



# ORDINARY MINUTES

**DATE:** Tuesday, 17 August 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

2:53pm 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 S Etherington	Councillor
Cr S Grylls	Councillor
Cr L Handasyde	Councillor
Cr G Messmer	Councillor
Cr J Moir	Councillor

### In Attendance:

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

There were 18 member(s) of the public in attendance.

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

### Apologies

Cr Andrus Budrikis

### Previously Approved Leave of Absence:

Gert Messmer – 28 September 2010

### 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**

#### **4.1.1 LOT 769 AND 770 HALSEY ROAD, MOUNT BARKER – NOXIOUS INDUSTRY – FREE RANGE PIGGERY – MR JOHN VAN WYKE**

My name is John Van Wyke. I wish to make a presentation on behalf of myself and my wife Kate, formerly Kathy Nicol.

We live on our family farm on Crockerup Road, which includes a block of land on the opposite side of Halsey Road to the proposed piggery. While this block has always been managed as part of our whole farm, it is actually made up of eight individual 50 acre lots and was always earmarked by us for subdivision and sale as individual holdings. In fact, we started down this path three years ago, and if not for the Global Financial Crisis, expected to have sold some or all of these lots by now. As a result, I speak from the perspective of a small landholder, not a farmer.

I mention this because in the consultant's report no mention is made of any adverse effect of the piggery on our land or interests. In fact, we believe we are amongst the most affected of all the neighbours to the proposed piggery.

We have already made a written submission to the Shire objecting to the proposed piggery. This submission was framed in terms of the original notification we received. Having now seen the report prepared for today's

meeting, we have noted two important changes, and wish our response to these to be considered with our earlier submission.

Firstly, the original proposal indicated a circular buffer around the piggery, with a radius of 1,000m as specified by the Environment Protection Authority (EPA) for this type of industry. This has now been replaced in this report by a 1,000m square buffer, a correction made by the Shire planning officer.

Secondly, a proposed buffer of 700m has now been added, a recommendation made by the consultants for Milne Agrigroup.

I would like to respond to each of these changes in turn.

#### Proposed reduction of the buffer distance to 700m

In their report for Milne Agrigroup, the consultants acknowledge the 1,000m buffer distance specified in EPA Guidelines but also refer to a distance of 300m recommended in the Department of Agriculture and Food (DAF) publication,

In Table 3 where this is shown, this distance applies to a land use category 'Isolated Rural dwellings, dairies and industries'. In my view, it is highly contentious that in a region where people can live less than 100m apart, their houses should be described as 'isolated rural dwellings', and included with dairies and other industries for planning purposes. On the face of it, it seems much fairer to ascribe a different land use category in Table 3, 'Special Rural Areas' to the De Garis subdivision in which this enterprise is located. In the table the buffer distance for this category is given as 2,000m. This is an error. The distance given in the original DAF publication is 1,000m, just the same as the EPA Guidelines.

Nevertheless, having introduced the notion of a 300m buffer the consultants then propose what looks like a compromise distance of 700m. There is no quantitative argument developed for choosing this number. There is, however, one good reason that I can see for picking this number. This is because it does reduce the impact of the buffer on one objecting neighbour, namely us, as it now lies just inside our western boundary.

I note, however, that the Department of Environment and Conservation in Albany does not support this proposal, even adding that odour problems can still occur at distances greater than the 1,000m. As an adjoining neighbour with property only 700m east of the piggery, and therefore in direct line of our strongest and most regular winds, we most strongly object to a reduction to 700m on these grounds.

Consequently, we would like to comment on the effect of the proposed buffer on our land at the recommended distance of 1,000m.

#### Effect on land usage of the re-configured buffers

The proposed site plan shows the buffer now spreads over four lots of our block, and will clearly have a devastating effect on how this land can be used.

Lot 774 and 789 are completely covered by the buffer. These two lots represent our best land. They are on the highest ground, have outstanding views to the Stirling Ranges, and have best access to Halsey Road. With the buffer in place, it would not be possible for us or anyone else to build a house anywhere on these lots. If someone owned one of these lots, they would not be able to live on their own property at all.

Lots 775 and 788, which are next to them, are partially covered. Approximately 15% of the land in these lots lies in the EPA exclusion zone, which would impose significant restrictions on the right to build and live on these properties. Lot 788, in particular, is three quarters bush, and the buffer takes out a much larger proportion of the available cleared land.

Let me try to put a dollar value on this loss. I am advised by a local real estate agent that individually, the two blocks adjoining Halsey Road would sell for around \$230,000.00 each right now, or \$460,000.00 in total. With the piggery and its buffers in place, only a farmer is likely to buy them for general farming purposes, at a suggested rate of \$1,500.00 to \$2,000.00 per arable acre. As they contain 95 arable acres, this could be up to \$190,000.00. This represents a loss of some \$270,000.00 on the two blocks. We have eight blocks, and all would be affected to some degree. The agent advises me that there are about 70 blocks in the subdivision whose value is likely to be affected if this industry goes ahead.

I have presented this response from our own perspective. Of course, neighbours on all sides are similarly affected. The neighbours on the west side probably stand to lose as much as we do if the proposal goes ahead. The neighbours on the north side all stand to lose the right to build and reside on over half of their property.

Finally I should add that reducing the buffer to 700m does not fundamentally change this. Either we or the western neighbours will lose access to whole blocks of land – just not both of us. Neighbours to the north still all lose access to a portion of their property – just a bit less.

As we stated in our first submission, we strongly believe that the imposition of such restrictions on so many properties to suit the circumstances a neighbour who wishes to establish a noxious industry on his property takes away a fundamental right we all have – the right to build and live on and enjoy our own land to its full potential in this unique rural location.

We ask that you protect this right by rejecting the submission as proposed.

#### **4.1.2 LOT 769 AND 770 HALSEY ROAD, MOUNT BARKER – NOXIOUS INDUSTRY – FREE RANGE PIGGERY – MR MARK RINTOUL – PLANTAGENET PORK**

Mr Rintoul presented in favour of the application. As no written presentation was available no further information is recorded.



**4.1.3 LOT 769 AND 770 HALSEY ROAD, MOUNT BARKER – NOXIOUS INDUSTRY – FREE RANGE PIGGERY – MR MARCUS MCPHARLIN**

I would like to address the concerns raised in the submissions. While these matters have already been addressed by the environmental report prepared for our application, I feel that the concerns raised may be due to lack of information.

Firstly, the 1,000m separation buffer was requested by Coffey Environments in consultation with the Plantagenet Shire 'reporting officer' to be reduced to 700m. A 700m buffer meant that all existing rural dwellings are outside the exclusion distance.

Secondly, there is a concern of odour and dust. Odour and dust issues are dealt with by the Plantagenet Shire Health Officer. In the 5 years that this officer has held this position he has had no complaints from neighbours in relation to any of the four operational piggeries in the Plantagenet Shire.

I have also spoken personally to the neighbours of the existing Milne's piggery – Kevin and Lynne Forbes, Bevan and Tracey Lang, Chad Sounness and the manager of Norfolk ridge Vineyards – all who opposed this piggery prior to set up. They reported unanimously that their concerns were unfounded and they have no issues with dust, odour, noise or escaping animals.

The 'reporting officer' also reported at the 15 December 2009 Council meeting (page 3 of the minutes) that 'Winston Griffith's Cranbrook pig operation had minimal odour issues'. Please note that while comparable, the Griffith's operation is 60% larger than the proposed operation.

Thirdly, the wording of the proposal has caused some confusion within the community discussion and may have resulted in unnecessary anxiety. The term 'extensive free-range' should not be confused with 'intensive' or even 'semi-intensive'. An 'extensive free-range' piggery is supported by animal welfare groups and means that the pigs are free to go outside or to take shelter.

Finally, I have a letter from a principal of a local real estate firm stating that in his opinion the affect on neighbouring properties land values will be nil or minimal. I note also that Kendenup house and land prices do not seem to be affected by the close proximity of the chicken abattoir.

My family and business partners are involved in many aspects of the Mount Barker community. It is important that we retain this relationship and ask that if there were to be any unresolved concerns about the proposed piggery – approval be granted subject to a trial period. In keeping with the Shire of Plantagenet Strategic Plan 2003, Key Result Area 4 Development Services the Shire advocates 'retaining local business and encouraging new businesses that will create long-term sustainable local employment. The Shire also seeks to plan a safe and healthy living environment'.

**4.1.4 LOT 769 AND 770 HALSEY ROAD, MOUNT BARKER – NOXIOUS INDUSTRY – FREE RANGE PIGGERY – MR KEITH OVANS**

Area of concern, re: The Proposed Piggery, Halsey Road, Mount Barker.

Clean drinking water as stated in the Shire of Plantagenet Health Local Law 2008.

The Act requires householders if not connected to mains water supply to have at least 92,000 litres of water in tanks.

Therefore all householders relying on rain water tanks within the 1,000m buffer zone are at risk of pollution to their drinking water by airborne particles, i.e.: dust, dry faeces and other airborne pathogens generated by feedlot activities.

Also on high wind days householders outside the buffer zone may be subject to the same risk.

Is there any consideration in the proposal for compensation or supply of potable water at no cost to the affected householders should such pollution occur?

And has the Environmental Health Officer given any reports or recommendations on the proposed piggery?

**4.1.5 LOT 769 AND 770 HALSEY ROAD, MOUNT BARKER – NOXIOUS INDUSTRY – FREE RANGE PIGGERY – MRS SHERYLLE BAKER**

Mrs Baker presented in objection to the piggery. As no written presentation was available no further information is recorded.

