



# ORDINARY MINUTES

**DATE:** Tuesday, 13 August 2019

**TIME:** 3:00pm

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

**Rob Stewart**  
**CHIEF EXECUTIVE OFFICER**

Resolution numbers: 153/19 to 167/19

## **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)

### Members Present:

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

### In Attendance:

Mr Andrus Budrikis	Executive Manager Strategic Development
Mr Rob Stewart	Chief Executive Officer
Ms Alison Kendrick	Acting Executive Manager Corporate Services
Mr David Lynch	Executive Manager Works and Services
Ms Nolene Wake	Executive Officer

### Apologies:

Nil

### Members of the Public Present:

There were three members of the public present.

### Previously Approved Leave of Absence:

Cr B Bell was granted Leave of Absence from 28 July 2019 to 28 August 2019 inclusive.

### 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**

Asked by: Ms Camille Inifer (Archivist for the Plantagenet Historical Society)

- 1. So that there is no misunderstanding in future would the Shire of Plantagenet consider developing a Heritage Policy which includes an inventory detailing (a) the location of ALL memorial cairns or plaques in the Plantagenet district and; (b) who, when, why such memorial cairns or plaques were installed?*
- 2. In doing so, would such policy include clear guidelines to follow if proposals are put forward to upgrade, relocate or remove memorial cairns or plaques?*
- 3. Would the procedure include inviting the organisation or individual/s originally involved to meet and/or be part of any committee formed to change existing memorial cairns or plaques?*

The CEO confirmed a letter of response was sent to The Plantagenet Historical Society (Inc) on 7 August 2019 (copy attached).

#### **3.2 PUBLIC QUESTION TIME - SECTION 5.24 LOCAL GOVERNMENT ACT 1995**

##### **3.2.1 BUSHFIRE ADVISORY AND VOLUNTEERS**

Asked By: Mr Norm Handasyde – Chief Bush Fire Control Officer

The questions relate to the emergency use of Karri Oak airfield for water bombing purposes.

1. Given the resolution of the Council on the 12 February this year to proceed to a signing of a Licence Agreement with Karri Oak Holdings Pty Ltd for the airstrip site, can the Council indicate if this is still possible and if so when it will be finalised? There was an indication at the Bushfire Advisory Committee Meeting in May that there was a problem now with the licence and we would like to know what the current position is.

2. If it is not possible that a licence be signed, can the Council commit to utilising the strip as required during bushfire emergencies and provide infrastructure as required including possibly a higher capacity tank, pumps and hoses, windsock and minor maintenance as required in order to see this facility made available for emergency bomber use?
3. Will the Council support the effort required to seek funding from DFES and/or DBCA to assist with the provision of these services and minor maintenance?

Response by: Cr Chris Pavlovich Shire President

The Shire President thanked Mr Handasyde for his questions and advised that the questions would be taken on notice and responded to in due course.

#### **4 PETITIONS / DEPUTATIONS / PRESENTATIONS**

Nil

#### **5 DISCLOSURE OF INTEREST**

Part 5 Division 6 Local Government Act 1995

Cr L Handasyde

Item: 9.3.3

Type: Code of Conduct Disclosure (S5.103 LGA/Reg 34C Local Government Administration Regulations) Perceived interests (Clause 2.3 Code of Conduct)

Nature: Advice Only – Voluntary Disclosure

Extent: Bendigo Bank Board Member

#### **6 APPLICATIONS FOR LEAVE OF ABSENCE**

Section 5.25 Local Government Act 1995

#### **7 CONFIRMATION OF MINUTES**

**Moved Cr L Handasyde, seconded Cr B Lang:**

**That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 16 July 2019 as circulated, be taken as read and adopted as a correct record.**

**CARRIED (8/0)**

**NO. 154/19**

## **8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

The Shire President distributed notes separately.

Cr Ken Clements brought to the Council's attention that CEO Mr Rob Stewart was presented with the Local Government Distinguished Officers Award at the 2019 WALGA Convention on 7 August 2019.

The Shire President Cr Chris Pavlovich endorsed the Council's congratulations to Mr Stewart and also offered the Council's congratulations to Cr B Bell on being bestowed with the Long and Loyal Service Award at the same event.



**9 REPORTS OF COMMITTEES AND OFFICERS**

**9.1 STRATEGIC DEVELOPMENT REPORTS**

Nil

## 9.2 WORKS AND SERVICES REPORTS

### 9.2.1 LAND ACQUISITION - LOT 66 ON PLAN 4819 KENDENUP

<b>File Ref:</b>	<b>N49099</b>
<b>Attachments:</b>	<a href="#">Maps showing laneways in Kendenup Townsite</a>
<b>Responsible Officer:</b>	<b>David Lynch</b> <b>Executive Manager Works and Services</b>
<b>Author:</b>	<b>Amy Chadbourne</b> <b>Senior Administration/Project Officer Works and Services</b>
<b>Proposed Meeting Date:</b>	<b>13 August 2019</b>

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#### **PURPOSE**

The purpose of this report is to consider the acquisition of Lot 66 on Plan 4819 Kendenup in order to bring the land under the ownership and care, control and management of the Shire of Plantagenet.

