of a local planning policy pursuant to this policy and complying with clause 2.5.3; and*
- g) *orderly and proper planning.'*

The variation required here relates to 2.5.2(b) above as the building setback requirements are in part 6 of the RCodes.

EXTERNAL CONSULTATION

Various discussions were conducted between officers and the proponent. The proponent has submitted a letter explaining his request to reduce the street boundary setback (copy attached).

The proponent as part of the application was requested to provide letters of support from the adjoining owners of Lots 140 and 142 Henton Peak Heights located to the east and west. Letters of objection were received from both these owners (copies attached).

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 property location is within the recently developed Stirling Heights subdivision. The subdivision consists of three short streets of which two are culs-de-sac providing access to 22 properties. Lot 141 is located on one of the culs-de-sac providing access to eight lots only.

As a generalisation, the street setback area should be open, enabling a clear view of the building from the street. This is for both social and visual reasons.

From a social point of view, the street setback forms a zone of transition between fully public and wholly private space, allowing for ease of communication and interaction between occupants and passers-by or callers who may not be known to occupants.

At the same time, an open setback area provides for surveillance between the street and building enhancing security for the building (and its occupants) and for people passing by.

From a visual point of view, an open setback area provides a more attractive setting for the building. The street setback should also provide adequate clearances from, and access to essential service for reason of safety and utility.

The double garage of the house is located on the 4.5m street boundary setback, the house itself is located 5.0m from the street boundary. A reduced setback of 4.5m in this instance will contribute to streetscape variety on Henton Peak Heights.

The protection of privacy means primarily the prevention of windows and outdoor living areas being overlooked by neighbours. It is recognised that setbacks alone cannot realistically be deemed to be adequate, nevertheless setbacks are the primary tool used to achieve privacy and complemented with screening can be effective. Consequently, it must be understood that absolute privacy cannot be expected in all cases.

There are four basic ways of preventing overlooking:

1. Designing windows, balconies and decks to face away from boundaries with neighbouring properties, especially side boundaries;
2. Providing greater than normal setbacks, to achieve an effective privacy separation distance;
3. Providing intervening screening such as fences, lattice screening and vegetation; or
4. Ensuring that overlooking windows are not transparent (e.g. translucent glazing) or not openable.

The proposed house has moved 1.5m closer to the street boundary and not closer to any of the adjoining owners. The proposed reduced street boundary setback would not interfere with privacy of any adjoining properties. The proposed development complies with the minimum side boundary setbacks standards required for this R20 development set by the RCodes and will not unduly obstruct outlook from adjoining properties.

There are precedents for reduced street boundary setbacks in this particular subdivision. A street boundary setback of 6.0m is required by the RCodes but at Lot 104 Deane Street the setback is 3.74m and at Lot 105 Deane Street the setback is 3.87m. These comply with the street boundary setback variation set by the RCodes.

Both the claims of devaluation of properties is not a relevant planning consideration.

Reducing the street boundary setback for the garage from 6.0m to 4.5m in this particular instance will not affect the amenity of the area. Road safety will also not be affected and as such the proposed setback reduction is supported.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

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

That a reduced street boundary setback of 4.5m at Lot 141 Henton Peak Heights, Mount Barker be approved subject to development being in accordance with the plans dated 16 March 2009.

LOST (1/7)

12.1.2 LOT 859 HEALY ROAD, NARRIKUP - COMPOSTING FACILITY

A Financial Interest was disclosed by Cr M Skinner.

3:19 pm Cr Skinner withdrew from the meeting.

File No: N11249
Attachments: [Locality plan](#)
[Elevations](#)
[Floor plan](#)
[Summary of Submissions](#)
Responsible Officer: Peter Duncan
Manager Development Services
Author: Vincent Jenkins
Planning Officer
Proposed Meeting Date: 9 June 2009
Applicant Mr Paul Houtl

PURPOSE

The purpose of this report is to consider a proposal to construct a covered (sealable) sealed area for the composting facility at Lot 859 Healy Road, Narrikup.

BACKGROUND

Planning matters surrounding the composting facility have an extensive history. The background provided relates to this current application.

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

The Council at its meeting held on 25 September 2007 resolved at Resolution No. 339/07:

‘THAT:

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

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

The Council's Environmental Health Officer (EHO) has been regularly visiting the site and discussing the operation with the owner. Officers from the Department of Agriculture and Food (DAF) and the DEC have also provided advice.

During earlier advertising of the upgrading proposal in 2007 there were 15 submissions received of which eight raised no objection and seven objected. Those who raised objection did so on the basis of odours, perceived health risk and flies during the summer months. Of those who raised no objection, some said they did not have problems with the odour issue.

With the upgrade works originally proposed for over 1,000 tonnes per annum and the need for a works approval from the DEC, the chances of odours coming from the site should actually be reduced as, importantly, there is a licence condition requiring the covering of all material immediately with at least 150mm of cover material. The DEC issued its works approval for this facility in July 2007 with a design capacity of 1,200 tonnes per annum.

The upgraded facility included an impervious surface under the composting area and this removed any question of potential site contamination from effluent leaching downwards into the groundwater.

The proponent subsequently reduced the potential capacity to a maximum of 1,000 tonnes per annum and the DEC works approval was withdrawn. The Council's conditions applied on 25 September 2007 still applied.

The Council at its meeting held on 11 March 2008 received a presentation from a nearby landowner where the problems with odour from the facility were raised. Staff had previously advised concerned neighbours to keep records of odour events and at the presentation on 11 March 2008 two of these records were provided. Another landowner also provided records of odour events experienced.

The Council at its meeting held on 8 April 2008 considered a report on the extent to which the previously imposed conditions of approval had been satisfied.

Conditions (i) and (m) of the Council's approval of 25 September 2007 are particularly relevant. Condition (m) required the maintenance of a daily wind direction and speed monitoring record by the proponent. Condition (i) refers to odour impacts and required if odour impacts are not managed to the satisfaction of the DEC the facility may need to be contained within an appropriate building. Three adjoining neighbours had not provided evidence of odour impact over a period of many months. The Manager Development Services has visited the area on 17 occasions from 11 March 2008. On five of those 17 visits a strong odour was evident at Spencer Road to the north in the vicinity of several houses. On other occasions no odour was evident.

Several Councillors visited the composting site on the morning of 11 March 2008 where the proponent explained his operation, now located on a hardstand, and his possible intention to include the composting into a shed to reduce adverse impact from rain. This building would be dependent upon grant funding. The final phase of the project involves the compost being left in the open. It was observed at the site meeting the final stage still had a strong odour.

On 8 April 2008 the Council at Resolution No. 68/08 resolved:

'That pursuant to part (i) of the Council decision of 25 September 2007 in relation to the composting facility at Lot 859 Healy Road, Narrikup the Department of Environment and Conservation be requested to provide advice on the odour issue within sixty (60) days following which a further report will be placed before the Council at its ordinary meeting to be held on 8 July 2008.'

