

# SHIRE OF BROOMEHILL – TAMBELLUP

Minutes of the Ordinary Meeting of Council of the Shire of Broomehill-Tambellup held in the Tambellup Council Chambers on Thursday 15<sup>th</sup> October 2009 commencing at 4.02pm.

## 1. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

<b><u>Present:</u></b>	Cr BG Webster	President
	Cr MJ Bowman	
	Cr GM Sheridan	
	Cr MR Turner	
	Cr M Sadler	
	Cr SJF Thompson	
	Cr EK Shclueter	
	Cr DCN Kempin	
	JM Trezona	Chief Executive Officer
	JP Bentley	Manager Administrative and Customer Services
	VN Webster	Executive Officer
	GC Brigg	Manager of Works
	KP O'Neill	Finance Officer

**Apologies:** Nil

**Leave of Absence:**  
Nil

## 2. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President welcomed Councillors and staff and declared the meeting open at 4.02pm.

## 3. RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

## 4. PUBLIC QUESTION TIME

Nil

## 5. APPLICATION FOR LEAVE OF ABSENCE

Cr KW Crosby has requested a Leave of Absence for this meeting

*091001*

*Moved Cr Sheridan, seconded Cr Thompson*

*“That Cr KW Crosby be granted a Leave of Absence for the October Ordinary Meeting of Council.”*

**CARRIED 8/0**

**6. DECLARATION OF INTEREST**

Cr Webster declared an interest in Items 10.3 and 10.10

**7. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**

Nil

**8. CONFIRMATION OF PREVIOUS MEETING MINUTES**

8.1 Minutes of Ordinary Meeting of Council held 17<sup>th</sup> September 2009

**091002**

*Moved Cr Bowman, seconded Cr Schlueter*

*“That the minutes of the Ordinary Meeting of Council held on 17<sup>th</sup> September 2009 be confirmed as a true and accurate record of proceedings.”*

**CARRIED 8/0**

**9. ANNOUNCEMENT BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

**10. MATTERS FOR DECISION**

**10.1 FINANCIAL STATEMENTS FOR SEPTEMBER 2009**


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<b>Program:</b>	<b>Other Property and Services</b>	
<b>Attachment:</b>	<b>Monthly Financial Statements for October 2009</b>	
<b>File Ref:</b>	Nil	
<b>Author:</b>	<b>KP O’Neill</b>	<b>Finance Officer</b>
<b>Date:</b>	<b>5<sup>th</sup> October 2009</b>	
<b>Disclosure of Interest:</b>	Nil	

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**Summary:** Attached are the monthly financial statements for September 2009

**Background:**

**Comment:** Notes have been provided throughout the statements for Councillors information and comment.

**Consultation:** Nil

**Statutory**

**Environment:** Local Government Act 1995 – Financial Management Regulation 34

**Policy Implications:** Nil

**Financial**

**Implications:** The report represents the financial position of the Council at the end of the previous month.

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Council Resolution:** *091003*

*Moved Cr Kempin, seconded Cr Sadler*

*“That the Financial Report for the period ending 30<sup>th</sup> September 2009 be received.”*

**CARRIED 8/0**

**Reason For Change to Recommendation:**

**10.2 CREDITORS ACCOUNTS PAID SEPTEMBER 2009**


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<b>Program:</b>	<b>Other Property and Services</b>	
<b>Attachment:</b>	<b>List of Payments for September 2009</b>	
<b>File Ref:</b>	<b>Nil</b>	
<b>Author:</b>	<b>KP O’Neill</b>	<b>Finance Officer</b>
<b>Date:</b>	<b>5<sup>th</sup> October 2009</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

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**Summary:** Attached is a list of payments made from the Municipal and Trust Funds during September 2009.

**Background:** The Local Government Act 1995 – Financial Management Regulation 13 states that a list of accounts paid under delegated authority by the CEO is to be prepared each month, providing sufficient information to identify the transactions. The list is to be presented to the Council at the next ordinary meeting after the list is prepared.

**Comment:** SUMMARY

Municipal Fund	\$486,381.44
Trust Fund	\$1,150.00
Credit Cards	\$2,416.95
<u>TOTAL</u>	<u>\$489,948.39</u>

**Consultation:** Nil

**Statutory**

**Environment:** Local Government Act 1995 – Financial Management Regulation 13

**Policy Implications:** Nil

**Financial**

**Implications:** List of payments made during the previous month

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Council Resolution:** **091004**

*Moved Cr Turner, seconded Cr Thompson*

*“That the list of Creditors accounts paid during September 2009, being:-*

- Municipal Fund cheques numbered 688 to 721 inclusive, electronic payments numbered EFT679 to EFT752 inclusive and totalling \$486,381.44;*
- Trust fund cheques numbered 88 to 91 inclusive and totalling \$1,150.00; and*
- Credit card expenses totalling \$2,416.95;*

*be adopted.”*

**CARRIED 8/0**

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**Reason For Change to  
Recommendation:**



<b>Comment:</b>	<p><b>Description of proposed development</b></p> <p>The development will include installation of a 60 metre guyed mast to accommodate 3 current panelled antennas, 6 future panelled antennas, 2 parabolic antennas and 1 ground based equipment shelter.</p> <p>The installation will be located in a cleared area on the southern side of Jam Creek, approximately 5.8 kilometres north east of the Tambellup town site. The subject lot as an area of 16.076 hectares and contains an existing Telstra tower.</p> <p>The applicant has provided photographs of the site which are available to Councillors on request.</p> <p><b>Scheme provisions</b></p> <p>Council has several options when dealing with a ‘Use Not Listed’ under the Scheme in accordance with Clause 3.3.2.</p> <p>At the August meeting Council <i>‘determined that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of Clause 8.3 in considering an application for planning approval.’</i></p> <p><b>WAPC Statement of Planning Policy No. 5.2 – Telecommunications Infrastructure</b></p> <p>The Western Australian Planning Commission (WAPC) Statement of Planning Policy provides broad guiding principles for the location of telecommunications infrastructure.</p> <p>The applicant proposes the facility on a Rural lot to minimise disturbance to the environment and in an area that is screened with vegetation (to minimise visual impact).</p>
<b>Consultation:</b>	<p>The application has been advertised for twenty one days and no submissions have been received.</p>
<b>Statutory Environment:</b>	<p>Shire of Tambellup Town Planning Scheme No. 2</p>
<b>Policy Implications:</b>	<p>Nil</p>
<b>Financial Implications:</b>	<p>This issue has no financial implications for Council</p>
<b>Strategic Implications:</b>	<p>This issue is not dealt with in the Plan</p>
<b>Voting Requirements:</b>	<p>Simple Majority</p>

**Council Resolution:**      **091006**

*Moved Cr Schlueter, seconded Cr Sadler*

*“That Council determine that the ‘Telecommunications Infrastructure’ use is consistent with the objectives of the particular (Farming) zone and approve the development unconditionally.”*

**CARRIED 7/0**

**Reason For Change to  
Recommendation:**



<b>10.10</b>	<b>TAMBELLUP NO 1 DAM – UTILISATION OF WATER</b>
<b>Program:</b>	<b>Recreation and Culture</b>
<b>Attachment:</b>	<b>Nil</b>
<b>File Ref:</b>	<b>ADM0072</b>
<b>Author:</b>	<b>JM Trezona                      Chief Executive Officer</b>
<b>Date:</b>	<b>8<sup>th</sup> October 2009</b>
<b>Disclosure of Interest:</b>	<b>Cr BG Webster, the Shire President declared a Proximity Interest in this matter as he is the landowner of the property that the proposed pipe infrastructure will go through and he left the meeting at 4.08pm.</b>

Council requested that Cr Webster be allowed to advise the meeting of conversations relating to this matter between himself and representatives from the Tambellup P&C Association and the Principal of the Tambellup Primary School.

*091007*

*Moved Cr Bowman, seconded Cr Sheridan*

*“That the Shire President Cr BG Webster be allowed to enter the meeting and discuss this matter.”*

**CARRIED 7/0**

Cr Webster entered the meeting at 4.11pm and left the meeting at 4.15pm.

**Summary:** Council to determine if it will proceed to enter into an agreement with the Water Corporation for the supply of reticulation water from the No 1 Dam on Jam Creek Road.

**Background:** Councillors have previously been advised that an initial meeting has been held with representatives from the Water Corporation and Michael White representing the Tambellup P&C Association, on the matter of obtaining access to water from the No 1 dam for the School Oval and Council requirements.

