



ORDINARY COUNCIL MEETING

MINUTES

Ordinary Meeting of the Council
held in the Council Chambers
2:45pm Tuesday 14 August 2007

Rob Stewart
CHIEF EXECUTIVE OFFICER

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2.50pm The Presiding Member declared the meeting open.

Mr Stewart read aloud the following disclaimer:

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

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

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

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

Present

Cr K Forbes	Shire President - Rocky Gully / West Ward
Cr D Williss	Deputy Shire President - East Ward
Cr M Skinner	East Ward
Cr J Moir	South Ward
Cr K Hart	Kendenup Ward
Cr J Mark	Town Ward
Cr K Clements	Town Ward
Mr R Stewart	Chief Executive Officer
Mr J Fathers	Deputy Chief Executive Officer
Mr I Bartlett	Manager Works and Services
Mr P Duncan	Manager Development Services
Ms N Selesnew	Manager Community Services

Apologies

Cr B Hollingworth Town Ward

There was one (1) member of the public present.

There was one (1) member of the media present.

Previously Approved Leave of Absence

Cr J Cameron 23 July to 4 September 2007 (Inclusive)

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PETITIONS / DEPUTATIONS / PRESENTATIONSPetition – Delma Baesjou representing Ayton Taylor Burrell

Ms Baesjou addressed the Council regarding Item 9.5.3 Lots 752 and 2 Warburton Road, Mount Barker – Scheme Amendment Request.

She advised the Council that the proposal was consistent with the Council's Rural Strategy and noted that the officer's recommendation in the report could be adopted.

She also noted that her company would liaise with owners and nearby residents.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES

Moved Cr M Skinner, seconded Cr D Williss:

That the Minutes of the Ordinary Meeting of the Council held 24 July 2007 be confirmed.

CARRIED (7/0)

No. 275/07

Moved J Mark, seconded Cr D Williss:

That the Minutes of the Special Meeting of the Council held 31 July 2007 be confirmed.

CARRIED (7/0)

No. 276/07

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- Met with Minister McGowan on 26 July at High School with High School staff and community representatives. The Minister did a tour and had morning tea but was non committal about further funding.
- Attended the farewell function for former employee Paddy Knapp who had been with the Council for 29 years. Noted that Paddy was well respected within the community and that it was good to see a number of staff at his farewell but was a bit disappointed that no other Councillor was in attendance.
- Completed along with other Councillors the CEO's Annual Review on 31 July 2007.
- Attended with other Councillors the Local Government Association Annual Conference from 3 August to 6 August 2007. Possibly Councillors Mark and Hollingworth may like to address the Council at some stage regarding their feedback on the conference.
- Attended the Fire and Emergency Services Authority (FESA) Capital Grants Committee on 10 August 2007 in Perth. There would be no extra money coming to Plantagenet. However, if unavoidable over expenditure is necessary such over expenditure would be met from the fund.
- Representatives from Saleyards and Transport Operators met with Minister Chance on 10 August 2007 regarding operation of Saleyards. A proposal was suggested that the State may take over the running of cattle and sheep saleyards. Noted that the possibility of being 'bought out' by the State was reasonable and that one block in the former Midland yards could be sold for \$50 million.
- Met with Plantagenet Village Homes members today (14 August 2007) along with Councillors Williss, Mark, Clements and the CEO. Noted that the Plantagenet Village Homes was looking for help with its future direction and discussed the possibility of a joint Venture with the Council. It was agreed at the meeting that Council officers would do some research regarding grants and that Plantagenet Village Homes would do some research regarding other providers of aged care services.
- The next meeting of the Rainbow Coast Regional Council (RCRC) will be held on Thursday 16 August 2007 in Albany and after a farewell dinner will be held for the outgoing CEO of Denmark Mr Pascoe Durtanovich.
- In receipt of draft report of the Services Committee of the Sustainability Group. Would be attending Perth for the next meeting to be held on 17 August 2007.
- Meeting with Minister for Local Government and Regional Development Hon. Ljiljana Ravlich MLC in Albany on 24 August 2007 to discuss regional matters with other Councils in the Great Southern.

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 EXECUTIVE SERVICES REPORTS

Nil

9.2 CORPORATE SERVICES REPORTS

Nil

9.3 COMMUNITY SERVICES REPORTS

Nil

9.4 TECHNICAL SERVICES REPORTS

9.4.1 CONFERENCE ATTENDANCE – WASTE MANAGEMENT - COUNCILLOR JEFF MOIR

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	EM/94/2
Author:	Rob Stewart - Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	25 July 2007

Purpose

The purpose of this report is to recommend the attendance by Councillor Jeff Moir at the forthcoming Waste Management Conference to be held from 10-14 September 2007 at the Esplanade Hotel in Fremantle.

