



ORDINARY MINUTES

DATE: Tuesday, 12 April 2011

TIME: 2:45pm

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

2:52pm The Presiding Member declared the meeting open.

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

Members Present:

Cr K Clements	Shire President
Cr M Skinner	Deputy Shire President
Cr B Bell	Councillor
Cr A Budrikis	Councillor
Cr S Grylls	Councillor
Cr L Handasyde	Councillor
Cr G Messmer	Councillor
Cr J Moir	Councillor

In Attendance:

Mr John Fathers	Deputy Chief Executive Officer
Mr Dominic Le Cerf	Manager Works and Services
Ms Nicole Selesnew	Manager Community Services
Mr Vincent Jenkins	Planning Officer
Mrs Linda Sounness	Executive Secretary

Apologies:

Cr S Etherington

Previously Approved Leave of Absence:

Cr G Messmer – 5 July 2011

Emergency Evacuation Procedures/Disclaimer:

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

Mr Fathers then read aloud the following disclaimer:

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

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

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

3 PUBLIC QUESTION TIME

3.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

3.2 PUBLIC QUESTION TIME - SECTION 5.24 LOCAL GOVERNMENT ACT 1995

Nil

4 PETITIONS / DEPUTATIONS / PRESENTATIONS

Nil

5 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

Cr K Clements disclosed a Financial/Indirect Financial Interest (Section 5.60(A) and Section 5.61 LGA) – Conference attendance – in Item 10.5.2.

Cr G Messmer disclosed a Closely Associated Person (Section 5.62 LGA) – Husband of the Chairman of Plantagenet Village Homes – in Item 10.4.3.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

7 CONFIRMATION OF MINUTES

Moved Cr L Handasyde, seconded Cr B Bell:

That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 22 March 2011 as circulated, be taken as read and adopted as a correct record.

CARRIED (8/0)

NO. 93/11

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 23 March 2011 – Attended the H2ome Smart Water Program presentation.
- 26 March 2011 – Attended the debtors' sale of land from unpaid rates.
- 31 March 2011 – Attended an afternoon with members of the Regional Development Commission of WA in Albany.
- 31 March 2011 - Attended a reception with representatives of the Planning Institute of Australia at the City of Albany.
- 1 April 2011 – Attended the Great Southern Zone WALGA Meeting at Tambellup.
- 4 April 2011 – Attended the Great Southern Regional Road Group in Ravensthorpe.
- 6 April 2011 – Participated in the Council Road Inspection Bus Trip (west of Albany Highway).
- 9 April 2011 – Attended the Opening of the Mount Barker Community Wind Farm.
- 11 April 2011 – Attended the Blessing of the Roads Ceremony.
- 12 April 2011 – Attended the joint meeting of the Long Term Financial Plan Working Group and Audit Committee.

9 ANNOUNCEMENTS BY COUNCILLORS WITHOUT DISCUSSION

Cr M Skinner

- 1 April 2011 – Attended the Great Southern Zone WALGA Meeting in Tambellup.
- 9 April 2011 – Attended the Opening of the Mount Barker Community Wind Farm.
- 12 April 2011 – Attended the Great Southern Regional Cattle Saleyards Advisory Committee Meeting.
- 12 April 2011 – Attended the joint meeting of the Long Term Financial Plan Working Group and Audit Committee.

Cr B Bell

- 6 April 2011 – Participated in the Council Road Inspection Bus Trip (west of Albany Highway).
 - 12 April 2011 – Attended the Great Southern Regional Cattle Saleyards Advisory Committee Meeting.
 - 12 April 2011 – Attended the joint meeting of the Long Term Financial Plan Working Group and Audit Committee.
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Cr S Grylls

- 6 April 2011 – Participated in the Council Road Inspection Bus Trip (west of Albany Highway).
- 12 April 2011 – Attended the Great Southern Regional Cattle Saleyards Advisory Committee Meeting.

Cr J Moir

- 12 April 2011 – Attended the joint meeting of the Long Term Financial Plan Working Group and Audit Committee.

Cr G Messmer

- 23 March 2011 – Attended the H2ome Smart Water Program presentation.

Cr L Handasyde

- 23 March 2011 – Attended the H2ome Smart Water Program presentation.
- 4 April 2011 – Attended the Great Southern Regional Road Group Meeting in Ravensthorpe.
- 6 April 2011 – Participated in the Council Road Inspection Bus Trip (west of Albany Highway).
- 9 April 2011 – Attended the Opening of the Mount Barker Community Wind Farm.
- 11 April 2011 – Attended the Blessing of the Roads Ceremony.
- 12 April 2011 – Attended the Great Southern Regional Cattle Saleyards Advisory Committee Meeting.

10 REPORTS OF COMMITTEES AND OFFICERS

10.1 DEVELOPMENT SERVICES REPORTS

10.1.1 LOT 3 ORMOND ROAD, MOUNT BARKER - RETAINING WALLS WITH REDUCED BOUNDARY SETBACKS

File No:	N18124
Attachments:	Location Plan Site Plan Elevations
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Vincent Jenkins Planning Officer
Proposed Meeting Date:	12 April 2011
Applicant:	Agcrete - Albany

PURPOSE

The purpose of this report is to consider a proposal for two retaining walls at Lot 3 Ormond Road, Mount Barker, with reduced street, side and rear boundary setbacks.

BACKGROUND

Shire records show the registered owners of Lot 3 Ormond Road, Mount Barker are OJ and OO Ogunleye.

The proponent originally submitted a building licence application on 10 November 2010 to construct retaining walls with reduced street, side and rear boundary setbacks. As the application was incomplete, further information was sought and adjoining owner comments required.

