



ORDINARY MINUTES

DATE: Tuesday, 26 February 2013

TIME: 3:00pm

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

Rob Stewart
CHIEF EXECUTIVE OFFICER

MEMBERSHIP – Quorum (5)

Membership:

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

Information and recommendations are included in the reports to assist the Council in the decision making process and may not constitute the Council's decision until considered by the Council.

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

3:03pm 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 (Left the Chambers at 3:24pm, returned 3:25pm)
Cr A Budrikis	Councillor
Cr L Handasyde	Councillor
Cr G Messmer	Councillor (Left the Chambers at 3:31pm, returned 3:43pm)
Cr J Moir	Councillor
Cr C Pavlovich	Councillor (Left the Chambers at 3:18pm, returned at 3:23pm) (Left the Chambers at 3:43pm, returned at 4:03pm)

In Attendance:

Mr Rob Stewart	Chief Executive Officer
Mr John Fathers	Deputy Chief Executive Officer
Ms Nicole Selesnew	Manager Community Services
Mr Peter Duncan	Manager Development Services
Mr Dominic Le Cerf	Manager Works and Services
Mrs Linda Sounness	Executive Secretary
Mr Vincent Jenkins	Planning Officer

Apologies

Cr S Etherington

There were five members of the public present.

Previously Approved Leave of Absence:

Nil

Motion of Condolence

Moved Cr B Bell, seconded Cr J Moir:

That a condolence card and flowers be sent to Councillor Etherington and her partner Jenny on the passing of Councillor Etherington's mother.

CARRIED (8/0)

NO. 28/13

Emergency Evacuation Procedures/Disclaimer:

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

Mr Stewart then read aloud the following disclaimer:

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

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

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

3 PUBLIC QUESTION TIME

3.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

3.2 PUBLIC QUESTION TIME - SECTION 5.24 LOCAL GOVERNMENT ACT 1995

Nil

4 PETITIONS / DEPUTATIONS / PRESENTATIONS

4.1 DELMA BAESJOU – AYTON BAESJOU REPRESENTING FLETCHER INTERNATIONAL - ITEM 9.1.3

Ms Baesjou spoke in support of the Officer's recommendation in Item 9.1.3 Lot 5217 Settlement Road, Narrikup – Seasonal Employees' Accommodation.

4.2 JEAN ROBINSON – CITIZENS ELECTORAL COUNCIL

Ms Robinson spoke on issues regarding an economic crisis facing Australia and the need to put in place what is known as a Glass-Steagall banking separation and also the need to establish a national bank.

4.3 GARY THOMAS – REPRESENTING MOUNT BARKER SPORTING SHOOTERS

Mr Thomas spoke to the Council seeking an amendment to the Officer's recommendation at Item 9.1.4 regarding barrier fencing to include the mention of a sound baffle fence of solid construction with a minimum height of 2.4 metres.

5 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

Cr C Pavlovich

A Financial/Indirect Financial Interest (Section 5.60(A) and Section 5.61 LGA) was disclosed in Item 9.1.1. Nature of interest – Financial Interest.

A Closely Associated Person (Section 5.62 LGA) Interest was disclosed in item 9.1.5. Nature of interest – related party.

Cr B Bell

A Financial/Indirect Financial Interest (Section 5.60(A) and Section 5.61 LGA) was disclosed in Item 9.1.2. Nature of interest – Financial.

Cr G Messmer

A Closely Associated Person/Section 5.62 LGA) Interest was disclosed in Item 9.1.4. Nature of interest – Treasurer of Pistol Club.

Cr Jeff Moir

A Code of Conduct Disclosure (S5.103 LGA/ Reg 34C Local government Administration Regulations) Perceived interests (Clause 2.3 Code of Conduct) was disclosed in Item 9.1.5. Nature of interest – Australian Blue Gum lease portion of my farm to plant blue gums.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

Councillor G Messmer requested Leave of Absence for 30 July 2013.

Moved Cr J Moir, seconded Cr M Skinner:

That Cr G Messmer be granted leave of absence for 30 July 2013.

CARRIED (8/0)

NO. 29/13

7 CONFIRMATION OF MINUTES

Moved Cr L Handasyde, seconded Cr J Moir:

That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 29 January 2013 as circulated, be taken as read and adopted as a correct record.

CARRIED (8/0)

NO. 30/13

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Shire President distributed notes separately.

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 DEVELOPMENT SERVICES REPORTS

9.1.1 LOT 151 MUIR HIGHWAY - DEVELOPMENT OPTIONS

A Financial/Indirect Financial (Section 5.60(A) and Section 5.61 LGA) Interest was disclosed by Cr C Pavlovich. Nature and extent of interest – financial interest. Share hold potential industrial development.

3:18pm Cr C Pavlovich withdrew from the meeting.

File No: N25625
Attachments: [Location Plan](#)
[Possible Subdivisional Lot Layout](#)
Responsible Officer: Peter Duncan
Manager Development Services
Author: Peter Duncan
Manager Development Services
Proposed Meeting Date: 26 February 2013

PURPOSE

The purpose of this report is to consider a proposed option for the subdivision of Lot 151 Muir Highway/Langton Road, Mount Barker for light industrial lots with the involvement of LandCorp and the ceding of part of the site to LandCorp.

BACKGROUND

Lot 151 Muir Highway is owned by the Shire of Plantagenet. Lot 151 Muir Highway and Langton Road is occupied by the Council depot and Muir Highway divides the lot into two portions. The lot was divided due to the construction of the Northern Bypass.

Lot 151 Muir Highway is zoned Special Industrial in the Shire of Plantagenet Town Planning Scheme No. 3 (TPS3). This Special Industrial zoning category was introduced many years ago and was created primarily for the yet to be developed Yerriminup special industrial area located south of Mount Barker on Albany Highway.

The Special Industrial zoning category was created with the intent of catering for the larger industries that have the potential to require extensive buffer requirements and land use constraints such as pulp mills, tanneries, abattoirs and so on.

The Council at its meeting held on 11 December 2012 agreed to initiate the rezoning of Lot 151 from Special Industrial to Industrial in the form of Amendment No. 59. The Council at that meeting resolved:

'That:

1. *Amendment No. 59 to Town Planning Scheme No. 3 be initiated and referred to the Environmental Protection Authority in accordance with legislative requirements.*
2. *Once authorised by the Environmental Protection Authority, the Amendment be advertised for a period of 42 days to enable comment to be made.*
3. *After advertising, a further report be prepared for the Council to be presented no later than its meeting to be held in April 2013.*
4. *Staff prepare an application for funding assistance to LandCorp as part of the Regional Development Assistance Program for the 2013 round.'*

That Amendment has been authorised by the Environmental Protection Authority (EPA) to proceed to advertising. The advertising closes on 14 March 2013 after which a report will be placed before the Council on the submissions received.

Part 4 of the 11 December 2012 resolution above involved the preparation of a funding application to LandCorp. Staff has commenced the preparation of that application and have been liaising with officers from LandCorp.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

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

EXTERNAL CONSULTATION

Consultation has taken place between Council officers, LandCorp and the Department of Regional Development and Lands.

The Amendment is being advertised for 42 days with letters to affected landowners and government agencies, newspaper notices and a notice on site and on the Council's notice board.

FINANCIAL IMPLICATIONS

As advised to the Council on 11 December 2012 any future subdivision of the north western portion of Lot 151 Muir Highway will require financial assistance from LandCorp as part of its Regional Development Assistance Program.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2012-2022 provides at Outcome 2.2: (Appropriate development which is diverse in nature and protects local heritage) the following Strategies:

'Strategy 2.2.1 – Provide supportive planning and development guidance and liaison on major land development;' and

'Strategy 2.2.5 - Encourage industry, business and residential development that is consistent with the individual character of towns.'

OFFICER COMMENT

The majority of the depot infrastructure (buildings and equipment) is located in the south eastern portion of the lot. The north western portion of the lot is used as a storage area for bulk commodities such as gravel, sand, blue metal, timber and bricks.

Two new vehicular entries to the site were provided as part of the construction of the new portion of Muir Highway. There is also an entry and an exit to the south eastern portion of the lot from Langton Road.

The Council has no intention of using any of the present depot site for the kinds of industries envisaged in the Special Industrial zone hence proposed Amendment No. 59 to TPS3 will change the zoning to Industrial. The depot will be retained in its present location. The Industrial zone is therefore considered a more appropriate zoning for this Lot 151 Muir Highway.

As advised to the Council on 11 December 2012, with Lot 151 Muir Highway being zoned Industrial, the Council will then be in a position to consider the possible subdivision of the north western section to create a variety of lots for industrial use. Discussions have taken place with LandCorp and the Department of Regional Development and Lands on this matter and both agencies are supportive of the concept. The Manager Works and Services has confirmed the north west section is not critical to the depot operations with a rationalisation of the storage of bulk goods and better use of the south east section where the main infrastructure is located.

As part of the LandCorp Regional Development Assistance Program, staff have commenced the completion of the necessary paperwork. The application is quite complex and requires a lot of information to be provided to LandCorp before its officers report to the Board. One of the key requirements is for the Council to agree to cede part of the land to LandCorp to enable it to fund and commence the proposed subdivision.

If the Council does not agree to cede portion of the land to LandCorp, it is highly likely the assistance request will be unsuccessful. Subdivisional costs would then need to be borne by the Council.

The transferring of portion of the land to LandCorp will enable the Board to agree to the funding for the necessary feasibility work and to install the infrastructure for stage one. LandCorp will then market and sell the first lots to recoup some of its expenditure, then the Council would be able to sell the remainder of the lots.

The feasibility work required will be expensive and cover environmental issues, infrastructure provision (including electricity provision and extending scheme water to the site), preparation of a water management plan for drainage, the avoidance of an optic fibre cable and the eventual submission of a subdivision application to the WAPC.

Staff have prepared a possible subdivisional lot layout consisting of a total of 18 lots with 16 lots to the north west of Muir Highway (copy attached). The possible layout is only very approximate as the LandCorp feasibility work will determine an appropriate lot design. The possible lot layout includes a large area for the drainage management feature and a loop road design to avoid the use of cul-de-sac.

To enable LandCorp to support and fund the project, in the order of four to six lots will need to be ceded to that agency. On the possible lot layout attached, an area proposed to be ceded to LandCorp is marked. That area includes a possible five lots ranging from 4,000m² to 8,000m², the drainage site, the main portion of the roadway and the site entry off Muir Highway.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr L Handasyde:

That:

- 1. In order to effect the development of Lot 151 Muir Highway, Mount Barker for multiple industrial lots, the Council will:**
 - a. Agree to cede up to six lots as marked on the possible subdivision layout plan (attached) to LandCorp on the undertaking that LandCorp will fund the necessary work to enable the subdivision and sale of those industrial lots.**
 - b. In the event that LandCorp is not agreeable to the proposal to undertake the first stage of the subdivision, the Council will not cede the subject land to LandCorp.**
- 2. Authority be granted to the Shire President and Chief Executive Officer to affix the Common Seal of the Shire of Plantagenet to any paperwork relevant to this matter to enable the land transfer to occur once LandCorp has agreed to fund the work needed.**

CARRIED (7/0)

NO. 31/13

3:23pm Cr C Pavlovich returned to the meeting.