Background

Councillor Moir is the Presiding Member of the Council's Waste Management Committee and is seeking approval to attend the Waste conference to ensure that he is abreast of the latest waste management developments, most particularly the government's initiative with regard to Zero Waste.

Policy Implications

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

Financial Implications

The cost of registration for this conference is approximately \$1,000.00 depending on the number of days and sessions attended. Further, accommodation, transport and meal costs will be in the vicinity of \$1,100.00.

Strategic Implications

The Council's Strategic Plan and Key Result Area 2 (Infrastructure), notes that the Council will 'protect the community's health by managing waste in a timely, effective, economic and environmentally safe manner.'

Officer Comment

The conference is well attended and there is no doubt that valuable information will be gathered.

Specific issues this year include Ministerial question and answer session, climate change, composting, zero waste panel discussions, contaminated sites legislation and key note speakers.

The theme for this year's conference is 'Planning in an Uncertain Climate: A Delicate Balancing Act?'

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr K Clements, seconded Cr M Skinner:

That authority be granted to Councillor Jeff Moir to attend the Annual Waste Conference to be held at the Esplanade Hotel in Fremantle from 10 to 14 September 2007 inclusive and accommodation, transport meals costs be met from account Councillor Training and Conferences pursuant to Council Policy CE/CS/1.

CARRIED (7/0)

No. 277/07

9.5 DEVELOPMENT SERVICES REPORTS

9.5.1 AGRICULTURAL AND RURAL LAND USE POLICY - WESTERN AUSTRALIAN PLANNING COMMISSION POSITION PAPER

Location / Address:	N / A
Attachments: (5)	Review of State Planning Policy 2.5 and DC Policy 3.4 Officer Comments on Proposed Changes to the WAPC SPP 2.5 and DC 3.4 Additional Comments on the WAPC SPP 2.5 and DC 3.4 Government Gazette – SPP 2.5 Policy DC 3.4
Name of Applicant:	N / A
File Reference:	GR/97/22
Author:	Peter Duncan - Manager Development Services
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	23 July 2007

Purpose

The purpose of this report is to consider proposed changes to the Western Australian Planning Commission (WAPC) Agricultural and Rural Land Use Policy referred to as State Planning Policy 2.5 (SPP 2.5). The changes were referred to the Council by the Western Australian Local Government Association for comment.

Background

SPP 2.5 took effect on 12 March 2002. Also in March 2002 the WAPC released its Policy DC 3.4 (Subdivision of Rural Land). Policy DC 3.4 sets down the principles to be used by the WAPC in determining applications for the subdivision of rural land.

Statutory Environment

Planning and Development Act 2005 – the WAPC has a range of State Planning Policies (SPP) made under the Act and published in the Government Gazette. Councils in preparing Local Planning Strategies and Amendments to Town Planning Schemes must have regard to these SPP when relevant.

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

Consultation

There has been no consultation with this report.

Policy Implications

Proposed changes to SPP 2.5 may have a bearing on the Council's proposed Local Planning Strategy which is to be prepared shortly.

Financial Implications

There are no financial implications for this report.

Strategic Implications

See policy implications above.

Officer Comment

The summary of the WAPC proposed changes to SPP 2.5 (Attachment 1) covers a range of matters which are discussed in Attachment 2.

There are several other parts of SPP 2.5 and DC 3.4 which require attention and these should be addressed by the WAPC. These points attached were brought to the attention of department officers in 2002 and 2003. Attachment 3 details those comments which will remove several of the uncertainties in SPP 2.5 and DC 3.4

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr D Williss, seconded Cr K Hart:

That the Western Australian Local Government Association be provided with the comments contained in Attachments 2 and 3 on the Western Australian Planning Commission State Planning Policy 2.5 and Policy DC 3.4 position paper.

CARRIED (7/0)

No. 278/07

9.5.2 POLICY REVIEW - CONTROL OF TREES FOR PROTECTION OF PROPERTY

Location / Address:	N / A
Name of Applicant:	N/A
File Reference:	LP/120/17
Author:	Peter Duncan - Manager Development Services
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	24 July 2007

Purpose

The purpose of this report is to review Council Policy No. NRM/C/1 – ‘Control Of Trees For Protection Of Property’.

Background

Council Policy No. NRM/C/1 – ‘Control Of Trees For Protection Of Property’ reads as follows:

‘These existing policies will be incorporated into a new policy for control of trees for protection of property.

