



ORDINARY MINUTES

DATE: Tuesday, 1 December 2020

TIME: 3:00pm

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

Paul Sheedy
ACTING CHIEF EXECUTIVE OFFICER

Resolution numbers: 297/20 to 335/20

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS.....	1
2	RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)	1
3	PUBLIC QUESTION TIME	2
3.1	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	2
3.2	PUBLIC QUESTION TIME - SECTION 5.24 LOCAL GOVERNMENT ACT 1995.....	2
4	PETITIONS / DEPUTATIONS / PRESENTATIONS.....	2
4.1	PRESENTATION – ITEM 9.4.2 - MS KIRSTEN BEIDATSCH – MOUNT BARKER STATE EMERGENCY SERVICES (MBSES) ...	2
4.2	PRESENTATION – ITEM 9.1.1 – MR ALEXI CHRISTIDIS - LOT 306 TOWER ROAD, MOUNT BARKER – WINERY.....	2
4.3	PRESENTATION – MR MIKE THORN – PORONGURUP PROMOTIONS ASSOCIATION	2
4.4	PRESENTATION – MR MIKE THORN – CHAIR - TOURISM REFERENCE GROUP (TRG)	3
4.5	PRESENTATION – MS SHIRLEY SMITH, MOUNT BARKER CARAVAN PARK – FREE RV SITE	3
5	DISCLOSURE OF INTEREST	3
6	APPLICATIONS FOR LEAVE OF ABSENCE	4
7	CONFIRMATION OF MINUTES.....	4
8	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	4
9	REPORTS OF COMMITTEES AND OFFICERS.....	5
9.1	STRATEGIC DEVELOPMENT REPORTS	5
9.1.1	LOT 306 TOWER ROAD, MOUNT BARKER - WINERY	5
9.1.2	LOTS 1, 2 AND 3 LANGTON ROAD, MOUNT BARKER – CONSULTING ROOMS.....	17

9.1.3	RECREATION ADVISORY COMMITTEE - ENDORSEMENT OF RECOMMENDATION – TRAILS DEVELOPMENT BUDGET .	21
9.1.4	RECREATION ADVISORY COMMITTEE - ENDORSEMENT OF RECOMMENDATION – YOUTH PRECINCT CONCEPT PLAN	24
9.2	WORKS AND SERVICES REPORTS.....	27
9.2.1	MOUNT BARKER MARKET FAIR – REQUEST FOR SUPPORT.	27
9.3	CORPORATE SERVICES REPORTS	31
9.3.1	ANNUAL REPORT - YEAR ENDING 30 JUNE 2020	31
9.3.2	AUDIT REPORT - YEAR ENDING 30 JUNE 2020	35
9.3.3	FINANCIAL STATEMENTS – OCTOBER 2020	39
9.3.4	LIST OF ACCOUNTS – OCTOBER 2020	41
9.3.5	MOUNT BARKER GOLF CLUB INC – SELF SUPPORTING LOAN.....	43
9.3.6	POLICY REVIEW - PURCHASING AND TENDERING.....	48
9.3.7	POLICY REVIEW - REGIONAL PRICE PREFERENCE	54
9.3.8	POLICY REVIEW - PUBLIC ELECTRONIC NOTICE BOARD MESSAGES	60
9.4	EXECUTIVE SERVICES REPORTS.....	63
9.4.1	COUNCIL MEETINGS SCHEDULE 2021	63
9.4.2	MOUNT BARKER STATE EMERGENCY SERVICES – REQUEST FOR VEHICLE	68
9.4.3	PLANTAGENET HISTORICAL SOCIETY – WATER USE AT OLD POLICE STATION MUSEUM COMPLEX	73
9.4.4	RENEWAL OF SUBLEASE – MOUNT BARKER TOURIST BUREAU INC.	77
9.4.5	SUBDIVISION – LOT 337 MARTIN STREET MOUNT BARKER ..	80
9.4.6	ACTING CEO REPORT ON KEY PERFORMANCE INDICATOR 1.....	86
10	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	89
10.1	LETTER OF CONDOLENCE.....	89

**11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY
DECISION OF THE MEETING..... 89**

11.1 LOCAL ROADS AND COMMUNITY INFRASTRUCTURE
PROGRAM - EXTENSION 91

11.2 PLANTAGENET PROMOTION OPPORTUNITY 95

11.3 TENDER CO1-2021 - PROFILING AND STABILISATION
SERVICES (CONFIDENTIAL)..... 97

11.4 CEO APPOINTMENT (CONFIDENTIAL) 98

12 CLOSURE OF MEETING..... 99

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
Cr L Handasyde	Councillor
Cr J Moir	Councillor
Cr M O'Dea	Councillor (left the meeting at 3.20pm, returned at 3.25pm)
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 seven members of the public present.

Previously Approved Leave of Absence:

Nil

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 - MS KIRSTEN BEIDATSCH – MOUNT BARKER STATE EMERGENCY SERVICES (MBSES)

Ms Beidatsch, Manager MBSES, supported by Mr Jeremiah Peters, Deputy Manager MBSES, addressed the Council in support of the MBSES request to loan the current Community Emergency Services Manager's vehicle – planned to be traded in 2020/21.

4.2 PRESENTATION – ITEM 9.1.1 – MR ALEXI CHRISTIDIS - LOT 306 TOWER ROAD, MOUNT BARKER – WINERY.

Mr Christidis, Chalari Wines, addressed the Council regarding Lot 306 Tower Road, Mount Barker – Winery.

4.3 PRESENTATION – MR MIKE THORN – PORONGURUP PROMOTIONS ASSOCIATION

Mr Thorn addressed the Council on the promotional opportunity for Plantagenet with the cinema release of the film 'Rams' (attached).

4.4 PRESENTATION – MR MIKE THORN – CHAIR - TOURISM REFERENCE GROUP (TRG)

Mr Thorn addressed the Council in relation to consideration of postponement of the Albany Highway Beautification Plan.

4.5 PRESENTATION – MS SHIRLEY SMITH, MOUNT BARKER CARAVAN PARK – FREE RV SITE

Mrs Smith addressed the Council to request support to close permanently or move the free RV Site in Mount Barker (attached).

3.20pm Cr M O'Dea left the meeting.

5 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995.

Cr L Handasyde

Item: 9.1.1

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

Mr Paul Sheedy

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: Impartiality attend the local Catholic Church

Extent: N/A

Cr K Clements

Item: 9.4.3

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

Nature: Chair of the Plantagenet Historical Society

Extent: N/A

Cr M O'Dea

Item: 9.4.4

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

Nature: Coordinator of the Wine show of WA and lease space from the Mount Barker Visitor Centre

Extent: N/A

3.25pm Cr M O'Dea returned to the meeting.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

Nil

7 CONFIRMATION OF MINUTES

Moved Cr L Handasyde, seconded Cr B Bell:

That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 3 November 2020 as circulated, be taken as read and adopted as a correct record.

CARRIED (9/0)

NO. 297/20

Moved Cr L Handasyde, seconded Cr K Woltering:

That the Minutes of the Special Meeting of the Shire of Plantagenet, held on 24 November 2020 as circulated, be taken as read and adopted as a correct record.

CARRIED (9/0)

NO. 298//20

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Shire President extended his thanks to all Councillors, staff and community, along with his best wishes for a Merry Christmas and Happy New Year.

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 STRATEGIC DEVELOPMENT REPORTS

9.1.1 LOT 306 TOWER ROAD, MOUNT BARKER - WINERY

Cr L Handasyde

Item: 9.1.1

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: N53396

Attachment: [Location Plan](#)
[Context Plan](#)
[Site Plan](#)
[Ground Floor Plan](#)
[Mezzanine Floor Plan](#)
[Operational Management Plan](#)

Responsible Officer: Paul Sheedy
Acting Chief Executive Officer

Author: Vincent Jenkins
Principal Planning Officer

Proposed Meeting Date: 1 December 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 at 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 was restricted to a maximum 20m² floor area.

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 an Application for Development Approval (DA) form and 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.

The Council at its meeting held on 3 November 2020 resolved at Resolution No. 270/20:

'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.'*

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 1.8 of TPS3 state:

'INTERPRETATION

1.8.1 Except as provided in Clause 1.8.2 & 1.8.3, the words and expressions of the Scheme have their normal and common meaning.

1.8.2 In the Scheme, unless the context otherwise requires, or unless it is otherwise provided herein, words and expressions have the respective meanings given to them in Schedule No. 1 and the Residential Planning Codes.'

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.

Clauses 5.2 of TPS3 state:

'DISCRETION TO MODIFY DEVELOPMENT STANDARDS

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

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

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 Whiley 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 the 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.

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. At the time of preparing this report, the Council is yet to receive an invoice from Kott Gunning Lawyers for legal services rendered.

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.

The original Officer Recommendation contained in Item 9.1.2 of the 3 November 2020 Council meeting included the following 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'.

On 10 November 2020, the Council sought legal advice from Kott Gunning Lawyers concerning the Council's ability to grant development approval for the micro-winery at Lot 306 Tower Road.

The legal advice provided by Kott Gunning Lawyers confirms that the Principal Planning Officer's assessment that the proposed 'micro-winery' does not constitute an 'incidental use' or 'use not listed' (non-defined) is correct.

The legal advice revealed that it is open either to the Council to resolve its approval for a non-compliant development proposal pursuant to TPS3 clause 5.2 and approve the development unconditionally or subject to conditions. However, the Council needs to be satisfied that the proposed development is consistent with the orderly and proper planning of the location, the preservation of amenity, and non-compliance will not have an adverse effect on the locality.

As a result, the Council may consider granting development approval for the micro-winery at Lot 306 Tower Road in the following manner:

That:

1. As the Council is satisfied that the micro-winery is consistent with the orderly and proper planning of the location, the preservation of amenity, and non-compliance will have no adverse effect on the locality.
2. The Council, in accordance with clause 5.2 of the Shire of Plantagenet Town Planning Scheme No. 3 and Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, grant Development Approval for a micro-winery at Lot 306 Tower Road, Mount Barker.
3. Approval be subject to:
 - a) Development being in accordance with the plans dated 23 September 2020.
 - b) Development being in accordance with the Operational Management Plan dated 23 September 2020.
 - c) Provision of bin storage areas being designed and constructed to the satisfaction of the Executive Manager Strategic Development.
 - d) Suitable arrangements being made for the regular collection and disposal of solid and liquid waste to the satisfaction of the Executive Manager Strategic Development.
 - e) Hours of micro-winery operations being 7:00am to 6:00pm Monday to Friday, excluding public holidays, and 7:00am to 5:00pm Saturday.
 - f) No cellar sales being carried out.
 - g) Maximum wine production being 1,000 cases annually.
 - h) Areas surrounding the micro-winery outbuilding being constructed, drained and sealed to the satisfaction of the Executive Manager Strategic Development to control spillage from micro-winery outbuilding.

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.

ADJOURNED MOTION

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.**

LOST (1/8)

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

ALTERNATIVE MOTION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr K Clements:

That as the Council is satisfied that the micro-winery is consistent with the orderly and proper planning of the location, the preservation of amenity, and non-compliance will have no adverse effect on the locality.

- 1. The Council, in accordance with clause 5.2 of the Shire of Plantagenet Town Planning Scheme No. 3 and Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, grant Development Approval for a micro-winery at Lot 306 Tower Road, Mount Barker.**
- 2. Approval be subject to:**
 - a) Development being in accordance with the plans dated 23 September 2020.**

- b) Development being in accordance with the Operational Management Plan dated 23 September 2020.
- c) Provision of bin storage areas being designed and constructed to the satisfaction of the Executive Manager Strategic Development.
- d) Suitable arrangements being made for the regular collection and disposal of solid and liquid waste to the satisfaction of the Executive Manager Strategic Development.
- e) Hours of micro-winery operations being 8:00am to 6:00pm Monday to Friday and 9:00am to 5:00pm Saturdays, with no operations on Sundays and public holidays.
- f) No cellar sales being carried out on this site.
- g) Maximum wine production being that pressed from no more than 20 tonnes of grapes annually. Records are to be kept under the label integrity program or equivalent and are to be presented to the Executive Manager Strategic Development prior to 30 June annually.
- h) Areas surrounding the micro-winery outbuilding being drained and sealed to control spillage from micro-winery to the satisfaction of the Executive Manager Strategic Development.
- i) Micro-winery building to be suitably bunded to control spills from escaping the building confines to the satisfaction of the Executive Manager Strategic Development.

CARRIED (9/0)

NO. 299/20

Reason for Change

The Council is satisfied that the micro-winery is consistent with the orderly and proper planning of the location, the preservation of amenity, and non-compliance will have no adverse effect on the locality.

9.1.2 LOTS 1, 2 AND 3 LANGTON ROAD, MOUNT BARKER – CONSULTING ROOMSMr Paul Sheedy

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: Impartiality attend the local Catholic Church

Extent: N/A

File Ref: N53442**Attachment:** [Site Plan](#)
[Floor Plan](#)**Responsible Officer: Andrus Budrikis**
Executive Manager Strategic Development**Author: Vincent Jenkins**
Principal Planning Officer**Proposed Meeting Date: 1 December 2020****Applicant: Sacred Heart Parish**

PURPOSE

The purpose of this report is to consider an application for development approval for the Sacred Heart Parish to carry out consulting rooms at Lots 1, 2 and 3 Langton Road, Mount Barker.

BACKGROUND

Council records show the registered owner of Lots 1, 2 and 3 is the Sacred Heart Parish.

The Sacred Heart School opened on 27 April 1947 and unfortunately closed in the early 1970s. The Great Southern Institute of Technology thereafter used the Sacred Heart School building for training purposes until they relocated to the Mount Barker Community Resource Centre in January 2016.

The Mount Barker Parish has been approached to allow part of the old Sacred Heart School building to be utilised for consulting rooms as this part of the building is not being used at this time. This will allow the Parish to generate some income from the building to assist the Parish with its ongoing financial commitments including maintaining the Sacred Heart School building.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

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

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Local Scheme Reserve (Public purpose: Church).

Clause 5.2 of TPS3 states:

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

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

It is open to the Council to resolve its approval for a non-compliant development proposal pursuant to TPS3 clause 5.2 and approve the development either unconditionally or on such conditions as the Council thinks fit, provided the Council is satisfied that the proposed development is consistent with the orderly and proper planning of the location, the preservation of amenity, and noncompliance will not have an adverse effect on the locality.