The DEC was requested to provide advice on the odour issue and on 18 April 2008 a letter was received from the DEC Regional Manager Great Southern. That letter discusses odour and methods of assessing odour but states at paragraph five the following:

'DEC officers have not made a formal assessment of the odour or validity of odour complaints from the facility in question at this stage, as DEC understands that the Shire is managing the health, environmental and amenity impacts of the facility through its noxious industry and planning conditions and approvals process.'

The DEC believes *'that the impacts generated from the activity can and should be managed or enforced by the Shire.'*

A meeting was held on 18 April 2008 with a range of government experts and aggrieved neighbours to discuss details of the operation and its management and to look at what improvements could be made.

As stated above, the Council's EHO has been regularly meeting the operator on site and providing extensive advice and guidance with varying levels of success. The officer from the DAF has also been on site on various occasions and provided advice on how to improve the composting operation, again with varying levels of success.

Council staff and officers from the DAF and DEC met with owners of two nearby properties to discuss their concerns in respect to continuing odour emissions on 26 May 2008.

On 30 March 2009 the Council received a fresh application for the construction of an outbuilding over an expanded hardstand area that increases the area of the existing composting facility but does not increase the approved output of less than 1,000 tonnes per annum.

The reasons provided by the proponent for the construction of the proposed outbuilding are that:

1. The outbuilding will protect the compost from the winter rain resulting in less odour release;
2. The increase in working area will allow for a more efficient distribution and effective breakdown of the compost also resulting in less odour release;
3. The construction of outbuilding will allow for the future installation of a water air outlet filter system.

This new proposal was advertised for comment and letters were sent to 10 adjoining and nearby land owners. Four submissions were received and these are contained in the attached summary of submissions. Three raised no objection and one raised concerns only.

A letter of concern was received from the adjoining owners of 478 Blue Lake Road to the east. Those owners are concerned that the composting facility may in future increase its output, expand their business to include a pellet plant and set a precedent for similar industries to locate to the area. They are also concerned about the long term effects of the facility and devaluation of properties.

STATUTORY ENVIRONMENT

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

- Any Notice issued for a breach of the Scheme must be a minimum of 28 days.
- The approval of planning consent issued after the Council's approval of 25 September 2007 is valid for a period of 24 months.
- Notice issued under TPS3 to ensure compliance with conditions of planning consent may generate a right for the proponent to apply to the State Administrative Tribunal for a review of the Council decision.
- TPS3 contains provision for the Council to consider the proper and orderly planning and amenity of the area.

Environmental Protection Act 1986

Environmental Protection Regulations 1987

Health Act 1911 (as Amended)

Health Local Laws Part 9 Offensive Trades

- Clause 9.2.2 reads: *'The occupier shall – (c) keep the premises free from any unwholesome or offensive odour arising from the premises;'*
- Clause 9.2.3 reads: *"The occupier shall – (a) ensure that the premises are kept free from rodents, cockroaches, flies and other vectors of disease; and (b) provide in and on the premises all effective means and methods for the eradication and prevention of rodents, cockroaches, flies and other vectors of disease.*
- Clause 9.2.8 reads: *'9.2.8 The occupier shall cause all material on the premises to be stored so as not to be offensive or injurious to health whether by smell or otherwise and so as to prevent the creation of a nuisance.'*
- Clause 9.2.10 reads: *'9.2.10(1) An Environmental Health Officer may give to the occupier directions to prevent or diminish the offensiveness of a trade or to safeguard the public health.
(2) The occupier shall comply with any directions given under this Section.'*

Health (Poultry Manure) Regulations 2001

EXTERNAL CONSULTATION

In accordance with Delegation LG 035 the proposal was advertised for comment for a 21 day period closing on 29 May 2009. Letters were sent to 10 adjoining and nearby land owners, notices were placed in the Albany Advertiser, the Council's noticeboard, and a sign placed on site.

At the close of the advertising period four (4) submissions were received and these are contained in the attached summary of submissions.

FINANCIAL IMPLICATIONS

The application fee of \$138.00 has been paid.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

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

'Retain local business and encourage new businesses that will create long-term sustainable local employment. The Shire also seeks to plan a safe and healthy living environment.'

This is a growing business which is processing the by-product of a successful chicken producing business located at Kendenup.

Adverse impacts on the quality of life of nearby landowners and residents are an important strategic consideration.

OFFICER COMMENT

The Council in September 2007 considered the most appropriate course of action was to support the proposal to relocate the compost to the correctly prepared hardstand area but limit the amount of composted material to 1,000 tonnes per annum. The Council recognised the odour as a potential difficulty and require the odour to be constantly monitored.

The Council's EHO constantly monitors this operation for the presence of offensive odour in the area. He also liaises with the proponent on an ongoing basis. The proponent is continuously improving composting operations and procedures to reduce offensive odour emissions.

The current proposal for the construction of a (sealable) outbuilding over an additional hardstand is an initiative from the proponent to improve his composting business and to further reduce offensive odour emissions. The proposed development consists of a 30m x 15m x 4.5m (sealable) outbuilding on a concrete slab with sump to collect leachate wastewater.

The proposed outbuilding will not be sealed from the onset but will contribute to protect the compost from the winter rain reducing odour release. The increase in working area will allow for a more efficient distribution and effective breakdown of the compost also resulting in odour release. The proposal allows for the future sealing of the outbuilding and the installation of a water air outlet filter system.

This is a growing business which is constantly improving its composting operations and procedures to reduce offensive odour emissions.

VOTING REQUIREMENTS

Simple Majority

Note: The Manager Development Services noted that since the preparation of this report a further two submissions were received. A submission from Mr and Mrs Graham was in support of the application. A submission from Ms Stevens and Mr Box was against the application. Cr Forbes AM noted that he had received a letter from Ms Stevens and Mr Box.

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr K Clements, seconded Cr B Hollingworth:

That the proposed construction of a (sealable) outbuilding over an additional hardstand at Lot 859 Healy Road, Narrikup be approved subject to the:

1. Development being in accordance with the plans dated 30 March 2009.
2. Compost facility being limited to a maximum of 1,000 tonnes of compost product per annum.
3. Correct installation of the appropriate hardstand or impervious area for all of the composting operation.
4. Appropriate management of stormwater runoff including any uncontaminated stormwater being diverted or channelled away from the operation.
5. Contaminated water should be directed to the lined leachate-holding dam by appropriate bunding.
6. Activity to be managed so as to not result in any nutrient export from the site or detriment to the environment.
7. Measures being taken to minimise and control/manage any potential problems with flies and exotic predators, including foxes, feral cats, rats and mice. This will involve the development and implementation of a vermin management plan to the satisfaction of the Council's Environmental Health Officer and the Department of Agriculture and Food.
8. Appropriate management of odour impacts by the covering of the compost. Should odour impacts not be managed to the satisfaction of the Department of Environment and Conservation, the facility may need to be contained within an appropriate building.
9. Installation of a fire break, not less than 5m wide, around the site and an operational fire fighting vehicle be kept on site during the operation of the prohibited and restricted burning periods.
10. Crossover and access ways are to be maintained by the developer.
11. Any on site advertising signage shall comply with Town Planning Scheme No. 3.
12. Maintenance of a daily wind direction and speed monitoring record by the proponent.

