



## ORDINARY MINUTES

**DATE:** Tuesday, 13 April 2010

**TIME:** 2:45pm

**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

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

## 2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

### Members Present:

Cr K Clements	Shire President
Cr M Skinner	Deputy Shire President
Cr B Bell	Councillor
Cr A Budrikis	Councillor
Cr S Etherington	Councillor
Cr L Handasyde	Councillor
Cr G Messmer	Councillor
Cr J Moir	Councillor

### In Attendance:

Mr R Stewart	Chief Executive Officer
Mr J Fathers	Deputy Chief Executive Officer
Mr D Le Cerf	Manager Works and Services
Ms N Selesnew	Manager Community Services
Mr V Jenkins	Planning Officer
Mrs C MacLean	Administration Officer (Planning)

### Previously Approved Leave of Absence:

Cr S Grylls 12 April to 18 April 2010 inclusive.

### Emergency Evacuation Procedures/Disclaimer

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.'

### **3 PUBLIC QUESTION TIME**

#### **3.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

#### **3.2 PUBLIC QUESTION TIME - SECTION 5.24 LOCAL GOVERNMENT ACT 1995**

Nil

### **4 PETITIONS / DEPUTATIONS / PRESENTATIONS**

Nil

### **5 DISCLOSURE OF INTEREST**

Part 5 Division 6 Local Government Act 1995

Cr S Etherington declared a Code of Conduct – Perceived – Interest – Sister employed by the Water Corporation – in Item 11.2.1.

Cr M Skinner declared a Financial Interest – Cattle Farmer – in Item 11.4.2.

Cr J Moir declared a Financial Interest – Cattle Farmer and employee of Elders working at the Saleyards – in Item 11.4.2.

### **6 APPLICATIONS FOR LEAVE OF ABSENCE**

Section 5.25 Local Government Act 1995

Cr G Messmer requested leave of absence for 28 September 2010.

**Moved Cr L Handasyde, seconded Cr M Skinner:**

**That Cr G Messmer be granted leave of absence for 28 September 2010.**

**CARRIED (8/0)**

**NO. 63/10**

## 7 CONFIRMATION OF MINUTES

Moved Cr S Etherington, seconded Cr B Bell:

That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 23 March 2010 as circulated, be taken as read and adopted as a correct record.

CARRIED (8/0)

NO. 64/10

## 8 COMMITTEE MINUTES

Moved Cr B Bell, seconded Cr A Budrikis:

That the Minutes of:

[Minutes - 4 March 2010 - RoadWise Steering Committee](#)

[Minutes - 23 March 2010 - Recreation Advisory Committee](#)

[Minutes - 23 March 2010 - Great Southern Regional Cattle Saleyards Advisory Committee](#)

be received.

CARRIED (8/0)

NO. 65/10

## 9 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Cr K Clements read aloud a letter from Ms Julia Levinson relating to Freeman Mrs Joan Cameron and her continued improving health and rehabilitation. She will be leaving the Hollywood Rehab centre in a couple of weeks and returning to her unit in Perth where her rehabilitation will continue before her return home to Rocky Gully.

- 24 March 2010 – Crs Skinner and Handasyde, Mr Stewart and I attended the Voluntary Regional Organisation of Councils meeting at Tambellup.
- 27 March 2010 – Mrs Roz Clements and I attended the Cranbrook show.
- 29 March 2010 – Cr Handasyde, Mr Le Cerf and I attended the Great Southern Regional Road Group meeting at Kojonup.
- 30 March 2010 – Cr Handasyde, Mr Stewart and I attended a teleconference of the Western Australian Local Government Association Great Southern Zone.

- 31 March 2010 – along with many Councillors and member of staff and public attended the Blessing of the Roads in the Council Chambers.
- 1 April 2010 – Ms Selesnew and I attended the Great Southern Regional Recreation Advisory Committee meeting at Ongerup.
- 3 April 2010 – Cr Skinner, Mrs Heather Skinner, Mrs Roz Clements and I attended the opening of 'Art in The Park'.
- 6 April 2010 – along with a number of Councillors and staff went on the road inspection for the western part of the Shire.
- 8 April 2010 – Mr Stewart and I met informally with Shire of Denmark representatives.

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

### Cr M Skinner

- 24 March 2010 – Crs Clements and Handasyde, Mr Stewart and I attended the Voluntary Regional Organisation of Councils meeting at Tambellup.
- 3 April 2010 – Cr Clements, Mrs Roz Clements, Mrs Heather Skinner and I attended the opening of 'Art in The Park'.
- 13 April 2010 – Attended the Long Term Financial Plan Working Group meeting.

### Cr S Etherington

- 31 March 2010 – along with many Councillors and member of staff and public attended the Blessing of the Roads in the Council Chambers.
- 6 April 2010 – along with a number of Councillors and staff went on the road inspection for the western part of the Shire.

### Cr G Messmer

- Attended the Girl Guides 100<sup>th</sup> birthday in Albany.

### Cr L Handasyde

- 24 March 2010 – Crs Clements and Skinner, Mr Stewart and I attended the Voluntary Regional Organisation of Councils meeting at Tambellup.
- 29 March 2010 – Cr Clements, Mr Le Cerf and I attended the Great Southern Regional Road Group meeting at Kojonup.
- 30 March 2010 – Cr Clements, Mr Stewart and I attended a teleconference of the Western Australian Local Government Association Great Southern Zone.

