



ORDINARY MINUTES

DATE: Tuesday, 22 March 2011

TIME: 5.00pm

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

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

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

Members Present:

Cr K Clements	Shire President
Cr M Skinner	Deputy Shire President
Cr B Bell	Councillor
Cr A Budrikis	Councillor
Cr S Etherington	Councillor
Cr 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
Ms Nicole Selesnew	Manager Community Services
Mr Dominic Le Cerf	Manager Works and Services
Mr Vincent Jenkins -	Planning Officer
Mrs Linda Sounness	Executive Secretary

There were fourteen (14) members of the public and one (1) member of the media present.

Previously Approved Leave of Absence:

Cr G Messmer – 5 July 2011

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

3.1.1 NIL

3.2 PUBLIC QUESTION TIME - SECTION 5.24 LOCAL GOVERNMENT ACT 1995

3.2.1 NIL

4 PETITIONS / DEPUTATIONS / PRESENTATIONS

4.1.1 MR MICHAEL DUNN – PORONGURUP RURAL VILLAGE STRUCTURE PLAN

Mr Dunn spoke on behalf of a group of local residents that have objected to the proposed Porongurup Rural Village Structure Plan. Mr Dunn gave a summary of issues raised by local residents citing a lack of public consultation.

4.1.2 MS JAN WILLIAMS – PORONGURUP RURAL VILLAGE STRUCTURE PLAN

Ms Williams spoke against the proposed Porongurup Rural Village Structure Plan. Ms Williams commented that the Porongurup Rural Strategy developed in 1997 needed to be reviewed; one basic objection to this proposal was/is the size of the lots; there are various environmental concerns and planning constraints put forward by others which she supports; development is designed to end up like Kendenup was 15 years ago.

4.1.3 MR JOHN BLYTHE – PORONGURUP RURAL VILLAGE STRUCTURE PLAN

Mr Blythe spoke in support of the Porongurup Rural Village Structure Plan commenting that there had been considerable public consultation since the

commencement of the process; that this is a long term project and needs to now go forward.

4.1.4 MR WILLIAM BIRD – PORONGURUP RURAL VILLAGE STRUCTURE PLAN

Mr Bird spoke in support of the Porongurup Rural Village Structure Plan, commenting on the positive aspects of the proposed plan; that there had been public consultation and that the project should now go ahead.

5 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

Cr Len Handasyde disclosed a Financial/Indirect Financial Interest (Section 5.60(A) and Section 5.61 LGA) – Payment for gravel supplied by Forest Hill Farms - in Item 11.3.2.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

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 1 March 2011 as circulated, be taken as read and adopted as a correct record.

CARRIED (9/0)

NO. 71/11

8 COMMITTEE MINUTES

Moved Cr L Handasyde, seconded Cr S Etherington:

That the Minutes of:

Local Emergency Management Committee Meeting - 1 February 2011

Bush Fire Advisory Committee Meeting - 2 February 2011

Great Southern Regional Cattle Saleyards Advisory Committee Meeting – 1 March 2011

be received.

CARRIED (9/0)

NO. 72/11

9 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 8 March 2011 – Attended a pre-budget meeting along with Councillors and Senior Staff.
- 10 March 2011 – Attended the Anniversary of the Great Southern Region Cattle Saleyards and also the presentation of a cheque from Hon Terry Redman MLA.
- 11 March 2011 – Along with Mr Stewart, attended a breakfast with Hon Brendon Grylls, MLA.
- 12 March 2011 – Attended the inaugural Kendenup Expo.
- 14 March 2011 – Ms Selesnew and I met with Public Transport Authority staff to discuss the wetlands development.
- 15 March 2011 – Along with some Councillors and Senior Staff, met with a State Administrative Tribunal (SAT) representative to discuss an issue at Porongurup.
- 17 March 2011 – Ms Selesnew and I met with the new Pardellup Superintendent and Senior Staff.

10 ANNOUNCEMENTS BY COUNCILLORS WITHOUT DISCUSSION

Cr M Skinner

- 8 March 2011 – Attended a Pre-budget meeting.
- 10 March 2011 – Attended the Saleyards Anniversary celebrations.

Cr S Etherington

- 10 March 2011 – Attended the Saleyards Anniversary celebrations.

Cr B Bell

- 8 March 2011 – Attended a Pre-budget meeting.

Cr G Messmer

- 3 March 2011 – Attended a RoadWise Steering Committee Meeting.
- 10 March 2011 – Attended the Saleyards Anniversary celebrations.

Cr L Handasyde

- 3 March 2011 – Attended a RoadWise Steering Committee Meeting.
- 8 March 2011 – Attended a Pre-budget meeting.
- 10 March 2011 – Attended the Saleyards Anniversary celebrations.
- 15 March 2011 – Attended the meeting with SAT representative at Porongurup.

11 REPORTS OF COMMITTEES AND OFFICERS

11.1 DEVELOPMENT SERVICES REPORTS

11.1.1 LOT 30 OATLANDS ROAD CORNER MARTIN STREET, MOUNT BARKER – PUBLIC EVENTS – FAIRS AND MARKETS

File No:	N17793
Attachments:	Location Plan Site Plan Summary of Submissions
Responsible Officer:	Peter Duncan Manager Development Services
Author:	Vincent Jenkins Planning Officer
Proposed Meeting Date:	22 March 2011
Applicant:	PRT Australia Pty Ltd - Rayanne Homestead

PURPOSE

The purpose of this report is to consider an application to conduct four public events (fairs and/or markets) annually at Lot 30 Oatlands Road corner Martin Street, Mount Barker.

BACKGROUND

Shire records show the registered owner of Lot 30 Oatlands Road corner Martin Street, Mount Barker is PRT Australia Pty Ltd.

The proponent intends to conduct four public events on an annual basis to promote Mount Barker town, local businesses, local clubs, organisations and associations. The events will be presented on Australia Day in January, during Easter Holidays, during October local wild flower season and during December Christmas Holidays. The dates for these events would vary yearly.

The subject lot is 2.82ha in area and located approximately 1km off Albany Highway on Oatlands Road. Existing development on the property consists of Rayanne Bed and Breakfast, restaurant, various outbuildings, a dam and four fenced paddocks. Rayanne Bed and Breakfast was approved on 31 October 1995 followed by the restaurant on 14 July 1998.

STATUTORY ENVIRONMENT

Planning and Development Act 2005.

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

'3.0(b) The following uses may be permitted at the discretion of Council:

- *Other incidental or non defined activities considered appropriate by Council which are consistent with the objective of the zone.'*

The staging of public events could be considered to be ancillary and subservient to the bed and breakfast use.

Health Act 1911 -

Section 173 - defines a public building as a building or place where persons may assemble for entertainment, recreational or sporting purposes.

Section 176 - local government approval is required to construct, extend, or alter a public building. The Environmental Health Officer approves public buildings (public events) under delegated authority.

Health (Public Buildings) Regulations 1992 - local government control of public buildings (public events).

Environmental Protection (Noise) Regulations 1997 – all events need to be operated in accordance with noise level requirements.

Road Traffic Act 1974

Road Traffic Code 2000 - Section 297 - power to erect traffic control signals and road signs. A Traffic Management Plan needs to be submitted for every public event.

EXTERNAL CONSULTATION

The proposal was advertised for comment for a 21 day period closing on 1 March 2011. Letters were sent to 5 adjoining and nearby land owners, notices were placed in the Albany Advertiser, Plantagenet News and the Council's noticeboard and one sign placed on site. At the close of the advertising period four submissions were received and these are contained in the attached summary of submissions. The four submissions received were in support of the proposal.

FINANCIAL IMPLICATIONS

The application fee of \$135.00 and a bond of \$500.00 for advertising costs have been paid.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Plan 2003 Key Result Area 4 Development Services seeks to:

'Plan a safe and healthy living environment.'

and

'Retain local business and encourage new businesses that will create long term sustainable local employment.'

OFFICER COMMENT

The applicant intends to provide stall holder markets in a dedicated area of around 750m². Stall sites will be offered free of charge for local clubs, organisations and associations for promotional purposes. Activities to be presented on market day will include competitions such as fancy dressing and quilting, fashion parades and various forms of busking including live bands such as school bands. There may also be opportunities to meet celebrities. The restaurant will be open for the duration of events serving food and beverages. Events will run from 10am to 3pm including set-up and clear-up time.

Separate car parking areas are to be provided for stall holders and the public visiting the event. The restaurant car parking area is to be used for stall holder car parking. This car parking area is accessed from Martin Street. A fenced 3000m² paddock area is to be used for public car parking. This public car parking area is accessed from Oatlands Road and accommodates in the order of 68 vehicles. The crossover and gate providing access to the public car parking area is currently constructed to only permit single vehicle access. To reduce possible vehicle build-up on Oatlands Road this access configuration needs to be upgraded to allow two vehicles to simultaneously enter and exit the public car parking area. The application proposes that no car parking is permitted on street verges on Oatlands Road and Martin Street at the time public events are being presented. The proposal successfully separates pedestrian and vehicular traffic.

An unfenced dam at the property is located approximately 20m from the proposed stall site area. For safety reasons the dam will need to be fenced off on event days. The development exclusion area applicable for this rural residential subdivision does not impact on this proposal.

The proponent will further need to submit applications to the Council's Environmental Health Officer for every public event to be conducted to ensure the relevant health and safety standards are complied with.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That in accordance with clauses 5.2 and 6.3.2 of the Shire of Plantagenet Town Planning Scheme No. 3, planning consent be granted for public events (fairs and markets) at Lot 30 Oatlands Road corner Martin Street, Mount Barker be approved subject to:

1. Development being in accordance with the plans dated 27 January 2011.
2. The crossover to the public car parking area being a minimum 9m width and constructed and drained to the satisfaction of the Manager Works and Services.
3. The entrance/exit gates to the public car parking area being upgraded to allow two-way vehicle ingress/egress to the satisfaction of the Manager Works and Services.
4. All parking and traffic management being to the satisfaction of the Manager Works and Services.

Advice Note:

Approval of the Council's Environmental Health Officer is required to be obtained in advance of every public event.

