



ORDINARY MINUTES

DATE: Tuesday, 3 November 2020

TIME: 3:00pm

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

Paul Sheedy
ACTING CHIEF EXECUTIVE OFFICER

Resolution numbers: 268/20 to 290/20

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

3:00pm The Presiding Member declared the meeting open.

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

Members Present:

Cr C Pavlovich	Shire President
Cr J Oldfield	Deputy Shire President
Cr B Bell	Councillor
Cr K Clements	Councillor
Cr S Etherington	Councillor (arrived 3:02pm)
Cr L Handasyde	Councillor
Cr J Moir	Councillor
Cr M O'Dea	Councillor
Cr K Woltering	Councillor

In Attendance:

Mr Paul Sheedy	Acting Chief Executive Officer
Mr Andrus Budrikis	Executive Manager Strategic Development
Mr John Fathers	Executive Manager Corporate Services
Mr David Lynch	Executive Manager Works and Services
Ms Nolene Wake	Executive Officer
Mr Vincent Jenkins	Principal Planning Officer

Apologies:

Nil

Members of the Public Present:

There were 13 members of the public present.

Previously Approved Leave of Absence:

Cr M O'Dea requested Leave of Absence for 9-13 November 2020.

Emergency Evacuation Procedures/Disclaimer:

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

Mr Sheedy 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 PRESENTATION – ITEM 9.4.2 – KATHRYN MACNEIL – CHAIRPERSON, MOUNT BARKER TOURIST BOARD INC.

Mrs MacNeil addressed the Council regarding the Mount Barker Tourist Bureau – Financial Support .

4.2 PRESENTATIONS – ITEM 9.1.2 – LOT 306 TOWER ROAD, MOUNT BARKER – WINERY.

The following members of the public addressed the Council regarding Lot 306 Tower Road, Mount Barker – Winery.

- Hayley Christidis – Chalari Wines (attached)
- Alexi Christidis – Chalari Wines (attached)
- Kim Tyrer – Acting President , Mount Barker Wine Producers Association
- Geoffrey Brooks (attached)
- Andrew Vesey
- Nick Ayton – Ayton Baesjou Planning

4.3 PRESENTATIONS – MRS HEATHER NICHOLS AND MR GLENN NICHOLS - CONSULTATION - MOUNT BARKER HILL DEVELOPMENT

Heather and Glenn Nichols individually addressed the Council regarding concerns in relation to development at Mount Barker Hill.

5 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995.

Cr L Handasyde

Item: 9.1.2

Type: Code of Conduct Disclosure (S5.103 LGA/Reg 34C Local Government Administration Regulations) Perceived interests (Clause 2.3 Code of Conduct)

Nature: Daughter and Son-in-law own adjoining property

Extent: N/A

Cr K Woltering

Item: 9.2.1

Type: Financial/Indirect Financial Interest (Section 5.60(A) and Section 5.61 LGA)

Nature: Commercial Waste Operator

Extent: N/A

6 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

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 6 October 2020 as circulated, be taken as read and adopted as a correct record.

CARRIED (9/0)

NO. 268/20

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

'More Kendenup Stories', a new book from local authors was launched on Saturday 17 October 2020 at the Kendenup Community Grounds. The launch attracted over 250 people, present and past residents.

The timing was linked to the centenary of the founding of Kendenup as a 'Closer Settlement'.

The Shire President thanked the Kendenup Book Committee, comprising Jacqui Burcham, Cindy North, Heather Fergie, Joanne Silvester and Tim Siggers, for their work on this book and the previous book, of which much of the profits went to the marking of unmarked graves at the Kendenup Cemetery.

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 STRATEGIC DEVELOPMENT REPORTS

9.1.1 LOT 52 RED GUM PASS ROAD, KENDENUP- AFFIX COMMON SEAL

File Ref:	N52970
Attachment:	<u>Location Plan</u> <u>Deposited Plan 419790</u>
Responsible Officer:	Andrus Budrikus Executive Manager Strategic Development
Author:	Vincent Jenkins Principal Planning Officer
Proposed Meeting Date:	3 November 2020
Applicant:	John Kinnear

PURPOSE

The purpose of this report is to seek authority for the Shire President and Chief Executive Officer to affix the Common Seal of the Council to an Application for New Title, Notification under Section 70A for proposed Lot 52 on Deposited Plan 419790 Red Gum Pass Road, Kendenup.

BACKGROUND

Council records show the registered owners of 5095 red Gum Pass Road are DE and PE Goodwin.

Lot 52 mentioned above and Lot 53 shown on the deposited plan are the new lot numbers proposed for a homestead lot subdivision, creating one additional lot.

The Executive Manager Strategic Development considered the proposed homestead lot subdivision of Lot 5095 Red Gum Pass Road in August 2019 in accordance with Council Delegation 7.1.

The subdivision application was supported subject to the following condition:

‘The WAPC be advised that the proposed subdivision into two lots at Lot 5095 Red Gum Pass Road, Kendenup is supported subject to suitable arrangements being made for the provision of vehicular crossovers to service lots A and B.’

The subdivision application was approved by the Western Australian Planning Commission (WAPC) on 21 October 2019 subject to a number of conditions including:

- ‘3. A notification pursuant to section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of proposed lot A. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:*

‘A network electricity supply is not available to the lot/s’. (Local Government)’

The WAPC conditioned the installation of power to newly created Lot 53. However, the notification on the deposited plan and the certificate of title for Lot 52 will inform prospective owners that network electricity supply is not available to that lot.

STATUTORY ENVIRONMENT

Land Administration Act 1997

Local Government Act 1995

Transfer of Land Act 1893 – Section 70A refers to factors that affects the use and enjoyment of land and notification on the title.

Planning and Development Act 2005

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

EXTERNAL CONSULTATION

There are no external consultation implications for this report.

FINANCIAL IMPLICATIONS

The subdivision clearance fee of \$146.00 has been paid.

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

Condition 3 of the WAPC approval requires a Notification under Section 70A of the Transfer of Land Act 1893. The notification on the deposited plan and the certificates of title will inform prospective owners that network electricity supply is not available to Lot 52.

The Council must resolve that the Shire President and Chief Executive Officer are to affix the Shire of Plantagenet Common Seal to the Notification under Section 70A of the Transfer of Land Act 1893.

Authority is now sought for the Common Seal to be applied in order that a subdivision clearance can be issued.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr K Woltering:

That authority be granted to the Shire President and Chief Executive Officer to affix the Common Seal of the Council to the Notification under Section 70A of the Transfer of Land Act 1893 (as amended) pertaining to the creation of proposed Lot 52 Red Gum Pass Road Kendenup on Deposited Plan 419790.

CARRIED (9/0)

NO. 269/20

9.1.2 LOT 306 TOWER ROAD, MOUNT BARKER - WINERYCr L Handasyde

Item: 9.1.2

Type: Code of Conduct Disclosure (S5.103 LGA/Reg 34C Local Government Administration Regulations) Perceived interests (Clause 2.3 Code of Conduct)

Nature: Daughter and Son-in-law own adjoining property

Extent: N/A

File Ref: N52845**Attachment:** [Location Plan](#)
[Context Plan](#)
[Site Plan](#)**Responsible Officer: Paul Sheedy**
Acting Chief Executive Officer**Author: Vincent Jenkins**
Principal Planning Officer**Proposed Meeting Date: 3 November 2020****Applicants: Ayton Baesjou Planning for Alexi and Hayley Christidis**

PURPOSE

The purpose of this report is to consider an application for a 'use not listed' (micro-winery) or alternatively an 'incidental use' in the Shire of Plantagenet Town Planning Scheme No. 3.

BACKGROUND

Council records show the registered owners of Lot 306 Tower Road are AE and HB Christidis.

The proponents are the owners of Chalari Wines, a small wine label established in 2016. Chalari Wines was originally based on a residential property in Roleystone in the City of Armadale. Chalari Wines originally received approval from the City of Armadale for 'home occupation' to conduct winemaking and the storage and wholesale of wine making products. The original approval was issued in February 2017 and was renewed annually with the last approval to expire on 31 January 2021. The last 'home occupation' approval was issued on 7 January 2020 and is restricted to a maximum 20m² floor area.

Chalari Wines became the new owners of Lot 306 Tower Road on 20 April 2020.

In a letter dated 15 July 2020, the Council's Executive Manager Strategic Development advised the proponents that the proposed winery was not consistent with the objective of the zone and was not permitted in the Rural Residential No. 1 (RRes1) zone.

Notwithstanding this advice, the Council on 4 September 2020, received the Application for Development Approval (DA) form and the supporting information for the micro-winery at Lot 306 Tower Road. However, the DA was incomplete and additional supporting information was sought from Ayton Baesjou Planning on 15 September 2020. The Council on 23 September 2020 received further supporting information to the DA. The DA fee and the charge for advertising costs were received on 25 September 2020.

The supporting information included in the DA defines the proposed micro-winery in the following manner:

- All winemaking operations will be carried out in the existing 144m² outbuilding.
- The micro-winery will process approximately 20 tonnes of fruit per annum and will produce up to a maximum of 1,000 cases of wine annually.
- The proposal does not include 'cellar sales' or wine tasting.
- All fruit will be sourced locally from different vineyards.
- The definition for micro-winery is copied from the document 'Investment opportunities in Western Australia's Wine Industry 2014, Department of Agriculture and Food'.
- Operations included in Operational Management Plan for the micro-winery involve the destemming and crushing, maceration, pressing, fermentation, maturation of grape product.
- Operations further included in the Operational Management Plan involve limited bottling of wine and limited storage of bottled wine.

The proponents require the Council to determine the micro-winery to be a 'use not listed' or alternatively an 'incidental' use to enable development approval.

The purpose of this report is to determine whether the proposed micro-winery use is capable of approval under the special provisions for the RRes1 zone set in Schedule V in the Shire of Plantagenet Town Planning Scheme No. 3.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Plantagenet Local Planning Strategy July 2013

Clause 6.1.8 of the Shire of Plantagenet Local Planning Strategy July 2013 states:

'Rural Residential Zone

6.1.8.1 Purpose

The purpose of the Rural Residential zone is to provide for low density residential development in a rural setting consistent and compatible with adjacent land use activity, landscape and environmental attributes of the land.'

Planning and Development (Local Planning Schemes) Regulations 2015 - Schedule 2 deemed provisions.

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Rural Residential No. 1. Rural residential zones are included in Zone 7 in the Zoning Table with reference to Schedule 5 in the relevant Zoning Table column.

– Special Provisions include:

‘1.0 Objective

The objective is to provide for rural residential living and small scale rural and tourist uses providing they do not impact detrimentally on the environment or the amenity of adjoining property.

2.0 (b) The following uses may be permitted at the discretion of Council ('AA') -

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

(c) All other uses not mentioned under (a) & (b) are not permitted.’

Clauses 3.2.4 and 3.2.5 of TPS3 state:

‘3.2.4 Where in the Zoning Table a particular use is mentioned it is deemed to be excluded from any use class which by its more general terms might otherwise include such particular use.

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.’*

‘Winery’ is included by means of Use Class 69 in the Zoning Table.

Schedule 1, Interpretations state:

‘Cellar Sales - means the demonstration and/or sale of wine products derived from an established vineyard and/or orchard on the owner’s property and includes the sale of ancillary products;’

‘Incidental Use - means the use of land in conjunction with and ancillary to the main use on the land;’

‘Winery: - means premises used for the handling, storage and /or processing of grapes and /or other fruit into wine products and may include the sale of the produce and cellar sales;’

Authority relating to the classification of use class.

