



ORDINARY MINUTES

DATE: Tuesday, 14 August 2018

TIME: 3:00pm

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

Rob Stewart
CHIEF EXECUTIVE OFFICER

Resolution numbers: 162/18 to 186/18

MEMBERSHIP – Quorum (5)

Members:

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

Information and recommendations are included in the reports to assist the Council in the decision making process and may not constitute the Council's decision until considered by the Council.

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

3.00pm The Presiding Member declared the meeting open.

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

The Presiding Member recognised the presence of Freeman of the Municipality and former Shire President Mr Kevin Forbes AM.

Members Present:

Cr C Pavlovich	Shire President (Left the meeting at 3.28pm, returned at 3.50pm, left the meeting at 4.47pm, returned at 5.01pm)
Cr B Bell	Councillor
Cr K Clements	Councillor
Cr S Etherington	Councillor
Cr L Handasyde	Councillor (Left the meeting at 4.44pm, returned at 4.45pm)
Cr B Lang	Councillor
Cr J Moir	Councillor
Cr M O'Dea	Councillor
Cr J Oldfield	Deputy Shire President

In Attendance:

Mr Rob Stewart	Chief Executive Officer
Mr John Fathers	Deputy Chief Executive Officer
Mr David Lynch	Manager Works and Services
Mr Vincent Jenkins	Planning Officer
Ms Nolene Wake	Executive Officer

Guests

Mr Peter Duncan	Former Manager Development Services
Mr Ray Parry	Former Building Maintenance Officer and his wife Anne.

Apologies:

Nil

Members of the Public Present:

There were 18 members of the public present.

Previously Approved Leave of Absence:

Nil

Emergency Evacuation Procedures/Disclaimer:

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

Mr Stewart then read aloud the following disclaimer:

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

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

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

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

PETITION – MS RHEANNA MCCLEERY – FLYING OF THE ABORIGINAL FLAG

A petition requesting that the Aboriginal Flag be flown daily on a flagpole erected for that purpose in front of the Shire Offices in Lowood Road was presented (attached).

Moved Cr B Lang, seconded Cr S Etherington:

That the petition relating to the flying of the Aboriginal Flag be received and the matter be referred to the CEO for a report no later than the Ordinary meeting of the Council to be held 9 October 2018.

CARRIED (9/0)

NO. 162/18

PRESENTATIONS – ITEM 9.3.1 KARRI OAK AIRSTRIP

The following members of the public addressed the Council in regards to the Karri Oak Airstrip (presentations attached).

- Mr Kevin Forbes AM – former Chief Bushfire Control Officer
- Mr Iain Mackie – Middle Ward Brigade Captain, Deputy Chief Bushfire Control Officer.
- Mr Norm Handasyde – Chief Bushfire Control Officer

PRESENTATION – MR MARK COLBUNG – FLYING OF THE ABORIGINAL FLAG

Mr Colbung addressed the Council regarding the flying of the Aboriginal Flag.

PRESENTATION – MR PETER BOUWMAN – ITEM 9.1.2 – LOT 345 MARTIN STREET, MOUNT BARKER – HOUSE, WATER TANK AND OVERSIZE OUTBUILDING

Mr Bouwman addressed the Council regarding Lot 345 Martin Street, Mount Barker (Agenda Item 9.1.2).

5 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

Cr C Pavlovich

Item: 9.1.1
Type: Closely Associated Person (Section 5.62 LGA)
Nature: Closely Associated Person
Extent: Penny Pavlovich (wife) provided comment/submission on the LPS – 5.

Item: 9.4.3
Type: Closely Associated Person (Section 5.62 LGA)
Nature: Closely Associated Person
Extent: Father is part owner of neighboring property.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

6.1 APPLICANT: CR K CLEMENTS

Cr K Clements requested Leave of Absence for 11 September 2018.

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

That Cr K Clements be granted Leave of Absence for 11 September 2018.

CARRIED (9/0)

NO. 163/18

7 CONFIRMATION OF MINUTES

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

That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 17 July 2018 be taken as read and adopted as a correct record.

CARRIED (9/0)

NO. 164/18

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Shire President distributed Attendance Register and report on the WALGA convention attended separately (attached).

The Shire President made formal presentations to recently retired long serving staff members Mr Peter Duncan and Mr Ray Parry. Mr Duncan commenced employment with the Shire in July 2006 and Mr Parry in November 1998. Both were acknowledged and thanked for their years of dedicated service and hard work.

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 DEVELOPMENT SERVICES REPORTS

9.1.1 LOCAL PLANNING SCHEME NO. 5 - CONSIDERATION OF SUBMISSIONS RECEIVED FROM PUBLIC ADVERTISING

Cr C Pavlovich

Item: 9.1.1

Type: Closely Associated Person (Section 5.62 LGA)

Nature: Closely Associated Person

Extent: Penny Pavlovich (wife) provided comment/submission on the LPS – 5.

3.28pm Cr C Pavlovich withdrew from the meeting and
Cr J Oldfield assumed the Chair as Presiding Member:

File Ref: N45125

Attachments: [Summary of Submissions](#)
[Schedule of Modifications](#)

Responsible Officer: Rob Stewart
Chief Executive Officer

Author: Peter Duncan
Manager Development Services

Proposed Meeting Date: 14 August 2018

PURPOSE

The purpose of this report is to consider submissions received on the new draft Local Planning Scheme No. 5 (LPS5) during the 90 day advertising period.

BACKGROUND

Current Town Planning Scheme No. 3 (TPS3) was published in the Government Gazette on 4 October 1991. Over the years several Amendments have been carried out to the Scheme some of which introduced current practices and procedures to ensure the Scheme was as up to date as possible.

The Council at its meeting held on 18 July 2017 when considering the commencement of Local Planning Scheme No. 5 resolved:

‘That in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015:

- 1. The Council agrees to the attached Resolution Deciding to Prepare a Local Planning Scheme subject to the following words being added:*

In part a) of the Proposed Aims of the Scheme, after the words “natural environment” the words “and the agricultural base of the District”, be added.

2. *The resolution at 1. above and the attached Western Australian Planning Commission Form 1A and Scheme Area Map be referred to the Western Australian Planning Commission.*
3. *Once the Western Australian Planning Commission approves the resolution above the necessary 21 day advertising be commenced.'*

The proposed Aims were altered and the required documents were referred to the Western Australian Planning Commission and the necessary referral to government agencies was undertaken. The resolution to prepare the new Scheme was advertised in the press and on the Council's website and notice board.

Councillors had three workshops on the Scheme preparation process. The first was held on 15 August 2017 where the deemed and model provisions were explained by an officer from the Department of Planning, Lands and Heritage. The second workshop was held on 12 September 2017 where the proposed Scheme Text was explained. The third workshop was held on 10 October 2017 where the zoning map proposals were explained. The comments made by Councillors at those workshops were taken on board in the finalisation of this draft Scheme. This includes the deletion of external building colour controls throughout the Text.

The Council at its meeting held on 7 November 2017 when considering the adoption of this new draft LPS5 resolved:

'That:

1. *Draft Local Planning Scheme No. 5 be adopted for referral to the Environmental Protection Authority and the Western Australian Planning Commission for approval to advertise for public comment pursuant to Regulation 21 Division 2, Part 4 of the Planning and Development (Local Planning Schemes) Regulations 2015 and Section 81 of the Planning and Development Act 2005.*
2. *Once approved for advertising by the Environmental Protection Authority and the Western Australian Planning Commission, the draft Local Planning Scheme No. 5 be advertised for a period of 90 days pursuant to Regulation 22, Division 2, Part 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.*
3. *Following the advertising period a further report be presented to the Council no later than its meeting scheduled for September 2018 pursuant to Regulation 25, Division 2, Part 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.'*

The draft LPS5 was referred to the Environmental Protection Authority (EPA) on 9 November 2017 and approval to proceed was received on 2 January 2018.

The draft LPS5 was referred to the Western Australian Planning Commission (WAPC) on 9 November 2017 and conditional approval to advertise was received on 19 February 2018. The conditional approval was subject to two modifications being carried out before advertising. The first was to change the reference to Schedule 5 to be Schedule 4 in Table 3 (Zoning Table), a typographical error. The second modification was to delete the words '1 to 5 maps' from the title of Schedule 5 to

correct the reference to match that listed in the Table of Contents, another typographical error. As these two modifications were typographical, the necessary changes to the Scheme Text were carried out and the WAPC allowed the advertising for 90 days to commence.

The advertising of LPS5 commenced on 8 March 2018 and at the close of the 90 day period on 6 June 2018, 36 submissions had been received.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulation 2015 – these Regulations contain the requirements for a Local Planning Scheme preparation, the model Local Planning Scheme Text and the Deemed Provisions which are automatically included in all Schemes by reference. This new LPS5 closely follows the format of the Model Scheme text.

The Regulations also set the procedure for the Scheme to follow including initial referral to the EPA and the WAPC. The EPA had a period of 28 days to respond. The WAPC had 90 days to determine whether the Scheme is suitable for public advertising. The Scheme must be publicly advertised for a period of 90 days.

Regulation 22 requires the Council as soon as reasonably practical after the WAPC approval to advertise, to prepare a notice giving details of the draft Scheme, where it may be inspected and details of the submission period.

Regulation 25 states the Council must consider the submissions received within 120 days of the end of the submission period and resolve to:

- ‘(a) to support the draft scheme without modifications; or*
- (b) to support the draft scheme with proposed modifications to address issues raised in the submissions; or*
- (c) not to support the draft scheme.’*

Once the submissions have been considered the Council has 21 days to refer the recommendation and submissions to the WAPC. The WAPC then has 120 days to make its recommendations to the Minister for Planning.

EXTERNAL CONSULTATION

Extensive consultation was carried out during the preparation of the Council’s Local Planning Strategy which was approved in 2013. The preparation of new LPS5 included workshops with Councillors.

The resolution to prepare a Scheme was advertised in the press and to State agencies giving 21 days to comment.

The formal 90 day advertising commenced on 8 March 2018 and 36 submissions were received (see Summary of Submissions).

The advertising consisted of a notice on the Council's notice board, the Council's website and newspapers. Letters were sent to various government agencies, adjoining local authorities, property owners where a change in zoning is proposed and where external building material colour controls have been removed from their particular zone. The advertising period concluded on Wednesday 6 June 2018.

FINANCIAL IMPLICATIONS

The draft LPS5 – Scheme Text was prepared in house. The new Scheme Maps were prepared by the Department of Planning, Lands and Heritage Perth office. The cost for the mapping is \$2,430.00 to date. There may be additional mapping costs if changes are proposed as a result of the submissions considered by the Council and the WAPC.

POLICY IMPLICATIONS

Town Planning Scheme Policy No. 18.1 (Planning Vision) was adopted in April 2014. This document is more strategic than the Local Planning Strategy and includes more localised concepts for planning in the Shire area.

There is no need to review the Planning Vision or the Local Planning Strategy at this point in time.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.1 (Long term planning and development guided by the Planning Vision) the following Strategy:

Strategy 2.1.3:

'Collaborate with the State Government to ensure that local planning development and long term growth needs are met.'

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

The Council's Corporate Plan – Goal 2 – Enhanced Natural and Built Environment notes an outcome of 2.1 'Long term planning and development guided by the Planning Vision'. The KPI is 2.1 'Percentage of Council planning decisions in line with the Planning Vision'.