Council has been awaiting a response from the Water Corporation on a number of matters. The Water Corporation advised by email on 6<sup>th</sup> October 2009 that:

- They have now clarified their position in regards to the water stored in the Tambellup No 1 town dam
- The Water Corporation is happy to enter an agreement to make this water available to the Shire or the school for a period of five years while it considers the long term future of this dam
- There will be a charge of 27.9c per kilolitre associated with the supply of this water and some initial set up costs to establish the agreement, install a meter, modify works and install a point of connection at the dam. They have not supplied any estimated costs for these works. They will provide the estimate once the Council and school have made a decision to proceed
- The supply point will be at the boundary of the dam site and delivery pipe work will be the responsibility of the Shire / school.
- Full terms and conditions will be provided once Councils intention to proceed is confirmed.

**Comment:** There are a number of issues surrounding this proposal:

**Agreement with the Water Corporation**

The Water Corporation have indicated they will not provide cost estimates to undertake their portion of the works until such time as Council and the Tambellup Primary School make a decision to proceed. It is advisable that Council does not enter into the agreement until it is fully informed of all the costs associated with setting the agreement up. While it appears to be a stalemate, Council staff have been advised that a “ball park” figure for the Water Corporation to undertake their works is \$5,000.

**Costs to supply and install the delivery pipe**

It is recommended that Council engage the services of an irrigation expert to provide advice on the best, most economical method to deliver the water to the townsite. Council will need to negotiate with the Tambellup P&C to determine what contribution they will be making towards the project. Water Corporation has advised that they would anticipate installing up to a 150mm water meter and outlet pipe. There is a 10 metre fall from the dam to the townsite so it may be possible to gravity feed the water rather than install a pump method. This will need to be further investigated.

The straight line distance from the dam to the existing Council pipe is approximately 2.5kms. the delivery pipe will be required to cross private property owned by two separate landowners. Prior entering into the proposed agreement Council will need to write and obtain written permission from the landowners to install the delivery pipe across their property.

**Cost to purchase the water**

Council will need to determine if it is agreeable to pay 27.9c per kilolitre for the water and clarify that the price is set for the agreed five year period and not subject to increases. Council will also need to get confirmation from the Tambellup P&C that they are agreeable to paying 27.9c per kilolitre.

**Tambellup P&C**

Mr Michael White has recently contacted the Shire President requesting that consideration be given to Council providing water from the No 2 dam to the school oval. The school oval was planted earlier on this year around March. It is understood that the P&C had a short term agreement with the Water Corporation for the provision of scheme water to irrigate the school oval, however this agreement has ceased.

The Tambellup P&C are hoping that the water from the No 1 dam will come on line in time to replace any water that Council may agree to give them at this time.

With summer just around the corner, the school oval requires a considerable amount of water to help get it established and to keep it alive.

**Water availability**

The Works Manager has inspected Councils dams to ascertain the water levels of each. The No 2 dam on the Tambellup West Road has approximately 2m of water. This dam was emptied at the end of last

summer. The oval dams on Jam Creek Road have 2.5m and 3.8m respectively and the small bowling club dam is filled.

In the height of summer Council waters the oval three times a week for twenty minutes per station which is classed as under watering, but is sufficient to keep Councils asset alive. Council uses an estimated 54kilolitres per week to water the oval. It is estimated that the current supply of water in these dams may be sufficient to water the Tambellup sporting oval over the coming summer which is also dependent on how long and dry the summer period is.

**Additional comments**

Past experience would indicate that the utilisation of the water from the No 1 dam will take some time before the infrastructure and agreement is in place and therefore it is highly unlikely that water from there will be available before the New Year. This scenario is not helpful for the Tambellup P&C and the status of the school oval.

It is recommended that a further meeting with Council representatives and members of the Tambellup P&C be arranged to discuss the details of the proposal and how the project is to be funded and implemented.

<b>Consultation:</b>	Nil
<b>Statutory Environment:</b>	Nil
<b>Policy Implications:</b>	Nil
<b>Financial Implications:</b>	Council will need to obtain expert advice on the infrastructure that is required to deliver the water to the School and Council sites. Provision will then need to be made in the current or future budgets to fund the works. Council will also need to factor in the cost of purchasing the water.
<b>Strategic Implications:</b>	This issue is not dealt with in the Plan
<b>Voting Requirements:</b>	Simple Majority
<b>Council Resolution:</b>	<b>091008</b>

*Moved Cr Bowman, seconded Cr Schlueter*

*“That Council confirms with the Water Corporation that it wishes to proceed with gaining access to the water from the No 1 dam subject to the following:*

- *That a firm quotation is provided for the Water Corporation set up costs*
- *Firm quotations being obtained for the supply and installation of the delivery infrastructure*
- *Approval being granted by the landowners to install the delivery infrastructure across their property*
- *That the access agreement be for a minimum of five years with*

- an option of a further five years or the option to negotiate the transfer of the No 1 dam to the Shire of Broomehill-Tambellup*
- *That a meeting of councillors and representatives from the Tambellup P&C be arranged as soon as possible to clarify the commitment of each group to the proposal.”*

**CARRIED 7/0**

**Reason For Change to  
Recommendation:**

Cr Webster returned to the meeting at 4.20pm and resumed the chair.

## 10.4 PROPOSED CHANGE OF USE FROM SHOP TO RESTAURANT FOR EXISTING BUILDING AND NEW CARETAKERS DWELLING – 50 NORRISH STREET, TAMBELLUP

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<b>Program:</b>	<b>Planning</b>
<b>Attachment:</b>	<b>Application submission and plans</b>
<b>File Ref:</b>	
<b>Author:</b>	<b>Gray &amp; Lewis                      Landuse Planners</b>
<b>Date:</b>	<b>6<sup>th</sup> October 2009</b>
<b>Disclosure of Interest:</b>	<b>Gray &amp; Lewis receive planning fees for advice to the Shire, therefore declare a Financial Interest – Section 5.65 of <i>Local Government Act 1995</i>.</b>

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**Summary:** An application has been lodged for a change of use from ‘shop to restaurant’ for an existing building and a proposed caretakers dwelling.

This report recommends that additional information be requested from the applicant and that the application be advertised for public comment.

**Background:** The subject property is zoned ‘Town Centre’ under the Shire of Tambellup Town Planning Scheme No. 2 (“the Scheme”). Lots to the north east (rear) are zoned ‘Residential R10/30.’

**Comment:** **Description of application**

A summary of the application is included below;

- There is an existing building located towards the front of the property (fronting Norrish Street) which has previously operated as a butcher shop however is currently vacant. It has an approximate floor area of 120m<sup>2</sup>.
- Plans have been prepared for separate lodgement to comply with health requirements so that the building can be used as a pizzeria. The applicant has provided the proposed floor plans to Gray & Lewis.
- The pizza shop will include seating for in house dining and an alfresco area.
- The applicant has indicated that there is some uncertainty on seating capacity as it will be dependent on customer usage. At this stage they propose to start having special events such as bands, exhibitions etc. Based on this they indicate a maximum seating of sixty people inside and forty people in the alfresco area.
- The applicant has verbally confirmed that a takeaway service will be available.
- A caretakers dwelling is proposed to be erected at the rear of the existing building.

It should be noted that an alfresco area on the street footpath is also indicated. This is not dealt with as part of the planning application as it is on unzoned land (road reserve).

**Landuse definitions**

The Shires Scheme indicates several relevant landuse definitions listed below;

**Restaurant –**

means a building wherein food is prepared for sale and consumption within the building and the expression can include a licensed restaurant.

**Fast Food Outlet –**

means land or buildings used for the preparation, sale and serving of food for customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar.

**Caretakers Dwelling –**

Means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried on or existing on the same site.

The applicant has indicated that they also propose to host special events such as exhibitions which would fall under ‘Exhibition Centre’ as defined in the Model Scheme Text.

The Model Scheme Text also includes a separate landuse definitions for ‘Reception Centre’ so it needs to be clarified whether they intend to also provide functions (eg weddings).

Additional information on the nature of special events should be sought so Council has a good understanding of the exact nature of the business and so appropriate conditions can be imposed in the event that the development is approved.

The range of uses also needs to be clarified as some functions may fall outside of the standard ‘restaurant’ definition.

**Landuse Permissibility**

A ‘caretakers dwelling’ is an ‘AA’ use which means that *‘the use is not permitted unless Council has exercised its discretion by granting planning approval’*.