**9.1.2 LOT 31 MILLINUP ROAD, PORONGURUP - OUTBUILDINGS EXCEEDING
MAXIMUM FLOOR AREA REQUIREMENT**

A Financial/Indirect Financial (Section 5.60(A) and Section 5.61 LGA) Interest was disclosed by Cr B Bell. Nature and extent of interest – financial.

3:24pm Cr B Bell withdrew from the meeting.

File No: N25643
Attachments: [Location Plan](#)
[Site Plan](#)
[Outbuilding Plans](#)
Responsible Officer: Peter Duncan
Manager Development Services
Author: Vincent Jenkins
Planning Officer
Proposed Meeting Date: 26 February 2013
Applicant: Alison Kendrick

PURPOSE

The purpose of this report is to consider a proposal for an additional outbuilding at Lot 31 Millinup Road, Porongurup. This outbuilding combined with one existing outbuilding means the cumulative floor area set by Council policy is exceeded.

BACKGROUND

Shire records show the registered owner of Lot 31 Millinup Road is AJ Kendrick.

Lot 31 Millinup Road, Porongurup is within a Landscape Protection zone under the Shire of Plantagenet Town Planning Scheme No. 3 and as such the Council is required to determine the application.

Lot 31 is 13.19ha in area and located at the south-western foot of the Porongurup Range and north of Millinup Road. Existing development at the lot consists of a 277m² house, 54m² outbuilding and a water tank. The proposed additional outbuilding will be located at the eastern part of the site some 260m from Millinup Road. The outbuilding will be located 48m from the eastern side boundary and 140m and 170 from the northern and western boundaries respectively. The walls will be Colorbond® Evening Haze and the roof will be Colorbond® Bushland.

This proposal is for an additional outbuilding of 108m² (9m x 12m) with a wall height of 3.0m. One other existing outbuilding has a floor area of 54m². The cumulative floor area of all outbuildings including the new outbuilding will total 162m².

Town Planning Scheme Policy No. 16.1 (Outbuildings) sets a maximum wall height of 3.5m and a maximum cumulative total floor area of 150m² for outbuildings in the Landscape Protection zone.

The reason provided by the proponent for the additional outbuilding is for storage of farm machinery and equipment.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Landscape Protection – this zone requires specific issues be addressed and that the Council must determine any application for planning consent.

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.'

EXTERNAL CONSULTATION

No external consultation is required in this instance.

FINANCIAL IMPLICATIONS

The application fee of \$139.00 has been paid.

POLICY IMPLICATIONS

Town Planning Scheme Policy No. 16.1(Outbuildings) limits outbuildings to a maximum wall height of 3.5m and a maximum cumulative floor area of 150m² for development within Landscape Protection zones. The cumulative floor area of all outbuildings on site including the new outbuilding will total 162m². The wall height of the proposed outbuilding is 3.0m. 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

The Shire of Plantagenet Strategic Community Plan 2012 – 2022 provides at Outcome 2.2 (Appropriate development which is diverse in nature and protect local heritage) the following Strategy:

'Strategy 2.2.2 – Ensure quality, consistent and responsive development and building assessment approval processes and enforcement.'

OFFICER COMMENT

The specific requirements of this Landscape Protection zone have been met in terms of the location of the building, external colours and low fuel zone.

The cumulative floor area of all outbuildings on the property including the new outbuilding will total 162m². The wall height of the proposed outbuilding is within the limit set by the policy. No difficulties are seen with the maximum cumulative floor area of outbuildings being 162m² given the size of the lot being 13.19ha.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M Skinner, seconded Cr G Messmer:

That in accordance with clause 6.3.2 of the Shire of Plantagenet Town Planning Scheme No.3 and subject to the development being in accordance with the plans dated 15 January 2013 planning consent be granted for an additional outbuilding at Lot 31 Millinup Road, Porongurup which will mean Town Planning Scheme Policy No. 16.1 (Outbuildings) be varied resulting in the cumulative area of all outbuildings being 162m².

CARRIED (7/0)

NO. 32/13

3:25pm Cr B Bell returned to the meeting.

9.1.3 LOT 5217 SETTLEMENT ROAD, NARRIKUP - SEASONAL EMPLOYEES' ACCOMMODATION

File No:	N25645
Attachments:	Location Plan Consultants Report Letter to Fletchers
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Peter Duncan Manager Development Services
Proposed Meeting Date:	26 February 2013
Applicant:	Ayton Baesjou Planning

PURPOSE

The purpose of this report is to consider a proposal for a 'use not listed' in the Shire of Plantagenet Town Planning Scheme No. 3 (seasonal employees' accommodation) and to support its advertisement for public comment before a decision is made.

BACKGROUND

Shire records show the owner of Lot 5217 Settlement Road is Benale Pty Ltd.

The owners of the abattoir on the adjoining Lots 5216 and 4 Settlement Road have been looking at options for workers accommodation for some years now. The consultant's report attached discusses the proposed expansion of the business into two nine hour shifts in the peak time of September to January. Accommodation is needed for 80 to 100 employees with the possible expansion to a total of 120 employees.

The Manager Development Services wrote to the General Manager of Fletchers Abattoir in a letter dated 13 December 2012 and provided various possible options for their consideration (letter attached).

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Lot 5217 Settlement Road is zoned Rural, Lots 5216 and 4 Settlement Road are zoned Special Site R15 (Abattoir, Associated By-products, Fellmongering, Small Goods Production and Pet Food Factory).

There is no use class of 'seasonal employees' accommodation' in TPS3 and as such a use is unlikely to be supported in the Special Site zone it would therefore be more appropriate in the Rural zone. Clause 3.2.5 relates to a use not listed and is as follows:

'3.2.5 If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use categories the Council may:

- (a) determine that the use is not consistent with the objectives and purpose of the particular zone and is therefore not permitted; or*
- (b) determine by absolute majority that the proposed use is consistent with the objectives and purpose of the zone and thereafter follow the 'SA' procedure of Clause 6.2 in considering an Application for planning consent.'*

FINANCIAL IMPLICATIONS

The necessary fee of \$2,837.50 and the \$500.00 advertising bond have been paid.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2012 – 2022 provides at Outcome 2.2 (Appropriate development which is diverse in nature and protect local heritage) the following Strategy:

'Strategy 2.2.2 – Ensure quality, consistent and responsive development and building assessment approval processes and enforcement.'

OFFICER COMMENT

Various options for this form of accommodation are discussed in the consultant's report. The Special Site zone for the abattoir on Lots 5216 and 4 Settlement Road could not be used for accommodation without an amendment to TPS3 and this could take in the order of two years and the likely success of such an amendment is not certain.

The most appropriate site is the Rural zoned Lot 5217 Settlement Road. The consultant's report has identified a site for the accommodation and details the layout and the use of bunkhouse style twin dorms with shared amenities including a communal mess and kitchen with indoor and outdoor recreation areas.

The accommodation is primarily for male workers as can be seen from the two ablution buildings. Should female workers be engaged, then the disabled ablution can be made available for female workers.

Road access to this accommodation area will be from the internal roadway to the abattoir. The existing farm gates to Settlement Road will be retained for emergency purposes only.

Effluent disposal will be by way of a sophisticated Aerobic Treatment Unit (ATU) system and the complex will reuse greywater wherever possible. Water supply will be from rainwater (potable) and from bores.

With this proposal being treated as a 'use not listed' in TPS3, the Council will need to determine by absolute majority if the use will be consistent with the objectives and purpose of the Scheme and if so, advertise the application for public comment before making a decision. There is no purpose listed for the Rural zone in TPS3. The Scheme objectives are as follows:

'1.6 SCHEME OBJECTIVES

- 1.6.1 *To encourage and control orderly development in the Scheme Area in such a way that will promote and safeguard the health, safety, convenience, and economic and general welfare of its' inhabitants and the amenities of the area.*
- 1.6.2 *To promote the development of Kendenup, Narrikup, Rocky Gully and Mount Barker town sites and all Plantagenet rural areas.*
- 1.6.3 *To protect and retain the existing rural amenity around the Stirling and Porongurup National Parks.*
- 1.6.4 *To promote the growth of the grape and wine industry and to encourage and control efficient Animal Husbandry.*
- 1.6.5 *To rationalise the small allotment subdivision in and around the Kendenup Townsite.'*

In terms of this current proposal it is consistent with objectives 1.6.1 and 1.6.2.

In respect to details of the development, should the Council agree to advertise the use not listed, then detailed development conditions can be imposed on the proposal when the Council is considering the submissions. The kinds of conditions would include matters such as water supply, ATU for effluent disposal, fire management, removal of the accommodation should the abattoir close, tree planting/screening, sealing of carparks and colours of external wall and roof materials.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr G Messmer:

That:

1. The use of seasonal workers' accommodation at Lot 5217 Settlement Road, Narrikup is consistent with the objectives and purpose of the Rural zone.
2. The development proposal for seasonal workers' accommodation at Lot 5217 Settlement Road, Narrikup be advertised for public comment for a period of 21 days in accordance with Clause 6.2.
3. A further report be placed before the Council on the development proposal at 2 above after the close of the submission period at the meeting of the Council to be held on 30 April 2013.

CARRIED (8/0)

NO. 32/13

Absolute Majority

9.1.4 LOT 9000 WARBURTON ROAD, MOUNT BARKER - 22 LOT SUBDIVISION

A Closely Associated Person (Section 5.62 LGA) Interest was disclosed by Cr G Messmer. Nature and extent of interest – Treasurer of Pistol Club.

3:31pm Cr G Messmer withdrew from the meeting.

File No: N25450
Attachments: [Location Plan](#)
[Subdivision Guide Plan](#)
[Plan of Subdivision](#)
Responsible Officer: Peter Duncan
Manager Development Services
Author: Vincent Jenkins
Planning Officer
Proposed Meeting Date: 26 February 2013
Applicant: Dykstra Planning

PURPOSE

The purpose of this report is to consider a proposal for a 22 lot rural residential subdivision at Lot 9000 Warburton Road, Mount Barker and respond to the Western Australian Planning Commission (WAPC).

BACKGROUND

Shire records indicate the owner of Lot 9000 is Skyflame Enterprises Pty Ltd.

Lot 9000 (previously Lot 12) Warburton Road has been zoned Rural Residential since 1998. Lot 12 was granted approval by the WAPC for an 11 lot rural residential subdivision in April 2007. A further approval was granted by the WAPC for a boundary realignment involving Lots 11 and 12 in April 2008.

On 7 February 2008, the WAPC approved the subdivision of Lot 12 Warburton Road, Mount Barker into 11 lots. In a letter dated 3 June 2009, the Council advised subdivision conditions for Stage 1 (Lots 201 and 9000) had been satisfied. Lots 201 and 9000, approved under WAPC 133830, have been created and Deposited Plan 63273 was endorsed by the WAPC on 5 August 2009.