EXTERNAL CONSULTATION

There are no external consultation implications for this report.

FINANCIAL IMPLICATIONS

The application fee of \$147.00 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

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 1, 2 and 3 Langton Road are lands reserved under the Scheme for Local Authority Scheme Reserves (Public purpose - Church) purposes. The Parish propose to utilise a small part of the Sacred Heart School building for commercial consulting room purposes.

The Planning and Development (Local Planning Schemes) Regulations 2015 requires local government, in the case of land reserved under a Scheme, to consider the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve. In this instance, the reserve objective is public purpose church and the proposed commercial consulting room use will be non-compliant with the reserve objective.

However, it is open to the Council to resolve its approval for a non-compliant development proposal pursuant to TPS3 clause 5.2 and approve the development either unconditionally or on such conditions as the Council thinks fit, provided the Council is satisfied that the proposed development is consistent with the orderly and proper planning of the location, the preservation of amenity, and non-compliance will not have an adverse effect on the locality.

The scale of the proposed consulting room use will contain one reception area and two consulting areas. The consulting room is 48.96m² in area and will occupy less than 1.01% of the Sacred Heart School property. The proposed consulting room is consistent with the orderly and proper planning of the location, the preservation of amenity, and non-compliance will have no adverse effect on the locality.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr S Etherington, seconded Cr B Bell:

That

1. As the Council is satisfied that the consulting room is consistent with the orderly and proper planning of the location, the preservation of amenity, and non-compliance will have no adverse effect on the locality.
2. The Council in accordance with clause 5.2 of the Shire of Plantagenet Town Planning Scheme No. 3 and Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, grant Development Approval for consulting room at Lots 1, 2 and 3 Langton Road, Mount Barker.
3. Approval will be subject to the development being in accordance with the plans dated 16 November 2020.

MOTION TO ADJOURN THE DEBATE

Moved Cr K Clements, seconded Cr L Handasyde:

That the debate be adjourned to clarify the intended use of the consulting rooms and that a report be brought back to the Council at its meeting to be held on 27 January 2020.

CARRIED (5/4)

NO. 300/20

**Crs Bell, Etherington, O'Dea and
Woltering voted against the motion**

**9.1.3 RECREATION ADVISORY COMMITTEE - ENDORSEMENT OF
RECOMMENDATION – TRAILS DEVELOPMENT BUDGET**

File Ref:	N53453
Attachments:	<u>RAC Minutes 11 November 2020</u>
Responsible Officer:	Andrus Budrikis Executive Manager Strategic Development
Author:	Andrus Budrikis Executive Manager Strategic Development
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to endorse the Recreation Advisory Committee's recommendation to provide a budget allowance from FY2021-22 to further trail developments in the Shire of Plantagenet.

BACKGROUND

At its Ordinary Meeting on 30 April 2019, the Council resolved (58/19):

'That:

- 1. A working group be formed to review the Plantagenet Trails Masterplan 2006, investigate new trail proposals and advise the Council on appropriate trail developments;*
- 2. 'Appropriate Trail Developments' will include, but not be limited to, trails suitable for walking, bicycle riding, horse riding and motor vehicle driving;*
- 3. The membership of the group shall consist of three members of the Council, six community members and the Manager of Development Services;*
- 4. The group shall report to the Council no later than 30 April 2020; and*
- 5. The Group shall dissolve on 1 May 2020.'*

The Council also resolved to appoint Councillors Clements, O'Dea and Pavlovich to the group with Cr Clements being appointed as Chair.

At the 14 July 2019 Council meeting, the Council endorsed the recommendation of the Recreation Advisory Committee to appoint eight community members to the working group.

The working group reviewed the Plantagenet Trails Masterplan 2006 and investigated new trails proposals at a series of workshops held in 2019. The working group's recommendations were compiled into an updated plan, which was completed in early 2020. The Council endorsed the Plantagenet Trails Masterplan Review 2019 at the 16 June 2020 Council meeting, but no budget allocation recommendation was made at the time.

Following a memo to Councillors on 3 July 2020, the Shire entered into a Service Agreement with the Great Southern Centre for Outdoor Excellence (GSCORE) for

GSCORE to assist the Shire to progress priority trail developments, including by submitting grant applications to secure funding.

STATUTORY ENVIRONMENT

The project proposals are required to be compliant with all relevant laws and regulations, which are detailed in the DBCA trail development frameworks – an industry-recognised set of guidelines for planning and building trails. This process is integrated into the Plantagenet Trails Masterplan Review.

EXTERNAL CONSULTATION

External consultation has been key in developing this Review. The draft document was reviewed by the Plantagenet Trails Working Group and also made available for public comment.

FINANCIAL IMPLICATIONS

The Recreation Advisory Committee is recommending that \$10,000.00 be allocated to trail developments from the FY 2021-22 annual budget.

BUDGET IMPLICATIONS

There are no immediate 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 immediate legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

The allocated funds will be used to improve trail infrastructure and will be added to the Shire's asset register.

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 Masterplan'.

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

OFFICER COMMENT

The Great Southern Recreation Circuit is included in the GSCORE Great Southern Regional Trails Masterplan 2020 – 2029, endorsed by the Council at the 16 June 2020 meeting. The recreation circuit includes formalisation of trails at Mondurup Reserve and Kendenup. These trails exist but require new trail head signs, interpretive signage and trail markers. GSCORE has appointed Great Southern

Treasurers to develop a style guide for signs and markers to create a consistent theme across the Great Southern.

Currently, there is no funding allocated in the Shire's annual budget to implement any trail developments outside the Mount Barker Hill walkway and boardwalk. The Recreation Advisory Committee discussed the need to progress the various trails included in the Plantagenet Trails Masterplan Review 2019 at the 11 November 2020 meeting.

VOTING REQUIREMENTS

Simple Majority

RECREATION ADVISORY COMMITTEE RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr K Woltering:

That the Council allocates \$10,000.00 in the Shire of Plantagenet annual budget from FY 2021-22 for trail development and improvements.

CARRIED (9/0)

NO. 301/20

**9.1.4 RECREATION ADVISORY COMMITTEE - ENDORSEMENT OF
RECOMMENDATION – YOUTH PRECINCT CONCEPT PLAN**

File Ref:	N53461
Attachments:	<u>RAC Minutes 11 November 2020</u>
Responsible Officer:	Andrus Budrikis Executive Manager Strategic Development
Author:	Andrus Budrikis Executive Manager Strategic Development
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to endorse the Recreation Advisory Committee's recommendation to provide a budget allowance in FY2021-22 annual budget to develop a concept plan for the Youth Precinct.

BACKGROUND

At the 26 June 2020 Recreation Advisory Committee meeting, the committee discussed developing the Lowood Road youth precinct. At that time the Executive Manager Strategic Development advised that the Community Development Officer was engaging with staff and students to develop a list of requirements to upgrade youth facilities in Mount Barker.

At the 25 August 2020 Recreation Advisory Committee meeting, the Community Development Officer presented a schematic concept plan she had developed. The conceptual elements were arranged so the most active would be located towards the north away from Wilson Park. The concepts included a number of options for development that resulted from the consultation with the Mount Barker Community College student leadership group. Equipment and facilities more suited to younger people would be located in or near Wilson Park. The committee noted that seating and shading still remained a priority for the park. The committee also discussed the approach to developing the youth park and confirmed that the full development would be best taken over a number of years subject to funding. A key component of development would also include the expansion of the skate park itself.

The committee also confirmed that further consultation of requirements and development priorities should be undertaken with a wider youth group.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

EXTERNAL CONSULTATION

A survey has been advertised widely with 85 respondents up to 11 November 2020. Staff and students at the Mount Barker Community College have been consulted.

FINANCIAL IMPLICATIONS

The Recreation Advisory Committee is recommending that \$20,000.00 be allocated to develop a concept plan in the FY 2021-22 annual budget.

BUDGET IMPLICATIONS

There are no immediate 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 immediate legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

The allocated funds will be used to develop a concept plan for the future development of the youth precinct.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 1.4 (Opportunities for development and participation of youth) the following Strategy:

Strategy 1.4.2:

'Provide and promote appropriate and accessible facilities and activities for youth'.

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

OFFICER COMMENT

At the 11 November 2020 Recreation Advisory Committee meeting, the Community Development Officer gave the committee a briefing of the youth park consultation process to date. A survey is being conducted with 85 responses so far. The survey was tabled and discussed. Promotion of the survey included three original posts on Facebook, followed by two refresher posts, as well as advertising in the Plantagenet News and the Mount Barker College newsletter. The Community Development Officer will be conducting further meetings with the Mount Barker Community College students.

The committee further discussed the development of the youth park and noted that a number of regional local governments were investing in significant youth park developments. It was thought that the development of the Mount Barker youth precinct would most likely take place over a number of years, depending on grant funding opportunities and Council's ability to match grant funds. It was also noted that the development of a professional concept plan would facilitate grant fund applications where professional plans were expected.

VOTING REQUIREMENTS

Simple Majority

**RECREATION ADVISORY COMMITTEE RECOMMENDATION/COUNCIL
DECISION**

Moved Cr B Bell, seconded Cr K Woltering:

That the Council allocates \$20,000.00 in the FY 2021-22 annual budget to develop a professional concept plan for the youth precinct.

CARRIED (9/0)

NO. 302/20

9.2 WORKS AND SERVICES REPORTS

9.2.1 MOUNT BARKER MARKET FAIR – REQUEST FOR SUPPORT

File Ref: N53374
Responsible Officer: David Lynch
Executive Manager Works and Services
Author: Nicole Selesnew
Administration/Project Officer Works and Services
Proposed Meeting Date: 1 December 2020

PURPOSE

The purpose of this report is to request support for the Mount Barker Market Fair, being held in collaboration with the Plantagenet Wines Food and Wine celebration, planned for Sunday 24 January 2021.

BACKGROUND

The Mount Barker Market Fair is an initiative of the Mount Barker State Emergency Service Unit (SES). The Market will be held in conjunction with the Plantagenet Wines Food and Wine celebration with the aim of raising funds to support the SES. The event is scheduled for Sunday 24 January 2021.

Sgt David Johnson, Officer in Charge of the Mount Barker Police Station, is assisting the SES to plan and coordinate the event. Sgt Johnson has approached the Shire seeking support for traffic management, a temporary road closure, cleaning and litter removal.

The Market Fair concept was developed after the 2020/2021 Community Financial Assistance Grants program had closed, so no application for Council assistance was made to this program.

STATUTORY ENVIRONMENT

There are no statutory implications relevant to this report.

EXTERNAL CONSULTATION

Sgt David Johnson has consulted with Mr David Lynch, Executive Manager Works and Services, regarding the Market Fair.

FINANCIAL IMPLICATIONS

The SES has requested in-kind contributions towards the Fair and have not sought a cash contribution. The in-kind requests include:

1. The preparation of a Traffic Management Plan and placement of signage.
 2. Support for and assistance to complete a Temporary Road Closure application for a section of Memorial Road.
 3. Provision and removal of four mobile garbage bins for litter.
-

4. Assistance to clean the toilets at the Plantagenet Hall at the conclusion of the event.

The estimated cost for the in-kind donations is \$1,091.00.

BUDGET IMPLICATIONS

Staff hours associated with the placement of traffic control signs and cleaning may be charged to the Road & Hall Maintenance accounts. This account has a budget allocation of \$1,585,000.00 and a current expenditure of \$317,460.00.

POLICY IMPLICATIONS

Council Policy No CF/DG/2 – Financial Assistance (Operating) to Incorporated Organisations and Clubs – applies.

The Policy states that applications for assistance will be dealt with as part of the annual budget process, however if an application is received that falls outside this process it will be considered and assessed by the Council on its merits.

The SES request meets the criteria for funding as set out in the policy:

1. The applicant is based in the Shire of Plantagenet and benefits residents of the Shire.
2. The request clearly identifies the group that will benefit from the support (the SES).
3. The applicant is actively operating and meeting on a regular basis.
4. The reason for funding has been identified and the amount has been quantified; and
5. The applicant is supporting the event through their own in-kind contributions and meeting any shortfalls within the budget.

The SES is able to provide a copy of their financial statements if required.

The Policy provides a schedule of funding limits for each different type of request. The limit for a local event is \$1,000.00 and a regional event is \$5,000.00. Given this is the first time the SES has held a Market Fair it is difficult to determine an attendance figure, however the collaboration with a Food and Wine Fair at Plantagenet Wines and hosting the event during the peak tourist season in the Great Southern will broaden the appeal for participants.

The Porongurup Festival which is a similar style of event attracts an average 1,500 participants and is classified as a regional event, drawing 40% of participants from outside the Shire boundary.

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 1.8 (Cultural, arts and learning opportunities that contribute to vibrancy and diversity in the community) the following Strategy:

Strategy 1.8.4:

‘Support festivals, events and activities that strengthen our sense of identity and celebrate our history, heritage and diverse cultures.’

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 Market Fair will comprise a series of market stalls and entertainment which will be run in conjunction with the Plantagenet Wines Food and Wine Festival.

It is proposed to close a section of Memorial Road between Albany Highway and the Plantagenet District Hall carpark entry (on the western side of the building) which will provide space for stall holders to erect stalls in both the carpark and in front of the District Hall. The SES has liaised with the Plantagenet Players and Empowering Plantagenet Seniors, both users of this site, to gain their support.

The SES has also approached the Shire and Mount Barker Branch of the Returned Services League (RSL) to discuss the use of the paved area in the RSL memorial area for an orchestra to play from.

The SES will submit a Temporary Road Closure request, Risk Assessment Plan, Community Event Application and COVID Event Plan as part of their preparations.

Their request for in-kind assistance to host the event amounts to \$1,091.00, of which realised costs such as staff time to place signage and clean toilets may be drawn from the Road & Hall Maintenance accounts.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Oldfield, seconded Cr J Moir:

That:

- 1. The Mount Barker Branch of the State Emergency Service proposal to conduct the Mount Barker Market Fair on Sunday 24 January 2021, be supported.**
- 2. An in-kind contribution capped at \$1,091.00 for traffic management planning and signage, provision of mobile garbage bins and assistance to clean the toilets following the event is authorised.**
- 3. The request to use the paved area in front of the RSL Memorial for an orchestra be supported.**

CARRIED (9/0)

NO. 303/20

9.3 CORPORATE SERVICES REPORTS

9.3.1 ANNUAL REPORT - YEAR ENDING 30 JUNE 2020

File Ref:	N53345
Attachment:	<u>Annual Report – Year End 30 June 2020</u> (Separate Attachment)
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to accept the Shire of Plantagenet's 2019/2020 Annual Report.