The proposed pizzeria is construed as a ‘restaurant’ which is a permitted use in the Town Centre zone. Gray & Lewis liaised with the applicant who confirmed that a takeaway service for wood fired pizzas is also proposed.

The ‘takeaway’ component is not covered by the ‘restaurant’ landuse definition under the Scheme and would be construed as a ‘fast food outlet’ which is a use not listed in zoning table. An ‘exhibition centre’ is also a use not listed.

Council has 3 options when dealing with a ‘Use Not Listed’ under the Scheme in accordance with Clause 3.3.2 as follows;

- a. *determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- b. *determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of Clause 8.3 in considering an application for planning approval; or*

*c. determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted. ‘*

Under the Scheme the objectives for the Town Centre zone include ‘*..to ensure the town remains the principal place for business and administration within the District’ and ‘to encourage a high standard of development including buildings, landscaping and carparking’.*

It is recommended that Council pursue option (b) and determine that the uses may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of Clause 8.3 in considering an application for planning approval.

As the site is in close proximity to Residential, Gray & Lewis would recommend advertising in any event.

### **Car parking**

The Scheme has a general Clause 7.1 on carparking that requires ‘*A person shall not develop or use any land or erect, use or adapt any building unless carparking spaces are constructed and maintained in accordance with the requirements of Council’.*

Under the Town Centre zone requirements (Clause 6.2.3.4) it also requires that ‘*The layout of carparking shall have regard for traffic circulation in existing carparking areas and shall be integrated with any existing and adjoining carparking’.*

The Scheme does not specify the number of bays to be provided, and car parking provision is to the discretion of Council.

The applicant proposes a rear gravel carpark area which can accommodate 16 bays. Council needs to be satisfied that the car parking is adequate on site to cater for the proposed uses.

Gray & Lewis considers that the parking would likely be sufficient for a restaurant use (dependent on maximum number of people) however has some reservations over the ability to cater for organised / special events if they are of a large scale.

Whilst there would likely be economic benefits associated with special events, issues such as amenity have to also be considered. If insufficient carparking is available on site there is potential for local traffic issues and nuisance to surrounding property owners.

Gray & Lewis is aware that many metropolitan Councils use a car parking ratio of 1 bay per every 4 seats for restaurant uses (this is identified as an example only). Based on 16 bays that ratio would allow a maximum seating capacity of 64 people.

This parking requirement may be considered high for a restaurant in a regional area, as it is likely a proportion of local customers would walk to the building.

It is recommended that the onus be placed on the applicant to provide additional information demonstrating (and justifying) that the car parking

is adequate for the proposed uses, with some analyses / comparison of other Shires car parking requirements.

It is also recommended that any car parking analysis provided identify an appropriate cap on seating capacity.

### **Visual Impact / amenity**

The proposed development will result in upgrading of an existing building and the Town Centre zoning is considered appropriate for this type of use.

There are residential dwellings in near proximity therefore the owners will need to responsibly manage the restaurant to comply with the permissible noise emissions.

The applicant has indicated that special events may include bands therefore there is potential for noise. Noise is controlled through separate legislation being the Environmental Protection (Noise Regulations) 1997 however Council still needs to be satisfied that the use will not cause any detrimental impact on nearby residential areas.

It is recommended that the application be referred to the Shires Environmental Health Officer for comment. Council has the ability to request a noise report 'up front' or as a condition of development if concerned over amenity.

### **Heritage**

The existing building is identified in the Shires Municipal Inventory however no conservation category is included.

The Inventory states that *'The place is important aesthetically and historically as an example of a small shop constructed of locally made blocks, located in the main street of town.'*

It identifies the building conditions as 'fair to good' with moderate integrity and authenticity.

Under the Scheme Council may solicit the views of the Heritage Council of WA, a heritage advisor or any other body in dealing with an application. Council also has the power under the Scheme to require a heritage assessment to be conducted.

As the application is being advertised for public comment and due to the lack of heritage category in the Municipal Inventory, it is recommended that the application be referred to the Heritage Council for advice (with a current photograph).

Gray & Lewis does not consider that heritage issues will be an impediment to the development. It may be appropriate that the building be photographically recorded prior to any renovations.



- Consultation:** Under Clause 8.3 of the Scheme advertising is to be for a minimum of twenty one days and may be in the one or more of the following forms;
1. letters to surrounding owners and occupiers and / or
  2. advertisement in a local newspaper and / or
  3. an advertising sign or signs to be erected on site.

In this case it is recommended that the development be referred to surrounding owners / occupiers through correspondence and a notice be published in the local paper.

**Statutory**

**Environment:** Shire of Tambellup Town Planning Scheme No. 2

**Policy Implications:** Nil

**Financial**

**Implications:** Advertising costs

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Council Resolution:** **091009**

*Moved Cr Kempin, seconded Cr Sheridan*

***“That Council:***

1. *Determine that the proposed ‘Fast Food Outlet’ and ‘Exhibition Centre’ component of the development for a restaurant and caretakers dwelling on 50 Norrish Street, Tambellup are both a ‘use not listed’ under the Shires Scheme and that the uses may be consistent with the objectives of the particular (Town Centre) zone and thereafter follow the advertising procedures of Clause 8.3 in considering an application for planning approval.*
  2. *Advise the applicant of the Council resolution and advertise the development for a minimum of twenty one days by writing to surrounding occupiers and land owners.*
  3. *Advise the applicant that additional information is sought in regards to the following;*
    - *Proposed hours of operation*
    - *Anticipated number of employees*
    - *Preliminary advice on how noise will be managed to protect residential amenity, especially for events involving bands*
    - *Clarify whether private functions are proposed such as weddings, as approval may be required for ‘reception centre’*
    - *Council needs to be satisfied that the car parking is adequate on site to cater for the range of proposed uses. The applicant is requested to provide additional information demonstrating (and justifying) that the car parking is adequate for the proposed uses with some analyses / comparison of other Shires car parking requirements*
- *Provide a ‘cap’ on the seating capacity based on the car*

*parking analysis*

- *Provide further advice on the type of special events proposed.*
- 4. *Refer the application to the Shires Environmental Health Officer for comment and advice on whether any noise report / other additional information should be required*
- 5. *Refer the application to the Heritage Council with a photograph of the building seeking their comment within twenty one days*
- 6. *At the close of advertising refer the application back to Council final determination.”*

**CARRIED 8/0**

**Reason For Change to Recommendation:**

**10.5 REVIEW OF COUNCILS DELEGATION REGISTER**


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<b>Program:</b>	<b>Governance</b>	
<b>Attachment:</b>	<b>Index to the Delegation Register</b>	
<b>File Ref:</b>		
<b>Author:</b>	<b>JM Trezona</b>	<b>Chief Executive Officer</b>
<b>Date:</b>	<b>6<sup>th</sup> October 2009</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

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**Summary:** Councils Delegation Register must be reviewed once every financial year.

**Background:** Council has the ability to delegate authority relating to a variety of powers and tasks to the Chief Executive Officer.

This is done to facilitate prompt business transaction and streamline customer service of the Council so that waiting times and delays are kept to a minimum. In addition it alleviates the necessity for Council to deal with routine items at its monthly meetings thus freeing up time for matters of strategy and policy.

*The Local Government Act 1995* states that at least once every financial year, delegations are to be reviewed by the Delegator. This is the first time that Council will be reviewing its delegations.

**Comment:** A new delegations register was created as part of the process in the creation of the Shire of Broomehill-Tambellup. The Shire was twelve months old on 1 July this year and over that time has worked with the current delegations register. From a staff point of view there are no issues with the current delegations register. A list of delegations is attached and a full copy of the delegations register is in the file provided to each Councillor for reference at the September Council meeting.

Does Council wish to amend or delete any of the delegations?

**Consultation:** Nil

**Statutory**

**Environment:** **Local Government (1995) Act Sections 5.42 & 5.43**

**5.42. Delegation of some powers and duties to CEO**

- (1) A local government may delegate\* to the CEO the exercise any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

\* Absolute majority required.

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegate on.

**5.43. Limits on delegations to CEO's**

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

- a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- c) appointing an auditor;
- d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- f) borrowing money on behalf of the local government;
- g) hearing or determining an objection of a kind referred to in section 9.5;
- h) any power or duty that requires the approval of the Minister or the Governor; or
- i) such other powers or duties as may be prescribed.