ADVICE NOTES

- i) **The Chief Executive Officer will require the Council's Environmental Health Officer to carry out monthly inspections to monitor the development.**

CARRIED (7/0)

NO. 150/09

3:24 pm Cr M Skinner returned to the meeting.

**12.1.3 TOWN PLANNING SCHEME NO. 3 - AMENDMENT NO. 51 - LOTS 830,
6045 AND PT LOT 831 SPRING ROAD, PORONGURUP**

File No:	LP/181/51
Attachments:	<u>Location Plan</u> <u>Existing Subdivision Guide Plan</u> <u>Revised Subdivision Guide Plan</u> Amendment No. 51 (separate attachment)
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Peter Duncan Manager Development Services
Proposed Meeting Date:	9 June 2009
Owners:	Westcress Pty Ltd and Kazza Nominees Pty Ltd
Applicant:	Ayton Baesjou Planning

PURPOSE

The purpose of this report is to consider a proposed Amendment (No. 51) to Town Planning Scheme No. 3 (TPS3) to rezone portion of Lot 830 Spring Road, Porongurup from the Rural zone to the Rural Residential Zone and to adjust the Subdivision Guide Plan (SGP) for existing Rural Residential zone (Area 9) to include all of the newly created lot 830.

BACKGROUND

Amendment No. 39 to TPS3 rezoned Lots 2150 and 6045 Spring road from Rural to Rural Residential (Area 9). That Amendment was published in the Government Gazette on 13 February 2009.

Lot 830, the subject of this Amendment No. 51, was created through a boundary adjustment with the former lot 10 (now 831) to the south and west. Some 8.8ha was excised from the south west corner of the former lot 2150 and added to the former lot 10. An equivalent area was excised from the former lot 10 and added to the western side of the former lot 2150. The former lot 10 is now lot 831 and the former lot 2150 is now lot 830.

The Western Australian Planning Commission (WAPC) granted conditional approval to a 17 lot rural residential subdivision over the former lot 2150 (now part of lot 830) in March 2009.

The possible land exchange between lot 2150 and lot 10 was raised when the Council was considering submissions on the former Amendment No. 39 at its meeting held on 9 October 2007. It was agreed the additional land area to be included in the Rural Residential zone should be addressed through a new Amendment to the Scheme so that it could be advertised for public comment. To include that area as a modification to Amendment No. 39 was considered to be a substantial modification which would need public comment and it was not appropriate to delay Amendment No. 39 any longer.

A separate copy of the full Amendment No. 51 is provided for each Councillor with this agenda.

STATUTORY ENVIRONMENT

Planning and Development Act 2005.

Town Planning Regulations – these have set procedures for Amending a Town Planning Scheme including once initiated by the Council, referral to the Environmental Protection Authority (EPA) for 28 days. Once cleared by the EPA a 42 day advertising period applies. Once advertised the Council must consider any submissions lodged within 42 days and refer its recommendations to the Western Australian Planning Commission and the Minister within 28 days.

Shire of Plantagenet TPS3 – Lot 830 is presently zoned Rural Residential (Area 9) and Rural.

EXTERNAL CONSULTATION

If cleared by the EPA to proceed the Amendment will be advertised for 42 days with letters to adjoining landowners, a sign on site, a notice on the Council's notice board, notices in the newspaper, letters to government agencies and a notice on the Porongurup Shop notice board.

The Manager Development Services provided extensive comment and editorial advice to the planning consultants on a draft document prior to the submission of the formal Amendment documents now being considered.

FINANCIAL IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

Key Area 4 of the Council's Strategic Plan refers to the Town Planning Scheme as being a blueprint for future development and is the mechanism by which many of the community's aims and initiatives can be implemented.

This Amendment is in accordance with the Porongurups Rural Strategy (PRS) of 1997 and in accordance with the Precinct Structure Plan prepared for Precinct G1 (PRS) in 2004 as part of an earlier Amendment No. 29.

OFFICER COMMENT

Attached to this Agenda is a copy of the existing SGP for this Rural Residential zone (Area 9) which shows an indicative lot layout over the land now being rezoned. That indicative layout consisted of three lots. The existing SGP also shows a grouping of four lots on the eastern side of the former lot 2150 which have been marked for reference. The proposed SGP now forming part of this Amendment No. 51 has altered the layout of those four lots to become two larger lots of 4.98ha and 5.53ha.

The proposed SGP also now shows five lots on the western side which differs from the indicative layout of three lots. One of these, lot 29 (3.8ha) is located in a vegetated area north of the creekline and to create a fire safe site for a house quite an amount of the vegetation will need to be removed. This proposed lot is not supported and should be removed from the proposed SGP prior to referral to the EPA.

The proposed SGP also has some minor differences from the existing SGP in that some of the lot sizes have been altered as has the alignment of the proposed cul-de-sac on lot 6045 to reflect recent survey work. No difficulty is seen with these minor differences.

The existing special provisions for this Rural Residential zone (Area 9) in Schedule 5 of TPS3 will apply to all of lot 830 once this Amendment is finalised.

The proposed Amendment No. 51, once modified to delete the proposed lot 29 from the Revised Subdivision Guide Plan, is considered suitable to initiate so that it can be referred to the EPA and once cleared by the EPA to be advertised for public comment.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

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

That:

- 1. Amendment No. 51 to Town Planning Scheme No. 3 be initiated and referred to the Environmental Protection Authority in accordance with legislative requirements once the Revised Subdivision Guide Plan and appropriate parts of the Amendment are modified to delete the proposed lot 29 due to the extensive vegetation on that site.**
- 2. Once authorised by the Environmental Protection Authority, the Amendment be advertised for a period of 42 days to enable comment to be made.**
- 3. After advertising, a further report be prepared for the Council to be presented no later than its meeting to be held on 13 October 2009.**

CARRIED (8/0)

NO. 151/09

**12.1.4 RESERVE 10751 (LOT 8066) WOOGENELLUP ROAD, MOUNT BARKER -
FORMER SALEYARDS - POSSIBLE RECREATION USE (MOTOCROSS)**

File No: N11120

Attachments: [Plan of site](#)
[Distances plan](#)

Responsible Officer: Rob Stewart
Chief Executive Officer

Author: Peter Duncan
Manager Development Services

Proposed Meeting Date: 9 June 2009

PURPOSE

The purpose of this report is to consider changing the purpose of Reserve 10751 (Lot 8066) Woogenellup Road, Mount Barker from 'Stockyards' to 'Recreation' and the closure of portion of an adjoining road reserve.

