



SALEYARDS ADVISORY COMMITTEE MEETING

MINUTES

SECTION 5.9(2)(a) LGA 1995

Committee Brief

- *Make recommendations to the Council regarding the strategic direction of the Saleyards;*
- *Make recommendations to the Council regarding the Environmental Action Plan for the Saleyards;*
- *Bring to the attention of the Chief Executive Officer, industry matters regarding the cattle industry that may not be readily available to persons external to that industry;*
- *Make recommendations to the Council regarding development works on the site;*
- *Make recommendations to the Council regarding the Saleyards Annual Budget; and*
- *Monitor the performance of the Saleyards and report back to the Council.*

A meeting of the
Saleyards Advisory Committee was held in the
Committee Room, Lowood Road, Mount Barker WA 6324
11.00am Wednesday 27 January 2021.



Paul Sheedy
ACTING CHIEF EXECUTIVE OFFICER

Committee Members

*Cr J Moir, Cr L Handasyde, Cr M O'Dea, Cr J Oldfield, Mr M Skinner – Industry Representative –
210/19, 252/19*

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	1
2	RECORD OF ATTENDANCE / APOLOGIES	1
3	CONFIRMATION OF MINUTES	1
4	DISCLOSURE OF INTEREST	1
5	REPORTS OF COMMITTEE MEMBERS AND OFFICERS	3
5.1	MANAGER'S REPORT –JANUARY 2021	3
5.2	SALEYARDS FINANCIAL REPORT – 31 DECEMBER 2020.....	5
5.3	UNIVERSITY OF WESTERN AUSTRALIA RESEARCH AGREEMENT - SALEYARDS WASTE WATER TREATMENT SYSTEM	6
5.4	POLICY ADOPTION – SALEYARDS - ALLOCATION OF LOADING AND SELLING POSITIONS AND OTHER SPACE TO STOCK AGENTS.....	9
5.5	AWN LIVESTOCK & PROPERTY – REQUEST TO OPERATE AT SALEYARDS	14
6	GENERAL BUSINESS	20
6.1	PROPOSALS FOR FURTHER CONSIDERATION	20
7	NEXT MEETING	20
8	MEETING CLOSURE	20

Membership

Cr J Moir (Presiding Member)

Cr L Handasyde

Cr M O'Dea

Cr J Oldfield

Mr M Skinner

Cr S Etherington (Deputy for any member)

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

11.00am The Presiding Member declared the meeting open.

2 RECORD OF ATTENDANCE / APOLOGIESMembers Present

Cr J Moir – Presiding Member
Cr S Etherington – Deputy for Cr M O’Dea
Cr L Handasyde – Deputy Presiding Member
Cr J Oldfield
Mr M Skinner

Apologies

Cr M O’Dea

Visitors

Cr C Pavlovich

Staff

Mr P Sheedy, Acting Chief Executive Officer
Mr J Fathers, Deputy Chief Executive Officer
Mr G Moore, Saleyards Manager

3 CONFIRMATION OF MINUTES

Moved Cr L Handasyde, seconded Mr M Skinner

That the Minutes of the Ordinary meeting of the Saleyards Advisory Committee, held on 8 December 2020 as circulated, be taken as read and adopted as a correct record.

CARRIED

4 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

Cr J Moir

Type: Financial/Indirect Financial Interest (Section 5.60 (A) and 5.61 LGA)
Nature: Cattle Farmer and Employee of Elders
Extent: Sell cattle through the Mount Barker Saleyards on average six times per year. Average number of cattle held is 80 head.
Part time employee of Elders in a non-managerial position.

Mr M Skinner

Type: Financial/Indirect Financial Interest (Section 5.60 (A) and 5.61 LGA)
Nature: Hold equity in a farming enterprise of which my son owns/farms approximately 400 head of cattle.

Extent: Son sells cattle through the Mount Barker Regional Saleyards approximately 8 times per year.

Authority to participate pursuant to Section 5.69 (3) (a) and (b) of the Local Government Act 1995

Approval has been received from the Department of Local Government, Sport and Cultural Industries via a letter dated 27 January 2021, giving permission for Cr J Moir and Mr M Skinner to participate in the discussion and limited decision making at the Saleyards Advisory Committee on matters relating to the Mount Barker Regional Saleyards for the meeting held on 27 January 2021.

Mr J Fathers read aloud the letter, a copy of which is attached to these minutes.

5 REPORTS OF COMMITTEE MEMBERS AND OFFICERS**5.1 MANAGER'S REPORT –JANUARY 2021****TRUCK WASH**

New truck wash screens have not yet been completed. The contractor has informed me there has been some difficulty and delays with sourcing the appropriate mesh. The contractor has assured me that they will be ready soon and he is doing what he can to speed up the process.