#### **BACKGROUND**

Kendenup townsite contains a network of 41 rights-of-way or 'laneways' which together form Lot 66 on Plan 4819 (Lot 66). These laneways form part of the original De Garis subdivision owned by De Garis Kendenup (WA) Development Company Limited and would have been designed to provide rear access to residential lots.

Requests have been received from Kendenup residents for a number of years for the Shire to undertake maintenance of these laneways. The Executive Manager Works and Services (EMWS) initiated investigations around the ownership and status of these laneways. These investigations have revealed that the laneways are in fact a freehold 'super lot' (Lot 66 on Plan 4819) with the current title holder being the Australian Securities and Investments Commission (ASIC). Following deregistration of the De Garis Kendenup (WA) Development Company Limited in 1982, all property owned by the company was vested in the Victoria Commissioner for Corporate Affairs and then with ASIC.

At a workshop for Councillors held on 11 July 2019, the proposal by the EMWS for the Council to acquire the laneways was presented. Feedback received from Councillors was that the EMWS should proceed with application to ASIC to purchase Lot 66 on Plan 4819.

#### **STATUTORY ENVIRONMENT**

Local Government Act 1995, Section 3.59 – 'Commercial enterprises by local governments'

Local Government (Functions and General) Regulations 1996, Part 3 – 'Commercial enterprises by local governments (s. 3.59)'

The proposed land transaction of this report is exempt as the purchase price falls below the legislated amount as defined in the regulations above

Town Planning Scheme Policy No 18.1, Appendix 2 – 'Planning Vision', point 7.3.3:

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*'The village area contains a series of 41 Rights-of-Way running at the rear of properties. It is proposed that these Rights-of-Way remain as such as they could be utilised for the provision of reticulated sewer if and when that services is provided in the future.'*

### **EXTERNAL CONSULTATION**

Consultation took place with lawyers and land valuers.

### **FINANCIAL IMPLICATIONS**

The application fee to ASIC to purchase a vested property is \$934.00.

An independent valuation indicates a market value of the freehold interest of the property of \$5,000.00 (ex GST).

Fees applicable to the transfer of the land and further legal fees are estimated to be in the vicinity of \$4,000.00 and will be charged to account Pre-construction Future Works.

Future maintenance of the laneways will continue to be drawn out of Kendenup Town Street Maintenance as has happened previously. The level of maintenance by Shire employees is expected to remain the same, hence no increase in costs to the Council.

### **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**

As the Shire has informally accepted responsibility for the management of the laneways through vegetation, fire and weed management there would be minimal change to any asset benefits or risks.

### **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 2.3.1:

*'Manage and maintain the Council's parks, gardens and open space at appropriate standards'*

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

The Shire of Plantagenet Corporate Business Plan 2019/2020 – 2022/2023 includes Action 2.3.1.1:

*'Maintain parks, gardens and open space at standards acceptable to the community'*

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

**OFFICER COMMENT**

A valuation report of the land indicates a market value of the freehold interest of the property \$5,000.00 (ex GST). The EMWS considers this to be a reasonable sum to pay for control and ownership of the laneways making them immediately available as a long term infrastructure corridor. As mentioned previously, the Shire has accepted responsibility for maintaining these laneways for fire, weed and vegetation mitigation and would continue this responsibility, but as the legal owner of the land.

The valuation noted that there may be some encroachments onto this land. An aerial scan suggests this does not appear to be a widespread issue with most of the noted encroachments being quite small. However, two prominent encroachments that may cause an issue are a water tank at Lot 7064 (47 Second Avenue) and a shed and associated infrastructure at Lot 239 on Plan 4819 (78 Second Ave). Shire staff have reported difficulties with maintaining some sections of laneways because of such encroachments.

Any encroachment may be the subject of Adverse Possession by adjoining landowners in the future. This will have to be dealt with on a case by case basis but could reasonably be done without cost to the Shire on the basis of a "no contest" decision unless the encroachment could be seen as adverse to the public interest by its nature (water tank and shed).

If the land is transferred to the Shire from ASIC for the valued sum then the Shire has the option of leaving the land as freehold or dedicating it as road reserve. The laneways within the Mount Barker townsite are dedicated as road reserves. At this stage, the EMWS recommends the inclusion into road reserve to assist in any future Adverse Possession claims as this does not apply to the Crown.

The application to ASIC requires the signature of both the Chief Executive Officer and the Shire President to proceed. Therefore, authority is now sought for the Common Seal to be applied.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

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

That:

1. That the Chief Executive Officer and Shire President be authorised to affix the Common Seal of the Council to the application to the Australian Securities and Investments Commission to purchase Lot 66 on Plan 4819 being the whole of the land comprised in Certificate of Title Volume 883 Folio 199 for the sum of \$5,000.00.
2. That the Chief Executive Officer be authorised to sign additional documents not requiring the affixing of the Common Seal as necessary to effect the transfer of the subject land to the Shire of Plantagenet should the Australian Securities and Investments Commission approve the application.
3. That a further report be presented to Council outlining the success or otherwise of the application and transfer of land with a view towards dedication of the subject land as road reserve.