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Council Resolution:** *091010*

*Moved Cr Schlueter, seconded Cr Bowman*

*“That Council, having undertaken a review of the Delegations Register in accordance with the requirements of the Local Government Act 1995 section 5.46(2), adopts the document with the listed changes.”*

*CARRIED 8/0  
By Absolute Majority*

**Reason For Change to Recommendation:**

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**10.6 WASTE SERVICES LOCAL LAW 2009**

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<b>Program:</b>	<b>Governance</b>
<b>Attachment:</b>	<b>Relevant Pages of the Waste Services Local Law 2009</b>
<b>File Ref:</b>	<b>ADM0080</b>
<b>Author:</b>	<b>JM Trezona                      Chief Executive Officer</b>
<b>Date:</b>	<b>7<sup>th</sup> October 2009</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

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**Summary:** The purpose of this report is to advise Council of the concerns raised by the Delegated Legislation Committee regarding the Waste Services Local Law 2009 and its instruction to amend the Local Law as soon as practicable but at least within the next two years.

**Background:** Council resolved to make the Waste Services Local Law 2009 at its meeting on 21<sup>st</sup> May 2009. The Local Law was required to be made as the responsibility for waste was transferred from the *Health Act 1911* to the *Waste Avoidance and Resource Recovery Act 2007*. Responsibility for the development of Waste Local Laws was moved from the Health Department to the Department of Environment and Conservation.

The Waste Services Local Law 2009 comprises those parts of the Model Health Local Law that relate to waste.

The Waste Local Law was subject to consultation with the Department of Environment and Conservation and the Department of Local Government.

The Director General of the Department of Environment and Conservation gave consent to the Local Law on 29<sup>th</sup> June 2009 and the Local Law was gazetted on 7<sup>th</sup> July 2009.

As required by legislation the Local Law was sent to the Delegated Legislation Committee. The Committee advised the Shire by fax on 22<sup>nd</sup> September 2009 of its concerns with the local law and sought an undertaking by 5.00pm on the 5<sup>th</sup> October 2009 that the local law would be amended. Failure to provide that undertaking would have meant disallowance of the local law.

An undertaking was given by the due date that the Shire would:

- rectify the typographical errors in clause 1.3;
- amend clause 2.8 (2)(d) by either listing the required specifications for the construction and location of the enclosures for containers or prescribing the required specifications for the enclosures by reference to clause 2.9(3), as if the enclosures were 'suitable enclosures';
- amend clause 2.9(3)(a) by expressly stating the minimum floor area that a 'suitable enclosure' must have;
- amend clause 2.9(3)(d)(ii) by either adopting, by reference, the relevant standard with which the liquid refuse disposal system must comply or listing the required specifications for the system;
- amend clause 2.14 (2)(d) by listing the required specifications for an incinerator.

The major concern of the Committee is with clause 2.8(2)(d), 2.9(3)(a) and 2.14 (2)(d) which it believes should prescribe the requirements which must be met for certain matters whereas the clauses leave the requirements to the approval or specification of the Shire. The Committee states that in the absence of legislative authority to the contrary there is a common law rule against sub delegation of legislative power.

The clauses listed above are highlighted in the attachment for Councils comment.

It is to be noted that the clauses are a direct take from the Health Local Laws that have been operating for some time and are still being used by many local governments. This was pointed out to Committee staff, but they state that as the Committee have raised concerns, the amendments must be made.

The undertaking given to the Committee advised that the Shire wished to work with the Department of Environment and Conservation to ensure that not only was the Shire Local Law acceptable, but future local laws could be adopted with some assurance.

**Comment:** The Shire, through its consultant has contacted the Department of Environment and Conservation and as soon as the appropriate amendments can be agreed to a proposed amendment local law will be presented to Council.

**Consultation:** The proposed amendment local law will need to be advertised for public comment.

**Statutory Environment:**

An amendment must follow the same process as a local law. As it would be proposed to adopt a new Local Law, the following processes, as set out in section 3.12 of the *Local Government Act 1995* must be observed:

1. At a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that;
  - a) the purpose and effect of the proposed local law is included in the agenda for the meeting; and
  - b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.
2. A Local Government is to:
  - a) give Statewide public notice stating that-
    - (i) The local government proposes to make a local law, the purpose and effect of which is summarised in the notice;
    - (ii) A copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) Submissions about the proposed local law may be made to a local government before a date to be specified in the notice, being a day that is not less than six weeks after the notice is given;
  - b) as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice is to be forwarded to the relevant Minister.
  - c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The local law is then published in the Government Gazette and a copy sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

**Policy Implications:** Nil

**Financial Implications:** The local law needs to be advertised in a newspaper circulating throughout the district and published in the Government Gazette.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Council Resolution:** *091011*

*Moved Cr Bowman, seconded Cr Turner*

*“That Council acknowledge the Delegated Legislation Committee concerns and undertake to amend the Shire of Broomehill-Tambellup Waste Services Local Law 2009 after consultation with the Department of Environment and Conservation.”*

*CARRIED 8/0*

**Reason For Change to Recommendation:**

**10.7 2008-2009 ANNUAL REPORT**


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<b>Program:</b>	<b>Governance</b>
<b>Attachment:</b>	<b>Annual Report for 2008-2009</b>
<b>File Ref:</b>	<b>Nil</b>
<b>Author:</b>	<b>JM Trezona                      Chief Executive Officer</b>
<b>Date:</b>	<b>7<sup>th</sup> October 2009</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

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**Summary:** Council to adopt the 2008-2009 Annual Report.

**Background:** Council must adopt the Annual Report which includes the audit report prior to holding the Annual Electors Meeting. The Annual Electors Meeting for the Shire of Broomehill-Tambellup is to be held on Monday 19<sup>th</sup> October 2009.

The Local Government Act 1995 states that the Annual Report must contain the following:

- A report from the President
- A report from the Chief Executive Officer
- An overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or continue in the next financial year
- The financial report for the financial year
- Such information as may be prescribed in relation to the payments made to employees
- The auditor's report for the financial year
- A matter on which a report must be made under section 29(2) of the Disability Services Act 1993
- National Competition Policy
- State Records
- Such other information as may be prescribed

**Comment:** Once Council has adopted the Annual Report, the Chief Executive Officer is to give local public notice of the availability of the report.

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority



**Council Resolution:**     **091012**

*Moved Cr Turner, seconded Cr Sheridan*

*“That Council adopts the 2008-2009 Annual Report as presented.”*

**CARRIED 8/0**

**Reason For Change to  
Recommendation:**

<b>10.8</b>	<b>KEEPING OF GEESE AT 32 TAYLOR STREET, TAMBELLUP</b>			
<b>Program:</b>	<b>Law, Order and Public Safety</b>			
<b>Attachment:</b>	<b>Nil</b>			
<b>File Ref:</b>	<b>A204</b>			
<b>Author:</b>	<b>JP Bentley</b>	<b>Manager</b>	<b>Administrative</b>	<b>&amp; Customer Services</b>
<b>Date:</b>	<b>8<sup>th</sup> October 2009</b>			
<b>Disclosure of Interest:</b>	<b>Nil</b>			

**Summary:** To consider an application from Mr & Mrs L Valenti to keep ducks and geese.

**Background:** Mr & Mrs Valenti have written to Council seeking permission to keep three ducks and a goose and gander at 32 Taylor Street, Tambellup. The Valenti's have had the poultry for about eighteen months and were not aware of the requirements for keeping these animals until recently.

A complaint was received regarding the keeping of various animals by the Valenti's and after consultation with the family the matter has been resolved to the satisfaction of the complainant. The issue regarding animals did not specifically include the geese and subsequent to the resolution of the matter, the original complainant has no issue with the Valenti's keeping the geese in the prescribed manner.

**Comment:** The owners have complied with the requests related to the complaint and have sought to keep the geese as they have become family pets.

The complainant was contacted after the owners had complied with the requests regarding animals (specifically guinea fowl which were wandering into the complainants property) and was advised that the Valenti's were going to apply to keep the geese to which no concerns were raised at the time.