BACKGROUND

The annual financial audit for 2019/2020 was conducted by representatives of the Council's auditors, Moore Australia in October 2020.

In line with convention and Delegation 1.1, the General Meeting of Electors will be held at 6.00pm on Tuesday 1 December 2020 to receive the 2019/2020 Annual Report, assuming the signed audit report is received by then.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 5.54 (1) states '*subject to subsection (2) the Annual Report for a financial year is to be accepted by the local government no later than 31 December after that financial year.*' (Absolute Majority required).

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

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 4.2 (Effective engagement with the community and stakeholders) the following Strategy:

Strategy 4.2.1:

'Keep the community well informed on Council initiatives'

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 Annual Report notes that this year, people worldwide have been impacted by the Covid-19 pandemic. The Shire implemented a number of measures to respond to the virus for the safety and health of our community, our customers and our employees.

Throughout March to June 2020, services were impacted with skateparks and playgrounds closed to the public and disruptions to services at the library, rec. centre and administration office. The Shire continues to focus on protecting our community and employees from the threat of the Coronavirus.

Nevertheless, a number of key items of infrastructure and plant were progressed during 2019/2020, including:

- Completion of a major roadworks program totalling \$3.0 million.
- The construction of additions to Plantagenet Medical Centre commenced in April 2020. The extensions will create an additional nine consulting rooms to house various medical specialists, increasing the variety of services available and the volume of patients who can access them.
- Continuation of the upgrades to Frost Park pavilion with rewiring the main switchboard and improvements to flooring and kitchen.
- Gym extensions were completed with the new cardio room proving to be a successful addition to the pre-existing weights area.
- The Shire has carried out a number of upgrades at the Saleyards including modification of an out loading ramp bugle, a new bull crush was installed, the diesel motor for the irrigation pump was replaced, a replacement 2nd hand skid steer loader was purchased and the emergency generator was covered.

- Plant purchases included the Shire's CAT skid steer loader being changed over for a Bobcat S550 and an Isuzu FVR medium truck was scheduled to be replaced. A similar sized UD truck was ordered and is to be delivered to the Shire in 2020/2021. Minor plant purchased included a hiab mounted crane which is to go on the back of the mechanic's truck and a purpose built post hole digger which has been attached to a Shire tractor.

Where possible, community services continued to be delivered. The effect of Covid-19 restrictions at the Mount Barker Library was offset by an innovative Select & Collect service. Staff selected quarantined items for patrons who collected their bag at an appointed time. The Mount Barker Library and Albany Library were two of a very few (and the first to do so) libraries to offer this service. A total of 291 bags were packed and collected during this time.

Some notable events held during the year were:

- The Shire, together with the Mount Barker Community College hosted their biennial Have A Go Youth Volunteer Expo.
- The Shire's annual Thank a Volunteer Event was held on Friday 28 February 2020 at Wilson Park.
- The Shire celebrated 2019 WA Seniors Week, offering various free events for anyone over 60 to enjoy.
- The Hub of Mount Barker was also launched, which is a collaboration between the Shire, CRC and South Regional TAFE to better respond to community needs.
- A new community cricket pitch was installed on the Mount Barker Community College oval and existing practice nets were re-surfaced. The project was funded by the Shire, the Mount Barker Cricket Club and the College.
- The inaugural Mountains and Murals Festival was held in Mount Barker from 6 - 10 December 2019. The Festival incorporated a Food and Wine Fair, Markets, a Long Table Dinner with celebrity chef Scott Brannigan and of course the legendary mural painting by the internationally acclaimed Walldogs.

In line with projects identified in the Shire's Corporate Business Plan, planning of a number of major projects was progressed, including:

- A feasibility study to determine options for improvements to Mount Barker Memorial Swimming Pool was carried out in 2019. Following a period of community and stakeholder consultation, the resulting concept plans and notional designs were released in 2020. The proposed developments include new club and change rooms, and improved facilities to host swimming carnivals.
- The Plantagenet Trails Masterplan Review 2019 was published in June 2020. This document partially implements GSCORE's Great Southern Regional Trails Masterplan, and provides concepts for a range of leisure trails across the Shire. The planned trails include walk, cycle and horseback routes, showcasing our landscapes and creating outdoor leisure opportunities whilst promoting respectful interaction with nature. It also contains scenic drive trails, which are intended to provide itineraries for tourists visiting the region and would be implemented by wayfaring signage and production of brochures.

- In June 2020, two complementary concept plans for Tower Hill, Mount Barker were endorsed by the Shire. The Mountain Bike Concept Plan proposes over 10km of downhill mountain bike trails suitable for all abilities, with the capacity to host competitive downhill events and provision for spectators. The Landscape Concept Masterplan sets out improvements to the lookout and facilities at Tower Hill, including a raised boardwalk to take in the views from the high vantage point. These combined developments have huge potential to attract visitors, and provide leisure and entrepreneurial opportunities for local residents.
- The Council also endorsed an Albany Highway Beautification Plan in June 2020, which is a staged development to improve signage and landscaping along Albany Highway, as well as facilities for visitors stopping along the route. This project is part of a larger strategy to draw traffic from the Albany Highway to the Shire's attractions and services.

In terms of the Shire's financial situation, rate revenue reduced from \$6.86 million in 2018/2019 to \$6.80 million in 2019/2020 (Rates effectively remained the same, however rates raised and donated back required a different accounting treatment). Outstanding borrowings increased from \$1.97 million in 2018/2019 to \$2.18 million in 2019/2020. A loan of \$420,000.00 was taken out to fund extensions to the Mount Barker Medical Centre.

The Council spent \$689,621.00 on buildings and \$131,705.00 on parks and ovals and other infrastructure. The amount spent on roads, drainage and footpaths was \$3,002,723.00 with \$342,061.00 on purchases of plant, furniture and equipment.

The level of reserve funds increased from \$2,506,993.00 in 2018/2019 to \$3,596,265.00 in 2019/2020. The level of unrestricted cash at year end increased from \$896,018.00 to \$1,099,153.00.

The Council received grants and contributions for the development of assets of \$2.11 million in 2019/2020. Total grants and contributions received was \$5.03 million.

Other activities carried out throughout the year have been reported on extensively within the Annual Report.

VOTING REQUIREMENTS

Absolute Majority

AUDIT AND RISK MANAGEMENT COMMITTEE RECOMMENDATION/COUNCIL DECISION

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

That the Annual Report for the year ended 30 June 2020 as attached, be accepted.

CARRIED (9/0)

NO. 304/20

Absolute Majority

9.3.2 AUDIT REPORT - YEAR ENDING 30 JUNE 2020

File Ref:	N53346
Attachment:	<u>2019/2020 Audit Report</u> (Separate Attachment)
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to present the Annual Financial Audit and Management Report for the year ending 30 June 2020.

BACKGROUND

In October 2020, representatives of Moore Australia attended the Shire office to conduct an end of year audit for 2019/2020. It should be noted that the audit is designed primarily to enable the auditors to form an opinion on the financial statements and therefore does not extend to all of the Council's systems and procedures.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 7.12A (3) and (4) of the Act states the following:

- (3) *A local Government is to examine the report of the auditor prepared under section 7.9 (1), and any report prepared under section 7.9(3) forwarded to it, and is to -*
- (a) *determine if any matters raised by the report, or reports require action to be taken by the local government; and*
 - (b) *ensure that appropriate action is taken in respect of those matters.*
- (4) *A local government is to -*
- (a) *prepare a report on any actions taken under subsection (3) in respect of an audit conducted in respect of a financial year; and*
 - (b) *forward a copy of that report to the Minister, by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.'*

EXTERNAL CONSULTATION

Consultation has occurred with the Shire's auditors in regard to this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

The 2020/2021 budget includes a sum of \$54,632.00 for end of year and interim audit costs.

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

The Strategic Risk Register provides for a number of key controls in order to fulfil statutory and regulatory compliance requirements. Those controls are rated as either effective or adequate.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

A copy of the Moore Australia's reports are attached. The management report focuses on the Shire's current position with respect to two of the statutory financial ratios in Note 33. The trend in regard to the ratios is shown in the table below:

Financial Ratios	2015	2016	2017	2018	2019	2020
Current Ratio	1.020	0.792	0.962	0.741	1.328	0.893
Asset Sustainability Ratio	0.487	0.491	0.684	0.484	0.604	0.763
Debt Service Cover Ratio	6.921	3.562	7.248	3.851	9.593	3.382
Operating Surplus Ratio	-0.319	-0.590	-0.294	-0.473	-0.177	-0.283
Own Source Revenue Coverage Ratio	0.579	0.547	0.602	0.581	0.620	0.625
Asset Consumption Ratio	0.620	0.466	0.524	0.538	0.692	0.677
Asset Renewal Funding Ratio	0.783	0.656	0.919	1.022	0.878	0.861

The audit report has pointed out that *'the following matters indicate a significant adverse trend in the financial position of the Shire:*

- i. *The Asset Sustainability Ratio has been below the DLGSCI standard for all 3 years reported in the annual financial report.*
- ii. *The Operating Surplus Ratio has been below the DLGSCI standard for all 3 years reported in the annual financial report.'*

In regard to the matters raised by the auditor within the management report, the following comments are made.

- Asset Sustainability Ratio
$$\frac{\text{capital renewal and replacement expenditure}}{\text{depreciation expense}}$$

This ratio indicates that to what degree the Shire is replacing or renewing existing assets at the same rate that its overall asset stock is wearing out. A basic standard is met if the ratio is greater than 0.9 and the Standard is 'Advanced if the ratio is above 1.1.

The 2019/2020 Asset Sustainability Ratio of 0.763 is the highest result in the last five years and in the last three years, has trended upwards. As expected, capital renewal expenditure trends upwards in the long term but can be reduced in years where the Shire spends comparatively more on new or upgraded assets.

The total depreciation amount was reduced from \$6.06 million in 2018/2019 to \$5.29 million in 2019/2020, as part of the efforts to verify condition and depreciation data.

The ratio would not be considered within acceptable limits in the long term. It has been recognized for some time that more work needs to be done to verify road infrastructure depreciation values.

Further, the auditor has previously advised that interpretation of this ratio should be considered together with the Asset Consumption Ratio (ACR) and the Asset Renewal Funding Ratio (ARFR). The ACR of 0.670 is now sitting at an intermediate level indicating the Council's assets are in an acceptable condition and the ARFR of 0.861 is consistently above its target of 0.750 indicating the planned renewal and replacement expenditure over the next 10 years is sufficient to meet the required renewal and replacement expenditure.

- Operating Surplus Ratio
$$\frac{\text{operating revenue minus operating expense}}{\text{own source operating revenue}}$$

This ratio indicates an ability to cover operational costs and have revenues available for capital funding or other purposes. A basic standard is met between 0.01 and 0.15. An advanced standard is met over 0.15.

The Shire's 2019/2020 result is (0.283). This figure is worse than the 2018/2019 result of (0.177), but better than the 2017/2018 and 2016/2017 values of (0.473) and (0.294) respectively. However, it is well below the Basic standard of 0.01.

Accounting guidelines indicate that a sustained period of deficits will erode the local government's ability to maintain both its operational service level and asset base. The consistent negative values are mainly due to levels of asset depreciation, which

the Shire increased markedly several years ago with the advent of fair value accounting.

To some degree, this ratio does not accurately represent the local government scenario, whereby a significant proportion of infrastructure renewal (expensed via depreciation) is met by capital grant income. However, ideally, future long term plans should achieve a reversal of this trend.

The Shire has been aware for some time that an improvement of these and other ratios influenced by asset values was dependent on verification of condition and depreciation data. By far, road depreciation is the major contributor to the sub-standard ratios.

The Shire is implementing an Asset Management Improvement Plan and undertaking other activities to verify the remaining useful life of infrastructure and ensure depreciation rates are reliable.

Last year, the Shire has completed a condition assessment on its sealed road network. The fresh data was uploaded into the RAMM Database and this realised a reduction in the accumulated depreciation on roads of about \$38 million and substantially improved the Asset Consumption Ratio (from a basic to intermediate level).

The Shire has now appointed a staff member to a new Asset Management Planning position. A large part of his role has been to continue this work, with a focus on verifying depreciation values and assessments of useful life. It is conceivable that, like condition, the depreciation values could be significantly overstated.

The Audit and Risk Committee has previously supported the probability that the asset ratios reporting below standard are likely to be mainly attributable to data integrity than legitimate financial management weaknesses. It is anticipated that the work being done to verify data will result in an improvement in the asset based ratios.

VOTING REQUIREMENTS

Simple Majority

AUDIT AND RISK MANAGEMENT COMMITTEE RECOMMENDATION/COUNCIL DECISION

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

That the Annual Financial Audit and Management Report for the year ending 30 June 2020 as issued by Mr David Tomasi of Moore Australia be received.

CARRIED (9/0)

NO. 305/20

9.3.3 FINANCIAL STATEMENTS – OCTOBER 2020

File Ref:	N53336
Attachment:	<u>Financial Statements</u>
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Alison Kendrick Senior Administration Officer - Finance
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 31 October 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 L Handasyde, seconded Cr J Moir:

That the Financial Statements for the period ending 31 October 2020 be received.

CARRIED (9/0)

NO. 306/20

9.3.4 LIST OF ACCOUNTS – OCTOBER 2020

File Ref:	N53363
Attachment:	<u>List of Accounts - October 2020</u>
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Vanessa Hillman Accounts Officer
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of October 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 J Moir, seconded Cr J Oldfield:

That in accordance with Regulation 13(1) of the Local Government (Financial Management) Regulations 1996, the list of payments made under delegated authority for the month ended 31 October 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 \$894,664.80.**
- 2. Municipal Cheques 46961 - 46990 totalling \$113,457.47.**

CARRIED (9/0)

NO. 307/20

9.3.5 MOUNT BARKER GOLF CLUB INC – SELF SUPPORTING LOAN

File Ref:	N53337
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Alison Kendrick Senior Finance Officer
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to amend conditions relating to a self supporting loan for \$70,000.00 for the Mount Barker Golf Club Inc.