**CARRIED (8/0)**

**NO. 155/19**

## 9.2.2 POLICY REVIEW - NOTICE OF ENTRY FOR PUBLIC SERVICES AND UTILITIES

<b>File Ref:</b>	<b>N49026</b>
<b>Attachments:</b>	<a href="#">Policy with changes</a>
<b>Responsible Officer:</b>	<b>David Lynch</b> <b>Executive Manager Works and Services</b>
<b>Author:</b>	<b>Amy Chadbourne</b> <b>Senior Administration/Project Officer Works and Services</b>
<b>Proposed Meeting Date:</b>	<b>13 August 2019</b>

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### PURPOSE

The purpose of this report is to review Council Policy I/R/12 – Notice of Entry for Public Services and Utilities.

### BACKGROUND

This policy was last reviewed by the Council at its meeting held on 18 July 2017.

### STATUTORY ENVIRONMENT

Land Administration Act 1997, Part 9 Division 4 – ‘Entry on to land’

### 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 2.4 (Safe and reliable transport infrastructure) the following:

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.

The Shire of Plantagenet Corporate Business Plan 2019/2020 – 2022/2023 includes Action 2.4.1.6:

*‘Construct and maintain Shire roads and associated infrastructure to the standard adopted by the Council and in accordance with requirements of State agencies.’*

### OFFICER COMMENT

It is recognised that this policy does not have any legislative weight behind it. Used in conjunction with the ‘Utility Providers Code of Practice for Western Australia’ (2016) and the ‘Restoration and Reinstatement Specifications for Local Government’

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(2002), the policy and these documents provide clear guidelines and the preferred practice for the undertaking of public service and utility works within the Shire.

On occasion Shire staff have had to follow up with utility contractors to ensure the finished works are to the expected standards and on these occasions the contractor has responded appropriately.

Minor changes have been made to the policy to update position names and document publication dates.

## **VOTING REQUIREMENTS**

Simple Majority

## **OFFICER RECOMMENDATION/COUNCIL DECISION**

Moved Cr S Etherington, seconded Cr B Lang:

That amended Council Policy No I/R/12 – Notice of Entry for Public Services and Utilities as follows:

### **‘OBJECTIVE**

To provide clear guidelines to the Council, its officers and public utility companies and their contractors regarding the undertaking of public service and utility work within the Shire of Plantagenet.

### **POLICY**

#### **1. Scope**

This policy relates to works undertaken by public service and utility companies on land which is under the care, control and management of the Shire of Plantagenet.

#### **2. Application of Policy**

Public service and utility companies must provide appropriate prior notice for any works to be undertaken within the Shire of Plantagenet. The Council will provide a letter of response, outlining the following conditions:

- a) Should it be necessary to carry out the installation of underground services beneath a road pavement, approval must be sought from the Executive Manager Works and Services prior to undertaking the works.

Where underground services are to be placed beneath the road pavement and any existing conduits or culverts cannot be used, preference will be given to the use of trenchless technology methods. In the case of trench excavation and reinstatement, a ‘defects liability period’ will be applied to the reinstated work. This period shall not be less than twelve (12) months.

- b) All trenches located within the road reserve shall be backfilled with quality material and suitably compacted following installation of plant or underground services. The finished surface level of the

compacted backfill material shall match the existing surface profile of the road reserve.

- c) All disturbed areas shall be reinstated to pre-existing conditions following completion of the works. As a minimum, areas denuded by installation of plant or underground services shall be top soiled, turfed and regularly watered following completion of the works.
- d) All utility holes, inspection points and/or other permanent above ground features, which are to be located within the road reserve, shall be flush with the natural ground to avoid potential trip hazards.
- e) Fixed infrastructure (pits, inspection holes, inspection points etc) or cabling should avoid being constructed either near or within existing road formation. This will ensure that, should the Council ever widen the road, the fixed plant/cable is sufficiently clear of the works.
- f) All cabling shall be laid to the following depths:
  - i) Under roads - minimum 1.0 metre;
  - ii) Within verges - minimum 0.75 metre; and
  - iii) Within public open space - minimum 0.75 metre.
- g) Where work is likely to affect vehicular access to private properties, every attempt shall be made to accommodate the needs of landowners/residents regarding entry and/or exit from the property.
- h) A minimum of one trafficable lane shall remain open to the public at all times and traffic control shall be employed during the course of the works. A copy of the Traffic Management Plan shall be forwarded to the Executive Manager Works and Services for consideration.
- i) The finished condition of the road and/or road reserve shall be to the satisfaction of the Executive Manager Works and Services.
- j) Where work is to be carried out within privately or publicly owned land, the affected property owners shall be notified in writing of the utility's intent to install plant/cabling. All areas denuded or affected by the works within privately owned land or public open space shall be made good upon completion of the works.
- k) Where any removal of vegetation is required then the relevant clearing permits must be obtained from the Department of Water and Environmental Regulation prior to the seeking of consent from the Council.



- I) All works are to comply with the Utility Providers Code of Practice for Western Australia, effective 1 June 2016, and the Restoration and Reinstatement Specification for Local Governments in Western Australia, effective October 2002.'**

be endorsed.