It is not anticipated that a complete policy will be achieved at the first attempt. The following is offered as the basis for development:

That Council be responsible for areas actively managed by Council as broadly outlined in the comments section above.

In July 2000 Council resolved to permit a 2 metre wide clearing outside of boundary fences.

That landowners be responsible for the control of trees and associated expenses on all properties adjoining Council managed reserves:

- *In all rural areas subject to compliance with statutory requirements and Council policy;*
- *In all urban areas subject to the approval of Council and compliance with statutory requirements and Council policy.*

Requirements would include:

- *Maximum cleared width of 2 metres outside of the boundary;*
 - *Removal from the reserve and disposal of cleared waste in an appropriate approved manner;*
 - *No commercial gain from cleared vegetation;*
 - *No damage to declared rare flora;*
 - *Compliance with relevant legislation and approval from other agencies where applicable e.g. Agwest;*
 - *Inspection and support from a qualified arborist or tree surgeon where large trees in townsites are involved;*
 - *Notification of intent to council prior to proceeding in rural areas where clearing is less than 1000m²;*
-

Policy Review – Control of Trees for Protection of Property (Cont.)

- *Approval from Council prior to proceeding in townsites and where clearing is in excess of 1000m² in rural areas.'*

This policy was last reviewed by the Council on 22 August 2000.

The Council considered the review of this policy at its meeting held on 13 March 2007 where at Resolution 99/07 it was resolved:

'That the question be adjourned pending further investigation and that the matter be brought before the Council at its meeting to be held 10 April 2007.'

In the absence of the Manager Development Services on long service leave this policy review has been held over until this 14 August 2007 meeting.

Statutory Environment

Local Government Act 1995

Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law 2001 – Division 5

Environmental Protection Act 1986

Environmental Protection (Clearing of Native Vegetation) Regulations 2004

Land Administration Act 1997

Consultation

This Policy has been discussed with Mr Rob Stewart – Chief Executive Officer, Mr Ian Bartlett – Manager Works and Services and Ms Nicole Selesnew – Manager Community Services.

Policy Implications

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

Financial Implications

There are no financial implications for this report.

Strategic Implications

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

'1.4 Ensure the Administrative system and framework of the organisation efficiently and effectively permit the functions of the organisation to be undertaken.

To achieve this we will:

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

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

Officer Comment

The intention of this policy is to set some standards for landowners wishing to clear vegetation in reserves adjoining private property particularly for features such as fencelines and for fire safety.

At its 13 March 2007 meeting when the review of this policy was initially considered it was recommended the Policy should be retained. However, the wording needed to be adjusted to delete some irrelevant wording such as the first four (4) paragraphs and to adjust the wording of the title to refer to vegetation rather than just trees. The

Policy Review – Control of Trees for Protection of Property (Cont.)

Environmental Protection (Clearing of Native Vegetation) Regulations 2004 restrict the area able to be cleared to a maximum width of 1.5m without further approvals whereas the Policy refers to 2.0m.

Following further investigation and review of the Policy, it is clear that it is setting standards that are actually now controlled and administered by a State Government agency, being the Department of Environment and Conservation (DEC). The DEC administers the Environmental Protections (Clearing of Native Vegetation) Regulations 2004. Those Regulations have effect over Crown land (including road reserves) and all private freehold land and have set standards and penalties for breaches of the Regulations.

It is considered the Policy is no longer required and should be revoked as the DEC administers this matter.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr K Hart, seconded Cr D Williss:

That Council Policy No. NRM/C/1 – Control of Trees for Protection of Property as follows:

'These existing policies will be incorporated into a new policy for control of trees for protection of property.

It is not anticipated that a complete policy will be achieved at the first attempt. The following is offered as the basis for development:

That Council be responsible for areas actively managed by Council as broadly outlined in the comments section above.

In July 2000 Council resolved to permit a 2 metre wide clearing outside of boundary fences.

That landowners be responsible for the control of trees and associated expenses on all properties adjoining Council managed reserves:

- *In all rural areas subject to compliance with statutory requirements and Council policy;*
- *In all urban areas subject to the approval of Council and compliance with statutory requirements and Council policy.*

Requirements would include:

- *Maximum cleared width of 2 metres outside of the boundary;*
- *Removal from the reserve and disposal of cleared waste in an appropriate approved manner;*
- *No commercial gain from cleared vegetation;*
- *No damage to declared rare flora;*
- *Compliance with relevant legislation and approval from other agencies where applicable e.g. Agwest;*

Policy Review – Control of Trees for Protection of Property (Cont.)

