



ORDINARY MINUTES

ORDINARY Meeting
of the Council held:

DATE: Tuesday, 28 April 2009

TIME: 2.45 pm

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

Rob Stewart
CHIEF EXECUTIVE OFFICER

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2:57 PM The Presiding Member declared the meeting open.

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

Mr Stewart then read aloud the following disclaimer:

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

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

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

2 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

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

3.1 ELECTION OF DEPUTY SHIRE PRESIDENT

The Shire President advised that the Chief Executive Officer had received formal notification from Cr Hollingworth resigning from the position of Deputy Shire President, effective immediately, pursuant to Section 2.31 of the Local Government Act 1995. Accordingly, pursuant to Section 2.34 of the Act the position of Deputy Shire President is vacant. The Shire President advised that he had received one (1) written nomination for the position of Deputy Shire President, nominating Cr Ken Clements. Cr Clements had signed the

nomination form indicating his willingness to stand for the position of Deputy Shire President.

The Shire President invited further nominations for the position.

There being none, the Shire President declared Cr Clements elected unopposed to the position of Deputy Shire President.

Cr Clements made a declaration in the prescribed form pursuant to Section 2.29 of the Local Government Act.

Members Present:

| | |
|-------------------|---|
| Cr K Forbes AM | Shire President - Rocky Gully/West Ward |
| Cr K Clements | Deputy Shire President - Town Ward |
| Cr A Budrikis | Kendenup Ward |
| Cr B Hollingworth | Town Ward |
| Cr S Grylls | Rocky Gully/West Ward |
| Cr J Mark | Town Ward |
| Cr J Moir | South Ward |
| Cr D Nye-Chart | East Ward |
| Cr M Skinner | East Ward |

In Attendance:

| | |
|--------------------|-----------------------------------|
| Mr Rob Stewart | Chief Executive Officer |
| Mr John Fathers | Deputy Chief Executive Officer |
| Ms Nicole Selesnew | Manager Community Services |
| Mr Peter Duncan | Manager Development Services |
| Mr Ian Bartlett | Manager Works and Services |
| Ms Cobie MacLean | Administration Officer (Planning) |

There were three (3) member(s) of the public in attendance.

There were nil (0) member(s) of the media in attendance.

Previously Approved Leave of Absence:

| | |
|-------------------|---|
| Cr D Nye-Chart | 15 May 2009 to 25 May 2009 inclusive. |
| Cr J Mark | 25 May 2009 to 12 June 2009 inclusive. |
| Cr B Hollingworth | 15 June 2009 to 12 July 2009 inclusive. |
| Cr D Nye-Chart | 3 July 2009 to 27 July 2009 inclusive. |

4 PUBLIC QUESTION TIME

Section 5.24 Local Government Act 1995

Nil

5 PETITIONS / DEPUTATIONS / PRESENTATIONS

Lot 18 (51) Menston Street, Mount Barker – Twenty-Eight (28) Grouped Dwellings – Ms Kas Sternberg, Chief Executive Officer, Great Southern Community Housing Association – 12.1.1

Community Housing Management and the Main Differences in Respect of Public Housing

- Community Housing Property and Tenancy Managers are responsible for the management of 70 properties and tenancies on a full time load.
- Property Inspections are carried out twice as frequently e.g. 2 to 3 times a year and in some cases where issues are identified they are carried out monthly.
- Great Southern Community Housing Association (GSCHA) has a number of agreements including Memorandums of Understanding (MOU's) with local support agencies who are funded to provide tenant support e.g. Lower Great Southern Family Support Association, Lower Great Southern Community Living Association, Albany Outreach Support, Christian Family Church, Community Drug Services Team, Community First, Community Mental Health Services, Department for Child Protection, CRS Australia, Fellowship House, Palmerston Association Strong Families and others.
- All new properties have native low maintenance gardens put in and all common areas are regularly maintained by GSCHA. Blinds and/or curtains are also installed.
- All properties are well maintained with a large proportion of income budgeted annually for maintenance (both responsive and cyclical maintenance). A planned upgrade program is in place each year for an identified number of properties and this includes kitchens and bathrooms, painting and floor coverings and other requirements such as guttering and downpipes, fencing etc.
- Currently the organisation has under 1.5% of rental arrears due to good management practices.
- The focus is on maintaining tenancies with supports in place.
- The organisation has successfully regenerated problem complexes through an allocations process which includes consideration of a well balanced workable social mix. Youth and seniors are not co-placed in the same complex and indigenous families are selected on their proven ability to co-exist well with other indigenous and cultural groups.
- The local wait list statistics are heavily weighted (approximately 70%) towards seniors, single people and couples with a small proportion of families. The majority of construction under the Commonwealth Stimulus Funding will be for one and two bedroom accommodation.
- The organisation can house up to 20% of people in the second income quintile (new definition of Affordable Housing). This definition is found under the National Rental Affordability Scheme (NRAS) guidelines.
- If all else fails and tenants do not comply with the responsibilities of maintaining their property, being respectful towards neighbours and

paying rent on time, the organisation will breach and terminate in line with the Residential Tenancies Act (RTA).

Lot 18 (51) Menston Street, Mount Barker – Twenty-Eight (28) Grouped Dwellings – Mr Faryar Gorjy, Director, Yaran Property Group – 12.1.1

Thank you for the opportunity to address the Council about the Development Application for Lot 18 (51) Menston Street, Mount Barker. To put our application in context, I would like to briefly speak about the nationwide housing shortage, housing affordability and demographics of this region.

Nation-wide Housing Shortage

Despite the current recession, there is an underlying housing shortage in Australia which is forecasted to get significantly worse by more than 20,000 houses per year:

| Year | Cumulative Housing Shortage |
|------|-----------------------------|
| 2009 | 108,000 |
| 2010 | 131,000 |
| 2011 | 155,000 |
| 2012 | 179,000 |
| 2013 | 203,000 |
| 2018 | 316,000 |

Source: National Housing Supply Council – State of Supply Report 2008

The Great Southern region of WA being one of the fastest growing regions of WA is not an exception to the nationwide housing shortage.

Housing Affordability

Housing affordability continues to be a major issue throughout the nation including Mount Barker. Rapid increases in property prices and rents are indicative of a shortfall in affordable housing in Mount Barker.

The Mount Barker median house price in 2000 was \$84,000.00 and the current median sale price for houses is \$247,500.00. This signifies a 294% increase in home prices between 2000 and 2009 (Source: REIWA).

There are few affordable rental properties in Mount Barker. The current median rental for an old very basic 2 bedroom home in Mount Barker is around \$190.00 p.w. (Source: realestate.com.au)

In 2006, the median individual weekly income in Mount Barker was only \$372.00 per week (Source: Australian Bureau of Statistics (ABS)). It is obvious that an average individual earning \$372.00 p.w. would not be able to afford \$190.00 p.w. in rent. Similarly, retired persons on pensions would not be able to afford this rent either.

It would also be difficult for an individual in Mount Barker on the median income of \$372.00 p.w. to buy a property from scratch in Mount Barker. If

someone is repaying a mortgage of \$247,500.00 at the current market interest rate of 5% they would be paying approximately \$238.00 per week in interest alone which would not be affordable.

Therefore, housing affordability is an issue in Mount Barker as is in most other parts of the nation.

Demographics of Mount Barker

The following statistics for Mount Barker are from the ABS:

- 47.1% of Mount Barker's families are couples without children.
- 27.3% of Mount Barker's household composition is lone persons.
- 30% of the Mount Barker population are aged 55 years and over.
- Currently there is a shortage of small affordable villa homes as standard homes comprise 91.3% of all homes in Mount Barker.

Singles, couples with no children or persons over 55 generally do not need 4 bedroom 2 bathroom homes. The key to solving the housing affordability problem is to build houses that are fit for purpose, and that generally means smaller houses to cater for a reducing number of persons per household.

Like the rest of Australia, Mount Barker has an aging population and is experiencing a decrease in the average household size. In addition to being relatively old, much of the existing housing stock in the townsite is located on larger lots that are not easy for aged persons to maintain, and too large for efficient use by single persons or couples. There is a need for more suitable, 'fit for purpose', affordable dwellings.

The Proposed Development

- The proposed development comprises 28 homes.
- The homes are single bedroom but floor plans incorporate a multi-purpose second room which can be used as a study, sewing room, home theatre etc.
- The homes are very suitable for singles, couples with no children, retirees who only need 1 bedroom but with a second room for other uses.
- 70% of houses the government is looking for under the housing stimulus package are either single bedroom or 2 bedroom homes (table as appendix 1 of this presentation).
- The homes will be very high quality built by large local builders.
- Many residents do not want or need a large garden area. The lot sizes easily accommodate the proposed homes.

-
- The Single Bedroom Dwellings have a maximum floor area of 60m², excluding the carport and store, which means that there is still plenty of space around the house with a lot size of 293m².
 - The proposal provides affordable homes are suited to the majority of residents.
 - A number of different houses, rooflines, setbacks and colour schemes have been used, in order to create an internal streetscape that provides variation and interest.

Compliance With RCodes

- It is Yaran's intent that the development complies in all aspects with the RCodes and the Shire's Town Planning Scheme. If there are any aspects which do not comply, Yaran is happy to amend the plans to ensure compliance.
- Mr Vincent Jenkins, Shire of Plantagenet Planning Officer, has raised some RCode compliance concerns. Our Senior Town Planner, Mr Steve Walker, believes we do in fact comply (Appendix 2 at end of presentation).
- I do not intend to go through the technical details of compliance with RCodes in this short presentation. If there are any RCode compliance issues we are happy to work with the Council officers to resolve them. We respectfully request that these issues be determined under delegated authority so that the approval process is not held up.
- As the Shire Officer states in the report to Council, the Shire of Plantagenet Strategic Plan encourages 'a variety of housing opportunities'. We believe the inclusion of the single bedroom dwellings in the town does provide that variety of housing opportunities.
- The zoning of the site is still R20, given the PLPS has not even been advertised yet. The proposed development does comply with the R20 density requirements. However, we are willing to work with the Council to achieve the intent of the draft PLPS.
- The Council Officer mentions that under the draft PLPS proposed new zoning of R17.5, a total of 25 single bedroom dwellings would be allowed. In order to be compliant with the intent of the draft PLPS we are agreeable to reducing the number of single bedroom dwellings down to 25. This reduction would increase the lot sizes and frontages which the Council Officer would also prefer. However, we respectfully request that the Council allows the Manager Development Services to determine advertising of any new proposals under delegated authority so as to minimise any delays.
- Alternatively, under the current R20 zoning, the 25 dwellings on this site could consist of 15 single bedroom dwellings and 10 normal grouped dwellings. The 10 normal grouped dwellings would have to be mainly 2

bedroom dwellings to comply with the requirements of the Housing Stimulus Package. We are happy to accommodate this mix of dwellings if Council prefers.

Federal and State Government's Response to Solve the Housing Crisis

As part of its measures aimed at addressing the current recession and the housing crisis, the Federal Government has instigated two major programs:

- Housing Stimulus Package that is aimed at stimulating employment and solving the nation's housing crisis. The stimulus package provides substantial funds to the State Government, who shall use it to commission 'shovel ready' housing projects, through a number of approved not-for-profit housing organisations such as Access Housing and Great Southern Community Housing Association.
- National Rental Affordability Scheme (NRAS) which provides \$8,000.00 p.a. for 10 years to investors who purchaser newly built affordable homes which will be rented out at 20% below market rent. This is a very significant incentive for investors assuring marketability of the project in these difficult economic times.