The Council on 3 April 2009 received an application (WAPC 139688) to subdivide Lots 11 and 12 Warburton Road into 32 lots. The Council at its meeting held on 12 May 2009 resolved at Resolution No. 123/09:

‘That the subdivision of Lots 11 and 12 Warburton Road, Mount Barker (WAPC 139688) be supported subject to the following conditions:

- 1. Amendment No. 48 to Town Planning Scheme No. 3 being finalised.*
 - 2. All lots created by this application being provided with access to a 6m wide sealed road, designed, drained and constructed to the satisfaction of the Manager Works and Services.*
-

3. *Crossovers to all lots shall be constructed, drained and sealed to the satisfaction of the Manager Works and Services.*
4. *A stormwater drainage plan shall be prepared and submitted for approval by the Manager Works and Services prior to the issue of a building licence and commencement of any site works. This may involve the setting of the verge at a particular gradient.*
5. *All cleared vegetation shall remain on site to be processed (mulched) and re-spread over disturbed areas within the site.*
6. *Warburton Road being constructed, drained and sealed (hot mix) from the boundary of lot 2 to 10m past the new entry road.*
7. *A road upgrade contribution shall be paid for the design, construction, draining and sealing (hot mix) for Warburton Road from this land to its junction with Martin Street.*
8. *Construction is not to commence until the Council has approved detailed engineering plans and specifications of works, including earth works, roads and paths, drainage, clearing, landscaping/rehabilitation and soil stabilisation measures, both during and after construction.*
9. *All lots being provided with underground power.*
10. *Street lighting being provided to the satisfaction of the Manager Works and Services.*
11. *Section 70A memorials on all Titles to advise of the presence of the rifle club and the occurrence of rifle club activity and also of the Fire Management Plan.*
12. *Compliance with the relevant provisions of the Fire Management Plan in Amendment No 48.*
13. *Strategic fire breaks/emergency access to be 6m wide with a 4m wide gravel hard surface to the satisfaction of the Council's Ranger.*
14. *All buildings and effluent disposal systems having the necessary clearance from the new lot boundaries.*
15. *Truncations are to be provided at both ends of the battleaxes for lots 8 and 9.*
16. *A 1.8m high dog/stock proof fence being erected along the southern and western boundaries.*
17. *An easement being provided over the east-west water main.*
18. *The subdivider making arrangements satisfactory to the Council to ensure that prospective purchasers and successors in title are aware of the following in writing that:*
 - a) *the Rural Residential zone special provisions;*
 - b) *Aerobic Treatment Unit (ATU) systems are to be used on all lots;*
 - c) *the Fire Management Plan; and*

d) *all buildings to comply with AS3959.'*

On 29 June 2009, the WAPC approved the subdivision (WAPC 139688) of Lots 11 and 12 into 32 lots subject to a range of conditions. That subdivision approval was valid for a period of four years and expires on 29 June 2013. The Council on 22 January 2013 received a fresh subdivision application (WAPC 147333), the subject of this report. The fresh application is needed to enable the owner time to satisfy all of the conditions.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

Council Delegation LG 035 – As the subdivision involves more than five lots, the matter needs to be determined by the Council.

STRATEGIC IMPLICATIONS

Shire of Plantagenet Strategic Community Plan 2012-2022 at Outcome 2.2 Strategy 2.2.5:

'Encourage industry, business and residential development that is consistent with the individual character of towns.'

OFFICER COMMENT

The subdivision conforms to the minimum site area requirements set out in TPS3 for this Rural Residential zone. The subdivision also conforms to the Subdivision Guide Plan for this zone and is acceptable subject to the imposition of appropriate conditions.

Lots 1 to 4 abutting the rifle range are from 2.8ha to 8.3ha in area and include fixed building envelopes and a building exclusion area of 100m. The remaining lot areas range from 1.0ha to 2.3ha.

The main access road and all internal roads of the development are serviced by a 20m wide road reserve. A truncation will be required to be provided at the junction of the internal roads at Lot 2.

Aerobic Treatment Unit (ATU) systems are to be used on all lots for on-site effluent disposal for reasons of land capability and all lots are to be connected to underground power.

It is appropriate to recommend approval to the subdivision with similar conditions to those imposed by the Council in May 2009.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr B Bell:

That:

1. The Western Australian Planning Commission be advised that the proposed 22 lot subdivision of Lot 9000 Warburton Road, Mount Barker (WAPC 147333) is supported subject to:
 - a) All lots created by this application being provided with access to a 6.0m wide sealed road, designed, drained and constructed to the satisfaction of the Manager Works and Services.
 - b) Crossovers to all lots being constructed, drained and sealed to the satisfaction of the Manager Works and Services.
 - c) A stormwater drainage plan being prepared and submitted for approval by the Manager Works and Services prior to the issue of a building licence and commencement of any site works. This may involve the setting of the verge at a particular gradient.
 - d) All cleared vegetation remaining on site being processed (mulched) and spread over disturbed areas within the site.
 - e) A road upgrade contribution being paid for the design, construction, draining and sealing (hot mix) for Warburton Road from this land to its junction with Martin Street.
 - f) Construction not commencing until the Council has approved detailed engineering plans and specifications of works, including earth works, roads and paths, drainage, clearing, landscaping/rehabilitation and soil stabilisation measures, both during and after construction.
 - g) A truncation being provided at the junction of the internal roads at Lot 2.
 - h) All lots being provided with underground power.
 - i) Street lighting being provided to the satisfaction of the Manager Works and Services.
 - j) Revegetation being installed as shown on the Subdivision Guide Plan in Amendment No 48 in accordance with the Mount Barker Townscape Review 2002 species list to the satisfaction of the Manager Development Services.
 - k) Compliance with the relevant provisions of the Fire Management Plan in Amendment No 48.

- l) Strategic fire breaks/emergency access to be 6.0m wide with a 4.0m wide gravel hard surface to the satisfaction of the Council's Ranger.
 - m) All buildings and effluent disposal systems having the necessary clearance from the new lot boundaries.
 - n) A 1.8m high dog/stock proof fence being erected along the southern and western boundaries.
 - o) Section 70A Memorials on all Titles providing advice on the presence of the rifle club and the occurrence of rifle club activity and also of the Fire Management Plan.
 - p) An easement being provided over the east-west water main.
 - q) The subdivider making arrangements to the satisfaction of the Manager Development Services ensuring that prospective purchasers and successors in title are aware of the following in writing that:
 - i) the Rural Residential zone special provisions;
 - ii) Aerobic Treatment Unit (ATU) systems are to be used on all lots;
 - iii) the Fire Management Plan; and
 - iv) all buildings to comply with AS3959.
2. If required as a result of a Western Australian Planning Commission condition of approval, authority be granted to the Shire President and the Chief Executive Officer to affix the Common Seal of the Council to a Notification under Section 70A of the Transfer of Land Act 1893 (as amended) and/or Section 165 of the Planning and Development Act 2005 (as amended).

CARRIED (6/1)

NO. 33/13

3:43pm Cr G Messmer returned to the meeting.

9.1.5 LOTS B21, 1611 AND 5262 OMRAH ROAD, MOUNT BARKER - TIMBER PLANTATION IN SPECIAL CONTROL AREA

A Code of Conduct Disclosure (S.103 LGA/Reg 34C Local government Administration Regulations) Perceived interest (Clause 2.3 Code of Conduct) was disclosed by Cr Moir. Nature and extent of interest – Australian Blue Gum lease portion of my farm to plant blue gums.

A Closely Associated Person (Section 5.62 LGA) Interest was disclosed by Cr C Pavlovich. Nature and extent of interest – Related party. Family business land use application.

3:43pm Cr C Pavlovich withdrew from the meeting.

File No: N25513
Attachments: [Location Plan](#)
[Plantation Map](#)
[Summary of Submissions](#)
Responsible Officer: Peter Duncan
Manager Development Services
Author: Vincent Jenkins
Planning Officer
Proposed Meeting Date: 26 February 2013
Applicant: Timber Creek Pastoral Company

PURPOSE

The purpose of this report is to consider an application by Timber Creek Pastoral Company for a timber plantation consisting of 11 compartments of Tasmanian Blue Gum at Lots B21, 1611 and 5262 Omrah Road, Mount Barker.

BACKGROUND

Council records show the owner of Lots B21, 1611 and 5262 Omrah Road, Mount Barker is Penris Pty Ltd.

The Manager Development Services (MDS) observed some areas of grapevines had been removed and plantation trees had been planted at the subject properties.

By letter dated 25 July 2012, the landowner was advised pursuant to the Shire of Plantagenet Town Planning Scheme No. 3 (TPS 3) the subject properties are located within Special Control Area 4 and Mount Barker Townsite 'Area B'. In these areas an application for Planning Consent (PC) is required to establish a Timber Plantation. Additional advice included reference to and extracts of TPS3 listing the requirements the Council needs to consider and all the points that needed to be addressed in any PC application for a Timber Plantation. A copy of the Shire of Plantagenet Town Planning Scheme Policy No. 15 (Commercial Plantations) was also provided to the owner.

On 5 September 2012, the proponent submitted an application for PC to establish a timber plantation consisting of 11 compartments of blue gums at Lots B21, 1611 and 5262 Omrah Road. That application however was incomplete and was returned to the proponent on 6 September 2012 with a request for more detail.

The Council on 11 September 2012 received a fresh PC application to establish a timber plantation at Lots B21, 1611 and 5262 Omrah Road, Mount Barker.

The proposal was advertised for public comment for a 21 day period. Letters were also sent to 13 adjoining and nearby landowners, the Department of Regional Development and Lands (RDL) and the Department of Fire and Emergency Services (DFES), formerly Fire and Emergency Services Authority. Twelve submissions were received, including two late submissions.

The Council at its meeting held on 26 November 2013 resolved at Resolution No. 236/12:

'That:

1. *Consideration of the application for the timber plantation at Lots B21, 1611 and 5262 Omrah Road, Mount Barker be adjourned to enable the proponent to submit a plantation management plan including a plantation map, an establishment plan, a maintenance plan and a fire management plan in accordance with the timber industry Code of Practice for Timber Plantations in Western Australia August 2006 and the Guidelines for Plantation Fire Protection 2011 Edition.*
2. *The proponent be required to provide the plantation management plan at 1 above to the Council within 60 days.*
3. *Should no plantation management plan be provided within the period at 2 above, the proponent be provided Notice to remove all of the plantation trees within a period of 30 days.'*

On 3 January 2013, the proponent submitted a Plantation Management Plan for Lots B21, 1611 and 5262 Omrah Road. Letters were sent to those persons who made submissions on the original PC application. Eight submissions have been received on the new detail provided by the proponent and these are contained in the summary of submissions.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Zoned Rural - Special Control Area 4 (SCA 4), Mount Barker Townsite 'Area B' – Timber Plantations are a 'SA' use on Rural zoned land in SCA 4 and Mount Barker Townsite 'Area B'. Special Control Areas and the development of Timber Plantations within these Special Control Areas were included in TPS3 on 19 September 2006.

Clause 3.9 - Special Control Areas purpose is to prohibit timber plantations within town sites and to control the development of plantations in close proximity to townsites and closely populated parts of the Scheme area.