There have been some recent complaints regarding the amount of time we have the truckwash shut down. For us to effectively clean the screens and sump we need to shut it off to allow all water to drain away so we can use skid steer loader to clean. If the manure is too wet we cannot pick it up with the loader and it ends up in the sump which causes pump blockages. This can take several hours to drain.

Just recently we had the truckwash closed at 6.00 pm one evening to drain for next morning cleaning and a cattle truck came in during the night ignored our barrier cones and drove on to the pad and washed out a livestock b-double on top of the already backed up pile of manure. This effectively added several hours to our already busy schedule. Respect and understanding of our work loads and commitments is seemingly non-existent from some of the truckwash patrons.

WEEPING WALL / EFFLUENT SUMP

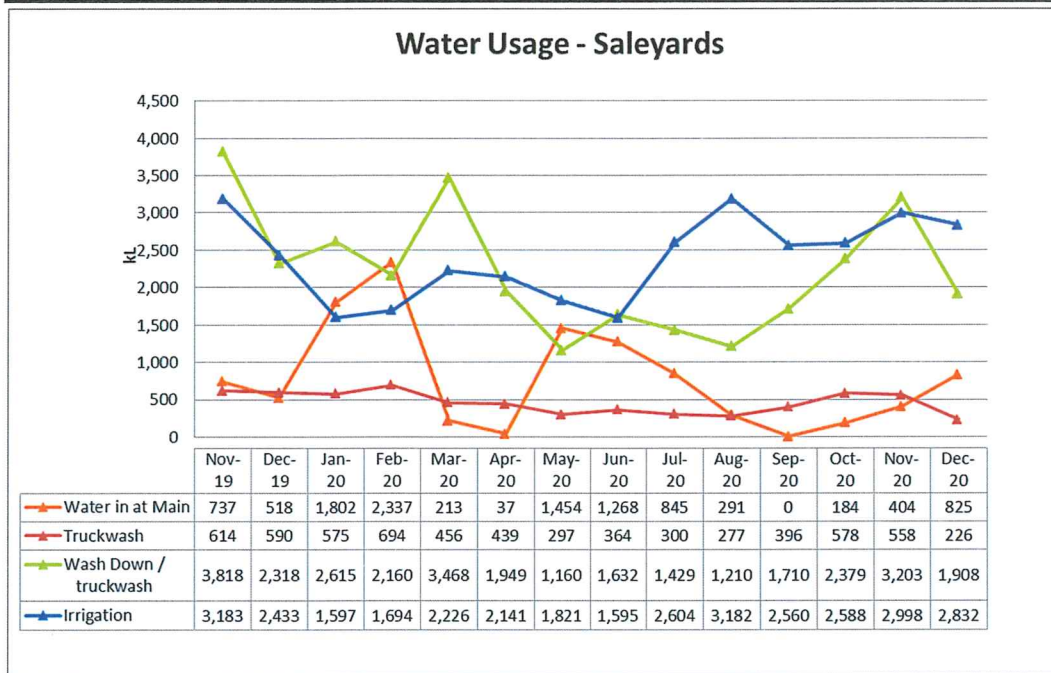
A scheduled shut down of the weeping wall facility was conducted on 22 December 2020. General maintenance was carried out as well as board replacement to the wall structure. So far the upgrades appear to be working well.

GATE TO PLATE CHALLENGE

The annual Harvey Beef Gate 2 Plate Challenge was held at the saleyards on Saturday 16 December. The event again attracted a large number of entrants and was well supported. The Shire was commended on how the yards were cleaned and presented in such a neat and tidy state. This was largely due to the extreme efforts and time put in by Erika and Georgia Henderson in the days leading up to the event. It must also be noted that this also happened immediately following a triple sale week; a massive effort and a massive thanks to those two ladies.

Water Usage

The latest water usage graph is shown below.



VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION / COMMITTEE DECISION

Moved Cr J Oldfield, seconded Mr M Skinner

That the report of the Saleyards Manager, relating to current activities at the Mount Barker Regional Saleyards, be received.

CARRIED

5.2 SALEYARDS FINANCIAL REPORT – 31 DECEMBER 2020

File No: CA/126/1
Responsible Officer: Paul Sheedy
Acting Chief Executive Officer
Author: John Fathers
Deputy Chief Executive Officer
Proposed Meeting Date: 27 January 2021

PURPOSE

The purpose of this report is to review the financial position of the Mount Barker Regional Saleyards for the period ending 31 December 2020.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

FINANCIAL IMPLICATIONS

This report identifies the current operating position of the Saleyards.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

A spreadsheet showing the 31 December 2020 position of operating and capital budget items is attached for information. Overall operating expenditure is \$425,723.00, which is \$39,463.00 below the YTD budget. The cash total is currently \$45,484.00 below the YTD budget.