By supporting the officer recommendation this KPI will be met.

OFFICER COMMENT

Staff prepared the draft LPS5 (Scheme Text) and have continually had discussions with the Department of Planning, Lands and Heritage Senior Planning Officer in Albany.

Following discussions with the Department of Planning, Lands and Heritage officers other adjustments have been made to the draft Text. These adjustments included the zoning Table where the use classes of Brewery, Mining Operations and Renewable Energy Facility were added. The use classes of Cellar Sales,

Gallery/restaurant and Wind and/or solar energy facility were deleted as they are covered by other use classes.

Other adjustments included renumbering of the Tables within the document, introducing a Scheme Reserve called Environmental conservation to match the Model Scheme (for areas such as the Stirling and Porongurup Ranges).

The advertising process included letters to property owners where a change to the zoning of the property was proposed explaining the implications of the change. As the Council is aware, the external building material colour controls were removed from the draft text on 19 occasions involving various Rural Residential, Rural Smallholding, Mixed use and Special Use zones. All landowners in these relevant zones were written to advising of the deletion of the colour controls.

The 36 submissions are listed in the attached Summary of Submissions. As a result of the submissions, modifications to the draft LPS5 have been recommended (see Schedule of Modifications attached).

The main issue that generated submissions from the public on the new LPS5 was the proposal to not include colour controls for external materials and finishes for buildings in the Rural Residential, Rural Smallholdings, Special Use and Mixed Use zones. Those controls presently exist in TPS3 and in many other Local Planning Schemes throughout the State. It may be that the WAPC will require the controls to be inserted into LPS5 for the specific zones mentioned above as this is a way of reducing the bright visual impact of in particular unpainted zincalume roof and wall materials where a broad acre rural site is subdivided into many new lots. Due to the number of submissions received on this particular matter, where people owning lots in affected area have requested the colour controls be inserted into these zones, it is recommended in the Schedule of Modifications the controls be inserted.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr K Clements, seconded Cr J Moir:

That in accordance with Regulation 25 of the Planning and Development (Local Planning Schemes) Regulations 2015 that draft Shire of Plantagenet Local Planning Scheme No. 5 be supported with proposed modifications to address issues raised in the submissions and that it be referred to the Western Australian Planning Commission for the approval of the Hon. Minister for Planning.

MOTION TO ADJOURN THE MEETING**Moved Cr J Moir, seconded Cr L Handasyde:****3.25pm** That the meeting be adjourned and be reconvened at 3.45pm.**CARRIED (8/0)****NO. 165/18****RESUMPTION****3.45pm** The meeting resumed.**Attendance**

Cr J Oldfield	Deputy Shire President
Cr B Bell	Councillor
Cr K Clements	Councillor
Cr S Etherington	Councillor
Cr L Handasyde	Councillor (Left the meeting at 4.44pm, returned at 4.45pm)
Cr B Lang	Councillor
Cr J Moir	Councillor
Cr M O'Dea	Councillor
Mr Rob Stewart	Chief Executive Officer
Mr John Fathers	Deputy Chief Executive Officer
Mr David Lynch	Manager Works and Services
Mr Vincent Jenkins	Planning Officer
Ms Nolene Wake	Executive Officer

Eight members of the public were present.

AMENDMENT**Moved Cr B Bell, seconded Cr S Etherington:****That a Part 1 be added to the motion as follows:****'That the Schedule of Modifications be amended by removing Point 1 relating to colour controls and the Schedule and motion be renumbered accordingly.'****CARRIED (8/0)****NO. 166/18**

COUNCIL DECISION

That:

- 1. The Schedule of Modifications be amended by removing Point 1 relating to colour controls and the Schedule and motion be renumbered accordingly.**
- 2. In accordance with Regulation 25 of the Planning and Development (Local Planning Schemes) Regulations 2015 that draft Shire of Plantagenet Local Planning Scheme No. 5 be supported with proposed modifications to address issues raised in the submissions and that it be referred to the Western Australian Planning Commission for the approval of the Hon. Minister for Planning.**

CARRIED (8/0)

NO. 167/18

3.50pm Cr C Pavlovich returned to the meeting and resumed the Chair.

9.1.2 LOT 345 MARTIN STREET, MOUNT BARKER - HOUSE, WATER TANK AND OVERSIZE OUTBUILDING

File Ref: N45620

Attachments: [Location Plan](#)
[Subdivision Guide Plan](#)
[Site Plan](#)
[House Floor Plan](#)
[House Elevations](#)
[Outbuilding Plans](#)

Responsible Officer: Rob Stewart
Chief Executive Officer

Author: Vincent Jenkins
Acting Manager Development Services

Proposed Meeting Date: 14 August 2018

Applicant: Bouwman Constructions

John Fathers (Deputy Chief Executive Officer) is an employee of the Shire and an adjoining neighbour to the application site and has had no input into the preparation of the report or the recommendation.

PURPOSE

The purpose of this report is to consider a proposal for a house, water tank and oversized outbuilding at Lot 345 Martin Street, Mount Barker.

BACKGROUND

Council records show the registered owners of Lot 345 Martin Street are PJ and BA Bouwman and RM and SM King.

On 11 July 2018 the Council received an Application for Development Approval (DA) for the construction of a house, rain water tank and one 360m² oversized outbuilding at Lot 345 Martin Street.

The reason given by the proponent for the proposed outbuilding involves vintage vehicle restoration and wood working hobbies. Further reason includes the storage of three family vehicles, a tractor, agricultural and firefighting equipment and the periodical maintenance of a micro light aircraft.

The proposal was advertised for public comment to 10 adjoining and nearby landowners for a 14 day period closing on 2 August 2018. Three submissions were received from adjoining neighbours.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

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

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Rural Residential No. 3.

– Special Provisions include:

‘2.0 Objectives of the Zone

The purpose of the Rural Residential area is to retain the semi-rural character of the lower lying land adjacent to the Mt Barker residential area and to minimise the export of nutrients and encourage revegetation of cleared areas and areas adjacent to wetlands.’

‘3.0 Other incidental or non-defined activities considered appropriate by Council which are consistent with the objective of the zone.’

Schedule 1, Interpretations state:

‘Incidental Use - means the use of land in conjunction with and ancillary to the main use on the land;’

Clause 3.5 of TPS3 state:

‘3.5 RURAL RESIDENTIAL & RURAL SMALLHOLDING ZONE

AMD 37 GG 1/8/06

The following provisions shall apply specifically to all land included in the Rural Residential Rural Small Holding zones, in addition to any other provisions which are more generally applicable to such land under this Scheme:

(a) The objective of the Rural Residential and Rural Smallholding zones is to select areas within the rural areas wherein closer subdivision will be permitted to provide for conservation and retention of the rural and natural landscape, and provide for uses such as hobby farms, rural retreats and keeping of animals.’

Clause 5.2 of TPS3 provides the Council with the ability to vary development standards for development other than residential development. That power may only be exercised by the Council if it is satisfied that:

‘(a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;

(b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality; and

(c) the spirit and purpose of the requirement or standard will not be departed thereby.’

EXTERNAL CONSULTATION

The proposal was advertised for public comment to 10 adjoining and nearby landowners for a 14 day period closing on 2 August 2018. Three submissions were received from adjoining neighbours. One adjoining landowner raised no objection to the proposal. One other adjoining landowner raised no objection to the proposal subject to noise and vehicle movements are of the type and regularity consistent with personal hobbies only. A third adjoining landowner supported the proposal.

FINANCIAL IMPLICATIONS

The application fee of \$1,440.00 has been paid.

POLICY IMPLICATIONS

Town Planning Scheme Policy No. 16.3 (Outbuildings) limits outbuildings to a maximum wall height of 4.2m and a maximum cumulative floor area of 200m² for Rural Residential zones. The floor area of this proposed outbuilding is 360m² with a wall height of 4.1. The Council must have regard to a Town Planning Scheme Policy but is not bound to adhere to it where a variation is considered reasonable.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.2 (Appropriate development which is diverse in nature and protects local heritage) the following Strategy:

Strategy 2.2.2:

‘Ensure quality, consistent and responsive development and building assessment approval processes and enforcement’

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

The Shire of Plantagenet Corporate Business Plan 2016/2017 – 2020/2021 includes Action 2.2.2.1:

‘Guide local development in accordance with the Planning Scheme.’

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

OFFICER COMMENT

Lot 345 is 3.61ha in area and located in the Rural Residential zone. The approved Subdivision Guide Plan for the Rural Residential zone indicates a potential subdivision of Lot 345 into three lot parcels involving areas of 1.1ha, 1.2ha and 1.3ha. Considering the proposed development location, the house, water tank and outbuilding will be located at the 1.2ha land parcel which adjoins Martin Street. The approved Subdivision Guide Plan further indicates a development exclusion area for the Rural Residential zone. However, the development exclusion area does not impact the property.

The proposed house is a single storey building involving two self-contained units under one roof space. The house is designed for the purpose of inter-generational living. The house contains two living/dining room areas, two kitchens, six bedrooms, three ensuite bathrooms, one other bathroom and two laundry areas. The house is 432.89m² in area and further includes one study room, one media room and single and double garages. The house conforms to the building design, material, colour and setback special provisions for this Rural Residential zone set in TPS3.

The proposal further involves the erection of a 150,000 litre Pioneer woodland grey Colorbond® water tank for the provision of potable water. The water tank conforms

to the building design, material, colour, setback and water supply special provisions for this Rural Residential zone set in TPS3.

The proposal also involves the construction of one outbuilding of 360m² (18m x 20m) with a 4.1m wall height. The proposed outbuilding will be constructed in woodland grey Colorbond®. The outbuilding conforms to the building design, material, colour and setback special provisions for this Rural Residential zone set in TPS3.

No difficulties are seen with the maximum cumulative floor area of the outbuilding being 360m² and the wall height of the outbuilding being 4.1m given the size of the lot being 3.61ha. Subject to appropriate conditions the proposal is supported.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr K Clements:

That in accordance with clause 5.2 of the Shire of Plantagenet Town Planning Scheme No. 3 and clauses 66, 67, 68 and 70 to 74 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 the house, water tank and outbuilding at Lot 345 Martin Street, Mount Barker be approved which will mean a maximum floor area for the outbuilding being 360m² which is in excess of the 200m² stated in Town Planning Scheme Policy 16.3 (Outbuildings), subject to:

- 1. The development being in accordance with plans dated 11 July 2018.**
- 2. The external colour scheme for the house, water tank and outbuilding being to the satisfaction of the Manager Development Services and is to comply with the Rural Residential No.3 zone provisions.**
- 3. The existing house and two outbuildings at the property being demolished and removed from the property prior to the new house and outbuilding being constructed.**
- 4. No building or construction services being permitted at the property other than the construction of buildings and structures for which the Council granted development approval at the property.**

Advice Note:

- 1. For the purpose of this Development Approval building and construction services mean the storage of building material or goods, architectural work (including drafting and design), building of room components (for example, kitchens, bathroom components, laundry components, cupboards and similar components), cabinet making (including joinery and off-site fabrication for installation at a building site), decorating, demolition, drainage construction work, earthworks, electrical construction, engineering, erection of frames, erection of scaffolding, excavation and grading, fencing, flooring (for example, tiling, laying carpet, laying linoleum, timber flooring, floating floors, resilient flooring, slate tiles, and similar flooring), foundation work, gas plumbing, glass**

and glazing work, hanging or installing doors, installation of fittings, installation of hard-wired alarm systems (security, fire, smoke and similar alarms), installation of hot water systems, installation of pre-fabricated components (for example, kitchens, bathroom components, laundry components, cupboards and similar components), installation of solar devices (for example, hot water or electricity connections), installation of tanks, installation of window frames, installation of windows, installation or work on devices for heating and cooling, insulation work (walls, roofs, windows and similar structures), irrigation system construction, land clearing, landscaping construction (including paving), levelling sites, preparation of construction sites, rendering (or other internal or external surface finishes), retaining wall construction, roofing and guttering, stonework, tiling (walls and similar structures), timber work, wallpapering, waterproofing interior and exterior surfaces, weatherboarding.