Clause 3.9.4 of TPS3 states:

'When determining an application for planning consent for Timber Plantations the Council shall consider the following:

- (a) the provisions of the Shire's Commercial Plantation Policy;*
- (b) the Code of Practice for Timber Plantations and whether or not the proponent is a signatory to the Code;*
- (c) consistency with the performance standards 'Planning for Bush Fire Protection' and 'Guidelines for Fire Protection', following referral to the Fire and Emergency Services Authority, and with the Council's Annual Fire Break Notice';*
- (d) existing uses and development on the subject land;*
- (e) the location of the subject land and its relationship to surrounding land uses, especially residential, rural residential, rural small holdings, and tourist land uses;*
- (f) the location of the land in relation to designated haulage routes;*
- (g) access to and from the subject land and the existing standard of local roads and their capacity to support timber haulage vehicles;*
- (h) protection of native vegetation;*
- (i) the impact on the amenity of the area, including scenic views;*
- (j) where the land is located in the Porongurup SCA 5, the provisions of the Porongurup Rural Strategy;*
- (k) where the land is located in the Mount Barker SCA 4, the Mount Barker Rural Strategy;*
- (l) any submissions received as a result of advertising the application; and*
- (m) any other matters considered relevant.'*

Clause 5.2 of TPS3 states:

'If a development, other than a residential development, the subject of an application for planning consent, does not comply with a standard or requirement prescribed by the Scheme with respect to that development the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit. The power conferred by this clause may only be exercised if the Council is satisfied that:

- (a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;*
- (b) the non-compliance will not have any adverse affect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality; and*
- (c) the spirit and purpose of the requirement or standard will not be departed thereby.'*

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.'

EXTERNAL CONSULTATION

Letter were sent to those persons who made submissions on the original PC application. Eight submissions have been received on the new detail provided by the proponent and these are contained in the summary of submissions.

FINANCIAL IMPLICATIONS

The application fee of \$139.00 and a bond of \$500.00 for advertising costs have been paid.

POLICY IMPLICATIONS

Town Planning Scheme Policy No. 15 (Commercial Plantations) (TPS Policy No. 15) has the objective to reduce potential adverse impacts and land use conflict from the inappropriate siting and development of plantations within the SCA.

The Code of Practice for Timber Plantations in Western Australia August 2006 (the Code) provides guidelines to plantation managers so that plantation operations in Western Australia are conducted in a manner that is in accordance with accepted principles for good plantation management. It also recognises that a primary aim of plantations is to be economically competitive and sustainable.

Local Town Planning Schemes can rely upon the adoption of and adherence to the Code by plantation managers as an integral part of the planning and land use process whether or not formal planning approval is required.

Guidelines for Plantation Fire Protection 2011 Edition – These guidelines provide both local government and the plantation industry with a set of best practice fire protection standards for plantations that aim to protect human life and local community interests, while minimising fire risk to plantation assets. These guidelines are minimum standards tailored to respond to local risk and local government requirements and have been adopted by both DFES and Western Australian Planning Commission.

Council Policy No. I/R/6 – Roads – Log Haul Requirements provides clear guidelines to the Council, its officers and tree farm companies regarding log and woodchip haulage on roads within the Shire of Plantagenet.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2012-2022 provides an Outcome 1.9 (A safe Plantagenet) the following Strategy 1.9.4:

'Promote and support planning and activities that encourage a safe and responsible community.'

OFFICER COMMENT

The subject properties are located within the south western area of Special Control Area 4 of the Mount Barker Townsite on Omrah Road.

The properties are located in the Rural zone and the cumulative area of the properties is 131.59ha. The properties are used for agroforestry consisting of new compartments of plantation trees and grapes (17.53ha) and dispersed patches of remnant vegetation. Parts of the property did contain small areas of blue gums, which have been harvested.

The proposal is for 11 compartments of plantation trees with a cumulative area of 52.5ha. Proposed plantation compartment sizes range from 1.25ha to 7.0ha and these compartments are evenly dispersed over the subject land.

Concerns raised in the latest submissions are similar to those raised during the original advertising period in October/November 2012. The concerns now raised include the proposed haulage route and associated heavy haulage truck movements together with noise and road safety and an adverse impact on Mount Barker Road as a tourist route. Further concerns raised include increased fire risk, spray drift, self-seeding plantation trees and adverse impacts on the amenity of the locality and property values.

Letters of objection were received from the owners of Lots 303, 304, 305 and 306 located to the south of the application site on Mount Barker Road. These owners are concerned about the adverse impact on rural views from their properties and the views from Mount Barker Road to the north for visiting tourists.

Current views of the vineyard from these properties and Mount Barker Road will be replaced with views of plantation trees. The nearest plantation tree compartment is located approximately 410m from Mount Barker Road, approximately 440m from the existing house at Lot 304 and approximately 560m from the existing house at Lot 305. The existing house at Lot 306 is located approximately 600m from the nearest plantation tree compartment. Lot 303 is undeveloped and is currently for sale by the owners and Wellington Reeves Realty in Mount Barker. The restrictive nature of Lot 303 will allow for an expected house location of approximately 560m to the nearest plantation compartment.

Plantation trees at the application site have been planted up to 280m Australian Height Datum (AHD). The expected house location for Lot 303 is not likely to be below 330m AHD and the house locations at Lots 304, 305 and 306 are respectively at 325m AHD, 335m AHD and 340m AHD. The height differences for house locations for Lots 303, 304, 305 and 306 and plantation trees are respectively 55m, 50m, 60m and 65m. The Tasmanian Blue Gum typically grows from 30m to 55m tall. The extent and lower location of plantation trees is not likely to adversely affect views at the Mount Barker Hill location.

The DFES advised that some aspects of the Fire Management Plan (FMP) do not conform to the minimum standards set in the Guidelines for Plantation Management Fire Protection 2011. These aspects involve the provision of 50,000 litres water supply to be permanently available for fire response use and external firebreaks for the plantation adjoining properties to be a minimum of 15m. In addition, the map for

the FMP needs to show compartment sizes, the location of compartments, water supplies, emergency access/egress (fire breaks), existing structures and significant features such as creek crossings, dead end access tracks and areas of remnant vegetation. The legend for the map will need to be improved to plantation industry standards. This map will need to be held in a suitable container, sign posted and located at the main property entrance.

The proposed haulage route at harvest time will be along gazetted roads commencing at Omrah Road, south into Mount Barker Road, east into St Werburghs Road, south into Mitchell Street then south onto Albany Highway. A Plantation Harvest Plan including the haulage route will be prepared and submitted for approval by the Manager Works and Services prior to plantation harvesting.

Although the management plan states there will be no aerial spraying of the plantation it is appropriate to impose a condition on any planning consent prohibiting aerial spraying.

The proposed development in the main is in accordance with the objectives of Clause 3.9 - Special Control Areas of TPS3, the Code of Practice for Timber Plantations in Western Australia 2006, Guidelines for Plantation Fires Protection 2011 and Shire of Plantagenet Annual Firebreak and Fire Hazard Reduction Notice. Establishing a plantation in this particular instance is not likely to adversely affect the amenity of the area. The proposal is supported subject to appropriate conditions.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr J Moir:

That the proposal for a Timber Plantation in Special Control Area 4 at Lots B21, 1611 and 5262 Omrah Road, Mount Barker be approved subject to:

- 1. No use of aerial spraying and all spraying for pests and weeds being ground based.**
- 2. Neighbours being advised before all ground based spraying events to the satisfaction of the Manager Development Services.**
- 3. A water supply of 50,000 litres being provided and being permanently available for fire fighting purposes to the satisfaction of the Manager Community Services.**
- 4. External firebreaks for plantation trees to adjoining properties being a minimum 15.0m width to the satisfaction of the Manager Community Services.**
- 5. A Plantation Map being provided showing plantation compartments and sizes, water supplies including irrigation channels and dams, emergency access/egress, existing structures and significant features such as creek crossings, dead end access tracks and areas of remnant vegetation to the satisfaction of the Manager Community Services.**

6. The Plantation Map being held in a suitable container, sign posted and located at the main entrance to Lot B21, Omrah Road to the satisfaction of the Manager Community Services.
7. Compliance with the Shire of Plantagenet Annual Firebreak Notice and compliance with the Guidelines for Plantation Fire Protection.
8. Compliance with the Code of Practice for Timber Plantations in Western Australia.
9. Compliance with the submitted Plantation Management Plan.
10. A harvest plan being submitted two years prior to harvest.

AMENDMENT

Moved Cr B Bell, seconded Cr M Skinner:

That part one be amended to include the words 'with no spraying when the wind is from a north/northwest direction' after the word 'based'.

CARRIED (6/1)

NO. 34/13

COUNCIL DECISION

That the proposal for a Timber Plantation in Special Control Area 4 at Lots B21, 1611 and 5262 Omrah Road, Mount Barker be approved subject to:

1. No use of aerial spraying and all spraying for pests and weeds being ground based with no spraying when the wind is from a north/northwest direction.
2. Neighbours being advised before all ground based spraying events to the satisfaction of the Manager Development Services.
3. A water supply of 50,000 litres being provided and being permanently available for fire fighting purposes to the satisfaction of the Manager Community Services.
4. External firebreaks for plantation trees to adjoining properties being a minimum 15.0m width to the satisfaction of the Manager Community Services.
5. A Plantation Map being provided showing plantation compartments and sizes, water supplies including irrigation channels and dams, emergency access/egress, existing structures and significant features such as creek crossings, dead end access tracks and areas of remnant vegetation to the satisfaction of the Manager Community Services.

6. The Plantation Map being held in a suitable container, sign posted and located at the main entrance to Lot B21, Omrah Road to the satisfaction of the Manager Community Services.
7. Compliance with the Shire of Plantagenet Annual Firebreak Notice and compliance with the Guidelines for Plantation Fire Protection.
8. Compliance with the Code of Practice for Timber Plantations in Western Australia.
9. Compliance with the submitted Plantation Management Plan.
10. A harvest plan being submitted two years prior to harvest.

CARRIED (6/1)

NO. 35/13

4:03pm Cr C Pavlovich returned to the meeting.

9.1.6 POLICY REVIEW - PIGGERIES - EXTENSIVE

File No: N25457
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Peter Duncan
Manager Development Services
Proposed Meeting Date: 26 February 2013

PURPOSE

The purpose of this report is to review Council Policy No. STP/TPS/1 – ‘Piggeries – Extensive’.

BACKGROUND

This policy was last reviewed by the Council at its meeting held on 1 March 2011.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Clause 6.2.3 of TPS3 details how 21 day advertising is to be carried out.

Health Act 1911

Shire of Plantagenet Health Local Law 2008

EXTERNAL CONSULTATION

Nil

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2012-2022 provides at Outcome 4.1 (Effective governance and leadership) the following strategy:

‘Strategy 4.1.3 – Ensure the Council’s decision making process is effective and transparent.’

OFFICER COMMENT

This policy is saying that piggeries under the Council’s TPS3 are to be treated as an ‘SA’ (discretionary) use and advertised for public comment and the Council may impose conditions on any subsequent approval.