BACKGROUND

This Crown reserve is for the purpose of 'Stockyards' and has a management order in favour of the Council. It was previously occupied by the former livestock (sheep and cattle) saleyards which were closed in 2000 when the new cattle saleyards on Albany Highway were opened.

Buildings which were on site have been removed and the only infrastructure on site is the concrete slab which was under the yards, a water tank and a dam which collected runoff from the yards.

The western portion of the concrete slab and the water tank have been constructed within an undeveloped road reserve to the west of Reserve 10751.

Crown Reserve 36442 consists of two locations to the west of the railway line is for 'water supply' and has a management order in favour of the Council. Water from this dam has been used to supply the water tank at the saleyards in the past.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Reserve 10751 (Lot 8066) is zoned Rural. The use class 'Private Recreation' is an 'AA' (permissible at the discretion of the Council) use in the Rural Zone.

Land Administration Act 1997 – sets procedures for the changing of purpose of Crown reserves and the closure of road reserves.

EXTERNAL CONSULTATION

The Manager Development Services has had discussions with officers from the Department for Planning and Infrastructure (DPI) State Land Services regarding this proposal.

FINANCIAL IMPLICATIONS

There should be no cost in the change in the purpose of the reserve.

There may be the need to fill in the dam which previously collected run-off from the saleyards.

There will be administrative costs in the closure of the road reserve for public advertising and so forth.

POLICY IMPLICATIONS

There are no policy implications for this report.

ASSET MANAGEMENT IMPLICATIONS

Although this is Crown land, as the management order is in favour of the Council, then the Council is responsible for the land. If no future use is proposed then DPI would require the land to be cleaned up (concrete removed, water tank removed, dam rehabilitated, etc) before it was handed back to the Crown. If a future recreational use was proposed then the Council could lease the total area to a recreation group who would then be responsible for the development of and maintenance of any assets.

STRATEGIC IMPLICATIONS

Key Results Area 3 of the Council's Strategic Plan includes initiatives to:

- *Assist junior and senior sporting clubs with, in partnership with those clubs, the provision of quality facilities; and*
- *Facilitate the increased provision of youth oriented activities.'*

OFFICER COMMENT

For some time now individuals have been looking for land to establish a motocross facility in the area. One of the major difficulties in such a facility is gaining adequate separation from housing. This subject Reserve 10751 (Lot 8066) Woogenellup Road would appear to be in a location that could be suitable for a motocross facility. The nearest farm houses are between 1.2km and 2.3km away from the site. The Community College is 1.9km away and the nearest housing in Ingoldby Street, Mount Barker is 2.1km away. The subject land is 3.3km from the junction of Lowood and Langton Roads.

A plan attached shows the current Reserve and adjoining road reserve to the west. Another plan shows the subject Reserve and various distances to houses, the college and Mount Barker.

The Environmental Protection Authority (EPA) buffer guidelines do not specify a separation distance for motocross facilities but do refer to the buffer for 'raceway for motor vehicles' as being determined on a case by case basis. Any proposal for a motocross facility on this reserve would need to be referred to the EPA by the proponents.

The proposal here is for the purpose of the Reserve to be changed from 'Stockyards' to 'Recreation' with a management order in favour of the Council with power to lease. This will then enable the Council to consider a proposed use such as a motocross facility.

As part of the process, the road reserve adjoining the western boundary of Reserve 10751 should be closed and amalgamated into Reserve 10751. Reserve 10751 is 3.3ha in area and the subject portion of the road reserve is some 0.62ha which when combined would provide a total area of some 3.9ha.

Once the purpose of the Reserve is changed to Recreation and the road closure is completed then the Council could consider a proposal by a motocross group to lease the land and develop a facility subject to any necessary approvals from the EPA. A 'private recreation' use class is permissible at the discretion of the Council in the Rural zone and it would be appropriate to advertise such a motocross proposal for public comment before any final decisions were made.

The unbuilt road reserve to the west does eventually meet up with the constructed Carbarup Road to the east but this unbuilt road reserve does not provide the sole road frontage to any lots. All lots have frontage to the constructed Woogenellup Road.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

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

That the Department for Planning and Infrastructure be requested to:

- 1. Change the purpose of Reserve 10751 (Lot 8066) Woogenellup Road from 'Stockyards' to 'Recreation' with a management order in favour of the Council with power to lease.**
- 2. Close the portion of the road reserve abutting the western boundary of Reserve 10751 (Lot 8066) Woogenellup Road and that land be amalgamated with Reserve 10751 (Lot 8066).**

CARRIED (8/0)

NO. 152/09

**12.1.5 LOT 364 (RESERVE 23771) BOOTH STREET CORNER OSBORNE ROAD,
MOUNT BARKER - ACQUISITION BY RETURNED AND SERVICES
LEAGUE**

File No: N11231
Attachments: [Location plan](#)
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Peter Duncan
Manager Development Services
Proposed Meeting Date: 9 June 2009

PURPOSE

The purpose of this report is to consider a request for comment from the Department for Planning and Infrastructure (DPI) on the purchase of Lot 364 Booth Street corner Osborne Road, Mount Barker by the Returned and Services League of Australia (RSL).

BACKGROUND

The building was leased to the Minister for Education for the Mount Barker Kindergarten until December 2006. It was then leased to Guides Western Australia who sub-leased it to the RSL.

When considering a request from Guides Western Australia for the lease of Lot 364 Booth Street the Council at its meeting held on 23 January 2007 resolved at Resolutions 13/07 and 14/07 as follows:

13/07: *THAT:*

- (1) *The Guides Western Australia lease of Lot 363 Albany Highway, Mount Barker be finalised as of 28 February 2007.*
- (2) *Authority be granted to the Shire President and the Chief Executive Officer to affix the Common Seal of the Council to the Lease of Lot 364 Osborne Road, Mount Barker being Reserve 23771 be leased to Guides Western Australia as of 1 January 2007, with the following provisions:*
 - *Rental to be one (1) dollar per annum;*
 - *Term of the lease to be five (5) years;*
 - *Guides Western Australia to be responsible for public liability insurance, contents insurance, minor building maintenance, garden maintenance, water usage and electricity charges;*
 - *The Shire of Plantagenet to be responsible for building insurance, property and water rates and major building maintenance;*

- *The Shire of Plantagenet permits Guides Western Australia to sub lease to the Returned Services League; and*
- *Subject to the approval of the Minister for Planning and Infrastructure.'*

14/07: *'That an investigation be made into the possible purchase of Lot 363 Albany Highway, Mount Barker from the Crown, with a view to the rezoning, subdivision and disposal of lots and that a report be presented to the Council no later than its meeting to be held 1 July 2007.'*

Following Resolution 14/07 a subsequent report was placed before the Council on 9 October 2007 once the DPI response had been received. At that meeting the Council at Resolution 347/07 resolved:

'That the matter of the possible purchase of Lot 363 (Reserve 23870) and Lot 364 (Reserve 23771) Albany Highway, Booth Street and Osborne Road be no longer pursued as this is a role which should be carried out by the government when Crown land is involved.'