There is minimal expenditure on capital budget items at this stage.

Operating income is \$376,677.00, which is \$76,706.00 above YTD budget, completely attributable to weigh and pen fees, due to strong early throughput.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION / COMMITTEE DECISION

Moved Cr J Oldfield, seconded Cr S Etherington

That the report of the Deputy Chief Executive Officer, relating to the current financial position of the Mount Barker Regional Saleyards, be received.

CARRIED

**5.3 UNIVERSITY OF WESTERN AUSTRALIA RESEARCH AGREEMENT -
SALEYARDS WASTE WATER TREATMENT SYSTEM**

File Ref:	N54124
Attachments:	<u>Sponsored Research Agreement</u> <u>UWA Project Brief</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	27 January 2021

PURPOSE

The purpose of this report is to seek approval to enter into an agreement with the University of Western Australia (UWA) to enable a student research project to be undertaken to identify and report on improvements to the Mount Barker Regional Saleyards waste water treatment system.

BACKGROUND

At its meeting held on 20 October 2020, the Saleyards Advisory Committee suggested that there may be some benefit in inviting UWA to use the 'real life' waste water treatment issues being experienced at the Saleyards for a research project. The Chief Executive Officer was requested to prepare a proposal for university student research into options for improvements to the Saleyards waste water treatment system.

Contact was made with UWA and discussions were held with Professor Anas Ghadouani and Dr Liah Coggins, environmental engineers from the UWA Faculty of Engineering and Mathematical Sciences, Civil, Environmental and Mining Engineering.

The Saleyards Advisory Committee held a teleconference with Dr Coggins on 8 December 2020 to discuss the aims of the proposal. It was agreed that Dr Coggins would provide a formal proposal for submission to the Council, which would include approximate costings.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

EXTERNAL CONSULTATION

Consultation has taken place with UWA.

FINANCIAL IMPLICATIONS

According to the agreement, the Shire will pay \$4,455.00 (ex GST) as a contribution towards the project. UWA's contribution is \$6,386.00. Any additional water testing, or trips to site required will attract additional costs, although this should be minimal.

BUDGET IMPLICATIONS

The 2020/2021 budget for the Saleyards includes \$10,000.00 for environmental services. The amount above can be accommodated within that budget item. The budget also includes a sum of \$50,000.00 for 'Waste Water Treatment System Modifications'.

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 legal obligations are contained in the attached agreement.

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 3.5: (Appropriate infrastructure that supports sustainable economic development) the following strategy:

Strategy 3.5.5 – *'Manage and maintain the Saleyards to ensure that the facility is successful and self-sustaining.'*

Accordingly, the recommended outcome for this report aligns with the Corporate Business Plan.

STRATEGIC RISK IMPLICATIONS

The Strategic Risk Register is silent on strategic risks associated with the operation of the waste water treatment plant at the saleyards. Nevertheless, there is an ongoing risk of breaching the requirements of the Department of Environment Regulation licence over the site if improvements are not carried out. Further, there is a risk of higher ongoing costs for manure removal and damage to clay pond liners by manual extraction.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

Proposals to improve the waste water treatment system at the Mount Barker Regional Saleyards have been mooted for some years. Over the years, the Shire has spent money on the ongoing removal of excess sludge from the ponds.

Investigations have considered various proposals aiming to reduce the amount of sludge entering the ponds and have the ponds operate in series (anaerobic treatment then polishing in an aerobic process). The Saleyards Advisory Committee has to date, not been happy to endorse any particular major capital works, hence the suggestion to invite UWA to undertake a research project.

UWA has a lot of experience assisting the Water Corporation in WA and similar organisations interstate with waste water issues. It has prior experience with the Water Corporation sewerage ponds in Mount Barker as well as the Shire of Morawa. UWA advises that it always strives to find solutions that are the most cost effective for the situation.

UWA has the expertise to assist in a number of ways, such as access to technology such as miniature boats with sonar capability to measure pond depths and sludge mass. It can measure and advise on water balance, loadings and how to make water flow more efficient, including best design for anaerobic ponds.

UWA has suggested that the project be done via student research; semesters 1 and 2 typically run from February to October. It is envisaged that two engineering students would be involved. At the end of that a business case could be prepared for future consideration and funding.