The interpretation of 'Rural Use' in TPS3 includes reference to the keeping of pigs and requires such a land use to be approved by the Council after advertising. Other facets of a 'Rural Use' are permitted in the Rural zone as of right, but activities such as piggeries and feedlots require Council approval.

In respect to the Health Act 1911 and the Shire of Plantagenet Health Local Law 2008, piggeries fall into the category of an offensive trade and require a permit to be issued under the Local Law.

It would appear that this policy is superfluous and is not required in the Council's Policy Manual. The reason for this being, the requirements set in the Council's TPS3 and the Health Local Law 2008 are statutory requirements and must be adhered to in any case. To include such statements in the policy manual is not necessary.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr A Budrikis, seconded Cr C Pavlovich:

That Council Policy STP/TPS/1 – 'Piggeries' as follows:

OBJECTIVE:

To clarify the approvals necessary for a proposal to commence a piggery.

POLICY:

Applications to commence a piggery will require:

1. Approval and a licence as an offensive trade under the Shire of Plantagenet Health Local Law 2008 and the Health Act 1911.
2. Planning Consent of the Council under Town Planning Scheme No. 3 and prior to the Council considering such a proposal, staff will advertise the application in accordance with Clause 6.2 of that Scheme.'

be revoked.

CARRIED (8/0)

NO. 36/13

9.2 WORKS AND SERVICES REPORTS

9.2.1 POLICY REVIEW - DIRECTIONAL, SERVICE AND TOURISM SIGNAGE

File No:	N25621
Attachments:	I-R-19 - Directional, Service and Tourism Signage Policy
Responsible Officer:	Dominic Le Cerf Manager Works and Services
Author:	Vanessa Ward Senior Administration Officer Works
Proposed Meeting Date:	26 February 2013

PURPOSE

The purpose of this report is to review Council Policy I/R/19 – Directional, Service and Tourism Signage.

BACKGROUND

This policy was last reviewed on 1 March 2011.

STATUTORY ENVIRONMENT

Local Government Act 1995.

Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law 2008.

Shire of Plantagenet Town Planning Scheme No 3 (TPS3) – Clause 5.6 sets standards for the control of advertisements.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2012-2022, provides at Outcome 3.1 (Diverse, profitable and sustainable local business) the following Strategy 3.1.4

‘Support the promotion and marketing of local businesses.’

OFFICER COMMENT

Businesses have previously been offered the opportunity to comply with the policy as a two year amnesty period expired in 2011. The policy was amended after the

expiration of the amnesty period. The Policy reference number has been amended to correctly reflect the Policy naming protocol.

The current policy is adequate however an additional point 1.6 has been added to acknowledge the construction of the Business Information/Tourism Map structure adjacent to the Visitor Centre.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr B Bell:

That amended Council Policy I/RS/19 – Directional, Service and Tourism Signage Policy as follows:

OBJECTIVE

To ensure the provision of directional, service and tourism signage, is effectively integrated into the urban and rural landscape and the amenity of the locality is maintained and protected.

POLICY

1. INTRODUCTION

- 1.1 The Council is concerned at the proliferation of directional signs for service and tourism activities being used as an advertising medium. Advertising and providing direction to businesses should be through the Visitor Centre and commercial advertising mediums.
- 1.2 A reduction and limiting of the proliferation of road signs can preserve or enhance the aesthetic values of the landscape and environment. The use of Australian Standards and internationally recognised symbols on signs wherever possible can ensure simple, concise and consistent messages are conveyed to motorists and travellers.
- 1.3 Directional signs are signs erected in roads or public places to indicate the direction to places, services and tourist destinations within the Shire but do not include signs erected by the Council or the Commissioner of Main Roads.
- 1.4 Directional signs not on a road name sign structure but standing alone will not be supported.
- 1.5 Directional signs are not permitted for home occupation or home business uses.
- 1.6 The Council will maintain and update the Business Information/Tourist Map Structure adjacent to the Visitor Centre.

2. POLICY CRITERIA

In considering any application for approval for Service and Tourism directional signage, the Council will have regard to the criteria below before a decision is made.

2.1 SIGN FORMAT

2.1.1 A sign in this context relates to a rectangular fingerboard sign.

2.1.2 The sign hierarchy when mounted as a sign stack is:

1. Road Name Sign	Dark Green on White (to incorporate Shire logo)
2. Settlement Sign	White on Green
3. Service (Community) Directional Sign	White on Blue
4. Tourism Directional Sign	White on Brown

2.1.3 Permitted directional signs within road reserves, are to be fingerboard signs as follows:

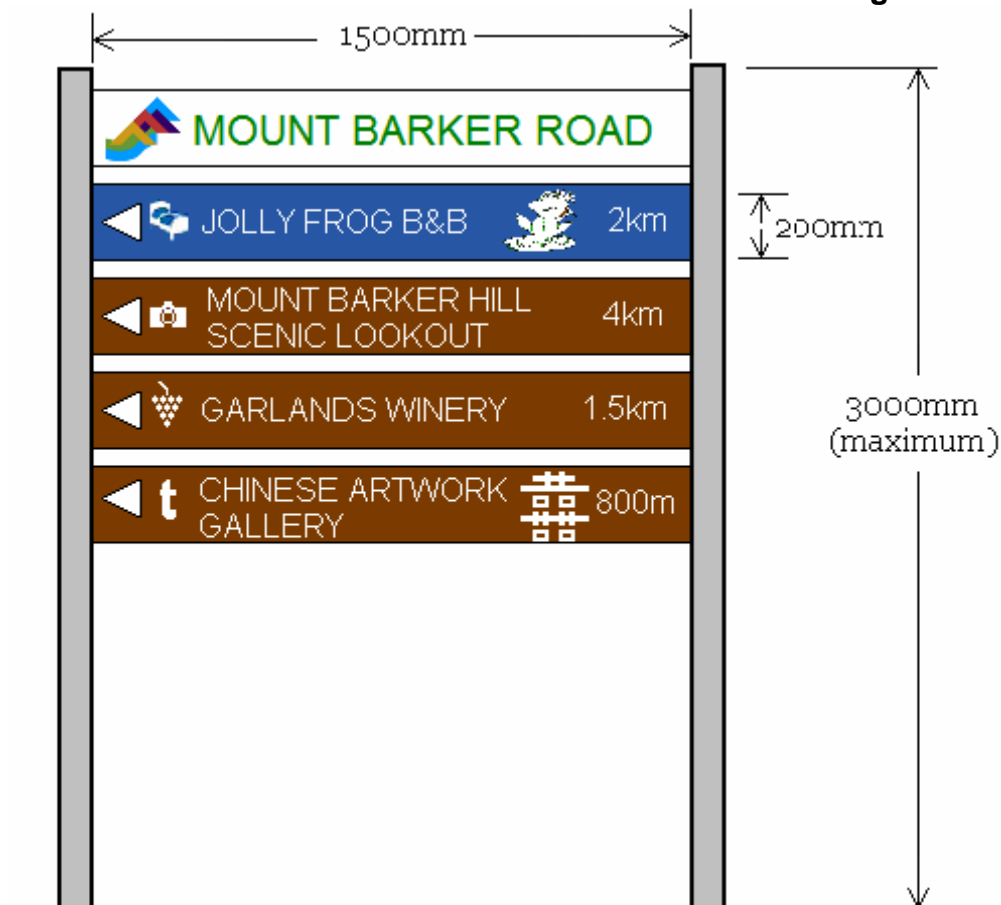
Settlement Sign:	(White on Green) signs that inform the road users of direction and distance to destinations.
Service Sign:	(White on Blue) signs relating to community or not-for-profit facilities or accommodation businesses that are directly related to servicing visitors/tourists and locals.
Tourism Sign:	(White on Brown) signs providing information on businesses, tourist attractions and historic sites

2.1.4 Examples of Directional Signs are:

SETTLEMENT	SERVICE	TOURISM
White on Green	White on Blue	White on Brown
ALBANY 50KM PORONGURUP ROCKY GULLY NARRIKUP KENDENUP TOWN CENTRE	<u>Community Facilities</u> <ul style="list-style-type: none"> • Hospital • Police Station • Religious buildings • Halls, civic centres • Post Office • Sporting & recreational grounds or facilities <u>Tourist Facilities / Business</u> <ul style="list-style-type: none"> • Accommodation (including Caravan Parks & Camping Grounds) Visitor Information Centres	<ul style="list-style-type: none"> • National Parks • Historic Buildings, Sites & Towns • State or Local Tourist/ Scenic drives • Scenic Look-outs • Commercial Tourist Attractions (e.g. Wineries with cellar door sales, animal farms etc)

2.1.5 Where more than one such directional sign is required for a particular street junction, then they shall be incorporated into a sign stack structure which will be erected by the Council to meet the following standards:

- Each individual sign can incorporate the business name/logo/hours of opening and the direction to proceed.
- Each individual sign shall be a maximum width of 200mm and a maximum length of 1500mm. All signs in the one stack will be the same length.
- Located to the satisfaction of the Council to ensure traffic safety.
- The overall structure shall be in the following form:

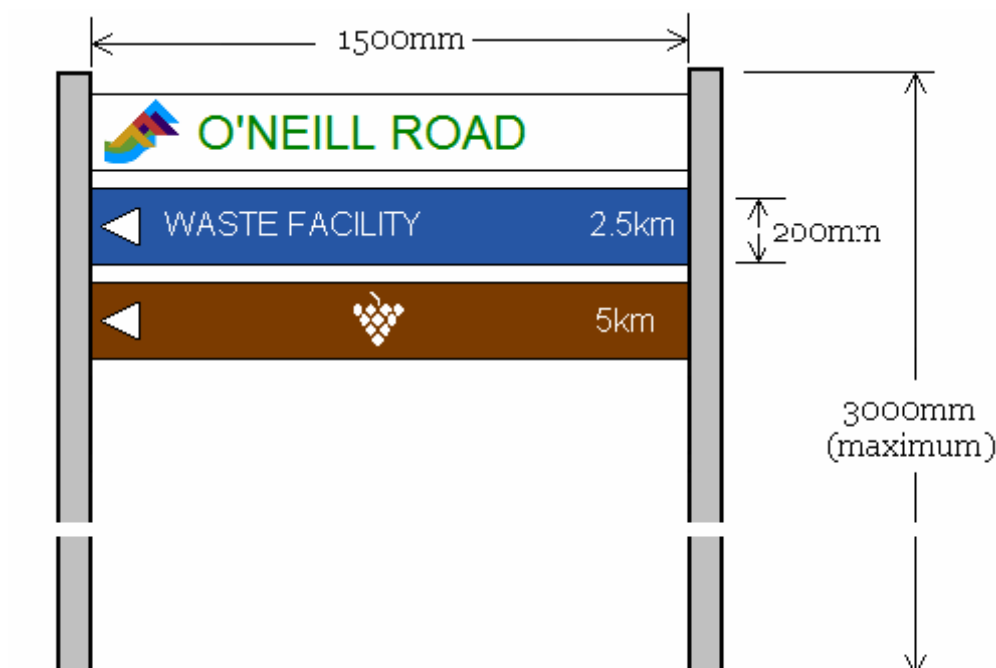


- 2.1.6 Where the sign stack is proposed in the rural districts and the Council feels it appropriate from a traffic safety perspective, a warning direction sign shall be located in advance of the street junction. Such a warning sign shall again be a composite form as follows:



The Council will have the sign prepared and erected.