The primary reason for the above resolution was that in a September 2007 response from the DPI the department advised it had received a valuation rate from the Valuer General. The DPI advised the Council would be responsible for GST, stamp duty and statutory fees together with development costs including the provision of any services such as power, water and telecommunications. The Council proposal would involve a subdivision application through the WAPC and rezoning action.

The valuation rate was \$100.00 per m² and was valid until August 2008. If the Council was looking at purchasing some 3,429m² of lot 364 and part of lot 363 of the total area of 4,529m² it would cost \$342,900.00 and with the other associated costs it could be in the order of \$400,000.00 before rezoning and subdivision were considered. There was potential to create five residential lots of between 540m² and 720m² once the land was rezoned. It was estimated new residential lots in this location would sell for in the order of \$90,000.00 which totalled some \$450,000.00. The costs to establish these lots with water, sewer, power headworks and connections and so on would be in the order of \$250,000.00 and this combined with a purchase price of some \$400,000.00 means an overall total of \$650,000.00 which is in excess of what the lots could be sold for. It certainly would leave no funds available for the construction of a new multipurpose hall/facility for community groups which was being considered as an option at that stage.

The Council on 10 February 2009 when considering the leasing of that Lot 364 Osborne Road to the RSL resolved at Resolution 29/09 as follows:

'That:

1. *Subject to the approval of the Minister for Lands Lot 364 Osborne Road Mount Barker be leased to The Returned and Services League of Australia (Western Australian) Branch and the existing lease of the property be cancelled.*
2. *Authority be granted to the Shire President and the Chief Executive Officer to affix the Common Seal of the Council to the Lease referred to in part 1 above with the following provisions:*

- a) *Rental to be set at 'one peppercorn' per annum;*
- b) *The term of the lease be five (5) years;*
- c) *The Returned and Services League of Australia (Western Australian Branch) be responsible for public liability insurance, contents insurance, minor building maintenance, garden maintenance, water usage and electricity charges;*
- d) *The Shire of Plantagenet shall be responsible for building insurance, property and water rates and major building maintenance; and*
- e) *The lessee be permitted to hire the building for community purposes.'*

When the Council constructed its new administration building, a building used by the RSL off Lowood Road was removed as part of the new development.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Both lots 363 and 364 are within a Public Purpose TPS Reserve and lot 363 is for Scout Hall and lot 364 is for Kindergarten. Once the final purposes are established for these lots then the zoning will need to be rationalised to reflect the purposes. Both lots 363 and 364 are vested in the Council.

Land Administration Act 1997 – land purchase procedures for Crown land.

Local Government Act 1995 s3.58 and the Local Government (Functions and General) Regulations 1996 govern the disposal of property.

Under the Regulations a disposition of land is an exempt disposition, and is excluded from the application of s3.58, if:

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

ASSET MANAGEMENT IMPLICATIONS

Presently the Council is responsible for all major building maintenance matters. If it was disposed of, the building could be removed from the list of assets and there would be no maintenance requirements for the Council.

STRATEGIC IMPLICATIONS

There are no strategic implications in this report.

OFFICER COMMENT

The building on Lot 364 Booth Street was previously used as the Mount Barker Kindergarten until December 2006 but is now leased by the RSL. The building is in relatively good condition.

No objections can be seen to lot 364 (Reserve 23771) being purchased by the RSL as it will remove an asset from the Council's responsibility in respect to long term maintenance.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr K Clements, seconded Cr B Hollingworth:

That the purchase of Lot 364 (Reserve 23771) Booth Street corner Osborne Road, Mount Barker by the Returned and Services League of Australia be supported.

CARRIED (8/0)

NO. 153/09

**12.1.6 LOT 337 THIRD AVENUE, KENDENUP - APPLICATION FOR
TEMPORARY ACCOMMODATION**

File No: N11247
Attachments: [Location plan](#)
[Site plan](#)
Responsible Officer: Peter Duncan
Manager Development Services
Author: Eric Howard
Environmental Health Officer
Proposed Meeting Date: 9 June 2009
Owner: D Brindley

PURPOSE

The purpose of this report is to consider an application for Temporary Accommodation at Lot 337 Third Avenue, Kendenup.

BACKGROUND

An application has been received from the owners of Lot 337 Third Avenue Road, Kendenup seeking approval to occupy a caravan located on the lot for a period of twelve (12) months during the construction of a Class 1a dwelling on the lot.

STATUTORY ENVIRONMENT

Caravan Parks and Camping Ground Regulations 1997 Section (11)(2) states as follows:

- '(2) Written approval may be given for a person to camp on land referred to in sub regulation (1)(a) for a period specified in the approval which is longer than 3 nights —*
- (a) by the local government of the district where the land is situated, if such approval will not result in the land being camped on for longer than 3 months in any period of 12 months;*
 - (b) by the Minister, if such approval will result in the land being camped on for longer than 3 months in any period of 12 months; or*
 - (c) despite paragraph (b), by the local government of the district where the land is situated —*
 - (i) if such approval will not result in the land being camped on for longer than 12 consecutive months; and*
 - (ii) if the person owns or has a legal right to occupy the land and is to camp in a caravan on the land while a building licence issued to that person in respect of the land is in force.'*

EXTERNAL CONSULTATION

Consultation has taken place between the Council's Environmental Health Officer and the applicant.

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 applicant wishes to reside on site during the construction of the dwelling to maintain site security and to expedite the building project. It is expected that the dwelling will be constructed to a habitable standard within 12 months and therefore temporary accommodation will be required for a period of up to 12 months.

The Council may revoke the temporary accommodation approval at any time during this approval period.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr D Nye-Chart, seconded Cr A Budrikis:

That the application for temporary accommodation at Lot 337 Third Avenue, Kendenup be approved for a period of 12 months from 9 June 2009 subject to:

- 1. The installation and connection of an approved on-site effluent disposal system serving the temporary toilet and ablution facilities.**
- 2. Inspection and certification by the Council's Environmental Health Officer that the facility meets all relevant health and safety standards.**
- 3. Satisfactory progress being achieved with the construction of the Class 1a dwelling.**

ADVICE NOTES:

- i) The approval to occupy temporary accommodation may be revoked at any time within the 12 month approval period.**

CARRIED (8/0)

NO. 154/09

12.2 WORKS AND SERVICES REPORTS**12.2.1 KAMBALLUP LANDFILL SITE – OPERATING HOURS**

File No: N11232
Responsible Officer: Ian Bartlett
 Manager Works and Services
Author: Sharon Williams
 Senior Administration/Project Officer (Works
 and Services)
Proposed Meeting Date: 9 June 2009

PURPOSE

The purpose of this report is to consider a request to alter the operating hours of the Kamballup Landfill Site.