**4.1.6 LOT 769 AND 770 HALSEY ROAD, MOUNT BARKER – NOXIOUS INDUSTRY – FREE RANGE PIGGERY – MRS JUDY LEAHY**

Further to our written objection to the proposed 1,600 grow-out piggery proposed for Lot 769 and 770 Halsey Road, Mount Barker we tender the following:

Our property is Lot 496 Fisher Road, 573 Halsey Road, Kendenup. We have owned and lived on the property for 20 years. We bought the property for its clean, pristine location specifically because I have chronic health problems.

We are organic Growers/Biological Farmers certified 'A' producers of fruit, berries and vegetables. We have established orchards and vegetable gardens.

As well as selling our produce fresh to our customers we also value add producing a range of dried fruits and preserves.

We are situated 2.2km due north by road from the piggery proposed by Mr McPharlin and Mrs Heckler and Milne Agrigroup and our property is on a similar elevation across the valley through which the Narpunup Creek flows.

Our summer prevailing winds are east south east to west south west.

Whilst we fully understand Mr McPharlin's expressed desire to make use of his and Mrs Heckler's land to produce some income we consider a piggery of the size and intensity proposed to be unsuitable and in an area of close settlement to be an inappropriate farming activity.

We have studied Mr McPharlin's brief proposal and have had one telephone conversation with Mr McPharlin regarding his plans. We have read the Pork Australia Guidelines and the Bulletin 4416 Environmental Guidelines for new and existing Piggeries and we cannot see how a piggery of this size and intensity would not impact adversely on Mr McPharlin's numerous close neighbours, ourselves included.

We dispute the description of this proposed piggery being free range – our understanding after having read the Pork Australia document and the Guidelines Bulletin is that this would be a feed lot piggery which falls between the extensive (free range) and intensive piggery definitions.

Mr McPharlin's and Mrs Heckler's property is part of the De Garis subdivisions, which means that there are numerous small blocks (between 30 and 60 acres) occupied by individual landowners and adjoining and near the property in question. There are 12 occupied dwellings within a 2.5km radius of the proposed piggery site, several of which will have a view of the operation, being on higher elevations than the piggery site and all of which will be in range of noise, dust and odour and a further 17 blocks which have owners planning to build or who wish to sell in the same vicinity and which will be affected similarly. In all, approximately 70 lots within a 2.5km radius of the piggery could be adversely affected to some degree.

Having read the reports from Coffey Environments and the Milne Agrigroup's submission presented with today's agenda we have found only one brief reference to the effect this proposed development will have on our ability to live comfortably or to build or develop our land holdings, and as can be seen by the submissions regarding this proposal, the overwhelming majority of potentially affected landholders are concerned about the diminution of their property values (a verbal assessment from a local reputable realtor estimates a fall of approximately \$100,000.00 in value on the sale price of each block affected) their living amenity and the restriction on their planned future land use. One question to be raised is – if the piggery proceeds who will be liable for the payment of any compensation for claims in relation to these losses?

None of the Guidelines or the reports covers the unique problems which arise around the De Garis subdivision and this must be taken into account with regard to this particular proposal, with specific reference to minimum buffer zones which do not cover the unique character of this area of the Shire. It should be noted that these buffers are artificial, arbitrary limitations recommended to limit the effect of a noxious industry on nearby isolated

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neighbours. None of our residences can be classified isolated – we can see and hear our neighbours, including Mr McPharlin and Mrs Heckler and therefore we conclude that the 1,000m buffer is inadequate and should not be reduced at all.

Additionally no report has given consideration to the recommendation given in the Bulletin 4416 Guidelines which recommends against piggeries being established within the Southern Shield which commences to the north west of Fisher and Jutland Roads at the northern headwater of the Kalgan River and completely encompasses the property in question.

Some of the potentially affected land holders already have established businesses which will be affected, even if only perceptually, but almost certainly financially, by this piggery being allowed to proceed.

Nearly all dwelling occupiers in the affected area are concerned about the effect this one business will have on our existing activities and those planned for the future.

In our case it will mean that our organic fruit and vegetable growing business will be compromised and our intention to establish a farm gate sales outlet will be unviable.

Our major concerns are in relation to dust, noise and odour, with road usage and protection of waterways which constitute part of the Kalgan River headwaters as of only slightly less importance.

Our primary concern is in relation to dust.

We understand, although it was not indicated on the copy of the proposal we received, that an initial figure of approximately 1,600 pigs are to be housed on the site.

The proposal outlines a weaner to finish operation which will take approximately 12-16 weeks to complete, with weaners being brought in and housed in deep litter igloos for up to 7 weeks before finished in open pens of 1,000m<sup>2</sup> for another 5 weeks.

Our understanding is that these pens will be pastured and will accommodate from 125 to 200 pigs. There is no indication in the proposal that these pens will be watered down during the summer months (although Mr Rintoul did mention this in his earlier presentation) and it appears that the rotation of these pens usage will be over 18 months minimum.

The proposal states that straw and faeces will be composted on site. On our calculation (based on the figure of 6% of pig body weight eliminated daily given in the Guidelines item 3.1 page 5 and pig weights between 15-40kg) 1,600 pigs will produce between 525 and 1,400 tonnes of faecal matter in one year. (The estimate given in the Milne Agrigroup proposal is 400 tonnes). This combined with straw and waste feed will contribute to waste matter being dried in large mounds which may contribute an additional dust load during summer.

Our main concern is that our property lies north of the proposed piggery and our prevailing winds during summer are south west to southerly, hence dust will be carried across to our property. In our case the buffer of trees to the north of the proposed piggery will only partially suppress dust movement and we know from our long tenure on our property that we have a problem with road dust during the drier months due to the nature of the clay soils in this area.

Pathogens such as salmonella and E.Coli are known to exist in pig faeces and to be components of dust created from such areas.

We are concerned on two fronts – firstly that dust will increase with this facility to our south and will lodge on our fruit and vegetables and thus create a potential health risk to anyone consuming our produce. Our discussions with the Department of Agriculture and Food and the Department of Health on this issue have lead us to understand that we will be liable for any poisoning which may occur should our produce be contaminated. Our organic certifying body is very stringent on this kind of contamination and even the potential for such meant that we will need to take measures such as higher product risk insurance to cover such a possibility and secondly our water supplies will be compromised. Our irrigation water is sourced from an open dam and our only source of potable water is rain water and this too will be contaminated by the dust and thus washing our produce will not be an effective means to remove potential or possible contaminants. This would mean we would have to go to further expense to wash fresh produce off site or to cease our business.

In regard to odour, this piggery is proposed to be sited on the edge of a valley system which is part of the Kalgan River headwater system including the Peeralup Gully and Narpunup Creek. The various guidelines suggest that piggeries are best sited on flat land and not in valley systems as odour tends to linger and intensify in these areas.

Also the buffers may need to be extended in the direction of the prevailing winds. This would be the case in this instance.

Since the proposed piggery is by definition in the National Environmental Guidelines an intensive piggery (deep litter) – i.e. one where pigs are fed for the purpose of production, relying primarily on prepared or manufactured feedstuffs or rations to meet their nutritional requirements – and will accommodate 1,600 pigs, we are bound to experience the unwelcome smell especially during summer when the prevailing wind is from the south west.

In the Coffey Environments site specific report item 2.1 there is an admission that there will be odour from solid waste stock piles, which is to be managed through weekly turning of the stockpiles, but that in the event that odours associated with the stockpiles do occur the material will be removed from the site.

Additionally nowhere in the reports is there mention of increase vermin or insect activity, and yet it is well known that faecal matter and urine attracts flies and generates increased breeding. The composting material will contain waste food matter which may attract rodents and their increased activity

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should also be considered given that it is known rats and mice travel over 3km from breeding sites to forage and this increase will impact on residents in the vicinity.

The increased use of Halsey Road, a secondary road, already compromised by its three creek crossings and salt patches and a 90 degree blind bend and increased traffic usage will mean an even more degraded and unsafe road for the residents in the area, if heavy transport vehicles hauling pigs, feed, straw and compost start to use it on a regular basis.

We have concerns regarding noise – we are able to hear the operations at the cement quarry on Pellew Road which is over 4km away from us in a direct line and we hear the highway which is over 3km away. 1,600 pigs are going to make a noise, as will loading, unloading, weighing and the other pig husbandry activities, and animals don't keep sociable hours.

On a more general note – the Bulletin 4416 Guidelines clearly indicate that the area of the Southern Shield should be precluded from consideration for piggeries of any kind due to its environmental sensitivity. The map on page 9 of the document includes the whole area under question as being most vulnerable to environmental damage.

Narpunup Creek lies due north of the proposed piggery and is a perennial creek. The topographical map sheet 2428-iv clearly shows gullies running down to the creek from the proposed site on tight gradients. The soil in this area is gravelly loam over clay with a depth to clay of approximately 400-600mm. Water sheets over the clay on slopes and it's possible that during periods of heavy rainfall effluent from the pens or from the compost heaps or from the holding dams which will be on the western side of the piggery could find its way into the waterway. This could compromise the whole of the Kalgan system. The site specific report from Coffey Environments has relied on data obtained from a site 1km away from that in question (Fox River?) on which to make its assessment and it would seem that no attempt was made to survey the site off site in respect of land levels and visual impact issues, or to obtain seasonal records relating to watershed in the area.