The proposed Menston Street development has been submitted for both incentive packages. The Menston Street development has successfully passes Stage 1 of a 2 stage assessment process for the Housing Stimulus Package. The proposal is also likely to be accepted under the NRAS scheme which will be decided by June 2009.

Yaran projects will provide a boost to Mount Barker's economy for the short to medium term, hence satisfying the intent of the State and Federal Governments.

The occupiers of the homes will not just be low income people. Under the NRAS, couple earning up to \$55,000.00 p.a. would be eligible to rent at the dwellings. Under both incentive packages, the homes would be managed by community housing groups and made available for rent at below 75% to 80% of the market rent. This would increase the supply of much needed affordable housing in Mount Barker.

Under both government incentive packages, the government are looking for 'shovel ready' projects which can stimulate employment in the short term as well as provide affordable housing. Therefore, it is absolutely critical to the success of the project that the approval process is not delayed.

Conclusion

I therefore respectfully request that Council approves the advertising of the project, because:

- The project provides for the current and future needs in Mount Barker for affordable and fit for purpose homes suitable for the majority of residents who are singles, couples without children or over 55's.

- Yaran believes the proposal complies with all the requirements of the RCodes and the Shire's Town Planning Scheme. Yaran is prepared to incorporate and changes to ensure compliance.
- Construction of the homes will provide much needed stimulus to the building industry in Mount Barker and the local economy at this critical time in the economic cycle.
- Should the Council prefer a smaller number of single bedroom dwellings, Yaran is agreeable to reducing the number to 25 dwellings which would comply with the draft PLPS. A mix of 15 single bedrooms and 10 normal grouped dwellings (2 bedroom dwellings) can also be accommodated. However, we respectfully request that the Manager Development Services determines advertising of the project under delegated authority so as to avoid delays in approvals.

As always we are happy to work closely with the Shire of Plantagenet to resolve any remaining issues. We respectfully request earliest processing of this application given the time constraints of the project.

Appendix 1

Department of Housing information for briefing on Thursday 19 February 2009 to builders and developers on Housing Stimulus Package 2009 and 2010.

Table Three: Type and number of Department of Housing Priority Public Housing dwelling units required for delivery under the State and Commonwealth Housing Stimulus Packages (HSP).

| Dwelling types required | Number of homes required | Per cent of all homes required across WA |
|-------------------------|--------------------------|--|
| FAMILY – 2 bedroom | 715 | 28% |
| SINGLES – 1 bedroom | 686 | 26% |
| FAMILY – 3 bedroom | 599 | 22% |
| PENSIONER – 1 bedroom | 229 | 9% |
| FAMILY – 4 bedroom | 179 | 7% |
| PENSIONER – 2 bedroom | 125 | 5% |
| FAMILY – 5 bedroom | 55 | 2% |
| SINGLES – 2 bedroom | 39 | 2% |
| FAMILY – 6 bedroom | 10 | 0% |
| SINGLES – 3 bedroom | 3 | 0% |
| | | 70% |

Total percentage of 1 or 2 bedroom units required under the Housing Stimulus Package.

Appendix 2

RCodes Issues Raised at Lot 18 Menston Street, Mount Barker

1. Requirements for Aged Persons Dwellings (page 4)

The requirements of Acceptable Development Criteria 7.1.2 apply where someone is seeking a density bonus for aged persons dwellings. Because the proposal does not seek a density bonus for aged persons dwellings, the requirements of acceptable Development Criteria 7.1.2 are irrelevant.

2. Minimum Frontage Requirements

The legend applicable to Table One of the RCodes makes it clear that the 10m minimum lot frontage requirements only applies to Single Houses. The proposal is for Grouped dwellings, hence the minimum lot frontage requirements is not relevant.

3. Street Setbacks to Menston Street

Acceptable Development Criteria 6.2.1 A1(i) states that primary street setbacks may be reduced up to 50% if there is sufficient averaging provided. Because the primary street setback is 6 metres the proposed 3 and 4 metre setbacks comply with this requirement, which is illustrated on Figures 1a, 1b and 1c.

4. Carport width and Location

The Shire's report says that:

'The width of carports is in most instances more than the RCodes' requirement of fifty percent (50%) of the frontage of the lots and most of the carports are located between the dwelling and the driveway.'

Acceptable Development Criteria 6.2.3 A3.4 only applies a 50% frontage requirement when a carport is located within the street setback area. On an R20 coded site the street setback from a communal street is 1.5 metres (refer to Column 8 and legend on Table One).

There are only two carports that are setback less than 1.5 metres, and are therefore subject to Acceptable Development Criteria 6.2.3 A3.4. In both cases the carports occupy less than 50% of the lot frontage and the construction would allow an unobstructed view between the dwelling and the communal street.

5. Conclusion

The proposal does comply with the abovementioned requirements of the RCodes.

6 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

Cr A Budrikis declared a Financial Interest – Association with Yaran Property Group - in Item 12.1.1.

Cr M Skinner declared a Financial Interest – Canola grower – in Item 12.5.1.

7 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

APPLICANT: CR K CLEMENTS

Cr K Clements requested Leave of Absence from 1 May 2009 to 9 May 2009 inclusive.

Moved Cr B Hollingworth, seconded Cr J Mark:

That Cr K Clements be granted Leave of Absence from 1 to 9 May 2009 inclusive.

CARRIED (9/0)

NO. 98/09

8 CONFIRMATION OF MINUTES

Moved Cr J Moir, seconded Cr S Grylls:

THAT the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 14 April 2009 as circulated, be taken as read and adopted as a correct record.

CARRIED (9/0)

NO. 99/09

9 COMMITTEE MINUTES

Moved Cr K Clements, seconded Cr B Hollingworth:

That the Minutes of:

Minutes – Great Southern Regional Cattle Saleyards Advisory Committee – 24 March 2009

Minutes – Local Emergency Management Committee - 3 February 2009

Minutes – Recreation Advisory Committee – 10 February 2009

be received.

CARRIED (9/0)

NO. 100/09

10 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 15 April 2009 – Attended presentation by Agriculture WA on Genetically Modified Canola along with Mr Stewart, Mr Duncan and Mr Howard.
- 17 April 2009 – Attended a short meeting with Hon Terry Redman to discuss issues of State Government relevance. Also with members of the Community Centre Committee and representatives of Mount Barker Newsagency (Lottery West). I received a cheque for \$750,000.00 from Lottery West for the Community Centre.
- 20 April 2009 – Attended the Plantagenet News Annual General Meeting.
- 23 April 2009 – The Firebreak working group met to discuss changes to the Firebreak notice for 2009-2010.
- 25 April 2009 – Took part in the Anzac day ceremony and than other Councillors and Staff for their attendance. There was a large crowd!
- 28 April 2009 – Currently working on a revised version of the paper work for the Chief Executive Officer's Review process. Hope to have the papers out early next week.
- 30 April 2009 – Mr Stewart and I will be attending a breakfast in Albany with Hon Brendan Grylls and Hon Terry Waldron who will do a presentation on Resource to Regions funding.
- 2 May 2009 – will be conducting the official opening of the Porongurup Bush Fire Brigade shed at 3.00p.m.
- 4 May 2009 – will be attending a Structural Reform workshop in Perth.
- 6 May 2009 – will be attending the Fire Advisory Committee Annual General Meeting.
- 12 May 2009 – we have several (9) naturalisations at 12.30p.m.

11 ANNOUNCEMENTS BY COUNCILLORS WITHOUT DISCUSSION

Cr B Hollingworth

- 10 April 2009 – attended Regional Road Group with Mr Bartlett.

Cr S Grylls

- Timber 2020.

Cr J Moir

- 20 April 2009 – attended the Anzac Day Service in Mount Barker.

Cr M Skinner

- 28 April 2009 – Attended the Great Southern Regional Cattle Saleyards Meeting. The cattle throughput is in line with previous years. The Waste Water Re-use Scheme has been ordered and should be on-line in a couple of months. The system has been fully funded through the Regional Infrastructure Funding Program.

12 REPORTS OF COMMITTEES AND OFFICERS

12.1 DEVELOPMENT SERVICES REPORTS

12.1.1 LOT 18 MENSTON STREET, MOUNT BARKER - TWENTY EIGHT (28) GROUPED DWELLINGS

A Financial Interest was disclosed by Cr A Budrikis.

3:31 PM Cr Budrikis withdrew from the meeting.

File No: RV/182/1598/N10706

Attachments: [Location Plan](#)
[Site Plan](#)
[Strata Plan](#)
[Elevations](#)
[Floor Plans](#)

Responsible Officer: Peter Duncan
Manager Development Services

Author: Vincent Jenkins
Planning Officer

Proposed Meeting Date: 28 April 2009

Applicant Yaran Property Group

PURPOSE

The purpose of this report is to consider an application for twenty-eight (28) single bedroom grouped dwellings at Lot 18 Menston Street, Mount Barker.

BACKGROUND

On 12 August 2008, following public advertising the Council approved an application for nineteen (19) grouped dwellings subject to certain conditions. At the same meeting the Council also supported a proposed twenty (20) lot survey strata subdivision on Lot 18 Menston Street, Mount Barker subject to certain conditions.

On 24 March 2009, the Council received an application for the development of thirty-one (31) single bedroom grouped dwellings. A survey strata subdivision application was simultaneously lodged with the Western Australian Planning Commission (WAPC). On 31 March 2009, the Shire received email correspondence from the WAPC indicating that the preliminary assessment of the survey strata subdivision application did not comply with the Western Australian Planning Commission's Policies and Practises. The proponent subsequently amended the Development Application by reducing the number of single bedroom grouped dwellings from thirty-one (31) to twenty-eight (28). The Shire received the amended documentation on 8 April 2009.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Residential R10/20 – Grouped dwelling is a discretionary ‘SA’ use under TPS3.

An ‘SA’ use ‘means that the Council may at its discretion, permit the use after notice of application has been given in accordance with Clause 6.2’. If the Council is mindful of approving this proposal, it will need to ensure it is advertised for comment for a period of twenty-one (21) days before it is again considered by the Council.

Clause 6.3.2 of TPS3 states:

‘The Council having regard to any matter which it is required by the Scheme to consider, to the purpose for which the land is reserved, zoned or approved for use under the Scheme, to the purpose for which land in the locality is used, and to the orderly and proper planning of the locality and the preservation of the amenities of the locality may refuse to approve any application for planning consent or may grant its’ approval unconditionally or subject to such conditions as it thinks fit.’

Residential Design Codes (RCodes).

The RCodes – discretion exists for the Council to vary standards at clause 2.5.2 as follows:

‘Discretion shall be exercised having regard to the following considerations:

- (a) the stated purpose and aims of the scheme;*
- (b) the provisions of parts 1-7 of the codes, as appropriate;*
- (c) the performance criterion or criteria in the context of the coding for the locality that corresponds to the relevant provision;*
- (d) the explanatory guidelines of the codes that correspond to the relevant provisions;*
- (e) any local planning strategy incorporated into the scheme;*
- (f) a provision of a local planning policy pursuant to this policy and complying with clause 2.5.3; and*
- (g) orderly and proper planning.’*

The RCodes - Appendix 1 – Definitions as follows:

‘Single bedroom dwelling

A dwelling that contains a living room and no more than one other habitable room that is capable of use as a bedroom.’