On 24 June 2003 the Council issued a building licence to the original owners M and Z Goldsmith to construct a new house at Lot 3 Ormond Road. The building licence did not include the construction of retaining walls due to the decision of the owners not to construct retaining walls at that stage.

The proposed retaining wall location will be on the side boundary with adjoining Lot 4 Ormond Road to the west and on the rear boundary with Lot 201 Hassell Street to the south. A side boundary setback of 1.8m with Lot 4 Ormond Road is required and a rear boundary setback of 1.1m with Lot 201 Hassell Street is required by the Residential Design Codes (RCodes).

The properties directly affected by this proposal are Lot 4 Ormond Road and Lot 201 Hassell Street. The proponent was requested to provide letters of support from the adjoining landowners and both landowners raised no objection to this proposal.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Plantagenet Town Planning Scheme No 3 (TPS3) – Zoned Residential (R20).

Building Code of Australia (BCA) – The construction of a retaining wall requires a building licence.

Residential Design Codes (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.’*

RCodes Part 6 Design Elements, Explanatory Guidelines read as follows:

‘Retaining walls higher than 0.5m only meet the acceptable development provisions where:...

- the retained area is screened to prevent views of neighbouring property and is set back in accordance with the requirements for a wall height of 1.8m without major openings in addition to the height of the retaining wall.’*

The proposed height of retaining walls in this instance is 2.0m. The retained area will be screened with a 1.8m non permeable fence located on the retaining walls to prevent views of neighbouring properties.

RCodes Part 6 Design Elements 6.3.3 read as follows:

‘Retaining walls setback from the common boundaries in accordance with the setback provisions of table 1, tables 2a and 2b, and figure 3.’

The variations required here relate to 2.5.2(b) above as boundary setback requirements are in part 6 of the RCodes. The retaining wall with adjoining Lot 4 Ormond Road is setback 0m from the street boundary where a 6m street boundary setback is required and is setback 0m from the side boundary where a 1.8m side boundary setback is required. The retaining wall with adjoining Lot 201 Hassell Street is setback 0m from the rear boundary where a 1.1m rear boundary setback is required.

EXTERNAL CONSULTATION

Letters raising no objection to the proposed retaining walls have been received from adjoining landowners of Lot 4 Ormond Road located to the west and Lot 201 Hassell Street located to the south.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

Shire of Plantagenet Strategic Plan 2003 Key Result Area 4 Development Services aims amongst other things to encourage and guide local development in accordance with the Strategic Plan and Town Planning Scheme No 3, conserve and enhance the natural environment, support sustainable and managed growth within existing urban settlements and plan a safe and healthy living environment.

OFFICER COMMENT

The property is located within an area in Mount Barker where the boundary setbacks for buildings are to be in accordance with the R20 standards in the RCodes.

Lot 3 is 1,072m² in area and the current development on the lot consists of a house incorporating a garage and covered patio area. The sand pad the house was constructed on is approximately 2m in height along the shared side boundary with Lot 4 Ormond Road located to the west.

The proposal involves the construction of tapered retaining wall ranging from 0.6m to 2m in height located on the side boundary with neighbouring Lot 4 Ormond Road. This retaining wall is setback 0m from the street boundary and extends along the full length of the property boundary. The proposal further involves the construction of a retaining wall 2m in height located on the rear boundary with neighbouring Lot 201 Hassell Street. This retaining wall is 4.8m in length from the property boundary with the neighbouring Lot 4 Ormond Road. The proposed engineer certified retaining walls have a maximum height of no greater than 2m. The walls taper down to 0.6m towards the front of the lot, minimising any impacts.

It is considered necessary to require the retaining walls to be finished with limestone look texture, to be limestone in colour and have a random block pattern. This will reduce the visual impact of the retaining walls and safeguard the amenity of the locality.

It is further considered necessary to require the construction of a 1.2m high permeable fence and a 1.8m high non permeable fence on the retaining walls. The 1.2m high permeable fence is required within the street setback area to ensure clear views of the street and main property entry. The 1.8m high non permeable fence is required from the street setback area along the remainder of the retaining walls to reduce overlooking and privacy issues on adjoining properties.

The proposed walls and fences will not cause privacy or overshadowing issues and are not considered to have any significant adverse effect on the amenity of the locality or neighbouring properties.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M Skinner, seconded Cr G Messmer:

That in accordance with clause 2.5.2 of the Residential Design Codes and clause 6.3.2 of the Shire of Plantagenet Town Planning Scheme No. 3, the application for two retaining walls with reduced street, side and rear boundary setbacks on the western side boundary and southern rear boundary at Lot 3 Ormond Road, Mount Barker be approved subject to:

- 1. Development being in accordance with the plans dated 9 February 2011 and 17 March 2011.**
- 2. The retaining walls being finished with limestone look texture, limestone in colour and a random block pattern.**
- 3. A permeable fence with a maximum height of 1.2m being constructed within the street setback area on the retaining wall on the property boundary with Lot 4 Ormond Road.**
- 4. A 1.8m high non permeable fence being constructed on the retaining walls along the remainder of the property boundaries with Lot 4 Ormond Road and Lot 201 Hassell Street, Mount Barker.**

CARRIED (8/0)

NO. 94/11

10.2 WORKS AND SERVICES REPORTS

10.2.1 POLICY REVIEW - NATIVE FLORA COLLECTION

File No: N17979
Responsible Officer: Dominic Le Cerf
Manager Works and Services
Author: Sharon Lynch
Senior Administration/Project Officer (Works
and Services)
Proposed Meeting Date: 12 April 2011

PURPOSE

The purpose of this report is to review Council Policy No. NRM/C/2 Native Flora Collection.