In its generic report on this proposal Coffey Environments has said that due to the natural characteristics of the Plantagenet region the Milne Agrigroup has identified this area as its preferred option for raising pigs and the Milne Agrigroup intends to establish a number of free range piggeries within the Shire of Plantagenet. The Shire is a large one with a variety of land types, locations and uses. In this instance the company's choice of location is a very poor one and it would seem arbitrarily chosen as a test case for future intended developments of a similar nature. In all this proposal is a flawed one with minimal consideration having been given by any of the proponents or their assessors to the unique nature of settlement and businesses in the Kendenup area, nor to the responsibility land holders feel they have to maintain the integrity of a sensitive waterway in the Kalgan system and we hope that this will prove instead to be a test case that prevents any further such proposals of this nature and in this area being put before the Council.

Given all the above mentioned factors we ask that the Council not approve this proposal.

## **5 DISCLOSURE OF INTEREST**

Part 5 Division 6 Local Government Act 1995

Cr B Bell declared a Financial/Indirect Financial Interest (Section 5.60(A) and Section 5.61 LGA) – Supplier of Goods – in Item 11.1.1.

Cr J Moir declared a Code of Conduct Disclosure (S5.103 LGA/Reg 34C Local Government Administration Regulations) Perceived Interests (Clause 2.3 Code of Conduct) – Member of the Mount Barker Golf Club – in Item 11.1.3.

Cr J Moir disclosed a Financial/Indirect Financial Interest (Section 5.60(A) and Section 5.61 LGA) – Cattle farmer and Employee of Landmark – in Item 11.3.4.

Cr M Skinner disclosed a Financial/Indirect Financial Interest (Section 5.60(A) and Section 5.61 LGA) – Cattle Farmer – in Item 11.3.4.

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

Section 5.25 Local Government Act 1995

Cr J Moir requested leave of absence for the period 6 to 10 September 2010 inclusive.

**Moved Cr G Messmer, seconded Cr S Etherington:**

**That Cr J Moir be granted leave of absence for the period of 6 to 10 September inclusive.**

**CARRIED (8/0)**

**NO. 194/10**

## **7 CONFIRMATION OF MINUTES**

**Moved Cr B Bell, seconded Cr G Messmer:**

**That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 27 July 2010 as circulated, be taken as read and adopted as a correct record.**

**CARRIED (8/0)**

**NO. 195/10**

## 8 COMMITTEE MINUTES

Moved Cr S Grylls, seconded Cr B Bell:

That the Minutes of:

[Great Southern Regional Cattle Saleyards Advisory Committee – Meeting – 27 July 2010](#)

be received.

**CARRIED (8/0)**

**NO. 196/10**

## 9 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 2 August 2010 – Along with Mr Le Cerf attended the Great Southern Regional Road Group meeting in Albany.
- 3 August 2010 – Along with Mr Stewart attended the Integrated Planning Session at Cannington.
- 4 August 2010 – Along with Mr Stewart attended the Great Southern Zone meeting at the Perth Conference Centre.
- 5 – 6 August 2010 – Along with Cr Skinner and Mr Stewart attended the Western Australian Local Government Convention.
- 7 August 2010 – Along with Cr Skinner and Mr Stewart attended the Western Australian Local Government Annual General Meeting.
- 12 August 2010 – Along with Councillors, Staff and members of the public met with the directors of the Great Southern Development Commission.

## 10 ANNOUNCEMENTS BY COUNCILLORS WITHOUT DISCUSSION

Cr M Skinner

- 5 – 7 August 2010 – attended the Western Australian Local Government Convention.
- 12 August 2010 – met with the directors of the Great Southern Development Commission.

Cr B Bell

- Wilson Road residents wish to thank the Manager Works and Services and his team for their dedication to their work. Well done.



Cr G Messmer

- 12 August 2010 – met with the directors of the Great Southern Development Commission.

Cr L Handasyde

- 15 August 2010 – attended a community function at the District Hall which raised \$700.00 for the Chaplaincy.

## 11 REPORTS OF COMMITTEES AND OFFICERS

### 11.1 DEVELOPMENT SERVICES REPORTS

#### 11.1.1 LOTS 769 AND 770 HALSEY ROAD, MOUNT BARKER - NOXIOUS INDUSTRY - FREE RANGE PIGGERY

A Financial/Indirect Financial Interest was disclosed by Cr B Bell.  
Nature and extent of Interest: Supplier of Goods

3:35pm Cr B Bell withdrew from the meeting.

**File No:** N15603

**Attachments:** [Location Plan](#)  
[Grow-Out Pig Service Pen Plan](#)  
[Proponent Proposed Piggery Location Site Plan](#)  
[Alternative Piggery Location Site Plan 1](#)  
[Alternative Piggery Location Site Plan 2](#)  
[Generic Report](#)  
[Site Specific Report - Lot 770](#)  
[Email from Department of Environment and Conservation](#)  
[Submissions Location Plan](#)  
[Summary of Submissions](#)

**Responsible Officer:** Peter Duncan  
Manager Development Services

**Author:** Vincent Jenkins  
Planning Officer

**Proposed Meeting Date:** 17 August 2010

**Applicants:** Lorraine Heckler and Marcus McPharlin

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#### PURPOSE

The purpose of this report is to consider a proposal for a free-range piggery at Lots 769 and 770 Halsey Road, Mount Barker.

#### BACKGROUND

Council Records show the registered owner of Lots 769 and 770 is L Heckler.

The proponent intends to establish a free range pig grow-out facility under the care of and for the delivery to Plantagenet Free Range Pork.

The proposed free-range pig grow-out facility consists of one service pen used for weaning and growing pigs (see grow-out pig service plan attached). Three other pens, shown on the Proponent Proposed Piggery Site Location Plan as A, B and C, will be used for the future rotation of service pens. The cumulative area for the pig grow-out facility is 6.24ha with a single service pen area of 1.56ha.

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The pig population will consist of approximately 440 piglets that are kept in two weaning pens and approximately 1,100 pigs that are kept in 10 growing pens.

Lots 350 and 351 are owned by Marcus McPharlin and have a total area of 37.02ha. Lots 790, 791, 792, 793, 794, 769, 770 and 771 are owned by Lorraine Heckler with a total area of 146.99ha. The cumulative property area owned by the proponents is 184.05ha and even though these properties consist of multiple titles, it functions as one farm. The farm is used for both pasture and cropping.

Existing development currently on the properties owned by the proponents consists of two houses and various outbuildings. Marcus McPharlin and his family reside in the house located on lot 350 and Lorraine Heckler resides in the house located on lot 792.

The application has been referred to the Environmental Protection Authority (EPA), Department of Environment and Conservation (DEC), Department of Agriculture and Food (DAF) and the Department of Water (DOW). From the comments offered the DEC recommended a buffer distance of 1,000m to minimise the effect of odour and dust of the piggery on adjacent residents. Comments offered by other government agencies did not raise concerns regarding site selection for the proposed piggery.

The proposed piggery site location is shown on the Location Site Plan attached in the heart of the 184.05ha area. This 184.05ha land holding only partly covers the 1,000m EPA buffer area and Shire of Plantagenet Health Local Law 2008 requirement for this form of piggery.

Milne Agrigroup (MAG) which is the company behind Plantagenet Free Range Pork has requested Coffey Environments (CE) to undertake a generic assessment into the suitability of the separation (buffer) distance recommendation detailed in the EPA Guidance Statement 'Separation Distances Between Industrial and Sensitive Land Uses'. The Council received a copy of the document 'Plantagenet Pork – Buffer Assessment' on 5 August 2010 (copy attached). This document concluded that based on the nature of the proposed facilities and the management measures that are to be implemented, that if a site is considered appropriate for the establishment of a free range piggery then the EPA Guideline recommended buffer distance may be reduced from 1,000m to 700m.

MAG also requested CE to specifically assess the suitability of Lot 770 Halsey Road, Mount Barker for the establishment of a free range pig grow-out facility. This assessment has been undertaken in accordance with the 'Plantagenet Pork – Buffer Assessment' document mentioned above. The Council received a copy of the document 'Plantagenet Pork – Site Suitability of Lot 770 Halsey Road, Mount Barker' (copy attached). This document concluded that Lot 770 Halsey Road, Mount Barker is appropriate for the establishment of a free range piggery and in addition, that a buffer distance of 700m is appropriate to manage the potential emissions associated with the proposed grow-out facility.

The CE, 'Plantagenet Pork – Buffer Assessment' and 'Plantagenet Pork – Site Suitability of Lot 770 Halsey Road, Mount Barker' documents were referred to the DEC. The DEC cautioned the Council against approving any activity that cannot meet the EPA buffer distance guidelines without first conducting extensive

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community consultation with all local and surrounding landowners. The DEC further advised that odour is strongly influenced by weather and under certain conditions can still cause impacts even beyond the 1,000m buffer (copy of email attached).

## STATUTORY ENVIRONMENT

Planning and Development Act 2005.

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Rural. A piggery falls within the definition of a Noxious Industry which is a discretionary ‘SA’ use under TPS3 meaning that the Council may, at its discretion, permit the use after the proposal has been advertised for comment in accordance with Clause 6.2.

Environmental Protection Act 1986 – Guidance for the Assessment of Environmental factors – Separation Distances between Industrial and Sensitive Land Uses No.3 June 2005.

### Separation Distance Requirements

Industry	Piggery – extensive (all premises)	
Description	Premise on which pigs are fed, watered and housed in outside paddocks or enclosures	
DEC Licence or Registration Category	Not required	
Key Government Agencies for Advice or Approvals	Local Government	
Code of Practice (CoP)/Environmental requirements	Department of Agriculture and Food Guidelines (May 2000)	
Impacts	Gaseous	No
	Noise	No
	Dust	Yes
	Odour	Yes
	Risk	No
Buffer Distance in metres and Qualifying Notes	1,000 metres for all extensive piggeries	

The key issues for concern for piggeries are odours and dust with the recommended buffer distance to sensitive land uses (such as houses) being 1,000m.