CARRIED (9/0)

NO. 168/18

9.1.3 LOT 500 (RESERVE 7694) LOWOOD ROAD, MOUNT BARKER - SHIRE ADMINISTRATION BUILDING ENTRY STATEMENT UPGRADE

File Ref:	N46210
Attachments:	<u>Location Plan</u> <u>Seating Structure Refurbishment Plan</u>
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Vincent Jenkins Planning Officer
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is for the Council to give the Chief Executive Officer authority to proceed to refurbish the entry statement involving the seating structure at the front of the Shire Administration Office building.

BACKGROUND

The seating structure and entry statement at the front of the Administration Office near the flag poles has become a repository for waste and litter due to it not being enclosed. Also, some infrastructure (underground power and reticulation) can be prone to vandalism, again as it is exposed.

It is proposed to alter the current seating arrangement by including a small platform to be used as a 'stage' without losing any of its seating usefulness.

STATUTORY ENVIRONMENT

Land Administration Act 1997

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – zoned Local Scheme Reserve (Public Purpose – Council)

Transfer of Land Act 1893 – Lot 500 (Reserve 7694) is a Crown Reserve with a Management Order in favour of the Council for the purpose of 'Hall Site, Parking Area and Park'.

FINANCIAL IMPLICATIONS

A quotation for the structure is \$5,773.90 (inc GST). However, the quotation does not include electrical work which is estimated to be approximately \$500.00. Funding for this sum is not included in the Council's 2018-2019 Budget.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

ASSET MANAGEMENT IMPLICATIONS

Lot 500 (Reserve 7694) is a Crown Reserve with a Management Order in favour of the Council for the purpose of 'Hall Site, Parking Area and Park'.

STRATEGIC IMPLICATIONS

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

Strategy 2.5.1:

'Ensure Council buildings, facilities and public amenities are provided and maintained to an appropriate standard'

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

The Shire of Plantagenet Corporate Business Plan 2016/2017 – 2020/2021 includes Action 2.5.1.1:

'Ensure all Council buildings are maintained and secured to defined service levels (In line with Asset Management Plan and Building Maintenance Program)'

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

OFFICER COMMENT

The proposal involves removing the old timber seating and transforming the area into a small 'stage'. The 'stage' construction will retain the current brickwork and introduce new treated pine framework and non-slip surface jarrah decking for the 'stage' floor. Steps will provide access to the 'stage' area and a lockable trapdoor in the 'stage' floor will provide access to the underlying infrastructure.

Further upgrades will include power point installation and painting the entry statement structure. The proposed upgrade will contribute positively to the visual and public amenity and improve utility protection.

Once completed, uses for the 'stage' will include official events such as the annual Blessing of the Roads campaign and may include informal uses such as a Speakers' Corner where anyone can turn up unannounced and talk on almost any subject.

As the structure will be less than 1m in height, protective hand railing will not be required.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr S Etherington, seconded Cr B Lang:

That the Chief Executive Officer be authorised to proceed to refurbish the entry statement involving the seating structure at the front of the Shire Administration Office building at Lot 500 (Reserve 7694) Lowood Road, Mount Barker.

MOTION TO ADJOURN THE QUESTION

Moved Cr J Oldfield, seconded Cr B Bell:

That the question be adjourned so that consideration for the funding of this project can occur during deliberations for the 2019/2020 budget.

CARRIED (8/1)

NO. 169/18

Cr O'Dea voted against the motion.

9.2 WORKS AND SERVICES REPORTS

9.2.1 TRANSFER STATIONS - ACCEPTANCE OF NON-PUTRESCIBLE WASTE

File Ref:	N46220
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	David Lynch Manager Works and Services
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is to consider reinstating the acceptance of car bodies, white goods, other metal and e-waste at the Council's Waste Transfer Stations.

BACKGROUND

The Council at its meeting held on 17 July 2018 resolved:

'That:

- 1. As of 1 August 2018, green waste be accepted at the Rocky Gully Waste Transfer Station; and*
- 2. The question of acceptance of car bodies, white goods, other metals and e-waste be addressed in a further report for consideration at the Ordinary Meeting of the Council to be held 14 August 2018.'*

Prior to this, at the Council Meeting of 23 May 2017 it was resolved that tyres, e-waste, steel waste, household furniture and green waste would only be accepted at the O'Neill Road Waste Management Facility and the Kendenup Waste Transfer Station.

Records indicated that this resolution likely came about following a workshop discussion regarding the economics of collecting waste from outlying transfer stations.

STATUTORY ENVIRONMENT

Waste Avoidance and Resource Recovery Act 2007, Part 6, Division 1 – 'Services provided by local governments'

FINANCIAL IMPLICATIONS

The Council's Schedule of Fees and Charges details the following charges to dispose of items at a Waste Management Facility. The cost is per m³ or part thereof:

Car body (per item)	\$78.85
White goods	\$15.77
Metal	\$15.77
E-Waste	\$15.77

As a general rule, steel waste and white goods are collected by external contractors and transported to Perth for recycling. Whilst the values of these items are shaped

by the commodity prices at the time of collection, the Shire has been paid between \$40.00 and \$70.00 a tonne for the last three years. Since 2015, the Shire has received an income of \$58,380.00 from steel waste recycling contractors. Prior to this the Shire has had to 'hang on' and store steel waste for significant periods of time until the commodity prices have made it financially viable to sell.

E-waste items are also transported to Perth by external contractors for recycling. Transport is the largest cost in this process and the latest price indication the Shire has for transport of two 43m³ hook lift bins is \$1,650.00 (ex GST). This will be sufficient to remove the existing pile at O'Neill Road which has been accumulating for the last three to four years. Computers and televisions incur no further cost to recycle other than transport; however any other item (i.e. mobile phones, microwave, hairdryer etc.) attracts a further recycling charge of \$0.79 per kilogram upon the initial transport cost.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.9 (Integrated waste management) the following:

Strategy 2.9.2:

'Manage existing waste disposal sites and transfer station in accordance with legislative requirements.'

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

The Shire of Plantagenet Corporate Business Plan 2016/2017 – 2020/2021 includes Action 2.9.2.2:

'Provide waste facilities that are readily accessible to all stakeholders.'

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

OFFICER COMMENT

Council records show that the last time Sims Metal collected steel from all Waste Management Facility sites in August/September 2016 they collected the following:

- Rocky Gully – 29 tonnes
- Porongurup – 25 tonnes
- Kamballup – 40 tonnes
- Kendenup – 134 tonnes
- O'Neill Rd – 362 tonnes

The pick-up of steel before this was in October 2014, with no pick up from Kamballup or Rocky Gully. The only details the Environmental Coordinator (EC) can find for any record of steel waste before 2015 at Rocky Gully was an estimated drop-off amount of 13m³ in the 2014/15 licence year and an estimated drop-off amount of 25m³ in the 2015/16 licence year. Shire staff believe that a similar volume was collected from Kamballup during the same time periods.

Although the tonnages at the outlying Waste Transfer Stations (WTS) are minimal they are still significant if considered in the context of what happens to the waste if it is not collected, or there is no 'viable' alternative in the minds of some residents. For some people it is undoubtedly easier to discard unwanted waste into the bush rather than travel 40 to 70km (Kamballup or Rocky Gully) to O'Neill Road that will accept the waste, or wait the few days until a WTS opens.

Following is a summary of each waste facility within the Shire:

O'Neill Road Waste Management Facility

O'Neill Road accepts all types of waste and therefore there is no recommended change of acceptance at this facility.

However staff have suggested exploring an operational change to the acceptance of asbestos material and in particular small bits of incidental asbestos that are most likely found as a result of house clean-ups or small renovations. The suggestions is to provide a small plastic IBC (lidded) that members of the public can drop off minor amounts of asbestos (<20L) at minimal cost provided that it is wrapped appropriately.

Operationally, plastic asbestos bags could be made available over the front counter at the Shire Administration Office for \$5.00 (the bags cost \$1.00) for those interested in the service. Assuming that each bag holds no more than 20L of small asbestos, a charge of \$5.00 per bag equates to a total cost of \$250.00 per cubic metre of asbestos disposed of in this manner. The current fees and charges for a bulk disposal of asbestos is \$197.12 per cubic metre or part thereof. At this level this new option is not an alternative to asbestos disposal in bulk, but sufficiently low that it is attractive for householders to take up the service.

As per the landfill licence requirements, residents would need to fill in the asbestos register with their name, location of where the asbestos originated and the amount of asbestos for disposal before they were handed a bag. Only bags that have been sold over the counter and marked by Administration staff with a name and date would be accepted by tip staff at O'Neill Road for disposal.

The MWS believes that if this service is advertised it may reduce the increasing incidence of asbestos being found in the putrescible waste stream, causing compliance issues and one Improvement Notice from Worksafe earlier in the year.

Rocky Gully

Rocky Gully currently accepts putrescible waste and co-mingled recycling. Green waste will again be accepted at this site from 1 August 2018. It was at the 17 July 2018 Council meeting that the Manager Works and Services (MWS) initiated the discussion about the issue of steel waste accumulating in reserves outside of Rocky Gully.

Since the July Council meeting a partial clean-up of illegally dumped steel waste (car bodies, fencing wire) and white goods from a reserve adjacent to the Rocky Gully town site has occurred. Approximately half this waste was picked up on 23 July 2018 by Shire works crew at a cost of \$6,312.00. The operation required three trucks (2 x 6 wheelers, 8 tonne Hino), the low loader, the Cat 924 loader and five staff members. A similar amount will be needed to collect the remainder of the waste illegally dumped in this location.

The waste collected was dumped in the last 12 months. In late 2017, the MWS and EC visited the site after receiving reports of dumping and noted two vehicles and a

washing machine. This has since increased to four car bodies, a large quantity of fencing wire, white goods and assorted refuse including green waste.

Rocky Gully has a large fenced area that has sufficient space to accommodate a reasonable quantity of steel waste and white goods, but in the opinion of the MWS the volume that is available is unlikely to be attractive to a contractor for annual pickup. Therefore Council staff would be required to transport the material back to O'Neill Road on an as needed basis. This is likely to only be annually and can be accommodated without affecting other Works programmes, especially when compared to retrieving illegally dumped metal waste from surrounding vegetated reserves.