Lizack v City of Kalgoorlie-Boulder [2015] WASAT 20 (***Lizack***) in which Jordan J, at 25, 30 and 31 state:

'25 *The Tribunal agrees, with respect, with the observation of the Tribunal in **Humich and City of Gosnells** [2008] WASAT 298 (**Humich**) at [38] :*

Ultimately, the classification of a use for the purposes of land use planning involves questions of fact and degree. ...

31 *As cited above in **Humich**, it is said that determining the classification of use of the land for planning purposes involves a question of fact and degree. It is appropriate here to refer to clause 3.5 of TPS 1, which states:*

Where in the Zoning Table a particular use is mentioned it is taken to be excluded from any other use class which by its more general terms might otherwise include such particular use.

32 *That is, if a use fits within a use class, it is not permitted under TPS 1 to strain to place the use in a different use class because an attribute of the use might also be referred to in the definition of that other use. Similarly, the Tribunal does not accept that a use can properly be considered as a use not listed when there might be some feature added but that feature does not alter the substantial character of the use.'*

Notably, the 'winery' use class does not include limits on quantities on grape and /or fruit processing and further is not prescriptive to the inclusion of a 'cellar sales'. The reference to lower quantities and absence of 'cellar sales' does not exclude it from the 'winery' definition.

A use can only be considered as 'not listed' where the use is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of any other use class. The proposed micro-winery use fits fairly and squarely into the 'winery' use class definition and therefore, the proposed development cannot be found to be a 'use not listed' (non-defined use) and the development is not capable of approval under TPS3.

Chain of authority relating to the classification of 'incidental' use.

Rando v City of Gosnells [2019] WASAT 6 (**Rando**) in which Whiley S, at 110, 111, 112, 113 and 114 state:

'110 *In **G&G Corp Asset Management Pty Ltd and Presiding Member of the Metropolitan East Joint Development Assessment Panel** [2018] WASAT 9; (2018) 94 SR(WA) 36 (G&G Corp), his Honour Judge Parry was dealing with almost identical scheme clauses in relation to incidental uses to those set out in [109] above.*

111 *His Honour found that the effect of such provisions are to give statutory expression and force to the established planning law concept relating to the treatment of incidental uses. That concept is that an incidental, ancillary or subordinate activity to a dominant land use is not of itself, a land use requiring development approval, but is instead considered to be part and parcel of the primary use: **G&G Corp** at [17] citing the observations of (then) **Member Helen Gibson in Pacific Seven Pty Ltd v Knox City Council** (1993) 11 AATR 325 (**Pacific Seven**).*

112 *In **G&G Corp** (at [17]) and again in **Shalom Group** (at [90]) his Honour Judge Parry, identified, consistent with the observations in **Pacific Seven** that references to incidental and subordinate uses are often incorrect. This is*

*because incidental and ancillary activities are an aspect of the primary use (or to employ the language from Pacific Seven, they are 'part and parcel' of the primary use). Ancillary or incidental activities are not separate land uses requiring a separate approval: **Foodbarn Pty Ltd v SolicitorGeneral** (1975) 32 LGRA 157 at 161 (Glass JA, Hutley and Samuels JJA agreeing).*

113 *However, there needs to be some kind of relationship between the dominate use and an incidental use. That is, the incidental use must form part of, or naturally attach to, the dominant use. In **City of Swan v Taylor** [2005] WASCA 88, her Honour Johnson J found at [67] that the determination of whether a use was incidental:*

... requires the identification of a predominant use and a determination of whether the proposed use is consequent on such a use or naturally attaching, appertaining or relating to such a use. In my view, there must be some relationship or connection between the two uses for one to be incidental to the other.

114 *A development approval is taken to include all the incidental uses that are 'part and parcel' of the approved use. For example, a residential land use includes the ability to garage a car or a boat as well as other activities that are incidental to human habitation: **Lizzio v Ryde Municipal Council** [1983] HCA 22; (1983) 155 CLR 211 at 216 (Gibbs CJ, Murphy Wilson and Brennan JJ agreeing) (**Lizzio**). However, even where a use may be said to be incidental, questions of fact and degree may arise. For example, in **Lizzio** the regular sale of flowers from a dwelling house was found to not be incidental to the use of the land for residential purposes.'*

The proposed 'winery' use is not an incidental part of the primary 'single house' use. For example, in **Lizzio** the regular sale of flowers from a dwelling house was found to not be incidental to the use of the land for residential purposes. The 'winery' use is, in fact, a separate and independent land use which is not capable of approval under TPS3.

Authority on how to interpret Town Planning Schemes.

Rando v City of Gosnells [2019] WASAT 6 (**Rando**) in which Wilely S, at 51, 52, 53, 54, 55 and 59 state:

'Interpretation of LPS 6

52 *LPS 6 is a 'written law' for the purposes of the Interpretation Act 1984 (WA) (Interpretation Act). By reason of s 18 of the Interpretation Act a construction that would promote the purpose or object underlying the written law (whether stated in the written law or not) should be preferred to a construction that would not promote that purpose or object.*

53 *Section 18 of the Interpretation Act is not directed to a construction which 'will best achieve' the object of the legislation, but is rather directed to a choice between a construction that would promote the underlying objects or purposes of the legislation, and one which would not: **Optus Mobile Pty Ltd v City of Swan** [2017] WASC 251 at [37].*

54 *There are many authorities on the modern approach to statutory construction: **Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue** [2009] HCA 41; (2009) 239 CLR 27 at [47]; **The Pilbara Infrastructure Pty Ltd v***

Brockman Iron Pty Ltd [2016] WASCA 36 at [119] [131] (Buss JA), [272] [274] (Murphy JA); **City of Kwinana v Lamont** [2014] WASCA 112; (2014) 201 LGERA 334 at [47].

55 The Court of Appeal, in the context of the PD Act, has reiterated the importance of the text of statutory instruments in resolving questions of statutory construction: **Australian Unity Property Limited as responsible entity for the Australian Unity Diversified Property Fund v City of Busselton** [2018] WASCA 38 at [77] [86] (**Australian Unity**). It is unnecessary to restate those paragraphs, but I identify the following principles in so far as they are relevant to the classification of the Proposed Use. Case citations are not included.

(a) The task of statutory construction must begin (and end) with a consideration of the text itself. Where the text is clear, historical considerations and extrinsic materials cannot displace that clear meaning. The language chosen by the legislature is the surest guide to legislative intention. The context, which includes the purpose and policy of the provision and the mischief to which it is directed, may inform that meaning.

(b) The focus on the statutory text is an aspect of the rule of law so as to recognise and preserve the role of the legislature.

(c) Focusing on the statutory text facilitates comprehension of the meaning of the legislation by persons whose conduct it regulates.

(d) The principles of statutory construction are no less important when the relevant legislative instrument is a planning scheme. On this point the Court noted that (**Australian Unity** at [82]):

[T]he terms of planning schemes are regularly referred to, often without the assistance of professional legal advice, by planners, government officials, landowners and prospective landowners to identify the permissible uses of land to which the scheme applies. Placing a counterintuitive judicial gloss on the plain language of a planning scheme reduces the capacity of those persons to comprehend its meaning.

(e) The text should not be read in a manner divorced from its context and purpose. That context and purpose may inform the meaning of the language chosen by Parliament. The meaning of the legislation must emerge from the statutory text, understood in context and having regard to the statutory purpose being progressed.

(f) In construing a planning scheme, it is also relevant that schemes are not usually drafted by Parliamentary Counsel and are often expressed in terms which lack the precision of an Act of Parliament. Planning schemes should be construed broadly rather than pedantically and with a sensible practical approach. Planning schemes should not be applied narrowly nor pedantically.

(g) Legislative purpose is to be ascertained from what the legislation says, rather than any assumption about a desired or desirable reach or operation of the relevant provisions. Discerning legislative purpose is an objective exercise of statutory construction and is not a quest to ascertain what those who promoted or passed the legislation may have had in mind in when it was enacted. Nor it is appropriate for, in this instance, the

Tribunal to construct its own idea of a desirable policy and impute that into the legislature to then be characterised as a statutory purpose.'

The authority on how to interpret Town Planning Schemes included in paragraphs 51, 52, 53, 54, and 55 of **Rando** directly relates to the classification of the 'incidental' use included in paragraphs 110, 111, 112, 113 and 114 of **Rando**.

EXTERNAL CONSULTATION

There are no external consultation implications for this report.

FINANCIAL IMPLICATIONS

The application fee of \$147.00 and the \$500.00 advertising bond have been paid.

If the Council endorse the officer recommendation the applicant may lodge an Appeal with the State Administrative Tribunal. The Council will be required to engage legal representation regarding the Appeal.

BUDGET IMPLICATIONS

The Budget Item Other Expenses - Legal Expenses has an allocation of \$10,000.00 in the 2020/2021 budget, with a sum of \$1,275.33 currently spent.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

LEGAL IMPLICATIONS

The State Administrative Tribunal (SAT) reviews decisions made by state and local governments regarding a range of matters concerning development, subdivision, notices, fisheries, water, rating, land valuation, land tax and soil and land conservation. Dependent on an application, any development decision made by local government can be reviewed by SAT.

The Ombudsman is an independent and impartial person who investigates and resolves complaints about Western Australian public authorities. The Ombudsman can investigate complaints about local governments. Any person can complain about any decision, action or inaction by any of the bodies within the Ombudsman's jurisdiction but only if:

1. The complaint is related to a matter of administration - the decision-making practices and actions of public authorities in providing their services to the public; and
2. The matter affects the person submitting the complaint.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.2 (Appropriate development which is diverse in nature and protects local heritage) the following Strategy:

Strategy 2.2.2:

‘Ensure quality, consistent and responsive development and building assessment approval processes and enforcement’

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

Lot 306 Tower Road is 1.99ha in area and located in the RRes1 zone. Existing development at the site consists of a 357m² house, 8m² bird aviary, one water tank and one 144m² outbuilding. The ‘winery’ will be carried out within the confines of the existing outbuilding.

The proponents require the Council to determine the micro-winery to be a ‘use not listed’ or alternatively an ‘incidental’ use to enable development approval.

The authorities cited are illustrations of corresponding scenarios, which clearly and consistently show that ‘winery’ is a defined use. The ‘winery’ definition does not include limits on quantities on grape and or fruit processing and further is not prescriptive to the inclusion of ‘cellar sales’. The inclusion of reference to processing quantities and the absence of cellar sales does not exclude the micro-winery use from the ‘winery’ definition.

A use can only be considered as ‘not listed’ where the use is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of any other use class. The proposed micro-winery use fits fairly and squarely into the ‘winery’ use class definition and therefore, the proposed development cannot be found to be a ‘use not listed’ (non-defined use) and the development is not capable of approval under TPS3.

Further, the authorities cited are illustrations of corresponding scenarios which clearly and consistently show that ‘winery’ is not an ‘incidental’ use. This is because an ‘incidental’ use is an aspect of the primary use and in this instance, the primary permitted use is ‘single house’. The concept is that an incidental use to a dominant land use is not of itself, a land use requiring development approval, but is instead considered to be part and parcel of the primary use. The proposed ‘winery’ use is not ‘incidental’ to the primary ‘single house’ use. The proposed ‘winery’ is in fact a separate and independent land use which is not capable of approval under TPS3.

Given a 'winery' is not a permissible use in the RRes1 zone, the officer recommendation therefore is to refuse the proposal.