BACKGROUND

This policy was last reviewed by the Council on 14 April 2009.

Council Policy NRM/C/2 – Native Flora Collection reads as follows:

OBJECTIVE:

To set standards for persons seeking to collect flora from roads and other reserves controlled by the Council.

POLICY:

1. *The Council will permit the collection of seed or other native flora from road and other reserves controlled by the Council for commercial purposes by licensed operators conditional upon:
 - i) *The obtaining of a permit from the Council on an annual basis;*
 - ii) *Collection being restricted to areas subject to clearing for road works, fence lines, service authorities or other activities as specifically approved by the Council;*
 - iii) *The licensed and Council approved operators advising the Council in writing of the intended collection site not less than two (2) days nor more than fourteen days in advance of the collection taking place; and*
 - iv) *Agreement by the licensed collector that where the Council requires materials collected they will be available for purchase by the Council at an agreed price as a first option.**
 2. *The Council may seek expressions of interest from licensed collectors for the commercial harvesting from reserves vested in the Council of:
 - i) *Timber for fence posts, saw logs and firewood;*
 - ii) *Native seed; and*
 - iii) *Mulch and chippings.**
-

3. *The collection of wildflowers not be permitted within reserves controlled by the Council unless for the purpose of specimen collection approved by the Department of Environment and Conservation.*
4. *The number of licensed collectors approved by the Council to operate on the Council managed reserves is limited to:*
 - i) *Seed collection – four (4);*
 - ii) *Mulch and woodchips – four (4); and*
 - iii) *Sawlogs, fence posts and firewood – four (4).'*

STATUTORY ENVIRONMENT

Local Government Act 1995

Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading

Local Law 2008 – Division 8

Environmental Protection Act 1986

Environmental Protection (Clearing of Native Vegetation) Regulations 2004

Wildlife Conservation Act 1950

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

The Council's Strategic Plan Key Results Area 1, New Initiative provides the following:

'1.4 Ensure the administrative systems and framework of the organisation efficiently and effectively permit the functions of the organisations to be undertaken.

To achieve this we will:

- *Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*
- *Promote and provide access to policies, standards and legislation.'*

OFFICER COMMENT

On average the Council issues three seed collection permits per year.

This Policy is considered relevant and should be retained subject to some minor editorial changes. The Policy provides guidance for the relevant Division 8 (Commercial Wildflower Harvesting on Thoroughfares) in the Council's Activities in Thoroughfares and Public Places and Trading Local Law.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr B Bell:

That amended Council Policy No. NRM/C/2 – Native Flora Collection:

OBJECTIVE:

To set standards for persons seeking to collect flora from roads and other reserves controlled by the Council.

POLICY:

1. The Council will permit the collection of seed or other native flora from road and other reserves controlled by the Council for commercial purposes by licensed operators conditional upon:
 - i) The obtaining of a permit from the Council on an annual basis;
 - ii) Collection being restricted to areas subject to clearing for road works, fence lines, service authorities or other activities as specifically approved by the Council;
 - iii) The licensed and Council approved operators advising the Council in writing of the intended collection site not less than two days nor more than fourteen days in advance of the collection taking place; and
 - iv) Agreement by the licensed collector that where the Council requires materials collected they will be available for purchase by the Council at an agreed price as a first option.
2. The Council may seek expressions of interest from licensed collectors for the commercial harvesting from reserves vested in the Council of:
 - i) Timber for fence posts, saw logs and firewood;
 - ii) Native seed; and
 - iii) Mulch and chippings.
3. The collection of wildflowers not be permitted within reserves controlled by the Council unless for the purpose of specimen collection approved by the Department of Environment and Conservation.
4. The number of licensed collectors approved by the Council to operate on the Council managed reserves is limited to:
 - i) Seed collection – four;
 - ii) Mulch and woodchips – four; and
 - iii) Sawlogs, fence posts and firewood – four.'

be endorsed.

CARRIED (8/0)

NO. 95/11

10.2.2 POLICY REVIEW - PLAYGROUND MAINTENANCE AND IMPROVEMENT

File No: N17999
Responsible Officer: Dominic Le Cerf
Manager Works and Services
Author: Sharon Lynch
Senior Administration/Project Officer (Works
and Services)
Proposed Meeting Date: 12 April 2011

PURPOSE

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

BACKGROUND

This policy was adopted by the Council on 10 March 2009.

Council Policy I/PR/1 Playground Maintenance and Improvement reads as follows:

OBJECTIVE:

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

POLICY:

- 1. The Manager Works and Services or a person nominated by the Manager shall carry out a safety inspection of all playground equipment on a monthly basis to determine compliance with relevant Australian Standards for playground equipment.*
- 2. A register shall be maintained, recording the date of inspection, the person carrying out the inspection, all maintenance required and general comments regarding the maintenance required shall be promptly carried out.*
- 3. If any item of equipment is found to be dangerous, it shall be deemed unsafe and made inoperative until such time as repairs are carried out. If it cannot be repaired in sufficient time, it shall be removed.'*

STATUTORY ENVIRONMENT

Australian Standard 4685.1 – Playground equipment

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

The 2011/2012 draft budget will include some additional funds for playground maintenance to ensure play areas are kept to a safe standard.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

The Council's Strategic Plan Key Results Area 1, New Initiative provides the following:

'1.4 Ensure the administrative systems and framework of the organisation efficiently and effectively permit the functions of the organisations to be undertaken.