The small amount of e-waste expected at Rocky Gully could be managed by storing it separately on-site and Works staff collecting it on an ad-hoc basis if they are in the area on other tasks and returning it to O'Neill Road for collection by contractors.

The MWS has also corresponded with the Shire of Cranbrook regarding opening up the Frankland Waste Site to Rocky Gully residents wishing to drop off steel waste. No objections were made but the overall issue would be a matter for discussion at a future VROC meeting. Expanding on this theme it may even be more efficient overall to divert the entire rubbish stream to Frankland if agreement can be reached on operational and economic matters.

Kamballup Transfer Station

In many ways Kamballup is in a similar situation to the Rocky Gully. It is relatively isolated and serves a relatively large area with the catchment reaching 20kms to the east. Although the catchment area is large it is not particularly populated so waste receipt is relatively low.

Kamballup has been recorded as accepting similar volumes of steel waste in the past to Rocky Gully but no recent dumping has been noted since various waste streams were no longer accepted. The MWS believes this has a lot to do with the demographics of the area comprising large farms with little need for this facility. A lot of steel waste has likely been stored on-farm.

The EC suggests that instead of accepting steel waste at all opening times, a trial be conducted whereby a hook lift bin is brought into the site for two weeks every three to six months following advertising in a manner similar to Chem Clear pick-ups. The latter gets a very good response in the area and at this stage there is no reason to believe that such a measure with steel waste would be any less effective.

The only issue that the MWS can see with this approach is one of scale. A farmer cleaning up a scrap pile on their farm would overwhelm a hook lift bin in a single trip, even if some method of getting it off the truck into the bin was found. Any acceptance of steel waste would have to be limited to that which can be lifted off a ute or trailer and placed by hand into the bin for disposal. Anything larger should be diverted to the O'Neill Road.

Kendenup Waste Transfer Station

This site already accepts most waste streams and no expansion is suggested. The only recent difference in operations at Kendenup has been the trial installation of a hook lift bin hired from Cleanaway for the collection of furniture. This extra bin costs \$50.00 per week and \$2,600 per annum to hire. Prior to this new situation furniture was being placed in the green waste pile and burnt, which was a License non-compliance issue (not allowed to burn plastics).

The annual rental cost of the bin was compared to the cost of having Works staff physically having to pick up the furniture from the ground and placing into a truck and found to be favourable. In comparison to a rental, the cost to manufacture a new hook lift bin is in the order of \$27,000.00 (i.e. >10 years rent).

Porongurup Waste Transfer station

There is very limited space available at Porongurup for acceptance of any additional waste types. Considering that no significant problems have been reported with dumping in the area, no change in process is suggested for this site.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Lang, seconded Cr S Etherington:

That:

- 1. As of 1 October 2018, steel waste and e-waste be accepted at the Rocky Gully Waste Transfer Station for a twelve (12) month trial period.**
- 2. At the conclusion of the twelve (12) month trial period a further report be prepared for Council consideration with regard to the extension of acceptance or otherwise of steel waste and e-waste.**

CARRIED (8/1)

NO. 170/18

Cr Moir voted against the motion

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr K Clements, seconded Cr B Lang:

That:

- 1. The 2018/19 adopted Council Budget Fees and Charges be amended to include a new fee of \$5.00 to cover disposal of asbestos up to 20L or part thereof at the O'Neill Road Waste Management Facility.**
- 2. Prior to the new fee being imposed, Local Public Notice be given pursuant to Section 6.19 of the Local Government Act 1995 of the Council's intention to impose a fee and the date from which that fee will be imposed.**

CARRIED (9/0)

NO. 171/18

Absolute Majority

9.3 COMMUNITY SERVICES REPORTS

9.3.1 KARRI OAK AIRSTRIP

File Ref:	N46120
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Fiona Pengel Manager Community Services
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is to recommend to the Council that the workshop position of 18 July 2017 relating to Karri Oak Airstrip be confirmed.

BACKGROUND

At a Council workshop relating to Karri Oak Airstrip held on 18 July 2017, the consensus position was that the Karri Oak location may not be an optimal location and possibly the Cranbrook Airstrip was a better location strategically.

The conclusion of the workshop was that no further report was required and that the matter of further development of the Cranbrook strip would be raised at the next full meeting of the Voluntary Regional Organisation of Council (VROC).

Subsequently, at the meeting of the Council held 15 August 2017 it was resolved:

'That:

- 1. The Chief Executive Officer explore the feasibility of establishing an airstrip North of Mount Barker in collaboration with the Shire of Cranbrook for the primary use of supporting water bombers.*
- 2. This issue be brought to discussion with our Voluntary Regional Organisation of Council partners.'*

Crucially, no final position to Karri Oak has been formally determined

At the meeting of the full VROC held on 14 May 2018, the Shire of Cranbrook reported that they were proceeding with an application to the Regional Airport Development Scheme (RADS) for the development of a masterplan for the Cranbrook airstrip.

At its meeting on 2 May 2018, the Shire of Plantagenet BFAC made the following recommendation:

'That the Council considers tenure, management and upgrade of the Karri Oak airstrip (Eulup-Manurup Road) to support the use of water bomber aircraft during extended firefighting situations where bomber cover is warranted.'

The reason for the above motion was given as follows:

'It is a known fact that once the water bombers are travelling over 30 kilometres from an airstrip to the fireground there effectiveness diminishes rapidly due to the time taken between water drops. (Reference: Department of Biodiversity, Conservation and Attractions.)

The Shire needs to have long term tenure and therefore management of the airstrip so that available grants for upgrades can be applied for.

Even though in recent years we have not has a major fire that has required constant use of the water bombers for several hours or more, we cannot guarantee that this will be the case in the future.

Availability of Karri Oak airstrip would be a step towards the forward planning for fire protection of the rural and urban residents in the most vulnerable areas to the north of Mount Barker, in the Shire of Plantagenet'.

STATUTORY ENVIRONMENT

Bush Fires Act 1954 refers to the Bush Fire Advisory Committee and that the Committee's role is;

'...advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires...and any other matter relating to bush fire control...'

EXTERNAL CONSULTATION

This report has been prepared as a result of the Shire of Plantagenet Bush Fire Advisory Committee recommendation referred to above.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

STRATEGIC IMPLICATIONS

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

Strategy 1.9.2:

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

And;

Strategy 1.9.4:

'Promote and support planning and activities that encourage a safe and responsible community'

Provided that the Council is happy that the above strategies are satisfied, the recommended outcome for this report aligns with the Strategic Community Plan.

REGIONAL IMPLICATIONS

Albany, Cranbrook, Denmark and Manjimup each has a public airstrip. The Shire of Cranbrook is proceeding with an application to the Regional Airport Development Scheme (RADS) for the development of a masterplan for the Cranbrook airstrip.

OFFICER COMMENT

Given the comments and direction offered by the Council at the workshop held 18 July 2017 and the subsequent motion at the Council's meeting held on 15 August 2017, this report serves to formalise the Council's position.

However, in light of the motion from the BFAC held 2 May 2018, it is necessary to respond and provide a policy position.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That with regard to the development of an airstrip for the use of fire bombing aircraft, the Shire of Plantagenet believes that:

1. Due to the proximity of water bombers in Albany; and
2. The cost of developing and maintaining an airstrip

the development of such a facility within the Shire of Plantagenet is not warranted.

ALTERNATIVE RECOMMENDATION

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

That the Council agrees that Karri Oak airstrip will be used as an emergency water bomber refilling site, subject to:

- a) The CEO preparing a report listing costs likely to be expended in the next five years to maintain the Karri Oak airstrip as it is and fit for purpose only as a refilling site for water bombers.**
- b) The CEO being able to enter into discussions with the owners of Karri Oak for this site as an emergency water bomber refilling site, noting the letter mentioned in the minutes of the Fire Advisory Meeting in May of this year. These discussions to point towards a joint agreement or other such agreement that will ensure that both parties are treated fairly and return on investment is achieved.**
- c) The abovementioned report and agreement be available to the Council for consideration no later than its October 2018 meeting.**

Reasons for Change:

The initial report does not adequately address the issues involved on this matter. There are no costings, there is no reference to the unanimous decision of the Fire Advisory Committee and based on that decision it does not reflect the will of the whole fire fighting organisation within the Shire. The initial report points to the proximity of Albany being close, however it is more than 30 minutes TURN AROUND time away from fires in the west and north of the Shire of Plantagenet. The report also points to the costs yet it doesn't note the minimal cost of tenure over this proposed water bomber base for emergency use only as listed in the signed letter from Mr Quenby.

AMENDMENT

Moved Cr B Bell, seconded Cr J Oldfield:

That in part c) the words 'and agreement' be deleted from the first line.

LOST (3/6)

Crs B Lang, K Clements, L Handasyde, S Etherington,
M O'Dea and C Pavlovich voted against the motion.

COUNCIL DECISION

The Motion was put.

CARRIED (6/3)

NO. 172/18

Crs J Moir, B Bell and C Pavlovich voted against the motion

4.44pm Cr L Handasyde left the meeting.

9.4 CORPORATE SERVICES REPORTS

9.4.1 FINANCIAL STATEMENTS – JULY 2018

File Ref:	N46140
Attachment:	Financial Statements
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Alison Kendrick Senior Administration Officer - Finance
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 31 July 2018.

STATUTORY ENVIRONMENT

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

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

The Statement is to be accompanied by:

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

VOTING REQUIREMENTS

Simple Majority

4.45pm Cr L Handasyde returned to the meeting

OFFICER RECOMMENDATION/COUNCIL DECISION

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

That the Financial Statement for the period ending 31 July 2018 be received.

CARRIED (9/0)

NO. 173/18

9.4.2 LIST OF ACCOUNTS – JULY 2018

File Ref:	N46181
Attachment:	List of Accounts - July 2018
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Emma Gardner Accounts Officer
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of July 2018.

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 (22 May 2018). 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 L Handasyde, seconded Cr S Etherington:**

That in accordance with Regulation 13 (1) of the Local Government (Financial Management) Regulations 1996, the list of payments made under delegated authority for the month ended 31 July 2018 be received and recorded in the minutes of the Council, the summary of which is as follows:

- 1. Electronic Payments and Direct Debits totalling \$615,727.12;**
- 2. Municipal Cheques 44637 to 44649, 44651 and 46295 to 46298 totalling \$43,076.41;**
- 3. Cancelled Cheque 44650; and**
- 4. Trust Cheques 462 to 466 totalling \$1200.00.**

CARRIED (9/0)**NO. 174/18**

9.4.3 LOT 81 MCDONALD AVENUE, MOUNT BARKER – LEASE TO MOUNT BARKER TURF CLUB INCCr C Pavlovich

Item: 9.4.3
Type: Closely Associated Person (Section 5.62 LGA)
Nature: Closely Associated Person
Extent: Father is part owner of neighboring property.

4.47pm Cr Chris Pavlovich withdrew from the meeting and
Cr J Oldfield assumed the Chair as Presiding Member

File Ref: N45578
Attachment [Lease – Lot 81 McDonald Avenue, Mount Barker – Mount Barker Turf Club Inc](#)
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: Donna Fawcett
Senior Administration/Human Resources Officer
Proposed Meeting Date: 14 August 2018

PURPOSE

The purpose of this report is to seek the Council's endorsement of a lease between the Shire of Plantagenet and the Mount Barker Turf Club Incorporated (MBTC) for Lot 81 McDonald Avenue, Mount Barker, for the purpose of an equine training track.