Notwithstanding that wineries are not permissible in rural residential zones, the Council may be of the view that winery land uses are seen as appropriate for these zones. The proper planning process will require a future Council resolution to initiate a Scheme Amendment to introduce the winery land use into rural residential zones in the Shire of Plantagenet Local Planning Scheme No. 5, once it is gazetted.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the proposal for a winery at Lot 306 Tower Road, Mount Barker be refused on the grounds that it is not a permissible use in the Rural Residential No. 1 zone in the Shire of Plantagenet Town Planning Scheme No. 3.

ALTERNATIVE RECOMMENDATION

Moved Cr J Oldfield, seconded Cr M O'Dea:

That the proposed micro-winery at Lot 306 Tower Road, Mount Barker be determined as consistent with the objective of the Rural Residential No. 1 zone and, in accordance with Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, Development Approval be granted subject to:

- 1. The development being in accordance with the plans and documents submitted by the applicant.**
- 2. Provision of bin storage areas designed and constructed to the satisfaction of the Shire of Plantagenet.**
- 3. Suitable arrangements being made for the regular collection and disposal of solid and liquid waste.**
- 4. Hours of operation to be between 7.00am and 6.00pm.**
- 5. No cellar door sales to be carried out.**
- 6. Maximum wine production to be 1,000 cases annually.**

Reasons for Change:

The use is capable of being approved in Rural Residential No. 1 zone. Council is empowered to make the determination.

Given the small scale and low impact of the use, the proposed micro-winery is best categorised under Schedule V 2.0 (b) of LPS3 as 'other incidental or non-defined activities considered appropriate by the Council which are consistent with the objective of the zone'.

Micro-winery fits with the purpose of the Rural Residential zone and is consistent with the specific objective of RRes1, being 'to provide for rural residential living and small scale rural and tourist uses providing they do not impact detrimentally on the environment or the amenity of adjoining property.'

MOTION TO ADJOURN THE DEBATE**Moved Cr K Clements, seconded Cr B Bell:****That:**

1. The debate be adjourned to enable a workshop to be held with all information to be available for consideration by Councillors.
2. Following the workshop, a further report be brought back to the Council at its meeting to be held on 1 December 2020.

CARRIED (6/3)**NO. 270/20****Crs Oldfield, Moir and O'Dea voted against the motion****MOTION TO ADJOURN THE MEETING****Moved Cr M O'Dea, seconded Cr B Bell:****4.10pm That the meeting be adjourned and be reconvened at 4.15pm****CARRIED (9/0)****NO. 271/20****RESUMPTION****4.15pm The meeting resumed.****Attendance**Members Present:

Cr C Pavlovich	Shire President
Cr J Oldfield	Deputy Shire President
Cr B Bell	Councillor
Cr K Clements	Councillor
Cr S Etherington	Councillor (arrived 3:02pm)
Cr L Handasyde	Councillor
Cr J Moir	Councillor
Cr M O'Dea	Councillor
Cr K Woltering	Councillor

In Attendance:

Mr Paul Sheedy	Acting Chief Executive Officer
Mr Andrus Budrikis	Executive Manager Strategic Development
Mr John Fathers	Executive Manager Corporate Services
Mr David Lynch	Executive Manager Works and Services
Ms Nolene Wake	Executive Officer
Mr Vincent Jenkins	Principal Planning Officer

13 members of the public were present.

9.1.3 MOUNT BARKER HILL ADVISORY COMMITTEE - ENDORSEMENT OF RECOMMENDATIONS – MOUNT BARKER HILL MTB TRAILS

File Ref:	N53152
Attachment:	<u>Minutes – Mount Barker Hill Advisory Committee Mount Barker Hill Tourism Infrastructure Project Capital Costs</u>
Responsible Officer:	Andrus Budrikis Executive Manager Strategic Development
Author:	Andrus Budrikis Executive Manager Strategic Development
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to present the outcomes and recommendations of the Mount Barker Hill Advisory Committee meeting held on 21 October 2020 and to seek Council endorsement of the Committee's recommendations in the attached minutes.

BACKGROUND

At the Council's Meeting held on 3 December 2019 it was resolved:

'That:

1. *A committee, to be known as the Mount Barker Hill Advisory Committee be formed pursuant to Section 5.9 (2) (a) of the Local Government Act 1995;*
2. *The duties of the committee are to advise the Council with regard to:*
 - a) *The mechanisms needing to be employed to light the communication tower;*
 - b) *Working with the Trails Advisory Committee regarding integration of trails into other Mount Barker Hill proposals; and*
 - c) *Further development of the present Rotary lookout and the potential for other lookouts, including information boards.*
3. *The committee shall comprise of four Councillors;*
4. *The committee shall disband on or before 31 October 2020;*
5. *Cr Pavlovich, Cr Clements, Cr Etherington and Cr Woltering be appointed as members to the Mount Barker Hill Advisory Committee; and*
6. *Cr Oldfield be appointed as Deputy to act on behalf of any individual member appointed in part 5 when that member is unable to attend.'*

The membership of the committee was amended at the Council's meeting held on 25 February 2020 where it was resolved:

'That:

1. *The resignation of Cr C Pavlovich from the Mount Barker Hill Advisory Committee be noted.*

1. *{sic} Cr J Oldfield be appointed as a member of the Mount Barker Hill Advisory Committee.*
2. *{sic} Cr L Handasyde be appointed as Deputy to act on behalf of any individual member when that member is unable to attend.'*

The Mount Barker Hill Advisory Committee has progressed three concept plans which consider separate aspects of developing Mount Barker Hill. Although they have been produced separately, their development has involved collaboration between the consultants to ensure the plans complement each other. The concept plans are:

- Lighting of the Communication Tower, produced by BCA Consultants, lighting concept designers.
- Mount Barker Hill Mountain Bike (MTB) trails, design of a downhill trail network produced by Great Southern Centre for Outdoor Recreation Excellence (GSCORE) and Magic Dirt, trail designers and builders.
- Mount Barker Hill Landscape Concept Plan, design of a boardwalk and leisure trail, facilities and infrastructure improvements produced by Emerge Associates.

Together these components comprise the Mount Barker Hill Tourism Infrastructure Project.

STATUTORY ENVIRONMENT

The Shire of Plantagenet has a Management Order over the reserve of Tower Hill, which is vested for use as Parklands. These potential developments are congruent with this purpose. The vesting excludes the parcel of land where the Communication Tower is, which is vested in BAI Communications Australia (formerly Broadcast Australia).

EXTERNAL CONSULTATION

The individual development of these concept plans has involved external consultation, particularly the MTB trail plan. Magic Dirt has consulted local mountain bike clubs and GSCORE has commissioned environmental and dieback surveys. Taking this concept design further will involve community consultation as per the Trail Development Framework.

FINANCIAL IMPLICATIONS

The Building Better Regions Fund (BBRF) grant conditions require 50% of the project costs are made up from local government or state sponsored funding. The Federal Government contribution is capped at 50% of the project cost. The Advisory Committee's recommendation requires that Council funds 50% of the project budget if the BBRF grant application is successful. The grant scenarios attached indicate that the Shire has allocated \$80,000.00 municipal funds in the FY 2020-21 annual budget. An additional \$909,762.00 will be required if all components of the Mount Barker Hill Tourism Infrastructure Project are included in the BBRF grant fund application and the BBRF grant application is successful.

BUDGET IMPLICATIONS

The Shire of Plantagenet Annual Budget FY 2020-21 includes \$555,000.00 for Mount Barker Infrastructure (51840.0252). This budget line included \$100,000.00 income from the Regional Economic Development Scheme (REDS). The Shire's REDS grant application has not been successful. The remaining \$455,000.00 budget includes \$375,000.00 from the Drought Communities Programme (DCP) funding. The total Mount Barker Hill Tourism Infrastructure project is estimated to cost \$1.98m. If the Shire is successful in obtaining additional funding from the BBRF then the combined BBRF and DCP will total 50% of the project cost as both these grant funds are from the Federal Government. An additional \$909,762.00 in funding from the Shire will be required.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

The Council already has infrastructure on the reserve. The lookout itself, the carpark and historical cairns all are part of the Council's asset inventory. The Council also has a smaller tower, which is at present leased and is used by a number of groups.

Actioning the Mount Barker Hill Tourism Infrastructure project will create additional infrastructure and chattels on the reserve for entry onto the Council's asset inventory.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.3 (Pleasant streetscapes, open spaces, parks and gardens) the following Strategy:

Strategy 2.3.4:

'Plan and seek funding for the development of trails in line with the Trails Master Plan.'

Outcome 3.2 (A strong and diverse economic base) provides the following strategy:

Strategy 3.2.1:

'Identify and attract value adding and compatible new industries to the region.'

and Outcome 3.4 (A strong tourism region) provides the following strategy:

Strategy 3.4.4:

'Work with the Lower Great Southern Alliance in promoting sustainable tourism investment within the region.'

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

STRATEGIC RISK IMPLICATIONS

Nil

REGIONAL IMPLICATIONS

GSCORE has progressed the concept design of the Tower Hill MTB trails as an extension of the Great Southern Regional Trails Master Plan. This plan includes the Tower Hill trails as a priority trail. This feeds in to a strategy of making the lower Great Southern a mountain bike destination of regional significance through developing different trail offerings that are complementary to each other in Plantagenet, Albany and Denmark.

The wider development of the hill is strategically aligned with GSDC's Strategic Blueprint, which in addition to providing an additional asset for the Regional Destination Marketing Strategy opens up the possibility for their support with potential events held on the hill.

The trails and facilities plans have been discussed as suitable for Alliance endorsement.

OFFICER COMMENT

The Shire signed an agreement with GSCORE to progress the Mount Barker Hill mountain bike trails on the behalf of the Shire and seek to obtain funding for the project. A meeting was held between officers and the Executive Director of GSCORE on 6 October 2020 to discuss the potential application for funds from the next round of the BBRF. The Federal Government announced in the current budget that \$100m will be allocated to the BBRF for tourism infrastructure projects. If GSCORE are to make an application to the BBRF on the Shire of Plantagenet's behalf it will be necessary for Council to confirm that the Shire will fund 50% of the project costs.

It is likely that GSCORE will also make a BBRF grant application submission on behalf of the City of Albany and Shire of Denmark for the construction of mountain bike trails also identified in the GSCORE Great Southern Regional Trails Master Plan as priority trails. These trails along with the Mount Barker Hill trails form a comprehensive regional offering of mountain bike trail experiences.

The REDS application made by the Shire for \$100k in funding for the boardwalk was not successful. No other applications for funding for any components of the Mount Barker Hill Tourism Infrastructure Project have been made at this stage.

At its meeting held on 21 October 2020, the Mount Barker Hill Advisory Committee discussed progressing the Mount Barker Hill Tourism Infrastructure Project and the need for Council to allocate appropriate funds to Shire projects taking into account that there are a number of projects in development.

The Committee has made the following recommendations:

1. An application for funding from the Better Building Regions Fund (BBRF) be submitted by Great Southern Centre for Outdoor Recreation Excellence (GSCORE) on behalf of the Shire of Plantagenet to construct the Mount Barker Hill Tourism Infrastructure project comprising the mountain bike trails and infrastructure, boardwalk and walkways and tower lighting.

2. The Council borrow the balance of funds required to fund the project if the BBRF grant application is successful subject to a Council workshop on project funding.

VOTING REQUIREMENTS

Simple Majority

COMMITTEE RECOMMENDATION

That:

1. An application for funding from the Better Building Regions Fund (BBRF) be submitted by Great Southern Centre for Outdoor Recreation Excellence (GSCORE) on behalf of the Shire of Plantagenet to construct the Mount Barker Hill Tourism Infrastructure project comprising the mountain bike trails and infrastructure, boardwalk and walkways and tower lighting.
2. The Council borrow the balance of funds required to fund the project if the BBRF grant application is successful subject to a Council workshop on project funding.