UWA has prepared a brief for the project and has forwarded a standard research agreement for endorsement. The project deliverables are as follows:

Deliverable	Description
Full site investigation	Site investigation used to determine the current state of the system. This will include the use of a remote control boat developed at UWA to determine sludge infill in the WSPs.
Explore waste stabilisation pond reconfiguration options	Based upon the data collected by the Shire and the investigations conducted by UWA, possible reconfiguration options will be explored. This will include the use of computational fluid mechanics (CFD) modelling of ponds.
Explore alternative pre- and post-treatment options	Options for pre- and/or post- treatment solutions will be explored to determine if they could improve treatment performance
Explore treatment options to facilitate the reuse of treated water	A desirable outcome would be to be use treated water for wash down of the saleyards. Options for treatment to facilitate this will be explored.
Final report	All findings will be summarised in a final report for the Shire.

Authority is sought to enter into the agreement presented.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION / COMMITTEE DECISION

Moved Cr L Handasyde, seconded Cr S Etherington

That it be a recommendation to the Council:

That authority be granted to enter into the attached agreement with the University of Western Australia to enable a student research project to be undertaken during 2021 to identify and report on improvements to the Mount Barker Regional Saleyards waste water treatment system.

CARRIED

5.4 POLICY ADOPTION – SALEYARDS - ALLOCATION OF LOADING AND SELLING POSITIONS AND OTHER SPACE TO STOCK AGENTS

File Ref: N54132
Responsible Officer: Paul Sheedy
Acting Chief Executive Officer
Author: John Fathers
Deputy Chief Executive Officer
Proposed Meeting Date: 27 January 2021

PURPOSE

The purpose of this report is to recommend the adoption of new policy relating to the allocation of loading and selling positions and other space to stock agents at the Mount Barker Regional Saleyards.

BACKGROUND

The Shire has received a request from AWN Livestock & Property for access to and use of the Mount Barker Regional Saleyards facility for auction sales. This application has been adjourned.

At the meeting held on 20 October 2020, the Chief Executive Officer was requested to prepare a draft policy position with regard to shared infrastructure and other relevant factors to mitigate occupational health and safety and other operating issues resulting from additional stock agents operating at the Mount Barker Regional Saleyards.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

This report recommends the adoption of a new Council policy.

LEGAL IMPLICATIONS

N/A

ASSET MANAGEMENT IMPLICATIONS

N/A

STRATEGIC IMPLICATIONS

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

Strategy 3.5.5:

'Manage and maintain the Saleyards to ensure that the facility is successful and self-sustaining.'

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

OFFICER COMMENT

Selling Positions and Annual Rotation

The saleyards has been divided into three sections for loading and selling of cattle (one per agent). When the saleyards first opened, it was agreed that every 12 months (On 10 March each year, the anniversary of the opening of the facility) the two major agents (now Elders and Nutrien) would swap from the eastern side to the western side and vice versa. This was for reasons of equity in the use of the facilities. There are benefits in showing animals in the eastern pens as this is the access and congregation area for buyers.

The physical constraints of the saleyards are not conducive to three or more agents rotating. The 'middle' position should continue to be occupied by the agent(s) with the lowest average throughput. This is due to the location of the weighbridges to the selling pens and the logistics of moving cattle from dirt pens to the stacking pens and then to the weighbridges and interference with the other users coming off the opposing weighbridge.

In addition to this, the agents rotate selling positions each week (ie: which agent sells 1st, 2nd and 3rd.) For example, in week 1, the order will be Elders, Nutrien and West Coast Livestock. Week 2 will be Nutrien, West Coast Livestock and Elders. Week 3 will be West Coast Livestock, Elders and Nutrien.

This was introduced for reasons of fairness among agents as there is a benefit to selling earlier rather than later. In the event of a 4th agent, this same approach should apply. All of these things could be formalised in a policy position.

Office Space

There is a need for agents to have an office. The agents are responsible for the following, which requires a networked PC with access to the Shire's version of the LE Saleyards software (LESY):

Day before sale day:

- Agents enter in the NVDs onto LESY.
- Agents do online PIC check and Livestock Protection Assurance (LPA) check.
- Agents to provide NVD's to saleyards staff to scan them into the system.

Sale Day:

- Agents put in pen no's and mark no's into LESY and print penning sheets.
- Agents take buyers bids and enter into LESY.
- Agents liaise with saleyards staff to co-ordinate buyers and transporters among agents.
- Agents liaise with saleyards staff to confirm sale details in LESY are correct (saleyards staff then process the sale).

It is considered unlikely that agents will want to share office space and computers, due to potential access to each other's commercially sensitive information.

The policy position should be that, if office space is not available in the current building, prospective agents will seek approval to provide suitable accommodation with networked PC and access to the Shire's version of the LE Saleyards software, at their cost.