Environmental Protection Regulations 1987 - works approval or licence is currently not required for a piggery with straw-based housing (semi-intensive housing).

Health Act 1911 - Piggery is defined as an offensive trade and must be registered with the local authority on an annual basis.

Health Local Laws 2008, Part 5 Piggeries and Part 9 Offensive Trades

Part 5 Piggeries

Clause 5.6.2 reads:

- (1) *No premises shall be used as a piggery unless approved by the local government;*
- (2) *Subject to subsection (3), no premises shall be approved as a piggery by the local government unless every portion of such piggery complies with the minimum separation distances listed in Table 2; or if it is an intensive piggery, the minimum separation distances listed in Table 3; and*
- (3) *Sites unsuitable to satisfy the separation may be approved at the discretion of the local government, if the local government is satisfied that approving the piggery will not give rise to a health nuisance.*

*Table 2. Required Buffer Distances for Piggeries*

<i>Buffer</i>	<i>Distance</i>
<i>Townsite boundaries</i>	<i>5,000m</i>
<i>Isolated rural dwellings, dairies and industries</i>	<i>1,000m</i>
<i>Public roads and recreation areas</i>	<i>100m</i>
<i>Neighbouring rural property boundaries</i>	<i>50m</i>
<i>Major water course and water impoundments</i>	<i>300m</i>
<i>Bores, wells or soaks used for drinking, stock or irrigation</i>	<i>300m</i>
<i>Minor water courses</i>	<i>100m'</i>

The key issue for concern for piggeries is not to give rise to health nuisances with the recommended buffer distance to isolated rural dwellings being 1,000m.

Part 9 Offensive Trade, Division 2, Effluvia, Vapours, Gases or Dust

Clause 9.6.2 reads:

*'The occupier shall provide, use and maintain in a state of good repair and working order, appliances and preventive measures capable of effectively destroying or rendering harmless all offensive effluvia, vapours, dust or gasses arising in any process of his business or from any material, residue or other substance which may be kept or stored upon the premises.'*

Soil and Land Conservation Act 1945 - requires the use of appropriate land management to attain or maintain the stability of the land in perpetuity.

Environmental Guidelines for New and Existing Piggeries May 2000 (Guidelines).

These Guidelines were developed by the DAF, EPA, Waters and Rivers Commission, Health Department of WA, and West Australia Pork Producers' Association. The guidelines apply to the management of piggeries in Western Australia, including intensive and extensive operations, straw-based housing and combinations of these.

**EXTERNAL CONSULTATION**

The proposal has been advertised for comment for a 21 day period closing on 20 July 2010. Advertising included letters to 11 adjoining and nearby property owners and various agencies, notices were placed in the Albany Advertiser, Plantagenet News, the Council's noticeboard, and a sign placed on site.

At the close of the advertising period 26 submissions were received and these are contained in the attached summary of submissions.

**FINANCIAL IMPLICATIONS**

The application fee of \$132.00 and a bond of \$500.00 for advertising costs have 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.'*

Town Planning Scheme Policy No. 18 (Planning Vision) – shows the proposed piggery site location and surrounding lots as possible Rural Smallholding. Special provisions for Rural Smallholding zones generally do not permit intensive agricultural pursuits such as piggeries, feed lotting and poultry farms.

**OFFICER COMMENT**

The proposed piggery site location is approximately 2.5km east of Albany Highway and approximately 7.5km north of Mount Barker Townsite on Halsey Road.

A total of 19 submissions has been received from adjoining and nearby land owners of which 18 object to the proposed piggery. Concerns raised are odour, dust, noise and health risks, amenity of the locality and contamination of nearby creeks and the Kalgan River. Further concerns raised are increased vehicle traffic on Halsey Road, possible devaluation of properties, restricting development at properties and in some instances the inability to develop properties.

The CE 'Plantagenet Pork – Site Suitability of Lot 770 Halsey Road, Mount Barker' document concludes that the site is appropriate for the establishment of a free range piggery and in addition that, a buffer distance of 700m is appropriate to manage the potential emissions associated with the proposed grower facility. The DEC has cautioned the Council on approving any activity that cannot meet the EPA buffer distance guidelines without first conducting extensive community consultation with all local and surrounding landowners. It is clear from the submissions received that the community strongly objects to the establishment of a pig facility at Lot 769 and 770 Halsey Road for a number of reasons. The DEC further advised that odour is

strongly influenced by weather and under certain conditions can still cause impacts even beyond the 1,000m buffer hence the 1,000m buffer is preferred.

The proposed piggery site location means that the 700m buffer area is only contained on the applicants' properties in part. The buffer area encroaches significantly on lots 795 and 796 and effectively includes lots 767 and 768. The proposed piggery site location with the 1,000m buffer results in an approximate 65% encroachment on lot 741, 742, 743, 744, 745, 746, 747, 748 and 749 to the north. There are three houses within the 1,000m buffer area on adjoining Lots 743, 745 and 746 and these houses are located at approximately 950m, 960m and 980m from the piggery site location. The EPA 1,000m buffer area effectively includes lots 774 and 789 to the east and lots 766, 767, 768, 795, 796 and 797 to the west. These properties all have development potential.

With the constraints mentioned, Shire officers attempted to look at alternative locations within the property (see two plans showing alternative piggery site locations attached prepared by Council officers).

The attempt to relocate to alternative new piggery sites did not result in any significant reduction of encroachment or inclusion of the 700m and 1,000m buffer areas on adjoining properties.

The applicants' landholding consists of 10 individual lots and should the proposal be considered for support then a condition of approval would be to require the lots to be amalgamated into one lot on one certificate of title. This would ensure that individual lots are not sold thereby creating more conflict with the buffer requirement.

Piggeries should be sited and operated to prevent unreasonable interference with the health, welfare, convenience, comfort or the amenity of any person. The defined buffer area should not adversely affect the ability of a land owner to locate and construct a residence at a location of their discretion within their property, consequently, the proposal to establish a piggery is not supported.

## **VOTING REQUIREMENTS**

Simple Majority

## **OFFICER RECOMMENDATION/COUNCIL DECISION**

**Moved Cr S Etherington, seconded Cr M Skinner:**

**That the proposal for a noxious industry (piggery) at Lots 769 and 770 Halsey Road, Mount Barker be refused on the grounds that it is contrary to the orderly and proper planning of the locality and the preservation of the amenity of the locality in that the properties do not meet the Environmental Protection Authority and Health Local Law 2008 recommended buffer separations of 1,000m.**

**CARRIED (7/0)**

**NO. 197/10**

3:38pm Cr B Bell returned to the meeting.

**11.1.2 PORTION OF RESERVE 1790 MCDONALD AVENUE, MOUNT BARKER -  
PROPOSED HORSE RACING STALLS AT FROST PARK**

**File No:** N15582

**Attachments:** [Location Plan](#)  
[Site Plan](#)  
[Extract Precinct Development Plan](#)  
[Floor Plan and Elevation](#)

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

**Author:** Peter Duncan  
Manager Development Services

**Proposed Meeting Date:** 17 August 2010

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**PURPOSE**

The purpose of this report is to consider a request for approval for the Mount Barker Turf Club to erect horse racing stalls at Frost Park on portion of Reserve 1790 McDonald Avenue, Mount Barker.

**BACKGROUND**

The Council at its meeting held on 13 October 2009 endorsed the Frost and Sounness Parks – Precinct Development Plan. An extract of portion of that plan is attached.

The Mount Barker Turf Club has now applied for approval to erect racing stalls structure that will accommodate 26 horses on race days. The location of the structure is within the existing stall area, as shown on the approved Precinct Development Plan.

**STATUTORY ENVIRONMENT**

Local Government (Miscellaneous Provisions) Act 1960 – A building licence is required to be issued by the Principal Building Surveyor under delegated authority.

**FINANCIAL IMPLICATIONS**

A building licence fee will be required to be paid. The Turf Club will carry out the construction at no cost to the Council.

**POLICY IMPLICATIONS**

There are no policy implications for this report.

**STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

**OFFICER COMMENT**

Being a building to be erected on a Council reserve, the structure becomes the property of the Council however the Turf Club will be responsible for the ongoing maintenance of the structure. The Turf Club requires the additional stalls as during

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high profile race meetings, the number of stalls is inadequate. The building is generally in accordance with the Precinct Development Plan.