- 31 March 2010 – along with many Councillors and member of staff and public attended the Blessing of the Roads in the Council Chambers.
- 6 April 2010 – along with a number of Councillors and staff went on the road inspection for the western part of the Shire.
- 8 April 2010 – attended a Timber Industry Road Evaluation Strategy meeting at Main Roads Western Australia in Albany.



## 11 REPORTS OF COMMITTEES AND OFFICERS

### 11.1 DEVELOPMENT SERVICES REPORTS

#### 11.1.1 LOT 55 MUIRS HIGHWAY, ROCKY GULLY - RELOCATED DWELLING

<b>File No:</b>	<b>N14450</b>
<b>Attachments:</b>	<a href="#">Locality Plan</a> <a href="#">Site Plan</a> <a href="#">Floor Plan</a> <a href="#">Photographs</a>
<b>Responsible Officer:</b>	<b>Peter Duncan</b> <b>Manager Development Services</b>
<b>Author:</b>	<b>Vincent Jenkins</b> <b>Planning Officer</b>
<b>Proposed Meeting Date:</b>	<b>13 April 2010</b>
<b>Applicants:</b>	<b>Peter and Kathryn Warren</b>

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#### **PURPOSE**

The purpose of this report is to consider an application for a relocated dwelling at Lot 55 Muirs Highway, Rocky Gully.

#### **BACKGROUND**

Shire records show the registered owners of Lot 55 Muirs Highway, Rocky Gully as PJ and KJ Warren. The proponents intend relocating the purpose built transportable house presently located at Lot 99 Maida Vale Road, High Wycombe to Lot 55 Muirs Highway, Rocky Gully.

#### **STATUTORY ENVIRONMENT**

Planning and Development Act 2005.

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Residential (R10).

#### **FINANCIAL IMPLICATIONS**

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**

Amendment No. 53 to TPS3 proposes this land to be zoned Enterprise Zone. That Amendment is currently being advertised for public comment. A single house will be a permissible use in the proposed Enterprise Zone.

**OFFICER COMMENT**

The subject lot is 890m<sup>2</sup> in area, partly vegetated and located on Muirs Highway.

The house is a purpose built Fleetwood two bedroom transportable home and is in a good condition (photographs are included). No asbestos material was used to construct the house.

The house is to be located behind vegetation presently on site and will be set back 17m from the Muirs Highway front boundary. The vegetation will help screen the house and a verandah is to be added to the front of the structure

The proposal meets the R10 setback requirements of the Residential Design Codes and is supported.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION**

**Moved Cr L Handasyde, seconded Cr M Skinner:**

**That approval be granted for a relocated dwelling at Lot 55 Muirs Highway, Rocky Gully subject to:**

- 1. Development being in accordance with the plans dated 11 March 2010.**
- 2. Payment of a refundable bond of \$5,000.00 prior to the issue of a building licence.**
- 3. A crossover being constructed, sealed and drained to the satisfaction of the Manager Works and Services.**
- 4. Stormwater being disposed of to the satisfaction of the Manager Works and Services.**
- 5. A laundry being provided in accordance with the Building Code of Australia.**

**AMENDMENT**

Moved Cr J Moir, seconded Cr G Messmer:

That a further part 6. be added to the motion as follows:

‘A landscaping plan incorporating existing vegetation being submitted to the satisfaction of the Manager Development Services prior to the dwelling being relocated.’

CARRIED (8/0)

NO. 66/10

**FURTHER AMENDMENT**

Moved Cr J Moir, seconded Cr B Bell:

That a further point 7. be added to the motion as follows:

‘The planning approval the subject of this application for consent being valid for a period of 12 months.’

CARRIED (8/0)

NO. 67/10

**COUNCIL DECISION**

That approval be granted for a relocated dwelling at Lot 55 Muirs Highway, Rocky Gully subject to:

1. Development being in accordance with the plans dated 11 March 2010.
2. Payment of a refundable bond of \$5,000.00 prior to the issue of a building licence.
3. A crossover being constructed, sealed and drained to the satisfaction of the Manager Works and Services.
4. Stormwater being disposed of to the satisfaction of the Manager Works and Services.
5. A laundry being provided in accordance with the Building Code of Australia.
6. A landscaping plan incorporating existing vegetation being submitted to the satisfaction of the Manager Development Services prior to the dwelling being relocated.

7. The planning approval the subject of this application for consent being valid for a period of 12 months.

**CARRIED (8/0)**

**NO. 68/10**

## 11.2 WORKS AND SERVICES REPORTS

### 11.2.1 WATERWISE COUNCIL PROGRAM - MEMORANDUM OF UNDERSTANDING

Cr S Etherington disclosed a Perceived Interest.

Nature and Extent of Interest: Sister employed by the Water Corporation.

Cr Etherington declared that as her sister was not in the department relating to this issue her Interest was perceived only and would be remaining in the meeting to participate, debate and to vote.