**Consultation:** Nil

**Statutory Environment:** **HEALTH LOCAL LAWS**

*Division 4—Keeping of Poultry and Pigeons*

**5.4.1 Interpretation**

*In this Division, unless the context otherwise requires—  
“poultry” includes bantams, ducks and other domestic fowls;*

**5.4.2 Limitation on Numbers of Poultry and Pigeons**

*An owner or occupier of premises within a townsite shall not keep a combined total of more than 12 poultry and pigeons without the approval of the local government, on any one lot of land.*

**5.4.3 Conditions for Keeping Poultry in Limited Numbers**

*A person who keeps poultry or permits poultry to be kept shall ensure that—*

*(a) no poultry is able to approach within 9 metres of a dwelling house, public building or premises where*

- people are employed or where food is stored, prepared, manufactured or sold;
- (b) all poultry is kept in a properly constructed and securely fastened structure or enclosure;
  - (c) the structure is in a yard having an otherwise unobstructed area of at least 30 square metres;
  - (d) no poultry is able to approach within 9 metres of a street other than a right of way unless, in the case of land at the junction of two or more streets, the local government has approved a lesser distance;
  - (e) no poultry is able to approach within 1.2 metres of any side or rear boundary of the premises; and
  - (f) all enclosures or cages within which poultry are kept shall be maintained at all times in a clean condition and shall be disinfected or otherwise dealt with in a way as directed by an EHO.

#### **5.4.4 Roosters, Geese, Turkeys, Peafowls and Gamebirds**

- (1) An occupier of premises within a townsite, shall not without the written approval of the local government, keep or permit to be kept on those premises, any one or more of the following fowl—
  - (a) a rooster;
  - (b) a goose or gander;
  - (c) a turkey;
  - (d) a peacock or peahen;
  - (e) a gamebird (includes emus and ostriches)
- (2) The local government may upon written application, grant approval with or without conditions to the owner or occupier of premises to keep any one or more birds as specified in subsection (1).
- (3) A person who has been granted approval under this Section to keep a bird may keep the bird on the premises only while he is the occupier thereof.
- (4) The local government may revoke an approval granted under this Section if it is of the opinion that the keeping of the birds specified in the approval is causing a nuisance or is injurious, offensive or dangerous to health.

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Council Resolution: 091013**

*Moved Cr Kempin, seconded Cr Turner*

*“That Council grants permission to Mr & Mrs Valenti to keep three ducks, a goose and gander subject to the following conditions:*

- 1. The ducks and geese are kept in an enclosure as prescribed in the Health Local Laws section 5.4.3;*
- 2. The approval only covers the existing animals and will not cover any subsequently acquired animals;*
- 3. A total of no more than twelve birds, poultry or game are to be kept at the premises; and*
- 4. Council may revoke the approval if it of the opinion the keeping of the birds specified in the approval is causing a nuisance or is injurious, offensive or dangerous to health of the owners or others.”*

**CARRIED 8/0**

**Reason For Change to Recommendation:**

**10.9 CREATION OF DEVELOPMENT ASSESSMENT PANELS**

<b>Program:</b>	Community Amenities			
<b>Attachment:</b>	Nil			
<b>File Ref:</b>				
<b>Author:</b>	JP Bentley	Manager	Administrative	& Customer Services
<b>Date:</b>	8 <sup>th</sup> October 2009			
<b>Disclosure of Interest:</b>	Nil			

**Summary:** To consider a response to the proposal to create Development Application Panels by the State Government.

**Background:** The Department for Planning has put forward a proposal to establish Development Assessment Panels to take over some of the planning role of Councils, in particular projects that are of a commercial nature or of a single high level, multi dwelling residential type outside the realms of a single residential home, for project \$1 million and over in value in regional and rural Western Australia.

The Department for Planning in its Question and Answer booklet regarding the proposal suggest that the following reasons are compelling evidence as to why we need to move to this new methodology:

- (a) **Transparency of decision-making:** *Currently local government delegation arrangements are not readily available and so there is no clarity as to whether a development application will be referred to Council determined by local government staff. The new regulations will clearly identify what classes of development applications are to be determined by development assessment panels. Further transparency to the decision making process will be provided by the use of independent experts and the publication of panel decisions and panel member voting trends.*
- (b) **Local government resources and technical issues raised by application:** *Applications for large-scale development can take extensive periods of time to progress through the development assessment process, due to the complexity of the development applied for and the planning requirements applicable to them. The resources and expertise available to the relevant local government are also a factor affecting the timeliness of decision-making. The use of independent experts on a development assessment panel will assist with this by involving experts with relevant technical knowledge in the determination of applications, thus reducing some of the need for briefings to be provided by technical experts.*
- (c) **Appropriate balance between local representation and professional advice in decision making:** *Large-scale developments may be controversial and so the local opposition to such change may become a factor for local government staff and councils. There is real opportunity for development assessment panels to improve this process due to the fundamental role that independent technical experts play on such panels.*

*(d) **Dual approvals:** Where an application is made regarding development on land that is subject to the requirements of both a local planning scheme and a region planning scheme, approval of that application may be required under both schemes. As such, approval may need to be obtained from two decision-making authorities: the relevant local government and the Western Australian Planning Commission (WAPC). This requirement for dual approval is time consuming and uses many Government resources, as well as potentially creating a situation where the two decisions conflict with one another. Development assessment panels will address these issues by creating a single point of assessment under both schemes.*

Point (a) above relates to where a Local Government delegates authority to a Planning Officer, Director or CEO to approve various types of projects within certain guidelines or whether the Council will deal with proposals. The Shire of Broomehill-Tambellup sends all planning approvals to the Council and has no delegation in place regarding planning approvals.

Point (b) above relates to the knowledge and technical expertise of Councils to deal with planning issues. The Department is suggesting that there may be a lack of knowledge relating to these larger commercial projects which may cause undue delays or refusals. As this Council refers all of its planning applications to a Consulting Planner with significant expertise in dealing with these matters, the Council generally makes decisions based upon the recommendations of the planner given that the planner, who is neither a resident nor ratepayer, makes an unbiased, technical assessment of the application. The Council has full confidence in its planner's ability to provide such technical advice.

Point (c) above relates to the ability of Councils to make the technically correct decision in a situation where the public is opposed to a project proceeding.

Point (d) above relates to regional planning schemes where a development may need approval from both the WAPC and the Local Government. This is not the case here, however in relation to items that require a change to the Town Planning Scheme such as multiple lot residential sub-divisions do require inter agency approvals and / or comment.

**For Development assessment panels in regional areas, the following criteria will apply:**

Applications for development approval valued at equal to and / or over \$1 million where they represent:

- All commercial, retail and office applications;
- All mixed use/centre applications (such as commercial, retail and residential);
- All industrial (including, but not limited to, light, service, extractive, general, noxious and rural industry) applications;
- All grouped dwelling or multiple dwelling applications of over ten dwellings;

- Non-complying grouped dwellings or multiple dwelling applications of ten or less dwellings;
- All aged and dependent persons dwelling applications;
- All infrastructure proposals;
- Applications requiring dual approval of the local government and the WAPC, under the Peel Region Scheme, Greater Bunbury Region Scheme or other future regions scheme;
- Strategic land use, transport and infrastructure projects;
- Public works of state/regional significance where not exempt from local planning approval requirements;
- All applications for hospitals, TAFE's, universities and non-government schools.

Exempt development will include:

- The determination of an application of approval for the purpose of one or more single houses, complying and non-complying;
- The determination of an application for approval of development for the purpose of not more than ten complying grouped dwellings or multiple dwellings;
- Minor applications, such as carports, shade sails, outbuildings and sheds.

Local governments in regional areas may also choose to delegate applications for minor development to their development assessment panel. It is anticipated that local governments with few planning staff and resources available will choose to delegate all of their functions. An amendment to the *Local Government Act 1995* will be made to allow for this to occur.

Applications that fit within the criteria set out above will be required to be forwarded to the relevant development assessment panel for determination, once the local government or WAPC has undertaken any advertising or consultation required under the relevant planning scheme and prepared a report to the development assessment panel.

The Minister for Planning will have the power to call in any development application that a development assessment panel has the power to determine (as prescribed in the new regulations). The Minister will be the determining authority for any applications called-in. It is envisaged that the applications determined under this call-in power will be those for significant projects which the Minister believes will have impacts beyond a single local government area. Once the Minister has called in a development application, that application will be assessed by the local government and then referred to the relevant panel as per the usual process. However, instead of determining the application, the panel will prepare a report containing its advice and recommendations. This report will be provided to the Minister, for the Minister to take into consideration when determining the application. There will be no right of review to SAT available against the Minister's decision.

**Comment:**

The proposal calls for the establishment of fifteen panels consisting of five members to hear and assess development applications that fall into the trigger range of projects. The panels will be made up of five members, a chair who will also be one of three technical specialist members of the panel and two council representatives from the council

where the development application is lodged.