To achieve this we will:

- Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*
- Promote and provide access to policies, standards and legislation.'*

OFFICER COMMENT

This Policy is considered relevant and should be retained.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr G Messmer:

That Council Policy I/PR/1 Playground Maintenance and Improvement:

'OBJECTIVE:

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

POLICY:

- 1. The Manager Works and Services or a person nominated by the Manager shall carry out a safety inspection of all playground equipment on a monthly basis to determine compliance with relevant Australian Standards for playground equipment.**
- 2. A register shall be maintained, recording the date of inspection, the person carrying out the inspection, all maintenance required and general comments regarding the maintenance required shall be promptly carried out.**
- 3. If any item of equipment is found to be dangerous, it shall be deemed unsafe and made inoperative until such time as repairs are carried out. If it cannot be repaired in sufficient time, it shall be removed.'**

be endorsed.

CARRIED (8/0)

NO. 96/11

10.2.3 POLICY REVIEW - VEHICLE CROSSOVERS

File No: N17997
Responsible Officer: Dominic Le Cerf
 Manager Works and Services
Author: Sharon Lynch
 Senior Administration/Project Officer (Works
 and Services)
Proposed Meeting Date: 12 April 2011

PURPOSE

The purpose of this report is to review Council Policy No. I/R/13 Vehicle Crossovers.

BACKGROUND

This policy was last reviewed by the Council on 14 April 2009.

Council Policy I/R/13 – Vehicle Crossovers reads as follows:

OBJECTIVE:

To ensure a uniform approach for the construction of vehicle crossovers in line with the Council guidelines.

POLICY:

1. *Specification for the Construction of Vehicle Crossovers as adopted by the Council from time to time form part of this policy.*
2. *Within townsites, including the village of Kendenup sealed crossings of concrete, brick paving, asphalt or other acceptable surface to the satisfaction of the Manager of Works and Services are required where the crossing adjoins a sealed road.*
3. *All other crossovers shall contain gravel consisting of a minimum thickness of 200mm.*
4. *The Council contributions will not apply where the crossing is constructed as a result of subdivisional and development consent.*
5. *The Council will contribute half the cost of a standard crossover (one crossover to a property) subject to the crossover being deemed to conform to the specifications up to the following amounts:*

<i>Type of Crossover</i>	<i>Estimated Cost</i>	<i>Council Contribution (maximum)</i>
<i>Sealed Urban Crossover</i>	<i>\$500.00</i>	<i>\$250.00</i>
<i>Unsealed Urban Crossover</i>	<i>\$300.00</i>	<i>\$150.00</i>

<i>Sealed Rural Crossover</i>	<i>\$500.00</i>	<i>\$250.00</i>
<i>Unsealed Rural Crossover</i>	<i>\$400.00</i>	<i>\$200.00</i>

6. *Once constructed, crossovers are to be maintained at the expense of the property owner, who shall ensure that the Council's property including the adjacent road pavement, its kerbing, footpaths, landscaping or irrigation services are neither damaged nor reduced in serviceability by the installation of the crossover.*
7. *The Council may issue a notice in writing pursuant to the Local Government (Uniform Local Provisions) Regulations 1996 to the owner or occupier of private land requiring the person to repair a crossing from a public thoroughfare to the land or a private thoroughfare serving the land. If the person fails to comply with the notice, the Council may repair the crossing as the notice required and recover 50% of the cost of doing so as a debt due from the person.'*

STATUTORY ENVIRONMENT

Under the provisions of Schedule 9.1 Clause 7 of the Local Government Act 1995 and Local Government (Uniform Local Provisions) Regulations 1996, landowners must make application to the Council for approval to construct a crossover.

Crossovers must be constructed to the satisfaction of the Council.

FINANCIAL IMPLICATIONS

An amount of \$3,000.00 is included in the budget for the Council's costs associated with contributions to vehicle crossovers.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

The Council's Strategic Plan Key Results Area 1, New Initiative provides the following:

'1.4 Ensure the administrative systems and framework of the organisation efficiently and effectively permit the functions of the organisations to be undertaken.

To achieve this we will:

- Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*
- Promote and provide access to policies, standards and legislation.'*

OFFICER COMMENT

Reference to 'Kendenup Village' under Clause 2 of the Policy has been removed as Kendenup is now a gazetted townsite.

This Policy is considered relevant and should be retained, subject to the Council contributions being adjusted in line with changes in the Consumer Price Index.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr J Moir:

That amended Council Policy No. I/R/13 Vehicle Crossovers:

OBJECTIVE:

To ensure a uniform approach for the construction of vehicle crossovers in line with the Council guidelines.

POLICY:

1. Specification for the Construction of Vehicle Crossovers as adopted by the Council from time to time form part of this policy.
2. Within townsites, sealed crossings of concrete, brick paving, asphalt or other acceptable surface to the satisfaction of the Manager of Works and Services are required where the crossing adjoins a sealed road.
3. All other crossovers shall contain gravel consisting of a minimum thickness of 200mm.
4. The Council contributions will not apply where the crossing is constructed as a result of subdivisional and development consent.
5. The Council will contribute half the cost of a standard crossover (one crossover to a property) subject to the crossover being deemed to conform to the specifications up to the following amounts:

Type of Crossover	Estimated Cost	Council Contribution (maximum)
Sealed Urban Crossover	\$528.00	\$264.00
Unsealed Urban Crossover	\$318.00	\$159.00
Sealed Rural Crossover	\$528.00	\$264.00
Unsealed Rural Crossover	\$422.00	\$211.00

6. Once constructed, crossovers are to be maintained at the expense of the property owner, who shall ensure that the Council's property including the adjacent road pavement, its kerbing, footpaths, landscaping or irrigation services are neither damaged nor reduced in serviceability by the installation of the crossover.