**File No:** N14162  
**Attachment:** [Memorandum of Understanding](#)  
**Responsible Officer:** Dominic Le Cerf  
Manager Works and Services  
**Author:** Sharon Lynch  
Senior Administration/Project Officer (Works and Services)  
**Proposed Meeting Date:** 13 April 2010

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#### PURPOSE

The purpose of this report is to recommend the signing of a Memorandum of Understanding (MOU) between the Shire of Plantagenet, Water Corporation and the Department of Water relating to the Waterwise Council program.

#### BACKGROUND

The Water Corporation and the Department of Water, with support from the International Council for Local Environmental Initiatives – Local Governments for Sustainability, have developed a Waterwise Council program. The aim of this program is to build a cooperative working relationship with local governments to promote sound water management and improve water use efficiency in local government and their communities.

The Waterwise Council program is a voluntary program and is open to all Councils within Western Australia.

#### STATUTORY ENVIRONMENT

There are no statutory implications for this report. However the State Water Plan provides a strategic framework to 'secure our water future'. The plan identifies the need for state government to work together with local government to review how we value and use water in public open spaces.

#### FINANCIAL IMPLICATIONS

The MOU covers a three year period. Staff time would be required to fulfil the criteria to become a Waterwise Council and maintain its recognition status. Assistance is available from the Water Corporation to address the criteria. It is estimated that staff time will cost approximately \$1,500.00 over this three year period.

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## POLICY IMPLICATIONS

There are no policy implications for this report.

## STRATEGIC IMPLICATIONS

Key Result Area 2 provides the following aim in the Infrastructure category:

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

## OFFICER COMMENT

The Council will be required to fulfil certain criteria to become a Waterwise Council and have an ongoing commitment to retain the recognition status.

Criteria to become a Waterwise Council:

1. Achieve Milestones 1 to 3

**Milestone 1:** complete an inventory of water consumption and a water quality practices gap analysis;

**Milestone 2:** set goals to improve water management;

**Milestone 3:** develop a local action plan that defines the strategic direction and the actions Council will take to achieve the goals.

2. Ensure that appropriate staff members attend a waterwise training course on waterwise gardening and irrigation and on internal auditing.
3.
  - a) Review the value and use of water for grounds and public open space;
  - b) adhere to the government's statewide permanent water efficiency measures; and
  - c) if required complete a water conservation.
4. Demonstrate substantial progress within 18 months towards implementation of actions and include reporting on water efficiency targets and performance in the Council's annual report.

On completing the Waterwise criteria the Shire will be presented with an official acknowledgement of the Council's achievement – a Waterwise certificate.

To maintain the Waterwise recognition status a Council will:

1. Continue to commit to and progress through the Waterwise criteria modules and milestones until completed.

**Milestone 4:** implement the local action plan, including a quantitative and qualitative assessment and report of the implemented actions; and

**Milestone 5:** conduct a re-inventory to assess Council progress and ensure continuous improvement in water management practices.

2. Continue reporting on water efficiency targets and performance in the Council's annual report.

The criteria will not be onerous on staff resources and assistance is available from the Water Corporation to address the criteria.

Councils achieving the Waterwise Council endorsement will be provided with waterwise branding for use on newsletters, signs and other promotional materials to promote the Shire as a Waterwise Council.

Benefits of becoming a Waterwise Council are:

- a greater understanding of water use;
- identify potential water savings through improved efficiency and therefore financial savings;
- free specialist waterwise training courses for appropriate staff on water efficiency, irrigation and water auditing;
- ability to display the Council's waterwise endorsement on all publications; and
- recognition as a Waterwise Council.

It is recommended that the Council participate in the Waterwise Council program.

#### **VOTING REQUIREMENTS**

Simple Majority

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

**Moved Cr L Handasyde, seconded Cr G Messmer:**

**That the Chief Executive Officer be authorised to sign the Memorandum of Understanding between the Shire of Plantagenet, Water Corporation and the Department of Water relating to the Waterwise Council program.**

**CARRIED (5/3)**

**NO. 69/10**

### 11.3 COMMUNITY SERVICES REPORTS

Nil

### 11.4 CORPORATE SERVICES REPORTS

#### 11.4.1 LIST OF ACCOUNTS – MARCH 2010

**File No:** N14404  
**Attachment:** [List of Accounts – March 2010](#)  
**Responsible Officer:** John Fathers  
Deputy Chief Executive Officer  
**Author:** Emma Gardner  
Debtors/Creditors Officer  
**Proposed Meeting Date:** 13 April 2010

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#### **PURPOSE**

The purpose of this report is to present the list of payments that were made during the month of March 2010.

#### **STATUTORY ENVIRONMENT**

Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996 provides that payment may only be made from the municipal fund or trust fund if the Local Government has delegated the function to the Chief Executive Officer.

The Chief Executive Officer has delegated authority to authorise payments (10 May 2009). Relevant staff have also been issued with delegated authority to issue orders for the supply of goods and services subject to budget limitations.

Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer then a list of payments is to be presented to the Council at the next ordinary meeting and recorded in the minutes.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications for this report.

#### **POLICY IMPLICATIONS**

Council Policy F/FM/7 – Purchasing and Tender Guide applies.

#### **STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

#### **OFFICER COMMENT**

Purchases have been made in line with Council Policy F/FM/7 – Purchasing and Tender Guide and relevant delegations of authority to staff members.