- *Inspection and support from a qualified arborist or tree surgeon where large trees in townsites are involved;*
- *Notification of intent to council prior to proceeding in rural areas where clearing is less than 1000m²;*
- *Approval from Council prior to proceeding in townsites and where clearing is in excess of 1000m² in rural areas.'*

be revoked.

CARRIED (7/0)

No. 279/07

9.5.3 LOTS 752 AND 2 WARBURTON ROAD, MOUNT BARKER - SCHEME AMENDMENT REQUEST

Location / Address:	Lots 752 and 2 Warburton Road, Mount Barker
Attachments: (1)	Summary of Submissions
Name of Applicant:	Ayton Taylor Burrell
File Reference:	LP/181/17
Author:	Peter Duncan - Manager Development Services
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	24 July 2007

Purpose

The purpose of this report is to consider submissions received on a proposed Scheme Amendment Request (SAR) to rezone Lot 752 and 2 Warburton Road, Mount Barker from 'Rural' to 'Rural Residential'.

Background

The Mount Barker Rural Strategy of 1997 refers to land on the south side of Warburton Road as being in Precinct 5. The Precinct abuts the south eastern corner of the Mount Barker Townsite and is bounded by Reserve 16447 to the north and east and the Golf Course to the south.

The SAR was initially submitted in March 2007 and in accordance with Council Policy No. TP/SDC/6 copies were forwarded to the Department for Planning and Infrastructure (DPI), Department of Water (DoW) and Department of Environment and Conservation (DEC) for comment.

Only one (1) agency (DPI) provided comments on the SAR at that stage.

On 8 May 2007 a report on the SAR was considered by the Council and Resolution 169/07 is as follows:

'THAT:

- (1) The Scheme Amendment Request for Lots 752 and 2 Warburton Road, Mount Barker be advertised to seek public feedback for a period of sixty days.*
- (2) At the conclusion of advertising a further report be prepared for the consideration of the Council at a meeting to be held no later than 24 July 2007.'*

Statutory Environment

Planning and Development Act 2005

Town Planning Regulations 1967 – set the procedure for Amending a Town Planning Scheme

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

Consultation

In accordance with Council Policy No. TP/SDC/6, the SAR has been advertised with the sixty day period closing on 17 July 2007. A total of ten (10) submissions was received – two (2) objections, one (1) petition in support containing fifty-seven (57)

Lots 752 & 2 Warburton Road, Mount Barker – Scheme Amendment Request (Cont.)

signatures, six (6) no objections and one (1) from the owners of Lot 2 Warburton Road. A Summary of Submissions is attached. Advertising included letters to adjoining property owners, a sign erected in a prominent location, notices in the Albany Advertiser and Plantagenet News and a sign on the Shire notice board.

Policy Implications

Council Policy No. TP/SDC/6 – Scheme Amendment Requests applies.

Financial Implications

The fee of \$550.00 has been paid.

Strategic Implications

This land is within Precinct 5 of the 1997 Mount Barker Rural Strategy. That Strategy proposes that the Precinct could form a natural extension of rural residential lots located within the townsite. The major constraint is the creek line and detailed consideration will need to be given to minimising any impact. The opportunity exists to consolidate a 'green belt' around the townsite. Lot sizes should be subject to detailed assessment, however, proximity to the townsite and possibility of connection to reticulated water suggest lot sizes 1ha and larger may be acceptable.

Officer Comment

It is clear from the submissions received that there are some issues requiring attention. These include:

- Access;
- Effluent disposal;
- Protection of the creek lines;
- Density of Development.

In accordance with the SAR Policy a decision to allow the applicant to proceed with further documentation which is to detail such matters as:

- (a) policy issues to be addressed in the amending report;
- (b) environmental issues;
- (c) servicing issues (eg: full testing of groundwater tables prior to document lodgement) and the provision of a fire management plan;
- (d) design requirements on subsequent development;
- (e) developer commitments required by the Council from Scheme Amendment process;
- (f) mechanisms for cost sharing of common cost items such as public open space, drainage, roads, footpaths, etc; and
- (g) any other matters considered relevant to the Council.

is required.