- 2.1.7 Where Service and Tourism directional fingerboard signs are proposed for Main Roads WA (MRWA) controlled roads (see 3.2), then they are to incorporate generic terms and/or symbols only. Explicit signs specific to a private business or enterprise will not be supported unless MRWA determines otherwise. The overall structure shall be in the following form:



- 2.1.8 The Council will maintain the fingerboard signs for a period of five years by which time a replacement is likely to be required due to deterioration of the signs reflectivity. The replacement will be at the business owners cost for the application fee set in the annual budget at the time.

2.2 SIGN STANDARDS AND REQUIREMENTS

- 2.2.1 Settlement, Service and Tourism directional fingerboard signs are to be in accordance with AS 1742.5 (Manual of uniform traffic control devices – Street name and community facility name signs).
- a) All signs are to have distance noted.
 - b) All signs are to be a maximum of 200mm in height and in one of 3 lengths (900mm, 1200mm and a maximum of 1500mm in length). All signs in one sign stack will be the same length.
- 2.2.2 In any one sign stack the maximum number of fingerboards is six, not inclusive of the road name sign(s) at the top. If considered safe by the Manager Works and Services, more than six fingerboards may be allowed.
- 2.2.3 All road names will in due course be mounted on two poles and form the basis of a potential sign stack.
- 2.2.4 Should the Council propose to remove explicit names of businesses, to enable the addition of more businesses within the same and/or another generic group, the Council will advise the affected business owner and will remove the sign and replace it within six weeks of receiving an application for a new sign for that stack.

- 2.2.5 Where the Council considers it appropriate from a traffic safety perspective in rural districts, one position sign may be erected opposite the entrance to a business.
- 2.2.6 No private advertising signs may be erected permanently on public land unless with good cause and in specific circumstances as agreed by the Council.
- 2.2.7 No temporary private advertising signs may be erected on public land without the approval of the Council.
- 2.2.8 All signs within a road reserve are governed by the Council and the Council reserves the right to remove unapproved signs without notice. The Council also reserves the right to modify, relocate or remove signage where necessary with or without notice.
- 2.2.9 The Council will replace stolen, damaged or dangerous signage with or without notice.

3. APPLICATIONS

- 3.1 Applications for all Service and Tourism directional signs are required to be lodged with the Council on the appropriate form together with the necessary application fee.
- 3.2 MRWA control specific roads within the Shire (Albany Highway, Muirs Highway, Denmark-Mount Barker Road and Chester Pass Road). All applications for signs on these roads will be referred by the Council to MRWA for comment before a decision is made.
- 3.3 All Tourism related signage will be referred to the Great Southern Regional Manager of Tourism WA to ensure the business meets the minimum essential criteria.
- 3.4 The Council will proceed to have the signs manufactured and installed only after obtaining any comments necessary from referral agencies and approval has been granted on the form.
- 3.5 The Council will maintain all signage within the road reserve.
- 3.6 An annual renewal fee will apply for all Service and Tourism directional fingerboard signs. Where the annual renewal fee has not been paid, the Council will assume the businesses/attractions no longer operate or no longer require the sign(s) and will proceed to remove them.

4. IMPLEMENTATION

- 4.1 Existing Service and Tourism directional fingerboard signs in the Shire will be reviewed and those that do not comply with the standards and definitions of this Policy will be removed and replaced at the relevant business owner's cost by compliant signs.

4.2 Where the Council is to install a sign stack at a street junction following a request from a business owner(s), all other various fingerboard signs existing at that junction will need to be remade and be incorporated into that new sign stack.

5. ADMINISTRATION:

The Manager Works and Services is responsible for the administration of this policy.'

be endorsed.

CARRIED (8/0)

NO. 37/13

9.3 COMMUNITY SERVICES REPORTS

9.3.1 RECREATION CENTRE - LICENCE AGREEMENT - VARIATION

File No:	N25586
Attachments:	Licence Agreement (1997) Deed of Variation (2011)
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Nicole Selesnew Manager Community Services
Proposed Meeting Date:	26 February 2013

PURPOSE

The purpose of this report is to recommend a variation to the Licence Agreement between the Shire of Plantagenet and the Minister for Education for the Mount Barker Recreation Centre.

BACKGROUND

The Shire of Plantagenet and the Minister for Education entered into an agreement to construct the Mount Barker Recreation Centre in 1997. The agreement included a Shire contribution of \$1.2million towards the development of the government owned facility and in return, the Shire would have access to the Centre for a period of 21 years.

A Licence Agreement was signed in 1998 which outlined the conditions of use, a cost sharing agreement and access times for the Centre. A copy of the Licence is attached.

In recent years the Recreation Centre Advisory Committee and Shire staff have been discussing a more equitable cost sharing agreement with Department of Education representatives, with the aim of increasing the Department's contributions from 40% to 50% of costs. These contributions go towards building maintenance, cleaning and utilities.

The Mount Barker Recreation Centre is located on Reserve 26279, which is vested with the Minister for Education.

STATUTORY ENVIRONMENT

Section 2.5 (2) and (3) of the Local Government Act 1995 provides that a Local Government is a body corporate with perpetual succession and a common seal and a Local Government has the legal capacity of a natural person.

Section 9.49A of the Local Government Act 1995 applies to the use of the common seal.

EXTERNAL CONSULTATION

Consultation has occurred with representatives from the Department of Education and the Recreation Centre Advisory Committee.

FINANCIAL IMPLICATIONS

The Deed of Variation to the Licence Agreement will result in the Department of Education contributing 50% of the costs to maintain and clean the Recreation Centre and provision of services including water, gas and electricity. The Department currently contributes 40% towards these costs.

POLICY IMPLICATIONS

There are no policy implications for this report.

LEGAL IMPLICATIONS

A Deed of Variation is required to vary the Licence Agreement between the Shire and the Minister for Education.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

The Licence Agreement between the Shire of Plantagenet and Minister for Education has been in place since 1998. During this time very few issues with the Licence have occurred and it is considered a workable document.

The Shire has, however, sought to have a more equitable share of the costs associated with running the Recreation Centre. The Department currently reimburses the Shire for 40% of all costs for building maintenance, cleaning and utilities (with utilities comprising electricity, gas and water). The Shire is seeking an increase to a 50% reimbursement for these costs.

A Deed of Variation is required to amend the Licence Agreement. A copy of the Deed of Variation to increase the Department's financial contribution to the Recreation Centre is attached.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr C Pavlovich:

That authority be granted to the Shire President and Chief Executive Officer to affix the Common Seal of the Council to the attached Deed of Variation between the Shire of Plantagenet and the Minister for Education, regarding the Minister for Education's reimbursement of costs to maintain, clean and provide services associated with the Mount Barker Recreation Centre.

CARRIED (8/0)

NO. 38/13

**9.3.2 SOUNNESS PARK RECREATION PLAN (OVAL REFURBISHMENT) –
COUNTRY LOCAL GOVERNMENT FUND**

File No: N25481
Attachments: [Financial Assistance Agreement](#)
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: John Fathers
Deputy Chief Executive Officer
Proposed Meeting Date: 26 February 2013

PURPOSE

The purpose of this report is to seek endorsement for the action taken to affix the Common Seal of the Council to a Financial Assistance Agreement (FAA) between the State of Western Australia (Department of Regional Development and Lands) and the Shire of Plantagenet for the 2011/2012 Country Local Government Fund (CLGF) allocation.

BACKGROUND

As part of the State Government's Royalties for Regions program, the Shire of Plantagenet has been offered an individual allocation of \$593,798.00 (GST exclusive) under the CLGF (2011/2012).

The Council adopted a Forward Capital Works Plan (2011/2012 to 2014/2015) at its meeting held 19 October 2010. This plan identified the implementation of the Frost / Sounness Parks Recreation Plan as the project for future CLGF allocations.

The Shire must enter into an FAA with the State of Western Australia as a condition of the funding. A copy of the Agreement, as negotiated with the Department of Regional Development and Lands, is attached. It is proposed that the refurbishment of Sounness Park oval be the project the subject of this allocation. The construction of the clubrooms is being funded (in part) by the 2010/2011 CLGF allocation.

At its meeting held on 18 December 2012, the Council resolved:

'That:

- 1. The tender submitted by Wauters Enterprises Pty Ltd for Tender C03-1213 – Sounness Park – Construction of Stage One for \$5,514,400.00 (gst exclusive) be endorsed as the preferred tender.*
- 2. The Chief Executive Officer be authorised to negotiate with Wauters Enterprises Pty Ltd regarding cost savings that can be made on Sounness Park – Construction of Stage One.*
- 3. An Australian Building Industry Contract SW-2008 Simple Works Contract (lump sum contract) be entered into between Wauters Enterprises Pty Ltd for Tender C03-1213 – Sounness Park – Construction of Stage One for a maximum value of \$5,514,400.00 (gst exclusive) or any lesser value as a result of negotiations to identify cost savings for Sounness Park – Stage One.*

4. *The Shire President and Chief Executive Officer be authorised to affix the common seal of the Shire of Plantagenet to the Australian Building Industry Contract SW-2008 Simple Works Contract (lump sum contract) for Tender C03-1213 – Sounness Park – Construction of Stage One.*
5. *The Chief Executive Officer’s intention to appoint MCG Architects Pty Ltd as the Contract Administrator for the Sounness Park – Construction of Stage One project be noted.’*

STATUTORY ENVIRONMENT

Royalties for Regions Act 2009.

EXTERNAL CONSULTATION

Consultation has taken place with representatives from the Department of Regional Development and Lands.

FINANCIAL IMPLICATIONS

The redevelopment of Sounness Park will have major financial implications for the Shire. This grant represents one element out of many sources of funds for this project. The Stage One project breakdown is:

• Action Agenda (Royalties for Regions)	\$1,900,000.00;
• Community Sport and Recreation Facilities Fund (DSR)	\$875,000.00;
• CLGF Regional Allocation (Royalties for Regions)	\$790,657.00;
• CLGF Individual Allocation 2010/2011 - Clubrooms	\$675,499.00;
• CLGF Individual Allocation 2011/2012 - Oval Refurbishment	\$593,798.00;
• CLGF Individual Allocation 2012/2013 – Change rooms	\$593,798.00;
TOTAL	\$5,428,752.00

The remaining \$85,648.00 (contract sum less grants), contract administration fees, contingency budget and site fencing will be sourced from Council borrowings and sporting group contributions.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2012 – 2022 provides at Outcome 1.5 (Recreation, sporting and leisure facilities that support the wellbeing of the community) the following Strategy 1.5.3:

‘Develop Sounness Park as the primary ball sports facility in the District.’

OFFICER COMMENT

The Shire must enter into an FAA in order to access allocations of CLGF funding. A further agreement will need to be entered into for the 2012/2013 allocation.