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**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

Moved Cr M Skinner, seconded Cr L Handasyde:

That in accordance with Regulation 13 (1) of the Local Government (Financial Management) Regulations 1996, the list of payments made under delegated authority for the month ended 31 March 2010 be received and recorded in the minutes of the Council, the summary of which is as follows:

- a) Electronic Payments and direct debits totalling \$408,198.18;
- b) Municipal Cheques 40864, 40866 – 40898 and 40907 - 40957 totalling \$272,406.95;
- c) Trust Cheques 294 and 295 totalling \$15,194.74; and
- d) Cheques 40865 and 40899 - 40906 were cancelled.

**CARRIED (8/0)**

**NO. 70/10**

**11.4.2 SALEYARDS FEE – TRANSIT CATTLE**

A Financial Interest was disclosed by Cr M Skinner.  
Nature and extent of interest: Cattle Farmer.

A Financial Interest was disclosed by Cr J Moir.  
Nature and extent of interest: Cattle Farmer and employee of Elders working at the Saleyards.

**Authority to participate pursuant to Section 5.69(3)(a) and (b) of the Local Government Act 1995**

Approval has been received from the Department of Local Government (formerly the Department of Local Government and Regional Development) via a letter dated 17 December 2009 giving permission for Cr M Skinner and Cr J Moir to participate in matters relating to the Great Southern Regional Cattle Saleyards from 16 December 2009 to 31 December 2010.

Mr R Stewart read aloud the letter, a copy of which is attached to these minutes.

**File No:** N14463  
**Responsible Officer:** Rob Stewart  
Chief Executive Officer  
**Author:** John Fathers  
Deputy Chief Executive Officer  
**Proposed Meeting Date:** 13 April 2010

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**PURPOSE**

The purpose of this report is to recommend increasing the fee for transit cattle at the Great Southern Regional Cattle Saleyards (GSRCS).

**BACKGROUND**

The Council has charged \$1.00 (plus GST) per head per day for transit cattle since 2005/2006. At its meeting held on 23 March 2010, the Great Southern Regional Cattle Saleyards Advisory Committee resolved to recommend to the Council that this fee be raised to \$2.00 (plus GST) per head per day, to be implemented as soon as possible.

**STATUTORY ENVIRONMENT**

Section 6.19 of the Local Government Act 1995 states:

*'If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —*

- (a) its intention to do so; and*
- (b) the date from which it is proposed the fees or charges will be imposed.'*

**FINANCIAL IMPLICATIONS**

The increase in fees is expected to enable the Council to recover the costs of providing a good service for transit cattle.

**POLICY IMPLICATIONS**

There are no policy implications for this report.

**STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

**OFFICER COMMENT**

There has been an increase in the number of cattle being sold to eastern states buyers this season, resulting in a greater need for the GSRCS to provide space and feed/water for cattle.

The current charge does not fully cover the Council's costs in maintaining transit cattle, which often requires weekend work. The fee of \$2.00 per head per day is in line with the fee charged at other yards within Western Australia.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION**

**Moved Cr S Etherington, seconded Cr A Budrikis:**

**That:**

- 1. The fee for transit cattle at the Great Southern Regional Cattle Saleyards be increased to \$2.00 (plus GST) per head per day, effective from 13 May 2010.**
- 2. The amendment to the Council's schedule of fees and charges in Part (1) above be advertised in accordance with the provisions of Section 6.19 of the Local Government Act 1995.**

**MOTION TO AJOURN QUESTION**

**Moved Cr L Handasyde, seconded Cr G Messmer:**

**That:**

- 1. The question be adjourned to allow the Great Southern Regional Cattle Saleyards Committee to review costs relating to the transit of cattle.**
- 2. A further report be presented to the Council outlining the full review of costs no later than 25 May 2010.**

**CARRIED (8/0)**

**NO. 71/10**

**11.4.3 ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW - AMENDMENT**

**File No:** N14244  
**Responsible Officer:** Rob Stewart  
Chief Executive Officer  
**Author:** John Fathers  
Deputy Chief Executive Officer  
**Proposed Meeting Date:** 13 April 2010

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**PURPOSE**

The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the proposed Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2010, for the Council to propose the Local Law and to allow for advertising of the proposed Local Law for public comment.

**BACKGROUND**

The purpose of this local law is to amend the definition of a 'person liable for the control of a horse' to exclude children to the extent limited by the provisions of the Criminal Code and to amend a defective definition of 'town planning scheme'.

The effect of this local law is to expressly recognise the limited responsibility of children for a breach of Clause 4.2 (3) relating to the requirement for horse riders to clean up horse manure in public places or other local government property.

The Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law published in the Government Gazette on 9 November 2001 with amendments gazetted on 17 October 2008 as a result of a comprehensive local law review. Following the gazettal of the local law, the Joint Standing Committee on Delegated Legislation raised two matters of concern, which are the subject of this report.

**CONSULTATION**

A minimum of 42 day public submissions period on the proposed Activities in Thoroughfares and Public Places and Trading Amendment Local Law will be advertised Statewide when adopted by the Council.

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

**STATUTORY ENVIRONMENT**

Section 3.12 of the Local Government Act 1995 and the local government (functions and general) regulations 1996 specify the procedures for making local laws.