BACKGROUND

At its meeting held on 14 July 2020, the Council resolved:

‘That:

- 1) *The Mount Barker Golf Club Inc be offered a self-supporting loan of \$70,000.00 to finance the replacement of the synthetic bowling carpet on B Green, with a three year term to maturity, subject to the following conditions:*
 - a) *The Council securing a corresponding loan from the Western Australian Treasury Corporation.*
 - b) *The interest rate is fixed for the term of the loan;*
 - c) *The Mount Barker Golf Club Inc paying all costs associated with establishing the loan, if any;*
 - d) *Funds will only be released after documentary proof of significant expenditure (or committed expenditure) is submitted.*
 - e) *A caveat being lodged on the certificate of title of the Mount Barker Golf Club property during the repayment period.*
 - f) *No further loans are to be entered into without prior approval of the Council.*
- 2) *The Shire President and Chief Executive Officer be authorised to:*
 - a) *Affix the Common Seal of the Council to a Debenture Agreement between the Shire of Plantagenet and the Western Australian Treasury Corporation relating to the self-supporting loan in Part 1 above; and*
 - b) *Affix the Common Seal of the Council to a Deed of Repayment between the Shire of Plantagenet and the Mount Barker Golf Club Inc relating to the self-supporting loan in Part 1 above, which is to specifically acknowledge the caveat in condition 1(e).’*

The purpose of the loan is to replace the synthetic bowling carpet on B Green. The new carpet will cost \$138,000.00 (plus GST) from Synthetic Bowling Solutions. The Club will fund \$45,000.00, with a self-supporting loan of \$70,000.00 and the balance of \$23,000.00 funded by a grant from CSRFF.

The loan has been drawn down from the WATC.

STATUTORY ENVIRONMENT

Section 6.20 Local Government Act 1995 relates to borrowings by local governments.

EXTERNAL CONSULTATION

Consultation has occurred with the secretary of the Mount Barker Golf Club Inc.

FINANCIAL IMPLICATIONS

The Club will meet all repayments relating to the self-supporting loan and therefore there are no financial implications to the Council. However, should the Club default, the loan will become the Council's responsibility.

BUDGET IMPLICATIONS

The Shire's 2019/2020 budget includes the relevant loan repayments and corresponding income from the Golf Club.

POLICY IMPLICATIONS

Council Policy F/FM/1 - Self Supporting Loans states as follows:

1. *Eligible Organisations*
 - 1.1 *Loans will only be considered for applicants that are incorporated bodies occupying land either owned by, or vested in the care, control and management of a community organisation.*
 - 1.2 *Organisations are to provide:*
 - a) *Three years audited financial statements.*
 - b) *A business plan for the proposed term of the loan that clearly demonstrates an ability to repay.*
 - c) *Their constitution.*
 - d) *Minute agreeing to borrow funds.*
 - e) *Whatever security or guarantees that the Council considers appropriate to ensure that the loan is repaid.*
 - f) *Any other information that the Council requires.*
 2. *Funding Details*
 - 2.1 *Funds will only be provided for capital works on the subject land when ownership of all infrastructure ultimately vests in the community (notwithstanding established leasehold arrangements).*
 - 2.2 *Loans will be provided at the State Treasury interest rate when drawing the loan and will be fixed for the duration of the loan. The term of the loan is not to exceed ten years. Loan repayments will be amortised and will generally be six monthly unless the applicant organisation requests otherwise. An additional Government Guarantee Fee will be payable six monthly at rates that may vary during the term of the loan.*
 3. *Approval Process*
 - 3.1 *The Council will consider the approval of the loan on the following basis:*
 - a) *Demonstrated ability to repay.*
 - b) *Maximum loan amount 50% project cost or 50% of value of completed structure (not to include land content).*
-

- c) *Stability, sound management, membership base, community accessibility and longevity of applicant organisation.*
 - d) *Funds being used for capital improvements.*
 - e) *Debenture security over assets (including lease) of organisation if considered appropriate.*
- 3.2 *Organisations will be required to:*
- a) *Enter into a Deed of Agreement for the period of the loan repayments.*
 - b) *Pay all costs associated with the preparation of documents concerning the raising of the loan.*
 - c) *Insure and keep insured premises where the premises are security over repayment of a loan.*
- 3.3 *Any proposal to lend to a community organisation that has not been included in the Council's annual budget must be advertised for one month in accordance with Section 6.20 (2) of the Local Government Act 1995.*
4. *Other*
- 4.1 *Funds will only be released after documentary proof of significant expenditure (or committed expenditure) is submitted.*
- 4.2 *The Council will seek any remedy available to it under law in terms of the recovery of delinquent instalments of loans.*
- 4.3 *The Council will consider the objectives of Policy No. F/FM/6 – Borrowing Program and Asset Financing in determining applications for self-supporting loans.'*

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:

Outcome 1.3 (A cohesive and supportive community) the following strategy:

Strategy 1.3.4:

'Actively promote and assist community groups and clubs'

and;

Outcome 1.5 (Recreation, sporting and leisure facilities that support the wellbeing of the community) the following strategy:

Strategy 1.5.2

'Promote sporting, recreation and leisure facilities and programs in the District'

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

In dealing with Policy clause 3.1(e), the Council placed a condition on the loan that a caveat being lodged on the Certificate of Title of the Mount Barker Golf Club property during the repayment period. Further, that the Deed of Repayment between the Shire of Plantagenet and the Mount Barker Golf Club Inc specifically acknowledge the caveat.

Landgate has advised that a caveat is not an appropriate mechanism for loan security and indicated that a mortgage would be more appropriate. This would be time consuming and costly. Another possible option to secure the Council's interest would have been personal guarantees from club members.

As the loan amount is relatively low and the club has successfully paid off a previous self-supporting loan of \$187,000.00 (to assist with the conversion of the Club's turf bowling greens to synthetic carpet) it is recommended that these conditions be dispensed with.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

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

That in respect to the Council decision at its meeting held on 14 July 2020 to offer the Mount Barker Golf Club Inc a self-supporting loan of \$70,000.00 to finance the replacement of the synthetic bowling carpet on B Green, the following conditions be dispensed with:

- a) Lodgement of a caveat on the Certificate of Title of the Mount Barker Golf Club property during the repayment period.**
- b) The Deed of Repayment between the Shire of Plantagenet and the Mount Barker Golf Club Inc specifically acknowledging the caveat.**

AMENDMENT

Moved Cr J Moir,

That the words 'MBGC and/or members personally guarantee the loan of \$70,000.00' be inserted after the words B Green and parts a) and b) become part 1, and the amendment become part 2 of the motion.

The motion lapsed for want of a seconder.

COUNCIL DECISION

The Motion was put.

CARRIED (9/0)

NO. 308/20

9.3.6 POLICY REVIEW - PURCHASING AND TENDERING

File Ref:	N52745
Attachments:	<u>Current Policy – F/FM/7</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to review Council Policy Purchasing and Tendering - F/FM/7. It will be recommended that the current policy be revoked in favour of an updated policy based on changes to the WALGA template.

BACKGROUND

This policy was last reviewed by the Council on 11 September 2018.

At its meeting held on 6 October 2020, the Council resolved *'that the motion be adjourned for further discussion on policy terms and wording in a workshop to be held on 3 November 2020.'*

A workshop was held to discuss this item on 3 November 2020. No changes are recommended, although it was agreed that Council policy F/FM/14 – Regional Price Preference also be reviewed.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Section 3.57(1) of the Act states that:

'A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.'

Section 5.43 of the Act states that:

'A local government cannot delegate to a CEO any of the following powers or duties:

- (a) ...*
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph.'*

Part 4 of the Local Government (Functions and General) Regulations 1996 regulates and provides the procedures for local government tenders for providing goods or services.

Amendments were made to the regulations in April 2020, which require updates to this policy.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

The 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.

OFFICER COMMENT

The current policy was originally adopted in 2007 and was the pro forma purchasing policy of the Western Australian Local Government Association (WALGA) at the time. Since then, there have been significant changes to the content, format and threshold values associated with the WALGA template.

In line with the philosophy of developing more concise policy statements, a shortened version of the WALGA proforma policy is recommended.

The overall intent of the policy is similar. The main differences are that the new policy:

- has been brought up to date to satisfy legislative changes.
- better explains exemptions to the policy.
- is less verbose on sustainable procurement.
- contains provisions which encourage the development of competitive local businesses within the Shire boundary first, and second within the broader region.

The internal procedure that flows from this policy will provide expanded guidance to staff on:

- how ‘purchasing value’ is calculated.
- detailed purchasing practices, particularly where panels of pre-qualified suppliers exist.
- the option for going out to expressions of interest, prior to tendering.
- expectations resulting from breaches of the policy.

An amendment has been made to regulation 11(1) of the Local Government (Functions and General) Regulations 1996 to increase the threshold to \$250,000.00 to align with State Government tendering thresholds. This permits local governments to extend the use of their own purchasing policy and apply local content provisions more readily to goods and services acquired via written quotations.

Other amendments have been made to increase the flexibility of the local government sector to contract with local suppliers during, and in the aftermath of, the State of Emergency Declaration under the Emergency Management Act 2005.

The \$250,000.00 limit may or may not remain. The policy has been therefore amended to refer to the tender threshold as specified by Local Government (Function and General) Regulation 11, rather than an amount.

One further change is recommended to the policy relating to canvassing of councillors. Currently the Council has a policy (I/T/1) – Tenders – Canvassing of Councillors, which was adopted in line with the Local Government (Rules of Conduct) Regulations 2007.

The policy requires that, when advertising a tender, the Shire of Plantagenet's advertisement details must include the following wording 'Canvassing of Councillors by tenderers will automatically disqualify the tenderer'. It is considered that this requirement would be more suited for inclusion into the current policy (See Clause 1.2 B).

VOTING REQUIREMENTS

Simple Majority

ADJOURNED MOTION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr K Woltering:

That:

1. Purchasing and Tendering Policy F/FM/7, be revoked.

2. The following new Purchasing Policy F/FM/17:

'1. Purpose

The Shire of Plantagenet is committed to delivering the objectives, principles and practices outlined in this Policy, when purchasing goods, services or works to achieve the Shire's strategic and operational objectives.

2. Scope

This policy applies to the CEO and staff sub-delegated to purchase goods, services or works on behalf of the Shire of Plantagenet.

3. Objectives

The Shire of Plantagenet's purchasing activities will achieve:

- a) The attainment of best value for money.**
- b) Sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment.**
- c) Consistent, efficient and accountable processes and decision-making.**
- d) Fair and equitable competitive processes that engage potential suppliers impartially, honestly and consistently.**
- e) Probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest.**
- f) Compliance with the Local Government Act 1995, Local Government (Functions and General) Regulations 1996, as well as any relevant legislation, Codes of Practice, Standards and the Shire of Plantagenet's Policies and procedures.**

- g) Risks identified and managed within the Shire of Plantagenet's Risk Management framework.**
- h) Records created and maintained to evidence purchasing activities in accordance with the State Records Act and the Shire of Plantagenet's Record Keeping Plan.**
- i) Confidentiality protocols that protect commercial-in-confidence information and only release information where appropriately approved.**

4. Ethics and integrity

- A. The Shire of Plantagenet's Code of Conduct applies when undertaking purchasing activities and decision making. Elected Members and employees must observe the highest standards of ethics and integrity and act in an honest and professional manner at all times.**
- B. When advertising a tender, the Shire of Plantagenet's advertisement details must include the following wording 'Canvassing of Councillors by tenderers will automatically disqualify the tenderer'.**

5. Value for money

- A. Value for money is achieved through the critical assessment of price, risk, timeliness, environmental, social, local economic and qualitative factors to determine the most advantageous supply outcome that contributes to the Shire of Plantagenet achieving its strategic and operational objectives.**
- B. The Shire of Plantagenet will apply value for money principles when assessing purchasing decisions and acknowledges that the lowest price may not always be the most advantageous.**

5.1 Assessing value for money

Assessment of value for money will consider:

- a) All relevant Total Costs of Ownership and benefits including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, training, maintenance and disposal.**
- b) The technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality. This includes but is not limited to an assessment of compliances, tenderers resources available, capacity and capability, value-adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, ease of communications etc.**
- c) Financial viability and capacity to supply without the risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history).**
- d) A strong element of competition by obtaining a sufficient number of competitive quotations wherever practicable and consistent with this Policy.**

- e) The safety requirements and standards associated with both the product design and the specification offered by suppliers and the evaluation of risk arising from the supply, operation and maintenance.
- f) The environmental, local economic and social benefits arising from the goods, services or works required, including consideration of these benefits in regard to the supplier's operations, in accordance with this Policy and any other relevant Shire of Plantagenet Policy.
- g) Providing opportunities for businesses within the Shire of Plantagenet's boundaries to quote wherever possible.

6. Purchasing thresholds

- A. Where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is expected to be:

Amount of Purchase	Policy
Up to \$1,000.00	No quotation required for minor / incidental expenses.
\$1,001.00 - \$3,000.00	Seek at least one verbal or written quotation.
\$3,001.00 - \$10,000.00	Seek at least two written quotations.
\$10,001.00 - \$50,000.00	Seek at least three written quotations.
\$50,001.00 – Tender threshold as specified by Local Government (Function and General) Regulation 11	Seek at least three written quotations, containing price and specification of goods and services (with procurement decision based on all value for money considerations).
Above tender threshold as specified by Local Government (Function and General) Regulation 11	Conduct a public tender process.
Emergency Purchases (<i>Within Budget</i>)	Must be approved by the Shire President or by the Chief Executive Officer under delegation and reported to the next available Council Meeting.
Emergency Purchases (<i>Not Included in Budget</i>)	Only applicable where, authorised in advance by the Shire President in accordance with s.6.8 of the <i>Local Government Act 1995</i> and reported to the next available Council Meeting.

- B. Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases under the tender threshold (excluding GST). If a decision to seek public tenders for Contracts of less than the tender threshold, a Request for Tender process that entails all the procedures for tendering outlined in this policy must be followed in full.