It was considered appropriate to identify the oval refurbishment as the subject of this agreement. It is proposed to allocate the 2012/2013 allocation of the CLGF towards the Sounness Park change rooms.

There are no particularly onerous conditions in the agreement. The main conditions relate to recognition being given to the Department of Regional Development and Lands and provision of reports to that Department. Milestone dates may need to be reviewed, depending on the progress of the overall project.

The Department advised that it required the signed Financial Assistance Agreement to be returned by 6 February 2013, as it requires all the FAAs in place prior to the State Government going into caretaker mode for the upcoming Election. This necessitated the Shire President and Chief Executive Officer affixing the seal, with a view to seeking the Council's endorsement of this action retrospectively.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr B Bell:

That the action taken by the Shire President and Chief Executive Officer to affix the Common Seal of the Council to the 'Financial Assistance Agreement' document with the State of Western Australia, in relation to the Royalties for Regions (Country Local Government Fund – 2011/2012) individual allocation of \$593,798.00 (GST exclusive) for the Sounness Park Recreation Plan (Oval Refurbishment), be endorsed.

CARRIED (8/0)

NO. 39/13

9.4 CORPORATE SERVICES REPORTS

9.4.1 MOUNT BARKER CEMETERY (WEST) – LAYOUT AND MEMORIALS

File No:	N25554
Attachment:	<u>Adopted Cemetery Layout Plan Summary of Submissions</u>
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	26 February 2013

PURPOSE

The purpose of this report is to consider submissions on possible changes to the layout and style of monuments permitted at the Mount Barker Cemetery (West).

BACKGROUND

At its meeting held on 16 October 2012, Cr Bell moved a motion *‘that an area of the new Mount Barker Cemetery be planned to accommodate headstones with grass area between headstones, and that the plots face east-west.’*

Cr Bell advised that *‘I have had a number of people ask why we cannot have headstones in the new cemetery. They also have concerns about the plots facing north-south. Tradition is that they face east-west, as they do over the road in our old cemetery. I believe that there should have been more consultation with the public as to the finer detail in the planning of the new cemetery.’*

The Council resolved *‘that the question be adjourned to allow further investigation and information to be sought from the Metropolitan Cemeteries Board, local religious leaders and the community on the points raised, and a report be presented to the Council at its meeting to be held in February 2013.’*

A discussion paper was developed and public comment was sought in the Plantagenet News on 14 November 2012 and the Albany Advertiser on 15 November 2012 and on the Shire’s website.

STATUTORY ENVIRONMENT

Cemeteries Act 1986.

The Shire of Plantagenet Cemeteries Local Law.

There are no amendments required to the Cemetery Local Law in the event of changes the subject of this report.

EXTERNAL CONSULTATION

The Council undertook a public consultation exercise in regard to this matter. A total of 21 submissions was received made up of 17 from the general public, three from local religious organisations and the Metropolitan Cemeteries Board (MCB). In respect to the specific questions asked, the following responses were received:

Question	'Yes' Responses	'No' Responses
1. Do you think that the Shire should redesign the new Mount Barker cemetery to incorporate an area(s) for headstones on concrete beams?	17	3
2. Do you think that the Shire should redesign the new Mount Barker cemetery to accommodate traditional Christian or other beliefs regarding orientation of graves?	13	5

Question	As much as possible	Some	Options for many different traditional beliefs
3. If you answered Yes in Question 2, to what extent should the Shire accommodate this?	3	4	1

A schedule of other comments made in those submissions is attached for information. Discussions have also been held with the Albany Cemetery and the Metropolitan Cemeteries Board (MCB).

Albany Cemetery's new sections have concrete beams with headstones. The beams are 400mm wide, which allows a line of single headstones. Ride-on lawnmowers are used to mow the lawn areas (two sweeps of the lawn mower between beams). A thin strip of spray weedkiller is used around the edge of the beams.

The MCB has concrete beams with headstones at a number of cemeteries. The beams are 660mm wide to accommodate two headstones back to back. The MCB uses ride-on lawnmowers to mow the lawn areas and brush cutters to trim around the concrete beams. It used to spray around the beams, but as this leaves a vacant area, there were issues with flowers and vases being left there instead of on the beams, next to the headstones.

At Pinnaroo, the MCB has a lawn area with below ground bronze plaques. Lawn mowing is contracted out using ride-on lawnmowers, which mow over the plaques. Spray weedkiller is used around the edge of the plaques, which are also trimmed annually. The MCB indicated that no damage is made to the bronze plaques from nylon brush cutters, although care needs to be taken with plaques that incorporate photos.

FINANCIAL IMPLICATIONS

There are a number of financial implications. The cost of an average length of reinforced concrete beam (50m long x 400mm wide x 200mm deep) would be around \$2,500.00, although this cost would presumably be factored into increased burial charges.

A redesign of the cemetery by the Metropolitan Cemeteries Board would cost between \$500.00 and \$1,000.00. A survey of the new plot layout would cost in the region of \$2,000.00. These costs could be funded from Budget Item 'Cemetery Maintenance'.

Assuming Section A remains north-south and Section E is redesigned and developed on an east-west alignment, there will be a need (in the next few years) to complete the road surrounding that section. The current estimate is \$28,000.00.

Given the Shire's current practices compared to those of the MCB and Albany Cemetery, the conversion to a beam and headstones configuration should not result in significantly higher maintenance costs.

POLICY IMPLICATIONS

Council Policy No. A/CA/2 Cemetery Memorials states, in part:

'Mount Barker Cemetery (West)

All memorials shall be purchased from and installed by the Shire. Memorials made from ceramic materials, glass and wood are not permitted. Garden ground niche positions and gardens of remembrance are to be nominated for either 229mm x 229mm plaques or 143mm x 117mm plaques, for consistency of appearance. All memorial plaques shall –

- 1. be made from admiralty bronze and have the number of the grave / site displayed;*
- 2. not exceed 20mm in thickness.*

Lawn Sections

In lawn sections, all memorial plaques shall –

- 1. be of the dimensions 380mm x 280mm; and*
- 2. be affixed to a substantial foundation, with no portion of the memorial above ground level.'*

This policy would need to be amended to reflect the changes as a result of a decision to change any section of the new cemetery from the current lawn style.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2012 – 2022 provides at Outcome 2.3 (Pleasant streetscapes, open spaces, parks and gardens) the following strategy:

'Strategy 2.3.3 – Provide appropriately maintained cemeteries for our community.'

OFFICER COMMENT

The public consultation exercise only elicited 21 responses, however the majority of responses were in favour of some redesign of the cemetery to accommodate an east-west alignment and the provision of headstones on concrete beams.

In regard to the east-west alignment, the majority of responses in favour of a change did not provide reasoning other than the desire to retain tradition. The submissions that contained specific reasons included comments such as the belief that the second coming of Christ will come with the rising of the sun and therefore, we should be prepared and rest facing the sunrise. Another stated that there are many reasons for this beginning with the Egyptians and their 'Sun God', to Christians looking for the second coming of the 'Lord' or rising to face a new day.

It was interesting that the religious organisations that responded did not strongly argue for the change to an east-west alignment, although they note that some people do feel strongly about this.

The MCB advised that, generally it does not orientate graves to a particular direction except for in the Muslim Burial areas. Traditionally, its older cemeteries were

designed so that the graves all ran in the same direction but more recently new burial areas are designed according to other factors such as the lay of the land and access to graves.

If the Council wishes to proceed with either of these proposals, the following should be considered.

Given the sloping nature of the site, if the Council wishes to use concrete beams with headstones in certain areas, the alignment should also change to be east-west in those sections. The question is how many of the sections should be redesigned. If a redesign is to take place, then perhaps all of the sections not currently in use should be made east-west.

There have been eight burials to date in the new cemetery. Of those, two have had plaques installed. The option may be available to divide Section A into two sections, keeping the current alignment in the southern part and employing a north-south alignment in the northern half. While this would eliminate the need to open a new section now, it is considered that this would not be in keeping with the current design.

The beam and headstone layout used in the Albany Cemetery is preferred over the MCB model. The Albany model uses a single row of headstones, whereas, the MCB model uses a wider concrete beam and a double row of headstones. While the MCB model would be slightly more cost effective, the headstones face in different directions.

Discussions with the MCB indicate that a decision to convert some or all of the sections to allow headstones on beams or a redesign to accommodate an east-west alignment should not result in any reduction in the number of plots, as the size of the plots in the new cemetery (3m x 1.5m) are currently big enough to accommodate a beam arrangement.

Taking into consideration these comments and the requirement to amend the relevant Council policy, the following alternative motion could be considered:

That:

1. A redesign of the Mount Barker (West) Cemetery be undertaken to reconfigure Sections B-F to an east-west alignment and incorporating concrete beams with single row headstones;
2. A further report detailing the draft plan in Part 1 above and also recommending appropriate changes to Council Policy No. A/CA/2 Cemetery Memorials be presented to the Council prior to its meeting to be held on 29 April 2013.

However, given that the Metropolitan Cemeteries Board and local church representatives do not have strong points of view regarding a redesign of the cemetery, it is reasonable to remain with the existing adopted Council cemetery layout and memorial guidelines.

VOTING REQUIREMENTS

Simple Majority

ADJOURNED MOTION

That an area of the new Mount Barker Cemetery be planned to accommodate headstones with grass area between headstones, and that the plots face east-west.

ALTERNATIVE MOTION

Cr Bell invited members to vote against the motion and he advised that he would, in the event that the motion was defeated, move the following motion:

That:

1. A redesign of the Mount Barker (west) Cemetery be undertaken to configure Section E to an east-west alignment and incorporating coloured concrete beams with single row head stones or bronze plaques.
2. Burial charges to Section E be increased to cover any extra cost to Council.
3. A further report be presented to the Council detailing changes to Council Policy No. A/CA/2 Cemetery Memorials.

ADJOURNMENT OF THE MEETING

The Shire President adjourned the meeting to be reconvened at 4:40pm to enable distribution of Councillor Bell's alternative motion.

4:25pm The Meeting was adjourned.

RESUMPTION OF MEETING

4:40pm The Presiding Member reconvened the meeting.

Members Present:

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

In Attendance:

Mr Rob Stewart	Chief Executive Officer
Mr John Fathers	Deputy Chief Executive Officer
Ms Nicole Selesnew	Manager Community Services
Mr Peter Duncan	Manager Development Services
Mr Dominic Le Cerf	Manager Works and Services
Mrs Linda Sounness	Executive Secretary

There were no members of the public present.

The adjourned motion was then put.

LOST (0/8)

COUNCIL DECISION

Moved Cr B Bell, seconded Cr C Pavlovich:

That:

- 1. A redesign of the Mount Barker (west) Cemetery be undertaken to configure Section E to an east-west alignment and incorporating coloured concrete beams with single row head stones or bronze plaques.**
- 2. Burial charges to Section E be increased to cover any extra costs to the Council.**
- 3. A further report be presented to the Council detailing changes to Council Policy No. A/CA/2 Cemetery Memorials.**

CARRIED (8/0)

NO. 40/13

9.4.2 FINANCIAL STATEMENTS – JANUARY 2013

File No:	N25588
Attachment:	<u>Financial Statement (separate attachment)</u>
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Brendan Webb Accountant / Office Manager
Proposed Meeting Date:	26 February 2013

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the month ending 31 January 2013.