BACKGROUND

Lot 81 McDonald Avenue, Mount Barker is owned in fee simple by the Shire of Plantagenet.

At its meeting held on 13 October 2009, the Council endorsed the Frost and Sounness Parks – Precinct Development Plan. This plan identified Lot 81 as a future race course training track.

At the time, there was a lease in place with Integrated Tree Cropping Limited for an established tree farm. The trees were harvested in December 2010 and the lease was thereupon terminated.

At its meeting held on 8 February 2011, the Council approved a proposal by the MBTC to construct a horse stable complex on the property, subject to a number of conditions. It was indicated that the stables would be used by race horse trainers wishing to locate to the Great Southern region for the summer racing season. A licence was entered into for that use.

In 2015, the MBTC was permitted to enlarge an existing dam on the property to enhance the water supply to the Frost Park race course, for which it received a grant from the Great Southern Development Commission. The MBTC intends to further develop the sand track and it is appropriate to formalise the use of the track and the water supply within a lease.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 3.58 relates to a disposition of local government property.

Local Government (Functions and General) Regulations 1996

Regulations 30 and 31 govern the disposal of land.

Under the regulations a disposition of land is an exempt disposition, and is excluded from the application of section 3.58, if the land is disposed of to a body, whether incorporated or not the objects of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or like nature; and the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions.

Given the above, the disposal of this land is exempt from the requirements of section 3.58 of the Act.

FINANCIAL IMPLICATIONS

The draft lease provides for a peppercorn rental.

POLICY IMPLICATIONS

The lease provides that the tenant must pay the rates levied against the premises. The Shire may, at its discretion, waive the payment of such rates.

Policy A/PA/14 Sporting and Community Organisations Using Council and Vested Land – Rateability, refers to the rateability of Council land leased to external organisations and the extent of any waiver of rates.

Organisations in the category of 'Other Service Organisation/Sporting Club' are to be given either a 50% or 100% waiver on their rates to reflect that there is some level of community benefit provided. The decision is to be made by the Council when the respective leases are renewed.

The degree to which rates should be waived for each of these is considered on a case by case basis, but as a guide the following factors are to be considered:

- Benefits to the Shire as a whole of activities being provided;
- Number of active participants or people benefitting;
- Structure of organisation (ie: not for profit or other, membership fees payable, base of operations);
- Ability to recoup costs, such as commercial kitchen, bar or fee for service.
- Exclusion/inclusion of sections of the community.

The MBTC is an incorporated, not for profit entity. However, given that the use of this property will likely be by a small number of race horse trainers, a 50% waiver is considered generous.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 1.5 (Recreation, sporting and leisure facilities that support the wellbeing of the community) the following Strategy:

Strategy 1.5.4:

'Promote the development of Frost Park as a major equine centre in the Great Southern Region.'

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

COMMENT

The lease provides for the MBTC to, at its sole cost, develop and maintain the sand track. It acknowledges that the MBTC dam, pump (and the water therein), and pipeline are owned by the MBTC.

The lease also notes that the Shire intends to build a second dam and pipework on the Land in the areas marked on the Plan. Any Shire improvements are excluded from the lease and the tenant is prohibited to use them (including drawing water from the dam and proposed dam) without the Shire's permission.

The MBTC will have to provide all access to the land required to the Shire for construction of the proposed improvements.

Other main lease terms are:

- Term - 5 years.
- Rent - \$1.00 per annum payable on demand.
- Permitted Use - Equine training track and stabling for up to 72 hours.

The MBTC has had input into the lease terms and is satisfied with them.

At a future date, it is expected that the MBTC will seek a lease over Frost Park.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr B Lang:

That:

- 1. Authority be granted to the Shire President and Chief Executive Officer to affix the Common Seal of the Council to the lease agreement between the Shire of Plantagenet and the Mount Barker Turf Club Incorporated for Lot 81 McDonald Avenue, Mount Barker, for the purpose of an equine training track; and**
- 2. For the purposes of interpreting Council Policy A/PA/14 'Sporting and Community Organisations using Council and Vested Land – Rateability', a 50% waiver of annual levied land rates shall apply.**

CARRIED (8/0)

NO. 175/18

5.01pm Cr Pavlovich returned to the meeting and resumed the Chair

9.4.4 POLICY REVIEW - CODE OF CONDUCT

File Ref:	N46157
Attachments:	Model Code of Conduct
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Donna Fawcett Senior Administration/Human Resources Officer
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is to review Council Policy OP/HRP/3 – Code of Conduct.

BACKGROUND

The policy was last reviewed at the Council meeting held on 16 August 2016.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Administration) Regulations 1996

The requirements to establish and maintain a Code of Conduct are dealt with in Section 5.103 of the Act and Sections 34B and 34C of the Regulations.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

Strategy 4.1.3:

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

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

STRATEGIC RISK IMPLICATIONS

The Shire’s Strategic Risk Register includes a number of risks relating to conduct of elected members and employees, as listed below:

4.2.4 Ineffective political leadership;

4.5.1 Corruption and Bribery;

4.6.1 Misuse of Confidential Information;

4.7.1 Failure to declare interests;

4.9.1 Improper conduct of members and key employees; and

5.2.1 Ineffective organisational development.

OFFICER COMMENT

A change has been made to the Model Code of Conduct by the Western Australian Local Government Association (WALGA).

A new clause 4.8 has been added, relating to personal communications and personal social media use by elected members and employees. The clause notes that personal communications and statements made privately in emails or posted in personal social media have the potential to be made public, whether it was intended to be made public or not.

Therefore, on the basis that personal or private communications may be shared or become public at some point in the future, Elected Members and Employees will ensure that their personal and private communications do not breach the requirements of this Code of Conduct and for Elected Members, the Local Government (Rules of Conduct) Regulations 2007.

Further, employees will not, unless specifically authorised to do so, disclose information, make comments or engage in communication activities about or on behalf of the local government, its elected members, employees or contractors, which breach this Code of Conduct.

Also, a new paragraph (vi) has been added to Subclause 4.1 (a), requiring employees to report to the workplace 'fit for work'. The inclusion of this paragraph is recommended in the Public Sector Commission's published guidelines on model codes of conduct for local government.

Finally, any bullet points within the policy have been removed and replaced with identifiable numbering.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

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

That amended Council Policy OP/HRP/3 – Code of Conduct, as follows:

'PREAMBLE

The Model Code of Conduct provides Council Members, Committee Members and employees in Local Government with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in individual Local Governments.

The Model Code is complementary to the principles adopted in the Local Government Act and regulations which incorporates four fundamental aims to result in:

- a) better decision-making by local governments;**
- b) greater community participation in the decisions and affairs of local governments;**

- c) greater accountability of local governments to their communities; and
- d) more efficient and effective local government.

The Code provides a guide and a basis of expectations for Council Members, Committee Members and employees. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

STATUTORY ENVIRONMENT

The Model Code of Conduct observes statutory requirements of the Local Government Act 1995 (S 5.103 – Codes of Conduct) and Local Government (Administration) Regulations 1996 (Regs 34B and 34C).

RULES OF CONDUCT

Council Members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007.

1. ROLES

1.1 Role of Council Member

The primary role of a Council Member is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Local Government will be the focus of the Council Member's public life.

The Role of Council Members as set out in S 2.10 of the Local Government Act 1995 follows:

'A Councillor —

- a) Represents the interests of electors, ratepayers and residents of the district;*
- b) provides leadership and guidance to the community in the district;*
- c) facilitates communication between the community and the council;*
- d) participates in the local government's decision-making processes at council and committee meetings; and*
- e) performs such other functions as are given to a Councillor by this Act or any other written law.'*

A Council Member is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Council Members activities will focus on:

- a) achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- b) achieving sound financial management and accountability in relation to the Local Government's finances;
- c) ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- d) working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- e) having an awareness of the statutory obligations imposed on Council Members and on Local Governments.

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

1.2 Role of Employees

The role of employees is determined by the functions of the CEO as set out in S 5.41 of the Local Government Act 1995:

'The CEO's functions are to:

- a) *advise the council in relation to the functions of a local government under this Act and other written laws;*
- b) *ensure that advice and information is available to the council so that informed decisions can be made;*
- c) *cause council decisions to be implemented;*
- d) *manage the day to day operations of the local government;*
- e) *liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- f) *speak on behalf of the local government if the mayor or president agrees;*
- g) *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);*
- h) *ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- i) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.'*

1.3 Role of Council

The Role of the Council is in accordance with S 2.7 of the Local Government Act 1995:

- '1) The council —*
 - a) *governs the local government's affairs; and*
 - b) *is responsible for the performance of the local government's functions.*
- 2) Without limiting subsection (1), the council is to —*
 - a) *oversee the allocation of the local government's finances and resources; and*
 - b) *determine the local government's policies.'*

1.4 Principles affecting the employment of employees by the Shire

The following principles, set out in section 5.40 of the Act, apply to the employment of the Shire's employees:

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity; and
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and
- (c) employees are to be treated fairly and consistently; and

- (d) there is to be no unlawful discrimination against employees or persons seeking employment by the Shire on a ground referred to in the Equal Opportunity Act 1984 or on any other ground; and
- (e) employees are to be provided with safe and healthy working conditions in accordance with the Occupational Safety and Health Act 1984; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

1.5 Relationships between Council Members and Employees

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Council Members and employees have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies. To achieve that position, Council Members need to observe their statutory obligations which include, but are not limited to, the following:

- a) accept that their role is a leadership, not a management or administrative one;
- b) acknowledge that they have no capacity to individually direct members of staff to carry out particular functions;
- c) refrain from publicly criticising employees in a way that casts aspersions on their professional competence and credibility.

2. CONFLICT AND DISCLOSURE OF INTEREST

2.1 Conflict of Interest

- a) Council Members, Committee Members and employees will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- b) Employees will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Local Government, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- c) Council Members, Committee Members and employees will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the local government district or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- d) Council Members, Committee Members and employees who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- e) Employees will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti-discriminatory legislation.

2.2 Financial Interest

Council Members, Committee Members and employees will adopt the principles of disclosure of financial interest as contained within the Local Government Act.

2.3 Disclosure of Interest

Definition:

In this clause, and in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996 -

'interest' means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

- a) A person who is an employee and who has an interest in any matter to be discussed at a council or committee meeting attended by the person is required to disclose the nature of the interest -
 - (i) in a written notice given to the CEO before the meeting; or
 - (ii) at the meeting immediately before the matter is discussed.
- b) A person who is an employee and who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the person is required to disclose the nature of any interest the person has in the matter -
 - (i) in a written notice given to the CEO before the meeting; or
 - (ii) at the time the advice is given.
- c) A requirement described under items (a) and (b) exclude an interest referred to in S 5.60 of the Local Government Act 1995.
- d) A person is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if -
 - (i) the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or
 - (ii) the person's failure to disclose occurs because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.
- (e) If a person who is an employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then
 - (i) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
 - (ii) immediately before a matter to which the disclosure relates is discussed at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present.
- (f) If -
 - (i) to comply with a requirement made under item (a), the nature of a person's interest in a matter is disclosed at a meeting; or
 - (ii) a disclosure is made as described in item (d)(ii) at a meeting; or

- (iii) to comply with a requirement made under item (e)(ii), a notice disclosing the nature of a person's interest in a matter is brought to the attention of the persons present at a meeting, the nature of the interest is to be recorded in the minutes of the meeting.