**CARRIED (8/0)**

**NO. 156/19**

### 9.2.3 POLICY REVIEW - PRIVATE WORKS

<b>File Ref:</b>	<b>N49086</b>
<b>Responsible Officer:</b>	<b>David Lynch Executive Manager Works and Services</b>
<b>Author:</b>	<b>Amy Chadbourne Senior Administration/Project Officer Works and Services</b>
<b>Proposed Meeting Date:</b>	<b>13 August 2019</b>

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#### **PURPOSE**

The purpose of this report is to review Council Policy I/PW/1 Private Works

#### **BACKGROUND**

This policy was last reviewed by the Council at its meeting held on 15 August 2017.

#### **STATUTORY ENVIRONMENT**

Local Government (Functions and General) Regulations 1996 Part 3.

Local Government Act 1995, Section 3.59 – ‘Commercial enterprises undertaken by local government’:

This section provides guidance on activities carried out by Local Governments with a view to producing a profit. However, the private works undertaken by the Shire of Plantagenet do not constitute a major trading undertaking as defined by the Act.

#### **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 4.1.6:

*‘Provide a community orientated organisation that delivers high quality services and delivers outcomes that are in the best interests of our ratepayers.’*

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

The Shire of Plantagenet Corporate Business Plan 2019/2020 – 2022/2023 includes Action 4.1.6.1:

*‘Ensure that a system of processes through which the Shire conducts its decision making and directs, controls and monitors the operation of the organisation is implemented and maintained.’*

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

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**OFFICER COMMENT**

At its previous review in 2017, this policy was extensively revised to include I/PW/2 – Private Works (internal) which was revoked.

Councillors should note that there is a limitation on private works up to the value of \$10,000.00 that can be undertaken before the Council's approval is required.

This policy provides clear guidelines to staff, Councillors and applicants interested in requesting private works be undertaken by the Shire. Therefore there are no changes recommended to the policy.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

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

That Council Policy I/PW/1 Private Works as follows:

**OBJECTIVE**

To provide guidelines for the undertaking of private works by the Council.

**POLICY****1. Scope**

This policy applies to the undertaking of works by the Council resulting from requests received from individuals, organisations or businesses. This includes Shire employees and Councillors.

Private works of a value in excess of \$10,000.00 may not be undertaken without prior Council approval, unless the works are being undertaken for a Federal or State Government Department or another Local Government.

**2. Application of Policy**

2.1. Private works will only be undertaken when there is no detriment to the Council's own works program.

2.2. The Council will avoid, where possible, carrying out private works where involvement in such works would place the Council in competition with private suppliers.

2.3. All requests for private works are to be submitted on a completed application form. In the case of Shire employees, the request must be forwarded to their supervisor. In the case of the Chief Executive Officer and Councillors, the request must be referred to the Shire President.

2.4. An estimate of costs will be provided for the proposed works, in accordance with the Council's schedule of fees and charges.

- 2.5. Plant and equipment must only be hired on a 'wet hire' basis, meaning that an approved Shire employee must operate the plant or equipment.
- 2.6. Payment of 100% of the estimated cost is required before works can commence, along with an agreement that any additional costs will be paid within 7 days of the completion of the works. Any variations must be authorised by the client in writing before they are performed.
- 2.7. A timeframe shall be provided to the client as to when the works can be undertaken. No private works shall take precedence over the completion of the Council's annual works program.
- 2.8. Shire employees or Councillors who have requested private works must not be involved in any part of the process other than from the perspective of the client. All private works will be performed, supervised, timesheets checked and accounts issued independently of the employee or Councillor.'

be endorsed.

**CARRIED (8/0)**

**NO. 157/19**

**9.2.4 POLICY REVIEW - TOWN STREET VERGE MANAGEMENT**

<b>File Ref:</b>	<b>N48844</b>
<b>Attachments:</b>	<a href="#">Policy showing changes</a>
<b>Responsible Officer:</b>	<b>David Lynch</b> <b>Executive Manager Works and Services</b>
<b>Author:</b>	<b>Amy Chadbourne</b> <b>Senior Administration/Project Officer Works and Services</b>
<b>Proposed Meeting Date:</b>	<b>13 August 2019</b>

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**PURPOSE**

The purpose of this report is to review Council Policy I/RR/4 Town Street Verge Management Policy.

**BACKGROUND**

This policy was reviewed by the Council at its meeting held on 20 June 2017.

**STATUTORY ENVIRONMENT**

Local Government Act 1995

Dividing Fences Act 1961, Section 5 - 'Terms used'

Dividing Fences Regulations 1971, Point 3 - 'Exclusion from meaning of "owner"'

Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law 2008, Sections 2.6 to 2.12

Shire of Plantagenet Town Planning Scheme 3

**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 2.3 (Pleasant streetscapes, open spaces, parks and gardens) the following:

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.

The Shire of Plantagenet Corporate Business Plan 2016/2017 – 2020/2021 includes Action 2.3.1.1:

*'Maintain parks, gardens and open space at standards acceptable to the community.'*

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

### **OFFICER COMMENT**

This policy was updated at its last review in 2017. Changes have been made to the policy during this review to assist Shire staff in clarifying specific points with residents when requests are made. The two most prevalent verge related maintenance requests made by residents involve verge trees and the removal of vegetation from verges through spraying or mowing/slashing. Councillors should note that some townsites residents have expressed dissatisfaction when advised the verge adjacent to their property will not be mowed by Shire staff.