-
- C. To satisfy the thresholds in Clause 6A, quotations may be sought from a mix of sources, including:
- a) from a pre-qualified panel of suppliers which include WALGA Preferred Supplier Contracts. or
 - b) via WALGA's eQuotes web based procurement system. or
 - c) other suppliers that are accessible under another tender exempt arrangement. or
 - d) other suppliers in the open market.
- D. The Shire uses a number of suppliers/contractors such as mechanical parts suppliers, plumbers and electricians who have developed a good awareness of the Shire's facilities and infrastructure over a period of years. It is acknowledged that day to day expenditures may be made through such suppliers without invoking the need to obtain quotations.

7. Exemptions

Regulation 11(2) of the Local Government (Functions and General) Regulations 1996 outlines the situations which are exempt from the requirement to publically invite tenders.

8. Sole source of supply (monopoly suppliers)

The procurement of goods and/or services available from only one private sector source of supply, (i.e. manufacturer, supplier or agency) is permitted without the need to call competitive quotations provided that there must genuinely be only one source of supply. Every endeavour to find alternative sources should be made.

9. Anti-Avoidance

The Local Government shall not enter two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of the tender threshold amount thereby avoiding the need to publicly tender.

10. Sustainable Procurement

The Shire is committed to implementing sustainable procurement by providing a preference to suppliers that demonstrate sustainable business practices (social advancement, environmental protection and local economic benefits).

11. Local Economic Benefit

- A. The Shire encourages the development of competitive local businesses within its boundary first, and second within its broader region.
- B. The Shire has adopted a Regional Price Preference Policy, which will be applied when undertaking all purchasing activities over \$30,000.00.'

be adopted.

CARRIED (9/0)

NO. 309/20

9.3.7 POLICY REVIEW - REGIONAL PRICE PREFERENCE

File Ref:	N53343
Attachment:	<u>Amendments - Draft Policy</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to review Council Policy F/FM/14 - Regional Price Preference.

BACKGROUND

In February 2000, the Local Government (Functions and General) Regulations 1996 were amended to allow non-metropolitan local governments to offer a price preference to regional suppliers when deciding which quotation or tender to accept. A price preference can only be applied if a local government has adopted a regional price preference policy.

At its meeting held on 11 October 2016, the Council resolved to adopt a price preference policy.

At its meeting held on 9 October 2018, the Council amended its policy to include all local government areas within the Great Southern, along with the Shire of Manjimup. At its meeting held on 28 January 2020, the Council amended the Prescribed Area to the *'the local government area of Plantagenet'*. It is now suggested that reference to Prescribed Area be removed from the policy and the Shire of Plantagenet be substituted where relevant.

A workshop was held to discuss the Shire's Purchasing and Tendering Policy on 3 November 2020. No changes are recommended, although it was agreed that Council policy F/FM/14 – Regional Price Preference also be reviewed.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Functions and General) Regulations 1996.

Regulation 24E states (in part) as follows:

'(2) A regional price preference policy may be expressed to be —

- (a) for different regions in respect of different parts of the contract, or the various contracts, comprising the basis of the tender;*
- (b) for different goods or services within a single contract or various contracts;*
- (c) for different price preferences in respect of the different goods or services, or the different regions, that are the subject of a tender or tenders (subject to the limits imposed by regulation 24D),*
or for any combination of those factors.

(3) A region specified under this Part —

- (a) *must be (or include) the entire district of the local government; and*
 - (b) *cannot include a part of the metropolitan area.*
- (4) *A policy cannot be adopted by a local government until the local government has considered all submissions that are received in relation to the proposed policy and, if that consideration results in significant changes to the proposed policy, then the local government must again give Statewide public notice of the altered proposed regional price preference policy.'*

EXTERNAL CONSULTATION

Changes to a Regional Price Preference policy need to be advertised for public comment prior to adoption.

FINANCIAL IMPLICATIONS

Setting a regional price preference may result in higher priced goods or services being sourced than would otherwise be the case.

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

This report recommends an amendment to the policy.

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

The Strategic Risk Register indicates that a key control in supplier and contract management includes having a comprehensive procurement process, purchasing and tendering policy and delegated authority.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The policy gives guidance to the Council and staff in relation to the provision of a preference to local suppliers when a purchasing decision is made.

The policy allows a quoted or tendered price from a 'Local Business/Contractor' to be reduced for the purposes of comparison (in most instances) to a maximum price reduction of \$50,000.00.

This policy does not provide that a local provider who supplies the lowest quote after the price preference has been taken into account will automatically be selected. There are a range of factors taken into account when determining the appropriate supplier of goods.

A 'Local Business/Contractor' is defined in this policy as being a business with a permanent office in the Prescribed Area for at least six months prior to bids being sought. The business must have permanent staff based in the Prescribed Area and bidding and management/delivery of the majority of the contract outcomes will be carried out from the business location in the Prescribed Area.

The current price preference also applies to suppliers based outside the Shire of Plantagenet in the event that some or all of the goods, materials or services are to be supplied from sources within the Prescribed Area. In this instance, the preference only applies to that part of the tender or quote that has been supplied from those sources which needs to be specified in the tender submission. Businesses outside of the Prescribed Area who claim that they will use regional business in the delivery of the contract outcomes are required, as part of the contract conditions, to demonstrate that they have actually used them.

The aim of this policy is to stimulate economic activity and growth in the defined regional pricing area by giving added weight to the use of competitive local businesses in supplying goods, services and works purchased or contracted on behalf of the Shire.

Currently, a price preference will apply to quotations of \$30,000.00 value or greater and all tenders invited by the Shire of Plantagenet, for the supply of goods and services and construction services, unless the Council resolves that this policy not apply to a particular quotation or tender.

The proposed new Purchasing and Tendering Policy (the subject of another report to the Council) aims to encourage the development of competitive local businesses within its boundary first, and second within its broader region. It also aims to provide opportunities for businesses within the Shire of Plantagenet's boundaries to quote wherever possible.

The Council may wish to amend the Regional Price Preference policy to apply it to any quotation situation, where a price comparison needs to be made between local and non-local businesses. If that is the case, the suggested recommendation be adopted to begin the process. This will apply to regional businesses only (not regional content).

It is suggested that the administration would be able to assess whether a business fits the definition of a 'Local Business/Contractor' and therefore the completion of a preference questionnaire / response form, as is the case with quotations over \$30,000.00 and tenders, would not be required.

There is a concern that having a local price preference is uncompetitive and may also result in unintended consequences including higher prices being paid for the

equivalent work. If local contractors are aware of the policy, there is a possibility that they will increase their prices accordingly, knowing they may still be successful.

In terms of typical Works and Services contracts, local contractors are generally cost effective already. The cost of running a business locally is likely to be lower than Albany and they don't have the cost of mobilisation and travel so they should be cheaper anyway.

Having a regional price preference for smaller quotations may also result in Albany based companies not providing prices when they know they are only competing against Plantagenet based companies that get a discount.

Other changes have been made to the policy (including changing the policy name to Local Price Preference) to reflect that the preference will be for local businesses rather than regional businesses.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr J Oldfield:

That the proposed amended Regional Price Preference Policy F/FM/14 as follows, be advertised in accordance with Regulation 24F of the Local Government (Functions and General) Regulations 1996 and a further report be presented to the Council at the conclusion of advertising:

'LOCAL PRICE PREFERENCE POLICY

OBJECTIVE:

To encourage the use of competitive local businesses in goods, services and works purchased or contracted on behalf of the Shire of Plantagenet.

POLICY:

1. Policy Statement

- 1.1 A price preference will apply to quotations and all tenders invited by the Shire of Plantagenet, for the supply of goods and services and construction services, unless the Council resolves that this policy not apply to a particular quotation or tender.**
 - 1.2 The level of preference applied under this policy to quotations under a value of \$30,000.00 for the supply of goods and services and construction services will be 10% to businesses located within the Shire of Plantagenet.**
 - 1.3 The following levels of preference will be applied under this policy for quotations of \$30,000.00 value or greater and all tenders:**
 - (a) Goods or services up to a maximum price reduction of \$50,000.00:
10% to businesses located within the Shire of Plantagenet.**
 - (b) Construction (building) services up to a maximum price reduction of \$50,000.00:
5% to businesses located within the Shire of Plantagenet.**
-

- (c) **Goods or Services, including construction (building) services, up to a maximum price reduction of \$500,000.00, if the Council is seeking tenders for the provision of those goods or services for the first time, due to those goods or services having been, until then, undertaken by the Council:**

10% to businesses located within the Shire of Plantagenet.

- 2. **The levels of preference outlined 1.2 above will be applied as a local business preference and the level of preference outlined in 1.3 above, will be applied as either a local business preference or as a local content preference, as follows:**

2.1 Local Business Preference

- (a) **This preference enables businesses/contractors within the Shire of Plantagenet to have a price preference applied for their whole bid, regardless of the origin of the labour or materials, as all labour and materials are deemed to be local content.**
- (b) **The price of the bids from the local businesses/contractors will be reduced (for evaluation purposes only), by the amounts set out in sections 1.2 and 1.3 of this policy.**

2.2 Local Content Preference

- (a) **This preference provides an incentive for businesses/contractors outside the Shire of Plantagenet to purchase goods, services and construction from within the Shire of Plantagenet. The preference applies to the value of the goods, materials or services purchased from within the Shire of Plantagenet and used in the Shire of Plantagenet and are referred to as “Local Content”. The preference percentages are as set out in section 1.3 of this policy.**
- (b) **Travel and accommodation costs associated with sending staff or sub-contractors from outside the Shire of Plantagenet to work on a local contract, are not considered local content and are not eligible for the “Local Content Preference”.**
- (c) **Materials and labour items for which the Local Content Preference is requested are to be specifically itemised and quantified in the tender / quotation;**
- (d) **Businesses outside the Shire of Plantagenet, who claim that they will use local businesses (Local Content) in the delivery of the contract outcomes, will be required, as part of the contract conditions, to demonstrate that they have actually used them. A penalty for non-compliance will be included in the contract conditions.**

- 2.3 **Businesses wishing to claim a price preference in Clause 2 must complete a preference questionnaire/response form for each quotation of \$30,000.00 value or greater and which is also included in tender documentation. Eligible businesses within the Shire of Plantagenet must clearly state their full business location and postal address.**

3. Price is only one factor to be considered when assessing quotations and tender submissions. Consideration will also be given to the principles outlined in Council Policy F/FM/7 – Purchasing and Tendering.

4. Definitions

4.1 A “Local Business/Contractor” must meet the following conditions:

- (a) Be locally established and have two years’ prior, direct experience in the business of the subject matter in the tender / quotation;
- (b) Have a permanent office in the Shire of Plantagenet for at least six months prior to bids being sought;
- (c) Have permanent staff based in the Shire of Plantagenet; and
- (d) That bidding and management/delivery of the majority of the contract outcomes will be carried out from the business location in the Shire of Plantagenet.’

CARRIED (9/0)

NO. 310/20

9.3.8 POLICY REVIEW - PUBLIC ELECTRONIC NOTICE BOARD MESSAGES

File Ref: N53341
Responsible Officer: Paul Sheedy
Acting Chief Executive Officer
Author: John Fathers
Deputy Chief Executive Officer
Proposed Meeting Date: 1 December 2020

PURPOSE

The purpose of this report is to review Council Policy OP/CS/1 - Public Electronic Notice Board – Messages.

BACKGROUND

The policy was last reviewed by the Council at its meeting held on 4 December 2018.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

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

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

The Chief Executive Officer has been authorised to determine applications for signage on the Council's electronic notice board under Delegation 1.11 Signage, Banners – Directional, Service and Tourism.

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 4.3 (Innovative and accessible customer services and information system) the following Strategy:

Strategy 4.3.4:

'Increase use of new technology to engage with the public and keep them informed'

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

Since its installation four years ago, the message facility has worked very well and has become increasingly popular. The increasing number of requests has sometimes necessitated some restrictions on the amount of time before an event that messages can be shown.

Two changes were made to the policy when it was last reviewed in 2018.

- 'Community based or not-for-profit festivals and events which have Shire involvement or support' was amended to read 'Community based or not-for-profit festivals, events and meetings'; and
- 'Emergency warnings' was amended to read 'Emergency warnings and advice'.

No issues have arisen with the operation of the board since then. It is considered that the policy is sufficient and should be endorsed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

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

That amended Council Policy OP/CS/1 'Public Electronic Notice Board – Messages, as follows:

OBJECTIVE

The objective of this Policy is to provide clear guidelines for the messages which can be displayed on the Shire's public electronic notice board.

POLICY

The Council will allow messages to be displayed on the Shire's public electronic notice board, which relate to:

- a) Shire events, meetings and ceremonies.
- b) Shire originated community advice.
- c) Local government electoral notifications.
- d) Facility opening and closing times.
- e) Shire service delivery notifications.
- f) Community based or not-for-profit festivals, events and meetings.
- g) Emergency warnings and advice.
- h) Time and temperature.
- i) Notifications and reminders about Shire surveys and nominations for awards.
- j) High impact roadworks and road closures.'

be endorsed

CARRIED (9/0)

NO. 311/20

9.4 EXECUTIVE SERVICES REPORTS

9.4.1 COUNCIL MEETINGS SCHEDULE 2021

File Ref:	N53376
Attachment:	<u>Survey Results</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Nolene Wake Executive Officer
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to review and schedule ordinary meetings of the Council for 2021.

BACKGROUND

At its meeting held 6 October 2020, it was resolved (Resolution No: 264/20):

'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.*
-

At its meeting held 3 November 2020, the Council moved to have Resolution No. 264/20 rescinded.

At this meeting, it was resolved to adjourn the debate (Resolution No: 285/20)

‘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.’*

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 5.3 provides that a Council is to hold ordinary meetings and may hold special meetings.

Local Government Act 1995 – Section 5.5 requires the CEO to convene ordinary meetings by giving each Council member at least 72 hours’ notice of a date, time and place of a meeting and an agenda for the meeting.

Local Government (Administration) Regulations 1996 – regulation 12 requires that ordinary council meetings to be held in the next 12 months shall be advertised.

Further, a local government is to give local public notice of any change to the date, time or place of the meeting.

FINANCIAL IMPLICATIONS

The frequency and timing of meetings and workshops may impact on catering costs.