ALTERNATIVE RECOMMENDATION

Moved Cr B Bell, seconded Cr J Moir:

That an application for funding from the Better Building Regions Fund (BBRF) be submitted by Great Southern Centre for Outdoor Recreation Excellence (GSCORE) on behalf of the Shire of Plantagenet to construct the Mount Barker Hill Tourism Infrastructure project, comprising the boardwalk and walkways.

LOST (2/7)

Crs Pavlovich, Oldfield, Clements, Etherington, Handasyde, O'Dea and Woltering voted against the motion

COMMITTEE RECOMMENDATION

Moved Cr K Woltering, seconded Cr S Etherington:

That:

1. **An application for funding from the Better Building Regions Fund (BBRF) be submitted by Great Southern Centre for Outdoor Recreation Excellence (GSCORE) on behalf of the Shire of Plantagenet to construct the Mount Barker Hill Tourism Infrastructure project comprising the mountain bike trails and infrastructure, boardwalk and walkways and tower lighting.**
2. **The Council borrow the balance of funds required to fund the project if the BBRF grant application is successful subject to a Council workshop on project funding.**

AMENDMENT

Moved Cr M O'Dea, seconded Cr J Oldfield:

That the words 'and tower lighting' be removed from Part 1 of the motion.

CARRIED (5/4)

NO. 272/20

**Crs Pavlovich, Bell, Handasyde and
Moir voted against the motion**

COUNCIL DECISION

That:

1. An application for funding from the Better Building Regions Fund (BBRF) be submitted by Great Southern Centre for Outdoor Recreation Excellence (GSCORE) on behalf of the Shire of Plantagenet to construct the Mount Barker Hill Tourism Infrastructure project comprising the mountain bike trails and infrastructure, boardwalk and walkways.
2. The Council borrow the balance of funds required to fund the project if the BBRF grant application is successful subject to a Council workshop on project funding.

CARRIED (8/1)

NO. 273/20

Cr Bell voted against the motion

9.2 WORKS AND SERVICES REPORTS

9.2.1 CHANGE TO THE PURPOSE OF THE WASTE MANAGEMENT RESERVE ACCOUNT

Cr K Woltering

Item: 9.2.1
Type: Financial/Indirect Financial Interest (Section 5.60(A) and Section 5.61 LGA)
Nature: Commercial Waste Operator
Extent: N/A

4:47pm Cr K Woltering left the meeting.

File Ref: N52931
Responsible Officer: David Lynch
Executive Manager Works and Services
Author: Nicole Selesnew
Administration/Project Officer Works and Services
Proposed Meeting Date: 3 November 2020

PURPOSE

The purpose of this report is to review the outcome of advertised local public notice regarding a proposed change to the purpose of the Shire of Plantagenet Waste Management Reserve account and to seek approval for a change to the purpose of the Waste Management Reserve account.

BACKGROUND

The Council, at its meeting on 8 September 2020, resolved:

'That:

- 1. One month's local public notice be given of a proposal to change the purpose of the Shire of Plantagenet Waste Management Reserve account to the following:

'To fund waste management infrastructure, major items of associated plant and equipment and consultancy and design of landfill sites.'*
- 2. A further report be presented to the Council at its meeting to be held on 3 November 2020 on the outcome of the notice in part 1 above.'*

The proposal to change the purpose of the Waste Management Reserve account was advertised in the Albany Advertiser (24 September 2020 edition) and the Plantagenet News (23 September 2020 edition).

No public submissions or feedback was received.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

EXTERNAL CONSULTATION

The proposal to change the purpose of a reserve account was publicly advertised. There was no other external consultation required in relation to this report.

FINANCIAL IMPLICATIONS

The Annual Financial Report must disclose a change in purpose of a reserve account and the use of money from a reserve account for the year in which the change or expenditure occurs.

BUDGET IMPLICATIONS

The 2020/2021 Annual Budget lists an opening balance for the Waste Management Reserve account of \$491,377.00.

If the reserve account purpose is changed, funds in this account will be used for some initial planning and investigation work for the O'Neill Road Waste Management Facility.

The investigation works required as proposed by the consultant are as follows:

- Soil, groundwater and surface water investigations - \$25,898.00 (exc GST)
- Landfill gas surface emissions assessment - \$6,910.00 (exc GST).

The transfer from the reserve account will be \$32,808.00 (exc GST)

This has a \$nil impact.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.9 (Integrated Waste Management) the following Strategies:

Strategy 2.9.1: *'Continue to undertake rubbish collection services in Mount Barker, Kendenup, Narrikup and Rocky Gully townsites.'*

And

Strategy 2.9.3: *'Develop modern, accessible, cost effective and innovative waste disposal options.'*

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

In May 2020, the Council engaged a consultant to carry out a review of the O'Neill Road Waste Management Facility. The review focused on the most efficient way to maximise longevity at the O'Neill Road site, to plan for the site closure and prepare a post-closure management plan.

The consultant identified an opportunity to extend the lifespan of the site by up to 41.6 years, with further investigation, licensing and works required to consolidate these plans.

It is proposed to use the funds in the Waste Management Reserve Account to carry out the recommendations outlined by the consultant.

The Waste Management Reserve account was initially created with the following purpose:

'To fund waste management infrastructure and major items of associated plant and equipment'.

In order to utilise these funds, the purpose of the Waste Management Reserve Account will need to be changed. It is proposed to change the purpose of the account to:

'To fund waste management infrastructure, major items of associated plant and equipment and consultancy and design of landfill sites.'

The Council resolved to give one month's local public notice of the proposed changes to the Waste Management Reserve account at its meeting held on 8 September 2020. Advertisements were published in the Albany Advertiser and Plantagenet News on 24 September 2020 and 23 September 2020 respectively. No comments or submissions were received during the advertising period.

Once the purpose of the Waste Management Reserve Account has been amended, a budget reallocation will be required to transfer funds from the Reserve Account to municipal funds for use. The transfer of funds will be addressed in the first quarterly budget review report to be presented to the Council at the 3 November 2020 meeting.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M O'Dea, seconded Cr L Handasyde:

That:

1. The advertisements published in the Albany Advertiser on 24 September 2020 and the Plantagenet News on 23 September 2020, providing local public notice regarding a change to the purpose of the Shire of Plantagenet Waste Management Reserve Fund, be noted.
2. No public submissions were forthcoming following the advertising of a change to the purpose of the Waste Management Reserve Fund be noted.
3. The purpose of the Shire of Plantagenet Waste Management Reserve account, which reads as follows:

'To fund waste management infrastructure and major items of associated plant and equipment'.

be amended to the following:

'To fund waste management infrastructure, major items of associated plant and equipment and consultancy and design of landfill sites.'

4. The 2020/2021 Annual Budget be amended as follows:

Account	Description	Original / Amended Budget \$	New Budget \$	Net Cash Amount \$
41001.0486	Transfers from Reserve Funds	\$0	\$32,808	\$32,808
20162.0030	O'Neill Road Waste Facility - Investigations	\$0	(\$32,808)	(\$32,808)
	Totals	\$0	\$0	\$0

CARRIED (8/0)

NO. 274/20

Absolute Majority

4:49pm Cr K Woltering returned to the meeting.

9.2.2 POLICY REVIEW - PLANT - GENERAL

File Ref:	N52952
Attachment:	<u>Policy with changes</u>
Responsible Officer:	David Lynch Executive Manager Works and Services
Author:	Nicole Selesnew Administration/Project Officer Works and Services
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to review Council Policy No I/PM/1 – Plant – General.

BACKGROUND

This policy was last reviewed by the Council at its meeting held on 26 April 2017.

The Heavy Plant Review Committee met on 6 October 2020 and reviewed Policy No I/PM/1 – Plant – General. The Committee resolved to recommend some changes to the policy for consideration by the Council at the 3 November 2020 meeting.

STATUTORY ENVIRONMENT

Local Government Act 1995

EXTERNAL CONSULTATION

There was no external consultation in relation to this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

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

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There is a number of proposed changes to the Plant policy which extends the period of time, or hours / kilometres of service, before disposal of plant is considered.

This will enable staff to retain an item of plant for an extended period if the item is providing ongoing value to the Council.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.6 (Assets and infrastructure managed over the long term to meet current and future needs) the following Strategy:

Strategy 2.6.1:

'Implement maintenance, servicing and renewal of Council assets in a timely manner that maximises its life and performance, with a focus on infrastructure and core buildings.'

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The Plant – General policy provides guidance to Shire staff when reviewing the Plant Replacement Program.

The Heavy Plant Review Committee met on 6 October 2020 and reviewed the current policy. The Committee recommended changes to extend the age, or hours / kilometres of service, of graders, loaders, backhoe / loaders and light trucks before disposal is considered. These proposed changes will provide staff with the flexibility to retain plant if an item is providing ongoing value to the Council.

Discussion also occurred regarding the replacement of assets which are no longer required, or which are in excess to the Shire's needs. These assets may be disposed of and no replacement occur, or contractors / hire company's used in place of owning a partially used asset. This will be discussed further with the Heavy Plant Review Committee at its meeting in February 2021 before being presented to the Council.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Oldfield, seconded Cr L Handasyde:

That amended Policy No I/PM/1 – Plant – General, as follows:

OBJECTIVE

To provide clear guidelines relating to the replacement period for the Council's heavy plant.

POLICY

1. This policy applies to the Council's plant, which includes:
 - a. Trucks (over 4.5 tonnes); and
 - b. Vehicular plant, including (but not limited to) loaders, graders, and backhoes.
2. Plant purchases are to be structured around a replacement program intended to maintain consistent annual expenditure and based upon the benchmark standards developed by the Institute of Public Works Engineering Australia Limited (IPWEA): Plant and Vehicle Management Manual - Third Edition (2012).
3. Plant disposal should occur where the cost of ownership of the vehicle is optimised. Generally, plant will be disposed of where the time of disposal maximises the financial advantage to the Council, as outlined in the following table.

Type	Years	Hours/km
Grader	5 - 9 years	10,000hrs to 15,000hrs
Heavy Loader	7 - 9 years	10,000hrs to 13,000hrs
Backhoe/Loader	10 - 15 years	8,000hrs to 10,000hrs
Heavy Truck 6x4	5 - 7 years	250,000km to 500,000km
Medium Truck 4x2	7 - 12 years	300,000km
Light Truck	7 - 12 years	300,000km
Roller	7 - 12 years	7,000hrs to 9,000hrs
Tractor	4 - 8 years	3,000hrs to 6,000hrs
Heavy Trailer	10 - 25 years	N/A

4. Plant may be kept past the suggested optimum hours/kms if considered to be providing ongoing value to the Council and will therefore fall outside the purview of this Policy.'

be endorsed.

CARRIED (9/0)

NO. 275/20

9.2.3 POLICY REVIEW – PLAYGROUND EQUIPMENT MAINTENANCE AND IMPROVEMENT

File Ref:	N53097
Responsible Officer:	David Lynch Executive Manager Works and Services
Author:	Nicole Selesnew Administration/Project Officer Works and Services
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to review Council Policy No I/PRP/1 – Playground Equipment Maintenance and Improvement.

BACKGROUND

This policy was last reviewed by the Council at its meeting held on 6 November 2018.

STATUTORY ENVIRONMENT

The following standards apply to playgrounds:

Australian Standard AS 4685 - Playground Equipment and Surfacing

Australian Standard AS 4486.1 – Playgrounds and Playground Equipment

Australian and New Zealand Standard AS 4422 – Playground Surfacing

EXTERNAL CONSULTATION

There was no external consultation in relation to this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report, however, it is worth noting that the 2020/21 Council budget has an allowance for playground maintenance of \$5,000.00.