WAPC - Development Control Policy 1.3 Strata Titles (DC1.3).

WAPC - Development Control Policy 2.2 Residential Subdivision (DC 2.2).

CONSULTATION

The applicant has consulted with Manager Development Services requesting the proposal be processed quickly as an application for funding assistance through a stimulus package had been lodged with the Federal Government. The advertisement procedure for a 'SA' planning consent application prior to determination by the Council was not exercised under Delegation LG043 by the Manager Development Services.

FINANCIAL IMPLICATIONS

The application fee of \$6,374.00 has been paid.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

Shire of Plantagenet Strategic Plan 2003, Key Result Area 4 Development Services advocates:

'Supporting sustainable and managed growth within existing urban settlements and encourage the development of a variety of housing opportunities. The Shire also seeks to plan a safe and healthy living environment.'

OFFICER COMMENT

The Federal Government has initiated a Housing Stimulus Package for social housing and in addition, the Western Australian Government committed additional funding for social housing. The proponent, Yaran Property Group (Yaran), made submissions under the Commonwealth and Western Australian Government Housing Stimulus Packages to develop social housing.

The development application consists of three (3) design variations of single bedroom dwellings. The single bedroom dwelling is designed to accommodate the one or two-person households. For the purpose of a single bedroom dwelling, the RCodes allow the minimum site area to be reduced by up to one third ($\frac{1}{3}$). The minimum site area for a grouped dwelling development in areas coded R20 is 440m². When the one-third ($\frac{1}{3}$) reduction is applied, it is reduced to 293m² for a single bedroom dwelling development. The average site area for a grouped dwelling development is 500m². When the one-third ($\frac{1}{3}$) reduction is applied, it is reduced to 333m² for a single bedroom dwelling development.

The Shire of Plantagenet draft Local Planning Strategy (PLPS) was adopted by the Council in June 2008 and is still with the WAPC for assessment and awaiting the Commission's authority to advertise for public comment. Under the PLPS Lot 18 is within an area identified for future RCode adjustment from R20 to R17.5. Under the R17.5 Code the minimum site area for a grouped dwelling development is 500m². When the one-third ($\frac{1}{3}$) reduction is applied, it becomes 333m² for a single bedroom dwelling development. The R17.5 Code average site area for a grouped dwelling development is 570m² and when the one-third ($\frac{1}{3}$) reduction is applied, it becomes 379m² for a single bedroom dwelling development. The proposed single bedroom dwelling development and the increase in housing density are not in accordance with

the strategies and actions of the PLPS. Under the proposed R17.5Code the maximum number of single bedroom dwellings would be 25.

The proposed single bedroom dwellings have an internal floor space of 60m², exclusive of storeroom and vehicle parking areas. This 60m² figure is the maximum area set by the RCodes for this form of housing. The group dwelling development approved by the Council on 12 August 2008 consists of nineteen (19) three (3) and four (4) bedroom dwellings and have an internal floor space in excess of 120m², exclusive of storeroom and vehicle parking areas. Of the twenty-eight (28) single bedroom dwellings fifteen (15) are rectangular in outline and thirteen (13) dwellings are square in outline. Three (3) face Menston Street and twenty-five (25) face the internal accessway that is to be common property. The proposed development consists of single bedroom dwellings only, which does not reflect the character of the three (3) and four (4) bedroom traditional Mount Barker homes in the area.

In the development application, Yaran states the following:

'The 1 or 2 bedroom units are ideally suited to the great majority of occupants who are couples without children, singles or retirees.'

The reference to retirees may include an aged person or aged persons. Dwellings that accommodate the special needs of aged persons are designed to meet the needs of the aged person. The dwellings are to be located in proximity to public transport and convenience shopping. The dwellings shall have due regard to the topography of the locality in which the site is located and shall satisfy the demands for aged persons' accommodation. Under the RCodes, dwellings for the housing of aged persons require certain minimum requirements. The development does not comply with the following requirements:

'ii A minimum number of five dwellings within any single development.'

Dwellings were not identified for the exclusive use for aged person's accommodation.

'iii All ground floor units, with a preference for all dwellings, to incorporate, as a minimum the following.

- *Level entry to the front door entry with preferably all external doors having level entries'*

Accesses to all entrance of dwellings are by means of steps.

'iv All dwellings to incorporate, as a minimum, the following:

- *All external and internal doors to provide a minimum 820mm clear opening.'*

Entrances to all bathrooms are 720mm in width.

The RCodes (R20) require a minimum frontage of 10m. Of the twenty-eight (28) lots only ten (10) comply with the minimum requirement.

The RCodes require a total of thirty-five (35) car parking spaces consisting of twenty-eight (28) car parking spaces for the units and seven (7) visitor car parking spaces for the proposed development. The development complies with the number of minimum parking requirement by providing two (2) on-site car parking spaces on twenty-four (24) lots and one (1) on-site car parking space on four (4) of the lots, giving a total of 52 car parking spaces. No specific visitors car parking spaces are shown and the total number of spaces on the site exceeds the total requirement. The entry drives to the carports need to be designed to remove the funnel effect to the driveways.

The RCodes minimum street setback requirement is 6.0m but the setbacks to Menston Street range from 3.0m for one unit and 4.0m for the other two. The Council does have the power to agree to these reduced setbacks through the RCodes. A variation to the front setbacks is not appropriate as the performance criteria set to satisfy acceptable development provisions are not met.

The width of carports is in most instances more than the RCodes' requirement of fifty percent (50%) of the frontage of the lots and most of the carports are located between the dwelling and the driveway.

The location of the proposed internal accessway has not changed from that of the previous approved development and is designed to connect to a proposed road on neighbouring Lot 177 Marmion Street. This will enable pedestrian and vehicular traffic connection between Marmion and Menston Streets. The internal accessway is 7.2m wide with a 6.0m paved traffic surface that accommodates two-way vehicular traffic with a 1.2m wide footpath to one side.

In essence this proposal for single bedroom dwellings which attempts to obtain the RCode bonus of a one-third ($\frac{1}{3}$) reduction in lot size, does not meet some of the RCode standards. These are: inadequate street setbacks to Menston Street for three (3) units, inadequate minimum frontage for eighteen (18) of the units and the majority of the carports exceeding more than fifty percent (50%) of the frontage for each unit.

The proposed number of units also would exceed the maximum number of units of the R17.5 Code as proposed in the PLPS if it was in place. The Council in its preparation of the PLPS was very mindful of the character of Mount Barker hence its proposal to reduce the RCode density from R20 to R17.5.

The character of Mount Barker as a country town is an important consideration when looking at this current proposal for a large number of single bedroom dwellings. There is the potential to perhaps provide some five (5) or six (6) single bedroom dwellings with the bonus applied and then some two (2) or three (3) bedroom dwellings without the bonus applied. This concept was raised with Yaran but to obtain the Government stimulus packages this concept of twenty-eight (28) single bedroom units was their preference. It is accepted that nationally there is a need for single bedroom low cost accommodation but twenty-eight (28) units on this one property in Mount Barker is considered to be excessive and out of character with the town.

The Council could resolve to advertise the proposal for comment before it makes a decision on the 'SA' use but due to the difficulties in the design and the fact that it is excessive and out of character, a refusal is the recommended approach.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr J Mark, seconded Cr D Nye-Chart:

That the proposal to develop twenty-eight (28) single bedroom dwellings on Lot 18 Menston Street, Mount Barker be refused on the grounds that:

- 1. The development is contrary to the orderly and proper planning of the locality and the preservation of the amenity of the locality and it would set a precedent for this form of development in other parts of the Shire of Plantagenet.**
- 2. The development is not in accordance with the strategies and actions of the Shire of Plantagenet draft Local Planning Strategy (2008).**
- 3. The proposal does not satisfy the considerations for the utilisation of discretion under clause 2.5.2 of the RCodes in terms of:**
 - i) the provisions of parts 1-7 of the codes, as appropriate;**
 - ii) the performance criterion or criteria in the context of the coding for the locality that corresponds to the relevant provision;**
 - iii) any local planning strategy incorporated into the scheme; and**
 - iv) orderly and proper planning.**
- 4. The proposal does not meet setback, frontage and carport design standards of the RCodes.**

LOST (0/8)

FURTHER MOTION/COUNCIL DECISION

Moved Cr K Clements, seconded Cr D Nye-Chart:

That:

- 1. The proposal to develop twenty-five (25) grouped dwellings consisting of fifteen (15) single bedroom dwellings and ten (10) two (2) or more bedroom grouped dwellings on Lot 18 Menston Street, Mount Barker be supported for advertising subject to:**
 - i) The development must be in accordance with the strategies and actions of the Shire of Plantagenet draft Local Planning Strategy (2008);**

- ii) the proposal must satisfy the consideration for the utilisation of discretion under clause 2.5.2 of the RCodes in terms of:
 - (a) the provisions of parts 1-7 of the codes, as appropriate;
 - (b) the performance criterion or criteria in the context of the coding for the locality that corresponds to the relevant provision;
 - (c) any local planning strategy incorporated into the scheme; and
 - (d) orderly and proper planning.
 - iii) The proposal must meet setback, frontage and carport design standards of the RCodes.
2. A further report is to be placed before the Council after advertising and no later than 14 July 2009.

CARRIED (8/0)

NO. 101/09

3:50 PM Cr A Budrikis returned to the meeting.

**12.1.2 LOT 53 AND PART LOT 149 LOWOOD ROAD AND MCDONALD AVENUE,
MOUNT BARKER - USE OF COMMUNITY CENTRE AS A CHURCH**

File No: RV/182/2252, CS/150/2, N10714
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Peter Duncan
Manager Development Services
Proposed Meeting Date: 28 April 2009

PURPOSE

The purpose of this report is to clarify that church services may be carried out within the Mount Barker Community Centre at Lot 53 and part Lot 149 Lowood Road and McDonald Avenue, Mount Barker.