The owners of Lot 2 Warburton Road have been in discussion with the Chief Executive Officer and the Manager Development Services and their submission is attached. Special care is needed if an Amendment is to proceed. These landowners need to be involved in the document preparation by the consultants.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Mark, seconded Cr J Moir:

That the submissions received on the Scheme Amendment Request for Lot 752 and 2 Warburton Road be noted and:

- (1) The proponents be advised that the Council will be prepared to consider formal Amendment to the Shire of Plantagenet Town Planning Scheme No. 3.**
- (2) This support is subject to various matters raised in the submissions, including: policy issues, environmental (including creek line protection and effluent disposal), servicing, fire management plan, design requirements on subsequent development, size and number of properties to be developed, density of development and sustainable forms of development etc, being addressed and the owners of Lot 2 Warburton Road being consulted in the preparation process.**

CARRIED (7/0)

No. 280/07

9.5.4 LOT 8 (23) LANGTON ROAD, MOUNT BARKER - HOME OCCUPATION (RELAXATION MASSAGE CLINIC)

Location / Address:	Lot 8 (23) Langton Road, Mount Barker
Name of Applicant:	Celia Magnus
File Reference:	RV/182/1352
Author:	Juliet Albany - Planning Officer
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	23 July 2007

Purpose

The purpose of this report is to consider submission on an application for a Home Occupation, (Relaxation Massage Clinic) which as an 'AA' use the Council may at its discretion permit.

Background

When considering this proposed Home Occupation the Council at its meeting held on 12 June 2007 resolved at resolution 214/07:

'That in respect to Application No DA 15/07 for a Home Occupation – Relaxation Massage Clinic to be located at Lot 8 (23) Langton Road, Mount Barker:

- (1) Advertising be approved in accordance with Clause 6.2.3(c) of the Shire of Plantagenet Town Planning Scheme No.3 by way of a sign on the land advertising the proposal for a period of twenty one (21) days.*
- (2) At the conclusion of the advertising period a further report be prepared for the consideration of the Council at its meeting to be held on 24th July 2007.'*

The application is for a Home Occupation (Relaxation Massage Clinic) to operate Monday to Friday between the hours of 9am and 5pm, and on weekends by appointment.

The proposed opening times are 9.00am to 5.00pm weekdays with weekends a possibility. The applicant advises that times will be flexible due to her primary occupation (at the hospital) and shift work, she will handle appointments of up to forty-five minutes or more than forty-five minutes with a fifteen minute turn around between appointments. Only one client will be on the premises at any one time.

Statutory Environment

Planning and Development Act 2005
Town Planning Scheme No.3 (TPS3) – Zoned Residential (R12.5-20)
Health Act 1911

Consultation

Consultation has occurred with Mr Eric Howard - Environmental Health Officer.

Advertising was by way of a sign on site for a period of twenty-one days and letters to neighbours. Advertising closed 17 July 2007 and one (1) supportive submission was received.

Policy Implications

There are no policy implications for this report.

The Shire maintains a Register of Massage Establishments and this premises will be added to that Register.

Financial Implications

The \$100.00 application fee has been paid.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

The consulting room is to be a part time endeavour and it is the applicant's intention to take rooms in the new medical centre when it is built.

As an approval, for a Home Occupation runs with the land it is advisable to ensure that the land is capable of supporting the proposed land use. There is ample on site parking for the clients proposed (one (1) client per 45 minutes with 15 minute turnaround), with space for two (2) vehicles in addition to the two (2) required under the R codes for residential use.

The maximum floor space for a home occupation is 20m² and the proposed room measures 12.96 m².

It is advisable to limit the times during the weekends when clients may use this facility.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr K Clements, seconded Cr D Williss:

That development application (DA 15/07) for a Home Occupation (Relaxation Massage Clinic) at Lot 8 (23) Langton Road, Mount Barker be approved subject to the following conditions:

- (1) Client parking is to be contained on site.**
- (2) The hours of operation for the Home Occupation being between 9.00am and 5.00pm from Monday to Friday and 10.00am to 4.00pm on Saturdays.**
- (3) Compliance with the requirements of a Home Occupation as defined in the Shire of Plantagenet Town Planning Scheme No. 3.**
- (4) The premises and operations of a Home Occupation (Relaxation Massage Clinic) are to comply with all Health Standards.**
- (5) If in the opinion of the Council the approved use causes nuisance or annoyance to neighbours or owner / occupiers of the land in the vicinity, or persons or traffic using roads in the vicinity of the approved use, Council may withdraw this approval.**

CARRIED (7/0)

No. 281/07

9.5.5 LOT 350 ST WERBURGH'S ROAD, MOUNT BARKER - PROPOSED CELLAR SALES AND CAFE

Location / Address:	Lot 350 St Werburghs Road, Mount Barker
Attachments: (5)	Locality Plan Site Plan Floor Plan Elevations Summary of Submissions
Name of Applicant:	David and Caroline Picton-King
File Reference:	RV/182/4459
Author:	Juliet Albany - Planning Officer
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	31 July 2007

Purpose

The purpose of this report is to consider submissions for a proposed cellar sales and Café (licensed) at Lot 350 St Werburghs Road, Mount Barker.