Moved Cr B Bell, seconded Cr S Etherington:

That in accordance with clauses 5.2 and 6.3.2 of the Shire of Plantagenet Town Planning Scheme No. 3, planning consent be granted for public events (fairs and markets) at Lot 30 Oatlands Road corner Martin Street, Mount Barker be approved subject to:

- 1. Development being in accordance with the plans dated 27 January 2011.**
- 2. The crossover to the public car parking area being a minimum 9m width and constructed and drained to the satisfaction of the Manager Works and Services.**
- 3. The entrance/exit gates to the public car parking area being upgraded to allow two-way vehicle ingress/egress to the satisfaction of the Manager Works and Services.**
- 4. All parking and traffic management being to the satisfaction of the Manager Works and Services.**
- 5. That market dates do not clash with existing market dates within Mount Barker.**

Advice Note:

Approval of the Council's Environmental Health Officer is required to be obtained in advance of every public event.

LOST (2/7)

Reason for Change

To protect those people/organisations who already have markets.

COUNCIL DECISION

Moved Cr B Bell, seconded Cr S Etherington:

That in accordance with clauses 5.2 and 6.3.2 of the Shire of Plantagenet Town Planning Scheme No. 3, planning consent be granted for public events (fairs and markets) at Lot 30 Oatlands Road corner Martin Street, Mount Barker be approved subject to:

- 1. Development being in accordance with the plans dated 27 January 2011.**
- 2. The crossover to the public car parking area being a minimum 9m width and constructed and drained to the satisfaction of the Manager Works and Services.**
- 3. The entrance/exit gates to the public car parking area being upgraded to allow two-way vehicle ingress/egress to the satisfaction of the Manager Works and Services.**
- 4. All parking and traffic management being to the satisfaction of the Manager Works and Services.**

Advice Note:

Approval of the Council's Environmental Health Officer is required to be obtained in advance of every public event.

CARRIED (9/0)

NO. 73/11

**11.1.2 LOT 4 NARPUND ROAD MOUNT BARKER – OVERSIZE AND
OVERHEIGHT OUTBUILDING WITH REDUCED SIDE BOUNDARY
SETBACK**

File No:	N17815
Attachments:	Location Plan Site Plan Floor Plan Elevation 1 Elevation 2
Responsible Officer:	Peter Duncan Manager Development Services
Author:	Vincent Jenkins Planning Officer
Proposed Meeting Date:	22 March 2011
Applicant:	Paul Ritchie

PURPOSE

The purpose of this report is to consider a proposal for an additional outbuilding at Lot 4 Narpund Road, Mount Barker with a reduced side boundary setback. This outbuilding combined with one other means the cumulative floor area set by Council Policy (Outbuildings) is exceeded.

BACKGROUND

Council Records show the registered owners of Lot 4 are P and D Richie.

The proposal is for an additional outbuilding of 98m² (7m x 14m) with a wall height of 3.1m and combined with one other existing outbuilding and lean-to structure of 105m² brings the total cumulative floor area of the outbuildings at the property to 203m².

Town Planning Scheme Policy No. 16 (Outbuildings) sets a maximum wall height of 3m and a maximum cumulative total floor area for outbuildings in Residential zones at 80m².

The proponent is further seeking approval for a reduced side boundary setback of 5m where a side boundary setback of 10m is required.

The reason provided by the proponent for the large size of the outbuilding is the storage of hay used for feeding horses for Riding for the Disabled Association Australia Ltd. The proposed outbuilding location is a result of the proponent wishing to make efficient use of space at Lot 4 and not adversely affect future subdivision potential.

STATUTORY ENVIRONMENT

Shire of Plantagenet Town Planning Scheme No 3 (TPS3) - Zoned Residential (R2).

Clause 6.3.2 of TPS3 states:

'The Council having regard to any matter which it is required by the Scheme to consider, to the purpose for which the land is reserved, zoned or approved for use under the Scheme, to the purpose for which land in the locality is used, and to the orderly and proper planning of the locality and the preservation of the amenities of the locality may refuse to approve any application for planning consent or may grant its' approval unconditionally or subject to such conditions as it thinks fit.'

Residential Design Codes (RCodes).

The RCodes – discretion exists for the Council to vary standards at clause 2.5.2 as follows:

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

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

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

FINANCIAL IMPLICATIONS

The \$135.00 application fee has been paid.

POLICY IMPLICATIONS

Town Planning Scheme Policy No. 16 (Outbuildings) limits outbuildings to a maximum wall height of 3m and a maximum cumulative floor area of 80m² for Residential zones. The floor area of the existing outbuilding and lean-to structure currently on site is 105m². The proposed outbuilding will have a floor area of 98m². The cumulative floor area of the existing outbuilding and lean-to structure on site including the new outbuilding will total 203m². The wall height of the proposed outbuilding is 3.1m where a 3.0m wall height is required. Given the large size of the lot (1.4ha), the total area of outbuildings and additional wall height is considered acceptable in this instance. The Council must have regard to a Town Planning Scheme Policy but is not bound to adhere to it where a variation is considered reasonable.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

Lot 4 is 1.4ha in area and is zoned Residential (R2). The Residential Design Codes (RCodes) at Table 1 – General site requirements, require a 10m side boundary setback for buildings and the proposed outbuilding is to be placed 5m from the side boundary.

The proposed outbuilding location is setback 61m from the street boundary, 64m from the rear boundary with Reserve 26279 to the north, 89m from the side boundary with Lot 5 to the east and 5m from the side boundary with Reserve 6479 (Lot3) to the west. Reserve 6479 is owned by the Crown and the care, control and management of the Reserve is vested with the Shire of Plantagenet for the purpose of 'Public Utility' and is the property most directly affected by this proposal.

Reserve 6479 is 1.15ha in area and well covered with remnant vegetation. The proposed outbuilding location is well screened by vegetation on Reserve 6479 and the application site. The outbuilding will be constructed in Jasper Colorbond® (brown colour) to blend into the surrounding landscape. The proposed reduced side boundary setback in this instance is not likely to adversely affect the amenity of the locality. The 5m setback is supported.

The cumulative floor area of the existing outbuilding and lean-to structure on the property including the new outbuilding will total 203m². The wall height of the proposed outbuilding is marginally higher than the 3.0m limit set by the policy. No difficulties are seen with the maximum cumulative floor area of outbuildings being 203m² and the wall height being 3.1m given the size of the lot being 1.4ha.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr G Messmer, seconded Cr J Moir:

That in respect to the proposed outbuilding at Lot 4 Narpund Road, Mount Barker:

- 1. In accordance with clause 2.5.2 of the Residential Design Codes, the proposed outbuilding with a reduced side setback of 5m be approved.**
- 2. In accordance with clause 6.3.2 of the Shire of Plantagenet Town Planning Scheme No. 3, Town Planning Scheme Policy No. 16 (Outbuildings) be varied and the proposed outbuilding be approved which will mean a cumulative area of all outbuildings being 203m² and the wall height of the outbuilding being 3.1m.**

CARRIED (9/0)

NO. 74/11

**11.1.3 TOWN PLANNING SCHEME NO. 3 - AMENDMENT NO. 49 -
PORONGURUP RURAL VILLAGE - STRUCTURE PLAN - SUBMISSIONS
RECEIVED**

File No: N17783

Attachments: [Summary of Submissions](#)
[Schedule of Modifications](#)
[Precinct Plan](#)
[Rural Village Structure Plan](#)
[Karribank Enclave Plan](#)
[Mayfield Enclave Plan](#)

Responsible Officer: Rob Stewart
Chief Executive Officer

Author: Peter Duncan
Manager Development Services

Proposed Meeting Date: 22 March 2011

PURPOSE

The purpose of this report is to consider all submissions received on a proposed Structure Plan relating to proposed Amendment No. 49 to the Shire of Plantagenet Town Planning Scheme No. 3 (TPS3). This Amendment when finalised will rezone Lots 1 and 1664 Boxhill Road and Lots 5 and 11 Porongurup Road from the Rural Zone to a Rural Village Zone, to include a new Rural Village Zone in the Scheme Text and to include a new Schedule 15 entitled Rural Village Zone.

BACKGROUND

Shire records indicate the owners of the subject land as being:

Lot 1 Boxhill Road – W & S Bird
Lot 5 Porongurup Road – W & S Bird
Lot 11 Porongurup Road – Jilsan Pty Ltd
Lot 1664 Boxhill Road – W & S Bird

The Porongurups Rural Strategy of 1997 refers to the Bolganup Precinct C having objectives of consolidating existing residential and tourist development and the creation of an attractive centre and focal point for the community. That Strategy recommended rezoning for rural residential, special residential and residential following the implementation of an overall structure plan for the precinct.

A Scheme Amendment Request (SAR) was submitted in December 2006 and in accordance with the Council Policy TP/SDC/6 copies were forwarded to the Department for Planning and Infrastructure (DPI), Department of Water (DOW) and Department of Environment and Conservation (DEC) for comment.

On 13 February 2007 a report was considered by the Council and Resolution 57/07 was as follows:

‘THAT:

- (1) *The Scheme Amendment Request for Lots 1 and 1664 Boxhill Road and Lots 5 and 11 Mount Barker-Porongurup Road be advertised to seek public feedback for a period of sixty days.*
- (2) *After advertising a further report be prepared for the Council no later than its meeting to be held on 12 June 2007.'*

Following the advertising period of the SAR, the submissions received were considered by the Council on 24 July 2007 where at Resolution No. 267/07 it was resolved:

'That the submissions received on the Scheme Amendment Request for Lots 1 and 1664 Boxhill Road and Lots 5 and 11 Mount Barker-Porongurup Road be noted and the proponents be advised the Council will be prepared to consider formal Amendment to the Shire of Plantagenet Town Planning Scheme No. 3 subject to various matters raised in the submissions, including: policy issues, environmental, servicing, fire management plan, design requirements on subsequent development, size and number of properties to be developed, density of development and sustainable forms of development etc. being addressed.'