3. PERSONAL BENEFIT

3.1 Use of Confidential Information

Council Members, Committee Members and employees will not use confidential information to gain improper advantage for themselves or for another person or body in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm or detriment to any person, body or the Council.

Due discretion shall be exercised by all those who have access to confidential or sensitive information. Every matter dealt with by, or brought before, a meeting sitting behind closed doors, shall be treated as strictly confidential, and shall not without the authority of the Council be disclosed to any person other than the Council members and/or employees of the Shire (and in the case of employees only so far as may be necessary for the performance of their duties) prior to the discussion of the matter at a meeting of the Council held with open doors.

Nothing in this section prevents a Council member or officer from disclosing confidential information:

- a) to a legal practitioner for the purpose of obtaining legal advice; or
- b) if the disclosure is permitted by law.

3.2 Intellectual Property

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Local Government upon its creation unless otherwise agreed by separate contract.

3.3 Improper or Undue Influence

Council Members and employees will not take advantage of their position to improperly influence other Council Members or employees in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

Council Members, Committee Members and employees shall not take advantage of their position to improperly influence any other person in order to gain undue or improper (direct or indirect) advantage or gain, pecuniary or otherwise, for themselves or for any other person or body. Similarly, Council members, committee members and employees shall not take advantage of their positions to improperly disadvantage or cause detriment to the local government or any other person.

3.4 Gifts - Employees

Definitions :

In this clause, and in accordance with Regulation 34B of the Local Government (Administration) Regulations 1996 -

'activity involving a local government discretion' means an activity -

- a) that cannot be undertaken without an authorisation from the local government; or***
- b) by way of a commercial dealing with the local government;***

'gift' has the meaning given to that term in S 5.82(4) except that it does not include -

- a) a gift from a relative as defined in S 5.74(1); or***
- b) a gift that must be disclosed under Regulation 30B of the Local Government (Elections) Regulations 1997; or***
- c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;***

'notifiable gift', in relation to a person who is an employee, means -

- a) a gift worth between \$50 and \$300; or***
- b) a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth between \$50 and \$300;***

'prohibited gift', in relation to a person who is an employee, means -

- a) a gift worth \$300 or more; or***
- b) a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth \$300 or more.***

- a) A person who is an employee is to refrain from accepting a prohibited gift from a person who -**
 - (i) is undertaking or seeking to undertake an activity involving a local government discretion; or**
 - (ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion.**
- b) A person who is an employee and who accepts a notifiable gift from a person who -**
 - (i) is undertaking or seeking to undertake an activity involving a local government discretion; or**
 - (ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion, notify the CEO, in accordance with item (c) and within 10 days of accepting the gift, of the acceptance.**
- c) The notification of the acceptance of a notifiable gift must be in writing and include -**
 - (i) the name of the person who gave the gift; and**
 - (ii) the date on which the gift was accepted; and**
 - (iii) a description, and the estimated value, of the gift; and**
 - (iv) the nature of the relationship between the person who is an employee and the person who gave the gift; and**
 - (v) if the gift is a notifiable gift under paragraph (b) of the definition of 'notifiable gift' (whether or not it is also a notifiable gift under paragraph (a) of that definition) –**
 - (1) a description; and**
 - (2) the estimated value; and**
 - (3) the date of acceptance,****of each other gift accepted within the 6 month period.**

- d) The CEO is to maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under item (c).
- e) This clause does not apply to gifts received from a relative (as defined in S 5.74(1) of the Local Government Act) or an electoral gift (to which other disclosure provisions apply).
- f) This clause does not prevent the acceptance of a gift on behalf of the local government in the course of performing professional or ceremonial duties in circumstances where the gift is presented in whole to the CEO, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.

4. CONDUCT OF COUNCIL MEMBERS, COMMITTEE MEMBERS AND EMPLOYEES

4.1 Personal Behaviour

a) Council Members, Committee Members and employees will:

- (i) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
 - (ii) perform their duties impartially and in the best interests of the Local Government uninfluenced by fear or favour;
 - (iii) act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Local Government and the community;
 - (iv) make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment;
 - (v) always act in accordance with their obligation of fidelity to the Local Government; and
 - (vi) report to the workplace 'fit for work' which includes not being under the influence of alcohol or other drugs while at the workplace.
- b) Council Members will represent and promote the interests of the Local Government, while recognising their special duty to their own constituents.

4.2 Honesty and Integrity

Council Members, Committee Members and employees will:

- a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- b) bring to the notice of the Mayor/President any dishonesty or possible dishonesty on the part of any other member, and in the case of an employee to the Chief Executive Officer.
- c) be frank and honest in their official dealing with each other.

4.3 Performance of Duties

- a) While on duty, employees will give their whole time and attention to the Local Government's business and ensure that their work is carried out

efficiently, economically and effectively, and that their standard of work reflects favorably both on them and on the Local Government.

- b) Council Members and Committee Members will at all times exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits. Council Members and Committee Members will be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.

4.4 Compliance with Lawful Orders

- a) Council Members, Committee Members and employees will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the Chief Executive Officer.
- b) Council Members, Committee Members and employees will give effect to the lawful policies of the Local Government, whether or not they agree with or approve of them.

4.5 Administrative and Management Practices

Council Members, Committee Members and employees will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

4.6 Corporate Obligations

- a) Standard of Dress

Council Members, Committee Members and employees are expected to comply with neat and responsible dress standards at all times. Accordingly:

- (i) Council Members and Committee Members will dress in a manner appropriate to their position, in particular when attending meetings or representing the Local Government in an official capacity.
- (ii) Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual employees.

- b) Communication and Public Relations

- (i) All aspects of communication by employees (including verbal, written or personal), involving Local Government's activities should reflect the status and objectives of that Local Government. Communications should be accurate, polite and professional.
- (ii) As a representative of the community, Council Members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Council Members should acknowledge that:
- (A) as a member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;

- (B) information of a confidential nature ought not be communicated until it is no longer treated as confidential;
 - (C) information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council;
 - (D) information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.
- (iii) Committee Members accept and acknowledge it is their responsibility to observe any direction the Local Government may adopt in terms of advancing and promoting the objectives of the Committee to which they have been appointed.

4.7 Appointments to Committees

As part of their representative role Council Members are often asked to represent the Council on external organisations. It is important that Council Members:

- a) clearly understand the basis of their appointment; and
- b) provide regular reports on the activities of the organisation.

4.8 Personal Communications and Social Media

- a) Personal communications and statements made privately in conversation, written, recorded, emailed or posted in personal social media, have the potential to be made public, whether it was intended to be made public or not.

Therefore, on the basis that personal or private communications may be shared or become public at some point in the future, Council Members and employees will ensure that their personal and private communications do not breach the requirements of this Code of Conduct and for Elected Members, the Local Government (Rules of Conduct) Regulations 2007.

- b) Employees will not, unless specifically authorised to do so, disclose information, make comments or engage in communication activities about or on behalf of the Local Government, its Council Members, employees or contractors, which breach this Code of Conduct.
- c) Council member comments which become public and breach the Local Government (Rules of Conduct) Regulations 2007 may constitute a serious breach of the Local Government Act 1995 and may be referred for investigation.
- d) Employee comments which become public and breach the Code of Conduct, or any other operational policy or procedure, may constitute a disciplinary matter any may also be determined as misconduct and be reported under the Public Sector Management Act 1992.

5. DEALING WITH COUNCIL PROPERTY

5.1 Use of Local Government Resources

Council Members and employees will:

- a) be scrupulously honest in their use of the Local Government's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- b) use the Local Government resources entrusted to them effectively and economically in the course of their duties; and
- c) not use the Local Government's resources (including the services of Council employees) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

5.2 Travelling and Sustenance Expenses

Council Members, Committee Members and employees will only claim or accept travelling and sustenance expenses arising out of travel-related matters which have a direct bearing on the services, policies or business of the Local Government in accordance with Local Government policy and the provisions of the Local Government Act.

5.3 Access to Information

- a) Employees will ensure that Council Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.
- b) Council Members will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.'

be endorsed.

CARRIED (9/0)

NO. 176/18

9.4.5 POLICY REVIEW - RISK MANAGEMENT

File Ref:	N46141
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is to review Risk Management Policy – C/RM/1.

BACKGROUND

This policy was last reviewed by the Council at its meeting held on 16 August 2016.

STATUTORY ENVIRONMENT

Local Government (Audit) Regulations 1996. Regulation 17 states as follows:

- '(1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —*
- (a) risk management; and*
 - (b) internal control; and*
 - (c) legislative compliance.*
- (2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.*
- (3) The CEO is to report to the audit committee the results of that review.'*

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 4.6 (Effective and efficient corporate and administrative services) the following Strategy:

Strategy 4.6.2:

'Develop and maintain Risk Management policies and procedures'.

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

OFFICER COMMENT

It is considered that the policy is sufficient and should be endorsed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Lang, seconded Cr J Moir:

That Risk Management Policy C/RM/1, as follows:

‘OBJECTIVE

To commit to organisation-wide risk management principles, systems and processes that ensure consistent, efficient and effective assessment of risk in all planning, decision making and operational processes.

POLICY:

1. **Definition of Risk:**
 - 1.1 AS/NZS ISO 31000:2009 defines risk as ‘the effect of uncertainty on objectives.’
 - 1.2 A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative, or a deviation from the expected. An objective may be financial, related to health and safety, or defined in other terms.
2. **Definition of Risk Management:**
 - 2.1 The application of coordinated activities to direct and control an organisation with regard to risk.
3. **Principles – Framework - Process**
 - 3.1 The Shire considers risk management to be an essential management function in its operations. The responsibility for managing specific risks lies with the person who has the responsibility for the function, service or activity that gives rise to that risk.
 - 3.2 The Council is committed to the principles, framework and process of managing risk as outlined in AS/NZS ISO 31000:2009.
 - 3.3 The Shire will manage risks continuously using a process involving the identification, analysis, evaluation, treatment, monitoring and review of risks. It will be applied to decision making through all levels of the organisation in relation to planning or executing any function, service or activity.

3.4 In particular it will be applied to:

- a) Strategic planning;
- b) Expenditure of large amounts of money;
- c) New strategies and procedures;
- d) Management of projects, tenders and proposals;
- e) Introducing significant change; and
- f) The management of sensitive issues.

3.5 The objectives of risk management are:

- a) The achievement of organisational goals and objectives;
- b) The ongoing health and safety of all employees at the workplace;
- c) Ensuring public safety within the Council's jurisdiction is not compromised;
- d) Limited loss or damage to property and other assets;
- e) Limited interruption to business continuity;
- f) Positive public perception of Council and the Shire; and
- g) Application of equal opportunity principles in the workforce and the community.