Allocation of receival ramps and pens

The allocation of receiving ramps and lairage/dirt pens are worked out on a throughput basis with figures based on the previous year's throughput (to 9 March), excluding breeder and special sales. Based on last year's figures:

- Nutrien has approximately 65% of the yarding they are allocated 4.5 receival ramps and one complete weighbridge with all stacking pens on that weighbridge.
- Elders with 32% have two receival ramps and share the other weighbridge with:
- WCL who have 3% of the throughput for the last changeover year and have half a receival ramp.

With their low throughput WCL, would be theoretically entitled to less than half a ramp (based on throughput share) but they are provided half at the moment as they need somewhere to unload their cattle. The lack of co-operation between agents has made this difficult and unworkable. From a policy perspective, it is considered that the market share allocation of ramps is appropriate, but that receival ramps (and adjoining drafting pens) not be shared; that is the allocation be rounded down.

Further, it is considered that all agents should have an allocation of a minimum of five lairage/dirt pens. While this gives smaller agents more pens in proportion to their cattle numbers, a minimum number of pens are required due to the variability of cattle sold.

Allocation of selling pens would be based on nominations, as is done currently.

As indicated in the report relating to the AWN application, permitting a fourth agent to operate at the saleyards is not supported by Saleyards staff without significant additional infrastructure.

Nevertheless, the following draft policy points are suggested if the Committee is inclined to recommend approval. It should be noted that the list is minimal as much of the decision making is operational and highly variable depending on particular circumstances. Further, some of the policy points are already well entrenched procedures.

Original Recommendation

If agreeable, the Committee could make a recommendation to the Council along the following lines.

That it be a recommendation to the Council that the following policy position be adopted with regard to saleyards operations and shared infrastructure to mitigate occupational health and safety and other operating issues resulting from additional stock agents operating at the Mount Barker Regional Saleyards:

1. The saleyards is currently divided into three sections for loading and selling of cattle; Eastern, western and middle. On 10 March each year, the anniversary of the opening of the facility, the two major agents will swap from the eastern side

-
- to the western side and vice versa. The middle position will be occupied by the agent(s) with the lowest average throughput.
2. The stock agents will rotate selling positions each week (that is, which agent sells 1st, 2nd and 3rd etc). Whichever agent sells first one week, will sell second in the following week, with other agents moving up the order.
 3. The allocation of receiving ramps and lairage/dirt pens will be determined on a throughput basis with figures based on the previous year's throughput (to 9 March), excluding breeder and special sales. Receiving ramps (and adjoining drafting pens) will not be shared; the allocation to be rounded down to the nearest single ramp.
 4. Any agent participating in a sale will have a minimum allocation of five lairage/dirt pens.
 5. If office space is not available in the current building, prospective agents will seek approval to provide suitable accommodation with networked PC and access to the Shire's version of the LE Saleyards software, at their cost.

During discussion at the Saleyards Advisory Committee meeting held on 8 December 2020, members requested that this item be brought back to the Committee at its next meeting, with the following amendments:

Item 1 – The middle sentence be amended to read:

'On 10 March each year, the anniversary of the opening of the facility, and for the following 12 months, the agent with the highest throughput will operate from the eastern side and the agent with the second highest throughput will operate from the western side.'

Item 5 – In this instance, the policy note that the annual entry fee would not apply.

At the Saleyards Committee meeting held on 27 January 2021, the Deputy CEO circulated a proposed amendment to Clause 3 of the policy recommending that the application of that clause is to be at the discretion of the Saleyards Manager depending on the circumstances on any particular sale day.

VOTING REQUIREMENTS

Simple Majority

COMMITTEE DECISION

Moved Cr S Etherington, seconded Mr M Skinner

That it be a recommendation to the Council:

That new Council Policy TU/S/1 – Saleyards - Allocation of Loading and Selling Positions and Other Space to Stock Agents, as follows:

OBJECTIVE:

To:

- 1. Allocate Saleyards infrastructure to stock agents in a fair and operationally efficient manner and to mitigate occupational health and safety risks.**
- 2. Determine a position with regard to office allocation in the event of additional stock agents requesting to operate at the facility.**

POLICY :

1. The saleyards is currently divided into three sections for loading and selling of cattle; Eastern, western and middle. On 10 March each year, the anniversary of the opening of the facility, and for the following 12 months, the agent with the highest throughput will operate from the eastern side and the agent with the second highest throughput will operate from the western side. The middle position will be occupied by the agent(s) with the lowest average throughput.
2. The stock agents will rotate selling positions each week (that is, which agent sells 1st, 2nd and 3rd etc). Whichever agent sells first one week, will sell second in the following week, with other agents moving up the order.
3. The allocation of receiving ramps and lairage/dirt pens will be determined on a throughput basis with figures based on the previous year's throughput (to 9 March), excluding breeder and special sales. Receiving ramps (and adjoining drafting pens) will not be shared; the allocation to be rounded down to the nearest single ramp. The application of this clause is to be at the discretion of the Saleyards Manager depending on the circumstances on any particular sale day.
4. Any agent participating in a sale will have a minimum allocation of five lairage/dirt pens.
5. If office space is not available in the current building, prospective agents will seek approval to provide suitable accommodation with networked PC and access to the Shire's version of the LE Saleyards software, at their cost. In this instance, the annual entry fee will not apply.'

be adopted.