The fifteen panels will be regionally based and it is assumed that the Great Southern will be a region given the current information provided by the Department. The Local Government representatives of the panel will only deal with applications related to their own Council and not those of others within the region. The panel would probably sit in Albany and the specialist technical representatives would probably be sourced from there as well. It is proposed that teleconference and other forms of electronic meetings could take place to reduce the travel burden for regional panels.

Many of the specialist panel members could have more than a casual relationship with the developers or proponents of major developments from within a given region.

It is currently not proposed to compensate Local Government representatives in any way to sit on these committees, however the technical specialists are to be paid \$400 as a member and \$500 as chair per meeting. I believe that at the very least that Council representatives should be compensated by way of out of pocket expenses and a sitting fee equal to that of a Council meeting to recognize the importance of the function. It is proposed to pay the Panel members from the fees associated with the application

Council officers will still need to deal with these matters at a local level, assessing the projects against the Town Planning Scheme, undertaking community consultation or advertising, and preparing a report on the application for the Panel. The difference will be that the panel will deal with the application and not the Council.

There does not appear to be an opportunity in the process for the Council as a body to consider the application if it falls into the Panel category of project. It appears that the Council Officers will make a determination as to whether the matter is to be dealt with by the Panel or the Council based upon the value of the project. The two panel members will need to be well versed with the Town Planning Scheme, local issues and the direction which the Council as a whole would like to proceed.

Clearly the Development Assessment Panels are now a foregone conclusion however Councils throughout Western Australia have the ability to make comment, voice concerns or propose methodologies and processes that may assist in the smooth introduction of these panels.

The Council may wish to voice its concerns relating to the Joint Development Assessment Panels by way of a submission to the Department for Planning, the closing date such submissions is 2<sup>nd</sup> November 2009.

**Consultation:** Nil

**Statutory  
Environment:** Nil



**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council at this stage

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer Resolution:** *“For Council consideration and comment or submission.”*

**Council Resolution:** **091014**

*Moved Cr Bowman, seconded Cr Thompson*

*“That Council forward a submission to the Department for Planning on the proposal to create Development Application Panels and include reference to:*

- \$1 million threshold for rural areas being too low; and*
- Councils opposition to the removal of control of planning approvals in its district.”*

**CARRIED 8/0**

**Reason For Change to Recommendation:**

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**10.11 FENCE – BROOMEHILL OVAL**

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<b>Program:</b>	<b>Recreation and Culture</b>
<b>Attachment:</b>	<b>Nil</b>
<b>File Ref:</b>	<b>ADM0286 / ADM 0033</b>
<b>Author:</b>	<b>JM Trezona Chief Executive Officer</b>
<b>Date:</b>	<b>8<sup>th</sup> October 2009</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

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**Summary:** The Broomehill Cricket Club is seeking funds from Council to assist with the erection of a fence around the oval at the Broomehill Complex.

**Background:** As part of the Broomehill Cricket Clubs five year plan they have identified a fence around the oval as a major project that the club would like to undertake. The Junior Cricket Club and the Hockey Club have indicated their support for the project and would derive benefit from the installation of a fence.

It is proposed that the fence will be 600-700mm high constructed of pine posts with a constant milled top rail (for sitting on) and in filled with 4cm wire mesh. This will stop balls from escaping from the oval, restrict vehicle access to the oval and at the same time not be too visually obstructive.

Initial quotes for the fencing materials are \$8,000 and the club is looking for a contribution from Council of \$4,000.

**Comment:** The Cricket Club is anticipating that the fence will be erected by club members with assistance via the annual visit to the town by the students from Curtin University.

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** The Broomehill Recreation Complex Reserve has been established for works at the Broomehill Recreation Complex. The reserve currently has a balance of \$46,084. There are no major projects earmarked for payment from the Reserve for this financial year.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Absolute Majority

**Council Resolution:**      **091015**

*Moved Cr Thompson, seconded Cr Turner*

*“That Council agrees to provide up to \$4,000 towards the cost of erecting a fence around the oval at the Broomehill Sporting Complex with the funds to be taken from the Broomehill Recreation Complex Reserve. Council recognises the expenditure as unbudgeted.”*

**CARRIED 8/0**  
**By Absolute Majority**

**Reason For Change to  
Recommendation:**

**10.12****RATES DISCOUNT**


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<b>Program:</b>	<b>General Purpose Funding</b>	
<b>Attachment:</b>	<b>Nil</b>	
<b>File Ref:</b>	<b>A515 &amp; S517</b>	
<b>Author:</b>	<b>JM Trezona</b>	<b>Chief Executive Officer</b>
<b>Date:</b>	<b>8<sup>th</sup> October 2009</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

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**Summary:** Council to consider granting a rates discount for assessments 515 and 517.

**Background:** The owners of the above property have written asking Council to consider granting a rate discount for their property.

When the current owner acquired the properties represented on assessments 515 and 517 they had the rates notices directed to an address in the metropolitan area. Since then they have relocated and now live at their property in Tambellup.

The owners have written advising that they have advised Council staff on two previous occasions of the change of mailing address for notices relating to the property. These changes have not been executed and consequently the 2009 rate notices were again sent to the wrong address. This has resulted in the rates notice being received well after the discount date has passed.

The owners are asking that Council considers granting the discount for this year.

**Comment:** Interrogation of Councils records shows that the owners of the property did advise Council in writing in previous years of the change of address.

The procedure for recording changes of rate assessment information has been discussed with the administration staff.

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** The discount applicable to assessment 515 is \$30 and assessment 517 is \$39.56. This gives a total discount amount of \$69.56.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Council Resolution:**     **091016**

*Moved Cr Thompson, seconded Cr Schlueter*

*“That Council in considering the circumstances surrounding the land owners claim, grants a 10% rate discount for assessments 515 and 517.”*

**CARRIED 8/0**

**Reason For Change to  
Recommendation:**

KP O’Neill retired from the meeting at 5.00pm.

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## 10.13 REGIONAL AND LOCAL COMMUNITY INFRASTRUCTURE PROGRAM – ROUND 2

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<b>Program:</b>	Community Amenities	
<b>Attachment:</b>	Summary of Regional Local Community Infrastructure Program and Royalties for Regions funding, examples of eligible Community Infrastructure	
<b>File Ref:</b>	ADM0297	
<b>Author:</b>	JM Trezona	Chief Executive Officer
<b>Date:</b>	15 <sup>th</sup> October 2009	
<b>Disclosure of Interest:</b>	Nil	

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**Summary:** Council to determine suitable projects for the latest round of the Regional and Local Community Infrastructure (RLCIP) funding of \$30,000.

**Background:** In June 2009 the Australian Government, as part of its contribution to address the global economic crisis, made an additional \$220 million available to boost the RLCIP. This is intended to provide long term benefits to communities by assisting councils to build and modernise local infrastructure.

Council initially received \$100,000 under Round 1 of the program, which has been utilised to provide playground equipment in Holland Park, continue the upgrade of Diprose Park and purchase a modular skate park to be installed in Tambellup.

The Shire of Broomehill-Tambellup will receive a one-off payment of \$30,000 which can be spent on community infrastructure including new construction and major renovations or refurbishments of assets such as:

- Social and cultural infrastructure (eg. art spaces, gardens);
- Recreational facilities (eg. swimming pools, sports stadiums);
- Tourism infrastructure (eg. walkways, tourism information centres);
- Children, youth and senior facilities (eg. playgroup centres, senior citizens centres);
- Access facilities (eg. boat ramps, footbridges); and
- Environmental issues (eg. drain and sewerage upgrades, recycling plants)

Council is required to submit a project proposal to the Department of Local Government to consistent with the guidelines of the program by Friday 20<sup>th</sup> November 2009. Funds are to be expended by 31<sup>st</sup> December 2010.

**Comment:** A summary of funding received to date and anticipated from the RLCIP and Royalties for Regions (R4R) Year 1 and Year 2 is attached for information. This outlines Councils determined priorities for all funding.

Staff have identified the following projects as being appropriate for inclusion:

- Construct shared use path on Ivy Street, Broomehill
- Continue refurbishment of Tambellup Sports Pavilion.

Further details of the two projects are outlined in the attachment.

For Council discussion and decision.