BACKGROUND

The Council at its meeting held on 8 May 2007 when considering the Mount Barker Baptist Church proposal for a community centre resolved at resolution 175/07 as follows:

'THAT:

- (1) The Mount Barker Baptist Church be advised that the Council is prepared to engage in a lease for Lot 53 Lowood Road, Mount Barker for a period of fifty-five years, comprised of thirty years with an additional twenty-five year option, for the purpose of establishing the Mount Barker Baptist Church Community Centre.*
 - (2) The Chief Executive Officer and Shire President be given authority to negotiate the terms of the lease for Lot 53 Lowood Road, Mount Barker with the Baptist Union of Western Australia and the Mount Barker Baptist Church.*
 - (3) The Mount Barker Baptist Church be advised that the Council is supportive of the necessary renovations and extensions required to the building located on Lot 53 Lowood Road, Mount Barker to accommodate the requirements of both the Mount Barker Baptist Church Community Centre and the Mount Barker Library, provided the Mount Barker Baptist Church finance all necessary changes and appropriate planning and development approvals are sought.*
 - (4) The Chief Executive Officer and Shire President be given authority to negotiate a Memorandum of Understanding (MOU) between the Mount Barker Baptist Church and the Shire of Plantagenet, including but not limited to the collocation of the Mount Barker Library on Lot 53 Lowood Road, Mount Barker, the use of adjoining Sounness Park Oval, the exemption of rates for Lot 53 Lowood Road, Mount Barker, security provisions, library costs, zoning requirements and the composition of a Management Board for the Community Centre.*
 - (5) The Council agrees to be a co-signatory to the Mount Barker Baptist Church's application for funding to the Regional Partnerships Program, seeking financial assistance to construct the Mount Barker Baptist Church Community Centre.*
-

- (6) *A public meeting be held at the discretion of the Shire President to discuss the Mount Barker Baptist Church Community Centre development and the Mount Barker Library collocation proposal.'*

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Lot 53 Lowood Road is presently within a Parks and Recreation Scheme Reserve and Lot 149 McDonald Avenue is within a Public Purpose Scheme Reserve. The present library building straddles the boundary between these two lots and staff are liaising with the Council's solicitors and Landgate to have the boundaries adjusted to rectify the encroachment. Once this is rectified the TPS3 will then be amended to place the Community Centre within a Public Purpose Reserve and the remainder of the Sounness recreation complex within a Parks and Recreation Scheme Reserve.

CONSULTATION

The Baptist Church requires confirmation that it can conduct church services within the Mount Barker Community Centre.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

The use of the Mount Barker Community Centre for church services is seen as an important part of the functioning of the community centre.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Mark, seconded Cr M Skinner:

That the Mount Barker Community Centre building at Lot 53 and part Lot 149 Lowood Road and McDonald Avenue, Mount Barker be approved as a place of public worship.

CARRIED (9/0)

NO. 102/09

12.2 WORKS AND SERVICES REPORTS

12.2.1 TENDER C11-0809 - GRAVEL PUSHING AND GENERAL BULLDOZING HIRE

File No: PS/165/54/N10705
Responsible Officer: Ian Bartlett
Manager Works and Services
Author: Sharon Williams
Senior Administration/Project Officer (Works and Services)
Proposed Meeting Date: 28 April 2009

PURPOSE

The purpose of this report is to consider submissions from the advertising of tender C11-0809 – Gravel Pushing and General Bulldozing Hire.

BACKGROUND

The Council resolved at its ordinary meeting held on 25 November 2008 that the gravel pushing and general bulldozing hire tender be re-tendered. Tender C11-0809 closed 12 noon on Wednesday 8 April 2009 and was advertised for a period of eighteen (18) days. At close of submissions, seven (7) tenders were received from the following registered companies:

1. Palmer Earthmoving Australia Pty Ltd;
2. GT & JF Couper;
3. Riverlea Corporation;
4. Outlook Contracting Pty Ltd;
5. AD Contractors Pty Ltd;
6. GLH Contracting; and
7. ERS Equipment.

STATUTORY ENVIRONMENT

Part four (4) of the Local Government (Functions and General) Regulations 2006 requires that tenders be publicly invited for the supply of goods or services if the consideration under the contract is, or is expected to be, more than \$100,000.00.

The tendering process for goods and services must be in accordance with sections 11, 18 and 19 of the Local Government (Functions and General) Regulations 2006.

In particular, Regulation 18 outlines a number of requirements relating to the choice of tender.

A Council is to decide which of the tenders is most advantageous and may decline to accept any or all the tenders received.

CONSULTATION

Consultation has occurred with Mr Ian Bartlett, Manager Works and Services.

FINANCIAL IMPLICATIONS

An allocation for gravel pushing and bulldozing hire has been included in the combined budget allocation for the 2009/2010 Road Construction and Maintenance Program.

POLICY IMPLICATIONS

Council Policy F/FM/5 – Purchasing and Tendering relates to the tendering process.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet's Strategic Plan, Key Result Area 2 Infrastructure provides the following as one of its aims:

'Maximise the benefit to the community, in an equitable manner, by effectively and efficiently developing and maintaining the road network and buildings infrastructure within the financial resources of the Shire.'

OFFICER COMMENT

A request for tenders was published in the West Australian on 21 and 25 March 2009 and the Plantagenet News on 25 March 2009. In addition, a tender notice was placed on the Shire of Plantagenet website. The closing date for receipt of tenders was 8 April 2009, with delivery of submissions to the tender box.

Seven (7) tenders were received from various suppliers for gravel pushing and general bulldozing hire. A summary of the cost to supply is shown tabulated below:

| Supplier | Gravel Pushing (inc Mobilisation) \$/LCM - ex GST | Extra Ripping & Track Rolling \$/hr - ex GST | Machine | | Day Work Rates \$/hr - ex GST |
|--------------------------------------|---|--|--------------------------|-------|-------------------------------|
| | | | Make | Model | |
| Palmer Earthmoving Australia Pty Ltd | \$1.05 | \$295.00 | Cat | D9N | \$295.00 |
| | | | Komatsu | D155A | \$240.00 |
| | | | Komatsu | D85A | \$175.00 |
| GT & JF Couper | \$0.85 | \$190.00 | Komatsu | D85 | \$190.00 |
| | | \$265.00 | Komatsu | D155 | \$265.00 |
| | | \$250.00 | Mobilisation per machine | D85 | \$250.00 |
| Riverlea Corporation | \$3.19 | \$165.00 | Komatsu | D6 | \$240.00 |

| | | | | | |
|------------------------------|--------|----------|-------------|------|----------|
| | | | | | |
| Outlook Contracting Pty Ltd | \$0.72 | \$20.00 | Caterpillar | D8R | \$288.50 |
| | | | | | |
| AD Contractors Pty Ltd | \$1.45 | \$220.00 | Cat | D7H | \$220.00 |
| | | \$250.00 | Cat | D8N | \$250.00 |
| | | | | | |
| GLH Contracting | \$2.97 | \$215.00 | Dozer | D8T | \$215.00 |
| | | \$190.00 | Float | 50t | \$190.00 |
| | | | | | |
| ERS Equipment Rental Pty Ltd | \$2.10 | \$355.00 | Caterpillar | D10N | \$355.00 |

The specifications for the gravel pushing and general bulldozing hire required tenderers to demonstrate compliance with the following selection criteria:

- Relevant experience – detailing past performance when completing work of a similar nature;
- Skills and experience of key personnel;
- A demonstrated understanding of the required tasks; and
- Pricing.

Outlook Contracting Pty Ltd tendered the lowest price per loose cubic metre (LCM); however the machine day rates are slightly higher than the rates tendered by GT & JF Couper.

The tenders from Palmer Earthmoving Pty Ltd and GT & JF Couper scored similarly however GT & JF Couper was favoured as their tender is considered to be most competitively priced given the nature of work to be carried out.

It is the opinion of the Manager Works and Services that the tender from GT & JF Couper is the most advantageous for the Shire of Plantagenet.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr B Hollingworth:

That the tender from GT & JF Couper to supply gravel pushing and general bulldozing hire to the Shire of Plantagenet for a twelve (12) month period from the date of acceptance, be the preferred tender, in accordance with the following pricing schedule:

| Supplier | Gravel Pushing (inc Mobilisation) \$/LCM - ex GST | Extra Ripping & Track Rolling \$/hr - ex GST | Machine | | Day Work Rates \$/hr - ex GST |
|----------------|---|--|--------------------------|-------|-------------------------------|
| | | | Make | Model | |
| GT & JF Couper | \$0.85 | \$190.00 | Komatsu | D85 | \$190.00 |
| | | \$265.00 | Komatsu | D155 | \$265.00 |
| | | \$250.00 | Mobilisation per machine | D85 | \$250.00 |

CARRIED (9/0)

NO. 103/09

12.3 COMMUNITY SERVICES REPORTS

Nil

12.4 CORPORATE SERVICES REPORTS

12.4.1 FINANCIAL STATEMENTS - MARCH 2009

| | |
|-------------------------------|---|
| File No: | FM/65/1/N10711 |
| Attachment: | Financial Statements (separate attachment) |
| Responsible Officer: | Rob Stewart Chief Executive Officer |
| Author: | Cherie Delmage Accountant |
| Proposed Meeting Date: | 28 April 2009 |

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 31 March 2009.

BACKGROUND

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

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

The Statement is to be accompanied by:

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Hollingworth, seconded Cr J Moir:

That the Financial Statements for the period ended 31 March 2009 be received.

CARRIED (9/0)

NO. 104/09

12.4.2 LIST OF ACCOUNTS - MARCH 2009

Attachment: [List of Accounts](#)
File No: FM/65/3/O16835
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Donna Jo Fawcett
Debtors/Creditors Officer
Proposed Meeting Date: 28 April 2009

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of March 2009.

STATUTORY ENVIRONMENT

Regulation 13 of the Local Government (Financial Management) Regulations 1996 defines the reporting requirements to the Council of the List of Accounts.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Mark, seconded Cr M Skinner:

That:

1. The payment of accounts for the month of March 2009, covering the following:
 - a) Electronic Payments and direct debits totalling \$981,205.64;
 - b) Municipal Cheques 39854 – 39877, 39879 – 39888, 39890 – 39895, 39897 - 39914 and 39916 - 39927 totalling \$125,071.30; and
 - c) Trust Cheques 255 -256 totalling \$6,707.22.
- be approved.

2. Municipal Cheques:

a) Spoiled – 39889 and 39896; and

b) Cancelled – 39878 and 39915.

be noted

CARRIED (9/0)

NO. 105/09

12.4.3 MATERIAL VARIANCE AMOUNT

File No: ED/103/4
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Rayona Evans
Administration Officer (Relief)
Proposed Meeting Date: 28 April 2009

PURPOSE

The purpose of this report is to adopt reportable budget variance values.

BACKGROUND

In accordance with Regulation 34 of the Local Government (Financial Management) Regulations, the Council must adopt a percentage over (or under) which a budget variance would be considered material when it reviews the monthly financial statements and accept the annual budget review. The purpose of this report is to assist the Council in adopting the required annual percentage and minimum value over which budget variances would be considered material.

At its meeting held on 24 June 2008, the Council resolved:

'That the following be adopted for reporting material variances in assessing statements of financial activity for the 2008/2009 financial year.'

1. *Expenditure in excess of 10% of (monthly) budget, to a minimum of \$5,000.00.*
2. *Income less than 90% of (monthly) budget, to a minimum of \$5,000.00.'*

STATUTORY ENVIRONMENT

This recommendation is governed by Regulation 34. Financial Activity Statement Report - Local Government (Financial Management) Regulations 1966, Part 4 - Financial reports.

Paragraph 5 of Regulation 34 states:

'Each financial year, a local government is to adopt a percentage or value, calculated in accordance with AAS5, to be used in statements of financial activity for reporting material variances.'

AAS5 defines the term 'material' in Paragraph 4.1 as follows:

'Information is material if its omission, misstatement or non-disclosure has the potential to adversely affect: (a) decisions about the allocation of scarce resources made by users of the financial report; or (b) the discharge of accountability by the management or governing body of the entity.'