7. The Council may issue a notice in writing pursuant to the Local Government (Uniform Local Provisions) Regulations 1996 to the owner or occupier of private land requiring the person to repair a crossing from a public thoroughfare to the land or a private thoroughfare serving the land. If the person fails to comply with the notice, the Council may repair the crossing as the notice required and recover 50% of the cost of doing so as a debt due from the person.'

be endorsed.

CARRIED (8/0)

NO. 97/11

10.2.4 ROADWISE STEERING COMMITTEE - PRIORITY SETTING AND ACTION PLAN 2010/2011

File No:	N18000
Attachments:	Action Plan
Responsible Officer:	Dominic Le Cerf Manager Works and Services
Author:	Sharon Lynch Senior Administration/Project Officer (Works and Services)
Proposed Meeting Date:	12 April 2011

PURPOSE

The purpose of this report is to recommend the endorsement of the RoadWise Steering Committee's Priority Setting and Action Plan 2010/2011.

BACKGROUND

The RoadWise Steering Committee is a partnership approach to road safety at a community level and provides a forum for local stakeholders to develop and deliver road safety strategies.

The Committee has prepared a Priority Setting and Action Plan which aligns to the objectives of the Road Safety Council's recommended Towards Zero Road Safety Strategy 2008-2020. Towards Zero is based on the Safe System, which aims to improve road safety through four cornerstones: Safe Road Use, Safe Roads and Roadsides, Safe Speeds and Safe Vehicles.

The Priority Setting and Action Plan identifies which agency is responsible for each action, timeframe and resources required to implement road safety strategies within the Shire of Plantagenet. This is to ensure that each item will be achieved as a collective group by sharing the activities required to implement Towards Zero in the Shire of Plantagenet.

The RoadWise Steering Committee resolved at its meeting held on 3 March 2011:

'That the RoadWise Steering Committee Priority Setting and Action Plan 2010/2011 be accepted and referred to the Council for adoption.'

STATUTORY ENVIRONMENT

The RoadWise Steering Committee was established pursuant to Section 5.9(2)(c) of the Local Government Act 1995.

EXTERNAL CONSULTATION

The RoadWise Steering Committee comprises of Council Members, Employees and Other Persons.

FINANCIAL IMPLICATIONS

The adoption of the Priority Setting and Action Plan 2010/2011 does not immediately tie the Council to expenditure on activities identified in the plan. However some activities may not be able to be funded from external sources and specific projects may be presented for consideration through the budget process in the future.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Council's Strategic Plan at Key Result Area 5 (Strategic Planning) Aims to develop strategic partnership and foster regional cooperation.

OFFICER COMMENT

The Committee believes the Priority Setting and Action Plan is an example of how a shared responsibility approach can be applied in practice, and demonstrates the important role that these partners plays in the successful implementation of the plan for the benefit of the Shire of Plantagenet community.

The Committee has used this plan as a guiding document during 2010 and proposes to continue working from this document for the remainder of 2011.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr G Messmer:

That the RoadWise Steering Committee Priority Setting and Action Plan 2010/2011 be adopted.

CARRIED (8/0)

NO. 98/11

10.3 COMMUNITY SERVICES REPORTS

Nil

10.4 CORPORATE SERVICES REPORTS

10.4.1 FINANCIAL STATEMENTS – MARCH 2011

File No:	N18145
Attachment:	Financial Statement (separate attachment)
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Brendan Webb Accountant / Office Manager
Proposed Meeting Date:	12 April 2011

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending March 2011.

STATUTORY ENVIRONMENT

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

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

POLICY IMPLICATIONS

There are no policy implications for this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr G Messmer, seconded Cr M Skinner:

That the Financial Statements for the period ending March 2011 be received.

CARRIED (8/0)

NO. 99/11

10.4.2 LIST OF ACCOUNTS - MARCH 2011

File No: N18005
Attachments: [List of Accounts](#)
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Emma Gardner
Accounts Officer
Proposed Meeting Date: 12 April 2011

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of March 2011.

STATUTORY ENVIRONMENT

Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996 provides that payment may only be made from the municipal fund or trust fund if the Local Government has delegated the function to the Chief Executive Officer.

The Chief Executive Officer has delegated authority to authorise payments (10 May 2009). Relevant staff have also been issued with delegated authority to issue orders for the supply of goods and services subject to budget limitations.

Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer then a list of payments is to be presented to the Council at the next ordinary meeting and recorded in the minutes.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

Council Policy F/FM/7 – Purchasing and Tender Guide applies.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr J Moir:

That in accordance with Regulation 13 (1) of the Local Government (Financial Management) Regulations 1996, the list of payments made under delegated authority for the month ended March 2011 be received and recorded in the minutes of the Council, the summary of which is as follows:

- a. Electronic Payments and Direct Debits totalling \$2,760,858.93; and
- b. Municipal Cheques 41846 - 41876 and 41878 - 41911 totalling \$42,261.14;
- c. Cancelled Cheque 41877;
- d. Trust Cheques 309-310 totalling \$3,233.80.

CARRIED (8/0)

NO. 100/11

10.4.3 LOT 98 (21) MONTEM STREET, MOUNT BARKER - AFFIX COMMON SEAL TO A DISCHARGE OF MORTGAGE

A Closely Associated Person Interest (Section 5.62LGA) was disclosed by Cr G Messmer. Nature of interest – Husband of Chairman of Plantagenet Village Homes.

3:26pm Cr G Messmer withdrew from the meeting.

File No: N18127
Attachment: [Discharge of Mortgage Document](#)
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Vanessa Ward
Rates Officer
Proposed Meeting Date: 12 April 2011

PURPOSE

The purpose of this report is to seek authority to affix the Common Seal of the Council to a Discharge of Mortgage document, relating to Lot 98 (21) Montem Street, Mount Barker.