POLICY IMPLICATIONS

Policy No. CE/CS/3 – Committee Meetings and Workshops – Attendance by Members of the Public and Policy No. CE/CS/6 – Briefing Sessions for Councillors applies.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 4.1 (Effective governance and leadership) the following Strategy:

Strategy 4.1.3:

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

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

REGIONAL IMPLICATIONS

South Coast Alliance Inc and Southern Link VROC Meetings are scheduled in such a way to avoid any meeting conflicts.

OFFICER COMMENT

As resolved by the Council at its meeting held 6 October 2020, it will be recommended that the ordinary meetings of the Council for January to December 2021 be held on the fourth Tuesday of each month. The first meeting of 2021 to be held on Wednesday 27 January 2020 due to the Australia Day Public Holiday falling on Tuesday 26 January 2020 and the last meeting of 2021 to be held one week early on Tuesday 14 December 2020 due to Christmas.

The 'Reason for Change' from the current four weekly cycle being noted as Financials and public timing. If everyone knows meetings are the fourth Tuesday it is easy to follow. The financials will always be available on the meeting day. Financials are of course a very important part of the responsibilities of Councils and should be seen every month.

Councillors have, from time to time, queried whether a 3.00pm commencement time for ordinary meetings is the most appropriate. Generally, Council meetings conclude in less than 2 hours. Therefore, a later meeting would not necessarily require a late night. A later starting time (say 6.00pm) may give members of the public the opportunity to attend.

An online community survey has been undertaken, promoted through Plantagenet News and the Shire website and Facebook. The survey closed on 25 November 2020 with the results showing 19 votes for 6.00pm, 12 votes for 3.00pm and 1 vote for other (attached).

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

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 ...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.

ADJOURNED 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.

CARRIED (5/4)

NO. 312/20

**Crs Pavlovich, Oldfield, O'Dea and
Woltering voted against the motion**

MOTION TO SUSPEND STANDING ORDER**Moved Cr L Handasyde, seconded Cr B Bell:**

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. 313/20****MOTION TO RESUME STANDING ORDER****Moved Cr M O'Dea, seconded Cr K Woltering:**

That Standing Orders be resumed.

CARRIED (9/0)**NO. 314/20****OFFER RECOMMENDATION/COUNCIL DECISION****Moved Cr M O'Dea, seconded Cr K Woltering:****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 4.00pm 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.

CARRIED (5/4)**NO. 315/20**

**Crs Oldfield, Bell, Etherington,
Moir voted against the motion.**

9.4.2 MOUNT BARKER STATE EMERGENCY SERVICES – REQUEST FOR VEHICLE

File Ref:	N53522
Attachment:	<u>MBSES Letter of Request</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Paul Sheedy Acting Chief Executive Officer
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to consider a request from the Mount Barker State Emergency Service (MBSES) for the Shire to loan the current CESM vehicle (planned to be traded in 2020/21) to MBSES until a general-purpose utility is provided by the Department of Fire and Emergency Services (DFES) in the future.

BACKGROUND

As detailed in the attached letter, the MBSES current vehicle is unsuitable for storm cache deployment and is essentially suited to local operations only when it can be called upon to assist other areas in the region.

On a number of occasions, the MBSES has submitted applications to DFES for a second vehicle as part of the annual Emergency Services Levy (ESL) funding program. Despite efforts by the State Operations Cache Captain to assist in endeavouring to acquire another vehicle for the MBSES, these efforts have been unsuccessful.

STATUTORY ENVIRONMENT

Local Government Act 1995, section 3.58

3.58. Disposing of property

- (1) In this section —
dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and

- (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

Delegation 2.4 Disposal of Plant, Equipment and Property

The Chief Executive Officer is delegated authority pursuant to s3.58 of the Local Government Act 1995 and r30 Local Government (Functions and General) Regulations 1996 to sell, lease, or otherwise dispose of, whether absolutely or not, plant, equipment and property, which are no longer required for the Council's purposes.

For the purposes of s5.43(d) of the Local Government Act 1995 the maximum value of the asset to be disposed of is hereby established as \$20,000.00.

Conditions

May not dispose of plant, equipment and property worth more than \$20,000.00.

Sale of surplus plant, equipment and property over an estimated value of \$50.00 and under an estimated value of \$20,000.00 is to be undertaken by a public auction or tender process.

EXTERNAL CONSULTATION

The Acting Chief Executive Officer has had a number of conversations with the local MBSES Unit Manager to discuss potential options to assist the Group.

FINANCIAL IMPLICATIONS

The allocation of the current CESM vehicle to the MBSES would result in a loss of revenue to the Shire of \$30,000.00 in the 2020/21 financial year, requiring the transfer of additional funds from the Plant Reserve fund. Leasing of the vehicle to the MBSES at an agreed sum would reduce this deficit

BUDGET IMPLICATIONS

The 2020/21 budget includes a provision to purchase a new CESM vehicle at a cost of \$55,000.00 (actual anticipated to be \$59,000.00) with \$12,000.00 (actual trade-in expected to be \$30,000.00) being allowed for the trade-in off the existing vehicle, leaving a net cost to the Shire of \$43,000.00 (now anticipated to be \$29-\$30,000.00).

Should the Council determine to assist the MBSES by loaning them the vehicle for an extended period the Council would be required to fund the entire cost of the purchase of the new vehicle, requiring additional funds from the Plant Reserve fund.

Leasing of the vehicle to the MBSES at an agreed sum would assist in reducing the 2020/21 budget deficit for this vehicle and reduce the amount of additional funds required to be transferred from the Plant Reserve fund.

POLICY IMPLICATIONS

There are no current policies relevant to this item.

LEGAL IMPLICATIONS

There are no legal implications relevant to this item.

ASSET MANAGEMENT IMPLICATIONS

The retention of the vehicle even if it's leased to MBSES or DFES still requires the Shire to retain it on the Shire's Asset register until disposal.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 1.9 (A safe Plantagenet) the following Strategy:

Strategy 1.9.2:

'Support the community in emergency and fire management planning, preparedness, response and recovery.'

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

STRATEGIC RISK IMPLICATIONS

The risk implications to the Shire are considered to be minor in relation to Financial Impact (\$20,001.00-\$100,000.00).

REGIONAL IMPLICATIONS

There are no relevant references to Southern Link VROC or South Coast Alliance Inc but the provision of the vehicle to the MBSES would allow them to better assist other SES units in the region.

OFFICER COMMENT

As indicated in the attached letter from the MBSES Unit Manager, the local SES is the primary unit for any natural hazard emergency operation for Mount Barker, Tenterden, Cranbrook, Narrikup and the Porongurup and also provide support to the surrounding localities of Denmark and Gnowangerup. The current vehicle is the wrong type of vehicle to manoeuvre safely in the national park environments, and its size and cumbersome nature make it hazardous in the mountains.

Despite all of the above issues, their ongoing applications for funding for an additional vehicle have proved unsuccessful to date. This is an ongoing theme of the ESL funding program, with regional and local emergency services struggling to obtain adequate funding for the provision of and replacement of equipment and vehicles, whilst the larger centres and metropolitan areas are well resourced.

This is just further ongoing evidence of local governments being requested to meet the cost of shortfalls in state and federal government funding programs that are impacting on the local community.

Given the potential loss of funding to the Shire of \$30,000.00 the donation of the vehicle to the MBSES until a vehicle is provided by DFES can't be supported. However, an offer to lease the vehicle to the Group for a period of one or two years, with DFES meeting the lease costs, could be offered.

Staff have obtained information on the lease of a similar type new vehicle with an estimated cost of \$60,000.00 which indicates the annual lease amount would be approximately \$18,500.00, which excludes fuel, insurance and registration costs. If the Council was to agree to a lease arrangement, given that the vehicle is still owned by the Shire of Plantagenet, the Shire would continue to insure and license the vehicle.

As the leasing of a vehicle is defined as disposal in the Local Government Act, the Council would be required to advertise the proposal in a local newspaper and consider any submissions received.

Regardless of the decision the Council makes on the current vehicle, it is recommended that a letter be written to the Minister for Emergency Services voicing the Council's concern at the lack of funding for an additional general purpose utility and requesting that funding be provided in the 2020/21 or 2021/22 ESL funding round, and that the Shire President lobby the Minister on this matter if the situation arises.

Finally, Works and Services are considering the leasing of the new replacement CESM vehicle as it's been identified that 50% of the lease costs can be recouped via the ESL annual grant to the Shire.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr L Handasyde:

That:

1. The Council decline to loan the current CESM vehicle to the Mount Barker SES until DFES funding is provided to purchase and additional vehicle.
2. The Council agree to advertise the proposal to offer the vehicle for purchase at the current estimated trade-in value of \$30,000.00 or lease for a maximum period of two years at an annual lease amount of \$9,000.00, for public comment as required by the Local Government Act 1995, section 3.38(3).
3. Should no submissions be received at the close of the public comment period the Acting Chief Executive Officer be delegated authority to proceed with the sale or lease of the vehicle.
4. The Acting Chief Executive Officer write to the Minister for Emergency Services voicing the Council's concern at the lack of funding for an additional General-Purpose Utility for the Mount Barker SES and requesting that funding be provided in the 2021/22 or 2022/23 ESL funding round.
5. The Shire President lobby the Minister on this matter should the opportunity arise.

CARRIED (9/0)

NO. 316/20

Absolute Majority

9.4.3 PLANTAGENET HISTORICAL SOCIETY – WATER USE AT OLD POLICE STATION MUSEUM COMPLEX

Cr K Clements

Item: 9.4.3

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

Nature: Chair of the Plantagenet Historical Society

Extent: N/A

File Ref: N53373

**Responsible Officer: Paul Sheedy
Acting Chief Executive Officer**

**Author: John Fathers
Deputy Chief Executive Officer**

Proposed Meeting Date: 1 December 2020

PURPOSE

The purpose of this report is to consider a request from the Plantagenet Historical Society for a waiver on excess water charges and provision of water supply infrastructure.

BACKGROUND

At its meeting held on 14 July 2020, authority was granted to the Shire President and the Chief Executive Officer to affix the Common Seal of the Council to the lease agreement between the Shire of Plantagenet and the Plantagenet Historical Society for Reserve 29661, being Lot 500 Albany Highway, Mount Barker.

The lease has not yet been signed by the Plantagenet Historical Society.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 6.12(1)(b) permits a local government to waive or grant concessions in relation to any amount of money owed to a local government.

EXTERNAL CONSULTATION

The chairperson of the Plantagenet Historical Society (Cr Ken Clements) has discussed this issue with the Acting Chief Executive Officer.

FINANCIAL IMPLICATIONS

If the request is granted, income reimbursed from the Plantagenet Historical Society will be impacted.

BUDGET IMPLICATIONS

Following the annual Financial Assistance Grants deliberations, the adopted budget allocated \$20,000.00 to the Plantagenet Historical Society for general maintenance and running costs of museum and gardens. This was an increase on the previous

year's sum of \$14,000.00, to take account of additional expenditure resulting from lease commitments.

POLICY IMPLICATIONS

Council Policy CF/DG/2 – Financial Assistance (Operating) to Incorporated Organisations and Clubs applies.

The policy provides that the Council will aim to deal with other applications (that fall outside of any delegation by the Chief Executive Officer) as part of its annual budget process. However, it is considered that the policy requirements are met and this is additional to the funds already provided.

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 1.3 (A cohesive and supportive community) the following Strategy:

Strategy 1.3.1:

‘Encourage and support community groups and initiatives to help people to work together for the benefit of our community’

Further at Strategy 1.3.4:

‘Actively promote and assist community groups and clubs’

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 Plantagenet Historical Society has written to the Shire advising as follows:

‘When the initial discussions were held regarding the lease, there was no indication of costings for electricity and water usage. These two items had always been paid by the Shire.

Prior to any indications on costings, the Society had set a budget for its yearly community grants application, with both water and electricity costs estimated at \$2,000.00 each.

After the FAGs grant was submitted, the Society was advised that the cost of water for the 10 months from 5 July 2019 to 5 March 2020 was \$5,084.00. Projected figures calculated for a 12-month period would be between \$6,500.00 and \$7,000.00.

This figure was calculated to be outside the Society's ability to pay and the Shire was advised.

Since then the idea of using water from the Government Dam pipe that goes from the Government Dam to the caravan park through the area that will be leased by the Society could be tapped into and used to water the grassed area around the buildings.

This has been proposed on a number of occasions with no feedback from the Shire.

Feedback on this request and a solution or perhaps a subsidy for any water costs above \$2,000.00 would be appreciated so the lease can be signed.'

In regard to water use, in February 2020, the Water Corporation noted the high water use at the at the Old Police Station Museum complex and did an investigation which confirmed that there are no leaks or faults on site. The readings seemed to indicate that water use, presumably for the gardens, was running at nearly 10,000 litres per day in January and at a much higher rate than the previous two years.

The Society disputed the suggestions of over watering and suggested that the issue may have resulted from the installation of two pressure reduction valves or that water was being taken illicitly.

In March 2020, information was passed onto the then Chief Executive Officer so that he could further negotiations regarding the lease for the Historical Society, indicating that water charges were \$3,945.05 in 2018/2019 and \$5,007.22 in 2019/2020 to date.

The Society requested detailed water usage information for the site in August 2020, which indicated the following:

Year	Kl	Cost
2019/2020	2,161	\$5,084
2018/2019	1,563	\$3,945
2017/2018	1,659	\$3,968
2016/2017	820	\$1,857
2015/2016	1,385	\$2,992
2014/2015	1,321	\$2,608
2013/2014	1,552	\$3,045
2012/2013	1,075	\$1,933
2011/2012	610	\$993
2010/2011	816	\$1,322

Given the unusually high water costs, which were not entirely predictable, the Shire could waive the water costs for the 2020/2021 financial year, over the amount of \$2,000.00 as requested. There should be a limit to this and given readings over the last few years, a maximum waiver amount could be \$3,000.00.

In response to the Society's request to use water from Government Dam, the Executive Manager Works and Services advised that it would be possible to tap into this line but it would be relatively expensive. There would need to be another water meter at the 'T' junction so that the caravan park is not charged for the Society's water.

The Society would have to alter the irrigation setup so that, wherever the water is used, it is not connected to mains water in any way. Someone would also have to be present during the watering to turn the pump on and off unless remote activation is installed.