Paragraph 4.1.6 goes on to state:

'In the context of the new regulations, councils need to determine a percentage and/or value which, as a general rule, will help avoid adverse affects. The thresholds used as a guide for determining the materiality of an amount of items must, of necessity, be drawn at arbitrary levels. Materiality is a matter of professional judgement influenced by characteristics of the entity and the perceptions as to who are, or are likely to be, the users of the financial reports and their information needs.'

This same paragraph also gives the following guidance in considering the materiality of any amount:

'An amount which is equal to or greater than 10 per cent of the appropriate base amount may be presumed to be material unless there is a convincing argument to the contrary; and

An amount which is equal to or less than 5 per cent of the appropriate base amount may be presumed not to be material unless there is evidence or convincing argument to the contrary.'

FINANCIAL IMPLICATIONS

There are no actual budget implications from adopting these materiality figures as they are there to assist and guide management and the Council. Adoption of this recommendation should assist the Council in making sound financial management decisions.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

Both UHY Haines Norton and Finance consultant Ron Back have previously advised that the convention is to review expenditure and income variances over 10% and over \$5,000.00. That means that any expenditure in excess of 10% of (monthly) budget, to a minimum of \$5,000.00 be subject to explanation. In addition, any income less than 90% of (monthly) budget, to a minimum of \$5,000.00 be subject to explanation. This practice is working adequately and is recommended to continue.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr B Hollingworth:

That material financial variances for the 2009/2010 financial year be set at:

- 1. Expenditure in excess of 10% of (monthly) budget, to a minimum of \$5,000.00.**

2. **Income less than 90% of (monthly) budget, to a minimum of \$5,000.00.**

CARRIED (9/0)

NO. 106/09

12.4.4 POLICY REVIEW - SEXUAL HARASSMENT

File No: PE/120/5/N10179
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Rayona Evans
Administration Officer (Relief)
Proposed Meeting Date: 28 April 2009

PURPOSE

The purpose of this report is to review Council Policy OR/HRE/1 – Sexual Harassment.

BACKGROUND

Council Policy OR/HRE/1 – Sexual Harassment currently reads:

'OBJECTIVE:

The Shire of Plantagenet strongly supports the concept that every employee, elected member and member of the public employed by or engaged in business with the Council, has a right to do so in an environment which is free from sexual harassment and the Council is committed to providing such an environment.

POLICY:

The Shire of Plantagenet considers sexual harassment to be an unacceptable form of behaviour which will not be tolerated and recognises that sexual harassment is unlawful.

Sexual harassment is any conduct of a sexual and / or sexist nature (whether physical, verbal or non-verbal) which is unwelcome and unsolicited and/or rejection of which may disadvantage a person in their employment or their life in general. The following examples may constitute sexual harassment when they are considered and expressed as being offensive to an employee, elected member or member of the general public:

- *Deliberate and unnecessary physical contact such as patting, pinching, fondling, kissing, brushing against, touching.*
- *Subtle or explicit demands for sexual activities or molestation.*
- *Intrusive enquiries into a person's private life.*
- *Uninvited and unwelcome jokes that have a sexual and/or sexist undertone.*
- *Unsolicited leers and gestures of a sexual nature and the display within the workplace of sexually offensive material.*

The Shire of Plantagenet recognises that sexual harassment can undermine health, performance and self-esteem of individuals and has the potential to create a hostile and intimidating environment. Council is therefore committed to any action which ensures the absence of sexual harassment in the workplace including general training of the workforce and specific training for officers identified to deal with

complaints. Appropriate disciplinary action will be taken against any individual found to be engaging in such conduct.

Any complaints of sexual harassment made against any person associated with the Council will be viewed seriously, treated confidentially, and thoroughly investigated by appropriately trained persons.

Any person making a claim of sexual harassment will be protected at all times. No transferring of staff or face to face meetings between the complainant and the person whose behaviour has been found to be unwelcome will occur without the prior consent of both parties.

An employee whose health or work performance has been affected by sexual harassment will not have their employment status or conditions disadvantaged in any way, as a result thereof.

A formal complaints/grievance procedure follows and will be utilised to effectively resolve complaints of sexual harassment.

COMPLAINTS/GRIEVANCE PROCEDURE

All complaints of sexual harassment will be treated confidentially and resolved promptly.

Wherever possible, the handling of complaints and resolution of such will be at the workplace where they occurred. Care will be taken throughout the investigation to ensure that neither the complainant nor the alleged harasser is victimised.

It is recognised that cases of sexual harassment may occur between supervisor and employee and as such, alternative methods of raising complaints are provided for by this procedure.

A complaint of sexual harassment may be lodged with any of the following persons

- Immediate Supervisor / Manager (except where this person is the alleged harasser)*
- Division Manager (if applicable - except where this person is the alleged harasser)*
- Chief Executive Officer (if the alleged harasser is a Divisional Manager or the Shire President)*
- Shire President (only if the alleged harasser is the Chief Executive Officer or Councillor)*

A person receiving a complaint of sexual harassment will:

- Decide, in consultation with the complainant, whether the matter can be resolved at this level or whether it should be referred to a more senior level of management. Assure the complainant that all details of the complaint will be treated confidentially and allow the person to decide on procedure.*
- Prepare a confidential report for the Chief Executive Officer on the nature of the complaint and ensure follow up reports are provided until the matter is*

resolved, (or, in the event that the complaint relates to the Chief Executive Officer, the report shall be prepared for the Shire President.)

- *Ensure no information regarding the complaint is discussed outside this procedure.*

The person handling the complaint, whether it is the person who received the complaint or a more senior person will, with the approval of the complainant:

- *As soon as possible, advise the alleged harasser of the nature of the complaint and provide an opportunity for that person to comment. Where appropriate the alleged harasser should be invited to discontinue any perceived unwelcome behaviour.*
- *Advise the alleged harasser of the right to contact his/her Union or advocate for advice and representation.*
- *Advise the alleged harasser that no disciplinary action will be taken without the person being given the opportunity to be heard.*
- *Keep simple, brief notes of the facts of the interviews held with both the complainant and alleged harasser.*

If it is not possible to resolve the complaint simply by discussion with the complainant and the alleged harasser:

- *The matter will be investigated and where the complainant or the alleged harasser is a member of a Union, the Union may be party to the investigation.*
- *All documentation relating to the complaint will remain confidential and will not be produced or made available for inspection, except on the order of a Court or a request from the Commissioner of Equal Opportunity.*

During the period of the investigation of a case of serious sexual harassment:

- *The investigation is to be conducted in a manner that is fair to all parties and all parties are to be given a fair and reasonable opportunity to put their case, to have witnesses in attendance and to respond to any proposed adverse findings that may be made against them.*
- *If requested by either party or by management, alternative working arrangements may be made.*
- *Any reasonable request by either party for legal or union representation shall not be denied.*

If, following investigation and resolution, a complaint is judged to have been proved:

- *Remedial action will be taken.*
- *A record of the detail of the remedial action will remain on the employee's personal file for a period of twelve months, whereupon the record will be destroyed unless otherwise decided by the Chief Executive Officer (or Shire President in the event that the complaint relates to the Chief Executive Officer).*

If, following investigation, a complaint is judged to have been unproven:

- *The complainant will be counselled and if it is considered that the complaint was made frivolously or maliciously, disciplinary action may be taken against the complainant.*

Continued reference to a complaint and its aftermath could be considered as either a continuing or new incident of harassment.

While it is the Council's wish to attempt to deal with complaints of harassment internally, no employee will be penalised for bringing this complaint to any appropriate external statutory body unless that complaint is ultimately proven to be made frivolously or maliciously.'

STATUTORY ENVIRONMENT

The Occupational Safety and Health Act 1984 and the Equal Opportunity Act 1984 govern the necessity for employers to provide and maintain a workplace free from harassment.

CONSULTATION

Consultation had occurred with Mr John Fathers, Deputy Chief Executive Officer and Ms Megan Sounness, Administration/Payroll Officer.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

As this policy clearly outlines the Council's no tolerance view of sexual harassment and outlines the complaint/grievance procedures that should be followed during a harassment report, no significant changes are being recommended. However, the policy has been re-numbered in accordance with standard practice.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr M Skinner:

That amended Council Policy OR/HRS/1 – Sexual Harassment as follows:

OBJECTIVE:

The Shire of Plantagenet strongly supports the concept that every employee, elected member and member of the public employed by or engaged in business with the Council, has a right to do so in an environment which is free from sexual harassment and the Council is committed to providing such an environment.

POLICY:

1. The Shire of Plantagenet considers sexual harassment to be an unacceptable form of behaviour which will not be tolerated and recognises that sexual harassment is unlawful.

1.1 Sexual harassment is any conduct of a sexual and/or sexist nature (whether physical, verbal or non-verbal) which is unwelcome and unsolicited and/or rejection of which may disadvantage a person in their employment or their life in general. The following examples may constitute sexual harassment when they are considered and expressed as being offensive to an employee, elected member or member of the general public:

- a) Deliberate and unnecessary physical contact such as patting, pinching, fondling, kissing, brushing against, touching;
- b) Subtle or explicit demands for sexual activities or molestation;
- c) Intrusive enquiries into a person's private life;
- d) Uninvited and unwelcome jokes that have a sexual and/or sexist undertone; and
- e) Unsolicited leers and gestures of a sexual nature and the display within the workplace of sexually offensive material.

1.2 The Shire of Plantagenet recognises that sexual harassment can undermine health, performance and self-esteem of individuals and has the potential to create a hostile and intimidating environment. Council is therefore committed to any action which ensures the absence of sexual harassment in the workplace including general training of the workforce and specific training for officers identified to deal with complaints. Appropriate disciplinary action will be taken against any individual found to be engaging in such conduct.

1.3 Any complaints of sexual harassment made against any person associated with the Council will be viewed seriously, treated confidentially, and thoroughly investigated by appropriately trained persons.

- 1.4 Any person making a claim of sexual harassment will be protected at all times. No transferring of staff or face to face meetings between the complainant and the person whose behaviour has been found to be unwelcome will occur without the prior consent of both parties.
- 1.5 An employee whose health or work performance has been affected by sexual harassment will not have their employment status or conditions disadvantaged in any way, as a result thereof.
- 1.6 A formal complaints/grievance procedure follows and will be utilised to effectively resolve complaints of sexual harassment.