CARRIED

5.5 AWN LIVESTOCK & PROPERTY – REQUEST TO OPERATE AT SALEYARDS

File Ref: N53632
Responsible Officer: Paul Sheedy
Acting Chief Executive Officer
Author: John Fathers
Deputy Chief Executive Officer
Proposed Meeting Date: 8 December 2020

PURPOSE

The purpose of this report is to consider a request from AWN Livestock & Property for operation at the Mount Barker Regional Saleyards.

BACKGROUND

The Shire has received a request from AWN Livestock & Property for access to and use of the Mount Barker Regional Saleyards facility for auction sales.

The Shire has a procedure for such requests, which has been developed based on legal advice. This procedure requires advice to be sought from all current agents in regard to operational and capacity constraints, operating hours and safety issues. Issues of market share, previous contributions and other commercial factors should not be considered.

At the meeting held on 8 December 2020, the Committee resolved that the item be adjourned to enable a policy position to be determined on shared infrastructure and staffing to mitigate occupational health and safety and other operating issues.

STATUTORY ENVIRONMENT

Section 46(1) of the Commonwealth Competition and Consumer Act 2010 currently prohibits firms with a substantial degree of market power from engaging in conduct having the purpose, effect or likely effect of substantially lessening competition in that market or any other market in which the corporation (or related corporation) supplies or acquires goods or services.

EXTERNAL CONSULTATION

Discussions and correspondence has also been entered into with other agents operating at the facility.

FINANCIAL IMPLICATIONS

If approved, an annual entry fee of \$4,000.00, together with a licence fee of \$1.00 per head of livestock throughput will apply (in addition to other saleyards fees passed onto vendors).

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

Policy implications do not apply for this report. Policy development has been included elsewhere in the agenda.

LEGAL IMPLICATIONS

Consultation took place with the Shire's legal representative in drafting the current agreement template.

Further, the Council received legal advice in 2012 on the (now amended) provisions of Section 46(1) of the Commonwealth Competition and Consumer Act 2010. That section prohibited a corporation that has '*a substantial degree of power in a market from taking advantage of that power in that or any other market for the purpose of:*

- (a) *eliminating or substantially damaging a competitor of the corporation or of a body corporate that is related to the corporation in that or any other market;*
- (b) *preventing the entry of the person into that or any other market; or*
- (c) *detrerring or preventing a person from engaging in competitive conduct in that or any other market.'*

Section 46(1) now states as follows:

- '(1) *A corporation that has a substantial degree of power in a market must not engage in conduct that has the purpose, or has or is likely to have the effect, of substantially lessening competition in:*
- (a) *that market; or*
 - (b) *any other market in which that corporation, or a body corporate that is related to that corporation:*
 - (i) *supplies goods or services, or is likely to supply goods or services; or*
 - (ii) *supplies goods or services, or is likely to supply goods or services, indirectly through one or more other persons; or*
 - (c) *any other market in which that corporation, or a body corporate that is related to that corporation:*
 - (i) *acquires goods or services, or is likely to acquire goods or services; or*
 - (ii) *acquires goods or services, or is likely to acquire goods or services, indirectly through one or more other persons.'*

While there has been some 'watering down' of the legislation, the procedure based on the legal advice is still considered to be appropriate.

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 3.5 (Appropriate infrastructure that supports sustainable economic development) the following Strategy:

Strategy 3.5.5:

'Manage and maintain the Saleyards to ensure that the facility is successful and self-sustaining.'

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

STRATEGIC RISK IMPLICATIONS

Declining the application may result in legal action being taken against the Council. However, this risk will be mitigated by the process being followed.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

Correspondence from Existing Agents

Nutrien Ag Solutions

In Nutrien's view, the facilities at the Saleyards are already at maximum capacity for the Thursday livestock sales. If the Incoming Agent was to also sell at the Saleyards on this day, it would put unmanageable pressure on the facilities and would result in:

- a) inefficient stock loading and unloading areas;
- b) inappropriate pen densities due to increased livestock numbers; and
- c) additional stress to livestock.

It is concerned that the Saleyards, while currently fit for purpose, are not adequately resourced to appropriately manage the addition of the incoming Agent's business and significant upgrades to the facilities, and changes to the operational procedures, are required before access is granted to the Incoming Agent. It considers that the Incoming Agent should be responsible for such costs.