Harley Survey Group submitted Scheme Amendment documentation and the Council at its meeting held on 11 March 2008 resolved at Resolution No. 43/08:

'That:

Amendment No. 49 to Town Planning Scheme No. 3 be initiated and referred to the Environmental Protection Authority in accordance with legislative requirements.

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.

After advertising, a further report be prepared for the Council to be presented no later than its meeting to be held on 8 July 2008.'

Councillors were provided with a full copy of the Amendment document with the 11 March 2008 agenda papers.

The Environmental Protection Authority (EPA) authorised the Amendment to proceed to advertising on 28 May 2008 and provided advice that native vegetation, drainage management and waterways needed to be addressed.

The necessary 42 day advertising period closed on 25 July 2008 and a total of 64 submissions was received. A community initiated workshop was held at the Porongurup Hall on 3 June 2008 to discuss various issues in the Porongurup locality one of which was the village concept. On 30 June 2008 the Council held a Public Information Session at the Porongurup Hall to explain details of the actual Amendment, to answer specific questions and to clarify details.

The Council considered the 64 public submissions at its meeting held on 26 August 2008 and resolved at Resolution No. 159/08:

'That:

1. *The submissions lodged on Amendment No. 49 to Town Planning Scheme No. 3 be noted.*
2. *Amendment No. 49 to Town Planning Scheme No. 3 be adopted with the modifications listed in the attached Schedule of Modifications and be forwarded to the Western Australian Planning Commission for the final approval of the Honourable Minister for Planning and Infrastructure subject to the Schedule of Modifications being altered at modification 1 – proposed clause 3.9.5a) to insert a new point ii) as follows:

‘ii) A public consultation program to assist in the development of the concept of the village structure planning’

and to renumber parts ii) iii) and iv) accordingly.

- proposed clause 3.9.5c) to insert after the words ‘subsequent Scheme Amendment’ in line 6, the following ‘to zone the land appropriately’.*
3. *Authority be granted to the Shire President and the Chief Executive Officer to execute the documentation and affix the Common Seal of the Council to Amendment No. 49 once approved by the Honourable Minister.’*

The Council's August 2008 decision was then referred to the Department of Planning (DOP) for it to report to the Western Australian Planning Commission (WAPC) in a letter dated 2 September 2008.

The WAPC responded in a letter dated 28 January 2010 advising the Minister for Planning required the preparation of a Structure Plan before the Amendment could proceed.

The consultants (Harley Global) submitted the required Structure Plan in November 2010 and the Council at its meeting held on 14 December 2010 resolved:

‘That:

1. *The Porongurup Rural Village Structure Plan be advertised for a period of 42 days to enable public comment to be made.*
2. *The consultants (Harley Global) are to organise a public information session during the 42 day period.*
3. *After advertising, a further report be prepared for the Council to be presented no later than its meeting to be held on 22 March 2011.’*

The advertising has been carried out with the 42 day period ending on 17 February 2011 and 23 submissions were received (see Summary of Submissions).

Councillors were provided with a full copy of the Structure Plan with the Agenda of 14 December 2010.

The consultants held a public information session at the Porongurup Hall on Monday 24 January 2011. A good number of persons attended that session during the course of the afternoon and evening.

When the matter of the submissions received was considered by the Council at its meeting held on 1 March 2011, the Council resolved:

'That the Porongurup Rural Village Structure Plan, the Summary of Submissions and the Schedule of Modifications be referred to the Western Australian Planning Commission for its approval and incorporation of the modified Structure Plan in the Amendment No. 49 documentation.'

Since that meeting of the Council two other submissions received have been added to the Summary of Submissions and are now discussed in this report. Those submissions added are numbered 22 and 23 in the Summary of Submissions. They were not deliberately ignored in the report to the Council on 1 March 2011 but rather, a technical problem meant the submissions were not referred to the Development Services Team for inclusion at that time. It is unsure whether submission 23 was actually submitted by the close of the submission period on 17 February 2011.

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 WAPC and the Minister within 28 days.

This subject Structure Plan is not bound by the legislative time constraints set by the Town Planning Regulations 1967 for an Amendment. The Amendment was advertised in 2008 and is presently on hold whilst the consultants have prepared the Structure Plan as required by the Minister for Planning. The letter from the WAPC requiring the Structure Plan stated that the *'Council is at liberty to undertake additional community consultation should it deem this appropriate'*. The draft Structure Plan was advertised for 42 days and a public information session was held during that time. If the Council agrees to the draft Structure Plan, it will then be forwarded to the WAPC for inclusion in the Amendment No. 49 documentation provided the WAPC and the Minister for Planning are satisfied with it and the modifications proposed by the Council.

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

EXTERNAL CONSULTATION

The SAR was advertised for comment for 60 days prior to it being considered by the Council in July 2007. The Amendment was advertised for 42 days and a total of 64 submissions was received.

The proposed form of modifications to the Amendment were discussed with DOP officers in August 2008 and there appeared to be general support for the proposals but their position had changed by 2010.

The subject Structure Plan was advertised for 42 days to enable the public to comment. 23 submissions were received (see Summary of Submissions).

FINANCIAL IMPLICATIONS

The Structure Plan fee of \$4,840.00 has been paid.

POLICY IMPLICATIONS

This land is within Precinct C of the Porongurups Rural Strategy of 1997 and the village concept and associated Structure Plan conforms with the requirements of that Rural Strategy. A portion of lot 5 to the north and portion of lot 1664 to the north east are located outside of Precinct C and within precinct E where vegetation protection is encouraged and lot breakdown should not be supported. Modifications suggested in 2008 would protect the vegetation on lot 5. It is also in conformity with the Council's Planning Vision adopted by the Council on 9 March 2010 as Town Planning Scheme Policy No. 18.

STRATEGIC IMPLICATIONS

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

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

OFFICER COMMENT

The consultants prepared a comprehensive Scheme Amendment No. 49 that if finalised will lead to the creation over time of the Porongurup Village as originally proposed in the Porongurups Rural Strategy of 1997 and the current Planning Vision.

In essence the Amendment proposes to rezone Lots 1 and 1664 Boxhill Road and Lots 5 and 11 Porongurup Road from Rural to a new Rural Village Zone, create new Structure Plan Area requirements and alter the Scheme Text accordingly.

The Rural Village Zone provisions were supported by the need to prepare a detailed Structure Plan in accordance with a new Schedule 15 of the Scheme. There was also to be the ability to require the preparation of Detailed Area Plans for specific areas.

From the submissions received in 2008 it was considered there was the need to modify the Amendment to simplify it in order that it is in a more acceptable form for the local community and for the long term benefit for all.

There was general acceptance that there is to be a village but the main issue is that of the size of the village in respect to the number of lots. The size of the lots is another area of concern where some submissions said they should be smaller and some said they should be larger.

It was also clear from the submissions there may have been some uncertainty as to what the actual Amendment will do. In a very abridged summary the Amendment was to:

- i) Create a Rural Village Zone;
- ii) Create a Structure Plan Area mechanism;
- iii) Insert new definitions into the Scheme;
- iv) Introduce a new Schedule 15 for the Rural Village Zones which details requirements of Structure Plans;
- v) Colour the subject land a brown colour for the Rural Village Zone on the Scheme Maps; and
- vi) Introduce a blue border around the subject land as Structure Plan Area 1 on the Scheme Maps.

If the Amendment was finalised the Structure Plan Area mechanism at ii) above would need to have been embarked upon. That would have been the detailed planning to determine the form of the development. That detailed Structure Plan would need the approval of the WAPC and public advertising before it is finalised by the Council and WAPC.

The Amendment as proposed in 2008 was considered too complex and required modifications to simplify the process. There was the need to set a mechanism for detailed Structure Plan areas which can apply to areas such as Precinct C.

In 2008 the Council proposed modifications involved changes to the Indicative Structure Plan to:

- i) Pull back the extent of the suggested Residential (R5) area to be within a 500m radius of the village centre site;
- ii) Extend the plan south to include all of Precinct C and show the existing shop as a commercial site and the remainder of the land south and east as being for possible long term future development if and when the owners wish to submit detailed Structure Plan proposals;
- iii) Show the vegetated building exclusion areas as one large rural residential lot for each of the two areas with a building envelope area in adjacent cleared land;
- iv) Show the Precinct C boundary; and
- v) Show the Residential area outside the 500m radius as Rural Residential.

It was considered with these modifications the Amendment would be in a more appropriate format that will then enable the detailed Structure Plan process to commence. If and when the detailed Structure Plan was completed and endorsed by the Council and the WAPC, then rezonings to Residential and Rural Residential and so on could then have been commenced.

As stated above the modifications proposed were discussed with the officers of the DOP in Albany in August 2008 and they were not considered to be 'substantial' and as such should not require readvertising. By the time the WAPC response was received some 18 months later in February 2010 this position had changed. The position in its letter was that the Structure Plan was required to be prepared and that Amendment No. 49 had been deferred by the Minister for Planning as this would be 'more time-effective'.

The consultants then commenced the Structure Plan preparation to ensure it addressed the list of matters in the WAPC letter of 28 January 2010. A comprehensive Structure Plan document was received on 10 November 2010.

The Structure Plan addresses many of the matters required by the Council in 2008 in terms of the extent of the conventional residential area, servicing, the inclusion of all of Precinct C and one large Rural Residential lot in the heavily vegetated northern area. The Structure Plan shows how the overall form of the development will be quite low key and village like and this should meet the expectations of members of the community.

The Structure Plan has now been advertised for public comment and the Council, once it has considered the submissions received, will refer to the Structure Plan and the Council's recommendations to the WAPC for its approval of the Structure Plan.

The main components of the Structure Plan report are:

- i) Section 5 – Precinct Plan (copy attached);
- ii) Section 6 – Rural Village Structure Plan (copy attached);
- iii) Section 7 – Karribank Enclave Plan (copy attached);
- iv) Section 7 – Mayfield Enclave Plan (copy attached); and
- v) Section 8 – Design Guidelines.

The Precinct Plan addresses all of Precinct 1 and portion of Precinct 2 in the Council's Planning Vision and shows the new development will be restricted to land north of Porongurup Road.