Also, at section 4.4.1, reference to the area of the verge to be sprayed has been removed. Following discussion with Parks and Gardens staff the area of verge to be sprayed in the four townsites can be dependent upon a number of factors such as whether the verge is kerbed and has a footpath; whether a lawn is established; whether there are plants/trees situated on the verge; and whether a verge has a definite maintenance zone such as a drain and a backslope. The guideline to Parks and Gardens staff and contractors will be to spray within the maintenance zone of a road which is backslope to backslope rather than a blanket instruction to spray to the property boundary. Consideration also needs to be given by the Council to the growing concern for the use of herbicides, in particular glyphosate, despite all scientific evidence to the contrary.

Also included in the policy for further clarity is a new point 4.1.2 which describes where the Shire does maintain and mow vegetated verges in townsites. This policy was compared against a number of other Council's policies with regard to verge maintenance.

### **VOTING REQUIREMENTS**

Simple Majority

### **OFFICER RECOMMENDATION/COUNCIL DECISION**

**Moved Cr B Lang, seconded Cr J Oldfield:**

**That amended Council Policy I/RR/4 Town Street Verge Management Policy as follows:**

#### **OBJECTIVE**

**To provide guidelines for the maintenance and development of street verges within townsites under the care, control and management of the Council.**

#### **POLICY**

##### **1. Scope**

**This policy applies to street verges within the townsites boundaries of Mount Barker, Kendenup, Rocky Gully and Narrikup. A separate policy (I/RR/2 – Rural Road Verge Vegetation Management) relates to the management of verges on rural roads.**

##### **2. Legislation**

**Dividing Fences Act 1961**

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**Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law 2008 – Division 1 – General and Division 3 – Verge treatments**

**Shire of Plantagenet Town Planning Scheme 3**

**3. Definitions**

**Verge** The part of a thoroughfare between the carriageway and the land which abuts the thoroughfare but does not include any footpath (Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law 2008).

**Footpath** An area that is open to the public that is designated for, or has as one of its main uses, use by pedestrians (Road Traffic Code 2000).

**4. Application of Policy**

**4.1 Council Responsibilities**

**4.1.1** The Shire may undertake drainage preservation, annual spraying for weeds and maintenance of street trees on verges in townsites. Any other works are the responsibility of the adjoining property owner.

**4.1.2** Unless an agreement is in place, the Shire will only undertake the mowing of vegetated road verges and upkeep of garden beds in the following areas of townsites:

- a) Community facilities (eg Mount Barker CRC and Library, Mount Barker Swimming Pool, Tourist Information Centre, town halls, cemeteries);
- b) Open space recreational areas such as playgrounds, parks and reserves; and
- c) Areas located along key transport corridors and entry statements.

The Shire will not mow vegetated road verges and verges fronting private properties, commercial properties or properties owned by government authorities.

**4.1.3** The Shire reserves the right to remove any verge treatment for the purpose of carrying out maintenance works, without being liable to compensate any person for such removal. Notice of Shire verge works will be provided to the property owner prior to any works being carried out.

**4.2 Street Trees**

**4.2.1** The Shire is responsible for the planting, maintenance and removal of trees on townsite verges. Occasionally it is necessary to remove a dangerous tree that poses a threat to public safety such as impeding sight along the roadway or one threatening to fall.

**4.2.2** Property owners are permitted to prune any branches overhanging their fenceline from a verge tree. The appropriate removal and disposal of these branches is the responsibility of the property owner.

**4.2.3** The Council will accept responsibility for the removal of any tree that has fallen from any Council controlled land within townsites onto private land, subject to the owner/occupier providing the required access authorisation. Local Government is not bound by the Dividing Fences Act 1961, therefore any damage to fences and other infrastructure caused by a tree on Council controlled land is the responsibility of the property owner.

**4.3 Trees Near Power Lines**

The Shire is provided with a regular report from Western Power listing trees within a townsite on Council land that require pruning. When identified the Shire will undertake the works required to ensure the tree is the required safe distance from a powerline.

**4.4 Verge Spraying**

**4.4.1** The Shire undertakes an annual verge spraying program within all townsites to reduce weeds and limit fuel loads on verges.

**4.4.2** Residents may request that their verge be added to the 'Do Not Spray' Register, which is maintained by the Works and Services Department and updated regularly to ensure requested (and developed) verges are excluded from the spraying program. Drains and footpaths adjacent to the property may still be sprayed by Shire staff as part of the maintenance of Council infrastructure.

**4.4.3** The Council reserves the right to maintain verges that are added to the 'Do Not Spray' Register as it sees fit, if they are not maintained to required standards.

**4.5 Fire Hazard Reduction**

Residents are encouraged to include their verges as part of fire hazard management plans for their own properties. Any requests for the removal of large branches for the purpose of fire hazard reduction will be assessed by the Council, subject to the level of risk and availability of resources.

**4.6 Verge Enhancements by Property Owners**

The Shire permits property owners to enhance their verge, subject to compliance with the conditions outlined in this policy. A landscaped verge contributes to the attractiveness of the adjacent property and helps develop the town's character and form a 'sense of place'.