Of most concern to Nutrien Ag Solutions, is in trying to understand how the Shire intends to deal with the increased occupational health and safety risk posed by the addition of the Incoming Agent at the Thursday livestock sales.

If the Shire does decide to allow the Incoming Agent to sell livestock at the Thursday livestock sales (which we believe will severely pose a risk to the occupational health and safety standards currently deployed), then we would appreciate if the Shire can please demonstrate in writing to us, that it has devised safe operating policies to adequately address the increased pressure on the facilities as a result of the Incoming Agent.

For the avoidance of doubt, Nutrien Ag Solutions does not object to the Incoming Agent selling livestock at the Saleyards, however for the reasons set out above, it does not believe that the Incoming Agent should be permitted to engage in the Thursday livestock sales.

Elders

Whilst Elders does not have an issue with market competition, it does have concerns to the proposed entry of AWN. Its primary concern is around the safety of staff, agents and the general public. Its understanding as communicated by the

Department of Agriculture recently is that pen selling densities will soon be reduced by around 30% which raises safety concerns with a fourth agent as the capacity of the yards will be reduced. This also presents potential animal welfare issues.

Westcoast Livestock

West Coast livestock believes an additional agent into the yards would pose some problems regarding sharing of ramps, weighbridge, laneways and actual space etc within the yards.

However if reasonable debate can take place ensuring these issues and others can be alleviated and discussed maturely then it shouldn't attempt to block it from happening.

As a relatively new Agent in the yards it appreciated the opportunity and support given us, and have committed not to make it difficult for the Shire or the Agent with the application or possible entry to the yards.

Operating Constraints

As stated above, agents were asked to comment on operational and capacity constraints, operating hours and safety issues. In response to the legal advice previously obtained, the Shire should not consider issues of market share, previous contributions and other commercial factors.

Given the experience with the entry of West Coast Livestock, Shire staff can advise more confidently about the operational constraints of allowing entry of a fourth agent. Saleyards staff have some serious concerns about occupational health and safety (OHS) if any additional agents are allowed to operate in the facility. As it stands at the moment, officially there are three agents, although staffing wise, there are still as many of the former Landmark and Primaries personnel working cattle. Allowing even more people into the environment is not recommended.

The possible changes to allocation of ramps and pens has been dealt with as a separate report. Whatever arrangement is determined, existing stakeholders / operating agents will have to sacrifice ramp/draft pens/lairage pens and stacking pens from their allocation, as was the case when WCL commenced selling at the facility. We are still having regular conflict and problems with other agent's attitude to WCL. A smooth transition of a fourth agent entering the saleyards would be extremely difficult and highly dependent on co-ordination and respect between agents.

Already there are problems with this sharing as all three agents are moving cattle in the same alleys between ramps and stacking pens. At any one time there is up to 30 agents and casuals working between the seven ramps and two weighbridges. Cattle are moved quickly and efficiently but congestion still often occurs. Because of the volume of cattle coming in at vealer time, animals are moved around the saleyards and sorted everywhere as pens are filled.

All cattle coming into the facility must then go through one common shared laneway before being penned before weighing. This has already, and still does present a much greater risk from an OHS perspective as all three agents can only move cattle this way.

OHS issues will result from greater congestion of cattle and personnel in a common (shared) lane. At the best of times, this requires co-operation and a clear run, with gates open through that run. Having additional agents increases the risk of

congestion, cattle turning back on personnel, gates being left open and cattle being mixed together.

After several months of the four agents working within the same complex, Saleyards staff are of the view that having four agents working in the facility has proven to be inefficient and dangerous.

Thankfully, Landmark had commenced its takeover of Primaries which has now resulted in an absorption of that fourth agent (into the combined Nutrien Ag Solutions), bringing us back to three agents.

General Comments

While the position of the Saleyards Advisory Committee has been that the addition of competition into this area can be welcomed, there will likely be no actual increase to cattle numbers coming to the yards; it will be a wider spread among agents.

We have discussed the possibility of opening up another sale day to accommodate more agents but this would be unworkable in the busy season. We already have three sales per weeks in November to January. There isn't another free day on the sale calendar which wouldn't clash with the buyers who attend Muchea, Boyanup, Manjimup and Katanning sales with both sheep and cattle.