BACKGROUND

At its meeting held on 28 November 2000, the Council resolved to proceed with a self supporting loan to Plantagenet Village Homes (PVH) for \$15,000.00 over ten years and proceed to settlement on a transfer of Lot 98 (21) Montem Street, Mount Barker.

The Council had previously resolved (on 26 April 2000) that based on a valuation of \$115,000.00, the Shire of Plantagenet sell Lot 98 to PVH for \$15,000.00 to be repaid over ten years and the remaining \$100,000.00 be donated as a donation to the aged persons accommodation project.

In July 2008, the Shire notified PVH that the Council had approved the payout of the balance of its self supporting loan as part of the 2008/2009 Financial Assistance Grants. At that time, the discharge of mortgage was inadvertently overlooked and has not been sought by PVH until now.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

EXTERNAL CONSULTATION

A request has been made by PVH to have the mortgage discharged.

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 mortgage was lodged on this property in December 2000 to protect the Shire of Plantagenet's interest in regard to the self supporting loan. The existence of the mortgage on this Certificate of Title will impact on the ability of PVH to secure funding for future developments on the site. As this loan has been finalised, the Council should agree to discharge the mortgage.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr L Handasyde:

That authority be granted to the Shire President and the Chief Executive Officer to affix the Common Seal of the Council for the Discharge of Mortgage document which relates to Lot 98 (21) Montem Street, Mount Barker.

CARRIED (7/0)

NO. 101/11

3:27pm Cr G Messmer returned to the meeting.

10.4.4 POLICY REVIEW - DRUG AND ALCOHOL POLICY

File No: N18152
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Donna Jo McDonald
Senior Administration/Human Resources
Officer
Proposed Meeting Date: 12 April 2011

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:

- 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.'*

This policy was last reviewed by the Council at its meeting held on 28 April 2009.

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.

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

The Council's Strategic Plan Key Results Area 1, New Initiative provides the following:

'1.4 Ensure the administrative systems and framework of the organisation efficiently and effectively permit the functions of the organisations to be undertaken.

To achieve this we will:

- *Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*
- *Promote and provide access to policies, standards and legislation.'*

OFFICER COMMENT

It is considered that the current policy sufficiently conforms to Occupational Health and Safety requirements and should be endorsed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr G Messmer, seconded Cr L Handasyde:

That 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.

AMENDMENT

Moved Cr L Handasyde, seconded Cr A Budrikis:

That part 1c) of the policy be amended by:

- a) replacing the word 'may' with the word 'will' after the words '(or appropriate employee)'; and
- b) replacing the word 'should' with the word 'will' after the word 'arrangements'.

CARRIED (7/1)

NO. 102/11

COUNCIL DECISION

That 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) will have the employee removed from the workplace and may initiate any reasonable action considered necessary. Suitable arrangements will 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 (8/0)

NO. 103/11

10.4.5 POLICY REVIEW - INJURY MANAGEMENT AND REHABILITATION

File No: N18150
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Donna Jo McDonald
Senior Administration/Human Resources
Officer
Proposed Meeting Date: 12 April 2011

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 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 (insurer) 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.'

This policy was last reviewed by the Council at its meeting held on 28 April 2009.

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.

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

The Council's Strategic Plan Key Results Area 1, New Initiative provides the following:

'1.4 Ensure the administrative systems and framework of the organisation efficiently and effectively permit the functions of the organisations to be undertaken.

To achieve this we will:

- *Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*

- *Promote and provide access to policies, standards and legislation.'*

OFFICER COMMENT

It is a mandatory requirement of WorkCover 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. This policy has been amended slightly to reflect the current model provided by WorkCover WA.

A paragraph has also been added to clarify that the working of overtime hours while in receipt of workers' compensation is at the discretion of the relevant manager, in conjunction with the Chief Executive Officer and subject to advice by the relevant medical practitioner. The policy is otherwise considered to be sufficient.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr G Messmer, seconded Cr M Skinner:

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.
 7. The approved insurer 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.

The working of overtime hours while in receipt of workers' compensation is at the discretion of the relevant manager, in conjunction with the Chief Executive Officer and subject to advice by the relevant medical practitioner.'

be endorsed.

CARRIED (8/0)

NO. 104/11

10.4.6 POLICY REVIEW - SEXUAL HARASSMENT

File No: N18149
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Donna Jo McDonald
Senior Administration/Human Resources
Officer
Proposed Meeting Date: 12 April 2011

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:

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.'*

This policy was last reviewed by the Council at its meeting held on 28 April 2009.

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.

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

The Council's Strategic Plan Key Results Area 1, New Initiative provides the following:

'1.4 Ensure the administrative systems and framework of the organisation efficiently and effectively permit the functions of the organisations to be undertaken.

To achieve this we will:

- Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*
- Promote and provide access to policies, standards and legislation.'*

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, it is considered the current policy is sufficient and should be endorsed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr G Messmer:

That 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:

- 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. The 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 (8/0)

NO. 105/11

10.4.7 POLICY REVIEW - WORKPLACE BULLYING

File No: N18147
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Donna Jo McDonald
Senior Administration/Human Resources
Officer
Proposed Meeting Date: 12 April 2011

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 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.'*

This policy was last reviewed by the Council at its meeting held on 28 April 2009.

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.

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

The Council's Strategic Plan Key Results Area 1, New Initiative provides the following:

'1.4 Ensure the administrative systems and framework of the organisation efficiently and effectively permit the functions of the organisations to be undertaken.