### **VOTING REQUIREMENTS**

Simple Majority

### **OFFICER RECOMMENDATION**

**Moved Cr M Skinner, seconded Cr G Messmer:**

**That the proposed horse racing stalls to be erected on portion of Reserve 1790 McDonald Avenue, Mount Barker be approved subject to:**

- 1. The development being in accordance with the plans dated 21 July 2010.**
- 2. The Mount Barker Turf Club acknowledging that the structure will become the property of the Council.**
- 3. All maintenance responsibilities being retained by the Mount Barker Turf Club.**

### **AMENDMENT**

**Moved Cr J Moir, seconded Cr B Bell:**

**That a part (4) be added to the recommendation as follows:**

- 4. The Mount Barker Turf Club being responsible for any insurance excess in the event that an insurance claim, relating solely to the stalls, is necessary.**

**CARRIED (8/0)**

**NO. 198/10**

### **COUNCIL DECISION**

**That the proposed horse racing stalls to be erected on portion of Reserve 1790 McDonald Avenue, Mount Barker be approved subject to:**

- 1. The development being in accordance with the plans dated 21 July 2010.**
- 2. The Mount Barker Turf Club acknowledging that the structure will become the property of the Council.**
- 3. All maintenance responsibilities being retained by the Mount Barker Turf Club.**
- 4. The Mount Barker Turf Club being responsible for any insurance excess in the event that an insurance claim, relating solely to the stalls, is necessary.**

**CARRIED (8/0)**

**NO. 199/10**

**11.1.3 TOWN PLANNING SCHEME NO. 3 - AMENDMENT NO. 57 - PORTION OF LOT 4815 O'NEILL ROAD, MOUNT BARKER - REVISED AMENDMENT**

<b>File No:</b>	<b>N15486</b>
<b>Attachments:</b>	<a href="#">Location Plan</a> <a href="#">2008 Subdivision Guide Plan</a> <a href="#">2008 Subdivision Guide Plan with Modifications</a> <a href="#">August 2010 Proposal</a> <a href="#">August 2010 Subdivision Guide Plan</a> <b>Town Planning Scheme No. 3 – Amendment No. 57 – Full Document (separate attachment)</b>
<b>Responsible Officer:</b>	<b>Rob Stewart</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Peter Duncan</b> <b>Manager Development Services</b>
<b>Proposed Meeting Date:</b>	<b>17 August 2010</b>
<b>Applicant:</b>	<b>RPS Environment and Planning Pty Ltd for Alta Property Group</b>

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**PURPOSE**

The purpose of this report is to consider revisions to a proposed Amendment to the Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) to rezone the southern portion of Lot 4815 O'Neill Road, Mount Barker from Rural to Rural Residential. It is proposed to not proceed with the earlier Amendment No. 45 and initiate this new Amendment No. 57.

**BACKGROUND**

Council records indicate the owners of Lot 4815 O'Neill Road is the Mt Barker Golf Club.

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

All three agencies provided comments on the SAR.

The DPI offered the following comments:

- 1. The site is located in Precinct 6 of the Mt Barker Local Rural Strategy;*
  - 2. The site is indicated as suited to Rural Retreats.*
  - 3. Precinct 5 to the north suggests lot sizes not less than 1ha;*
  - 4. We would expect Rural Retreats to be larger than 1ha, more likely around the same for Rural Small Holdings i.e. 4ha min.*
  - 5. The site is not identified as suitable for Special Residential lots sizes (min 2000m<sup>2</sup>) as proposed in the SAR.*
-

*Therefore DPI would NOT support a scheme amendment based on the SAR as proposed.'*

The DOW offered the following comments:

*'The Department of Water (DoW) does not have any concerns about the rezoning of the above land from Rural to Rural Residential and provided advice on land capability and drainage management.'*

The DEC offered comments on environmental considerations and visual impacts.

The Council when it initially considered the SAR and the above comments at its meeting held on 8 May 2007 resolved at resolution 170/07:

*'That:*

- 1. The Scheme Amendment Request for Lot 4815 Albany Highway/O'Neill Road, Mount Barker be advertised to seek public feedback for a period of twenty-one days.*
- 2. At the conclusion of advertising a further report be prepared for the consideration of the Council at a meeting to be held no later than 10 July 2007.'*

It was pointed out in the 8 May 2007 report that the DPI would not support an Amendment based on the SAR as the area was identified for rural retreat type lots and not special residential sized lots. The DPI is now the Department of Planning (DOP).

The SAR was advertised for 21 days closing on 8 June 2007 and 11 submissions were received – two petitions in support (both organised by Alta Property Group – but submitted at different times), three letters of support, three letters of objection and three letters providing comments.

Main Roads WA provided comment about the bandicoot population, an issue from the 1999 Highway realignment but it did not mention traffic impacts on Albany Highway.

The Council at its meeting held on 24 July 2007 when considering the submissions on the SAR resolved at resolution 265/07:

*'That the submissions received on the Scheme Amendment Request for Lot 4815 Albany Highway/O'Neill Road be noted and the proponent be advised the Council will be prepared to consider a formal Amendment to the Shire of Plantagenet Town Planning Scheme No. 3 subject to the various matters raised in the submissions including vegetation protection, Bandicoot population, variance from the Mount Barker Rural Strategy, land capability, drainage, fire safety, any potential road works at Albany Highway etc, being addressed.'*

The planning consultants at that time (Ayton Taylor Burrell) subsequently submitted formal Amendment documents which included a Land Capability Assessment and a Flora and Vegetation Study. The Council considered the Amendment at its meeting held on 14 October 2008 and resolved at resolution 201/08:

*'That:*

- 1. Amendment No. 45 to Town Planning Scheme No. 3 be initiated subject to the document being modified in accordance with the Schedule of Modifications.*
- 2. Once modified the Amendment be referred to the Environmental Protection Authority in accordance with legislative requirements.*
- 3. Once authorised by the Environmental Protection Authority, the Amendment be advertised for a period of forty-two (42) days to enable comment to be made.*
- 4. After advertising, a further report be prepared for the Council to be presented no later than its meeting to be held on 10 March 2009.'*

The consultants at that time modified the Amendment as requested by the Council and the Amendment was then referred to the Environmental Protection Authority (EPA) on 5 November 2008. The EPA in a letter dated 2 January 2009 requested additional information and changes to the subdivision guide plan and fire management plan before it would provide its formal advice. In a memorandum to Councillors dated 21 April 2010 the Manager Development Services advised:

*'The EPA requested additional work be carried out in relation to the vegetation on site. The developer terminated the services of the planning consultants who prepared the Amendment and have engaged Koltasz Smith (RPS Group) as their planning consultants. The new consultants are carrying out more work on a possible revised Amendment. If the revisions are a substantial departure from that initiated by the Council in October 2008, a further report will be placed before the Council. Otherwise, if the EPA authorisation is forth coming, the 42 day advertising will be commenced.*

*It is anticipated that a report will be placed before the Council by 14 December 2010 on either, submissions received from the advertising or, on a revised Amendment proposal for re-initiation.'*

The consultants have now submitted a revised Amendment document No. 57 where the design layout has been significantly changed from the 2008 version. The consultants have discussed the proposed design layout with EPA officers who have advised it will be supported upon presentation by the Council.

A full copy of the revised Amendment No. 57 document is included with this agenda for each Councillor.

## **STATUTORY ENVIRONMENT**

Planning and Development Act 2005

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

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

### **EXTERNAL CONSULTATION**

If initiated by the Council and authorised by the EPA this Amendment will be advertised for 42 days by way of newspaper notice, letters to neighbours and Government agencies, a notice on the Council's notice board and a sign onsite.

As pointed out above the SAR was advertised for comment in 2007.

### **FINANCIAL IMPLICATIONS**

The then fee of \$3,300.00 was paid in 2008.

### **POLICY IMPLICATIONS**

Council Policy No. TP/SDC/6 – Scheme Amendment Requests – the SAR was considered in accordance with this policy in 2007.

### **STRATEGIC IMPLICATIONS**

This land is within Precinct 6 of the Council's Planning Vision (TPS Policy No. 18) and the 1997 Mount Barker Local Rural Strategy. That Vision proposes lots clustered in the cleared part of the site. The current proposal is suggesting lots of between 3,010m<sup>2</sup> and 5,988m<sup>2</sup> and the average exceeds the 4,000m<sup>2</sup> lot size in the Planning Vision.

The Council's Strategic Plan at Key Result Area 4 includes initiatives to:

*'Ensure a mix of housing types taking account of changing demographics and environmental conditions; and*

*Provide for a range of lot sizes, residential opportunities and adaptable housing.'*

### **OFFICER COMMENT**

This revision to the Amendment involves a substantial change in the Subdivision Guide Plan put forward in 2008. The documentation wording has been strengthened and a 2010 Flora and Vegetation Assessment has been added to the document.

The major changes to the Subdivision Guide Plan focus on removing lots from the vegetated south east portion of the site. The earlier 2008 Subdivision Guide Plan proposed some nine lots in this well vegetated area and fire safety requirements would have had serious impacts on the vegetation. The EPA had several concerns regarding the 2008 plan.

The current Subdivision Guide Plan involves locating eight lots in the vicinity of a cleared fairway of the golf course and the reconfiguring of the golf course accordingly. As these changes and the additional detail provided are quite a change from the earlier proposal initiated by the Council on 14 October 2008, the matter is placed before the Council to consider. The most appropriate course of action will be to not proceed with the earlier Amendment No. 45 and initiate this new Amendment No. 57 as this will avoid any potential confusion between the two documents with the earlier one having been initiated in 2008.

### **VOTING REQUIREMENTS**

Simple Majority

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

**Moved Cr G Messmer, seconded Cr S Etherington:**

**That:**

- 1. Notwithstanding resolution 201/08 of 14 October 2008, Amendment No. 45 to Town Planning Scheme No. 3 be not proceeded with due to the need to substantially alter that Amendment to address requirements of the Environmental Protection Authority.**
- 2. Amendment No. 57 to Town Planning Scheme No. 3 be initiated and referred to the Environmental Protection Authority in accordance with legislative requirements.**
- 3. Once authorised by the Environmental Protection Authority, the Amendment be advertised for a period of 42 days to enable comment to be made.**
- 4. After advertising, a further report be prepared for the Council to be presented no later than its meeting to be held on 14 December 2010.**

**CARRIED (8/0)**

**NO. 200/10**

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

<b>File No:</b>	<b>N15606</b>
<b>Attachments:</b>	<a href="#">Site Plan</a> <a href="#">Location Plan</a>
<b>Responsible Officer:</b>	<b>Rob Stewart</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Eric Howard</b> <b>Environmental Health Officer</b>
<b>Proposed Meeting Date:</b>	<b>17 August 2010</b>
<b>Owner:</b>	<b>D Brindley</b>

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**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 owner of Lot 337 Third Avenue, Kendenup seeking approval to occupy a caravan located on the lot for a period of 12 months during the construction of a Class 1a dwelling, also located on the lot.