BACKGROUND

The following opening hours currently apply to the Kamballup Landfill Site:

- Friday 1:00pm – 5:00pm

A request has been received from the Woogenellup Progress Association to have the Kamballup Landfill Site open on the weekend instead of Friday as this would make it more accessible.

STATUTORY ENVIRONMENT

The Council's Local Laws relating to the operation of the Shire of Plantagenet Landfill and Transfer Station Facilities 2004 provides at Clause 12:

'The Council may from time to time set and amend by resolution the hours of operation of the facility and such hours will be displayed for public information.'

FINANCIAL IMPLICATIONS

The current annual operator running costs for the Kamballup Landfill Site are:

Opening hours Friday 1:00pm – 5:00pm (four hours per week) x 52 weeks	208 hrs/year
Hourly rate for operator – MEA Level 1A (includes 20% casual loading)	\$19.64
Hourly rate - \$19.64 x 208 hrs/year	\$4,085.12
Plus 9% super	\$4,452.78
Total operator annual running costs	\$4,452.78

If the Council was to open the Kamballup Landfill Site every Saturday and Sunday the annual running costs would be:

Opening hours Saturday 1:00pm – 5:00pm (four hours per week) x 52 Sunday 1:00pm – 5:00pm (four hours per week) x 52	208 hrs/year 208 hrs/year
Hourly rate for operator: • MEA Level 1A (includes 20% casual loading) • Saturday plus 25% loading • Sunday plus 50% loading	\$19.64 \$24.55 \$29.46
Saturday hourly rate - \$24.55 x 208 hrs/year Sunday hourly rate - \$29.46 x 208 hrs/year	\$5,106.40 \$6,127.68
Total	\$11,234.08
Plus 9% super	\$12,245.15
Total operator annual running costs	\$12,245.15

An extra budget allowance of \$7,792.37 would need to be found for annual operator running costs.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet's Strategic Plan, Key Result Area 2 Infrastructure provides the following as one of its aims:

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

Further, under Key Result Area 2 Infrastructure – waste and recycling, the Strategic Plan provides the following:

'Our success is measured by:

- *Development of a waste management plan which reflects legislative requirements and community demands;*
- *Level of customer satisfaction;*
- *Internal and external benchmarking;*
- *Demonstrated pursuit of continuous improvement initiatives.'*

OFFICER COMMENT

The Kamballup Landfill Site has an average of 10 people utilise the facility each Friday. The financial cost to open this site on the weekend instead of Friday is considerably more than what has been budgeted for the 2009/2010 financial year. An additional \$7,792.37 would need to be found for annual operator running costs to open this site every Saturday and Sunday.

One operator is currently employed to cover the opening hours at the Kendenup and Kamballup Landfill Sites. An additional operator would be required if the Kamballup site opened on the weekend as the roster would not allow for the existing operator to cover both landfill site operating times.

There is a need to improve the facilities (shelter, toilet and lighting) at all the landfill sites within the Shire. Although the Kamballup site requires additional facilities priority will be given to the Mount Barker and Kendenup sites as they have longer operating hours.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr M Skinner:

That the Woogenellup Progress Association be advised that the opening times for the Kamballup Landfill Site will remain unchanged.

CARRIED (7/1)

NO. 155/09

12.2.2 MOUNT BARKER LANDFILL SITE – OPERATING HOURS

File No: N11234
Responsible Officer: Ian Bartlett
Manager Works and Services
Author: Sharon Williams
Senior Administration/Project Officer (Works
and Services)
Proposed Meeting Date: 9 June 2009

PURPOSE

The purpose of this report is to seek authority to alter the operating hours of the Mount Barker Landfill Site.

BACKGROUND

The following opening hours currently apply to the Mount Barker Landfill Site:

- Tuesday 1:00pm – 5:00pm
- Wednesday 8:00am – 12:00 noon
- Thursday 1:00pm – 5:00pm
- Friday 8:00am – 12:00 noon
- Saturday 1:00pm – 5:00pm
- Sunday 10:00am – 6:00pm

The Council is asked to consider altering the operating hours for Sunday between the months of May to September to 9:00am – 5:00pm as these times will better accommodate the daylight hours during the winter months.

STATUTORY ENVIRONMENT

The Council's Local Laws relating to the operation of the Shire of Plantagenet Landfill and Transfer Station Facilities 2004 provides at Clause 12:

'The Council may from time to time set and amend by resolution the hours of operation of the facility and such hours will be displayed for public information.'

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet's Strategic Plan, Key Result Area 2 Infrastructure provides the following as one of its aims:

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

Further, under Key Result Area 2 Infrastructure – waste and recycling, the Strategic Plan provides the following:

‘Our success is measured by:

- *Development of a waste management plan which reflects legislative requirements and community demands;*
- *Level of customer satisfaction;*
- *Internal and external benchmarking; and*
- *Demonstrated pursuit of continuous improvement initiatives.’*

OFFICER COMMENT

Adoption of the altered operating hours is recommended as the Mount Barker Landfill Site does not have adequate lighting facilities for the operator to work safely or for the public to safely deliver waste and recycling materials during the evening in winter months.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

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

That:

- 1. Pursuant to Clause 12 of the Council’s Local Laws relating to the operation of the Shire of Plantagenet Landfill and Transfer Station facilities, the Sunday (winter) opening hours relating to the Mount Barker Landfill Site be 9.00am – 5.00pm for the months May to September annually.**
- 2. The changes be advertised in the local print media and signs erected in appropriate locations to inform the public of the changes to Sunday opening times at the Mount Barker Landfill Site.**

AMENDMENT

Moved Cr K Clements, seconded Cr M Skinner:

That in part 1 above the time ‘9.00am’ be deleted and replaced with the time ‘10.00am’.

CARRIED (8/0)

NO. 156/09

COUNCIL DECISION

That:

- 1. Pursuant to Clause 12 of the Council’s Local Laws relating to the operation of the Shire of Plantagenet Landfill and Transfer Station**

facilities, the Sunday (winter) opening hours relating to the Mount Barker Landfill Site be 10.00am – 5.00pm for the months May to September annually.

2. The changes be advertised in the local print media and signs erected in appropriate locations to inform the public of the changes to Sunday opening times at the Mount Barker Landfill Site.

CARRIED (7/1)

NO. 157/09

12.2.3 LAND ACQUISITION - MAIN ROADS WA - STAGE FOUR DENMARK-MOUNT BARKER ROAD INTERSECTION TO HAY RIVER BRIDGE - RECONSTRUCTION AND PASSING LANE

File No: N11092
Attachments: [Drawings 200901-091 and 200901-092](#)
Responsible Officer: Ian Bartlett
Manager Works and Services
Author: Sharon Williams
Senior Administration/Project Officer (Works and Services)
Proposed Meeting Date: 9 June 2009

PURPOSE

The purpose of this report is to obtain the Council's support for the resumption of land between Denmark-Mount Barker Road Intersection to Hay River Bridge for the purpose of increasing the carriageway width of Muirs Highway.