It is considered that a better solution would be to install a 23kL or larger tank, filling it from the dam during the day then running a separate pump in the grounds for the irrigation incorporating a timer and irrigation controller.

There is also the added problem that the quality of water is very poor due to salt content and there will be some significant declines in the quality of lawns as a result.

The Council could give consideration towards the installation of an appropriate water tank and pipework necessary to connect to the reticulation as part of the 2021/2022 budget deliberations.

Alternatively, the Society could be advised to cut down on the water usage by watering the lawn only when necessary and consider substantially reducing the size of the lawn area. Further, established roses do not need water at the rates the Society appears to use it.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

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

That the Plantagenet Historical Society be advised:

- 1. That 2020/2021 water costs for the Old Police Station Museum complex over \$2,000.00 will be waived, to a maximum amount of \$3,000.00.**
- 2. To minimise water usage by watering the lawn and gardens only when necessary and consider substantially reducing the size of the lawn area.**

CARRIED (9/0)

NO. 317/20

9.4.4 RENEWAL OF SUBLEASE – MOUNT BARKER TOURIST BUREAU INC.Cr M O'Dea

Item: 9.4.4

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

Nature: Coordinator of the Wine show of WA and lease space from the Mount Barker Visitor Centre

Extent: N/A

File Ref: N53437**Attachment: Sublease****Responsible Officer: Paul Sheedy
Acting Chief Executive Officer****Author: Donna Fawcett
Human Resources Coordinator****Proposed Meeting Date: 1 December 2020**

PURPOSE

The purpose of this report is to seek authority to affix the Common Seal of the Council to a sublease agreement between the Shire of Plantagenet and the Mount Barker Tourist Bureau Incorporated, for use of the southern portion of the Mount Barker Railway Station Building located on Albany Highway, Mount Barker, for an extended term of 5 years.

BACKGROUND

The Shire of Plantagenet currently leases the former Mount Barker Railway Station site from the Public Transport Authority of Western Australia (PTAWA). The Shire subleases approximately 211.54m² (the southern portion of the building) to the Mount Barker Tourist Bureau Inc. The current sublease agreement expires on 30 November 2020.

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 3.58 applies to the disposition of property, including leasing. Under the Local Government (Functions and General) Regulations, a disposition of land is an exempt disposition and is excluded from the application of Section 3.58, if:

'...the land is disposed of to a body, whether incorporated or not – the objects of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and members of which are not enlisted or permitted to receive a pecuniary profit from the body's transactions.'

A sublease to the Mount Barker Tourist Bureau Inc. is an exempt disposition.

EXTERNAL CONSULTATION

Consultation has occurred with representatives of the Mount Barker Tourist Bureau Inc.

FINANCIAL IMPLICATIONS

Rental for the premises has been set at a peppercorn since 2010. The current sublease provides for the rental to remain at a peppercorn for the extended term.

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

Policy CE/ES/1 (Tourism Policy) is considered relevant.

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 3.4 (A strong tourism region) the following Strategies:

Strategy 3.4.1:

'Promote and support local and regional tourism initiatives.'

Strategy 3.4.2:

'Provide infrastructure and services to support tourism.'

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 current sublease provides for an extended term of 5 years at the sublessee's option. Mount Barker Tourist Bureau Inc. have provided written notice that they wish to exercise that option. The terms and conditions provided in the sublease are the same as the current sublease, however there is no provision for a further term.

The sublease will also require the endorsement of the PTAWA.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr K Clements, seconded Cr J Moir:

That authority be granted to the Shire President and the Acting Chief Executive Officer to affix the Common Seal of the Council to the sublease for the southern portion of the Mount Barker Railway Station Building located on Albany Highway, Mount Barker to the Mount Barker Tourist Bureau Inc. for the period 1 December 2020 to 30 November 2025.

CARRIED (9/0)

NO. 318/20

9.4.5 SUBDIVISION – LOT 337 MARTIN STREET MOUNT BARKER

File Ref:	N53465
Attachment:	<u>Proposed Subdivision Plan</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Paul Sheedy Acting Chief Executive Officer
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to seek the approval of the Council to authorise the engagement of a surveyor to prepare a diagram of survey and a lodgement of a subdivision application with the Western Australian Planning Commission (WAPC) to create five (5) lots from the existing one lot at Lot 337 Martin Street, Mount Barker.

BACKGROUND

December 2007

An application to subdivide Lot 337 into six 800m² lots, one lot of 4,459m², one lot of 4,465m² and one lot of 1,972m² (drainage purposes) was conditionally approved by the Western Australian Planning Commission. That approval expired in December 2011.

December 2010

A business plan was prepared for Lot 337 Martin Street in accordance with Section 3.59(3) of the Local Government Act 1995.

The business plan put forward a number of options for the future of this land as follows:

- Option 1 - The full subdivision of the land into six 800m² lots, two larger (4,500m²) lots containing the two Council houses occupied by the Chief Executive Officer and Deputy Chief Executive Officer and one lot of 1,972m² for drainage purposes.
- Option 2 - Subdivide the land into three lots being the two larger lots with the Council houses and one large balance of title lot. The two Council houses were then to be renovated.
- Option 3 - Sell the three larger lots (option 2) and then lease two other houses for the Council officers.
- Option 4 - Sell the three larger lots (option 2) and buy two smaller lots elsewhere in Mount Barker and build two new houses for the Council officers.
- Option 5 - Sell the three larger lots (option 2) and buy two existing reasonably new good standard homes for the Council officers.

February 2011

The Business Plan was advertised for comment for six weeks ending on 18 February 2011.

March 2011

The Council considered the submission received at its meeting held on 1 March 2011 where it was resolved:

'That:

1. *The submission received on the Business Plan for the proposal to subdivide Lot 337 Martin Street, Mount Barker be noted.*
2. *Council proceed with Option 2 of the Business Plan to subdivide Lot 337 Martin Street, Mount Barker into three lots, renovate the two Council houses and sell the third lot at a time when the real estate market has improved.*
3. *Consideration be given in the Council's 2011/2012 Annual Budget for the inclusion of funds for the three-lot subdivision and the renovation of the two Council houses at 2 above.'*

Since that time funding has not been included in Council budgets for the three-lot subdivision. Money has been budgeted for various renovations and repairs to the two Council houses.

September 2018

At its meeting held on 11 September 2018, the Council resolved (204/18):

'that the Council property at Lot 337 Martin Street, Mount Barker be offered for sale by public tender.'

The property was advertised for tender in the Plantagenet News, Albany Advertiser, West Australian, Facebook and Shire website. For approximately two months a sign was placed on site and the property was advertised on real estate listings and was available from web-based searches.

Five home opens were conducted, with two parties viewing the houses. Tenders closed on Friday 3 May 2019, with no tenders being received.

STATUTORY ENVIRONMENT

Local Government Act 1995, section 3.58

3.58. Disposing of property

(1) In this section —

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
- (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
- and
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

Local Government Act 1995, section 3.59

3.59. Commercial enterprises by local governments

- (2) Before it —
- (a) commences a major trading undertaking; or
 - (b) enters into a major land transaction; or
 - (c) enters into a land transaction that is preparatory to entry into a major land transaction,
- a local government is to prepare a business plan.
- (4) The local government is to —
- (a) give Statewide public notice stating that —
 - (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and
 - (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- and
- (b) make a copy of the business plan available for public inspection in accordance with the notice; and
 - (c) publish a copy of the business plan on the local government's official website.

Delegation 2.3 delegates authority to the Chief Executive Officer to prepare a business plan if one is required going forward.

Local Government (Functions and General) Regulations 1996, section 8A

8A. Amount prescribed for major land transactions; exempt land transactions prescribed (Act s. 3.59)

- (1) The amount prescribed for the purposes of the definition of *major land transaction* in section 3.59(1) of the Act is —
 - (b) if the land transaction is entered into by any other local government, the amount that is the lesser of —
 - (i) \$2 000 000; or
 - (ii) 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.

In the case of the Shire of Plantagenet, this value is estimated to be \$1,544,525.00 for the 2019/2020 financial year and given that the estimated income at this time is expected to be approximately \$1.0m to \$1.2million, a business case would not be required. This would have to be re-assessed further once the subdivision is approved and valuations for the proposed lots is obtained.

Local Government Act 1995, section 6.8

6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
 - (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
 - (b) is authorised in advance by resolution*; or
 - (c) is authorised in advance by the mayor or president in an emergency.

*** Absolute majority required.**

EXTERNAL CONSULTATION

Quotations were sought from three (3) surveying companies. No further consultation is required at this time.

FINANCIAL IMPLICATIONS

The cost of undertaking the connection of services (water, power and sewer) and provision of access to one lot on Martin Street will require the allocation of funds in the 2021/22 &/or 2022/23 budget. There will also be some costs for selling the properties if public tender or auction is not undertaken or not successful.

BUDGET IMPLICATIONS

There are no funds allocated in the 2020/21 budget for this project so the cost will be unbudgeted expenditure requiring a budget adjustment.

One quotation received to-date has indicated the cost to undertake the survey work, lodgement of WAPC subdivision application, Landgate fees etc. would be approximately \$11,700.00 (excluding GST).

In addition, as the land is located within the DFES Bushfire Prone Area Risk Map a BAL assessment is required with the subdivision application at an estimated cost of \$3,000.00.

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

Submission of a subdivision proposal is a legal requirement under the Planning and Development Act 2005

ASSET MANAGEMENT IMPLICATIONS

There are no current assets implications, but the creation of four (4) new lots will impact on the Shire's asset register and disposal of property will result in a reduction in land asset value.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.5 (Council buildings and facilities that meet community needs) the following Strategies:

Strategy 2.5.2:

'Develop new buildings and facilities in accordance with asset management principles and based on a planned and prioritised approach'

Strategy 2.5.3:

'Continue to investigate opportunities to rationalise or devolve obsolete buildings and other assets'

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

STRATEGIC RISK IMPLICATIONS

The risk implications would be considered insignificant (cost less than \$20,000.00), with the risk ranking being considered low as this proposal will improve the ability for the Shire to dispose of the properties.

REGIONAL IMPLICATIONS

There are no relevant regional implications.

OFFICER COMMENT

As the Council is aware, the property comprises one lot with two houses and a large area of vacant land with the utility service connections for both houses located at the corner of Oatlands Road and Martin Street. Previous attempts to dispose of the property as one lot have been unsuccessful. In my opinion, this would be partly due to it being one large lot that could potentially require the investment of additional funds for subdivision and provision of separate utility connections to each house.

Whilst it's legal to sell a property with this configuration, it is possible that its 'highest and best use' value would not be obtained, even if the property could successfully be sold. For this reason, it's recommended that the Council progress a subdivision proposal and then fund the connection of utility services as required. This would maximise the opportunity to be successful in disposing of one or more of the newly created lots and maximise the return to the Council for future investment in other community assets.

The proposed lot configuration in the attachment is proposed on the basis that it's in keeping with the predominate Rural/Residential lots sizes surrounding it, and other than the creation of a lot access to Lot 1 on Martin Street, no further road construction costs are incurred.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

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

That the Council:

- 1. Endorse the proposed subdivision proposal for Lot 337 Martin Street as detailed in the attached plan.**
- 2. Approve the unbudgeted expenditure of \$15,000.00 for the cadastral survey work, lodgement of subdivision application with the WAPC and completion of a Bushfire Attack Level assessment.**

CARRIED (9/0)

NO. 319/20

Absolute Majority

9.4.6 ACTING CEO REPORT ON KEY PERFORMANCE INDICATOR 1

File Ref:	N53471
Attachment:	<u>Report – Review of Statutory requirements and obligations</u> (Separate Attachment)
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Paul Sheedy Acting Chief Executive Officer
Proposed Meeting Date:	1 December 2020

PURPOSE

The purpose of this report is to comply with KPI one 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 of statutory requirements and obligations of the organisation in regard to compliance and report back to the Audit and Risk Committee prior to the end of September 2020.’

BACKGROUND

The Council at its meeting held 19 May 2020 resolved (minute 144/20):

‘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 the Council on each one by a predetermined date.

The first KPI is as follows:

'Review of statutory requirements and obligations of the organisation in regard to compliance and report back to the Audit and Risk Committee prior to the end of September 2020.'

STATUTORY ENVIRONMENT

There are no statutory implications relevant to this report.

EXTERNAL CONSULTATION

No external consultation was required for this report.

FINANCIAL IMPLICATIONS

There are no current financial implications relevant to this report.

BUDGET IMPLICATIONS

There are no current budget implications relevant to this report.

POLICY IMPLICATIONS

There are no current Policies relevant to this report and it is the opinion of the author that policy development is not required.

LEGAL IMPLICATIONS

There are no legal implications with Council receiving this report.

ASSET MANAGEMENT IMPLICATIONS

No assets are being created so there is no asset management implication relevant to this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at:

Outcome 4.1 (Effective governance and leadership) the following Strategy:

Strategy 4.1.1:

'Provide effective leadership for the community'

Strategy 4.1.2

'Ensure the corporate structure is aligned with the Shire strategic direction'

Outcome 4.2 (Effective engagement with community and stakeholders)

Strategy 4.3.1

'Provide and promote responsive customer and licensing services'

Strategy 4.3.2

‘Where appropriate, undertake promotion of current services and implement review processes in service delivery’

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

REGIONAL IMPLICATIONS

There are no regional implications relevant to this report.

OFFICER COMMENT

As there was no Audit and Risk Committee meeting proposed by the end of September 2020, a copy of the report was provided to the Shire President and deputy Shire President.

Overall, there have not been any indications or evidence of significant non-compliance to statutory requirements and obligations, other than some minor breaches, which appear to have been rectified or action taken to ensure there will not be any future non-compliance issues arising.

Whilst there has been evidence of some minor adverse findings and breaches of statutory requirements and obligations in the organisation over the last two years and action has been taken to address these issues, in my opinion the overall organisation’s compliance to legislation and the Local Government Act (LGA).is very good and the organisation is in a healthy space from a governance and compliance perspective.

VOTING REQUIREMENTS

Simple Majority

AUDIT AND RISK COMMITTEE RECOMMENDATION/COUNCIL DECISION

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

That the Report on Key Performance Indicator 1 ‘Review of Statutory Requirements and Obligations of the Shire of Plantagenet’ as provided by the Acting Chief Executive Officer be received and noted.