To achieve this we will:

- *Revise all policies, procedures and delegations to ensure internal consistency and convergence; and*
- *Promote and provide access to policies, standards and legislation.'*

OFFICER COMMENT

As this policy clearly identifies the Council's no tolerance view of workplace bullying, it is considered the current policy is sufficient and should be endorsed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr J Moir:

That 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 workplace.

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 (8/0)

NO. 106/11

10.5 EXECUTIVE SERVICES REPORTS

10.5.1 CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

File No:	N18011
Attachments:	WALGA - Constitutional Recognition of Local Government
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Rob Stewart Chief Executive Officer
Proposed Meeting Date:	12 April 2011

PURPOSE

The purpose of this report is to seek from the Council a direction regarding the constitutional recognition of Local Government.

BACKGROUND

The Australian Local Government Association (ALGA) has commenced a strategy to ultimately bring about Federal constitutional recognition of Local Government.

Attached is a letter addressed to Shire President Ken Clements from the President of the Western Australian Local Government Association (WALGA) seeking the Council's support for this campaign.

STATUTORY ENVIRONMENT

Local Government is not recognised in the Commonwealth Constitution although it is recognised in the WA State Constitution and, of course, many State Acts.

As Councillors would be aware, to effect a change to the Australian Constitution a majority of all electors Australia wide and a majority of the States (that is, four out of six), must by referendum, assent to the change. Previous attempts to change the Constitution to recognise Local Government have failed. (1974 and 1988)

While Local Government is not recognised in the Australian Constitution there is always some doubt regarding the Commonwealth Government's power to fund Local Government. Cases have come before the High Court (see Pape v Comm of Taxation 2009) questioning the Australian Government's ability to fund Local Government on the basis that the Commonwealth Government is only able to undertake things that it is specifically given the power to do in the Constitution.

EXTERNAL CONSULTATION

Should the Council agree to support constitutional recognition of Local Government, it would be expected that the Council would engage in a local level campaign, in support of the national campaign, to inform the local community and garner its support. Funding for this campaign would need to be made available.

FINANCIAL IMPLICATIONS

Locally, financial implications will depend on the extent and complexity of any campaign, but could include officer time, venue hire, catering and promotion.

At a national level one would expect the Federal Government to fund 'Yes' and 'No' campaigns.

POLICY IMPLICATIONS

The ALGA position is consistent with WALGA's position on constitutional reform.

STRATEGIC IMPLICATIONS

The Council's strategic plan is silent with regard to constitutional recognition of Local Government.

OFFICER COMMENT

If it was determined that the Australian Government could not fund Local Government, it would severely affect the financial viability of most Local Government Authorities within Australia. For example the Financial Assistance Grants Scheme (FAGs) is actually a share of income tax revenue that gets distributed to Local Governments. FAGs grants are distributed to Local Government through the State Government and the various Grants Commissions.

However, some funding that the Shire of Plantagenet received for the Medical Centre for instance came directly from the Federal Government and, without constitutional recognition, could be at risk in the future.

Both ALGA and WALGA believe that, although the Federal Government has committed to holding a referendum, the timing will depend on the choice of process and likelihood of success. They believe therefore that local campaigns will assist the Government in coming to the conclusion that success is likely.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr L Handasyde, seconded Cr G Messmer:

The Shire of Plantagenet recognises that constitutional recognition of Local Government may enable Local Government to not only have more influence in the development of Government policy but may also enable Local Government to have greater access to funding and therefore should be supported.

LOST (1/7)

ALTERNATIVE MOTION/COUNCIL DECISION**Moved Cr A Budrikis, seconded Cr M Skinner:**

That WALGA be advised that the Council is not in a position to support the proposal for Constitutional recognition of Local Government at the current time and seeks further information on the arguments that would be included in a referendum pertaining to the proposed objectives and outcomes of this proposal including any changes to the structural relationships between the three spheres of government.

CARRIED (7/1)**NO. 107/11**Reason for Change

The Council considered that this is a very important issue which needs due consideration and debate and therefore it requires more information to be provided in support of the arguments for Constitutional recognition.

10.5.2 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT 2011 – ATTENDANCE

A Financial/Indirect Financial interest (Section 5.60(A) and section 5.61 LGA) was disclosed by Cr K Clements. Nature of interest – Conference attendance.

3:52pm Cr K Clements withdrew from the meeting.

Cr M Skinner assumed the Chair.

File No: N18014
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Rob Stewart
Chief Executive Officer
Proposed Meeting Date: 12 April 2011

PURPOSE

The purpose of this report is to recommend the attendance of the Shire President at the National General Assembly of Local Government scheduled to be held in Canberra 19 – 22 June 2011.

BACKGROUND

The 2011 National General Assembly, with the theme of 'Growing with our Community – Partnership, Place and Position', aims to stimulate ideas about new ways of doing business to meet the needs of local people and their communities.

The Regional Development and Cooperation Forum will be conducted in conjunction with the National General Assembly on 19 June 2011. This forum will workshop development opportunities and challenges in Australia through the lens of regional 'typologies' identified in the *State of the Regions Report* – core metro, dispersed metro, producers, resource, rural and lifestyle. Specific questions to be addressed include:

- What framework around regional planning incorporating all stakeholders needs to be developed?
- How can local government and Regional Development Australia Committees engage effectively to advance regional interests?
- How will the infrastructure funds be administered and prioritised?