The Structure Plan shows where the new development will occur and provides guidance as to the form of that development. There will be bush lots (2ha and over), larger Rural Residential lots (1ha – 2ha) to the north, large Residential lots (5,000m² – 1ha), Residential lots (2,000m² – 5,000m²) and two enclaves that will consist of strata Residential developments. The Structure Plan also shows the protection of the creekline through the site and a 1ha site for future community facilities such as a new Porongurup Hall. The existing shop and tea rooms will remain as the village centre.

Section 8 refers to Design Guidelines which are detailed in Appendix D of the document. These guidelines provide:

- i) passive solar architecture;
- ii) energy efficiency;
- iii) water conservation;
- iv) liveability;
- v) safety and surveillance; and
- vi) visual attractiveness and variety of design.

In respect to servicing, water supplies to the overall Structure Plan area will be provided on site as Water Corporation reticulated water is not available. Reticulated sewer is also not available therefore on site disposal through aerobic treatment units (ATU) will be used for individual lots and strata communal lots. Effluent disposal is to be linked to greywater treatment and reuse with the intention of reducing water consumption.

Appendix E is an Environmental Management Strategy (EMS) for the Structure Plan area. It is noted that EMS refers to the Fire Management Plan (FMP) forming part of the Amendment No. 49 documents. It states that the FMP will need to be updated in the Amendment document to reflect the changes to the Structure Plan since initiation of the Amendment in March 2008. Now that reticulated scheme water is not to be provided, the reference to fire hydrants will need to be replaced with the provision of a 50,000 litre fire fighting water tank and a hardstand area and appropriate fittings being provided on all rainwater tanks. It will also need to be updated to refer to Planning for Bush Fire Protection Edition 2 and it will need to be modified to reflect those requirements. The EMS also addresses effluent disposal, water and wastewater management, foreshore management and visual impact.

The public information session arranged by the consultants on 24 January 2011 was attended by up to 20 people.

The 23 submissions received show there is a general acceptance of the Structure Plan from the five government agencies that responded. There was a level of concern from some Porongurup residents. Of the 23 submissions received, five were from government agencies and 18 from the public. 14 of the 18 public submissions were opposed, three raised concerns and/or provided further comments and suggestions and one was in support. Of the 14 public submissions that were opposed it is noted that five were from residents of the Bolganup Homestead and members of the Faulkner family and two were from the Caudwell family in Boxhill Road.

Public submissions made comment about the scale of the development, a perceived lack of consultation, the need for a village heart, dog and cat control, walking distances, weed control, the use of private land as a fire escape route and potential conflict with existing semi rural land uses (see Summary of Submissions). It is proposed to require a range of modifications to address several of the concerns raised (see Schedule of Modifications). Some of the modifications include the deletion of three strata home sites near the Boxhill Road properties and the relocation of another strata home site, relocation of the problem strategic fire escape route, prohibition of the keeping of cats and dogs in the strata enclaves and including reference to the hall site being for a multi purpose community building run by an incorporated community group.

Some comments were made about a lack of community consultation. Consultation has been constantly carried out through the process of this Amendment No. 49 and the Structure Plan. The Scheme Amendment Request was advertised for 60 days, Amendment No. 49 was advertised for 42 days and the present Structure Plan was advertised for 42 days giving a total of 144 days of formal submission periods. This advertising included Plantagenet News, Albany Advertiser and notices at the Porongurup Shop and Shire Administration Office Notice Board. There have also been three workshops/information sessions held since June 2008 with the most recent being held on 24 January 2011.

This area has been earmarked for a 'village' from the 1997 Porongurups Rural Strategy and now in the Council's Planning Vision (March 2010) and it conforms with the Lower Great Southern Strategy and the State Planning Strategy.

The scale of the development was also raised. This Structure Plan has reduced the potential lot yield from 170 lots to 133 lots and now includes two close knit strata lot enclaves together with some larger lots up the hill. This development will not occur all at once, it will take something like 15 years for the total development to occur.

Submission No. 22 provides a detailed analysis of the submissions lodged on Amendment No. 49 in 2008 and puts forward some positive suggestions for the Structure Plan. The consultants when preparing the structure plan in 2010 analysed the submissions also, and revised the document to reduce lots, provide two close knit enclaves and large areas of public open space and communal areas. Modifications now proposed will ensure facilities such as a multi-function community use building, changes to controls over cats and dogs, separation from properties to the east are required to be recognised and planned for. The Structure Plan includes design guidelines. The Council employs qualified, trained and experienced, professional staff to ensure the subdivision and eventual development occurs well.

Submission 22 also suggests the creation of a form of development authority such as a 'community trust' or 'corporate body' to manage the growth of the village and to advise the Council. Such a body is not considered necessary for a development of the now suggested 119 lots. There will be two strata companies to establish owner rules for the two enclaves. As a result of consideration of this submission, further modifications are proposed. The first modification to require caveats to be required on the freehold lots at the time of subdivision to ensure the design guidelines are met on these lots. The second modification is to require a reduction in the conventional residential freehold lots from 35 to 31 and the large residential lots from 18 to 12. With the three strata lots being removed from the Karribank enclave the total lots will be reduced to 119 and this will ensure the development is more responsive to the particular terrain.

Submission 23 from L Quearry was not received in the Council's electronic mailing system but rather referred from another submitter, Mr Michael Dunn on 9 March 2011 after the close of submissions on 17 February 2011 and the Council meeting on 1 March 2011. It has been added to the Summary of Submissions but it must be noted the submission is not addressed to anyone, it is not dated and not signed.

The Structure Plan is considered to be acceptable provided the modifications proposed are carried out.

The concept of a rural village in this locality has been promoted since the finalisation of the Porongurups Rural Strategy in 1997. It is listed as a rural village in the Lower Great Southern Strategy of 2007. It is also proposed as a rural village in the Council's 2010 Planning Vision. Considering the Structure Plan, when modified as now required, will produce a total lot yield of only 119 lots over a long period of time, the village area proposed is supported. It is acknowledged there are some opposing submissions but the modifications proposed will address several of the concerns. Some people will not be happy with any form of development in this area regardless of the modifications but the Council must recognise the village concept has been planned since 1997 and has been ratified in 2007 and 2010.

It is proposed to refer the Structure Plan and the Schedule of Modifications to the Western Australian Planning Commission for its approval for it to be incorporated into Amendment No. 49.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Council resolution of 1 March 2011:

‘That the Porongurup Rural Village Structure Plan, the Summary of Submissions and the Schedule of Modifications be referred to the Western Australian Planning Commission for its approval and incorporation of the modified Structure Plan in the Amendment No. 49 documentation.’

be endorsed.

Moved Cr B Bell, seconded Cr S Grylls:

That the matter be deferred to undertake further consultation and a report be brought back to the Council at its Meeting to be held 24 May 2011.

PROCEDURAL MOTION

Moved Cr M Skinner, seconded Cr L Handasyde:

That the question be now put.

CARRIED (9/0)

NO. 75/11

The motion was put

LOST (2/7)

Request for Name to be Recorded

Pursuant to Section 5.21(4) of the Local government Act (1995) Cr Bell requested that his name be recorded as voting against the motion.

COUNCIL DECISION

Moved Cr M Skinner, seconded Cr S Etherington:

That the Council resolution of 1 March 2011:

‘That the Porongurup Rural Village Structure Plan, the Summary of Submissions and the Schedule of Modifications be referred to the Western Australian Planning Commission for its approval and incorporation of the modified Structure Plan in the Amendment No. 49 documentation.’

be endorsed.

CARRIED (7/2)

NO. 76/11

11.2 COMMUNITY SERVICES REPORTS

11.2.1 COMMUNITY SPORT AND RECREATION FACILITIES FUND - SMALL GRANTS ROUND - NARPANUP GOLF CLUB APPLICATION

File No: N17814
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Nicole Selesnew
Manager Community Services
Proposed Meeting Date: 22 March 2011

PURPOSE

The purpose of this report is to seek the Council's support for the submission of a Narpanup Golf Club application to the Department of Sport and Recreation's 2010 / 2011 Community Sport and Recreation Facilities Fund (CSRFF) – Small Grants Round.

BACKGROUND

The CSRFF Small Grants program is a new funding round provided by the Department of Sport and Recreation (DSR). The fund is available for small scale projects which involve a basic level of planning. The total project cost for Small Grants must not exceed \$150,000.00 and grants must be claimed by 15 June in the relevant financial year.

DSR offers two Small Grants opportunities each year, with one round closing on 31 March 2011 and the second round closing 31 August 2011.

The CSRFF Small Grants program funds projects on a basis of one third of the total project cost.

Applications must be assessed by the relevant local government, identified as supported or otherwise and ranked in priority order. The application and priority ranking is then forwarded to DSR for their assessment.

The Narpanup Golf Club has submitted an application for the March round of Small Grants funds. The application is seeking funds to replace the roof on the Narpanup Golf Club clubhouse. Sections of the roof are over 60 years old, have rusted and are leaking water into the interior of the building. It is proposed to replace the roof with a Colorbond® product.

The Narpanup Golf Club is located at 30823 Albany Highway, on Reserve 23086. The Reserve is vested with the Shire for the Purpose of Recreation with the power to lease for any term, not exceeding 21 years. A 21 year lease is in place between the Shire and Narpanup Golf Club due to expire on 31 December 2026.

The Club has a stable membership of 40 members and is affiliated with Golf WA, the State Sporting Association body for golf.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

EXTERNAL CONSULTATION

Consultation has taken place with members of the Narpanup Golf Club and Chris Thompson, Regional Manager from the Department of Sport and Recreation – Great Southern Branch.

FINANCIAL IMPLICATIONS

Quotations have been sought for the roof replacement and amount to \$12,859.00 (GST exclusive). The Narpanup Golf Club has applied for funds from the Royalties for Regions program (administered by the Great Southern Development Commission) and aims to meet the remaining costs of the project through their own funds, in-kind donations and the DSR Small Grants fund.