CARRIED (9/0)

NO. 320/20

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 LETTER OF CONDOLENCE

Cr 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:

Moved Cr J Moir, Seconded Cr B Bell:

That:

- 1. The Council extend its sincere condolences to the family of Allan Brown and notes his contribution made to the Plantagenet Shire and the Narrikup Community.**
- 2. A letter of condolence be written to his wife Doris Brown and family.**

CARRIED (9/0)

NO. 321/20

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

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

That four new items of business of an urgent nature, namely:

- 11.1 Local Roads and Community Infrastructure Program – Extension.**
- 11.2 Plantagenet Promotion Opportunity.**
- 11.3 Tender C01-2021- Profiling and Stabilisation services (CONFIDENTIAL).**
- 11.4 CEO Appointment (CONFIDENTIAL).**

be introduced to the meeting.

CARRIED (9/0)

NO. 322/20

MOTION TO SUSPEND STANDING ORDER

Moved Cr B Bell, seconded Cr J Oldfield:

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. 323/20

MOTION TO RESUME STANDING ORDER

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

That Standing Orders be resumed.

CARRIED (9/0)

NO. 324/20

MOTION TO ADJOURN THE MEETING**Moved Cr B Bell, seconded Cr J Moir:****5.20pm That the meeting be adjourned.****CARRIED (9/0)****NO. 325/20****RESUMPTION****Moved Cr J Moir, seconded Cr M O'Dea:****5.25pm That the meeting resume.****CARRIED (9/0)****NO. 326/20**Attendance

Cr C Pavlovich	Shire President
Cr J Oldfield	Deputy Shire President
Cr B Bell	Councillor
Cr K Clements	Councillor
Cr S Etherington	Councillor
Cr L Handasyde	Councillor
Cr J Moir	Councillor
Cr M O'Dea	Councillor
Cr K Woltering	Councillor
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

One member of the public was present.

11.1 LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM - EXTENSION

File Ref: N53463
Responsible Officer: Paul Sheedy
Acting Chief Executive Officer
Author: John Fathers
Deputy Chief Executive Officer
Proposed Meeting Date: 1 December 2020

PURPOSE

The purpose of this report is to seek endorsement of priority projects for funding under the Local Roads and Community Infrastructure Program (LRCIP) – Extension funding.

BACKGROUND

In correspondence received 30 October 2020, the Hon Michael McCormack MP informed the Shire President of the Shire's eligibility to apply for \$540,357.00 under an extension to the LRCIP.

This letter also advised that Program Guidelines and Grant Agreements are currently being drafted and will be provided in the coming weeks. In the meantime, we are encouraged to consider projects to nominate for funding under the Program Extension. Projects will need to be completed by 31 December 2021.

STATUTORY ENVIRONMENT

The project proposals are required to be compliant with all relevant laws and regulations.

Under State and Territory legislation, it is a requirement for people in roles that have direct, unsupervised contact with children to undertake a working with children/vulnerable people check. The application process for this funding will require a risk assessment regarding harm or abuse of children and vulnerable people.

EXTERNAL CONSULTATION

External consultation has occurred in developing the individual projects for consideration under this funding.

FINANCIAL IMPLICATIONS

This grant will result in additional capital expenditure, to be fully funded by the LRCIP grant, albeit with a likely delay in recoups.

BUDGET IMPLICATIONS

At a future budget review, there will be a need to incorporate actual expenditures with regard to the discrete components within the LRCIP Extension.

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

Applying for this funding will entail entering into a grant agreement with the Commonwealth. This will be a standard form Commonwealth grant agreement. Funds will not be payable until the signed agreement is executed.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at:

Outcome 1.3 (A cohesive and supportive community) the following Strategy:

Strategy 1.3.5:

'Improve the amenity of community spaces and Shire facilities to promote participation and wellbeing';

Outcome 1.4 (Opportunities for development and participation of our youth) provides the following Strategy:

Strategy 1.4.2:

'Provide and promote appropriate and accessible facilities and activities for youth';

Outcome 1.5 (Recreation, sporting and leisure facilities that support the wellbeing of the community) provides the following Strategy:

Strategy 1.5.6:

'Maintain a safe pool facility and enhance aquatic programs to encourage increased patronage';

Outcome 3.1 (Diverse, profitable and sustainable local business) provides the following Strategy:

Strategy 3.1.1:

'Promote the District as a good business destination';

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

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

The proposals that have been chosen will complement GSCORE's Regional Trails Masterplan, in addition to the Regional Destination Marketing Strategy.

OFFICER COMMENT

At recent quarterly workshops dealing with strategic priorities, the following projects have been raised which have a degree of priority. Most are currently unfunded parts of large infrastructure projects currently in development.

Mead Street upgrade

The Mount Barker Memorial Swimming Pool project concept plans currently provide for a southern entrance off Mead Street. This also involves a realignment of the street, 45-degree angle parking and roundabout at an estimated cost of \$234,000.00. Given the new entrance will be from the south side (Mead Street), ideally this part of the overall pool revitalisation project should be prioritised.

Replace toilet block – Kendenup Hall

As part of a previous workshop to discuss an ongoing program to upgrade public toilets in the district, it was noted that the Kendenup Hall Toilet need work.

The 2019 Public Toilets Condition Assessment noted that the painted concrete floor in the male toilet had very heavy wear, absorbs urine and creates a pungent odour. The walls are in reasonable condition with painted render but have some rising damp problems. The toilets do not present well and should be demolished. The external leach drain is antiquated and a new septic system is also required.

A floor plan for a new toilet has been devised. An estimate has been obtained from a Gnowangerup based supplier to build a concrete toilet blocks off site and deliver and place at Kendenup. The estimate is around \$130,000.00 (ex GST). We would still have to connect services and replace the septic (estimate \$10k ex GST) and do surrounding landscape/ paving (estimate \$5k ex GST).

Alternatively, we could get a plan drawn up for a new brick building and get local builder quotes. This would probably be at a similar cost (estimate \$150,000.00 ex GST).

Mount Barker Hill – Carpark and Bus Bay

The Mount Barker Hill concept plans include provision of a main carpark and bus drop off bays. The Recreation Advisory Committee has noted that the costs involved would exceed the current Stage 1 budget of \$455,000.00. The concept plan budget assumed an overall cost of \$519,880.00 (ex GST).

The Executive Manager Works and Services has been assessing the cost of this project. The complication with the hill is the emergent rocks at worse and only slightly better the lack of depth above the rocks elsewhere.

Blasting or use of a rock breaker would not be permitted that close to the tower so expanding grout would need to be used to remove the rocks. This would require a large amount of work. For say 10m² of rock to be removed, roughly 2,500 holes or 2,500 linear metres of drilling would be needed. The cost of labour, materials, mobilisation and accommodation is likely to be in excess of \$125,000.00. Then it has to be dug out.

An alternate is to do a good survey/design and see if the emergent rocks can be turned into a carpark feature instead, then putting 400mm of gravel over everything, primer seal, asphalt and paint. This also assumes stormwater flows out the corners onto hard rocks rather than including pipes and sumps.

Further investigations would be needed to confirm the ultimate costing.

Albany Highway – Infill Drain

This item has been raised previously by Councillors as a means of improving the streetscape along Albany Highway.

The drain in question runs for approximately 250m between Albany Highway and the rail line. Approximately 200m of the alignment is within PTAWA land, for which its permission would be required prior to any works being carried out. After this, it is

piped under the historical Mitchell Street crossing before re-emerging and dissipating into the Sleeman Creek alignment running along the rail line itself.

This system catches a considerable area of Albany Highway and an unknown amount of drainage from the Ormond Road and Booth Street areas.

The intention would be to excavate the floor of the drain to an even grade, place aggregate, pipe and subsoil drainage within the trench then backfill with gravel. The works would also incorporate a series of bubble up pits designed to allow for storm events where the pipework (600mm) reached capacity. Overland flow from the pits would relieve the pressure on the pipeworks and prevent damage.

Topsoil would be scattered over the alignment and grass planted. This area would then form part of the existing grassed area and maintained by mowing contractors.

This project has been estimated at \$205,000.00 including the Council overhead charges. It does not include any allowance for hydraulic engineering design which may be required by PTAWA. If required, then the resulting design may require larger pipework (750 or 900mm) which would increase the cost by a further \$80,000.00 - 100,000.00. An engineering assessment may incur costs of up to \$30,000.00.

Mount Barker Hill – Trails Development

The Mount Barker Hill Advisory Committee has progressed three concept plans which consider separate aspects of developing Mount Barker Hill. One of those is the 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.

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.

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 the Council to allocate appropriate funds to Shire projects taking into account that there are a number of projects in development.

At its meeting held on 3 November 2020, the Council resolved 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.’*

An allocation of grant funding from the LRCIP Extension may be preferable to loan funding, assuming it is eligible under the LRCIP rules.

The guidelines for the LRCIP Extension have not yet been released, however like the initial the Local Roads and Community Infrastructure Program (LRCIP), it is assumed that grant funding for projects under the LRCIP Extension not be combined with other Australian, state or territory government funding on any project. Considering the Mount Barker Hill project may be partly funded by BBRF and the Swimming Pool revitalisation project is part funded by Drought Communities funding,

these projects may be ineligible for further LRCIP grants, depending on the interpretation of the guidelines.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the following project priorities for the Local Roads and Community Infrastructure Program (LRCIP) – Extension grant application be endorsed, subject to the Council approval of final designs and costings:

1. Mead Street upgrade.
2. Replace toilet block – Kendenup Hall.
3. Mount Barker Hill – Carpark and Bus Bay.
4. Albany Highway – Infill Drain.
5. Mount Barker Hill – Trails Development.

COUNCIL DECISION

Moved Cr L Handasyde , seconded Cr J Oldfield :

That the following project priorities for the Local Roads and Community Infrastructure Program (LRCIP) – Extension grant application be endorsed, subject to the Council approval of final designs and costings:

- 1. Mead Street upgrade.**
- 2. Replace toilet block – Kendenup Hall.**
- 3. Albany Highway – Infill Drain.**
- 4. Mount Barker Hill – Carpark and Bus Bay.**
- 5. Mount Barker Hill – Trails Development.**

CARRIED (9/0)

NO. 327/20

11.2 PLANTAGENET PROMOTION OPPORTUNITY

File Ref: I110279

The Porongurup Promotions Association (PPA) addressed the Council at its meeting held 1 December 2020, in relation to a proposal for the Shire of Plantagenet to partner with the PPA in a cinema based promotion and requested this proposal be approved as a Late Item for consideration at the Council Meeting.

VOTING REQUIREMENTS

Absolute Majority

MOTION

Moved Cr K Clements, seconded Cr S Etherington:

That the Council approve an unbudgeted expenditure amount of \$10,000.00 for the Porongurup Promotions Association for the Plantagenet Promotion campaign, subject to the following:

1. The Shire of Plantagenet have access to the 30 second advert on demand.
2. Funding be provided on invoicing from the Porongurup Promotions Association on booking confirmation.

AMENDMENT

Moved Cr M O'Dea, seconded Cr S Etherington:

That the amount of \$10,000.00 be replaced with the amount of \$5,000.00.

CARRIED (7/2)

NO. 328/20

Crs Bell and Clements voted against the motion

COUNCIL DECISION

That the Council approve an unbudgeted expenditure amount of \$5,000.00 for the Porongurup Promotions Association for the Plantagenet Promotion campaign, subject to the following:

1. The Shire of Plantagenet have access to the 30 second advert on demand.
2. Funding be provided on invoicing from the Porongurup Promotions Association on booking confirmation.

CARRIED (5/4)

NO. 329/20

Crs Pavlovich, Oldfield, Bell and Handasyde voted against the motion

Absolute Majority

**11.3 TENDER CO1-2021 - PROFILING AND STABILISATION SERVICES
(CONFIDENTIAL)**

File Ref: N53576
Responsible Officer: David Lynch
Executive Manager Works and Services
Author: Amy Chadbourne
Senior Administration/Project Officer Works
and Services
Proposed Meeting Date: 1 December 2020

PURPOSE

The purpose of this report is to consider submissions received for the tender CO1-2021 Profiling and Stabilisation Services.

MOTION TO PROCEED BEHIND CLOSED DOORS

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

5:55pm That in 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:

(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. 330/20

5:55pm Remaining members of the public were asked to leave the meeting.

MOTION TO PROCEED IN PUBLIC

Moved Cr Handasyde, seconded Cr O’Dea:

6:00pm That the meeting proceed in public.

CARRIED (9/0)

NO. 331/20

OFFICER RECOMMENDATION/COUNCIL DECISION**Moved Cr L Handasyde, seconded Cr K Clements:****That:**

- 1. Tender CO1-2021 Profiling and Stabilisation Services be awarded to WCP Civil at \$381,736.32 (ex GST).**
- 2. The Chief Executive Officer be authorised to negotiate a suitable start date for the contract.**

CARRIED (9/0)**NO. 332/20****11.4 CEO APPOINTMENT (CONFIDENTIAL)****MOTION TO PROCEED BEHIND CLOSED DOORS****Moved Cr L Handasyde, seconded Cr M O'Dea:**

6:01pm That in 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;**

CARRIED (9/0)**NO. 333/20**

5:56pm All staff members were requested to leave the meeting with the exception of the Acting CEO.

MOTION TO PROCEED IN PUBLIC**Moved Cr Handasyde, seconded Cr O'Dea:**

6:14pm That the meeting proceed in public.

CARRIED (9/0)**NO. 334/20**

COUNCIL DECISION

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

That the Council:

1. Appoints Cameron Woods to the position of Chief Executive Officer with the Shire of Plantagenet for a period of five (5) years.
2. Believes that Cameron Woods is suitably qualified for the position of Chief Executive Officer.
3. Is satisfied with the provisions of the proposed employment contract to be entered into with Cameron Woods for a total remuneration package of \$250,000.00 per annum and the Shire President be delegated authority to finalise the terms of the contract.
4. Approves the payment of relocation costs, to be reimbursed at cost, or to the maximum of \$10,000.00 whichever is the lesser.
5. Grants authority to the Shire President to affix the Common Seal of the Council to the Chief Executive Officer Contract of Employment.

CARRIED (9/0)

NO. 335/20

Absolute Majority

12 CLOSURE OF MEETING

6:15pm The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON _____ DATE: ____/____/____