Highlights from the General Assembly program include:

Political Addresses:

Prime Minister, the Hon Julia Gillard MP

Leader of the Opposition, The Hon Tony Abbott MP

Minister for Climate Change and Energy Efficiency, The Hon Greg Combet MP

Leader of the Greens, Senator Bob Brown

Shadow Minister for Local Government, Senator Barnaby Joyce

Minister for Regional Australia, Regional Development and Local Government, The Hon Simon Crean MP

Panel Session - The Pitch – How do we sell local government? Host James O’Loughlin, Panelists – John Hewson, Annabel Crabb and Jane Caro
Place Speaker – Mayor Len Brown, Auckland Council
Position Speaker – Robert Gottliebsen
Partnership Speaker: Michael Luscombe, Woolworths CEO
Local Government and Community Resilience – 2011 Floods
Constitutional Reform update.

This Assembly has previously been attended by former Shire President Cr Kevin Forbes AM and the Chief Executive Officer in November 2004.

FINANCIAL IMPLICATIONS

Registration to the Assembly is \$880.00 (by 29 April 2011).

Registration to the Forum is \$195.00.

General Assembly Dinner, Great Hall, Parliament House is \$125.00.

Air travel costs will be approximately \$1,300.00.

Accommodation costs will be approximately \$1,800.00.

The estimated total expenditure including the above costs, meals, hire car and taxi fares is \$7,000.00.

POLICY IMPLICATIONS

Council Policy CE/CS/1 – Elected Member Expenses to be Reimbursed applies.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENT

The Chief Executive Officer has registered his interest in attending the Assembly with the Shire President.

The Chief Executive Officer has proposed that at the completion of the Assembly, he and the Shire President arrange a meeting with the management of New Forests Asset Management Pty Ltd based in Sydney. The purpose of this meeting would be to discuss the purchase of the Quangellup Road site for waste management purposes.

Attendance by the Shire President at the National General Assembly is recommended.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr A Budrikis:

That:

1. The Shire President be authorised to attend the National General Assembly of Local Government to be held in Canberra from 19 June to 22 June 2011 and all costs relating to registration, travel and accommodation be charged to budget item 20026.0029.
2. The proposal to meet with a representative of New Forests Asset Management Pty Ltd in Sydney at the conclusion of the conference be also authorised.
3. The intention of the CEO to accompany the Shire President be noted.

CARRIED (7/0)

NO. 108/11

3:53pm Cr K Clements returned to the meeting and resumed the Chair.

10.5.3 REGIONAL ALLIANCE WITH SHIRE OF KATANNING

File No:	N18042
Attachments:	Regional Alliance MOU
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Rob Stewart Chief Executive Officer
Proposed Meeting Date:	12 April 2011

PURPOSE

The purpose of this report is to put before the Council a draft memorandum of understanding (MOU) between the Shires of Katanning and Plantagenet relating to the operation of the Great Southern Regional Cattle Saleyards and the Katanning Sheep Saleyards.

BACKGROUND

The ongoing negotiations with the Minister for Agriculture regarding financial assistance with the cattle saleyards in Mount Barker and the sheep saleyards in Katanning have highlighted common interests between the two Shires.

A joint meeting between representatives of the Shires of Katanning and Plantagenet was held in Katanning on 9 July 2010 to discuss the prospect of regional cooperation regarding the saleyards.

Subsequently the Shire of Katanning prepared a draft MOU to formalise this alliance.

EXTERNAL CONSULTATION

Consultation has occurred between the Shires of Katanning and Plantagenet. Further consultation has occurred with the Minister for Agriculture the Hon Terry Redman on 15 July 2010 as a result of the Katanning/Plantagenet meeting. At this meeting representatives from Plantagenet and Katanning met with the Minister in Perth.

Since then undertakings have been honoured regarding State funding assistance for both saleyards.

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 key result area 5 (strategic planning) notes an aim:

- *'To the development of strategic partnerships; and*
- *The fostering of regional cooperation.'*

The subject of this report fits well with this strategic direction.

OFFICER COMMENT

Attached to this report is the MOU as prepared by the Shire of Katanning and which has subsequently been amended by the Chief Executive Officer. A further attachment has been distributed separately representing the original draft MOU.

The Chief Executive Officer believes the original MOU was too 'wordy' and therefore much has been deleted.

Councillors may believe that it is unnecessary to have a Memorandum of Understanding. The Shire of Katanning is endeavouring to develop strategic alliances with other Councils such as the Town of Narrogin and the Shire of Wagin. The Shire of Katanning is strongly supportive of structural reform of local government including amalgamation. The development of a regional alliance with Katanning may be seen by some as a threat to the stability of the Southern Link VROC. This shouldn't be the case as the MOU with Katanning relates only to saleyards but this may not be everybody's interpretation. Possibly a regional alliance with Katanning may be seen to strengthen the 'structural reform without amalgamation' case.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the attached Memorandum of Understanding between the Shires of Katanning and Plantagenet relating to the Great Southern Regional Cattle Saleyards and the Katanning Sheep Saleyards be endorsed and the Shire President and the Chief Executive Officer be authorised to sign the document.

COUNCIL DECISION

Moved Cr M Skinner, seconded Cr B Bell:

That:

- 1) With regard to the proposal for the Shire of Plantagenet to enter into a Memorandum of Understanding with the Shire of Katanning relating to sheep and cattle saleyards at Mount Barker and Katanning respectively, the Shire of Plantagenet recognises its positive relationship with Katanning but respectfully declines to enter into the Memorandum of Understanding as such agreement would do nothing to further that relationship; and**
- 2) Nevertheless, the Shire of Plantagenet recognises that both our Shires, in owning and running saleyards, do benefit from open dialogue and exchange of information and ideas relating to saleyards and trust that this existing relationship will continue.**

CARRIED (8/0)

NO. 109/11

Reason for Change

The Council has a good relationship with the Shire of Katanning which does not need to be endorsed in writing.

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

13 CONFIDENTIAL

14 CLOSURE OF MEETING

4:02pm The Presiding Member declared the meeting closed.

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