In April 1995, all Australian governments reached agreement on a National Competition Policy (NCP) for Australia. Three intergovernmental agreements underpin the NCP, being the Competition Principles Agreement (CPA), the Conduct

Code Agreement and the Agreement to Implement the National Competition Policy and Related Reforms.

The CPA is binding on local government. This requires councils to carry out a number of procedures and include a report on the matter in each year's Annual Report. One of the three areas that affect local government is to review local laws and amendments to local laws that may contain restrictions on competition.

### **FINANCIAL IMPLICATIONS**

Advertising costs are likely to be around \$1,000.

### **POLICY IMPLICATIONS**

There are no policy implications for this report.

### **STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

### **OFFICER COMMENT**

The Joint Standing Committee on Delegated Legislation raised two matters of concern with this local law. Firstly, the Committee was concerned that Clause 4.2 (3), as follows, appears to apply to children in control of a horse.

- (3) *Any person liable for the control of a horse who permits that horse to excrete in a public place or other local government property within any townsite in the district commits an offence unless the excreta is removed immediately and disposed of either on private land with consent of the owner or occupier or in such other manner as the local government or an authorised person may approve.*

Section 29 of the Criminal Code states:

#### ***'29. Immature age***

*A person under the age of 10 years is not criminally responsible for any act or omission.*

*A person under the age of 14 years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission.'*

This provision is not excluded by this local law. However consistent with its past practice where a subsidiary instrument has potential to affect the rights of a child, the Committee requires the local law to be amended to expressly recognise the limited responsibility of children for breach of clause 4.2 (3).

Secondly, the Committee noted that the substitution of the Planning and Development Act 2005 for the repealed Town Planning and Development Act 1928 where that latter Act appears in the principal local law has resulted in the following definition:

‘ "town planning scheme" means a town planning scheme of the local government made under the *Planning and Development Act 2005*;

The Committee has pointed out that town planning schemes are in fact made under the Town Planning and Development Act 1928. By Section 68 of the Planning and Development Act 2005, town planning schemes continue in force and have effect as if enacted under that Act, but they are not ‘made under’ the 2005 Act. There is not a provision in the local law that captures local planning schemes which may in the future be made under the Planning and Development Act 2005.

Whilst this definition does not render any provisions of the local law ineffective, it may in the future become defective if the Council adopts a local planning scheme under the Planning and Development Act 2005.

The following amendments to Clause 1.2 Definitions are therefore proposed for the Activities in Thoroughfares and Public Places and Trading Local Law:

1. Add the following clause to the definition of a “person liable for the control of a horse”:

‘(iii) a child to the extent limited by the provisions of the *Criminal Code Act Compilation Act 1913*.’

2. Substitute the wording of the definition of a “town planning scheme” with:

“**town planning scheme**” means a town planning scheme of the local government made under the *Town Planning and Development Act 1928* or a local planning scheme of the local government made under the *Planning and Development Act 2005*;

In relation to the National Competition Policy requirements, this local law is not considered to include any provisions that may restrict competition.

## VOTING REQUIREMENTS

Simple Majority

## OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M Skinner, seconded Cr S Etherington:

**That in accordance with Section 3.12(3) of the Local Government Act 1995, the proposed Activities In Thoroughfares And Public Places And Trading Amendment Local Law 2010, as detailed below, be advertised for public comment:**

### LOCAL GOVERNMENT ACT 1995

*Shire of Plantagenet*

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING AMENDMENT LOCAL LAW 2010

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Plantagenet resolved on                    to adopt the following local law.

#### 1. Citation

This local law may be cited as the *Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2010*.

## 2. Principal local law

In this local law, the *Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law* as published in the *Government Gazette* on 9 November 2001, as amended and published in *Government Gazette* No. 178 on 17 October 2008 is referred to as the principal local law. The principal local law is amended.

## 3. Clause 1.2 amended

(a) At the end of the '**person liable for the control of a horse**' definition insert—

or

(iii) a child to the extent limited by the provisions of the *Criminal Code Act Compilation Act 1913*.

(b) Delete the "**town planning scheme**" definition and insert—

"**town planning scheme**" means a town planning scheme of the local government made under the *Town Planning and Development Act 1928* or a local planning scheme of the local government made under the *Planning and Development Act 2005*;

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Dated: 2010.

The Common Seal of the Shire of Plantagenet was affixed by authority of a resolution of the Council in the presence of—

K.A.CLEMENTS, Shire President.  
R.J. STEWART, Chief Executive Officer.

**CARRIED (8/0)**

**NO. 72/10**

**11.4.4 CEMETERIES LOCAL LAW - AMENDMENT**

**File No:** N14245  
**Responsible Officer:** Rob Stewart  
Chief Executive Officer  
**Author:** John Fathers  
Deputy Chief Executive Officer  
**Proposed Meeting Date:** 13 April 2010

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**PURPOSE**

The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the proposed Cemeteries Amendment Local Law 2010, for the Council to propose the Local Law and to allow for advertising of the proposed Local Law for public comment.

**BACKGROUND**

The Council manages cemeteries at Mount Barker, Kendenup and Rocky Gully. The Mount Barker cemetery is currently being expanded to encompass a lot across Mitchell Street.