4. Responsibilities

- 4.1 The CEO, managers and supervisors have the responsibility and accountability for ensuring that all staff manage the risks within their own work areas. Risks should be anticipated and reasonable protective measures taken.
- 4.2 All managers will encourage openness and honesty in the reporting and escalation of risks;
- 4.3 All staff will be encouraged to alert management to the risks that exist within their area, without fear of recrimination.
- 4.4 All staff will, after appropriate training, adopt the principles of risk management and comply with all policies, procedures and practices relating to risk management.
- 4.5 All staff and employees will, as required, conduct risk assessments during the performance of their daily duties.
- 4.6 The level of sophistication of the risk assessment will be commensurate with the scope of the task and the associated level of risk identified.
- 4.7 Failure by staff to observe reasonable directions from supervisors regarding the management of risks and/or failure of staff to take reasonable care in identifying and treating risks in the workplace may result in disciplinary action.
- 4.8 The Council is committed to the concept and resourcing of risk management.

5. Monitor and Review

- 5.1 The Shire will implement a robust reporting and recording system that will be regularly monitored to ensure closeout of risks and identification of ongoing issues and trends.**
- 5.2 Significant or extreme risks will be reported to the Audit and Risk Management Committee and reviewed to determine appropriate treatments or whether to continue with the activity or service from which the risk arises.'**

be endorsed.

CARRIED (9/0)

NO. 177/18

9.5 EXECUTIVE SERVICES REPORTS

9.5.1 AGREEMENT RENEWAL - RESERVE 1790 ALBANY HIGHWAY - MOUNT BARKER TRAIN MURAL

File Ref:	N45929
Attachments:	Train Mural Agreement
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Donna Fawcett Senior Administration/Human Resources Officer
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is to recommend the renewal of the agreement between the Shire of Plantagenet and the Mount Barker Rotary Club (Rotary Club) for the upkeep and maintenance of the Mount Barker Train Mural located on Reserve 1790 (known as the Government Dam) on the corner of Albany Highway and Lowood Road, Mount Barker.

BACKGROUND

The Mount Barker Train Mural was fabricated and erected on Reserve 1790 by the Rotary Club with the permission of the Shire and was completed in December 2005. Subsequently, in 2008, the Rotary Club installed lighting to the train mural.

In March 2008 a five year agreement was entered into between the Shire and the Rotary Club outlining the respective roles and responsibilities in regard to the upkeep and maintenance of the train mural. The agreement was renewed for a further five years in 2013.

Under the terms of the agreement, the Rotary Club is responsible for the ongoing maintenance of the mural while the Shire insures the mural with regard to public liability and pays all utility charges with regard to the lighting of the mural.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

EXTERNAL CONSULTATION

Consultation has occurred with Susan Plewright from the Rotary Club.

FINANCIAL IMPLICATIONS

The Rotary Club maintains the structure.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.3 (Pleasant streetscapes, open spaces, parks and gardens) the following Strategy:

Strategy 2.3.2:

'Develop, maintain and enhance town streetscapes and public spaces.'

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

OFFICER COMMENT

The train mural acts as an entry statement to Lowood Road, the main street of Mount Barker and acknowledges local history to both residents and visitors to the region. As a tourism point of interest, it is important that the mural is maintained and kept in good repair.

It is recommended that the agreement is renewed for a further five year term under the same conditions as the current agreement.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Bell, seconded Cr L Handasyde:

That authority be granted to the Chief Executive Officer to sign the agreement between the Shire of Plantagenet and the Mount Barker Rotary Club (as attached) for the Mount Barker Train Mural located on Reserve 1790 Albany Highway, Mount Barker, for a further five year term commencing 20 March 2018.

CARRIED (9/0)

NO. 178/18

9.5.2 CHIEF EXECUTIVE OFFICER ANNUAL PERFORMANCE REVIEW

File Ref:	N46136
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Rob Stewart Chief Executive Officer
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is to present to the Council the recommendations resulting from the Chief Executive Officer's (CEO's) review which was held on 17 July 2018.

BACKGROUND

On 17 July 2018 the CEO was given the opportunity to present to the Council information regarding his key performance indicators.

STATUTORY ENVIRONMENT

Pursuant to Section 5.36 of the Local Government Act 1995, a local government is to employ a person to be the CEO of the Local Government. Further, a person is not to be employed in the position of CEO unless the Council believes that the person is suitably qualified for the position and is satisfied with the provisions of the proposed employment contract.

Section 5.38 of the Local Government Act 1995 requires that the performance of each employee who is employed for a term of more than one year, including the CEO, be reviewed at least once in relation to every year of employment.

CONSULTATION

All Councillors were consulted with regard to the CEO Performance Review as was the CEO.

FINANCIAL IMPLICATIONS

Refer to employment contract for CEO.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 4.5 (Skilled, committed and professional staff in a supportive environment) the following Strategy:

Strategy 4.5.3:

'Implement an appropriate staff performance appraisal and development systems'

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

OFFICER COMMENT

During the CEO's Performance Review, the following key performance indicators were endorsed:

'Facilitate

- Identify and Attract new Industry.

(Strategic Plan reference 'Prosperous and Sustainable Local Economy' – Outcome 3.2: A Strong and Diverse Economic Base)

- Continue to develop a 'can do approach' throughout the whole organisation.

(Strategic Plan Reference 'Effective Governance and Organisation' – Outcome 4.1: Effective Governance and Leadership)

- Monitor the change in service providers and actual services to aged care (pending shift from state to federal jurisdiction).

(Strategic Plan Reference 'Community Pride and Wellbeing' – Outcome 1.6: Quality of Life for the Aged)

- The continuation of suitable residential and industrial land to satisfy future demand.

(Strategic Plan Reference 'Prosperous and Sustainable Local Economy' – Outcome 3.2: 'A Strong and Diverse Economic Base')

Lobby

- Telecommunication services to areas of need. (Rural areas for new technology in primary production and for emergency services)

(Strategic Plan Reference 'Appropriate Infrastructure that Supports sustainable Economic Development' - Outcome 3.5)

- Landcorp for ongoing industrial developments.

(Strategic Plan Reference 'Appropriate Infrastructure that supports sustainable Economic Development' - Outcome 3.5)

- State Government for housing initiatives to promote rural housing demand (ie: rent subsidies, rebate to service overheads).

(Strategic Plan Reference 'Appropriate Infrastructure that Supports sustainable Economic Development' - Outcome 3.5)

Implement

- Social Media. Stage one: Create a Shire Facebook presence with adequate monitoring and responses.



(Strategic Plan Reference Major Priorities – Effective Governance and Organisation)

- Negotiate the purchase from the Crown the land north of the drive in residential area. (Note: reference LPS Number 5).

(Strategic Plan Reference ‘Appropriate Infrastructure that Supports sustainable Economic Development’ – Outcome 3.5)

- Review of community servicing and future needs (service levels).

(Strategic Plan Reference ‘Community Pride and Wellbeing’ – Major Priorities)

- Review of the Shire’s built assets and priorities. This will help with strategic planning, utilisation and budget considerations.

(Strategic Plan Reference ‘Assets and Infrastructure managed over the long term to meet current and future needs’ – Outcome 2.6)’

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr S Etherington:

That:

1. **The Chief Executive Officer’s Performance Review for the 2017/2018 financial year be noted.**
2. **Apart from the key performance indicators already recorded in the Chief Executive Officer’s contract of employment, the following key performance indicators be endorsed:**

‘Facilitate

- **Identify and Attract new Industry.**

(Strategic Plan reference ‘Prosperous and Sustainable Local Economy’ – Outcome 3.2: A Strong and Diverse Economic Base)

- **Continue to develop a ‘can do approach’ throughout the whole organisation.**

(Strategic Plan Reference ‘Effective Governance and Organisation’ – Outcome 4.1: Effective Governance and Leadership)

- **Monitor the change in service providers and actual services to aged care (pending shift from state to federal jurisdiction).**

(Strategic Plan Reference 'Community Pride and Wellbeing' – Outcome 1.6: Quality of Life for the Aged)

- **The continuation of suitable residential and industrial land to satisfy future demand.**

(Strategic Plan Reference 'Prosperous and Sustainable Local Economy' – Outcome 3.2: 'A Strong and Diverse Economic Base')

Lobby

- **Telecommunication services to areas of need. (Rural areas for new technology in primary production and for emergency services)**

(Strategic Plan Reference 'Appropriate Infrastructure that Supports sustainable Economic Development' - Outcome 3.5)

- **Landcorp for ongoing industrial developments.**

(Strategic Plan Reference 'Appropriate Infrastructure that supports sustainable Economic Development' - Outcome 3.5)

- **State Government for housing initiatives to promote rural housing demand (ie: rent subsidies, rebate to service overheads).**

(Strategic Plan Reference 'Appropriate Infrastructure that Supports sustainable Economic Development' - Outcome 3.5)

Implement

- **Social Media. Stage one: Create a Shire Facebook presence with adequate monitoring and responses.**



(Strategic Plan Reference Major Priorities – Effective Governance and Organisation)

- **Negotiate the purchase from the Crown the land north of the drive in residential area. (Note: reference LPS Number 5).**

(Strategic Plan Reference 'Appropriate Infrastructure that Supports sustainable Economic Development' – Outcome 3.5)

- **Review of community servicing and future needs (service levels).**

(Strategic Plan Reference ‘Community Pride and Wellbeing’ – Major Priorities)

- **Review of the Shire’s built assets and priorities. This will help with strategic planning, utilisation and budget considerations.**

(Strategic Plan Reference ‘Assets and Infrastructure managed over the long term to meet current and future needs’ – Outcome 2.6)’

CARRIED (9/0)

NO. 179/18

9.5.3 COUNCIL MEETINGS COMMENCING TIME - PROPOSED AMENDMENT

File Ref:	N46134
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Rob Stewart Chief Executive Officer
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is to recommend to the Council that Ordinary Meetings of the Council in future commence at 4.00pm.

BACKGROUND

At its meeting held 7 November 2017 the Council resolved:

'That:

1. *The ordinary meetings of the Council for January to December 2018 inclusive be held at four weekly intervals as follows:*
 - a) *Tuesday 30 January 2018*
 - b) *Tuesday 27 February 2018*
 - c) *Tuesday 27 March 2018*
 - d) *Tuesday 24 April 2018*
 - e) *Tuesday 22 May 2018*
 - f) *Tuesday 19 June 2018*
 - g) *Tuesday 17 July 2018*
 - h) *Tuesday 14 August 2018*
 - i) *Tuesday 11 September 2018*
 - j) *Tuesday 9 October 2018*
 - k) *Tuesday 6 November 2018*
 - l) *Tuesday 4 December 2018*
2. *All ordinary meetings of the Council shall commence at 3.00pm and be held in the Council Chambers, Lowood Road Mount Barker.*
3. *All meeting dates and times be advertised pursuant to Regulation 12 of the Local Government (Administration) Regulations 1996.'*

STATUTORY ENVIRONMENT

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

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

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

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

Strategy 4.1.3:

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

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

OFFICER COMMENT

Taking into account recent comments by Councillors that Council meeting days can become congested, it has been suggested that a later commencement time may allow some leeway during the day to ensure that Councillors have adequate time to fully consider workshops and other information that may be provided.

Should a 4.00pm starting time be endorsed, it would effectively be only for four months as council meeting times and dates will need to be confirmed for 2019 in any case.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

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

That notwithstanding the decision of the Council dated 17 November 2017 relating to commencement time of Council meetings:

1. Ordinary Meetings of the Council for the months of September, October, November and December 2018 commence at 4.00pm.
2. The change of commencement time of Ordinary Meetings of the Council be advertised pursuant to Regulation 12 of Local Government (Administration) Regulations 1996.