**4.6.1 Permissible Treatments**

As detailed in the Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading Local Law 2008, the owner or occupier of land which abuts a verge may install a permissible verge treatment, as follows:

- a) The planting and maintenance of a lawn;
- b) The planting and maintenance of a garden provided that:
  - Clear sight visibility is maintained at all times; and



- Where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb.
- c) The installation of an acceptable material, which is defined as the following hardstand materials:
  - Brick paving;
  - Bitumen;
  - Concrete; and
  - Paving slabs.
- d) The installation of no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material, and the planting of either a lawn or a garden on the balance of the verge.

**4.6.2** Low growing water wise plants are recommended for planting in verges. The advantages of water wise plants, in particular plants native to the area, include supporting biodiversity, decreasing storm water and nutrient runoff and less maintenance costs and water requirements compared to lawn. Productive gardens are permitted provided that produce will not lie on the footpath, kerb or carriageway.

**4.6.3** Property owners are responsible for checking for the presence of any service infrastructure in their verge prior to developing the site. This should include a 'Dial Before You Dig' check.

**4.6.4** Permission for any other form of verge treatment, other than the treatments outlined above, must be sought in writing from the Chief Executive Officer.

#### **4.7 Restrictions**

The following restrictions apply to private verge treatments:

- a) No structures or objects that would create a hazard to vehicles or pedestrians are to be placed on the verge;
- b) No plant is to be more than 750mm in height when mature or of a hazardous nature eg declared weeds (WA), poisonous or thorny;
- c) The level and grade of the verge, and between adjoining verges, shall remain consistent and free of trip hazards, excess undulations, mounds, holes, depressions, ridges and terraces; and
- d) Verges cannot be used for permanent or long term car parking purposes unless approved by the Chief Executive Officer.

#### **4.8 Irrigation**

**4.8.1** If a property owner wishes to irrigate their verge an application must be made in writing to the Chief Executive Officer. Installation and maintenance of irrigation structures will be at the property owner's expense and will not be maintained by the Shire.

4.8.2 If approved, irrigation pipes and connections shall be laid underground and pipefittings not protrude above the surface. Drip line and/or pop up sprinklers must be used. Water supplied to the system must be sourced from the adjoining property. Sprinklers are not to cause an inconvenience to any person using the verge and 'half' sprinklers must be used adjacent to kerbs, footpaths or carriageways to ensure flow is directed away from these surfaces.

#### 4.9 Obligations of Property Owners

4.9.1 A property owner who installs or maintains a verge treatment shall ensure the treatment is in a good and tidy condition and that the footpath, kerb and/or carriageway is not impeded. The Shire will not carry out any maintenance work (including mowing, watering, spraying, slashing and pruning) on these developed verges.

4.9.2 The Shire may give a notice in writing to the property owner of a lot abutting a verge to make good, within the time specified in the notice, any breach of the verge treatment guidelines.'

be endorsed.

CARRIED (8/0)

NO. 158/19

## 9.3 CORPORATE SERVICES REPORTS

### 9.3.1 FINANCIAL STATEMENTS – JULY 2019

<b>File Ref:</b>	<b>N48971</b>
<b>Attachment:</b>	<a href="#">Financial Statements</a>
<b>Responsible Officer:</b>	<b>John Fathers</b> <b>Executive Manager Corporate Services</b>
<b>Author:</b>	<b>Alison Kendrick</b> <b>Senior Administration Officer - Finance</b>
<b>Proposed Meeting Date:</b>	<b>13 August 2019</b>

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#### **PURPOSE**

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 31 July 2019.

#### **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

**OFFICER RECOMMENDATION/COUNCIL DECISION**

**Moved Cr L Handasyde, seconded Cr B Lang:**

**That the Financial Statement for the period ending 31 July 2019 be received.**

**CARRIED (8/0)**

**NO. 159/19**

**9.3.2 LIST OF ACCOUNTS – JULY 2019**

<b>File Ref:</b>	<b>N49093</b>
<b>Attachment:</b>	<a href="#">List of Accounts - July 2019</a>
<b>Responsible Officer:</b>	<b>John Fathers</b> <b>Executive Manager – Corporate Services</b>
<b>Author:</b>	<b>Emma Gardner</b> <b>Accounts Officer</b>
<b>Proposed Meeting Date:</b>	<b>13 August 2019</b>

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**PURPOSE**

The purpose of this report is to present the list of payments that were made during the month of July 2019.

**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 (21 May 2019). 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 J Moir:

That in accordance with Regulation 13(1) of the Local Government (Financial Management) Regulations 1996, the list of payments made under delegated authority for the month ended 31 July 2019 be received and recorded in the minutes of the Council, the summary of which is as follows:

1. Electronic Payments and Direct Debits totalling \$664,034.65;
2. Municipal Cheques 46563 – 46573 and 46577 – 46583 totalling \$60,963.68;
3. Trust Cheque 505 – 508 totalling \$1,700.00; and
4. Cancelled Cheques 46574 - 46576.