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** As notification of the additional funding has only recently been received, no provision has been made in the budget for either the income of \$30,000 or the associated expenses.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer Resolution:** *“That Council allocates the additional \$30,000 funding from the Regional and Local Community Infrastructure Program to .....*”

**Council Resolution:** *091017*

*Moved Cr Sheridan, seconded Cr Turner*

*“That Council allocates the additional \$30,000 funding from the Regional and Local Community Infrastructure Program to the shared use path on Ivy Street, Broomehill.”*

**CARRIED 8/0**

**Reason For Change to Recommendation:**

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**10.14 PROPOSED SUBDIVISION – LOT 531 NARDLAH ROAD, BROOMEHILL EAST - WAPC 140634**


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**Program:** Planning  
**Attachment:** Subdivision Plan  
**File Ref:**  
**Author:** Gray & Lewis                      Landuse Planners  
**Date:** 15<sup>th</sup> October 2009  
**Disclosure of Interest:** Gray & Lewis receive planning fees for advice to the Shire, therefore declare a Financial Interest – Section 5.65 of *Local Government Act 1995*.

**Cr SJF Thompson declared a Financial Interest in this matter as he is the owner of the property and left the meeting at 5.06pm.**

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**Summary:** An application has been lodged with the Western Australian Planning Commission (WAPC) to excise a homestead lot from a farming property.

The WAPC has referred the application to Council for recommendation and comment.

It is recommended that Council recommend that the application be conditionally approved by the WAPC.

**Background:** Lot 531 Nardlah Road, Broomehill East is zoned ‘Farming’ under the Shire of Broomehill Town Planning Scheme No 1.

The existing lot has an approximate area of 64.3 hectares.

**Comment:** *Description of Application*  
 The application proposes to subdivide the subject lot into 2 separate green title lots of 1.2 hectares for the homestead lot containing the existing house, and retaining the main farmland on approximately 63.145 hectares.

The subdivision plan is included in Attachment 1.

*Scheme provisions*

Under the Scheme the objectives for the Farming zone include ‘*The Council intends the predominant form of rural activity in the farming zone will continue to be based on large farming units. It will generally be opposed to the fragmentation of farming properties through the process of subdivision*’.

It is not considered that the subdivision will undermine the objective for continuation of rural activities as the farm can continue to operate effectively on the remaining 63.145 hectares, and it is unlikely that the land in the immediate vicinity to the existing residence is actively used for farming purposes.

Under Clause 5.13 b) of the Scheme there are specific criteria for subdivision in the farming zone. These criteria are not considered relevant to homestead lot applications and are orientated towards



subdivisions for more intensive agriculture.

Gray & Lewis is of the understanding that previous subdivision applications have been lodged for this land, and have not been supported.

Notwithstanding the above it is recognised that the WAPC position towards homestead lots has shifted as;

1. Many Shires are experiencing population decline. Homestead lots allow for farmers to retire and remain in the area, or to sell the homestead lot to generate income.
2. There are strict criteria for homestead lots and they are aimed at retaining population.

Since the changes to the relevant WAPC Policy, the Shire has supported a number of homestead lot applications

WAPC Policy DC 3.4 – Rural Subdivision

WAPC Policy DC 3.4 sets out the principles which are used by the WAPC in determining applications for subdivision of rural land.

Following review, a revised version of WAPC Policy DC 3.4 was released by the WAPC in February 2008. Since this time, WAPC have been actively approving homestead lot applications which comply with the Policy criteria.

<b>WAPC Policy Criteria</b>	<b>Officer Comment</b>	<b>Officer Assessment</b>
The land is in the Wheatbelt agricultural policy area.	Broomehill is included in Appendix 3 of the Policy as being in the Wheatbelt policy area.	Complies.
The population in the locality is declining or relatively static.	Australian Bureau of Statistics shows that the population in the Shire of Broomehill decreased from 503 in 1991 to 451 in 2001.	Complies.
The homestead lot has an area between 1 and 4ha, or up to 20 ha where it is desirable to respond to the landform or to include existing outbuildings or water sources.	The proposed lot is 1.2 hectares and includes existing buildings.	Complies.
There is an adequate water supply for domestic, land	The residence is existing so will have an existing water supply. A condition is	Complies.

management and fire management services	recommended to ensure that existing tanks are adequately provided within the new lot A boundaries.	
The homestead lot fronts a constructed road.	The lot has direct road frontage.	Complies.
The homestead lot contains an existing residence.	It contains an existing house.	Complies.
A homestead lot has not been excised from the farm in the past.	It is clear from the surrounding lot sizes and pattern that no homestead lots have not been excised in the past.	Complies.

It is considered that the application complies with WAPC Policy DC 3.4.

Options available to Council

➤ *Option 1 – Recommend Refusal*

Council can recommend refusal of the application and advise WAPC that it is not supportive of homestead lots and is generally opposed to subdivision of farming land in accordance with the Scheme objective outlined in Clause 5.13a.

Option 1 is not recommended as:

- 1) Council has the discretion to support the application and due to the age of the Scheme, WAPC can also consider any variation to the Scheme requirements under the Planning and Development Act 2005.
- 2) The application complies with WAPC Policy DC3.4.

➤ *Option 2 – Recommend conditional approval*

Option 2 is based on the following:

- 1) The application complies with WAPC policy DC3.4
- 2) There are community benefits associated with homestead lots as they help to maintain the existing population
- 3) Homestead lots can provide accommodation for retired farmers who wish to remain in the area, workers and / or provide income for farmers who may wish to construct a new dwelling on the remaining farm lot.

**Consultation:** Consultation has been conducted by the WAPC who has referred the application to the Department of Industry and Resources, Western Power, Health Department and Water Corporation for comment. Comments are due by 28<sup>th</sup> October 2009.

**Statutory**

**Environment:** Shire of Broomehill Town Planning Scheme No1

**Policy Implications:** Nil. The application has been assessed in accordance with the relevant WAPC Policy.

**Financial**

**Implications:** The subdivision may result in increased rates due to the increase of one lot.

**Strategic**

**Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Council Resolution:** *091018*

*Moved Cr Sadler, seconded Cr Sheridan*

***“That Council:***

- A. Recommend that the Western Australian Planning Commission approve the application subject to the following conditions;***
- 1. All buildings having necessary clearance from new boundaries.***
  - 2. A Notification, pursuant to section 165 of the Planning and Development Act is to be placed on the Certificates of Title of proposed Lot A advising that it is located within a ‘Farming’ zone. Notice of this notification to be included on the Deposited Plan. The notification to state as follows:  
“This lot is located within a farming zone and may be adversely affected by normal agricultural activities by virtue of odour, noise, dust and/or spray emissions from that land use”.***
  - 3. The owner / applicant to lodge written information demonstrating that an existing water supply has been provided within the boundaries of Lot A to service the existing residence, or a new water tank shall be constructed to the satisfaction of Council.***
- B. That a copy of this report be provided to the WAPC as it includes the assessment conducted of the application.”***

***CARRIED 7/0***

**Reason For Change to Recommendation:**

Cr Thompson returned to the meeting at 5.16pm.

**12.1 PLANT REPORT FOR SEPTEMBER 2009**

**Program:** Transport  
**Attachment:** Nil  
**File Ref:** Nil  
**Author:** GC Brigg Manager of Works  
**Date:** 9<sup>th</sup> October 2009  
**Disclosure of Interest:** Nil

Reg No.	Description	Kms/Hrs	Year of Manufacture	Year of Purchase	Changeover	Comments
BH000	Nissan Murano		2009	2009		OK
BH00	Ford Ranger Dual Cab	39800	2008	2008	2 yrs / 40,000km	OK
BH001	ISUZU 6 Wheel Tipper	34558	2007	2007	7 yrs / 151,000km	OK
BH002	ISUZU 6 Wheel Tipper	15800	2008	2008	7 yrs / 151,000km	OK
BH003	Mitsubishi Canter Crew Cab	105200	2004	2004	5 yrs / 100,000km	100k service done
BH004	JD 670B Grader	9951	1996	1996	10 yrs / 10,000 hrs	OK
BH005	Bomag Multi-Tyred Roller	4060	2002	2002	10 yrs	Brake repairs
BH006	Volvo 710	3903	2004	2004	10 yrs / 10,000 hrs	OK
BH007	John Deere Ride on Mower	77	2003	2003	5 yrs / 5,000 hrs	OK
BH008	VOLVO L70D Loader	4986	2001	2001	7 yrs / 7000 hrs	OK
BH009	Holden Rodeo	44311	2004	2004	5 yrs / 100,000kms	OK
BH010	6x4 Fuel Trailer		1981	1981		OK
BH012	Isuzu Fire Truck	5000	1995	2004	14 yrs	Serviced
BH013	John Deere 315SG Backhoe	1929	2003	2003	10 yrs / 10,000 hrs	OK
BH813	Multi Tyre Roller		1960	1980		OK