The purpose of this local law is to provide for the orderly management of cemeteries in accordance with established plans and industry standards and to provide for lawn sections and natural earth burial sections.

The effect of this local law is that:

- The minimum funeral booking notice is increased.
- Access for vehicles within cemeteries is permitted in designated public parking areas.
- Additional methods for the disposal of ashes are specified.
- The Board (the Council) may set aside lawn areas and natural earth burial areas and specify the requirements for memorials within those sections.

The Shire of Plantagenet Cemeteries Local Law 2008 was adopted by the Council on 25 March 2008. The Council adopted the Model Local Law (Cemeteries) 1998 by reference, including amendments required to take into account those matters that had been identified and to make the local law Shire of Plantagenet specific.

The development plan for the extension to the Mount Barker Cemetery adopted on 14 February 2006, noted the following guidelines for ground level bronze plaques:

- Plaque must be made from Admiralty Bronze and have number of gravesite. To be ordered through the Council.
- Not to be less than the dimensions 380mm x 280mm.
- Not to exceed 20mm in thickness.
- Base beneath plaque (bedded concrete slab) not to exceed 50mm past plaque edges.
- Ceramic materials, glass and wood not permitted on Lawn Area.
- Plastic flowers prohibited.



A Council workshop in June 2008 was held to discuss the layout of the extension to the Mount Barker cemetery. This workshop endorsed the proposal that the lawn areas within the extension to the Mount Barker Cemetery would provide for brass plaques to be the standard memorial for headstones rather than the small plinths or traditional full grave length plinth that has historically been popular.

At its meeting held on 9 February 2010, the Council resolved *'that no objections be raised for natural earth burials in the new Mount Barker Cemetery, such burials to be undertaken in the screening vegetation strip around the Cemetery and subject also to the Cemeteries Act 1986, Local Government Act 1995 and the Shire of Plantagenet Cemeteries Local Laws 2008 being adhered to at all times.'* A new Council Policy A/CA/1 Natural Burial was adopted in this regard.

## **CONSULTATION**

A minimum of 42 day public submission period on the proposed Cemeteries Amendment Local Law will be advertised Statewide when adopted by the Council.

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

## **STATUTORY ENVIRONMENT**

The Cemeteries Local Law is made under the powers of the Cemeteries Act 1986. However, the Act requires that in making a local law the process required by the Local Government Act 1995 is to be followed. Section 3.12 of the Local Government Act 1995 sets out the procedures to be followed in making a local law.

In April 1995, all Australian governments reached agreement on a National Competition Policy (NCP) for Australia. Three intergovernmental agreements underpin the NCP, being the Competition Principles Agreement (CPA), the Conduct Code Agreement and the Agreement to Implement the National Competition Policy and Related Reforms.

The CPA is binding on local government. This requires councils to carry out a number of procedures and include a report on the matter in each year's Annual Report. One of the three areas that affect local government is to review local laws and amendments to local laws that may contain restrictions on competition.

## **FINANCIAL IMPLICATIONS**

Advertising costs are likely to be around \$1,000.00.

## **POLICY IMPLICATIONS**

There are no policy implications for this report.

## **STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

**OFFICER COMMENT**

Amendments are proposed for the Cemeteries Local Law, particularly due to the impending opening of the extension to the Mount Barker Cemetery and the adoption of the new Council Policy A/CA/1 Natural Burial. The following specific amendments are recommended:

**Clause 3.4 – Minimum Notice Required**

This clause states that all bookings to hold a funeral shall be made with the Board at least 24 hours prior to the time proposed for burial on the application, otherwise an extra charge may be made. This amount of notice is considered to be too short in order for staff to make the necessary arrangements and therefore 48 hours is recommended.

**Clause 5.3 – Vehicle Entry Restricted**

Clause 1 states that every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery. Given that the extension to the Mount Barker Cemetery will incorporate a public parking area, this clause should provide an exception for this parking area and any future ones.

**Clause 5.7 – Disposal of Ashes**

Clause 1 provides that permission may be granted for ashes to be disposed of by one of the following methods:

- Niche Wall.
- Memorial Wall.
- Family Grave.
- Scattering to the Winds.
- Other memorials approved by the Board (Council).

There will be no niche walls or memorial walls in the extension to the Mount Barker Cemetery. However, it is recommended that the additional methods listed below, which have previously been discussed at a Council workshop (and endorsed in cemetery fees), be incorporated into this clause:

- Garden of Remembrance.
- Ground Niche.
- Memorial Rose, Tree or Shrub.
- Family Shrub.
- Memorial Gardens.
- Memorial Seat.
- Memorial Rock.

**Clause 7.2 – Placement of Monumental Work**

This clause states that every memorial shall be placed on proper and substantial foundations. It does not currently enable the Board to determine specifications of memorials, which should be required in order to ensure that monumental work conforms to certain standards that are suitable and safe for staff and the public.

The Clause has been renamed 'Design and Placement of Memorials' and an appropriate paragraph has been inserted such that the Board may from time to time determine specifications of memorials. A policy is currently being developed for presentation to the Council which will complement this amendment. It should be noted that above ground monuments will still be permitted in the (old) Mount Barker,

Kendenup and Rocky Gully Cemeteries.