**CARRIED (8/0)**

**NO. 160/19**

### 9.3.3 POLICY REVIEW - INVESTMENTS

#### Cr L Handasyde

Item: 9.3.3

Type: Code of Conduct Disclosure (S5.103 LGA/Reg 34C Local Government Administration Regulations) Perceived interests (Clause 2.3 Code of Conduct)

Nature: Advice Only – Voluntary Disclosure

Extent: On the Board of Bendigo Bank

**File Ref: N48920**

**Attachments:** [Council Policy F/RI/1 – Investments](#)

**Responsible Officer:** **John Fathers**  
**Executive Manager Corporate Services**

**Author:** **Alison Kendrick**  
**Senior Administration Officer - Finance**

**Proposed Meeting Date:** **13 August 2019**

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#### **PURPOSE**

The purpose of this report is to review Council Policy F/RI/1 – Investments.

#### **BACKGROUND**

This policy was last reviewed by the Council at its meeting held on 27 March 2018.

#### **STATUTORY ENVIRONMENT**

The authority for a local government to invest surplus funds comes from Section 6.14 of the Local Government Act 1995. Section 18 of the Trustees Act 1962 also details investment powers of trustees.

Local Government (Financial Management) Regulations 1996.

Regulation 19C(2) states that *'when investing money under section 6.14(1), a local government may not do any of the following —*

- (a) deposit with an institution except an authorised institution;*
- (b) deposit for a fixed term of more than 3 years;*
- (c) invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;*
- (d) invest in bonds with a term to maturity of more than 3 years;*
- (e) invest in a foreign currency.'*

An authorised deposit-taking institution is as defined in the Banking Act 1959 (Commonwealth) or the Western Australian Treasury Corporation.

#### **FINANCIAL IMPLICATIONS**

There are some financial implications to this report, depending on the spread of the Council's investments.

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**POLICY IMPLICATIONS**

This policy is presented to the Council for consideration to investing surplus funds in the Western Australian Treasury Corporation Investment Facility.

**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 4.6.1:

*'Provide a full range of financial services to support Shire's operations and to meet planning, reporting and accountability requirements.'*

Accordingly, the recommended outcome for this report aligns with the Strategic Community Plan. Further, the Shire of Plantagenet Corporate Business Plan 2016/2017 – 2020/2021 includes Action 4.6.1.6 'Responsibly manage the Council's financial resources'.

**OFFICER COMMENT**

The Western Australian Treasury Corporation (WATC) is the State's central financial services provider. The WATC provide an Investment Facility available to assist State Government and Local Government client base to efficiently manage their short to medium term cash surpluses.

The benefits include:

- WATC investments are redeemable at call or at short notice.
- All deposits under this Investment Facility are guaranteed by the Treasurer on behalf of the State of Western Australia.
- WATC does not charge establishment or management fees for investments. WATC prices investments based on prevailing financial market rates.
- The Term Deposit Facility enables funds to be invested at a fixed rate for any term ranging from 7 to 365 days and funds are redeemable at short notice subject to a potential early termination adjustment.

It is considered that the policy is relevant and should be retained, with changes to reflect the option to invest in the WATC Investment Facility. Further amendments to reflect the change in title of the Deputy Chief Executive Officer to Executive Manager Corporate Services are also included.

**VOTING REQUIREMENTS**

Simple Majority



**OFFICER RECOMMENDATION/COUNCIL DECISION**

Moved Cr S Etherington, seconded Cr J Oldfield:

That amended Council Policy F/RI/1 – Investments, as follows:

**OBJECTIVE:**

To document and provide the necessary information for the delegated officers to invest surplus funds.

**POLICY:****1. Purpose of Policy**

1.1 The purpose of this policy is to ensure that:

- a) The Council conforms with its fiduciary responsibilities under Section 6.14 of the Local Government Act and Section 18 (1)(a) of the Trustees Act 1962 (the 'Prudent Person' rule);
- b) At all times, the Council has in place a current set of policies and delegations for its Investments Officers; and
- c) Adherence to the guidelines by all officers with delegated authority to invest / control surplus funds.

1.2 This Policy is to be made available to all employees involved in daily investment decisions.

1.3 Notwithstanding the provisions of this Policy, the general financial management obligations imposed under the Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996 should at all times be complied with.

**2. Prudent Person Rule**

2.1 The investment options available to local government authorities in Western Australia were altered in June 1997 with changes to the Trustees Act. With the passage of changes to the Trustees Act, the list of prescribed investments has been removed and replaced by the Prudent Person rule.

2.2 The main features of the prudent person rule include:

- a) Exercising the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons; and
- b) A duty to invest funds in investments that are not speculative or hazardous.

2.3 In exercising powers of investment, there are important matters for consideration:

- a) The purpose of the investment and the needs and circumstances;
- b) The desirability of diversifying investments and the nature of and risk associated with existing investments;
- c) The need to maintain the real value of capital and income; The risk of capital or income loss or depreciation. The potential for capital appreciation;
- d) The likely income return and timing of the income return. The length of the term of the proposed investment;

- e) The liquidity and marketability of the proposed investment. The aggregate value of the investment;
- f) The effect of the proposed investment in relation to the tax liability (if any);
- g) The likelihood of inflation affecting the value of the proposed investment; and
- h) The costs of making the proposed investment; the results of a review of existing investments.