Background

The proposal is for a café (36sqm seated indoors), facing north overlooking an existing vineyard, with cellar sales (20 m²), eight (8) car parking bays are provided including one (1) for the disabled. The building is to have a colorbond roof and hardiplank or similar walls and has wide verandas and some decking on all but the rear kitchen wall.

Statutory Environment

Planning and Development Act 2005

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

Under Amendment No. 41 to TPS 3 'cellar sales' has been inserted into Table 1 as a new 'SA' use class in the Rural Zone. 'SA' uses may be approved by the Council at its discretion after advertising has been undertaken.

Consultation

The proposal was advertised in the Albany Advertiser, the Plantagenet News, a sign on site, a sign on the Shire notice board and letters to the adjoining landholders for a period of twenty-one days, closing on 2 August 2007.

Four (4) submissions have been received supporting the application.

Policy Implications

There are no policy implications for this report.

Financial Implications

The \$529.00 application fee will be paid with the issue of the building licence.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

The proposal has been advertised and no objections have been received. This activity will diversify the land use on this rural property.

The parking provisions are adequate for this proposal.

The proposal is supported.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr D Williss, seconded Cr J Mark:

That development application (DA 22/07) for a Cellar Sales and Café (licensed) at Lot 350 St Werburghs Road, Mount Barker be approved in accordance with plans dated 25 June 2007 subject to the following conditions:

- (1) All car parking shall be provided on site. Bays shall be a minimum 2.5m x 5.5m with a 6m manoeuvring space and marked. Car parking layout shall be approved by the Manager Works and Services.
- (2) The existing entrance to Lot 350 is acceptable however, should a new entrance be built a new crossover is to be constructed to the satisfaction of the Manager Works and Services.

ADVICE NOTES:

- (i) Car parking area – this could be adjusted to better refrain from impeding views from within the café.

CARRIED (7/0)

No. 282/07

9.5.6 LOTS 222, 223, 225, 244-246, 256-260, 1044, 2054 AND 2055 STURDEE AND WEST BEATTIE ROADS AND ALBANY HIGHWAY, KENDENUP - 14 LOT BOUNDARY REALIGNMENT

Location / Address:	Lots 222, 223, 225, 244-246, 256-260, 1044, 2054 and 2055 Sturdee and West Beattie Roads and Albany Highway, Kendenup
Attachments: (2)	Location Plan Proposed Subdivision Plan
Name of Applicant:	John Kinnear and Associates for Ewen and Catherine Hill
File Reference:	LP/158/102, RV/182/92, WAPC 135173
Author:	Juliet Albany - Planning Officer
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	20 July 2007

Purpose

The purpose of this report is consider an application to realign the boundaries between fourteen lots fronting onto Sturdee Road and Beattie Road Kendenup.

Background

The proposal is to realign the boundaries of fourteen rural lots to enable the majority of fences to avoid cutting across creeks and dams and to reflect good environment and land management practices.

Statutory Environment

Planning and Development Act 2005
Shire of Plantagenet Town Planning Scheme No. 3 – zoned Rural

Consultation

There has been no consultation for this report.

Policy Implications

As this proposal involves more than five (5) lots, determination by the Council is required.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

No additional dwelling entitlements are to be created and the proposed lots are of comparable size to the surrounding lots.

Voting Requirements

Simple Majority

Lots 222, 223, 225, 244-246, 256-260, 1044, 2054 & 2055 Sturdee & West Beattie Roads & Albany Highway, Kendenup - 14 Lot Boundary Realignment (Cont.)

OFFICER'S RECOMMENDATION

Moved Cr K Hart, seconded Cr J Moir:

That the proposal to realign the boundaries of fourteen lots at Lots 222, 223, 225, 244-246, 256-260, 1044, 2054 and 2055 Sturdee and West Beattie Roads and Albany Highway, Kendenup, (WAPC 135173) be supported subject to the following conditions:

- (1) The battleaxe legs being constructed 5m wide and to gravel road standard to the satisfaction of the Manager Works and Services.
- (2) Truncations being provided at the entry of each battleaxe leg at West Beattie Road (3mx3m).
- (3) Truncations being provided where the battleaxe legs meet the balance of the proposed Lots C and D (3m x 3m).
- (4) Truncations being provided at the proposed lots A and N.
- (5) Access crossovers being constructed to all lots to the satisfaction of the Manager Works and Services.