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 B Bell, seconded Cr L Handasyde:

That the Financial Statements for the month ending 31 January 2013 be received.

CARRIED (8/0)

NO. 41/13

9.4.3 LIST OF ACCOUNTS - JANUARY 2013

File No: N25587
Attachments: [List of Accounts](#)
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Emma Gardner
Accounts Officer
Proposed Meeting Date: 26 February 2013

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of January 2013.

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 (22 May 2012). 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 G Messmer, seconded Cr C Pavlovich:

That in accordance with Regulation 13 (1) of the Local Government (Financial Management) Regulations 1996, the list of payments made under delegated authority for the month ended 31 January 2013 be received and recorded in the minutes of the Council, the summary of which is as follows:

- a. Electronic Payments and Direct Debits totalling \$714,682.62;
- b. Municipal Cheques 43499 – 43528 and 43535 - 43561 totalling \$131,432.44;
- c. Trust Cheque 342 totalling \$130,000.00; and
- d. Cancelled Cheques 43529 – 43534.

CARRIED (8/0)

NO. 42/13

**9.4.4 LOTS 812 AND 817 STONEY CREEK ROAD, PORONGURUP – CAVEAT -
NON-PAYMENT OF RATES**

File No: N25649
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Leanne Briggs
Rates Officer
Proposed Meeting Date: 26 February 2013

PURPOSE

The purpose of this report is to seek authority to affix the Common Seal of the Council to caveat documents relating to Lots 812 and 817 Stoney Creek Road, Porongurup.

BACKGROUND

As part of the Council's debt collection procedures, caveats are sometimes lodged against titles of properties where rates have remained outstanding for a number of years.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

EXTERNAL CONSULTATION

Legal advice has been sought from Albany Legal.

FINANCIAL IMPLICATIONS

The outstanding rates for these properties currently stand at \$10,957.31.

The cost of lodging two caveats will be \$320.00. This will not be able to be claimed as a charge on the properties.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

The legal firm representing a group claiming an equitable mortgage over these properties is likely to be instructed to commence proceedings for mortgagee sale of the properties on behalf of its clients.

There is no ability to compel either the buyer or seller to make a payment on settlement and, as such, following settlement the amount may continue to be unpaid. It should be noted, though that the unpaid rates would remain as a charge upon the land.

The Shire is not protected in regard to its short term rates collection ability unless it lodges a caveat over the properties. In this way, the Shire will be required to participate in the settlement of any sale and collect its unpaid rates before allowing transfer.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr M Skinner:

That authority be granted to the Shire President and the Chief Executive Officer to affix the Common Seal of the Council to caveat documents relating to Lots 812 and 817 Stoney Creek Road, Porongurup.

CARRIED (8/0)

NO. 43/13

9.4.5 COMPLIANCE AUDIT RETURN 2012

File No:	N25516
Attachments:	<u>Compliance Audit Return 2012</u>
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Donna McDonald Senior Administration/Human Resources Officer
Proposed Meeting Date:	26 February 2013

PURPOSE

The purpose of this report is to enable the Council to fulfil its statutory obligations with regard to the Compliance Audit.

BACKGROUND

A Compliance Audit is required to be completed once in each calendar year.

STATUTORY ENVIRONMENT

The Compliance Audit is required pursuant to Section 7.13 of the Local Government Act 1995. The Local Government (Audit) Regulations 1996 includes the following subregulations in Regulation 14:

- (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*
- (a) presented to the council at a meeting of the council; and*
 - (b) adopted by the council; and*
 - (c) recorded in the minutes of the meeting at which it is adopted.'*

A copy of the Compliance Audit was submitted to the meeting of the Audit Committee held on 26 February 2013.

After the Compliance Audit return has been presented to the Council, a certified copy of the return together with:

- (a) A copy of the relevant section of the minutes referred to in the regulations; and*
- (b) Any additional information explaining or qualifying the Compliance Audit is to be submitted to the Director General by 31 March 2013.*

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2012 - 2022 provides at Outcome 4.1 (Effective governance and leadership) the following Strategy:

'Strategy 4.1.3 – Ensure the Council's decision making process is effective and transparent.'

OFFICER COMMENT

The completed Compliance Audit Return is attached to this report. The 2012 Compliance Audit revealed no areas of non-compliance.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M Skinner, seconded Cr J Moir:

That the Compliance Audit Return for the calendar year 1 January 2012 to 31 December 2012 be adopted and submitted to the Director General of the Department of Local Government.

CARRIED (8/0)

NO. 44/13

9.4.6 POLICY REVIEW - RATE INCENTIVE PRIZE

File No: N25656
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Leanne Briggs
Rates Officer
Proposed Meeting Date: 26 February 2013

PURPOSE

The purpose of this report is to review Council Policy No A/PA/8 – Rate Incentive Prize.

BACKGROUND

Council Policy A/PA/8 was last reviewed by the Council at its meeting held on 30 November 2010.

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 ongoing Council Policy review cycle.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2012-2022 provides at Outcome 4.6 (Effective and efficient corporate and administrative services) the following strategy:

‘Strategy 4.6.3 – Maintain, develop and monitor rating and property strategies.’

OFFICER COMMENT

This policy is considered appropriate and should be endorsed. It should be noted that the Esplanade River Suites has changed ownership and has declined to offer a sponsorship prize again this year. Other hotels are currently being canvassed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr L Handasyde:

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

‘OBJECTIVE:

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

POLICY:

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

be endorsed.

CARRIED (8/0)

NO. 45/13

9.5 EXECUTIVE SERVICES REPORTS

9.5.1 NOISE COMPLAINTS - PLANTAGENET

File No: N25585
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Rob Stewart
Chief Executive Officer
Proposed Meeting Date: 26 February 2013

PURPOSE

The purpose of this report is to advise the Council that Council Officers are receiving an increasing number of noise complaints and dealing with these noise complaints is stretching resources that could possibly be more effectively used.

BACKGROUND

Noise complaints received in the recent past relate to loud music, roosters and aviary birds.

In the normal course of business, noise complaints are referred to the Council's Environmental Health Officer Mr Eric Howard. Mr Howard has received both training and appointment as an Authorised Person and Inspector under Sections 87 and 88 of the Environmental Protection Act 1986. That authority enables Mr Howard to investigate and enforce the 'noise' provisions of the Environmental Protection Act 1986.

STATUTORY ENVIRONMENT

Shire of Plantagenet Health Local Law 2008;
Environmental Protection Act 1986;
Environmental Protection (Noise) Regulations 1997; and
Dog Act 1976 refers to the nuisance caused by barking dogs.

EXTERNAL CONSULTATION

Mr Howard has consulted with the Noise Unit attached with the Department of Environment and Conservation.

FINANCIAL IMPLICATIONS

For the Council to effectively undertake noise prosecutions, legal representation would need to be arranged and the cost would be in the order of \$5,000.00 to \$10,000.00 per prosecution. The purchase of a precision sound level meter to enable the officer to determine breaches are between \$10,000.00 and \$15,000.00 and ongoing officer training to maintain operator competency.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Council's Strategic Community Plan 2012-2022 provides at Outcome 1.2 (Promote and Enforce Public and Environmental Health Requirements) the following Strategy 1.2.5:

'The Council will react to emerging health threats.'

As our Shire becomes more urbanised, there appears to be a growing trend towards an expectation that the Shire Council or staff will solve 'neighbourhood' complaints. Many complaints are associated with noise and perceived noise nuisances.

OFFICER COMMENT

Noise prosecutions are often difficult to win without sufficient evidence to backup the prosecution. The Environmental Protection Act defines 'unreasonable noise' in part, if it is emitted having regard to the nature and duration of the noise, the noise unreasonably interferes with the health, welfare, convenience, comfort or amenity of any person.

Noise complaints are often subjective. Although there is some scope to prosecute where a complainant only has to be 'uncomfortable', the CEO is loathe to use his delegation to undertake legal action in circumstances where the chance of success is not high. Local court magistrates may be less inclined to define animal or bird noises in a rural environment as 'unreasonable noise emissions' and find in favour of the defendant. Costs may be awarded to the defendant however costs are rarely awarded to local governments in successful prosecution cases.

The Act provides a prosecution for an alleged offence of unreasonable noise emission may be instituted by:

- Any two or more persons each of whom is the occupier of premises and claims to be directly affected by that alleged offence;
- An authorised person; or
- A police officer.

A number of complainants in the recent past have been advised that we are not inclined or resourced to take on noise prosecutions on their behalf. At the same time advice is being given to complainants that they are free to take a civil action under the same legislation that the Council would take action under.

The author of this report is not aware of any such civil litigation ever occurring within the Shire.

However, given the increasing number of complaints which require Council Officer attendance, an increasing amount of time is being allocated to noise issues.

It should be noted that Officers from the Department of Environment and Conservation are empowered to take action for noise complaints but do not have adequately qualified noise officers within regional offices to undertake this function and therefore noise complaints to that department are usually referred to their respective local government Environmental Health Officer for investigation and action.

Overall this becomes a very frustrating time for people who are being affected by unwanted noise, no matter whether they live in a townsite, village or rural area.

The Council's Environmental Health Officer will continue to investigate noise complaints and where appropriate, issue warning letters to offenders advising them that they are committing an offence by emitting or allowing unreasonable noise emissions in accordance with the Act and accordingly require them to abate the nuisance.

Should a complainant institute a private civil action against an offender for an alleged offence of unreasonable noise emission, the Council's Environmental Health Officer would be available to provide expert witness in support of the plaintiff if requested or subpoenaed.

It should be noted that some control exists with regard to noisy birds under the Council's Health Local Law although on the only occasion the Council has acted the matter was overturned at State Administration Tribunal, with an order of costs against the Council.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr G Messmer:

That it be noted that unless the likelihood of success is high, the Chief Executive Officer will generally not utilise any delegated authority to take legal action upon receipt of a noise complaint.

CARRIED (8/0)

NO. 46/13

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**10.1 PUBLIC FEDERAL ELECTION QUESTION AND ANSWER EVENING**

Moved Cr B Bell, seconded Cr L Handasyde:

That

1. In the interests of public debate and open sharing of information, a public Federal Election question and answer evening be sponsored by the Shire prior to the Federal Election scheduled to be held on 14 September 2013.
2. The purpose of the event is to allow candidates in the Federal Election to address electors and for electors to question the candidates.
3. All candidates for the election in O'Connor be invited to attend.
4. A small working group of willing community members be sought to organise the event, the venue for which shall be the Mount Barker District Hall.
5. Sufficient budget funding be allocated to cover the costs of the event including supper.

CARRIED (7/1)

NO. 47/13

10.2 2013/2014 DRAFT BUDGET RATE INCREASE

Cr Moir withdrew the motion:

That the 2013/2014 Draft Budget be based on 3% rate increase.

11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil

12 CONFIDENTIAL

Nil

13 CLOSURE OF MEETING

5:10pm The Presiding Member declared the meeting closed.

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