The Golf Club is not presently seeking a financial contribution from the Council.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Plan, January 2003, Community Services aims to:

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

OFFICER COMMENT

The DSR Small Grants round provides sport and recreation groups and local governments with an opportunity to fund projects which do not exceed a total value of \$150,000.00, without having to submit detailed asset management, maintenance and life cycle cost plans.

The fund has been advertised through the Albany Advertiser and promoted to sport and recreation groups through DSR's database.

Narpanup Golf Club has worked in conjunction with Deborah DeJonge, Club Development Officer, to prepare their Small Grants Round application.

The application is seeking funds to replace their clubhouse roof which is in poor condition, rusted and leaks water. The roof is up to 60 years old in places and can no longer be maintained. The replacement of the roof is necessary for the club to continue to function. The Club is confident that the project will be completed without financial assistance from the Council.

It is recommended that the Narpanup Golf Club's application to the CSRFF Small Grants program be supported.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr S Etherington:

That the application for the Narpanup Golf Club roof replacement be endorsed, ranked as priority one of one and submitted to the Department of Sport and Recreation's 2010 / 2011 Community Sport and Recreation Facilities Fund – Small Grants Round.

CARRIED (9/0)

NO. 77/11

11.3 CORPORATE SERVICES REPORTS

11.3.1 FINANCIAL STATEMENTS – FEBRUARY 2011

File No:	N17788
Attachment:	Financial Statement (separate attachment)
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	22 March 2011

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending February 2011.

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 ie: 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 L Handasyde, seconded Cr G Messmer:

That the Financial Statements for the period ending February 2011 be received.

CARRIED (9/0)

NO. 78/11

11.3.2 LIST OF ACCOUNTS - FEBRUARY 2011

A Financial/Indirect Financial Interest (Section 5.60(A) and Section 5.61 LGA) was disclosed by Cr L Handasyde. Nature of Interest – Payment for gravel supplied by Forest Hill Farms.

6:12pm Cr L Handasyde withdrew from the meeting.

File No: N17685
Attachment: [List of Accounts](#)
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Emma Gardner
Accounts Officer
Proposed Meeting Date: 22 March 2011

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of February 2011.

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.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr S Etherington, seconded Cr M Skinner:

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 February 2011 be received and recorded in the minutes of the Council, the summary of which is as follows:

- a. Electronic Payments and Direct Debits totalling \$556,830.41;
- b. Municipal Cheques 41776 - 41808 and 4181 - 41844 totalling \$115,452.10;
and
- c. Cancelled Cheque 41809.

CARRIED (8/0)

NO. 79/11

6:15pm Cr L Handasyde returned to the meeting.

11.3.3 CEMETERIES LOCAL LAW - AMENDMENT

File No: N17774
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Donna Jo McDonald
Senior Administration/Human Resources
Officer
Proposed Meeting Date: 22 March 2011

PURPOSE

The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the proposed Cemeteries Amendment Local Law 2011, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment. Regulations provide that such 'notice' is effected through the purpose and effect of the proposed Local Law being included in the agenda and subsequent minutes.

BACKGROUND

At its meeting held on 7 September 2010, the Council resolved to adopt the Cemeteries Amendment Local Law 2010. The local law was gazetted on 8 October 2010 and copies sent to the Joint Standing Committee on Delegated Legislation and the Minister for Local Government and Regional Development.

On 9 November 2010 correspondence received from the Committee on Delegated Legislation noted that in clauses 7.2 and 7.13 of the Local Law, by giving the Board (Council) power to change specifications of memorials and the location of different sections of the cemetery, the Council had created two new heads of power to make determinations. In the Committee's view, the use of a determination device avoids scrutiny by both the Parliament and the Department of Local Government, as the mandatory procedure for making a local law under section 3.12 of the Local Government Act 1995 is not required to be followed when making, altering or repealing a determination.

The Committee was concerned that the determinations resulted in a sub-delegation of legislative power, as determinations are made by a simple majority of Council members, whereas local laws must be made by an absolute majority of members. The Committee therefore formed the view that the two new clauses amounted to unauthorised determination devices and are not authorised by the Local Government Act 1995. In the Committee's opinion, specifications of memorials and the parts of the cemetery to be set aside for named purposes must be included in the body of the Local Law.

The Committee also advised that it considered that the amendment to clause 7.18 of the Local Law is not authorised by the Local Government Act 1995, as the Cemeteries Act 1986 does not effectively confer jurisdiction on the State Administrative Tribunal (SAT), making subclause 7.18 (3) of the Law ineffective and that a general right of review already exists in the Local Government Act 1995. This amendment was a suggestion put forward by the Department of Local Government during the notification period.

The Committee sought undertakings from the Council for the amendment of clauses 7.2(1) and 7.13 and the deletion of subclause 7.18(3) from the Local Law.

On 9 December 2010 the Shire responded in writing by suggesting that the Council would agree to instigate proceedings to delete clause 7.18(3) as the amendment was only inserted on recommendation of the Department of Local Government. It was noted that in regard to clauses 7.2 and 7.13, as the cemetery had recently been expanded, the Shire wished to maintain some flexibility to adjust initial requirements, without the costly and lengthy process of a local law amendment. Information was requested regarding the acceptability of deleting the two clauses from the local law.

The Committee stated in a letter received on 15 February 2011 that the option to delete the clauses was acceptable and sought the provision of the standard required undertakings as well as specific undertakings in relation to clauses 7.2, 7.13 and 7.18 by 5.00pm on 4 March 2011.

At its meeting held on 1 March 2011, the Council resolved to make the following specific undertakings in relation to clauses 7.2(1), 7.13 and 7.18(3) of the Local Law:

- a) to delete subclause 7.2(1);
- b) to delete clause 7.13; and
- c) to delete subclause 7.18(3) from the Local Law.

The required standard and specific undertakings were forwarded to the Joint Standing Committee on Delegated Legislation on 3 March 2011.

Therefore, the purpose of this local law is to remove unauthorised determination devices and clauses from the local law.

The effect of this local law is that:

- The unauthorised determination devices used to give the Board power to set aside lawn areas and specify the requirements for memorials within those sections are removed.
- The unauthorised and ineffective right of appeal by the holder of a Monumental Mason's licence to the State Administrative Tribunal is removed.

STATUTORY ENVIRONMENT

The Cemeteries Amendment Local law is made under the powers of the Cemeteries Act 1986. However, the Act requires that in making a local law the process required by the Local Government Act 1995 is to be followed. Section 3.12 of the Local Government Act 1995 sets out the procedures to be followed in making a local law. The Local Government (Functions and General) Regulations further clarify these procedures.

EXTERNAL CONSULTATION

A minimum of 42 day public submissions period on the proposed Cemeteries Amendment Local Law will be advertised State wide when adopted by the Council. All advertising must be accompanied by a copy of the undertakings.

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

FINANCIAL IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

Clause 7.18 was re-numbered to 7.19 in the Cemeteries Amendment Local Law 2011. The deletion of clauses 7.2(1), 7.13 and 7.19(3) constitutes an amendment to the Shire's local law, therefore the requirements of section 3.12 of the Local Government Act 1995 need to be followed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr G Messmer:

That in accordance with Section 3.12(3) of the Local Government Act 1995, the proposed Cemeteries Amendment Local Law 2011, as detailed below, be adopted and advertised for public comment:

CEMETERIES ACT 1986**LOCAL GOVERNMENT ACT 1995***Shire of Plantagenet***CEMETERIES AMENDMENT LOCAL LAW 2011**

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

1. Citation

This local law may be cited as the *Shire of Plantagenet Cemeteries Amendment Local Law 2011*.

2. Commencement

This Local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

3. Principal local law

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

4. Clause 7.2 amended

Delete clause 7.2 and its heading and substitute with—

7.2 Placement of Memorials

Every memorial shall be placed on proper and substantial foundations.

5. Clause 7.13 amended

Delete clause 7.13 and its heading.

6. Clause 7.16 amended

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

7. Clause 7.17 amended

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

8. Clause 7.19 amended

Delete subclause (3).

9. Division 2 amended

Designations "7.14" is re-designated "7.13".

10. Division 3 amended

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

Dated: 2011.

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 (9/0)

NO. 80/11

11.3.4 POLICY REVIEW - ALTERNATIVE FLAGS

File No: N17780
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Donna Jo McDonald
Senior Administration/Human Resources
Officer
Proposed Meeting Date: 22 March 2011

PURPOSE

The purpose of this report is to review Council Policy CS/S/PA/15 – Alternative Flags.

BACKGROUND

Council Policy CS/S/PA/15 reads as follows:

OBJECTIVE:

To give guidance on the flying of alternative flags.

POLICY:

That alternative flags be flown from the Council official masts along with the Australian flag on specific occasions requested by the Protocol Branch of the Department of Premier and Cabinet or the Council.'

This policy was adopted on 10 March 2009 after the Council resolved at its meeting held on 24 February 2009 that a report be presented to the Council with a draft policy enabling the flying of the Indigenous Flag on specific occasion or occasions along with the Australian Flag.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

One of the Shire's values, adopted in its Strategic Plan is:

'We will show respect for each other regardless of individual beliefs, age, race, gender, religion or lifestyle.'

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

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

To achieve this we will:

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

OFFICER COMMENT

It is considered that the current policy is sufficient and should be endorsed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr S Grylls, seconded Cr G Messmer:

That Council Policy CS/S/PA/15 – Alternative Flags, as follows:

OBJECTIVE:

To give guidance on the flying of alternative flags.

POLICY:

That alternative flags be flown from the Council official masts along with the Australian flag on specific occasions requested by the Protocol Branch of the Department of Premier and Cabinet or the Council.'

be endorsed.

CARRIED (9/0)

NO. 81/11

11.3.5 POLICY REVIEW - GROUP RATING

File No:	N17819
Attachment:	Valuer General's Office Policy 3.103 – Land – The Unit of Valuation, Gross Rental Value Valuer General's Office Policy 4.310 – Group Valuations – Unimproved Values in Rural Areas
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Vanessa Ward Rates Officer
Proposed Meeting Date:	22 March 2011

PURPOSE

The purpose of this report is to review Council Policy No A/PA/13 – Group Rating.