#### Clause 7.12 – Placing of Glass Domes and Vases

A minor change to the local law is recommended to Clause 7.12 - Placing of Glass Domes and Vases. Paragraph (b) of this clause states that a person shall not place glass domes, vases or other grave ornaments in an area set aside by the Board as a memorial plaque section. It is recommended that this paragraph be amended to include the lawn and natural earth burial sections in line with the June 2008 Council workshop outcome.

#### Division 2 – Memorial Plaque Section

The extension to the Mount Barker cemetery will incorporate lawn sections, a number of different types of memorial plaque sections (such as gardens of remembrance and ground niches) and some areas for natural earth burials. The current local law incorporates provision for memorial plaque sections, however does not specifically provide for lawn or natural earth burial sections. It is proposed that Division 2 be renamed 'Other Sections' and a new clause (Clause 7.13) providing for the Board to set aside any part of a cemetery as a lawn section, memorial plaque section or a natural earth burials section. This would replace the current Clause 7.13, which details requirements of a memorial plaque.

In order to ensure that the monumental works within the extension to the Mount Barker Cemetery are in line with the adopted cemetery plan and June 2008 workshop outcomes, it is recommended that a clause (Clause 7.14) be added to provide for all memorials within a memorial plaque section, lawn section or natural earth burials section to be supplied by the Board (Council). The detailed specifications can then be defined within cemetery guidelines rather than the local law.

Other amendments relate to renumbering due to the insertion of a new clause.

A policy to establish guidelines for memorials at cemeteries is currently under development.

In relation to the National Competition Policy requirements, this local law is not considered to include any provisions that may restrict competition. However, the establishment of the Mount Barker Cemetery extension as predominantly a lawn cemetery will reduce the amount of work for monumental masons (and reduce work for Council maintenance staff).

New Clause 7.14 provides for all memorials placed in lawn sections, memorial plaque sections or and natural earth burials sections to be supplied by the Board. This is in line with the current practice for niche wall plaques and gives the Council some assurance that only approved memorials will be used. Whilst this will potentially reduce the amount of work generated for monumental masons, this will be for Mount Barker Cemetery extension only. There will still be a need for work by monumental masons in Kendenup and Rocky Gully and to source plaques and pre-cast concrete supports from the private sector.

## **VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**Moved Cr L Handasyde, seconded Cr S Etherington:**

**That in accordance with Section 3.12(3) of the Local Government Act 1995, the proposed Cemeteries Amendment Local Law 2010, as detailed below, be advertised for public comment:**

**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

*Shire of Plantagenet*

**CEMETERIES AMENDMENT LOCAL LAW 2010**

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Plantagenet resolved on            to adopt the following local law.

**1. Citation**

This local law may be cited as the *Shire of Plantagenet Cemeteries Amendment Local Law 2010*.

**2. Principal local law**

In this local law, the *Shire of Plantagenet Cemeteries Local Law* as published in the *Government Gazette* on 11 April 2008 is referred to as the principal local law. The principal local law is amended.

**3. Clause 3.4 amended**

Delete "twenty four" and insert "forty eight".

**4. Clause 5.3 amended**

In subclause (1) after "cemetery" insert "except for designated public parking areas".

**5. Clause 5.7 amended**

In subclause (1) after "Scattering to the Winds" insert—

Garden of Remembrance  
Ground Niche  
Memorial Rose, Tree or Shrub  
Family Shrub  
Memorial Gardens  
Memorial Seat  
Memorial Rock

**6. Clause 7.2 amended**

Delete clause 7.2 and its heading and substitute with—

**7.2 Design and Placement of Memorials**

- (1) The Board may from time to time determine specifications of memorials.  
(2) Every memorial shall be placed on proper and substantial foundations.

**7. Clause 7.12 amended**

In paragraph (b) after "plaque" insert ", lawn or natural earth burials".

**8. Division 2 amended**

Delete "*Division 2 – Lawn Section*" and substitute with "*Division 2 - Other Sections*".

**9. Clause 7.13 amended**

Delete clause 7.13 and its heading and substitute with—

**7.13 Setting Aside Other Sections**

The Board may from time to time set aside any part of a cemetery as a lawn section, memorial plaque section or a natural earth burials section.

**10. Clause 7.15 amended**

In paragraph (a) delete "7.18" and insert "7.19".

**11. Clause 7.16 amended**

In paragraph (a) delete "7.14" and insert "7.15".

**12. Division 3 amended**

Designations "7.14" through to "7.18" are re-designated "7.15" through to "7.19" respectively.

**13. New clause 7.14 inserted**

After clause 7.13 insert—

**7.14 Requirements of Memorials**

All memorials placed in the parts of a cemetery set aside under clause 7.13 shall be supplied by the Board.

Dated: 2010.

The Common Seal of the Shire of Plantagenet was affixed by authority of a resolution of the Council in the presence of—

K.A.CLEMENTS, Shire President.  
R.J. STEWART, Chief Executive Officer.

**CARRIED (8/0)**

**NO. 73/10**

## 11.5 EXECUTIVE SERVICES REPORTS

### 11.5.1 TOWNSCAPE REVIEW STEERING COMMITTEE - COUNCIL REPRESENTATION

File No:	N14210
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Kaye Skinner Executive Secretary
Proposed Meeting Date:	13 April 2010

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#### PURPOSE

The purpose of this report is to recommend the appointment of Councillors, staff and community representatives to the Townscape Review Steering Committee (the Committee).