0TA	Holden Statesman		2009	2009		Accident repairs
TA052	Toyota Hilux 4x4	43000	2007	2007	2yrs	OK
TA001	Ford Ranger Dual Cab	34882	2008	2008	40,000km	OK
ITA	Nissan Navaro	30952	2008	2008	40,000km	30k service done
TA1880	Isuzu Gigamax Truck	18094	2008	2008	5 yrs	Damage to Bumper
TA092	Isuzu Gigamax Truck	39423	2007	2007	5 yrs	OK
TA386	Mitsubishi Fuso Truck	51794	2007	2007	4 yrs	50k service done
TA18	12H Grader	2790	2006	2006	8 yrs	OK
TA1835	12H Grader	3581	2002	2003	8 yrs	OK
TA281	930G Loader	1835	2007	2007	8 yrs	OK
TA392	Tractor Mower	1755			4 yrs	New deck fitted
TA1221	John Deere Tractor			1987	15 yrs	Sold
	CAT Vibrating Roller	7	2009	2009		OK
TA017	Isuzu Tipper	9449	2009			OK
TA219	Multipac Multi-tyred Roller			2004	10 yrs	OK
TA1196	Large Roller				Retain	OK
TA2015	Vibrating Roller			1977		OK
	Slasher					OK
XTR579	Road Broom				Retain	OK
	Mobile Fuel Tanker				Retain	OK
IDCF 535	TORO 3500D	46	2009	2009		OK
TA005	John Deere Tractor	270	2008	2008		OK

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**12.2 WORKS AND MAINTENANCE REPORT FOR SEPTEMBER 2009**

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<b>Program:</b>	<b>Transport</b>	
<b>Attachment:</b>	<b>Nil</b>	
<b>File Ref:</b>	<b>Nil</b>	
<b>Author:</b>	<b>GC Brigg</b>	<b>Manager of Works</b>
<b>Date:</b>	<b>9<sup>th</sup> October 2009</b>	
<b>Disclosure of Interest:</b>	<b>Nil</b>	

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**Broomehill**

- The gardeners have carried out replanting of the large pots around town. There are still a few to go which will be replanted within the week.
- Flower seedlings have been planted along the front of the information bay and work has been carried out at the Recreation Complex.
- Crews have been busy mowing around town and a second round of mowing has started this week. They have also been removing trees which have blown over due to the inclement weather.
- New playground equipment has been installed at Holland Park. There is still a spinning ride to be installed. Fencing has been erected and a personal gate has been ordered to be fitted at the front of the playground.
- Pumping of water from the town dam to the Recreational Centre dam has slowed down, the level of the Recreational dam is now approximately 1m over the inlet pipes and the pipes have been plugged.
- The pedestrian railway crossing has been gravelled and is waiting for Westrail approval before other associated works are completed.
- A new rubbish pit will be installed at the rubbish tip early next week. In one weekend recently there was approximately 40 cubic metres of rubbish dumped which overflowed the hole. That is equal to a full road train over two days.

**Tambellup**

- A large clean up around town has been completed with mowing, slashing, whipper snipping and sweeping streets.
- Gardeners are currently working on the gardens at the Administration office and should be completed over the next week.
- A new planter pot mould has been purchased so large concrete pots can be made for landscaping around Broomehill and Tambellup townsites.
- More work has been completed at Diprose Park. A concrete block entrance statement has been installed and paved areas will be completed over the next month. New tables and seats are currently being installed. We are waiting for contractors to complete asphalt on the pathways.
- Over the past few weeks a lot of vandalism has occurred and infrastructure in Diprose Park has been damaged, mainly to the toilets.
- Clover and insect spraying on the oval will take place this week.

**Roads**

- Tree clearing is now complete on the Broomehill-Kojonup Road. An excavator has removed the larger trees which couldn't be removed by the loader.
- Tree clearing was undertaken with an excavator on the Tambellup West Road and is now complete.
- Gravel carting will commence next week on the Tambellup West project. There will be three trucks working on this project and hopefully gravel carting will be completed within the month.

- Maintenance crews are currently widening culverts and hand placing headwalls on the Tambellup West Road.
- They have also been working on bitumen repairs, carrying out urban addressing and replacing signage.
- Now that the wet weather has eased, bitumen patching will take priority on all roads.
- At the recent Great Southern Management Group meeting, the Shire of Broomehill-Tambellup were praised by the Regional Road Group Technical Committee for taking a common sense approach to tree clearing along our current road widening projects.

## **Plant**

- There has been some damage to the John Deere 4610 (large ride on mower). A falling limb has broken the bonnet and grille while working.
- The new float has gone back to Lake Grace Engineering for modifications and repairs to the ramps. This is warranty work being performed, however the crew has found that an extra toolbox needs to be fitted.
- The new twin cab Isuzu truck is in Albany and the crane will be transferred from the older vehicle next week.
- Two new Toyota utes have been ordered to replace the existing gardeners vehicles in Broomehill and Tambellup.
- Coalcliff have inspected the Isuzu tipper which was tendered last month and are keen to purchase the truck and will make a formal offer next week.
- There is interest from the public to purchase the small domestic ride on mower.
- The Bomag roller is currently being repaired and waiting for parts. Simple brake parts are ex Germany and there is over a week's wait.
- The Shire of Gnowangerup are interested in dry hiring the Volvo loader and tree saw and are looking for hire rates to take to Council.

**RECEIVED**

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**12.3 BUILDING SURVEYORS REPORT FOR SEPTEMBER 2009**

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<b>Program:</b>	<b>Economic Services</b>
<b>Attachment:</b>	<b>BSR Report and Activity Statement</b>
<b>File Ref:</b>	<b>ADM0076</b>
<b>Author:</b>	<b>D Baxter</b> <b>Building Surveyor</b>
<b>Date:</b>	<b>5<sup>th</sup> October 2009</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

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**Summary:** Attached are the BSR Report and the Activity Statement for the month of September 2009 that have been sent to all the relevant authorities that are required by legislation.

**Background:** These reports advise of the building approvals and the activity of the Building Surveyor for the month of September 2009

**Comment:**

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer Resolution:** *Council discussed the Officers Report.*

**Reason For Change to Recommendation:**



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**12.4 BUILDING MAINTENANCE PROGRAM**

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**Program:** Various  
**Attachment:** Building Maintenance Program for SEPTEMBER 2009  
**File Ref:** Nil  
**Author:** JP Bentley                      Manager Administrative and Customer Service  
**Date:**  
**Disclosure of Interest:** Nil

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**Summary:** Update of the Building Maintenance Program for 2009-2010

**Background:**

**Comment:** The Building Maintenance Program is updated on a regular basis and presented for Councils information, comment and discussion if required.

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** Provision has been made in the 2009-2010 budget to meet the building maintenance program costs.

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer Resolution:** *Council discussed the Officers Report.*

**Reason For Change to Recommendation:**

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**12.5 LIBRARY REPORT – AUGUST 2009**

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**Program:** Recreation and Culture  
**Attachment:** Library Report – August 2009  
**File Ref:** ADM0097  
**Author:** JM Trezona Chief Executive Officer  
**Date:** 5<sup>th</sup> October 2009  
**Disclosure of Interest:** Nil

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**Summary:** Attached is a Library Report prepared by Colleen Brown, Library Officer for Broomehill and Tambellup, outlining the activities of both libraries within each town.

**Background:** This report outlines the activities of both Broomehill and Tambellup libraries for the month of August 2009.

**Comment:** For Council information.

**Consultation:** Nil

**Statutory Environment:** Nil

**Policy Implications:** Nil

**Financial Implications:** This issue has no financial implications for Council

**Strategic Implications:** This issue is not dealt with in the Plan

**Voting Requirements:** Simple Majority

**Officer Resolution:** *Council discussed the Officers Report.*

**Reason For Change to Recommendation:**

**13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**

Nil

**14. DATE OF NEXT MEETING**

Thursday 17<sup>th</sup> December 2009

**15. CLOSURE**

There being no further business, Cr Webster thanked Councillors and staff for their attendance and declared the meeting closed at 6.10pm.