BACKGROUND

At its meeting held 28 October 2008, the Council resolved to adopt Policy No A/PA/13 – Group Rating:

'OBJECTIVE:

To clarify the situations where group rating of separate lots can be applied.

POLICY:

That the Council will individually rate all separate lots unless the Valuer General's Office applies a group valuation in accordance with that Department's policy.'

STATUTORY ENVIRONMENT

Group rating of land parcels is covered by the Valuation of Land Act 1978 and is also subject to legal precedent as detailed in Valuer General's Office (VGO) Policies 3.103 and 4.310.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

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

To achieve this we will:

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

OFFICER COMMENT

The VGO provides valuation details to local government for the purposes of applying property rates. The Council has no choice but to apply rates and charges on land parcels as valued by the VGO.

The VGO has policies (3.103 and 4.310 - attached) which require valuing adjoining lots as a single valuation in the following circumstances:

Unimproved Value Properties

- *The lots are contiguous and in common ownership.*
- *The lots are used and occupied as one holding and would normally be expected to sell as one holding.*
- *The current contiguity and use will continue into the foreseeable future.*
- *The bases of valuation is confirmed by sales evidence.'*

Gross Rental Value Properties

- *Land in common ownership.*
- *Actual and contiguous occupation extends across more than one lot.*
- *Open storage used in conjunction with an industrial building.*
- *Improvements erected across lot boundaries.*
- *Residential garden, pool, tennis courts etc used in conjunction with a house.*

It is considered appropriate for the Council to reaffirm this policy that reflects the current practice of applying single lot rating to all lots within the Shire, except for situations where the VGO applies a group valuation to them. The policy has been amended to reflect that the VGO has two policies in this regard.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr S Etherington, seconded Cr G Messmer:

That amended Council Policy A/PA/13 – Group Rating:

‘OBJECTIVE:

To clarify the situations where group rating of separate lots can be applied.

POLICY:

That the Council will individually rate all separate lots unless the Valuer General’s Office applies a group valuation in accordance with that Department’s policies relating to group valuations.’

be endorsed.

CARRIED (9/0)

NO. 82/11

11.3.6 POLICY REVIEW - INSURANCE

File No: N17779
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Donna Jo McDonald
Senior Administration/Human Resources
Officer
Proposed Meeting Date: 22 March 2011

PURPOSE

The purpose of this report is to review Council Policy A/I/1 – Insurance.

BACKGROUND

Council Policy A/I/1 – Insurance reads as follows:

OBJECTIVE:

To clarify the Council's position on the responsibility for insurance costs of buildings erected on Shire land.

POLICY:

The Council will not accept responsibility for the cost of insurance of buildings erected by other organisations on land under Council control except on prior arrangement.'

This policy was last reviewed by the Council on 24 February 2009.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

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

To achieve this we will:

- *Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*

- *Promote and provide access to policies, procedures, standards and legislation.'*

OFFICER COMMENT

It is generally considered to be standard practice for organisations to keep their own insurance for buildings on property under the control of the local government. It is appropriate that the Council maintain a policy to clarify this position, although there is and may be exceptions to the policy from time to time. One such example relates to fire sheds whereby the Fire and Emergency Services Authority provides funding to the Council to build, insure and maintain such structures, which may or may not be on Council property. There may be other exceptions, however these can be dealt with on a case by case basis and the policy provides for this.

It is considered that the current policy is sufficient and should be endorsed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr B Bell:

That Council Policy A/I/1 – Insurance, as follows:

OBJECTIVE:

To clarify the Council's position on the responsibility for insurance costs of buildings erected on Shire land.

POLICY:

The Council will not accept responsibility for the cost of insurance of buildings erected by other organisations on land under Council control except on prior arrangement.'

be endorsed.

CARRIED (9/0)

NO. 83/11

11.3.7 POLICY REVIEW - RATING OF COUNCIL OWNED LAND - SPORTING AND COMMUNITY ORGANISATIONS

File No: N17820
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Vanessa Ward
Rates Officer
Proposed Meeting Date: 22 March 2011

PURPOSE

The purpose of this report is to review Council Policy No A/PA/14 – Sporting and Community Organisations Using Council and Vested Land – Rateability.

BACKGROUND

At its meeting held 11 November 2008, the Council adopted Policy No A/PA/14 – Sporting and Community Organisations Using Council and Vested Land - Rateability:

‘OBJECTIVE:

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

POLICY:

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

The following sporting and community groups have exclusive use of Council owned or vested land:

- Narpanup Golf Club;
- Mount Barker Tennis Club;
- Mount Barker Speedway;
- West Plantagenet Pony Club;
- Kendenup Tennis Club;
- Kendenup Country Club;
- Museum and Arts Council (Mitchell House);
- Tourist Bureau;
- Old Police Museum; and
- Mount Barker Playgroup.

STATUTORY ENVIRONMENT

Section 6.26 of the Local Government Act 1995 refers to the rateability of land.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

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

To achieve this we will:

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

OFFICER COMMENT

The Council adopted this policy position to address anomalies regarding the rating status of sporting and community associations occupying Council land through leasing arrangements. It is considered that the current policy is sufficient and should be endorsed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr A Budrikis:

That Council Policy A/PA/14 – Sporting and Community Organisations Using Council and Vested Land – Rateability, as follows:

'OBJECTIVE:

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

POLICY:

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

be endorsed.

CARRIED (9/0)

NO. 84/11

11.4 EXECUTIVE SERVICES REPORTS

11.4.1 COUNCIL OWNED HALLS - POLICY

File No: N17334
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Rob Stewart
Chief Executive Officer
Proposed Meeting Date: 22 March 2011

PURPOSE

The purpose of this report is to summarise the position regarding Council owned halls and public buildings from an asset management point of view and the potential for community groups to assume responsibility for the running of those buildings. The report will recommend the adoption of new policy.

BACKGROUND

At its meeting held on 6 July 2010 the Council resolved:

'That:

1. *The Chief Executive Officer be authorised to undertake extensive community consultation including advertisements, information sheets and community meetings regarding the Council's plans to examine usage, revenue and expenditure for each Council controlled building that is available for hire with a view to either demolition, sale, leasing or retention and that a further report be presented to the Council at its meeting to be held on 15 February 2011.*
 2. *The building and structures to be included in the above consultation include:*
 - a) *All buildings situated on the Kendenup Agricultural Grounds excluding those already leased;*
 - b) *Former Guides/Scout Hall;*
 - c) *Kamballup Hall;*
 - d) *Kendenup Hall;*
 - e) *Narrikup Hall;*
 - f) *Plantagenet Arts Centre – Mitchell House*
 - g) *Plantagenet District Hall;*
 - h) *Porongurup Hall;*
 - i) *Rocky Gully Hall;*
 - j) *Woogenellup Hall; and*
-

k) *Wilson Park Netball Kiosk.*

Since then the Chief Executive Officer has held public meetings in each of the halls and public buildings mentioned above excluding the Wilson Park Netball Kiosk, the Plantagenet Arts Centre (Mitchell House), the former Guides/Scout Hall in Booth Street Mount Barker and the Kendenup Agricultural Grounds buildings.

With regard to the Wilson Park Netball Kiosk, the Council has been advised of the intention to partially demolish the building excluding those parts needed for reticulation controllers. This may involve a Town Fire Brigade exercise.

With regard to the Plantagenet Arts Centre (Mitchell House), the Manager of Community Services Ms Nicole Selesnew has commenced discussions with that body's Executive Committee to determine whether a lease can be negotiated.

With regard to the former Guides/Scout Hall in Booth Street, the Deputy Chief Executive Officer has undertaken negotiations with the community group regarding the use of that building as a 'Men's shed' and associated community garden. It is noted however, that the level of community interest is declining.

With regard to the Kendenup Community Grounds, the Chief Executive Officer is endeavouring to negotiate a lease with the Kendenup Community Grounds Committee (Inc) regarding the structures on that land and the use of that land.

Workshops with Councillors have also been held on 15 June 2010 and 1 March 2011.

STATUTORY ENVIRONMENT

Section 3.58 of the Local Government Act relates to the disposition of property and the manner by which a Local Government can dispose of property.

POLICY IMPLICATIONS

The Council has a number of policies regarding usage of Council buildings including hours of use, charges and alcohol consumption.

The Council has also recently adopted a long term financial plan and this was the catalyst for this report.

This report will recommend the adoption of new policy.

FINANCIAL IMPLICATIONS

Following is a table showing expenditure and revenue for each structure for the past three financial years.

	Total Revenue			Total Expenditure including Operating and Utilities			Comments
	2007-2008	2008-2009	2009-2010	2007-2008	2008-2009	2009-2010	
Plantagenet Hall	1,641.00	659.00	1,966.00	20,153.00	17,458.00	21,889.00	Casual Hirers
Plantagenet Lesser Hall	-	-	0	1,001.00	3,698.00	2,961.00	Leased to Health Dept
Kendenup Hall	305.00	275.00	45.00	12,520.00	10,358.00	10,861.00	Casual Hirers
Kendenup Agricultural Grounds Buildings	-	-	0	4,593.00	9,992.00	7,273.00	
Narrikup Hall	1,045.00	85.00	426.00	10,829.00	11,395.00	13,350.00	Casual Hirers
Porongurup Hall	311.00	600.00	418.00	5,196.00	2,122.00	2,380.00	Management Committee
Kamballup Hall	509.00	499.00	432.00	1,679.00	1,885.00	1,957.00	Casual Hirers
Rocky Gully Hall	341.00	68.00	45.00	3,109.00	4,098.00	7,563.00	Asbestos in evidence
Woogenellup Hall	15.00	30.00	15.00	1,592.00	1,500.00	2,367.00	Some subsidence and cracking
Former Guides/Scout Hall	-	-	-	-	-	-	Vacant
Plantagenet Arts Centre – Mitchell House	1,215.00	1,215.00	1,215.00	810.00	1,709.00	3,590.00	No lease
Totals	5,382.00	4,090.00	4,562.00	61,482.00	64,215.00	74,191.00	

STRATEGIC IMPLICATIONS

The Council's Strategic Plan at Key Result Area 2 (Infrastructure) notes an aim of the Council is to:

'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.'