2. COMPLAINTS/GRIEVANCE PROCEDURE

- 2.1 All complaints of sexual harassment will be treated confidentially and resolved promptly.
- 2.2 Wherever possible, the handling of complaints and resolution of such will be at the workplace where they occurred. Care will be taken throughout the investigation to ensure that neither the complainant nor the alleged harasser is victimised.
- 2.3 It is recognised that cases of sexual harassment may occur between supervisor and employee and as such, alternative methods of raising complaints are provided for by this procedure.
- 2.4 A complaint of sexual harassment may be lodged with any of the following persons:
 - a) Immediate Supervisor / Manager (except where this person is the alleged harasser);
 - b) Division Manager (if applicable - except where this person is the alleged harasser);
 - c) Chief Executive Officer (if the alleged harasser is a Divisional Manager or the Shire President); and
 - d) Shire President (only if the alleged harasser is the Chief Executive Officer or Councillor).
- 2.5 A person receiving a complaint of sexual harassment will:
 - a) Decide, in consultation with the complainant, whether the matter can be resolved at this level or whether it should be referred to a more senior level of management. Assure the complainant that all details of the complaint will be treated confidentially and allow the person to decide on procedure;

- b) Prepare a confidential report for the Chief Executive Officer on the nature of the complaint and ensure follow up reports are provided until the matter is resolved, (or, in the event that the complaint relates to the Chief Executive Officer, the report shall be prepared for the Shire President); and
 - c) Ensure no information regarding the complaint is discussed outside this procedure.
- 2.6 The person handling the complaint, whether it is the person who received the complaint or a more senior person will, with the approval of the complainant:
- a) As soon as possible, advise the alleged harasser of the nature of the complaint and provide an opportunity for that person to comment. Where appropriate the alleged harasser should be invited to discontinue any perceived unwelcome behaviour;
 - b) Advise the alleged harasser of the right to contact his/her Union or advocate for advice and representation;
 - c) Advise the alleged harasser that no disciplinary action will be taken without the person being given the opportunity to be heard; and
 - d) Keep simple, brief notes of the facts of the interviews held with both the complainant and alleged harasser.
- 2.7 If it is not possible to resolve the complaint simply by discussion with the complainant and the alleged harasser:
- a) The matter will be investigated and where the complainant or the alleged harasser is a member of a Union, the Union may be party to the investigation; and
 - b) All documentation relating to the complaint will remain confidential and will not be produced or made available for inspection, except on the order of a Court or a request from the Commissioner of Equal Opportunity.
- 2.8 During the period of the investigation of a case of serious sexual harassment:
- a) The investigation is to be conducted in a manner that is fair to all parties and all parties are to be given a fair and reasonable opportunity to put their case, to have witnesses in attendance and to respond to any proposed adverse findings that may be made against them;
 - b) If requested by either party or by management, alternative working arrangements may be made; and

- c) Any reasonable request by either party for legal or union representation shall not be denied.
- 2.9 If, following investigation and resolution, a complaint is judged to have been proved:
- a) Remedial action will be taken; and
 - b) A record of the detail of the remedial action will remain on the employee's personal file for a period of twelve months, whereupon the record will be destroyed unless otherwise decided by the Chief Executive Officer (or Shire President in the event that the complaint relates to the Chief Executive Officer).
- 2.10 If, following investigation, a complaint is judged to have been unproven, the complainant will be counselled and if it is considered that the complaint was made frivolously or maliciously, disciplinary action may be taken against the complainant.
- 2.11 Continued reference to a complaint and its aftermath could be considered as either a continuing or new incident of harassment.
- 2.12 While it is the Council's wish to attempt to deal with complaints of harassment internally, no employee will be penalised for bringing this complaint to any appropriate external statutory body unless that complaint is ultimately proven to be made frivolously or maliciously.'

be endorsed.

CARRIED (9/0)

NO. 107/09

12.4.5 POLICY REVIEW - INJURY MANAGEMENT AND REHABILITATION

File No: RM/124/1/N10708
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Rayona Evans
Administration Officer (Relief)
Proposed Meeting Date: 28 April 2009

PURPOSE

The purpose of this report is to review Council Policy OP/HRS/1 – Injury Management and Rehabilitation.

BACKGROUND

Council Policy OP/HRS/1 – Injury Management and Rehabilitation currently reads:

'OBJECTIVE:

To introduce a systematic approach to injury management and rehabilitation.

POLICY:

The Council will:

- a) *Make provision for the injury management and rehabilitation of all workers who have sustained a compensable work related illness, injury or disability;*
- b) *Treat all workers with dignity and respect;*
- c) *Guarantee that all information is treated with sensitivity and confidentiality; and*
- d) *Return the injured worker to the fullest capacity for gainful employment of which they are capable.*

The 'Key Principles of Injury Management', as identified by WorkCover, will be adopted. They are:

- 1) *Recognition that employers and injured workers are the primary stakeholders within the workers' compensation system;*
 - 2) *Maintenance in or a safe return to work is the expected outcome;*
 - 3) *Medical practitioners and employers play a central decision making role in the return to work of injured workers;*
 - 4) *The focus of all services should be workplace based;*
-

- 5) *The injury management process should be transparent, cost efficient and effective;*
- 6) *Early intervention and pro-active injury management is critical in achieving return to work goals; and*
- 7) *When vocational rehabilitation is required, all parties are involved in a process that is transparent and requires joint decision making.*

To assist in the timely and effective injury management of employees, the Chief Executive Officer will appoint an employee to the role of Workplace Injury Management Coordinator as part of their duties, to implement and monitor the injury management and rehabilitation procedures.'

STATUTORY ENVIRONMENT

The Workers' Compensation and Injury Management Act 1981 establishes the requirement for an employer to implement return to work programs for its employees.

CONSULTATION

Consultation has occurred with Mr John Fathers, Deputy Chief Executive Officer (and the Council's Injury Management Co-ordinator) and Ms Megan Sounness, Administration/Payroll Officer.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

It is a mandatory requirement of Work Cover WA that the Council has in place an injury management process that provides a systematic approach to dealing with injury management and rehabilitation within the workplace. The policy has been amended to reflect the current model provided by WorkCover WA.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Mark, seconded Cr B Hollingworth:

That amended Council Policy – OP/HRS/1 – Injury Management and Rehabilitation as follows:

OBJECTIVE:

To introduce a systematic approach to injury management and rehabilitation.

POLICY:

The Council will:

- a) Make provision for the injury management and rehabilitation of all workers who have sustained a compensable work related illness, injury or disability;
- b) Treat all workers with dignity and respect;
- c) Guarantee that all information is treated with sensitivity and confidentiality; and
- d) Return the injured worker to the fullest capacity for gainful employment of which they are capable.

The 'Key Principles of Injury Management', as identified by WorkCover WA, will be adopted. They are:

1. Within the workers' compensation system, return to work is the most appropriate outcome. A return to work focus should be maintained whenever it is medically appropriate.
 2. Injury management:
 - a) provides physical, psychological and vocational benefits to workers;
 - b) minimises disruption at the workplace; and
 - c) contains workers' compensation costs.
 3. The employer, injured worker and treating medical practitioner are the key parties in injury management. Consultation and communication between the key parties should occur on a regular basis.
 4. Timely and appropriate medical treatment should be sought and provided to injured workers.
 5. Employers should be directly involved in the management of work injuries and ensure that injury management processes are started early.
 6. Vocational rehabilitation is not required for all injured workers but where the key parties agree it is necessary, it should commence as soon as possible, be focused on achieving a return to work outcome and be subject to regular monitoring to ensure it is heading in the right direction.
 7. The approved insurer (Local Government Insurance Services) should provide effective claims management and active consultation about the direction of the claim with the key parties as required.
-

8. If an insurer discharges the employer's return to work obligations by acting on behalf of the employer, the insurer should ensure the employer is involved in all return to work decisions and activities.

To assist in the timely and effective injury management of employees, the Chief Executive Officer will appoint an employee to the role of Workplace Injury Management Coordinator as part of their duties, to implement and monitor the injury management and rehabilitation procedures.'

be endorsed.

CARRIED (9/0)

NO. 108/09

12.4.6 POLICY REVIEW - WORKPLACE BULLYING

File No: PE/120/2/N10707
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Rayona Evans
Administration Officer (Relief)
Proposed Meeting Date: 28 April 2009

PURPOSE

The purpose of this report is to review Council Policy OP/HRS/4 – Workplace Bullying.

BACKGROUND

Council Policy OP/HRS/4 - Workplace Bullying currently reads as:

'OBJECTIVE:

To identify, minimise and where possible preventing harassment and bullying in the workplace by eliminating intimidating, humiliating, offending and threatening behaviour and encouraging a professional and productive work place.

POLICY:

Workplace bullying is behaviour that harms, intimidates, offends, degrades or humiliates an employee, possibly in front of other employees, clients or customers.

Workplace bullying is considered to be an illegal and unacceptable form of behaviour which will not be tolerated under any circumstances.

Workplace bullying behaviour may involve:

- i) Abusive, insulting or offensive language;*
- ii) Violence or threats;*
- iii) Constant practical joking and teasing;*
- iv) Behaviour or language that frightens, degrades or humiliates;*
- v) Ignoring or isolating a person; and / or*
- vi) Unfair treatment in relation to accessing workplace entitlements.*

It may be carried out via letters, emails, telephone calls and / or text messages.

Workplace bullying may cause the loss of trained and talented employees, reduce productivity and morale and create legal risks.

The Shire of Plantagenet encourages all employees to report workplace bullying. Managers and supervisors will endeavour to ensure that no one making a complaint or witnesses are victimised.

The Shire of Plantagenet has grievance and investigation procedures to deal with workplace bullying. Any reports of workplace bullying will be treated seriously and investigated promptly, confidentially and impartially.

Disciplinary action will be taken against anyone who bullies a co-employee. Discipline may involve a warning, transfer, counselling, demotion or dismissal, depending on the circumstances.'

STATUTORY ENVIRONMENT

The Occupational Safety and Health Act 1984 and the Equal Opportunity Act 1984 govern the necessity for employers to provide and maintain a workplace free from harassment.

CONSULTATION

There has been no consultation for this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

As this policy clearly identifies the Council's no tolerance view of work place bullying, no changes are being recommended. However, the policy has been re-numbered in accordance with standard practice.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr M Skinner:

That amended Council Policy – OP/HRS/4 – Workplace Bullying, as follows:

'OBJECTIVE:

To identify, minimise and where possible prevent harassment and bullying in the workplace by eliminating intimidating, humiliating, offending and threatening behaviour and encouraging a professional and productive work place.

POLICY:

1. Workplace bullying is behaviour that harms, intimidates, offends, degrades or humiliates an employee, possibly in front of other employees, clients or customers.
2. Workplace bullying is considered to be an illegal and unacceptable form of behaviour which will not be tolerated under any circumstances.
3. Workplace bullying behaviour may involve:
 - a) Abusive, insulting or offensive language;
 - b) Violence or threats;
 - c) Constant practical joking and teasing;
 - d) Behaviour or language that frightens, degrades or humiliates;
 - e) Ignoring or isolating a person; or
 - f) Unfair treatment in relation to accessing workplace entitlements.
4. It may be carried out via letters, emails, telephone calls and/or text messages.
5. Workplace bullying may cause the loss of trained and talented employees, reduce productivity and morale and create legal risks.
6. The Shire of Plantagenet encourages all employees to report workplace bullying. Managers and supervisors will endeavour to ensure that no one making a complaint or witnesses are victimised.
7. The Shire of Plantagenet has grievance and investigation procedures to deal with workplace bullying. Any reports of workplace bullying will be treated seriously and investigated promptly, confidentially and impartially.
8. Disciplinary action will be taken against anyone who bullies a co-employee. Discipline may involve a warning, transfer, counselling, demotion or dismissal, depending on the circumstances.'

be endorsed.

CARRIED (9/0)

NO. 109/09

12.4.7 POLICY REVIEW – DRUG AND ALCOHOL

File No: PE/120/4/N10669
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Rayona Evans
Administration Officer (Relief)
Proposed Meeting Date: 28 April 2009

PURPOSE

The purpose of this report is to review Council Policy OP/HRS/2 – Drug and Alcohol.