#### BACKGROUND

At its meeting held on 7 October 2009 the Committee resolved to recommend to the Council:

*'That:*

- 1. The Terms of Reference of the Townscape Review Steering committee be amended to read:*

*'Mission/Purpose:*

*To Guide the process of reviewing Townscape Improvement Plans for the Shire of Plantagenet that will:*

- 1. Serve as an overall framework for streetscape upgrading projects.*
- 2. Lead to the enhancement of the visual and practical amenity of the area.*

*Tasks/Responsibilities*

*The general tasks/responsibilities of the Committee are to:*

- 1. Provide assistance and advice to Council staff.*
  - 2. Take an active role in developing an understanding of townscape issues.*
  - 3. Make recommendations to the Council regarding matters within its purview.*
  - 4. Comply with relevant policies and directives.*
- 
- 2. The membership of the Committee be set at:*
    - a) Two Councillors;*
    - b) Four community members;*
    - c) The Chief Executive Officer or his delegate; and*

d) *The Manager Development Services.*

3. *The existing four community representatives being Mr Peter Thorn, Mr Roger Bartley, Ms Larissa Seah and Ms Karen McKenzie be re-appointed as members.'*

At the Special Meeting of the Council held on 20 October 2009, the Council resolved:

*'That:*

1. *The Townscape Review Steering Committee be disbanded.*
2. *A further report be presented to the Council at its meeting to be held on 9 February 2010 for the formation of a new Committee.'*

The brief of that Committee was:

*'Guide the process of reviewing the Townscape Improvement Plan for the Shire of Plantagenet that will:*

- *Serve as an overall framework for streetscape upgrading projects over the next ten years; and*
- *Lead to the enhancement of the visual and practical amenity of the area.'*

The Council at its meeting held on 9 February 2010 resolved:

*'That:*

1. *A committee to be known as the Townscape Review Steering Committee be created pursuant to Section 5.9(2)(c) of the Local Government Act 1995.*
2. *The membership of the committee be set at:*
  - a) *Two Councillors;*
  - b) *Four community members;*
  - c) *The Chief Executive Officer or his delegate; and*
  - d) *The Manager Development Services.*
3. *The four community representatives be advertised.*
4. *The Terms of Reference of the Townscape Review Steering committee be amended to read:*

*Mission/Purpose:*

*To guide the process of reviewing Townscape Improvement Plans for the Shire of Plantagenet that will:*

1. *Serve as an overall framework for streetscape upgrading projects.*
2. *Lead to the enhancement of the visual and practical amenity of the area.*

### *Tasks/Responsibilities*

*The general tasks/responsibilities of the Committee are to:*

- 1. Provide assistance and advice to Council staff.*
- 2. Take an active role in developing an understanding of townscape issues.*
- 3. Make recommendations to the Council regarding matters within its purview.*
- 4. Comply with relevant policies and directives.'*

### **STATUTORY ENVIRONMENT**

The Committee was appointed by the Council pursuant to Section 5.9(2)(c) of the Local Government Act 1995, meaning that Council members, employees and other persons can be appointed and must be recorded as an Absolute Majority.

### **FINANCIAL IMPLICATIONS**

There are no financial implications for this report.

### **POLICY IMPLICATIONS**

There are no policy implications for this report.

### **STRATEGIC IMPLICATIONS**

The existence of community based committees is consistent with the Shire of Plantagenet's Strategic Plan. In particular the New Initiatives in Key Result Area 3:

*'Engender a sense of belonging and community pride across all sections of the community' and*

Key Result Area 4:

*'Encourage a sense of community and improve the quality of life for all residents of the Shire, and will assist in achieving to revise and implement the Mount Barker Townscape Improvement Plan'.*

### **OFFICER COMMENT**

At its meeting held on 9 February 2010, the Council resolved to declare all community positions vacant and call for nominations of the Townscape Review Steering Committee.

Expressions of interest were invited from community members interested in filling these vacancies. Advertisements were placed in the Plantagenet news on 17 and 24 March 2010. Expressions of interest were received from Messrs Thorn and Bartley and Mrs McKenzie who are former members of the Committee. Mr George Corke has indicated that he would like to be a member of the Committee but has not forwarded supporting documentation. He has indicated that it will be available by the day of the Council meeting.

### **VOTING REQUIREMENTS**

Absolute Majority



**OFFICER RECOMMENDATION/COUNCIL DECISION****Moved Cr S Etherington, seconded Cr L Handasyde:****That:**

- 1. Cr G Messmer and Cr A Budrikis be nominated as members on the Townscape Review Steering Committee.**
- 2. The officer occupying the position of Chief Executive Officer or his delegate and the officer occupying the position of Manager Development Services be appointed as members on the Townscape Review Steering Committee.**
- 3. Mr Roger Bartley, Mrs Karen McKenzie, Mr Peter Thorn and Mr George Corke be appointed as community members on the Townscape Review Steering Committee.**

**CARRIED (8/0)****(Absolute Majority)****NO. 74/10**

**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**

3:50pm The Presiding Member declared the meeting closed.

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