It will be suggested in this report that to effectively fulfil this strategic aim, there will be a need to seriously address expenditure and revenue patterns for the Council's buildings that are available for hire or lease.

OFFICER COMMENT

At the workshop with Councillors held on 1 March 2011, an interesting possibility was explored regarding the potential to sell, for a nominal sum, community halls where possible. This proposal was suggested when Councillors noted that leasing community halls did not relieve the Council of financial burdens or liabilities and therefore would have little impact on the Council's asset management obligations.

Many Council halls were in any case at one stage owned by the community and have come into the Council's ownership by agreement, such as the Rocky Gully Hall formerly being the Rocky Gully RSL, or simply through the land upon which the halls have been situated being vested in the Council. It should be noted that the land upon which the Forest Hill Hall site is not owned by the Council or vested in the

Council and therefore the Council has no real interest in the hall which is situated on that land.

It should also be noted that, by way of comparison, the recently constructed Home and Community Care building situated to the rear of the Lesser Hall in Memorial Road is not owned by the Council although the land upon which it sits is leased by the Council to a Government Department. Therefore, precedent exists for the ownership of structures while sitting on Council land.

The following table shows the tenure of the land upon which halls are situated.

Building	Tenure	Purpose	Power to Lease
Kendenup Agricultural Grounds	Owned		Yes
Former Guide/Scout Hall	Vested	Youth Centre	No
Kamballup Hall	Vested	Hall Site	No
Kendenup Hall	Owned		Yes
Narrikup Hall	Owned		Yes
Plantagenet Arts Centre (Mitchell House)	Owned		Yes
Plantagenet District Hall	Owned		Yes
Porongurup Hall	Vested	Recreational and Hall Site	No
Rocky Gully Hall	Vested	Hall Site	No
Woogenellup Hall	Vested	Hall Site	No
Wilson Park Netball Kiosk	Vested	Park lands and Recreation	Yes with prior written approval from the Minister of Lands

If it is assumed that no organisation would purchase a structure unless there was some tenure over the land upon which the structure sat, only some buildings would be able to be sold. These are:

- Kendenup Agricultural Grounds;
- Kendenup Hall;
- Narrikup Hall;
- Mitchell House;
- Plantagenet District Hall; and
- Wilson Park Netball Kiosk.

The balance (Former Guide/Scout hall, Kamballup Hall, Porongurup Hall, Rocky Gully Hall and Woogenellup Hall) cannot be leased unless the respective Vesting/Management Orders are changed to allow for this by the State Government.

If it is further assumed that there is no inclination to sell the District Hall, Mitchell House or the Wilson Park Netball Kiosk, only three structures are available for sale now, these being Kendenup Agricultural Grounds, Kendenup Hall and Narrikup Hall.

Others have no power to lease (and therefore difficult to sell the respective structure) although this could be followed through.

Therefore, in conclusion, the structures mentioned above as being able to sell, excluding Mitchell House, Plantagenet District Hall and Wilson Park Netball Kiosk could be offered for sale.

With regard to Mitchell House, Plantagenet District Hall and the Wilson Park Netball Kiosk current plans can continue. These are to negotiate a lease with the Arts Council for Mitchell House, continue to maintain the District Hall as a community hall and potentially demolish the Netball Kiosk.

The other sites that are vested in the Council with no power to lease could be pursued to alter the Management Order so that the power to lease was available. Such powers to lease, if granted, would be for the vested purpose only.

The provisions of Section 3.58 of the Act would apply in that by not going to public tender we will need to advertise details of the proposed disposition. Therefore this disposition is different from that that occurred for the Perillup Hall in 2003 which was a disposition (sale) by tender. To set out a recommended council position, it is suggested that a policy be adopted to assist officers and members of the public alike, understand the Council's position.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr M Skinner:

1. That Council Policy A/PA/17 Community Halls and Buildings, as follows

Objective

To clarify the Council's position with regard to Community Halls.

Policy

The Council is of the opinion that community halls within the District should be:

1. Wherever possible, operated by an appropriate incorporated community body;
2. 'Operated' in part 1) can include ownership or leasing;
3. If sale or lease cannot be effected for Community Hall purposes the closure of the hall and subsequent sale and removal of the subject structure will be pursued

be endorsed.

2. That:

1. To effect Policy A/PA/17 Community Halls and Buildings the following structures shall immediately be offered for sale or lease to an appropriate incorporated body for the purpose of Community Hall:

- Kendenup Agricultural Grounds Structures not already leased;
- Kendenup Hall; and
- Narrikup Hall.

2. Amendments to the following Vesting Orders be sought to include the power to be leased:

- Former Guide/Scout Hall;
- Porongurup Hall;
- Rocky Gully Hall;
- Woogenellup Hall; and
- Kamballup Hall.

3. A further report be presented to the Council at its meeting to be held on 26 July 2011 regarding progress.

CARRIED (8/1)

NO. 85/11

12 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

Moved Cr L Handasyde, seconded Cr M Skinner:

That new business of an urgent nature, namely:

- Petition – Presentation of Mount Barker Townsite
- Mount Barker Railway Precinct – Proposed Amendment to Permanent Registration

be introduced to the meeting

CARRIED (9/0)

NO. 86/11

13.1.1 PETITION - PRESENTATION OF MOUNT BARKER TOWNSITE

File No: N17860
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Rob Stewart
Chief Executive Officer
Proposed Meeting Date: 22 March 2011

PURPOSE

The purpose of this report is to consider the Petition which was received by the Council at its meeting held on 1 March 2011 relating to the presentation of the Mount Barker Townsite.

BACKGROUND

At its meeting held on 1 March 2011 the Council resolved:

'That the Petition relating to Town Presentation be received and referred to the Chief Executive Officer for investigation with a report to be presented to the Council at its meeting to be held on 22 March 2011'.

The Petition reads:

'We the undersigned hereby petition Council. As concerned residents of the Plantagenet Shire we would like to express our disappointment with the presentation of Mount Barker townsite.

Although extensive street landscaping has been carried out, it is not being maintained and the town looks very untidy.

Parks and gardens are not mowed and overgrown with weeds. There appears to be no upkeep of verges throughout the town and pathways are broken and dangerous.

There appears to be no commitment from the Shire for the upkeep of the town.

Well kept towns are welcoming for visitors and instil pride with residents.

Please could the Shire improve on its maintenance and presentation of the town?'

STATUTORY ENVIRONMENT

The Petition was received pursuant to the Council's Standing Orders Local Law (paragraph 3.4).

EXTERNAL CONSULTATION

Nil

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

OFFICER COMMENT

The Petition was signed by 107 people, mostly electors of the District.

Councillors will be aware that the Parks and Gardens staff constitutes three full time equivalent employees. This was reduced from four in the 2009/2010 Budget as a response to financial pressures and to keep rate increases to a minimum.

The Chief Executive Officer has placed an article in the Plantagenet News to be published 23 March 2011 responding to the Petition. (Copy attached)

Councillors have been advised in the past that the reduction in the Parks and Gardens Staff (as well as the loss of the Telephonist position) resulted in a noticeable reduction in service to members of the public.

As a result of the reduction in Parks and Gardens staff, the Chief Executive Officer was compelled to, for instance, increase the time between mowing of lawns and other garden maintenance. Pressure to undertake fuel reduction along road reserves (undertaken by Parks and Gardens staff) further exacerbated an already tight situation.

Although the 1.0 full time equivalent Parks and Gardens staff member has not been deleted from the staff establishment, as the position has not been funded there has been no opportunity to address the workload which, in the same period has increased due to, for instance, the Albany Highway round-a-bout and other increases over time such as the gardens in front of the Administration Building.

It is not appropriate to use Pardellup resources for recurring workload issues.

Further, it is inappropriate to make up the shortfall through contract labour as the intention of the Council was to decrease costs and it was acknowledged at that time that service levels would decrease.

In a nutshell, over the past four to five years workload pressures have increased while over the past two years resources have decreased.

The Petitioners particularly mention verges. There is no doubt that, strictly speaking, verges are the responsibility of the Local Authority. In reality though, all Councils need home and business owners to take some responsibility for their own verge areas as resources would never be available to maintain all verges/paths.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr L Handasyde:

That the Petitioners seeking increased town maintenance and upkeep allocations, be advised by advertisement that the Council, during consideration of the 2011/2012 Budget will examine an increased allocation to address these issues.

CARRIED (9/0)

NO. 87/11

13.1.2 MOUNT BARKER RAILWAY PRECINCT - PROPOSED AMENDMENT TO PERMANENT REGISTRATION

File No: N17789
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Rob Stewart
Chief Executive Officer
Proposed Meeting Date: 22 March 2011

PURPOSE

The purpose of this report is to advise the Council that the Heritage Council of Western Australia is proposing to revise the Mount Barker Railway Station Heritage Curtilage to include the Mount Barker Fruit Inspection and Dehydration Shed (the Shed).

This report will also seek from the Council a resolution on this proposal.

BACKGROUND

Councillors would be aware that the Mount Barker Railway Station is listed on the State Register of Heritage Places. The land upon which the Railway Station is situated is leased to the Council and the structure itself is owned by the Council.

STATUTORY ENVIRONMENT

Heritage of Western Australia Act 1990.

Particular attention is drawn to Section 11 of that Act (Duty of Public Authorities to assist in conservation of Registered Places) where at Subsection 3 the Act requires that '*a decision making authority shall not take any action that might (whether or not adversely) affect to a significant extent a registered place...*'

This matter is raised as the Shire's present position is to require the demolition of the Shed.

EXTERNAL CONSULTATION

Although there has been no public consultation regarding the extension of the railway precinct curtilage to include the Shed, the Council has made its position regarding the Shed clear.

From time to time some groups (notably the Mount Barker Tourist Bureau Inc) have called for the Shed to be refurbished and an adaptive reuse found.