The Council has previously granted the applicant temporary accommodation approval at its meeting held on 9 June 2009 to occupy a caravan on the same property for a period of 12 months to enable construction of a dwelling. Since that time the applicant's working commitments required him to work away and he has been unable to complete and occupy the temporary accommodation or commence the dwelling construction. That earlier 12 month approval period has now lapsed.

**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.'*

### **FINANCIAL IMPLICATIONS**

The applicant has paid the \$100.00 application fee.

### **POLICY IMPLICATIONS**

There are no policy implications for this report.

### **STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

### **OFFICER COMMENT**

Provisions of the Caravan Parks and Camping Grounds Regulations enable Local Governments to grant approval for persons to camp on land they own for a period not exceeding 12 consecutive months while a building licence for a house is issued to that person in respect of the land is in force.

The applicant's inability to exercise the previous approval to occupy temporary accommodation on the property does not invalidate the Council's ability to approve this application.

The applicant still 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 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 G Messmer, seconded Cr L Handasyde:**

**That the application for temporary accommodation at Lot 337 Third Avenue, Kendenup be approved for a period of 12 months from 17 August 2010 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 temporary accommodation facility meets all relevant health and safety standards.**



3. Satisfactory progress being achieved with the construction of the Class 1a dwelling.

**CARRIED (8/0)**

**NO. 201/10**

## **11.2 WORKS AND SERVICES REPORTS**

### **11.2.1 CONFERENCE ATTENDANCE - 2010 NATIONAL LOCAL ROADS AND TRANSPORT CONGRESS**

**File No:** N15533  
**Responsible Officer:** Dominic Le Cerf  
Manager Works and Services  
**Author:** Sharon Lynch  
Senior Administration/Project Officer (Works and Services)  
**Proposed Meeting Date:** 17 August 2010

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#### **PURPOSE**

The purpose of this report is to recommend the attendance by the Shire President Ken Clements and Councillor Len Handasyde at the forthcoming National Local Roads and Transport Congress to be held from 13 to 15 October 2010 at the Bunbury Entertainment Centre.

#### **BACKGROUND**

The Shire President is the Council's representative on the Regional Road Group. Councillor Handasyde is the Council's deputy representative.

Previous attendance at the National Local Roads Congress was in 2008. The Shire President, Deputy Shire President and Manager Works and Services attended that Congress on behalf of the Council.

#### **FINANCIAL IMPLICATIONS**

The cost of registration for this conference is approximately \$960.00 per person depending on the number of days and sessions attended. Further, accommodation, transport and meal costs will be in the vicinity of \$1,200.00 per person.

#### **POLICY IMPLICATIONS**

Council Policy No. CE/CS/1 applies. This policy notes that elected members shall receive reimbursement of expenses while attending 'Conferences and Training Sessions specifically authorised by the Council.'

#### **STRATEGIC IMPLICATIONS**

The Council's Strategic Plan and Key Results Area 2 (Infrastructure), notes that the Council will '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 Shire of Plantagenet has sent delegates to this conference for the past nine years and feedback has been positive regarding road funding policies and direction.

The CEO has approved the attendance by the Manager Works and Services.

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**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**Moved Cr J Moir, seconded Cr S Etherington:**

**That authority be granted to the Shire President and Councillor Handasyde to attend the 2010 National Roads and Transport Congress to be held at the Bunbury Entertainment Centre from 13 to 15 October 2010 inclusive and accommodation, transport and meal costs be met from account Councillor Training and Conferences pursuant to Council Policy CE/CS/1.**

**CARRIED (8/0)**

**NO. 202/10**

## 11.2.2 CONFERENCE ATTENDANCE - 2010 ROAD SAFETY FORUM AND AWARDS

**File No:** N15558  
**Responsible Officer:** Dominic Le Cerf  
Manager Works and Services  
**Author:** Sharon Lynch  
Senior Administration/Project Officer (Works and Services)  
**Proposed Meeting Date:** 17 August 2010

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### PURPOSE

The purpose of this report is to recommend the attendance by Councillor Len Handasyde at the forthcoming Road Safety Forum and Awards to be held on 6 September 2010 at the Burswood Entertainment Complex in Perth.

### BACKGROUND

Councillor Handasyde is the Presiding Member of the Council's RoadWise Steering Committee and is seeking approval to attend the forum.

The Shire of Plantagenet submitted an abstract for the Road Safety Forum and Awards. The abstract titled '*Advocating for lower speeds in the Shire of Plantagenet*' has been accepted. Councillor Handasyde has the opportunity to co-present the paper with a member of staff.

### FINANCIAL IMPLICATIONS

The cost of registration for this conference is \$270.00. Further, accommodation, transport and meal costs will be in the vicinity of \$450.00.

### POLICY IMPLICATIONS

Council Policy No. CE/CS/1 applies. This policy notes that elected members shall receive reimbursement of expenses while attending 'Conference and Training Session specifically authorised by the Council.'

### STRATEGIC IMPLICATIONS

The Council's Strategic Plan and Key Results Area 2 (Infrastructure), notes that the Council will '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 CEO has approved the attendance by the Senior Administration/Project Officer – Works and Services who will be co-presenting the paper at the Forum.

The Shire of Plantagenet has also been nominated for a road safety award in the 'Supporting Implementation of the *Towards Zero Road Safety Strategy 2008-2020*' category. The winners of the Road Safety Awards will be announced at an awards ceremony to be held in Perth at the conclusion of the Forum.

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**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**Moved Cr S Etherington, seconded Cr M Skinner:**

**That authority be granted to Councillor Len Handasyde to attend the Road Safety Forum and Awards to be held at the Burswood Entertainment Complex in Perth on 6 September 2010 and accommodation, transport and meal costs be met from account Councillor Training and Conferences pursuant to Council Policy CE/CS/1.**

**CARRIED (8/0)**

**NO. 203/10**

**11.2.3 LANGTON ROAD, MOUNT BARKER – SPEED LIMIT REDUCTION**

<b>File No:</b>	<b>N15332</b>
<b>Attachments:</b>	<a href="#">Map</a>
<b>Responsible Officer:</b>	<b>Dominic Le Cerf Manager Works and Services</b>
<b>Author:</b>	<b>Sharon Lynch Senior Administration/Project Officer (Works and Services)</b>
<b>Proposed Meeting Date:</b>	<b>17 August 2010</b>

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**PURPOSE**

The purpose of this report is to consider the reduction of speed limits on Langton Road, Mount Barker.

This matter was to be considered at the meeting of the Council held on 27 July 2010. However, as a quorum was unavailable it has been held over.

**BACKGROUND**

The Shire of Plantagenet RoadWise Steering Committee has taken an increasingly active role in identifying potentially inappropriate speed limits on the road network within the Shire.

In 2008 the Council resolved that a formal request be sent to Main Roads WA to change the speed limits on a number of roads within the Shire. These areas were identified as potential conflict points or where the current speed limit was deemed not appropriate for the environment. The final outcome of the process was that speed limits were reduced in six locations across the Shire and two locations were formalised by installing speed zone signs.

The Committee has identified Langton Road as an environment where the current speed limit is considered too high for this urban area. Traffic counts and future development plans for Langton Road were considered as part of the Committee assessment process.

The current speed limit situation travelling towards Muirs Highway from Lowood Road:

- Road is zoned 50km/h from Lowood Road to Eaton Avenue;
- Road is zoned 60km/h from Eaton Avenue to 170m west of Marmion Street (near the parking bay); and
- Road is zoned 80km/h from 170m west of Marmion Street to Muirs Highway.

The current speed limit situation travelling towards Lowood Road from Muirs Highway:

- Road is zoned 80km/h from Muirs Highway to 170m west of Marmion Street (near the parking bay); and
- Road is zoned 60km/h from 170m west of Marmion Street (near the parking bay).

A 50km/h road sign is not displayed near Eaton Avenue for motorists travelling from Muirs Highway to Lowood Road.

The RoadWise Steering Committee, at its meeting held on 1 July resolved:

*'That a report be presented to the Council requesting that Main Roads WA change the speed zones on Langton Road to:*

- 1. 50km/h from Lowood Road to 170m west of Marmion Street (near the parking bay); and*
- 2. 70km/h from 170m west of Marmion Street (near the parking bay) to Muirs Highway.'*

A map illustrating the proposal is attached.

### **STATUTORY ENVIRONMENT**

The Committee was created 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.

### **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**

Reducing travel speeds is a key element in improving road safety and can have a significant impact on reducing the number and severity of crashes.

Langton Road provides access to residential housing and businesses, TAFE, churches, Plantagenet Medical Centre, the Hospital and Shire Works Depot. Langton Road is also a connecting road through to Muirs Highway.

The urban default speed limit in the State has been altered from 60km/h to 50km/h and meets Main Roads WA requirements. The proposed speed limit reduction between Lowood Road to 170m west of Marmion Street is considered warranted to remain consistent with the default requirements.

The proposed speed limit reduction from 80km/h to 70km/h between 170m west of Marmion Street to Muirs Highway will provide a staggered reduction in speed entering into the urban area.