BACKGROUND

Council Policy OP/HRS/2 – Drug and Alcohol currently reads as:

'OBJECTIVE:

The aim of this policy is to ensure a safe workplace free from the effects of drugs and alcohol. The policy is directed towards the welfare of the individual and safety and health of other people.

POLICY:

This policy applies to all personnel at the workplace, including staff, volunteers, contractors, management and councillors.

Persons under the influence of a drug or alcohol in the workplace pose a serious safety and health risk not only to the user, but to all those who work with the user. The workplace includes Council premises, parks, reserves, vehicles, plant or any other Council building or physical asset.

If a Manager or Supervisor has justifiable cause to believe an employee is under the influence of alcohol or drugs, the Chief Executive Officer (or appropriate employee) may have the employee removed from the workplace and may initiate any reasonable action considered necessary. If it is believed that the use of drugs or alcohol renders risk to the health or safety of the employee, co-workers or the public, the Chief Executive Officer reserves the right to remove the employee from duty pending an urgent medical examination to determine fitness for duty.

Drug and Alcohol Testing

Drug testing in the workplace may be carried out only if a substantial risk exists for the employee, co-workers or public. Testing is limited to the following circumstances:

- *Where an employee's impairment by drugs poses a substantial and demonstrable safety risk to the employee or to other people.*
- *Where there is reasonable cause to believe that the employee to be tested may be impaired by drugs.*

Where the drug test can identify the presence of a drug at concentrations which may cause impairment.

Procedure for dealing with Drug and Alcohol Use

The procedure for dealing with drug and alcohol abuse is divided into three stages:

- 1 Discussion between the employee and immediate Supervisor;*
- 2. Discussion between the employee, Supervisor, Manager and representative (optional); and*
- 3 Disciplinary action.*

Stage One

The employee and immediate supervisor should participate in Stage One, although the employee may request a representative to be present. An observer should be present if an employee representative attends.

This first discussion should be presented as a counselling session. Procedural fairness must be observed and the supervisor must clearly state the performance related reasons for the interview and the employee must be given the opportunity to respond. The supervisor must clearly state what standards of performance are required.

The supervisor should offer assistance by encouraging the employee to participate professional counselling sessions, although the employee is not obliged to accept.

A timeframe for review should be established. The employee should be informed of expected changes, on going performance monitoring by the supervisor and the compulsory interview at the end of the review period.

The employee should be made aware of possible consequences if there is no significant improvement.

The supervisor should prepare a brief summary of the interview and give two (2) copies to the employee. After reading the summary, the employee should sign one (1) of the copies and return it to the supervisor. This copy should be placed on the employees personnel file.

The review should be held at the prescribed time. The points discussed should respond exactly to those raised at the first interview; improvements should be acknowledged. Continuing problems, such as continued decline in performance, and any new performance based problems should be identified and discussed. The supervisor should again prepare a summary of the interview.

Stage Two

If there is still no improvement in the employee's performance a second meeting should be held using the same procedure as the first, although the employee should be made fully aware of the possible consequences if there is no significant improvement and that this represents a final warning.

Stage Three

Conduct by an employee while under the influence of alcohol or drugs is likely to be subject to disciplinary action in line with the Council's disciplinary procedures.

Social Occasions:

The Chief Executive Officer may approve the consumption of alcohol on Council premises under some circumstances, ie social functions. The Council has a 'responsible host' attitude and on such social occasions, a range of drinks including non-alcoholic drinks, will be provided along with snack type foods. Employees are encouraged to organise alternative transport prior to the function to avoid the possibility of their driving under the influence.

Prescription or Over The Counter Drugs:

Prescription or over the counter drugs can be used for a wide range of reasons however it is also known that use of prescription or 'over the counter' drugs may impair a person's ability to perform safely or efficiently.

There are several types of drugs that may impair performance, including:

- Hypnotics and sedatives;*
- Antidepressants;*
- Antihistamines;*
- Stimulants and appetite suppressants; and*
- Analgesics / Codeine.*

Employees taking prescribed drugs should obtain written advice from their doctor as to the effects of the drug that may be relevant to their job performance. They should also advise their Supervisor / Manager that they are taking a medication which, on the advice of their medical practitioner, is likely to affect their job performance.

It is important to note that the employee has a responsibility to perform at a safe standard while at work. If prescription medication is impairing an employees safe standard of work, the employee has a responsibility to take time off work. If a work accident occurs due to the actions of an employee on prescribed medication, that employee will be asked to take sick leave (if available) or leave without pay until they are fit to return to work.

All matters pertaining to this policy will be treated with the utmost confidentiality and any employee of the Shire of Plantagenet who is interested in receiving counselling services should seek approval from their Supervisor.'

STATUTORY ENVIRONMENT

The Occupational Health and Safety Act 1984 and Occupational Health and Safety Regulations 1996 require a safe work place to be provided and maintained.

CONSULTATION

Consultation has occurred with Mr John Fathers, Deputy Chief Executive Officer and Ms Megan Sounness, Administration/Payroll Officer.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

It is recommended that the policy be amended to include additional details regarding suitable arrangements for transport of employees under the influence of alcohol or drugs and the provision for low-alcohol drinks and proportionate levels of snack food during social functions. These changes will ensure that this policy better conforms to Occupational Health and Safety requirements. The policy has also been re-numbered in accordance with standard practice.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr B Hollingworth:

That amended Council Policy OP/HRS/2 – Drug and Alcohol, as follows:

OBJECTIVE:

The aim of this policy is to ensure a safe workplace, free from the effects of drugs and alcohol. The policy is directed towards the welfare of the individual and safety and health of other people.

POLICY:

- 1 a) This policy applies to all personnel at the workplace, including staff, volunteers, contractors, management and Councillors;
- b) Persons under the influence of a drug or alcohol in the workplace pose a serious safety and health risk not only to the user, but to all those who work with the user. The workplace includes Council premises, parks, reserves, vehicles, plant or any other Council building or physical asset; and

- c) If a Manager or Supervisor has justifiable cause to believe an employee is under the influence of alcohol or drugs, the Chief Executive Officer (or appropriate employee) may have the employee removed from the workplace and may initiate any reasonable action considered necessary. Suitable arrangements should be made to ensure the person gets home safely. If it is believed that the use of drugs or alcohol renders risk to the health or safety of the employee, co-workers or the public, the Chief Executive Officer reserves the right to remove the employee from duty pending an urgent medical examination to determine fitness for duty.

2. Drug and Alcohol Testing

Drug testing in the workplace may be carried out only if a substantial risk exists for the employee, co-workers or public. Testing is limited to the following circumstances:

- a) Where an employee's impairment by drugs poses a substantial and demonstrable safety risk to the employee or to other people;
- b) Where there is reasonable cause to believe that the employee to be tested may be impaired by drugs; and
- c) Where the drug test can identify the presence of a drug at concentrations which may cause impairment.

3. Procedure for dealing with Drug and Alcohol Use

3.1 The procedure for dealing with drug and alcohol abuse is divided into three stages:

- a) Discussion between the employee and immediate Supervisor;
- b) Discussion between the employee, Supervisor, Manager and representative (optional); and
- c) Disciplinary action.

3.2 Stage One

- a) The employee and immediate supervisor should participate in Stage One, although the employee may request a representative to be present. An observer should be present if an employee representative attends;
- b) This first discussion should be presented as a counselling session. Procedural fairness must be observed and the supervisor must clearly state the performance related reasons for the interview and the employee must be given the opportunity to respond. The supervisor must clearly state what standards of performance are required;
- c) The supervisor should offer assistance by encouraging the employee to participate professional counselling sessions, although the employee is not obliged to accept;

- d) A timeframe for review should be established. The employee should be informed of expected changes, on going performance monitoring by the supervisor and the compulsory interview at the end of the review period;
- e) The employee should be made aware of possible consequences if there is no significant improvement;
- f) The supervisor should prepare a brief summary of the interview and give two (2) copies to the employee. After reading the summary, the employee should sign one (1) of the copies and return it to the supervisor. This copy should be placed on the employees personnel file; and
- g) The review should be held at the prescribed time. The points discussed should respond exactly to those raised at the first interview; improvements should be acknowledged. Continuing problems, such as continued decline in performance, and any new performance based problems should be identified and discussed. The supervisor should again prepare a summary of the interview.

3.3 Stage Two

If there is still no improvement in the employee's performance a second meeting should be held using the same procedure as the first, although the employee should be made fully aware of the possible consequences if there is no significant improvement and that this represents a final warning.

3.4 Stage Three

Conduct by an employee while under the influence of alcohol or drugs is likely to be subject to disciplinary action in line with the Council's disciplinary procedures.

4. Social Occasions

The Chief Executive Officer may approve the consumption of alcohol on Council premises under some circumstances, ie social functions. The Council has a 'responsible host' attitude and on such social occasions, a range of drinks including low and non-alcoholic drinks will be provided along with a proportionate level of snack type foods. Employees are encouraged to organise alternative transport prior to the function to avoid the possibility of their driving under the influence.

5. Prescription or Over The Counter Drugs

5.1 Prescription or over the counter drugs can be used for a wide range of reasons however it is also known that use of prescription or 'over the counter' drugs may impair a person's ability to perform safely or efficiently.

5.2 There are several types of drugs that may impair performance, including:

- a) Hypnotics and sedatives;
- b) Antidepressants;

- c) Antihistamines;
 - d) Stimulants and appetite suppressants; and
 - e) Analgesics/Codeine.
- 5.3 Employees taking prescribed drugs should obtain written advice from their doctor as to the effects of the drug that may be relevant to their job performance. They should also advise their Supervisor/Manager that they are taking a medication which, on the advice of their medical practitioner, is likely to affect their job performance.
- 5.4 It is important to note that the employee has a responsibility to perform at a safe standard while at work. If prescription medication is impairing an employee's safe standard of work, the employee has a responsibility to take time off work. If a work accident occurs due to the actions of an employee on prescribed medication, that employee will be asked to take sick leave (if available) or leave without pay until they are fit to return to work.
- 5.5 All matters pertaining to this policy will be treated with the utmost confidentiality and any employee of the Shire of Plantagenet who is interested in receiving counselling services should seek approval from their Supervisor.'

be endorsed.

CARRIED (9/0)

NO. 110/09

12.5 EXECUTIVE SERVICES REPORTS

12.5.1 GENETICALLY MODIFIED ORGANISMS WITHIN THE SHIRE

Cr M Skinner declared a Financial Interest in Item 12.5.1. Cr Skinner sought approval from the Council to remain in the meeting and participate in the decision making process, pursuant to Section 5.68 of the Local Government Act (1995). Cr Skinner indicated the nature and extent of his interest was as a Canola grower (360ha).

4:11 PM Cr M Skinner withdrew from the meeting.

COUNCIL DECISION ON DISCLOSURE

Moved Cr B Hollingworth, seconded Cr A Budrikis:

That Cr M Skinner, pursuant to Section 5.68 of the Local Government Act 1995, be allowed to participate in the discussion and decision making procedures relating Item 12.5.1 Genetically Modified Organisms within the Shire matter as it is considered that his interest is common to a significant number of electors and ratepayers.

CARRIED (8/0)

NO. 111/09

4:13 PM Cr M Skinner returned to the meeting.