AMENDMENT

Moved Cr D Williss, seconded Cr K Clements:

THAT:

- (1) Parts (1), (2) and (3) be deleted and replaced with:
 - '(1) The battleaxe legs to Lots C and D being shown as a 20m wide public road ceded to the Crown free of cost and that road being constructed to a 6m gravel surface and drained to the satisfaction of the Manager Works and Services.
 - (2) Truncations being provided where the road referred to in (1) above meets West Beattie Road.'
- (2) The motion be re-cast accordingly.

CARRIED (5/2)

No. 283/07

COUNCIL DECISION

That the proposal to realign the boundaries of fourteen lots at Lots 222, 223, 225, 244-246, 256-260, 1044, 2054 and 2055 Sturdee and West Beattie Roads and Albany Highway, Kendenup, (WAPC 135173) be supported subject to the following conditions:

- (1) The battleaxe legs to Lots C and D being shown as a 20m wide public road ceded to the Crown free of cost and that road being constructed to

Lots 222, 223, 225, 244-246, 256-260, 1044, 2054 & 2055 Sturdee & West Beattie Roads & Albany Highway, Kendenup - 14 Lot Boundary Realignment (Cont.)

- a 6m gravel surface and drained to the satisfaction of the Manager Works and Services.
- (2) Truncations being provided where the road referred to in (1) above meets West Beattie Road.
 - (3) Truncations being provided at the proposed lots A and N.
 - (4) Access crossovers being constructed to all lots to the satisfaction of the Manager Works and Services.

CARRIED (7/0)

No. 284/07

9.5.7 APPLICATION FOR A STALL HOLDER'S PERMIT TO TRADE IN A PUBLIC PLACE

Location / Address:	Road Reserve - Albany Highway, Mount Barker
Attachments: (1)	Location Plan
Name of Applicant:	Mark English
File Reference:	ED/62/6
Author:	Eric Howard - Environmental Health Officer
Authorised By:	Peter Duncan - Manager Development Services
Date of Report:	20 July 2007

Purpose

The purpose of this report is to consider an application for a stall holders permit to conduct trading activities at the public parking bay at the intersection of Albany Highway and Sturdee Road, Mount Barker.

Background

The applicant seeks the Council's approval to sell cherries produced at his Rawlinson Road property from a stall located at the parking bay at the intersection of Albany Highway and Sturdee Road during the months of December to January of each year, between the hours of 10.00am and 6.30pm daily.

The applicant has sold cherries from his vehicle at this location for the past ten (10) years, however, now seeks a formal permit from the Council to continue this activity.

The applicant has selected the Albany Highway / Sturdee Road parking bay area for trading activities because it is close to his property, it offers the safest location for motorists to both exit and re-enter Albany Highway and the site affords extensive truck and motor vehicle parking areas.

The applicant has received written permission from Main Roads Western Australia to operate from this parking bay subject to the Plantagenet Shire Council approval. The applicant has also received Main Roads approval to install two (2) temporary advanced warning signs advertising the stall, one (1) on each approach along Albany Highway and one (1) temporary sign at the entry point into the parking bay.

Statutory Environment

Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law 2001 (Local Law) – Part 6 – Division 2 – Subdivision 2 – Permits

Health Act 1911

Health (Food Hygiene) Regulations 1993

Australia New Zealand Food Standards Code

Consultation

There has been no consultation for this report.

Policy Implications

Council officers have produced and utilise a 'Draft Information and Application Form' to assist with this type of proposal.

Financial Implications

The necessary fee of \$110.00 has not yet been paid.

Strategic Implications

The Shire of Plantagenet Strategic Plan - Key Result Area 4 aims to encourage and guide local development, retain local business and encourage new businesses that will create long-term sustainable local employment.

Officer Comment

The applicant has sold cherries from this location for a number of years.