BACKGROUND

Main Roads WA is upgrading Muirs Highway between Denmark-Mount Barker Road Intersection to the Hay River Bridge. The works will increase the carriageway width of Muirs Highway to 11.0m (8.0m seal and 3.5m marked traffic lanes), improve St Werburghs and Denmark Road-Mount Barker Road Intersections and provide a 1.6km west bound passing lane.

Attached for consideration by the Council are land requirement plans for land required for accommodating Stage four of the Muirs Highway reconstruction project. In order for the project to proceed, the land shaded on Main Roads Drawings 200901-091 and 200901-092 is required to be resumed and included as road reserve.

STATUTORY ENVIRONMENT

Land Administration Act 1997 – Section 56.

FINANCIAL IMPLICATIONS

Main Roads WA will indemnify the Shire of Plantagenet against all costs and charges in respect to the dedication action.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

At its meeting on 10 February 2009 the Council agreed with 10 proposed land acquisitions for this reconstruction project. Endorsement is recommended for these additional land acquisitions.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

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

That the Council concurs to the taking of the land, the subject of Mains Roads WA drawings 200901-091 (Lot 55 on Deposited Plan 95978) and 200901-092 (Lot 2791 on Deposited Plan 138293) for accommodating Stage four of the Muirs Highway Reconstruction Project, and also to its dedication as road under Section 56 of the Land Administration Act 1997.

CARRIED (8/0)

NO. 158/09

12.2.4 RESERVE 13189 – BARROW ROAD - ROAD DEDICATION

File No: N10968
Attachments: [Barrow Road Map](#)
Responsible Officer: Ian Bartlett
Manager Works and Services
Author: Sharon Williams
Senior Administration/Project Officer (Works
and Services)
Proposed Meeting Date: 9 June 2009

PURPOSE

The purpose of this report is to obtain the Council's support for the dedication of the land that runs through A Class Reserve 13189 as road reserve.

BACKGROUND

The western end of Barrow Road runs through A Class Reserve 13189 and is approximately 687 metres in length. It has come to the Council's attention that this section of Barrow Road is not contained within a dedicated road reserve and therefore has no legal status as a road.

STATUTORY ENVIRONMENT

Land Administration Act 1997

- Lot 1523 – 'A' Class Reserve – Management Order in favour of the Council.
- Lot 6740 – 'A' Class Reserve – Management Order in favour of the Council.

The purpose of the reserve is recreation.

Native Title Act 1993 – as this is Crown Land the Department for Planning and Infrastructure (DPI) will need to determine whether there are any Native Title implications over this land.

EXTERNAL CONSULTATION

This matter has been discussed with an officer from State Land Services of the DPI.

FINANCIAL IMPLICATIONS

The Council currently undertakes the maintenance of Barrow Road. All costs associated with the dedication of the subject land as road will be the responsibility of the Shire.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet's Strategic Plan, Key Result Area 2 Infrastructure provides the following as one of its aims:

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

OFFICER COMMENT

The land running through reserve 13189 is used by the public as a road and is under the care, control and management of the Council.

It is a requirement of the Land Administration Act 1997 to request the dedication of Crown Land to become a public road reserve.

It is recommended that the Council support the dedication to change the legal status of the road.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M Skinner, seconded Cr K Clements:

That:

- 1. A request be made to the Minister for Lands to dedicate the land running through A Class Reserve 13189 as shown on the attached plan dated 27 May 2009 as road under Section 56(1)(a) of the Land Administration Act 1997.**
- 2. The Minister for Lands and the Department of Planning and Infrastructure be indemnified against any costs, including any claims for compensation and costs that may reasonably be incurred, by the Minister in considering and granting the request to dedicate the land as a road.**

CARRIED (8/0)

NO. 159/09

12.2.5 POLICY REVIEW - STAND PIPE LOCATION AND REGULATION OF WATER SUPPLY TO USERS

File No: N10959
Responsible Officer: Ian Bartlett
Manager Works and Services
Author: Sharon Williams
Senior Administration/Project Officer (Works and Services)
Proposed Meeting Date: 9 June 2009

PURPOSE

The purpose of this report is to review Council Policy No. I/OA/1 – Stand Pipe Location and Regulation of Water Supply to Users.

BACKGROUND

Council Policy I/OA/1 - Stand Pipe Location and Regulation of Water Supply to users reads as follows:

OBJECTIVE:

To provide clear guidelines to the Council, its officers and Shire of Plantagenet rate payers regarding the facilitation, monitoring and management of water extraction from mains by hydrant standpipes in order to:

1. *Introduce a fair and equitable system for measuring and charging hydrant water use, thereby encouraging better water management practices in the Shire of Plantagenet;*
2. *Provide guidance and service to customers who wish to use metered standpipes for extraction of water from mains;*
3. *Monitor and review water consumption patterns and assist in the planning of water supply infrastructure;*
4. *Maximise cost recovery; and*
5. *Eliminate water theft.*

POLICY:

1. *The Shire of Plantagenet provide water stand pipes for public use in the following locations:*
 - a) *Kendenup – corner of Jutland Road and Carbarup Road;*
 - b) *Rocky Gully – Bateman Street outside the town hall; Narrikup – corner of Spencer Road and Hannan Way; and*
 - c) *Mount Barker – Marmion Street.*
 2. *Billing is to be carried out on a quarterly basis.*
 3. *Pricing per kilolitre is to be set annually and included in the Council's fees and charges. Pricing shall be fixed for the full financial year and is to be reviewed annually.*
-

4. *Fire / Emergency Services are permitted to un-metered use of standpipes for the provision of emergency services only.*
5. *Standpipe stations are to be left in a tidy condition after usage.*
6. *All unit failures and leaking outlets shall be reported to the Shire of Plantagenet as soon as possible.”*

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

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

To achieve this we will:

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

OFFICER COMMENT

The policy has been amended to reflect the implementation of metered standpipes. An electronic swipe card is now required to access the metered standpipes which records precise readings of litres used enabling accurate invoicing. Reference to the Rocky Gully standpipe has been deleted as it has been locked by the Water Corporation.

Some minor editorial changes have also been made.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

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

That amended Council Policy No. I/OA/1 – Stand Pipe Location and Regulation of Water Supply to Users as follows:

OBJECTIVE:

To provide clear guidelines regarding the facilitation, monitoring and management of water extraction from mains by potable water standpipes in order to:

1. Introduce a fair and equitable system for measuring and charging standpipe water use, thereby encouraging better water management practices in the Shire of Plantagenet;
2. Provide guidance and service to customers who wish to use metered standpipes for extraction of water from mains;
3. Monitor and review water consumption patterns and assist in the planning of water supply infrastructure;
4. Maximise cost recovery; and
5. Eliminate water theft.