POLICY IMPLICATIONS

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

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.6 (Assets and infrastructure managed over the long term to meet current and future needs) the following Strategy:

Strategy 2.6.1:

'Implement maintenance, servicing and renewal of Council assets in a timely manner that maximises its life and performance, with a focus on infrastructure and core buildings.'

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

STRATEGIC RISK IMPLICATIONS

The regular auditing of playground equipment to determine compliance with relevant Australian Standards will minimise the risk of causing harm to playground users.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The Playground Equipment Maintenance and Improvement policy provides guidance to the Parks and Gardens staff regarding the regular auditing of playgrounds and processes to undertake if playground equipment is deemed unsafe or unsuitable. The policy is considered adequate.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr K Woltering, seconded Cr K Clements:

That Policy No I/PRP/1 – Playground Equipment Maintenance and Improvement, as follows:

‘OBJECTIVE

To ensure the safety and serviceability of all public playground equipment throughout the Shire of Plantagenet is maintained to a high standard.

POLICY**1. Scope**

This policy applies to playgrounds located within the Shire of Plantagenet as follows:

- a) Narrikup Hall
- b) Rocky Gully
- c) Kendenup Hall
- d) Nature Play, Kendenup
- e) Apex Park
- f) Bonnyup Park
- g) Sounness Park
- h) Wilson Park.

2. Legislation/Standards

Australian Standards AS 4685 – Playground Equipment and Surfacing
Australian and NZ Standard AS 4422 – Playground Surfacing

3. Application of Policy

- 3.1 The Manager Works and Services or a suitably qualified person nominated by the Manager Works and Services shall carry out a safety inspection of all public playground equipment on a regular basis to determine compliance with relevant Australian Standards for playground equipment and surfacing.
- 3.2 A register shall be maintained of each playground inspection. Any maintenance required shall be promptly attended to by a suitably qualified person nominated by the Manager Works and Services.
- 3.3 If any item of equipment is found to be dangerous, it shall be deemed unsafe and made inoperative until such time as repairs are carried out. If it cannot be repaired in sufficient time, it shall be removed.’

be endorsed.

CARRIED (9/0)

NO. 276/20

9.3 CORPORATE SERVICES REPORTS

9.3.1 BUDGET REVIEW – SEPTEMBER 2020

File Ref:	N53077
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Alison Kendrick Senior Finance Officer
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to review and adjust the adopted 2020/2021 Annual Budget to recognise variations in actual income and expenditure.

BACKGROUND

The 2020/2021 annual budget was adopted by the Council at a special meeting held on 7 July 2020. This review is the first quarterly review of the 2020/2021 Annual Budget.

Local Government Act 1995

There is no specific section of the Act that deals with the reallocation of funds however Section 6.2(1) governs budget requirements for local governments.

Local Government (Financial Management) Regulations 1996

Regulation 33A states:

- '(1) Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.*
- (2A) The review of an annual budget for a financial year must -*
- (a) consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and*
 - (b) consider the local government's financial position as at the date of the review; and*
 - (c) review the outcomes for the end of that financial year that are forecast in the budget.*
- (2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*
- (3) A council is to consider a review submitted to it and is to determine* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*
- *Absolute majority required.*
- (4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.'*

EXTERNAL CONSULTATION

Not applicable.

FINANCIAL IMPLICATIONS

There are no ongoing financial implications.

BUDGET IMPLICATIONS

The purpose of a budget review is to ensure that the income and expenditure for the current year is monitored in line with the adopted budget and, where exceptions to the adopted budget occur, make amendments to the budget or work scope as necessary. The overall recommended net cash effect on the budget is \$Nil.

POLICY IMPLICATIONS

There are no policy implications for this report.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017–2026 provides at Outcome 4.6 (Effective and efficient corporate and administrative services) the following strategy:

Strategy 4.6.1:

'Provide a full range of financial services to support Shire's operations and to meet planning, reporting and accountability requirements.'

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

STRATEGIC RISK IMPLICATIONS

Not applicable.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

This is the first quarterly budget review of the year. In terms of operating result, operating income is currently 14.0% under (year to date) budget and operating expenditure is 7.5% above (year to date) budget. This is largely attributed to the delays to budgeted income and over expenditure on storm damage works. The value of outstanding rates is currently 30.3%, which is slightly below the average of 35%.

The capital roadworks program will start in the next quarter. Approval has been received from Main Roads to carry forward the unexpended Regional Roads Group

funding from the previous financial year and the changes to the budget are addressed below.

Transfers to reserve funds have been carried out in line with the budget.

A number of issues are worthy of budget amendment and the following action is recommended:

- Adjustments to Grants Commission Grants due to differences between estimated 2020/2021 allocations and final allocations following the early payment of Financial Assistance Grants in June 2020. The net cash effect of this adjustment is a decrease in income from Financial Assistance Grant of \$4,470.00 and a decrease in income from the Financial Assistance Grant – Road Maintenance of \$51,200.00.
- Some savings have been identified, namely Reimbursements – Other which currently has a value of \$57,047.00, and a year to date budget of \$16,667.00. This budget item could be increased to \$80,000.00 as the mid October value is \$74,285.00. This account contains income such as worker's compensation payments and insurance payouts.
- A number of salaries accounts can be decreased for the current year as planned staff appointments have either not been made or only made for part of the year. The Building Project Officer has not been appointed and consideration is still being given to the future role of that officer. The Research / Administration Officer has not been appointed and it is intended this role be left in abeyance until a new Chief Executive Officer is appointed. An IT Officer has been appointed but on a half time basis for 12 months to assess the ongoing requirement. These savings equate to \$46,958.00 from Administration salaries and \$58,620.00 from Building Control salaries.
- The Shire was unsuccessful in securing a \$100,000.00 grant under the Regional Economic Development Grants Program – Round Three, which was budgeted as part of the Mount Barker Hill Infrastructure Project (Tower Hill boardwalk). The project expenditure and income will be adjusted accordingly.
- As previously mentioned, unexpended 2019/2020 Regional Road Group funding of \$136,128.00 for Spencer Road has been carried forward for continued works on Spencer Road. Additional funding from Main Roads will be \$90,752.00 with the balance of funding of \$45,376 from a reduction in the budget for Reseal Rural and Townsite Roads. This has a \$nil impact.
- At its meeting held on 8 September 2020, the Council resolved that:
 1. *'Works to replace the culvert running under the Frost Park racetrack and subsoil drainage infrastructure adjacent (as shown in Attachment Two) are to be completed prior to 30 September 2020.*
 2. *Unbudgeted expenditure to carry out the drainage work at Frost Park, as detailed above, at an estimated cost of \$45,000.00 (ex GST) be approved, with the funds to be allocated in the Council's first quarterly budget review.'*

A new budget item 'Drainage Race Track' has been included in this review. Work has now been carried out totalling approximately \$37,000.00, with this expenditure increase funded from other savings in this review.

-
- In regard to storm damage, there was more expenditure than envisaged on contractor work contracts. Additional claims have been submitted by Core Business and are under evaluation by DFES. Additional expenditure of \$434,481.00 has been included as well as the corresponding income.
 - The Department of Fire and Emergency Services has increased the LGGS allocation of operating grants for the 2020/2021 financial year. The Bush Fire Brigade allocation has increased by \$24,262.00 with a corresponding increase in expenditure recognised for Building Maintenance. The State Emergency Services allocation has increased by \$6,169.00 with a corresponding increase in expenditure recognised for Maintenance of Plant & Equipment. This has a \$nil impact.
 - An increase in expenditure for Library Employee Costs – Conferences & Training of \$2,000.00 is sought, being study fees for Diploma of Library and Information Services being undertaken by the Senior Library Officer.
 - An expected 2.1% increase in contract refuse collection and recycling costs was transposed incorrectly into the budget resulting in an under budget amount of approximately \$43,200.00. The additional expenditure can be found within savings in this review.
 - The Shire was successful in securing a Department of Primary Industries and Regional Development (DRIPD) grant for an Animal Welfare in Emergencies Grant for \$6,102.73. The aim of the grant application was to set up Frost Park as a large animal pound with water troughs, a temporary standpipe, extended water lines and taps. The grant income and expenditure is included in this review with a \$nil impact.
 - The 2020/2021 budget includes a sum of \$24,880.00 for an extension of the canteen at the Saleyards. At its meeting held on 8 September 2020, the Council was presented with a design proposal, however resolved that the item be referred back to the Saleyards Advisory Committee for further consideration.

At a recent on site discussion of the committee members, the consensus was that there is insufficient need from customers to proceed with the proposal as planned. The greater need was seen to be for a staff canteen, which is to form part of a small building addition to the south side. The administration could provide some better seating under the trees for the general public.

The committee has recommended that the sum of \$24,880.00 in Budget item 51802.0253 be reallocated to a new budget item for an Ablutions Block and Staff Canteen. This sum will need to be augmented with additional funds when the plans and costing have been further developed.

- As part of the 2020/2021 Community Grants process, the Council considered the Library to be better placed to provide a service in place of A Smart Start. The Library is seeking funds to continue with a similar style of program. An increase in the Library Programs budget of \$3,800.00 is sought with income sourced from the reduction in the Mount Barker Swimming Pool Professional Services budget. The remaining budget for professional services is more than sufficient for Stage 1A and will meet the requirements for Stage 1B of the Swimming Pool refurbishment project. This will result in a \$nil impact.
- Following the implementation of accounting standard AASB16 (Leases), leases previously recognised as operating expenditure are now accounted for as Right

of Use assets. Consequently the leases held for gymnasium equipment and photocopiers have now been capitalised. The 2020/2021 budget is adjusted to reflect the expenditure as depreciation and interest costs with a reduction to operating expenditure. The amendment to the budget is as follows and represents an overall increase in current expenditure of \$2,295.00:

21102.0312	Rec. Centre Other Expenses - Other Operating Costs	(\$20,000)	(\$11,715)	\$8,285
21214.0197	Rec. Centre Lease Gym Equipment interest expense	\$0	(\$76)	(\$76)
21105.0197	Depreciation Expense Rec. Centre Leased Gym Equipment	\$0	(\$8,285)	(\$8,285)
20048.0268	Administration Expenses - Office Equipment Maintenance	(\$15,000)	(\$5,280)	\$9,720
20214.0268	Library Expenses - Office Equipment Maintenance	(\$4,000)	(\$1,570)	\$2,430
20405.0197	Lease Photocopiers - interest expense	\$0	(\$416)	(\$416)
20051.0197	Depreciation Expense Leased photocopiers		(\$9,363)	(\$9,363)

The budget review has been prepared to include information required by the Local Government Act 1995, Local Government (Financial Management) Regulations 1996 and Australian Accounting Standards. The Council adopted a 10% and a \$5,000.00 minimum for the reporting of material variances to be used in the statements of financial activity and the annual budget review.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr B Bell:

That the budget review for the period 1 July 2020 to 30 September 2020 be adopted and the 2020/2021 Annual Budget be amended as follows:

Account	Description	Original / Amended Budget	New Budget	Net Cash Amount
10007.0212	Grants Commission Grant - Equalisation - Untied	\$435,450	\$430,980	(\$4,470)
10008.0211	Grants Commission Grant - Road Maintenance - Untied	\$455,802	\$404,602	(\$51,200)
10016.0229	Reimbursements - Other	\$50,000	\$80,000	\$30,000
20047.0130	Administration - Salaries	(\$1,356,701)	(\$1,309,743)	\$46,958
20245.0130	Building Control - Salaries	(\$136,045)	(\$77,425)	\$58,620
51840.0252	Mount Barker Hill Infrastructure	(\$555,000)	(\$455,000)	\$100,000
41221.0208	Direct Grants -Special Grants	\$800,000	\$700,000	(\$100,000)
51814.0250	Regional Road Group -Spencer Road - SLK 5.24 to 11.49	(\$252,070)	(\$388,198)	(\$136,128)
41201.0207	Direct Road Grants - State Road Project Grants	\$291,489	\$382,241	\$90,752
51741.0250	Reseal Rural and Townsite Roads	(\$88,000)	(\$42,624)	\$45,376
20225.0039	Road Maintenance - Storm Damage	(\$663,958)	(\$1,098,439)	(\$434,481)
10134.0200	Contributions - Other Contributions (Storm Damage)	\$1,542,650	\$1,977,131	\$434,481
51842.0251	Frost Park - Drainage Race Track	\$0	(\$37,000)	(\$37,000)
10515.0201	BFB -Grant Income - DFES Grant	\$140,980	\$165,242	\$24,262
20511.0010	BFB -Building & Grounds - Building Maintenance	(\$500)	(\$24,762)	(\$24,262)
10055.0089	SES -Grant Revenue - Operating Grant	\$10,130	\$16,299	\$6,169
20091.0278	SES - Other Expenses - Maintenance of Plant & Equipment	(\$2,662)	(\$8,831)	(\$6,169)
20213.0029	Employee Costs - Conferences & Training	(\$2,000)	(\$4,000)	(\$2,000)
20159.0334	Refuse Collection & Recycling	(\$226,797)	(\$270,000)	(\$43,203)
21102.0312	Rec. Centre Other Expenses - Other Operating Costs	(\$20,000)	(\$11,715)	\$8,285
21214.0197	Rec. Centre Lease Gym Equipment interest expense	\$0	(\$76)	(\$76)
21105.0197	Depreciation Expense Rec. Centre Leased Gym Equipment	\$0	(\$8,285)	(\$8,285)
20048.0268	Administration Expenses - Office Equipment Maintenance	(\$15,000)	(\$5,280)	\$9,720
20214.0268	Library Expenses - Office Equipment Maintenance	(\$4,000)	(\$1,570)	\$2,430
20405.0197	Lease Photocopiers - interest expense	\$0	(\$416)	(\$416)
20051.0197	Depreciation Expense Leased photocopiers	\$0	(\$9,363)	(\$9,363)
20086.0578	Animal Welfare in Emergencies Program	\$0	(\$6,103)	(\$6,103)
10051.0578	Grant Funding – Animal Welfare in Emergencies Program	\$0	\$6,103	\$6,103
51802.0253	Undercover area – Generator and Lunch Space	(\$24,880)	\$0	\$24,880
51843.0253	Ablutions Block and Staff Canteen	\$0	(\$24,880)	(\$24,880)
20215.0298	Other Expenses – Library Programs	(\$8,500)	(\$12,300)	(\$3,800)
20196.0030	Mount Barker Swimming Pool – Professional Services	(\$252,321)	(\$248,521)	\$3,800
	Totals	\$118,067	\$118,067	\$0

CARRIED (9/0)

NO. 277/20

Absolute Majority

9.3.2 FINANCIAL STATEMENTS – SEPTEMBER 2020

File Ref:	N53008
Attachment:	<u>Financial Statements</u>
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Alison Kendrick Senior Administration Officer - Finance
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 30 September 2020.

STATUTORY ENVIRONMENT

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

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

The Statement is to be accompanied by:

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr S Etherington, seconded Cr L Handasyde:

That the Financial Statements for the period ending 30 September 2020 be received.

CARRIED (9/0)

NO. 278/20

9.3.3 LIST OF ACCOUNTS – SEPTEMBER 2020

File Ref:	N52980
Attachment:	<u>List of Accounts – September 2020</u>
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Vanessa Hillman Accounts Officer
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of September 2020.

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 (19 May 2020). 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 L Handasyde, seconded Cr M O'Dea:

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 30 September 2020 be received and recorded in the minutes of the Council, the summary of which is as follows:

1. Electronic Payments and Direct Debits totalling \$944,930.78.
2. Municipal Cheques 46940 - 46960 totalling \$33,183.27.

CARRIED (9/0)

NO. 279/20

9.3.4 POLICY REVIEW - FINANCIAL MANAGEMENT - BORROWING PROGRAM AND ASSET FINANCING

File Ref:	N53116
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to review Council Policy F/FM/6 – Financial Management – Borrowing Program and Asset Financing.

BACKGROUND

The policy was last reviewed by the Council at its meeting held on 6 November 2018.

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

Regulation 50(1)(e) requires the annual financial report of a local government to include the debt service cover ratio for the financial year covered by the annual financial report and the two preceding financial years.

Western Australian Treasury Corporation Act 1986

In order to be satisfied that borrowings will not place stress on the Local Government, the Western Australian Treasury Corporation (WATC) requires financial information to be provided to the Corporation before approving any loans. Section 7.3 of the Master Lending Agreement between the Shire and the WATC requires that advances are *'subject to the condition that the Corporation's credit criteria in effect at the relevant time for such lending are met by the Borrower.'*

EXTERNAL CONSULTATION

Not applicable.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

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

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 4.6 (Effective and efficient corporate and administrative services) the following Strategy:

Strategy 4.6.1:

‘Provide a full range of financial services to support Shire’s operations and to meet planning, reporting and accountability requirements’

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

STRATEGIC RISK IMPLICATIONS

Not applicable.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The Debt Service Cover Ratio measures a local government’s ability to service debt out of its uncommitted or general purpose fund available for its operations. The higher the ratio, the greater the ability to cover the debt. It is calculated as follows:

$$\frac{\text{Annual operating surplus before interest and depreciation}}{\text{Principal and interest}}$$

The Net Debt Ratio illustrates a local government’s ability to cover its net debt with its revenue in any given year. The lower the percentage of the ratio, the greater the ability to cover the debt. It is calculated as follows:

$$\frac{\text{Gross debt less cash and cash equivalents}}{\text{Available operating revenue}}$$

As a guide, the WATC indicates that the Debt Service Cover Ratio should be a minimum of 3.0 and the Net Debt Ratio should be less than 50%. However, the WATC’s policy is not based purely on the ratios alone. Each loan application is assessed on a case by case basis using the required ratios as a starting point.

In considering the borrowing capacity, a number of factors influence the calculation of the ratios. These include the amount of the borrowings and the repayment structure of the loans (for example the term of the loan, short term or long term, interest only repayments or capital and interest repayments). Other items influencing a local government’s capacity include the total operating revenue and expenses, and these items are also taken into consideration by the WATC.

The Council’s position as at 30 June 2020 sits within these guidelines, with the Debt Service Cover Ratio being 3.37 and the Net Debt Ratio being -14%.

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

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Oldfield, seconded Cr K Woltering:

That Council Policy F/FM/6 as follows:

OBJECTIVE:

To recognise the degree to which borrowing is acceptable, determine in what circumstances borrowing should and should not be utilised, consider funding strategies for major assets and categories of services and satisfy the Western Australian Treasury Corporation that any new borrowings will not place financial stress on the Council.

POLICY:

1. Long-term borrowing will not be used to finance current operations or normal maintenance.
2. The Shire will strive to achieve a high reliance on pay-as-you-go financing for its capital improvements.
3. All debt issued, including by lease purchase methods, will be repaid within a period not to exceed the expected useful lives of the improvements financed by the debt.
4. The Council may consider borrowing proposals on their merits from time to time and give favourable consideration to borrowing money for the acquisition or construction of an asset under the following circumstances:
 - a) Where the asset to be acquired is a new addition to the Council's asset base and the project contributes to the achievement of an identified strategic objective; or
 - b) Where the asset replaces an existing asset and has a useful life of greater than 10 years; or
 - c) Where the asset is required urgently and unexpectedly or a significant community need for the asset has been identified; and
 - d) One of the following funding conditions exists:
 - i) The project will reduce operating costs to an extent sufficient to cover the cost of the project and generate further savings to the Shire;
 - ii) The borrowing cost could be supported by additional revenue over the effective life of the project;
 - iii) All alternative options for undertaking the project without borrowing have been investigated and proven less advantageous to the Council;
 - iv) The income stream from the asset to be acquired or constructed exceeds the cost of borrowing over the life of that asset;

- v) Repayments will be met by a third party such as self supporting loans and the financial stability of that party meets the criteria as set out in the Self Supporting Loans Policy;
 - vi) To save for the acquisition or construction will result in the actual cost being greater than the cost of borrowing the money and acquiring it today; or
 - vii) To delay a project would jeopardise it due to grant funding restrictions or opportunities.
5. Where surplus funds are available, the decision to repay or reduce borrowings should be made based on the facts available at the time giving due regard to minimising the overall cost to the Council.
6. The Council will, with regard to setting its annual budget and making decisions on borrowings from external agencies, aim to maintain the following financial ratios within the limits stated:
- a) Debt Service Cover Ratio – More than 3.0
This ratio means:
Annual operating surplus before interest and depreciation
Principal and interest
 - b) Net Debt Ratio – Less than 50%
This ratio means:
Gross debt less cash and cash equivalents
Available operating revenue'

be endorsed.

CARRIED (9/0)

NO. 280/20

9.4 EXECUTIVE SERVICES REPORTS

9.4.1 ACTING CEO REPORT ON KEY PERFORMANCE INDICATOR 3

File Ref:	N53134
Attachment:	<u>Report – Plant and Equipment</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Paul Sheedy Acting Chief Executive Officer
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to comply with KPI 3 as requested by the Council in the Acting CEO contract of engagement, which was to provide a report to the Council by October 2020 in regards to:

‘Review the plant and equipment in both road maintenance or construction and parks and gardens areas.’

BACKGROUND

The Council at its meeting held on 19 May 2020 resolved:

‘That:

- 1. Mr Paul Sheedy be offered a contract as Acting Chief Executive Officer for a period of six months, with the option to extend for a further three months, under the terms and conditions as set out in that employment contract.*
- 2. The Shire President be authorised to execute the employment contract on behalf of the Council.’*

As part of the terms and conditions of the contract, set out in Schedule 2 – ‘Key Performance Indicators’ the Council indicated that it *‘has engaged a temporary Chief Executive Officer (CEO) to perform a function prior to the engagement of a permanent CEO’* and indicated that:

‘The prime function is to determine the place Plantagenet may fit into the local government role heading into 2030 and to look at the strengths and weaknesses of the organisation and make recommendations in areas of both personnel and hard assets.’

The Council has set four Key Performance Indicators (KPI’s), with a further one to be completed if the appointment is extended past the six month initial engagement period and requested a report be submitted to Council on each one by a predetermined date. The third KPI is as follows:

‘Review the plant and equipment in both road maintenance or construction and parks and gardens areas.’

The key task requested by Council in regards to this KPI is to:

'Look into the plant and equipment both road maintenance or construction and parks and gardens areas.'

The Council has also requested that the report respond to the following:

'Are we effective in our current format or are there advantages by taking a holistic view with our neighbouring Local Governments? The Acting CEO will be required to communicate with peers to gauge the appetite for a regional approach to such assets.'

STATUTORY ENVIRONMENT

There are no statutory implications relevant to this report.

EXTERNAL CONSULTATION

As requested in the KPI, consultation has been undertaken with a number of local governments CEO's both north and south of the Shire of Plantagenet.

FINANCIAL IMPLICATIONS

There are no financial implications relevant to this report.