FINANCIAL IMPLICATIONS

A report prepared by Howard and Heaver Architects in September 2007 closely examined the needed repairs of the building and estimated the cost for such repairs at \$324,500.00. This figure was revised in 2009 to \$363,440.00. Potentially these costs would now (2011) have reached \$400,000.00. Annual maintenance costs (say 2% of capital costs) assuming \$0.00 worth prior to repair would be \$8,000.00.

POLICY IMPLICATIONS

There are no policy implications for this report.

ASSET MANAGEMENT IMPLICATIONS

Should the Shed be placed on the State Register of Heritage Places it would be logical for the present owner (Public Transport Authority) to attempt to transfer ownership to the Council which is, as noted above, the owner of the Railway Station. Such a move would have significant asset management implications upon the Council as the Shed is in a poor state of repair due to the presence of asbestos and white ant damage and attempts to find a commercial use have been unsuccessful. Costs of maintenance could impact other Council responsibilities such as road maintenance/ construction and building maintenance.

STRATEGIC IMPLICATIONS

The Council's Strategic Plan at Key Result Area 4 (Development Services) notes an aim of the Council is to recognise and protect heritage places.

Further, the Strategic Plan notes at Key Result Area 3 (Community Services) as a new initiative that the Council will review the Shire's Heritage Inventory and develop management plans and guidelines for historic places.

OFFICER COMMENT

The Council has been seeking demolition of the Shed ever since the last tenant moved out (Dysons) around 2004.

The likelihood of the structure being placed on the State's Register of Heritage Places is becoming stronger and it is becoming more difficult and time consuming for the Shire to continue to fight to achieve demolition. It may even be interpreted that the call for demolition has in fact prevented essential maintenance from occurring exacerbating the danger to Mount Barker and its population. The building would pose a substantial threat to the health of the population (and fire fighters) if it burned due to the asbestos content.

Therefore, although contrary to previous direction by the Council, the Council may like to consider amending its existing stance to one of preserving the place, assuming ownership of all structures within the Railway Station Heritage Precinct (the railway line itself would be excluded from the precinct) and seeking refurbishment at the cost of the Government and to investigate adaptive reuse of the place.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr A Budrikis, seconded Cr G Messmer:

That the Heritage Council of Western Australia be advised that the Shire of Plantagenet notes the proposal of the Heritage Council to extend the Mount Barker Railway Station Precinct to include the former Mount Barker Fruit Inspection and Dehydration Shed and provides this further advice to the Heritage Council:

1. The structure has a large amount of deteriorating asbestos;
2. The structure has been subject to extensive white ant attack;
3. The ownership of the structure presently rests with the Public Transport Authority;
4. No commercial adaptive reuse of the structure has been found;
5. The Shire of Plantagenet would require complete refurbishment at no cost to the Shire of Plantagenet to avoid 'demolition through neglect' and to reduce health and safety risks to the community.

CARRIED (9/0)

NO. 88/11

14 CONFIDENTIAL**14.1 DEVELOPMENT SERVICES REPORTS****14.1.1 LOT 811 STONEY CREEK ROAD, PORONGURUP - FAMILY DAY CARE PROPOSAL – RECONSIDERATION**

File No: N17840
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Peter Duncan
Manager Development Services
Proposed Meeting Date: 22 March 2011
Applicant: Jane Forward

PURPOSE

The purpose of this report is to reconsider conditions previously imposed by the Council on 1 March 2011 for a proposal for a family day care at Lot 811 Stoney Creek Road, Porongurup.

MOTION TO PROCEED BEHIND CLOSED DOORS

Moved Cr B Bell, seconded Cr L Handasyde:

6:59pm That this matter be considered in the confidential component of this meeting due to legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.

CARRIED (9/0)

NO. 89/11

MOTION TO PROCEED IN PUBLIC

Moved Cr L Handasyde, seconded Cr B Bell:

7:00pm That the meeting proceed in public

CARRIED (9/0)

NO. 90/11

OFFICER RECOMMENDATION

That notwithstanding the Council decision made on 1 March 2011 in accordance with clauses 5.2 and 6.3.2 of the Shire of Plantagenet Town Planning Scheme No. 3 planning consent be granted for the family day care at Lot 811 Stoney Creek Road, Porongurup subject to:

1. The family day care facility being constructed to meet the requirements of AS3959 based on a Fire Danger Index of 80 (extreme).
2. The family day care facility be closed by 9:00am once the Fire Danger Index Forecast for the Stirling Inland Subdistrict is 50 or above for any given day.
3. Fire protection measures being provided for the existing house and the family day care facility as follows:
 - i) external water spray system (both buildings);
 - ii) provision of approved fire fighting equipment (pump and fire hoses etc); and
 - iii) back up power and water supply.
4. An appropriate bush fire emergency management plan being developed and implemented before the family day care facility is occupied and maintained thereafter. That plan shall:
 - i) address actions and protective measures at the family day care facility before, during and after a bush fire;
 - ii) consider when it is appropriate to remain at the family day care facility and when it is appropriate to relocate from the facility;
 - iii) address the issue of parents and/or relatives attempting to reach the children in the event of a bush fire impacting the area;
 - iv) have systems in place where the family day care facility may be closed during significant fire weather events and/or when fires are burning in the area;
 - v) address ongoing maintenance of the family day care facility and surrounding bush fire fuel levels to meet minimum fire protection requirements;
 - vi) include information on minimum training requirements for carers; and
 - vii) include a communications plan for communications with emergency services and parents of children at the family day care facility.
5. The above conditions 1 to 4 being signed off by a suitably qualified person and/or fire consultant as being completed prior to notification being submitted to the Council and the family day care facility being occupied and this being renewed annually prior to the commencement of the restricted burning period.
6. A copy of these conditions is to be provided by the licensee to the child minding licensing unit.

COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr G Messmer:

That notwithstanding the Council decision made on 1 March 2011 in accordance with clauses 5.2 and 6.3.2 of the Shire of Plantagenet Town

Planning Scheme No. 3 planning consent be granted for the family day care at Lot 811 Stoney Creek Road, Porongurup subject to:

- 1. The family day care facility being constructed to meet the requirements of AS3959 based on a Fire Danger Index of 80 (extreme).**
- 2. The family day care facility be closed by 9:00am once the Fire Danger Index Forecast for the Stirling Inland Subdistrict is 50 or above for any given day.**
- 3. Fire protection measures being provided for the existing house and the family day care facility as follows:**
 - i) external water spray system (both buildings);**
 - ii) provision of approved fire fighting equipment (pump and fire hoses etc); and**
 - iii) back up power and water supply.**
- 4. An appropriate bush fire emergency management plan being developed and implemented before the family day care facility is occupied and maintained thereafter. That plan shall:**
 - i) address actions and protective measures at the family day care facility before, during and after a bush fire;**
 - ii) consider when it is appropriate to remain at the family day care facility and when it is appropriate to relocate from the facility;**
 - iii) address the issue of parents and/or relatives attempting to reach the children in the event of a bush fire impacting the area;**
 - iv) have systems in place where the family day care facility may be closed during significant fire weather events and/or when fires are burning in the area;**
 - v) address ongoing maintenance of the family day care facility and surrounding bush fire fuel levels to meet minimum fire protection requirements;**
 - vi) include information on minimum training requirements for carers; and**
 - vii) include a communications plan for communications with emergency services and parents of children at the family day care facility.**
- 5. The above conditions 1 to 4 being signed off by a suitably qualified person and/or fire consultant as being completed prior to notification being submitted to the Council and the family day care facility being occupied and this being renewed annually prior to the commencement of the restricted burning period for zone 4 (east).**
- 6. A copy of these conditions is to be provided by the licensee to the child minding licensing unit.**

Reason for change

Zone 4 (East) has been included to specify the particular Bush Fire Control Zone to avoid any confusion.

AMENDMENT

Moved Cr A Budrikis, seconded Cr M Skinner:

That:

- 1. The word 'and' be deleted from part 4(vi) of the motion.**
- 2. The word 'and' be inserted after the word 'facility' in part 4(vii) of the motion.**
- 3. A new part 4(viii) be added to read:
'be made available to users of the family day care facility.'**

CARRIED (9/0)

NO. 91/11

COUNCIL DECISION

That notwithstanding the Council decision made on 1 March 2011 in accordance with clauses 5.2 and 6.3.2 of the Shire of Plantagenet Town Planning Scheme No. 3 planning consent be granted for the family day care at Lot 811 Stoney Creek Road, Porongurup subject to:

- 1. The family day care facility being constructed to meet the requirements of AS3959 based on a Fire Danger Index of 80 (extreme).**
- 2. The family day care facility be closed by 9:00am once the Fire Danger Index Forecast for the Stirling Inland Subdistrict is 50 or above for any given day.**
- 3. Fire protection measures being provided for the existing house and the family day care facility as follows:**
 - i) external water spray system (both buildings);**
 - ii) provision of approved fire fighting equipment (pump and fire hoses etc); and**
 - iii) back up power and water supply.**
- 4. An appropriate bush fire emergency management plan being developed and implemented before the family day care facility is occupied and maintained thereafter. That plan shall:**
 - i) address actions and protective measures at the family day care facility before, during and after a bush fire;**
 - ii) consider when it is appropriate to remain at the family day care facility and when it is appropriate to relocate from the facility;**

- iii) address the issue of parents and/or relatives attempting to reach the children in the event of a bush fire impacting the area;
 - iv) have systems in place where the family day care facility may be closed during significant fire weather events and/or when fires are burning in the area;
 - v) address ongoing maintenance of the family day care facility and surrounding bush fire fuel levels to meet minimum fire protection requirements;
 - vi) include information on minimum training requirements for carers;
 - vii) include a communications plan for communications with emergency services and parents of children at the family day care facility; and
 - viii) be made available to users of the family day care facility.
5. The above conditions 1 to 4 being signed off by a suitably qualified person and/or fire consultant as being completed prior to notification being submitted to the Council and the family day care facility being occupied and this being renewed annually prior to the commencement of the restricted burning period for zone 4 (east).
6. A copy of these conditions is to be provided by the licensee to the child minding licensing unit.

CARRIED (7/2)

NO. 92/11

15 CLOSURE OF MEETING

7:03pm The Presiding Member declared the meeting closed.

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