POLICY:

1. The Shire of Plantagenet provides mains water standpipes for public use in the following locations:
 - a) Kendenup – corner of Jutland Road and Carbarup Road;
 - b) Narrikup – corner of Spencer Road and Hannan Way; and
 - c) Mount Barker – Marmion Street.
2. Standpipe controllers have been installed on standpipes, which restricts water usage to approved customers only by using a swipe card.
3. Pricing per kilolitre is to be set annually and included in the Council's fees and charges. Pricing shall be fixed for the full financial year and is to be reviewed annually.
4. Fire/Emergency Services have access to standpipes free of charge for the provision of emergency services only.
5. Standpipe stations are to be left in a tidy condition after use.
6. The Council encourages all unit failures and leaking outlets to be reported to the Shire of Plantagenet as soon as possible.'

be endorsed.

AMENDMENT

Moved Cr J Moir, seconded Cr B Hollingworth:

That in point 4 of the Objective the word 'Maximise' be deleted and be replaced with the words 'Achieve operational'.

CARRIED (8/0)

NO. 160/09

COUNCIL DECISION

That amended Council Policy No. I/OA/1 – Stand Pipe Location and Regulation of Water Supply to Users as follows:

OBJECTIVE:

To provide clear guidelines regarding the facilitation, monitoring and management of water extraction from mains by potable water standpipes in order to:

1. Introduce a fair and equitable system for measuring and charging standpipe water use, thereby encouraging better water management practices in the Shire of Plantagenet;
2. Provide guidance and service to customers who wish to use metered standpipes for extraction of water from mains;
3. Monitor and review water consumption patterns and assist in the planning of water supply infrastructure;
4. Achieve operational cost recovery; and
5. Eliminate water theft.

POLICY:

1. The Shire of Plantagenet provides mains water standpipes for public use in the following locations:
 - a) Kendenup – corner of Jutland Road and Carbarup Road;
 - b) Narrikup – corner of Spencer Road and Hannan Way; and
 - c) Mount Barker – Marmion Street.
2. Standpipe controllers have been installed on standpipes, which restricts water usage to approved customers only by using a swipe card.
3. Pricing per kilolitre is to be set annually and included in the Council's fees and charges. Pricing shall be fixed for the full financial year and is to be reviewed annually.
4. Fire/Emergency Services have access to standpipes free of charge for the provision of emergency services only.
5. Standpipe stations are to be left in a tidy condition after use.
6. The Council encourages all unit failures and leaking outlets to be reported to the Shire of Plantagenet as soon as possible.'

be endorsed.

CARRIED (8/0)

NO. 161/09

12.2.6 SPENCER ROAD BY-PASS – UNALLOCATED CROWN LAND - ROAD DEDICATION

File No: N11103
Attachments: [Spencer Road - Map](#)
Responsible Officer: Ian Bartlett
Manager Works and Services
Author: Sharon Williams
Senior Administration/Project Officer (Works and Services)
Proposed Meeting Date: 9 June 2009

PURPOSE

The purpose of this report is to obtain the Council's support for the dedication of a portion of Unallocated Crown Land as road reserve for the Spencer Road by-pass.

BACKGROUND

Timber Industry Roads Evaluation Strategy (TIRES) funding was secured for the realignment, widening, reconstruction and bitumen sealing of Spencer Road around the Narrikup townsite and construction of the new intersection of Spencer Road with Albany Highway.

Land has been resumed from Lots 2973, 4961, 5102 and 5720, adjacent to the Narrikup townsite. The landowners have all signed voluntary agreements with the Shire and have been compensated.

There is however a small section of Unallocated Crown Land (approximately 3240m²) which was required for the construction of the by-pass. A request to the Minister for Lands to dedicate this area of Unallocated Crown Land as road reserve is required.

STATUTORY ENVIRONMENT

Land Administration Act 1997 – Section 56

Native Title Act 1993 – As this is Crown Land the Department for Planning and Infrastructure (DPI) will need to determine whether there are any Native Title implications over this land.

EXTERNAL CONSULTATION

This matter has been discussed with an officer from State Land Services of the DPI.

FINANCIAL IMPLICATIONS

All costs associated with the dedication of the subject land as road will be the responsibility of the Shire.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet's Strategic Plan, Key Result Area 2 Infrastructure provides the following as one of its aims:

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

OFFICER COMMENT

It is a requirement of the Land Administration Act to request the dedication of Crown Land to become a public road reserve.

Endorsement is recommended.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

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

That:

1. A request be made to the Minister for Lands to dedicate the section of Unallocated Crown Land (approximately 3240m²) as shown on drawing number DWG3528S as road under Section 56(1)(a) of the Land Administration Act 1997.
2. The Minister for Lands and the Department of Planning and Infrastructure be indemnified against any costs, including any claims for compensation and costs that may reasonably be incurred, by the Minister in considering and granting the request to dedicate the land as a road.

CARRIED (8/0)

NO. 162/09

12.3 COMMUNITY SERVICES REPORTS

Nil

12.4 CORPORATE SERVICES REPORTS

Nil

12.5 EXECUTIVE SERVICES REPORTS

Nil

13 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

15 CONFIDENTIAL**15.1 EXECUTIVE SERVICES REPORTS****15.1.1 CHIEF EXECUTIVE OFFICER REVIEW AND CONTRACT NEGOTIATION**

File No: N11101
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Rob Stewart
Chief Executive Officer
Proposed Meeting Date: 12 June 2009

PURPOSE

The purpose of this report is to present to the Council the recommendations resulting from the Chief Executive Officer's review which was held on 19 May 2009.

Further, this report will make recommendations regarding the Chief Executive Officer's Contract renewal.

OFFICER RECOMMENDATION/COUNCIL DECISION**MOTION TO PROCEED BEHIND CLOSED DOORS**

Moved Cr J Moir, seconded Cr K Clements:

3:55 pm That the meeting move into Confidential Session to consider this item under the terms of the Local Government Act 1995 Section 5.23(2) as follows:

- a) a matter affecting an employee or employees.

CARRIED (8/0)

NO. 163/09

All staff withdrew from the meeting.

MOTION TO PROCEED IN PUBLIC

Moved Cr B Hollingworth, seconded Cr K Clements:

4:00 pm That the meeting proceed in public.

CARRIED (8/0)

NO. 164/09

COUNCIL DECISION

Moved Cr K Clements, seconded Cr B Hollingworth:

That consideration of the Chief Executive Officer's performance review and contract negotiations be held over until the next meeting of the Council.

CARRIED (8/0)

NO. 165/09

16 CLOSURE OF MEETING

4:00 pm The Presiding Member declared the meeting closed.

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