While it is recognised that the final implementation of any changes lies with Main Roads WA as the speed zoning authority, Council support is recommended.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

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

**That Main Roads WA be requested to implement changes to the speed limits on Langton Road Mount Barker as follows:**

- 1. 50km/h from Lowood Road to 170m west of Marmion Street (near the parking bay); and**
- 2. 70km/h from 170m west of Marmion Street (near the parking bay) to Muirs Highway.**

**CARRIED (8/0)**

**NO. 204/10**



**11.2.4 ROAD NAMING - RENAMING PORTION OF SPENCER ROAD**

<b>File No:</b>	<b>N15580</b>
<b>Responsible Officer:</b>	<b>Dominic Le Cerf Manager Works and Services</b>
<b>Author:</b>	<b>Sharon Lynch Senior Administration/Project Officer (Works and Services)</b>
<b>Proposed Meeting Date:</b>	<b>17 August 2010</b>

**PURPOSE**

The purpose of this report is to consider a road naming proposal for the Narrikup bypass. A further purpose of this report is to consider a renaming proposal for a portion of Spencer Road from Hannan Way to the Narrikup bypass.

**BACKGROUND**

Works have been undertaken to construct a bypass around the Narrikup townsite. The bypass realigns Spencer Road to Albany Highway and as such a road name will need to be formalised. It is suggested the name Spencer Road be applied along the realigned road to Albany Highway.

The portion of Spencer Road from Hannan Way to the realigned Narrikup bypass is now a separate road and as such will need to be renamed.

A letter and response sheet was sent out to all land owners on the portion of Spencer Road from Hannan Way to the Narrikup bypass. Land owners were given the opportunity to suggest a new name. The response sheet asked respondents to indicate their preferred option, the options being:

1. Road name selected from Shire of Plantagenet road name register; or
2. Personal Choice.

Land owners were also asked to provide the origin, historical and or geographical relevance for the suggested name.

As a result of the letters, five submissions were received. The following names were suggested:

Submission	Selected Name	Origin, historical and or geographic relevance
1	Steel (three submissions received)	Established family in the Narrikup area.
2	Green	As on the title deeds.
3	Kalangadoo	Kalangadoo has a long history in Narrikup. The business was set up in the 1960's by Lorraine Harrison and has been operating since that time. It would be nice to have a name associated with the last retail business in the area.

**STATUTORY ENVIRONMENT**

The Land Administration Act 1997 governs the road naming process.

**EXTERNAL CONSULTATION**

Consultation has occurred with the Geographic Names Committee.

**FINANCIAL IMPLICATIONS**

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

**POLICY IMPLICATIONS**

Council Policy I/RR/1 – Future Street and Reserve Names provides a list of Council approved names. Steel, Green or Kalangadoo are not listed on the register.

**STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

**OFFICER COMMENT**

The Geographic Names Committee does not encourage the use of names of living individuals. Exceptions may be authorised but are subject to a more rigorous selection process therefore it is suggested the name Steel is not used.

The townsite portion of Spencer Road was originally Green Street. The Geographic Names Committee has advised the name Green would not be acceptable as there is now a Greenhills Road in the Narrikup locality and it has also been overused in Western Australia.

Company or commercialised names are listed in the Geographic Names Committee guidelines as unsuitable. It is proposed the name Kalangadoo is not used as this name is still associated with an active retail business.

The name Beech has been selected from the Council's Future Street and Reserve names Register as it recognises the first teacher in Narrikup who was later given charge of the school at Martigallup.

The proposed name changes will need to be advertised for comment.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

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

**That:**

- 1. The proposal to rename the portion of Spencer Road from Hannan Way to the Narrikup bypass as Beech Road be advertised for public comment.**

2. The proposal to name the newly constructed Narrikup bypass from Spencer Road to Albany Highway, Spencer Road be advertised for public comment.
3. All affected land holders on the portion of Spencer Road from Hannan Way to the Narrikup bypass be informed of the name change proposal.
4. Subject to no objections being received during the advertising period the road name changes be forwarded to the Geographic Names Committee for endorsement.

**CARRIED (8/0)**

**NO. 205/10**

### **11.3 COMMUNITY SERVICES REPORTS**

Nil

### **11.4 CORPORATE SERVICES REPORTS**

#### **11.4.1 BUDGET REVIEW – JULY 2010**

<b>File No:</b>	<b>N15547</b>
<b>Responsible Officer:</b>	<b>Rob Stewart Chief Executive Officer</b>
<b>Author:</b>	<b>John Fathers Deputy Chief Executive Officer</b>
<b>Proposed Meeting Date:</b>	<b>17 August 2010</b>

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#### **PURPOSE**

The purpose of this report is to review and where appropriate, adjust the adopted 2010/2011 Annual Budget to recognise variations in actual income and expenditure.

#### **BACKGROUND**

It is necessary to facilitate appropriate financial control and ensure that the Council's financial resources are allocated in the most effective manner.

The 2010/2011 annual budget was adopted by the Council at its meeting on 6 July 2010. This is first review of the 2010/2011 Annual Budget and is required due to differences between 'estimated actual' and 'actual' figures for 2009/2010 carried forward projects.

#### **STATUTORY ENVIRONMENT**

There is no specific section of the Local Government Act 1995 that deals with the re-allocation of funds however Section 6.2(1) of the Local Government Act 1995 governs budget requirements for local governments.

Section 33A of the Local Government (Financial Management) Regulations 1996 requires a Local Government to conduct a mandatory budget review between 1 January and 31 March each year.

#### **FINANCIAL IMPLICATIONS**

The purpose of a budget review is to ensure that the income and expenditure for the current year is monitored in line with the adopted budget and, where exceptions to the adopted budget occur, make amendments to the budget or work scope as necessary. The overall recommended effect on the budget is nil, taking into consideration a revised balance carried forward.

#### **POLICY IMPLICATIONS**

There are no policy implications for this report.

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**STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

**OFFICER COMMENT**

The following budget items had differences between budget carried forward and actual carried forward amounts:

Account	Description	Budget Est. Actual	2009/2010 Actual	Difference
51020.0252	Cemetery Land Design/Development - Royalties For Regions	(\$116,132)	(\$116,726)	(\$594)
51145.0252	Mount Barker Community Centre	(\$416,897)	(\$566,753)	(\$149,856)
51220.0250	Rocky Gully Townsite Drainage Upgrade	(\$918)	(\$3,507)	(\$2,589)
51246.0250	Mount Barker Porongurup Road (SLK 17.67 to SLK 20.67)	(\$360,915)	(\$356,063)	\$4,852
51264.0250	Spencer Road TIRES (SLK 00 to SLK 2.15)	(\$175,249)	(\$172,893)	\$2,356
51265.0250	Spencer Road TIRES (SLK 6.0 to SLK 8.0)	(\$102,485)	(\$101,107)	\$1,378
51270.0250	Spencer Road Bypass (Albany Highway slip lanes)	(\$116,982)	(\$115,410)	\$1,572
51290.0250	Stirling School Road (SLK 0 to SLK 8.72)	(\$100,444)	(\$121,068)	(\$20,624)
51400.0250	Lowood Road Townscape	\$(38,541)	\$(38,272)	\$269
51401.0250	Kendenup Footpaths	\$(85,816)	\$(84,663)	\$1,153
TOTAL		(\$1,514,379)	(\$1,676,462)	(\$162,083)

These differences were due to final week wages allocations and also invoices dated before 30 June 2010 but received after the adoption of the budget. As a result of these differences, the 2010/2011 budget amounts should be amended accordingly.

In addition to these changes, the 2009/2010 budget included income of \$30,000.00 being a Zero Waste Grant for the Tip Shop Shed at O'Neill Road. The budget assumed that this grant would not be received, however a sum of \$24,534.00 was received just prior to 30 June. The 2010/2011 budget income will therefore not be received, however this will largely be offset by a reduction of expenditure in budget item 20159.0286 - Other Expenses - Zero Waste - Recycling (Disbursements) amounting to \$25,000.00.

Also, the Baptist Union of WA has been successful in obtaining a further grant of \$280,000.00 for the fitout of the Mount barker Community Centre. This grant will be received and disbursed through the Shire's accounts and therefore new income and expenditure budget items will be required.

The amount of \$162,083.00 identified above will be offset by a reduction in the budgeted balance carried forward. The final balance carried forward figure will be determined following the annual audit in September 2010.

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

Moved Cr L Handasyde, seconded Cr G Messmer:

That the adopted 2010/2011 Annual Budget be amended as follows:

Account	Description	Original Budget (\$)	New Budget (\$)	Net Amount (\$)
51020.0252	Cemetery Land Design/Development - Royalties For Regions	(\$183,868)	(\$183,274)	\$594
51145.0252	Mount Barker Community Centre	(\$713,103)	(\$563,247)	\$149,856
51220.0250	Rocky Gully Townsite Drainage Upgrade	(\$9,082)	(\$6,493)	\$2,589
51246.0250	Mount Barker Porongurup Road (SLK 17.67 to SLK 20.67)	(\$41,877)	\$ (46,729)	(\$4,852)
51264.0250	Spencer Road TIRES (SLK 00 to SLK 2.15)	(\$11,466)	\$ (13,822)	(\$2,356)
51265.0250	Spencer Road TIRES (SLK 6.0 to SLK 8.0)	(\$244)	(\$1,622)	(\$1,378)
51270.0250	Spencer Road Bypass (Albany Highway slip lanes)	(\$13,173)	(\$14,745)	(\$1,572)
51290.0250	Stirling School Road (SLK 0 to SLK 8.72)	(\$61,646)	(\$41,022)	\$20,624
51400.0250	Lowood Road Townscape	(\$1,459)	(\$1,728)	(\$269)
51401.0250	Kendenup Footpaths	(\$84,184)	(\$85,337)	(\$1,153)
41002.0200	Zero Waste Grant for the Tip Shop Shed	\$30,000	\$0	(\$30,000)
20159.0286	Other Expenses - Zero Waste - Recycling (Disbursements)	(\$25,000)	\$0	\$25,000
51448.0252	Mount Barker Community Centre Fitout	\$0	(\$280,000)	(\$280,000)
41146.0489	Lotterywest Grant - Community Centre Fitout	\$0	\$280,000	\$280,000

**CARRIED (8/0)**

**(Absolute Majority)**

**NO. 206/10**

**11.4.2 FINANCIAL STATEMENTS - JULY 2010**

<b>File No:</b>	<b>N15557</b>
<b>Attachment:</b>	<b>Financial Statement (separate attachment)</b>
<b>Responsible Officer:</b>	<b>John Fathers Deputy Chief Executive Officer</b>
<b>Author:</b>	<b>Cherie Delmage Accountant/Office Manager</b>
<b>Proposed Meeting Date:</b>	<b>17 August 2010</b>

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**PURPOSE**

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending July 2010.