BUDGET IMPLICATIONS

There are no budget implications relevant to this report.

POLICY IMPLICATIONS

Policy I/PM/1 'Plant – General Policy' is relevant to this report.

LEGAL IMPLICATIONS

There are no legal implications relevant to this report.

ASSET MANAGEMENT IMPLICATIONS

There are no current asset management implications relevant to this report but future decisions on plant would have asset management implications.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at: Outcome 4.6 (Effective and efficient corporate and administrative services) the following Strategy:

Strategy 4.6.4

'Provide support services for works and plant operations'

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

REGIONAL IMPLICATIONS

The potential to explore the opportunities to share plant and equipment resources with other regional local governments would have a regional implication if progressed.

OFFICER COMMENT

Given that the local government is primarily undertaking a service provider role, whereby the community has an expectation that service (maintenance requests) will be dealt with fairly quickly, the unfortunate reality of meeting this expectation will be that the organisation will have some underutilised plant to allow them to respond accordingly. The alternative, should it be available, is to source the plant/equipment via a local or regional contractor.

A number of local governments in recent times have proceeded down a path of a combination of both in-house and contractor, where some road construction works are tendered out whilst others are retained in-house. This allows a greater degree of flexibility to accept tenders when they are favourable to the organisation (cost is less than what the organisation can undertake the works), but then allows the organisation to complete the works when interest is low. It also reduces the likelihood of tenderers increasing their tender on the basis that they are aware that the organisation no longer has the in-house capability to undertake the works.

Ownership and utilisation of plant is something that requires an ongoing review, especially in regards to the availability locally of specialised plant or plant items that have low annual usage by the organisation, to ensure that the most efficient and cost effective option is taken advantage of at all times.

Finally, the Council will have an ongoing involvement in the availability of Plant for Shire operations through the annual review of the plant via the Heavy Plant Review Committee of the Council.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M O'Dea, seconded Cr B Bell:

That the Report on Key Performance Indicator 3 'Review Plant and Equipment in Road Maintenance or Construction and Parks and Gardens Areas' as provided by the Acting Chief Executive Officer, be received and noted.

CARRIED (9/0)

NO. 281/20

9.4.2 MOUNT BARKER TOURIST BUREAU – FINANCIAL SUPPORT

File Ref:	N53133
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Paul Sheedy Acting Chief Executive Officer
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is for the Council to consider a request from the newly formed Mount Barker Tourist Bureau Inc. for a contribution to meet the Mount Barker Visitor Centre Coordinator's weekly salary and building utility and maintenance costs from 1 December 2020 to 30 June 2021.

BACKGROUND

The Council at its meeting held on 11 August 2020 resolved:

'That:

- 1. The Shire of Plantagenet agrees to compensate the lessee of the Mount Barker Visitor Centre for the salary and on-costs of the Mount Barker Visitor Centre Coordinator for the term of the current lease, up to a maximum cost of \$450.00 per week, paid monthly in advance, backdated to 1 July 2020.*
- 2. The Shire of Plantagenet agrees to compensate the lessee of the Mount Barker Visitor Centre for the term of the current lease, the costs of utilities and building maintenance for the Mount Barker Visitor Centre, backdated to 1 July 2020.*
- 3. Parts 1 and 2 of this motion will only be triggered following a Special Meeting of Amazing South Coast Events to be held on 31 August 2020.*
- 4. If for any reason the Mount Barker Visitor Centre was to close and no longer be operating, the funding agreed to in parts 1 and 2 of this motion would cease.'*

STATUTORY ENVIRONMENT

There are no statutory implications relevant to this report.

EXTERNAL CONSULTATION

There has been consultation between the Acting CEO and Chairperson of the newly formed Mount Barker Tourist Bureau Inc. Board to progress this matter.

FINANCIAL IMPLICATIONS

It is estimated the cost to the 30 June 2021 will be \$13,950.00 for the Coordinator, plus the utilities and maintenance costs of the Visitor Centre, which is in addition to the estimated \$9,450.00 for the period 1 July to 30 November 2020 previously agreed to by the Council.

BUDGET IMPLICATIONS

The 2020/21 Budget under 'Tourism, Area Promotion & Economic Development – District & Area Promotion (Account 21311.0370) has an allocation of \$15,000.00 for the Mount Barker Visitors Centre. There is sufficient other funds within the account to cover the additional \$8,400.00 plus utility costs associated with this request.

POLICY IMPLICATIONS

The Council's Tourism Policy CE/ED/1 applies. The objectives of that policy are:

'The Council will in relation to tourism in the Shire of Plantagenet:

- a) Recognise tourism as a social and economic force and as a major or potential major employer within the diverse economy of the Shire of Plantagenet and the Great Southern.*
- b) Foster and create community awareness of the benefits of tourism within the Plantagenet district.*
- c) Guide and influence the development of tourism in the Plantagenet district and on a regional level.*
- d) Provide the infrastructure sufficient to encourage development.*
- e) Ensure that facilities within the Plantagenet area are adequate to cater for visitors.'*

LEGAL IMPLICATIONS

There are no legal implications associated with this report.

ASSET MANAGEMENT IMPLICATIONS

The building which is the subject of the proposal is listed on the Council's Asset Register and Heritage Inventory (LGA Place No. 33).

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 3.4 (A strong tourism Region) and is underpinned by the four strategies listed hereunder:

Strategy 3.4.1:

'Promote and support local and regional tourism initiatives'

Strategy 3.4.2:

'Provide infrastructure and services to support tourism'

Strategy 3.4.3:

'With the Lower Great Southern Alliance to develop a Regional Economic and Tourism Strategy and Destination Marketing Strategy'

Strategy 3.4.4:

'Work with the Lower Great Southern Alliance in promoting sustainable tourism investment within the region'

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

STRATEGIC RISK IMPLICATIONS

There is minimal risk to the Shire as the Bureau is invoicing on a monthly basis.

REGIONAL IMPLICATIONS

The operation and availability of the Visitor Centre is seen as a critical part of attracting tourists to the region, which in turn will benefit local businesses and the economy.

OFFICER COMMENT

The Bureau Chairperson has been advised that any further funding requests beyond 30 June 2021 would need to be made as part of the annual Community Financial Assistance grants.

With the current lease expiring on 30 November 2020, the Tourist Bureau has indicated in writing their request for the 'Extended Term' clause in the lease to be activated, which will result in the lease being extended to the 30 November 2025.

There is no requirement for a formal Council decision at this time, on this matter, as clause 'OPTION OF RENEWAL' indicates that providing the sublessee gives written notice not less than two months prior to the expiration date of the term and during the lease term there has not been breach or non-observance or non-performance by the sublessee, then the sublessor shall grant the extension of the term.

An agenda item will be brought back to the Council for the authorisation to affix the common Seal of the Shire to the extended term document.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M O'Dea, seconded Cr L Handasyde:

That the Council:

- 1. Agrees to compensate the lessee of the Mount Barker Visitor Centre for the salary and on-costs of the Mount Barker Visitor Centre Coordinator up to a maximum cost of \$450.00 per week, paid monthly in advance, up to 30 June 2021.**
- 2. Agrees to compensate the lessee of the Mount Barker Visitor Centre the costs of utilities and building maintenance for the Mount Barker Visitor Centre, up to 30 June 2021.**
- 3. Advises the Mount Barker Tourist Bureau Inc. that if for any reason the Mount Barker Visitor Centre was to close and is no longer operating, the funding agreed to in parts 1 and 2 of this motion would cease.**

CARRIED (9/0)

NO. 282/20

9.4.3 POLICY REVIEW - CE/ED/1 - TOURISM

File Ref:	N52971
Attachment:	<u>Tourism Policy with amendments</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Nolene Wake Executive Officer
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to review Council Policy CE/ED/1 Tourism.

BACKGROUND

This Policy was last reviewed on 6 November 2018.

The Council at its meeting held on 8 September 2020 resolved:

‘That the policy be referred back to a workshop to be held on 6 October 2020 for further consideration.’

The Reason for Change stated that the policy as it stands promotes unrealistic expectations in the tourism industry.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

EXTERNAL CONSULTATION

Regular meetings are held with the South Coast Alliance Inc (SCA), the Southern Link VROC and Great Southern Treasures (GST) to progress Regional Economic Development and Tourism.

Regular communication is also maintained with the Amazing South Coast Tourism Inc. and the Great Southern Centre for Outdoor Recreation Excellence Ltd (GSCORE).

FINANCIAL IMPLICATIONS

There are number of financial implications in implementing the policy. The overall operating expenditure for Tourism, Area Promotion and Economic Development alone is in excess of \$400,000.00.

POLICY IMPLICATIONS

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

ASSET MANAGEMENT IMPLICATIONS

The Shire of Plantagenet provides office space to the Mount Barker Visitor Centre for ‘visitor servicing’ without rental charges.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 3.4 (Strong tourism region) the following Strategy:

Strategy 3.4.1:

'Promote and support local and regional tourism initiatives.'

and

Strategy 3.4.2:

'Provide infrastructure and services to support tourism.'

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

REGIONAL IMPLICATIONS

There is a recognised need that councils needed to collaborate with each other on matters that have regional implications.

OFFICER COMMENT

Following a Council workshop held on 6 October 2020, amendments as noted have been made in line with Council recommendations.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M O'Dea, seconded Cr K Woltering:

That amended Council Policy CE/ED/1 Tourism as detailed below:

OBJECTIVE

The Council will in relation to tourism in the Shire of Plantagenet:

- a) Recognise tourism as a social and economic force within the diverse economy of the Shire of Plantagenet and the Great Southern.
- b) Foster and create community awareness of the benefits of tourism within the Plantagenet district.
- c) Assist the development of tourism in the Plantagenet district and on a regional level.
- d) Provide the infrastructure sufficient to encourage development.
- e) Ensure that facilities within the Plantagenet area are adequate to cater for visitors.

POLICY

To achieve these objectives the Council will:

1. Recognise the importance of working with our Regional Affiliations as a means to further develop tourism as an economic driver.
2. Assist to foster and create a community awareness of the role and value of tourism within the Great Southern.
3. Assist with the provision of facilities to encourage destination and day trip visitors including infrastructure provision, land use planning, traffic management, environmental protection, recreation and leisure planning.
4. Encourage tourist organisations or events which have the potential to develop tourism in the Plantagenet region.
5. Provide a budget allocation for tourism expenditure (District and Area Promotion).
6. In the formulation and review of its planning instruments, take into consideration policies on tourism and other leisure related issues, and requirements of tourism development.
7. Ensure the welfare of the community when supporting tourism development and the provision of facilities.'

be endorsed.

CARRIED (9/0)

NO.283/20

9.4.4 TELECOMMUNICATIONS SURVEY

File Ref:	N53136
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Paul Sheedy Acting Chief Executive Officer
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to respond to the Notice of Motion moved by Councillor Bell at the 6 October 2020 Council meeting and to provide a suggested survey process and questions to be included in the survey.

BACKGROUND

The Council at its meeting held on 6 October 2020 considered the following Notice of Motion:

'That:

- 1. The Council undertake a survey across the entire Shire to ascertain the true level of services provided by mobile telecommunication providers.*
- 2. This survey is done by using our website and that a cross-section of ratepayers be directly contacted by phone to complete the survey.*
- 3. The survey is targeted at signal strength, frequency of dropouts and black spots within our Shire.*
- 4. The results of the survey are passed onto both our state and federal members of Parliament.*
- 5. The results of the survey, if deemed to be sub-standard, be forwarded onto the Regional Manager of Telstra, Mr Boyd Brown and the CEO of Telstra, Mr Andy Penn.'*

The Council then resolved (minute 267/20):

'That the motion be adjourned to allow the CEO to prepare an appropriate report, such report to be presented on or before the Ordinary Council Meeting to be held on 3 November 2020.'