File No: GR/97/36/N10704
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Rob Stewart
Chief Executive Officer
Proposed Meeting Date: 28 April 2009

PURPOSE

The purpose of this report is to revisit a Council resolution of 22 October 2002 regarding the proposed commercial release of Genetically Modified (GM) Canola.

BACKGROUND

The Minister for Agriculture has recently announced that he will be allowing trials of round-up resistant GM Canola within Western Australia and, more specifically, within the Shire of Plantagenet.

At its meeting held on 22 October 2002 the Council resolved:

'That the Office of the Gene Technology Regulator be advised that:

- (1) The Shire of Plantagenet views with concern the release of canola which has been genetically modified to be tolerant of glyphosate as the Council believes that seeds may germinate in inappropriate places including Council property, road reserves and bush reserves, creating future maintenance and funding issues for the Council and seeks further advice from the Office of the Gene Regulator as to the means for controlling inappropriate germination and what avenues are proposed for the reimbursement of authorities that incur extra expenditure as a result of inappropriate germination of genetically modified organisms.*
- (2) Further, the Shire is also concerned about the cross-pollination of nearby crops.*
- (3) The Shire opposes the release of Round-Up ready canola until the above concerns are satisfactorily addressed.'*

It should be emphasised that this resolution of the Council was not a policy decision but was a request for further information.

Since that time there has been little or no activity regarding genetically modified organisms within Plantagenet and the matter has therefore not been re-presented to the Council.

However, with the release of trials within Plantagenet the issue is causing some debate, especially in the media, and it is therefore reasonable for the Council to re-examine its position.

To assist with such re-examination a meeting was arranged with an officer of the Department of Agriculture and Food on 15 April 2009 so that the Council's concerns could be discussed. The Shire President, Councillor Kevin Forbes AM, Chief Executive Officer, Manager Development Services and Environmental Health Officer attended this meeting with Dr David Bowran.

It is also emphasised that the Council's concerns from 2002 did not include arguments regarding health benefits or otherwise of genetically modified organisms but rather the potential for increased maintenance costs with relation to fertilisation of Canola potentially on Council property which would not respond to normal eradication procedures and cross fertilisation.

STATUTORY ENVIRONMENT

Gene Technology Act 2000.

GM Crop Free Areas Act 2003. Under this Act the Minister can apply for an Exemption Order. This will provide for limited plantings.

CONSULTATION

There has been no public consultation with regard to this matter. However, Councillors should be aware that the Shire of Williams recently undertook public consultation with regard to the potential release of genetically modified organisms within that Shire and as a result sought assistance from the State Government to have the Shire of Williams declared a Genetically Modified Organism Free Area.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

As stated earlier, the Council does not have a policy with regard to Genetically Modified Organisms. It is suggested that any policy (pro or anti) would have little impact as there would appear no statutory ability at a Shire level to influence this matter.

STRATEGIC IMPLICATIONS

The Council's Strategic Plan at Key Result Area 4 (Development Services) provides that the Council:

'4.3 will encourage the establishment of new businesses, which provide employment... and contribute to the prosperity of Plantagenet.'

The Council notes to achieve this aim it will:

'Encourage strategic alliances between the Council, Government and industry bodies and focus on the rural sector, the wine industry and eco-tourism.'

OFFICER COMMENT

At the meeting with Dr Bowran, it was advised that eastern states studies have observed very few 'volunteers' escaping into inappropriate areas. Further, Canola seeds generally will not re-germinate in a second year. Cross contamination of GM Canola to other related crops such as wild radish and non GM Canola have been measured at a maximum rate of 0.07%.

Further, cross pollination between GM Canola and vegetables such as Cauliflower, Broccoli, Brussel Sprouts and Cabbage would appear to produce viable offspring in only artificial conditions. Occasionally Canola will cross pollinate with wild radish but the resulting progeny is generally sterile because of the genetic differences.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr B Hollingworth, seconded Cr J Moir:

That the Minister for Agriculture the Hon. Terry Redman be advised that the Shire of Plantagenet, notwithstanding its 2002 resolution indicating concern regarding the release of Genetically Modified Canola in Plantagenet has revisited the issue and is now of the opinion that its concerns regarding cross fertilisation and increased maintenance costs through inappropriate germination on Council property is unfounded.

AMENDMENT

Moved Cr J Mark, seconded Cr S Grylls:

That the words 'is unfounded' be deleted and replaced with 'has been satisfactorily addressed'.

CARRIED (9/0)

NO. 112/09

FURTHER AMENDMENT

Moved Cr J Moir, seconded Cr A Budrikis:

That:

1. The word 'trial' be added before the word 'release' in line 3 of the motion;
and
2. The words 'for the purpose of these trials' be added after the word 'addressed'.

CARRIED (9/0)

NO. 113/09

COUNCIL DECISION

That the Minister for Agriculture the Hon. Terry Redman be advised that the Shire of Plantagenet, notwithstanding its 2002 resolution indicating concern regarding the trial release of Genetically Modified Canola in Plantagenet has revisited the issue and is now of the opinion that its concerns regarding cross fertilisation and increased maintenance costs through inappropriate germination on Council property has been satisfactorily addressed for the purpose of these trials.

CARRIED (8/1)

NO. 114/09

13 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Moved Cr B Hollingworth, seconded Cr J Moir:

That new business of an urgent nature, namely:

- Local Government Reform Submission; and
- Councillor seating arrangements.

be introduced to the meeting.

CARRIED (9/0)

NO. 115/09

4:25 PM Cr J Mark withdrew from the meeting.

14.1.1 LOCAL GOVERNMENT REFORM SUBMISSION

File No: N10743
Attachments: [Structural Reform Guidelines](#)
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Rob Stewart
Chief Executive Officer
Proposed Meeting Date: 28 April 2009

PURPOSE

The purpose of this report is to present the completed Local Government Reform Submission required by the Minister for Local Government relating to structural reform of Local Government.

BACKGROUND

In February 2009 the Minister for Local Government announced Local Government Reform Strategies designed to '*encourage* each local government in Western Australia to embrace the opportunity for voluntary amalgamations to achieve much needed structural reform...'

The Minister has noted that the local government industry has recognised the need for reform of existing local government structures as the present structure is not sustainable.

The Department of Local Government and Regional Development has indicated a range of benefits that will be achieved through the reform process including:

- a) Increased capacity for local government to better plan, manage and deliver services to their communities with a focus on social, environmental and economic sustainability;
- b) Increased capacity for local government to have adequate financial and asset management plans in place;
- c) Enhanced efficiency in the processing of planning, building and other licence applications made by business and the community;
- d) Greater ability to attract and retain staff including the provision of further career development opportunities;
- e) Greater competition for positions on council and, in conjunction with other reforms, potential for enhanced governance capacity; and
- f) Larger local governments with greater capacity to partner with State and Federal Government, and the private sector, to further improve services to communities.

STATUTORY ENVIRONMENT

Part 8 (Scrutiny of the affairs of local governments) of the Local Government Act 1995 (Division 1 Inquiries by the Minister or an authorised person) gives the Minister far reaching powers '*...to inquire into all local governments and their operations and affairs,*' through the departmental CEO.

Further, Schedule 2.1 (Provisions about creating, changing the boundaries of, and abolishing districts) of the Act provides that '*a proposal*' may be made to the Advisory Board by the Minister, an affected local government, two or more affected local governments, jointly or affected electors.

CONSULTATION

The issues revolving around the direction by the Minister relating to structural reform have been discussed at a Southern Link Voluntary Regional Organisation of Councils (VROC) level, most CEO's in the region and with the City of Albany and the Shires of Cranbrook and Denmark through the Rainbow Coast Regional Council (RCRC).

As a result of those consultations it is believed that no other Council has resolved to approach the Shire of Plantagenet to discuss possible amalgamations.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Council's Strategic Plan at Key Result 5 (Strategic Planning) notes that an aim of the Council:

'is to develop strategic partnerships, fostering regional cooperation and coordinate the long term planning for sustainable environmental, economic and social development of the Shire and the Great Southern.'

OFFICER COMMENT

There is little doubt that the Minister is seeking the amalgamation of local governments within Western Australia.

Unfortunately the Minister has not issued any definitive criteria regarding when a Council should amalgamate or which Councils should amalgamate.

In March of 1996 the 'Advancing Local Government in Western Australia' report was published by the Local Government Structural Reform Advisory Committee. In part this report recommended:

'That Councils which failed to meet more than one of the three viability criteria (i.e. where administration expenditure is more than 10% of expenditure; debt service more than 33% of rate income; and financial assistance grants more than 50% of total income) make a close examination of their viability and operations and options for structure reform.' (Regarding the above measures the Shire of Plantagenet's measures are:

- a) administration expenditure as a percentage of total expenditure: 17%
- b) debt service as a percentage of rate income: 15%
- c) financial assistance grants as a percentage of total income: 10%

The report then went on to recommend:

'That Councils investigate the productivity, effectiveness and financial benefits to be obtained through voluntary unification with neighbouring Councils with which they have community of interest linkages.'

The Advancing Local Government in Western Australia report was not acted upon although over time some of the recommendations have been put in place such as the amalgamations of the Town and Shire of Albany, amalgamations of the Shire and Town of Northam and the amalgamation of the City of Geraldton and the Shire of Greenough.

Now, rather than give specific criteria, the Minister has required a lengthy structural reform check list to be completed by all Councils, such reform check list to be with the Minister by 30 April 2009.

That reform check list is attached.

The Council has already expressed its wish to remain in its present form and the completion of the check list justifies this position.

However, it is emphasised that the direction that the check list takes emphasises amalgamation as a result. For example, Councillors should look to the page in the attachment headed *'Time Frame for Reform Submission to the Minister'*. Stage one requires individual local governments to complete the reform check list. The next item requires an exploratory meeting to confirm local government amalgamation grouping is appropriate. The balance of the submission time frame assumes that after the completion of the check list, Councils will see the need for amalgamation with their neighbours. Unfortunately it would appear that the Minister is making an assumption that structural reform in local government will be achieved through amalgamation even though the Systemic Sustainability Study undertaken by the Western Australian Local Government Association (WALGA) has found that amalgamation may be an answer for structural reform in only certain cases.

Obviously the question that must be asked, given the wording of the guidelines for the structural reform checklist, is *'Has the Minister already made up his mind that amalgamation is the only answer?'*

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr B Hollingworth:

That the Local Government Reform Check List attached be endorsed and forwarded to the Minister for Local Government the Hon. John Castrilli with the comment that it is the opinion of the Shire that after completion of the Check List, the Shire of Plantagenet is of the opinion that it meets all reasonable requirements to remain an autonomous local government authority.

CARRIED (8/0)

NO. 116/09

4:26 PM Cr J Mark returned to the meeting.

14.1.2 COUNCILLOR SEATING ARRANGEMENTS

COUNCIL DECISION

Moved Cr B Hollingworth, seconded Cr J Mark:

That notwithstanding the Council decision of Special Meeting 23 October 2007 (Resolution No. 359/07), Councillors' seating positions be modified so that Crs Clements and Hollingworth exchange seating positions.

CARRIED (9/0)

NO. 117/09

15 CONFIDENTIAL

Nil

16 CLOSURE OF MEETING

4:29 PM The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON _____ **DATE:** ____ / ____ / ____