Saleyards staff are of the view that without major infrastructure additions or improvements, the facility is not designed or capable of servicing more than three selling agents. In order to safely and efficiently open up the selling roster to more than three agents then the yard capacity would need to be increased with items listed below:

- Additional office (for each agent that applies).
- Extra Weighbridge and 44 extra stack pens (to take the place of the current 'C' Pens).
- Extra selling lane (with the corresponding 24 pens). Mitchell's yards would need to be shifted to the west to accommodate this.
- Extra lairage pens.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That it be a recommendation to the Council:

That the request from AWN Livestock & Property to conduct livestock sales at the Mount Barker Regional Saleyards, be declined on the basis of unacceptable operational constraints and occupational health and safety risks arising from an additional agent and its personnel within the current saleyards configuration.

During discussion at the Saleyards Advisory Committee meeting held on 27 January 2021, members agreed that the current number of stock agent staff working at the facility was at the upper end of what is desirable, noting that with the merger of Landmark and Primaries, the number of staff is higher with three agents than what it used to be.

Given the current constraints, the Committee agreed that the request from AWN be declined, although considered that it should be given an opportunity to come to a staff sharing arrangement with an existing operator, upon which the Shire should reconsider the request. Members considered that the most appropriate agent would be West Coast Livestock, as the combined throughput would more likely be an efficient use of one ramp and set of lairage pens.

COMMITTEE DECISION

Moved Cr L Handasyde, seconded Cr J Oldfield

That it be a recommendation to the Council:

That:

- 1. The request from AWN Livestock & Property to conduct livestock sales at the Mount Barker Regional Saleyards, be declined on the basis of unacceptable operational constraints and occupational health and safety risks arising from an additional agent and its personnel within the current saleyards configuration.**
- 2. AWN Livestock & Property be advised that the Council will reconsider its application if it can demonstrate a staff sharing arrangement with an existing stock agent operating at the facility, to mitigate the risks in Part 1 above.**

CARRIED

6 GENERAL BUSINESS**6.1 PROPOSALS FOR FURTHER CONSIDERATION**

- 8 December 2020 - That expressions of interest be called for the bulk disposal of manure.

Advertising is under way.

- 8 December 2020 – That a further quotation be sought from Modus to fully install the building as shown in its proposal and the CEO be requested to finalise design drawings of the endorsed building concept so that quotations can be sought for further consideration and funding.

A quote from Modus has been sought received. Information has been provided to a building designer to prepare drawings.

- 8 December 2020 and 27 January 2021 – It was agreed to hold meetings with agents in May / June 2021.

7 NEXT MEETING

9.00am on 9 March 2021

8 MEETING CLOSURE

11.53am The Presiding Member declared the meeting closed.

CONFIRMED: PRESIDING MEMBER _____ **DATE:** ___/___/___



Department of
**Local Government, Sport
and Cultural Industries**

Our ref PL1-20; E2104510
Enquiries Troy Hancock
Phone (08) 6552 1624
Email Legislation@dlgsc.wa.gov.au

Mr John Fathers
Deputy Chief Executive Officer
Shire of Plantagenet
PO Box 48
MOUNT BARKER WA 6324

Dear Mr Fathers

I advise that I have approved your request to allow Cr Jeff Moir and Mr Michael Skinner to fully participate in the discussion and decision making on matters relating to the Mount Barker Regional Saleyards at the meeting of the Saleyards Advisory Committee (Committee) of 27 January 2021.

My decision to approve your request is made on the basis that the Committee is not afforded any decision making ability (apart from procedural related decisions) and that all matters for decisions relating to the Mount Barker Regional Saleyards are referred to Ordinary and Special Meetings of the Council.

This approval is subject to the following conditions:

1. The approval is only valid for the Committee meeting of 27 January 2021;
2. The approval is not valid for any matter of the Committee that may lead to expenditure from general revenue in excess of that advertised in the Annual Budget. However, if Council considers that Cr Moir or Mr Skinner should be allowed to participate in Committee discussions that may lead to expenditures in excess of those indicated in the Annual Budget, then Council should seek a further approval and provide reasons for the request;
3. Cr Moir and Mr Skinner must declare the nature and extent of their interests at the Committee meeting when the matter is considered, together with the approval provided;
4. The CEO is to provide a copy of this letter of approval to Cr Moir and Mr Skinner;
5. The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of each Committee meeting, when the relevant matters are considered; and
6. The approval granted is based solely on the interests disclosed by Cr Moir and Mr Skinner made in accordance with the application dated 20 January 2021. Should other interests be identified, these interests will not be included in this approval and the financial interest provisions of the Act will apply.

Please note that this approval does not extend to Cr Moir's participation in matters relating to the Mount Barker Regional Saleyards considered at Council meetings. This would be subject to a further request for approval under the Act.

Should you require any further information in relation to this matter, please contact Troy Hancock, Senior Legislation Officer via the details provided above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G MacMile', written in a cursive style.

Gordon MacMile
A/EXECUTIVE DIRECTOR LOCAL GOVERNMENT

27 January 2021