AMENDMENT

Moved Cr K Clements, seconded Cr S Etherington:

That Part 1 of the motion be amended to read:

- ‘1. Ordinary Meetings of the Council for the months of
 - a. September and October 2018 commence at 4.00pm; and
 - b. October and December 2018 commence at 6.00pm.’

LOST (2/7)

Crs C Pavlovich, J Oldfield, J Moir, M O'Dea,
B Bell, B Lang, L Handasyde voted against the motion

COUNCIL DECISION

That notwithstanding the decision of the Council dated 17 November 2017 relating to commencement time of Council meetings:

1. Ordinary Meetings of the Council for the months of September, October, November and December 2018 commence at 4.00pm.
2. The change of commencement time of Ordinary Meetings of the Council be advertised pursuant to Regulation 12 of Local Government (Administration) Regulations 1996.

CARRIED (7/2)

NO. 180/18

Crs K Clements and S Etherington voted against the motion

9.5.4 HUGHES ROAD KENDENUP - ACCESS

File Ref:	N46119
Attachments:	WestNet Rail letter with attached maps Memo to Councillors
Responsible Officer:	Rob Stewart Chief Executive Officer
Author:	Rob Stewart Chief Executive Officer
Proposed Meeting Date:	14 August 2018

PURPOSE

The purpose of this report is to refer a petition to the Council that was received at the meeting of the Council held on 17 July 2018.

BACKGROUND

At the meeting of the Council held on 17 July 2018 the following petition was received by the Council:

'We, the undersigned electors of the Shire of Plantagenet petition the Council to help develop a solution for landowners and occupiers of Hughes Road Kendenup who do not have legal access to their properties.

The portion of Hughes Road depicted is unmade and accordingly prevents legal access.

Some years ago the Council sought temporary access from the Railway Reserve adjacent to the road reserve but permission was refused. (Copy of letters attached).

We believe possible solutions include:

- a. Construct Hughes Road*
- b. Seek a licence from Westrail to gain legal access to Railway Reserve*
- c. Acquire land from affected owners to declare a road reserve and construct a road*

We are not in any way saying this situation is the Council's fault, however it would appear that all possible solutions will require the Council's input and/or consent and in this regard we would like to work together to achieve a solution.

Thank you.'

According to the Council's Standing Orders Local Law the petition is valid and signed by seven signatories from the District of the Shire of Plantagenet.

STATUTORY ENVIRONMENT

Land Administration Act 1997 Section 57.
Standing Orders Local Law

EXTERNAL CONSULTATION

No specific consultation has been undertaken with regard to this matter.

However, several meetings have been held with residents and landowners of Hughes Road Kendenup especially over the past seven years.

FINANCIAL IMPLICATIONS

This report is designed to only seek direction from the Council. For example, there is little point in costing the construction of Hughes Road (the road reserve) if a clearing permit could not be issued.

POLICY IMPLICATIONS

Council Policy I/R/7 – Roads – Unconstructed Roads applies.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 2.4 (Safe and reliable transport infrastructure) the following Strategy:

Strategy 2.4.1:

‘Maintain and further develop Shire roads, drainage and pathways at appropriate standards and continue to seek to maximise grant funding to support this aim.’

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

OFFICER COMMENT

The portion of Hughes Road the subject of this report, is unmade and inaccessible. Residents of this portion of Hughes Road generally take their access from the adjacent railway reserve.

In 2011, permission was sought from (the then) WestNet Rail to allow these residents access to their properties through this rail reserve. This request was refused (copy of WestNet Rail attached).

Accordingly, the properties marked on the attached map have no access. Residents and owners are understandably concerned about this issue and have therefore petitioned the Council.

It appears that properties have been purchased in the past under the mistaken belief that the railway access track was in fact Hughes Road. The realisation that the actual Hughes Road reserve is unconstructed has come about when emergency vehicles have been unable to locate properties adjacent to the unmade portion of Hughes Road due to the lack of rural road numbers. The Council is unable to issue rural road numbers for properties on unconstructed road reserves.

Councillors have previously been advised (memo attached) that one of the affected landowners recently took this matter to the WA Ombudsman and it is understood that the Ombudsman found that the Council’s actions have been legal. That is, the Council cannot be compelled to construct the road.

Should there be a wish by the Council to construct the road on the existing road reserve, there are concerns that rare flora may be present. This potential situation however has not been tested through a flora survey. It is likely that a flora survey would be required if clearing was sought.

It is unlikely that Arc Infrastructure (the organisation that now has oversight for rail property) would allow unfettered access via a rail reserve and the potential for the railway access track to be gated is real.

Therefore, if the road is not able to be constructed and if the railway access track was closed, the only other likely result would be for the landowners to cede to the crown 20 metres from their respective road frontages for dedication as road reserve. The Council could then, if it chose, construct a C class road.

It should be noted that construction on the road reserve or a newly dedicated road reserve would be contrary to the Council's Roads - Unconstructed Roads Policy unless in the first instance residents paid for the construction.

A number of options exist for the Council:

1. The Council may simply not direct the CEO to take any particular action. In this instance, the CEO with regard to unconstructed roads would enforce the Council's policy.
2. The Council could direct the CEO to again seek access to the railway reserve. Permission is unlikely to be granted as such access would need to be permanent and this may restrict future use of the reserve for rail purposes.
3. Resolve to make Hughes Road. Before this matter was taken any further there would be a need to 'test the water' with regard to the likelihood of receiving permission to clear the bush on the road reserve. This could require a flora survey to be undertaken. A flora survey would cost several thousands of dollars.
4. Ask residents to cede 20 metres of their various frontages as road reserve so that a C class road could be created. One problem with this solution is that infrastructure on at least 1 property (a dam) exists within the area.

The petitioners are correct when they seek the co-operation of the Council in that the solutions all require the Council to do something. Nevertheless, there is no compulsion from a legal point of view for the Council to do anything. From that point of view, all parcels of land were purchased by the various owners on arm's length contracts notwithstanding the obvious misunderstanding with regard to access.

It should also be noted by Councillors that as the access impediment becomes more widely known it becomes more difficult for owners to sell their properties. At least one owner is in the process of endeavouring to sell due to health reasons and the need to be closer to specialist care.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

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

That the CEO be authorised to undertake the following actions with regard to access impediments to Hughes Road Kendenup:

1. Further liaise with Arc Infrastructure (previously WestNet Rail) regarding access to the rail reserve adjacent to Hughes Road.
2. In the event that the action referred to in Part 1 is unsuccessful, undertake a flora survey of Hughes Road.
3. Develop costings for the construction of Hughes Road.
4. Seek agreement or otherwise of affected landowners of Hughes Road regarding the ceding of land to the crown for the construction of a road.

AMENDMENT

Moved Cr J Oldfield, seconded Cr K Clements:

That the words ',subject to the Council being reimbursed for the cost of construction' be added after the word 'road' at the end of point 4.

CARRIED (9/0)

NO. 181/18

COUNCIL DECISION

That the CEO be authorised to undertake the following actions with regard to access impediments to Hughes Road Kendenup:

1. Further liaise with Arc Infrastructure (previously WestNet Rail) regarding access to the rail reserve adjacent to Hughes Road.
2. In the event that the action referred to in Part 1 is unsuccessful, undertake a flora survey of Hughes Road.
3. Develop costings for the construction of Hughes Road.
4. Seek agreement or otherwise of affected landowners of Hughes Road regarding the ceding of land to the crown for the construction of a road, subject to the Council being reimbursed for the cost of construction.

CARRIED (9/0)

NO. 182/18

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 SENIORS ADVISORY COMMITTEE - FORMATION

Cr Sue Etherington has given notice of her intention to move the following motion at the next Ordinary Meeting of the Council pursuant to Clause 3.7 of Standing Orders:

‘That:

1. A committee, to be known as the Seniors Advisory Committee be formed pursuant to Section 5.9 (2) (c) of the Local Government Act 1995.
2. The duties of the committee are:
 - a. Examine services provided to seniors in the Shire of Plantagenet.
 - b. Monitor the change in service providers and actual services to aged care.
 - c. Report back to the Council by 26 March 2019.
3. The committee shall be made up of two Councillors, the Manager Community Services and three other persons.
4. The committee shall disband on 23 April 2019.’

COUNCILLOR COMMENT

I believe that the formation of such a committee will assist the CEO with the completion of his Key Performance Indicators with regard to elderly people and with regard to the formation of committees to assist Council decision making (actually one of last year’s).

The formation of the committee will have no financial impact on the funds of the Council.

The formation of the committee will assist the Council meet Outcome 1.6 (Quality of life for the aged) in the Strategic Community Plan 2017-2026.

In this regard strategy 1.6.1 provides that the Council will:

‘Advocate the provision and promotion of services, home care and facilities that meet the needs of the aged.’

The CEO advises me that this decision will require an Absolute Majority.

Moved Cr S Etherington, seconded Cr L Handasyde:

That:

- 1. A committee, to be known as the Seniors Advisory Committee be formed pursuant to Section 5.9 (2) (c) of the Local Government Act 1995.**
- 2. The duties of the committee are:**
 - a. Examine services provided to seniors in the Shire of Plantagenet.**
 - b. Monitor the change in service providers and actual services to aged care.**
 - c. Report back to the Council by 26 March 2019.**
- 3. The committee shall be made up of two Councillors, the Manager Community Services and three other persons.**
- 4. The committee shall disband on 23 April 2019.**

CARRIED (9/0)

NO. 183/18

Absolute Majority

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

Nil

12 CONFIDENTIAL**12.1 CORPORATE SERVICES REPORTS****12.1.1 RAIL CORRIDOR LAND - AUTHORITY TO AFFIX COMMON SEAL -
LOWOOD ROAD MOUNT BARKER AND HANNAN WAY NARRIKUP**

File Ref: N46158
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Donna Fawcett
Senior Administration/Human Resources
Officer
Proposed Meeting Date: 14 August 2018

PURPOSE

The purpose of this report is to seek approval for the Common Seal of the Council to be applied to an Arc Infrastructure Licence to Use and Occupy Land for the carpark adjacent to the Plantagenet District Hall and the recreation area on Hannan Way, Narrikup.

MOTION TO PROCEED BEHIND CLOSED DOORS

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

5.55pm That in accordance with Section 5.23 (2) of the Local Government Act 1995 the meeting is closed to members of the public with the following aspect(s) of the Act being applicable to this matter:

- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;

CARRIED (9/0)

NO. 184/18

MOTION TO PROCEED IN PUBLIC

Moved Cr L Handasyde, seconded Cr B Bell

5.56pm That the meeting proceed in public

CARRIED (9/0)

NO. 185/18

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr L Handasyde, seconded Cr B Bell:

That authority be granted to the Shire President and the Chief Executive Officer to affix the Common Seal of the Council to the Licence To Use and Occupy Corridor Land (as attached) for the carpark on Lowood Road, Mount Barker and the recreation area on Hannan Way, Narrikup.

CARRIED (9/0)

NO. 186/18

13 CLOSURE OF MEETING

5.57pm The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON _____ DATE: ____/____/____