One (1) nearby resident has expressed concerns in the past regarding motor vehicles turning into his driveway to return to the stall. The installation of suitable advanced warning signage along Albany Highway, as approved by Main Roads WA may remedy this potential occurrence in the future.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Mark, seconded Cr K Hart:

That in accordance with Part 7 of the Shire of Plantagenet - Activities in Thoroughfares and Public Places and Trading Local Law 2001, a permit be issued to M English of 38 Rawlinson Road, Kendenup to conduct a stall at the road side parking bay located at the intersection of Albany Highway and Sturdee Road, Kendenup subject to:

- (1) Payment of the application Fee.**
- (2) The stall being located in accordance with the approved site plan dated 12 July 2007.**
- (3) The stall, subject of the permit shall not occupy or impede public access to public picnic tables located within the parking bay area.**
- (4) The stall being operated between the hours of 10.00am and 6.30pm daily during the months of November, December, January and February.**
- (5) The facility being operated and maintained in accordance with the provisions of;**
 - (i) Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law 2001 (Local Law) – Part 6, Division 2;**
 - (ii) Health Act 1911;**
 - (iii) Health (Food Hygiene) Regulations 1993; and**
 - (iii) Australia New Zealand Food Standards Code.**
- (6) The permit is valid for a period of twelve (12) months or part thereof, effective from 1 July 2007 until 30 June 2008.**
- (7) The permit holder shall apply in writing prior to expiry of the permit, for renewal for a further twelve (12) month period.**
- (8) The permit is transferable, subject to approval by the Council.**

Application For A Stall Holder's Permit To Trade In A Public Place (Cont.)

- (9) The permit holder maintaining public liability insurance to a minimum value of \$5,000,000.00 for the proposed trading area.
- (10) A statement of indemnity from the permit holder indemnifying the Council in respect to any injury to persons or damage to property which may occur in connection with the use of the thoroughfare or public place by the permit holder.

CARRIED (7/0)

No. 285/07

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Cr Moir has given notice pursuant to Clause 3.7 of Standing Orders that he intends to move:

'That consideration be given to including the following project in the 2008 / 2009 Road Works Program.

A new road linking Hannan Way to the Narrikup recreation ground.'

COMMENT

The Narrikup by-pass project plan shows the current recreation ground access road as being closed.

The Presiding Member invited Cr Moir to move the motion.

Moved Cr J Moir, seconded Cr K Hart:

That consideration be given to including the following project in the 2008 / 2009 Road Works Program:

'A new road linking Hannan Way to the Narrikup recreation ground.'

CARRIED (7/0)

No. 286/07

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

Nil

12 CONFIDENTIAL

12.1 EXECUTIVE SERVICES REPORTS

12.1.1 CHIEF EXECUTIVE OFFICER'S REVIEW – PERSONAL

The Chief Executive Officer declared a financial interest and left the meeting at 3.36pm.

Location / Address: N / A
Name of Applicant: N / A
File Reference: PE/183/333
Author: Kevin Forbes - Shire President
Authorised By: Rob Stewart – Chief Executive Officer
Date of Report: 2 August 2007

Purpose

The purpose of this report is to endorse the Chief Executive Officer's performance review.

MOTION TO PROCEED BEHIND CLOSED DOORS

Moved Cr K Hart, seconded Cr J Mark:

3.36pm That the Council move into Confidential Session to discuss this item under the terms of the Local Government Act 1995 Section 5.23(2) as follows:

- (a) a matter affecting an employee or employees;

CARRIED (7/0)

No. 287/07

MOTION TO PROCEED IN PUBLIC

Moved Cr J Mark, seconded Cr K Hart:

3.38pm That the meeting proceed in public.

CARRIED (7/0)

No. 288/07

3.37pm The Chief Executive Officer returned to the meeting.

COUNCIL DECISION

Moved Cr J Moir, seconded Cr J Mark:

THAT:

- (1) The Chief Executive Officer's Performance Review undertaken by the Council on 31 July 2007 be endorsed and that the conditions of the Chief Executive Officer's contract as renewed by Resolution of the Council on 22 August 2006 apply until the Chief Executive Officer's Annual Review on 2 July 2008 with a cash component increase of 5% for 2007 / 2008 year.
- (2) That the Chief Executive Officer's Performance Review undertaken by the Council on 31 July 2007 be endorsed and that the Council workshop the Quarterly Financial Statements and Budget Reviews and include Project and Works Progress Reports for information and direction of the Council at a future meeting as a matter of priority.
- (3) That the Chief Executive Officer's Performance Review undertaken by the Council on 31 July 2007 be endorsed and that the Chief Executive Officer ensures that:
 - (a) Directives of the Council are implemented and reported on, in a timely manner, as per Performance Review Items 9 and 11;
 - (b) Management of operations and staff be further developed to a higher professional level;
 - (c) The Council's objectives of concluding current projects be pursued in line with the Strategic Plan.
 - (d) The Council consider sustainability in future plans and developments.

CARRIED (7/0)

No. 289/07

13 CLOSURE OF MEETING

3.37pm The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON_____DATE:...../...../.....