**STATUTORY ENVIRONMENT**

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

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

The Statement is to be accompanied by:

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

**POLICY IMPLICATIONS**

There are no policy implications for this report.

**FINANCIAL IMPLICATIONS**

There are no financial implications for this report.

**STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**Moved Cr S Etherington, seconded Cr B Bell:**

**That the Financial Statements for the period ending July 2010 be received.**

**CARRIED (8/0)**

**NO. 207/10**



**11.4.3 LIST OF ACCOUNTS - JULY 2010**

**File No:** N15621  
**Attachment:** [List of Accounts](#)  
**Responsible Officer:** John Fathers  
Deputy Chief Executive Officer  
**Author:** Emma Gardner  
Accounts Officer  
**Proposed Meeting Date:** 17 August 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 July 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**

If Councillors have any queries in relation to any of these payments, please contact the Deputy Chief Executive Officer, John Fathers or Accountant, Cherie Delmage prior to the Council meeting.

**VOTING REQUIREMENTS**

Simple Majority

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**OFFICER RECOMMENDATION/COUNCIL DECISION**

Moved Cr L Handasyde, seconded Cr J Moir:

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 July 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 \$774,877.40;
- b. Municipal Cheques 41224 – 41256 and 41258 – 41291 totalling \$143,604.84; and
- c. Cheque 41257 was cancelled.

**CARRIED (8/0)**

**NO. 208/10**

**11.4.4 M & J MITCHELL PTY LTD – LEASE OF PORTION OF LOT 3 ALBANY HIGHWAY - SALEYARDS**

A Financial Interest was disclosed by Cr M Skinner.  
Nature and extent of interest: Cattle Farmer - 400 head of cattle.

A Financial Interest was disclosed by Cr J Moir.  
Nature and extent of interest: Cattle Farmer and casual 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:** N15060  
**Attachments:** [Lease Document](#)  
**Responsible Officer:** John Fathers  
Deputy Chief Executive Officer  
**Author:** Donna Jo Fawcett  
Senior Administration/Human Resources Officer  
**Proposed Meeting Date:** 17 August 2010

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**PURPOSE**

The purpose of this report is to consider a lease agreement with M & J Mitchell Pty Ltd (Mitchells Transport) for the use of a portion of Lot 3 Albany Highway, Mount Barker for the purpose of cattle holding yards.

**BACKGROUND**

The City of Albany leased approximately 3,000m<sup>2</sup> (portion of Lot 3 Albany Highway) at the Great Southern Regional Cattle Saleyards to Mitchells Transport during the period the Saleyards were operated as a joint venture with the Shire of Plantagenet. The lease consideration was \$200.00.

Subsequent to the dissolution of the joint venture in 2005 a new lease was not entered into between the Shire of Plantagenet and Mitchells Transport. No rental payments have been received since November 2005. An invoice for the back payment of the lease fees has been issued to Mitchells Transport and the Shire of Plantagenet is now engaged in negotiations with them regarding a new lease.

**STATUTORY ENVIRONMENT**

The leasing of Council owned or vested property is classified as a disposition of property pursuant to section 3.58 of the Local Government Act 1995. This section does not apply to a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59 of the Act, as is the present case.

**EXTERNAL CONSULTATION**

Consultation has occurred with Nicole Quigg of Mitchells Transport.

**FINANCIAL IMPLICATIONS**

It will be recommended that Mitchells Transport be required to pay rent of \$300.00 (exclusive of GST) annually in advance commencing on the commencement date of 1 July 2010 and on each anniversary date until the lease expires on 1 July 2015.

**POLICY IMPLICATIONS**

There are no policy implications for this report.

**STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

**OFFICER COMMENT**

A draft lease has been prepared and presented to Mitchells Transport. There have been no significant changes to the terms and conditions of the previous lease agreement with the City of Albany with the exception of an increase in the rental amount to reflect CPI increases since then.

Mitchells are required to maintain the yards and to take out appropriate public liability insurance. The lease with Mitchells has been working well and adds value to the saleyards. An extension of the lease on similar conditions is supported.

At its meeting held on 27 July 2010, the Great Southern Regional Cattle Saleyards Advisory Committee supported the new lease arrangements and requested that Mitchells Transport be formally advised that the Council is currently in negotiations with the State Government in relation to the possible sale of the yards and/or debt relief.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**Moved Cr B Bell, seconded Cr G Messmer:**

**That:**

- 1) A lease be entered into with M & J Mitchell Pty Ltd over a portion of Lot 3 Albany Highway, Mount Barker for the purpose of cattle holding yards with the following terms:**
  - a) for a period of five years; and**
  - b) the rent be \$300.00 per annum.**

- 2) Authority be granted to the Shire President and the Chief Executive Officer to affix the Common Seal of the Council to the Lease Agreement between the Shire of Plantagenet and M & J Mitchell Pty Ltd for a portion of Lot 3 Albany Highway, Mount Barker.

**CARRIED (8/0)**

**NO. 209/10**

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

**File No:** N15535  
**Responsible Officer:** John Fathers  
Deputy Chief Executive Officer  
**Author:** Donna Jo McDonald  
Senior Administration/Human Resources Officer  
**Proposed Meeting Date:** 17 August 2010

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**PURPOSE**

The purpose of this report is to consider any submissions on the proposed Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2010 that was advertised for public comment on 31 May 2010 and to make that local law.

**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 Amendment Local Law 2010 amends the Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2008 as published in the Government Gazette on 17 October 2008.

At its meeting on 13 April 2010, the Council resolved that the proposed amendments to the Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2008, be adopted and advertised for public comment.

The Council's intention to adopt the proposed Amendment Local Law was advertised on 31 May 2010 for public comment. A copy of the Amendment Local Law was sent to the Minister for Local Government for comment on 8 June 2010.

**STATUTORY ENVIRONMENT**

Section 3.12 of the Local Government Act 1995 sets out the procedures to be followed in making a local law.

**EXTERNAL CONSULTATION**

On 31 May 2010 the proposed local law was advertised for public comments and public submissions were invited within a 42 day consultation period. The invitation was advertised state wide and locally. No submissions were received from members of the public. The Department of Local Government provided some minor

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grammatical and formatting changes which have been incorporated into the proposed local law.

### **FINANCIAL IMPLICATIONS**

Advertising costs for the review of this local law were included in the 2010/2011 financial budget.

### **POLICY IMPLICATIONS**

There are no policy implications for this report.

### **STRATEGIC IMPLICATIONS**

There are no strategic implications for this report.

### **VOTING REQUIREMENTS**

Absolute Majority

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

**Moved Cr J Moir, seconded Cr B Bell:**

**That under the power conferred by the Local Government Act 1995 and under all other powers enabling it, the Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2010 be made in the following form:**

#### **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 [17 August 2010] 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 No. 223, as amended and published in the 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 former Town Planning and Development Act 1928 or a local planning scheme of the local government made under the Planning and Development Act 2005;**

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)**

**(Absolute Majority)**

**NO. 210/10**



**11.5 EXECUTIVE SERVICES REPORTS**

Nil

**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****14.1 EXECUTIVE SERVICES REPORTS****14.1.1 RECREATION PLANNING PRECINCT - MOUNT BARKER - 'DEMON DOWNS'**

**File No:** N15574  
**Responsible Officer:** Rob Stewart  
Chief Executive Officer  
**Author:** Rob Stewart  
Chief Executive Officer  
**Proposed Meeting Date:** 17 August 2010

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**PURPOSE**

The purpose of this report is to present a response from the Mount Barker Football Club Inc regarding the proposed purchase by the Council of the land known as 'Demon Downs' for recreation purposes.

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

Moved Cr J Moir, seconded Cr B Bell:

4:20pm That the Council consider this matter in the confidential component of this meeting due to:

The determination by the local government of a price for the sale or purchase of property by the local government, and the discussion of such a matter.

**CARRIED (8/0)**

**NO. 211/10**

**MOTION TO PROCEED IN PUBLIC**

Moved Cr L Handasyde, seconded Cr J Moir:

4:26pm That the meeting proceed in public.

**CARRIED (8/0)**

**NO. 212/10**

Moved Cr L Handasyde, seconded Cr S Etherington:

That:

1. The Chief Executive Officer be authorised to further negotiate the purchase of at least 60% of Lot 148 McDonald Avenue Mount Barker

**(Demon Downs) to a maximum amount equivalent to 65% of the Council's sworn evaluation of the property.**

- 2. In the event that such negotiations are unsuccessful, steps be put in place to revise the Frost and Sounness Recreation Precinct Plan to take into account the smaller area now available for recreation development.**

**CARRIED (8/0)**

**NO. 213/10**

**15 CLOSURE OF MEETING**

4:26pm The Presiding Member declared the meeting closed.

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