The following information has been taken from the 'Australian Infrastructure Audit 2019' Report released by Infrastructure Australia.

'Digital disadvantage remains a challenge for certain groups within the community. For those in areas with good access, the challenge is how to increase digital literacy and to make telecommunications access more affordable. In rural and remote settings, the cost of providing telecommunications infrastructure increases and the returns reduce as population densities decline. This limits the scope for universal coverage by commercially-focused private sector operators, without government intervention. Consumers are generally positive about the quality of their

telecommunications services, although rural and remote Australians are less positive about their experience. Consumers also view telecommunication services as costly and are concerned about paying more.'

Australia ranks 57th globally for fixed broadband speeds in June 2019.

Australia ranks 4th on mobile broadband speeds in June 2019.

STATUTORY ENVIRONMENT

Telecommunications Act 1997.

EXTERNAL CONSULTATION

No external communication has been undertaken at this time but the proposal is to under a survey via the Shire website with promotion in the Plantagenet News and hardcopy of the survey also available at key locations.

FINANCIAL IMPLICATIONS

Should the Council endorse the website survey and suggested questions there will be no additional cost other than employee time. However, if the number of questions in the survey exceeds ten (10) an annual subscription fee of \$384 will have to be paid.

BUDGET IMPLICATIONS

If an annual subscription fee is incurred it can be covered within the existing 2020/21 adopted budget in Program 4 Administration – 'Other Expenses –Subscriptions' with a slight over-expenditure compared to the budget allocation.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

LEGAL IMPLICATIONS

Undertaking the survey does not have any legal implications as the identity of those completing the survey is not requested.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications relevant to this report as no assets will be created.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 3.5 (Appropriate infrastructure that supports sustainable economic development) the following Strategy:

Strategy 3.5.3:

'Advocate for improved telecommunications infrastructure in the region'

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan.

STRATEGIC RISK IMPLICATIONS

Given that the proposal is to only undertake a community survey and then pass this information onto Telstra the risk implications are very low.

REGIONAL IMPLICATIONS

The Southern Link VROC Strategic Directions 2015-2020 under '*Regional Economic Development*' under Strategy 3 '*Improve the provision and maintenance of infrastructure*' the following action:

'Build support for additional communication infrastructure and towers in the sub region.'

OFFICER COMMENT

As indicated in the financial implications above Survey Monkey is a free service for up to ten (10) questions, with more than ten (10) requiring an annual subscription fee of \$384.00.

It's proposed to undertake the survey via the Shire website with promotion being provided on the Shire Facebook page and the Plantagenet News, encouraging community members to go to the website to complete the survey. In addition, hard copies of the survey will be provided at the Shire Administration Reception and Mount Barker Library.

The direct contact by telephone by employees is not supported as this type of contact would normally be undertaken after hours which would incur additional employee overtime costs and it's considered that cold call telephone contacts are generally not well received by most community members resulting in a poor return.

It's suggested that the number of questions be limited to seven (7) with the questions requiring a response by the community member being;

1. Community member location
2. Current Service Provider
3. Signal Strength
4. Drop out frequency
5. Using a signal repeater/Network repeater? Y/N
6. Reception better/worse in certain location in house/property?
7. Has the issue been reported to the Service Provider? Y/N Was it resolved?

It is also suggested that the results of the survey, if deemed to be sub-standard, be provided to the Southern Coast Alliance for their information.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr K Woltering:

That the Council:

1. Undertake a survey on the Shire website using 'Survey Monkey' requesting responses to seven questions as follows:
 - a) Community member location
 - b) Current Service Provider
 - c) Signal Strength
 - d) Drop out frequency
 - e) Using a signal repeater/Network repeater? Y/N
 - f) Reception better/worse in certain location in house/property?
 - g) Has the issue been reported to the Service Provider? Y/N Was it resolved?
2. Promote the survey on the Shire Facebook page and Plantagenet News with hard copy surveys being made available at the Shire Reception and Mount Barker Library.
3. Forward the results of the survey to the local Members of Parliament in Rick Wilson and Hon Terry Redman MLA.
4. Forward the results of the survey, if deemed to be sub-standard, to the Regional Manager of Telstra, Mr Boyd Brown, the CEO of Telstra, Mr Andy Penn and the Executive Officer South Coast Alliance.

CARRIED (9/0)

NO. 284/20

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 RESCIND RESOLUTION NO. 264/20 MOVED AT THE ORDINARY MEETING OF THE COUNCIL HELD ON 6 OCTOBER 2020

Cr L Handasyde with the support of Crs B Bell and J Moir gave notice of his intention to move the following motion at the next Ordinary Meeting of the Council pursuant to Clause 5.3 of Standing Orders:

‘That Resolution No. 264/20 moved at the Ordinary Meeting of the Council held on 6 October 2020 be rescinded and replaced with a new motion that retains points 1 and 3 and with a new point 2 as follows:

- 1. All ordinary meetings of the Council shall commence at 3.00pm and be held in the Council Chambers, Lowood Road Mount Barker.’**

The Council Decision would read:

That:

- The ordinary meetings of the Council for January to December 2021 inclusive be held on the fourth Tuesday of each month as follows:*
 - Wednesday 27 January 2021*
 - Tuesday 23 February 2021*
 - Tuesday 23 March 2021*
 - Tuesday 27 April 2021*
 - Tuesday 25 May 2021*
 - Tuesday 22 June 2021*
 - Tuesday 27 July 2021*
 - Tuesday 24 August 2021*
 - Tuesday 28 September 2021*
 - Tuesday 26 October 2021*
 - Tuesday 23 November 2021*
 - Tuesday 14 December 2021*
- All ordinary meetings of the Council shall commence at 3.00pm and be held in the Council Chambers, Lowood Road Mount Barker.*
- All meeting dates and times be advertised pursuant to Regulation 12 of the Local Government (Administration) Regulations 1996.*

COUNCILLOR COMMENT

Since the meeting of the Council held on 13 October 2020, there has been some discussion among Councillors in relation to this matter and it would appear that there are at least five Councillors who would vote to have this motion rescinded.

COMMENT FROM CEO

The Local Government (Administration) Regulations 1996 S10 provides:

Revoking or changing decisions (Act s. 5.25(1)(e))

- (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —
 - (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or
 - (b) in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (1a) Notice of a motion to revoke or change a decision referred to in sub regulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —
 - (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
 - (b) in any other case, by an absolute majority.
- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

[Regulation 10 amended: Gazette 31 Mar 2005 p. 1030.]

Three Councillors have formally signed the notice of intention to seek to revoke previous Council decision 264/20 passed at the meeting on 6 October 2020. The first order of business with this matter would therefore be discussion and voting on the rescission motion and then if the rescission motion is endorsed, a new motion to endorse the Council meeting dates and time for 2021, as detailed below.

VOTING REQUIREMENTS

Simple Majority

COUNCIL MOTION

Moved Cr L Handasyde, seconded Cr B Bell:

That Resolution No. 264/20 moved at the Ordinary Meeting of the Council held on 6 October 2020:

That:

1. The ordinary meetings of the Council for January to December 2021 inclusive be held on the fourth Tuesday of each month as follows:
 - a) Wednesday 27 January 2021
 - b) Tuesday 23 February 2021
 - c) Tuesday 23 March 2021
 - d) Tuesday 27 April 2021
 - e) Tuesday 25 May 2021
 - f) Tuesday 22 June 2021
 - g) Tuesday 27 July 2021
 - h) Tuesday 24 August 2021
 - i) Tuesday 28 September 2021
 - j) Tuesday 26 October 2021
 - k) Tuesday 23 November 2021
 - l) Tuesday 14 December 2021
2. All ordinary meetings of the Council shall commence at 6.00pm and be held in the Council Chambers, Lowood Road Mount Barker.
3. All meeting dates and times be advertised pursuant to Regulation 12 of the Local Government (Administration) Regulations 1996.

be rescinded.

MOTION TO ADJOURN THE DEBATE

Moved Cr J Oldfield, seconded Cr K Woltering:

That:

1. The debate be adjourned to enable a Community Survey to be undertaken.
2. Following evaluation of the Community Survey results, the CEO is to prepare a report to be included in the Council agenda for the meeting to be held on 1 December 2020.

CARRIED (6/3)

NO. 285/20

Crs Bell, Handasyde and Moir voted against the motion

COUNCIL MOTION

That:

1. The ordinary meetings of the Council for January to December 2021 inclusive be held on the fourth Tuesday of each month as follows:
 - a) Wednesday 27 January 2021
 - b) Tuesday 23 February 2021
 - c) Tuesday 23 March 2021
 - d) Tuesday 27 April 2021
 - e) Tuesday 25 May 2021
 - f) Tuesday 22 June 2021
 - g) Tuesday 27 July 2021
 - h) Tuesday 24 August 2021
 - i) Tuesday 28 September 2021
 - j) Tuesday 26 October 2021
 - k) Tuesday 23 November 2021
 - l) Tuesday 14 December 2021
2. All ordinary meetings of the Council shall commence at 3.00pm and be held in the Council Chambers, Lowood Road Mount Barker.
3. All meeting dates and times be advertised pursuant to Regulation 12 of the Local Government (Administration) Regulations 1996.

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

Nil

12 CONFIDENTIAL

12.1 EXECUTIVE SERVICES REPORT

12.1.1 ACTING CEO REPORT ON KEY PERFORMANCE INDICATOR 2

File Ref:	N53131
Attachment:	<u>KPI 2 - Confidential Report</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Paul Sheedy Acting Chief Executive Officer
Proposed Meeting Date:	3 November 2020

PURPOSE

The purpose of this report is to comply with KPI 2 as requested by the Council in the Acting CEO contract of engagement, which was to provide a report to the Council by the October 2020 in regards to:

'Review the people both internal and external in the organisation, their tasks, skill levels, work culture and effectiveness in service delivery.'

5:40pm The meeting closed to the public and all staff members left the room with the exception of the Acting CEO.

MOTION TO PROCEED BEHIND CLOSED DOORS

Moved Cr B Bell, seconded Cr M O'Dea:

5:40pm That is accordance with Section 5.23 (2) of the Local Government Act 1995 the meeting is closed to members of the public with the following aspect(s) of the Act being applicable to this matter:

- (a) a matter affecting an employee or employees, and**
- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed**

CARRIED (9/0)

NO. 286/20

MOTION TO SUSPEND STANDING ORDERS

Moved Cr K Clements, seconded Cr M O'Dea:

That those sections of Standing Orders that would prevent a Councillor from speaking more than once to an item be suspended.

CARRIED (9/0)

NO. 287/20

MOTION TO RESUME STANDING ORDERS

Moved Cr K Clements, seconded Cr B Bell:

That Standing Orders be resumed.

CARRIED (9/0)

NO. 288/20

MOTION TO PROCEED IN PUBLIC

Moved Cr B Bell, seconded Cr K Clements:

5:56pm That the meeting proceed in public.

CARRIED (9/0)

NO. 289/20

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr K Clements, seconded Cr M O’Dea:

That the Confidential Report on Key Performance Indicator 2 ‘Review the People both Internal and External in the Organisation’ as provided by the Acting Chief Executive Officer be received and noted.

CARRIED (9/0)

NO. 290/20

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

Nil

14 CONFIDENTIAL

Nil

15 CLOSURE OF MEETING

5:57pm The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON _____ DATE: ____/____/____