### **3. Investment Objectives**

- 3.1 To add value through prudent investment of funds.
- 3.2 To support the local community bank without putting the Shire's surplus funds to any undue risk.
- 3.3 To have ready access to funds for day-to-day requirements, without penalty.
- 3.4 To utilise the benefits of the Western Australian Treasury Corporation (WATC) Investment Facility.

### **4. Authority to Invest**

- 4.1 The Shire of Plantagenet's surplus funds are to be invested in term deposits or negotiable certificates of deposit with Western Australian Treasury Corporation, Bendigo and Adelaide Bank and other banks with branches in Mount Barker or Albany, subject to their Standard and Poor's long term credit rating being at least BBB+ and the short term rating being at least A-2. Any proposal to invest funds in any other institution not referred to above, for whatever reason, is to be referred to the Council.
- 4.2 Investments from the municipal, loan and reserve accounts are to be kept separate and distinct from the trust account.
- 4.3 Funds may be invested for terms ranging from one to six months based on predicted cash flow requirements.
- 4.4 The Executive Manager Corporate Services places, withdraws or re-invests sums up to \$500,000.00 jointly with the Senior Administration Officer - Finance or Chief Executive Officer, in accordance with the Chief Executive Officer's delegation.
- 4.5 The Chief Executive Officer places, withdraws or re-invests sums over \$500,000.00 jointly with the Executive Manager Corporate Services or Senior Administration Officer - Finance in accordance with the Chief Executive Officer's delegation.

### **5. Review and Reporting**

- 5.1 A cash flow report is to be monitored by the Senior Administration Officer - Finance at least weekly to ensure cash funds are available to meet commitments.
- 5.2 Investments will be managed actively as they mature with reviews by the Executive Manager Corporate Services on a monthly basis.

- 5.3 Bendigo and Adelaide Bank's short term credit rating as defined by Standard and Poors is to be monitored on a monthly basis by the Executive Manager Corporate Services. Any downgrading of the long term BBB+ or short term A-2 rating is to be reported to the Council.
- 5.4 For audit purposes, certificates must be obtained from the WATC and bank confirming the amounts of investment held on the Council's behalf at 30 June each year.'

be endorsed.

CARRIED (8/0)

NO. 161/19

## 9.4 EXECUTIVE SERVICES REPORTS

### 9.4.1 ABANDONED VEHICLES

<b>File Ref:</b>	<b>N49023</b>
<b>Responsible Officer:</b>	<b>Rob Stewart Chief Executive Officer</b>
<b>Author:</b>	<b>Rob Stewart Chief Executive Officer</b>
<b>Proposed Meeting Date:</b>	<b>13 August 2019</b>

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#### **PURPOSE**

The purpose of this report is to respond to a Notice of Motion adjourned by the Council at its meeting held on 16 July 2019.

#### **BACKGROUND**

At its meeting held 16 July 2019 the following adjournment motion was carried:

*'That:*

- 1. Council request that the issue of abandoned vehicles on Council controlled land be submitted for agenda consideration at the next WALGA Zone meeting to be held on the 30 August 2019;*
- 2. The issue of full cost recovery of disposal is met by the legal owner, identified by the VIN number be part of WALGA Zone discussion;*
- 3. The identified owner be held responsible for any littering charges be raised at the same meeting; and*
- 4. Main Roads WA be contacted for their support in full cost recovery for abandoned vehicles on Main Roads controlled land.*

#### **MOTION TO AJOURN THE QUESTION**

*That pursuant to Council Policy A/AMM/1 Notices of Motion, the question be adjourned to enable the CEO to prepare a report on the matter for the Council's consideration at its next Ordinary Meeting of Council to be held on 13 August 2019.'*

#### **STATUTORY ENVIRONMENT**

Local Government Act 1995

Section 3.40A (Abandoned vehicle wreck may be taken) sets out the statutory process for removing an abandoned vehicle from Council property.

#### **EXTERNAL CONSULTATION**

No formal consultation has taken place in regard to this report. However, a number of local government websites have been interrogated to determine the policies of other Councils with regard to abandoned vehicles.

## **FINANCIAL IMPLICATIONS**

In the 2018/2019 financial year, eight abandoned vehicles on local roads were removed at a total cost of \$1,460.00. Further, towing of four vehicles on main roads property was undertaken at a total cost of \$920.00, all of which was reimbursed, including overheads.

The average cost to the Council to engage a contractor to tow a vehicle is \$160.00 although this can sometimes be significantly higher depending upon the recovery distance from O'Neill Road.

Car bodies are recycled for scrap metal and an average price for a car body is \$243.00 based on the current price of \$135/tonne. Commodity prices can be variable and there have been occurrences where car bodies have been recycled for no return.

## **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 is silent with regard to abandoned vehicles. The subject is covered by legislation. Hence the legislation is followed and subsequently abandoned vehicles are treated as rubbish if a current owner cannot be identified.

## **REGIONAL IMPLICATIONS**

Abandoned vehicles to greater or lesser degrees impact all local government authorities.

## **OFFICER COMMENT**

All Councils surveyed during the preparation of this report treat abandoned vehicles as litter, while acknowledging that abandoned vehicles are treated slightly differently due to a specific section of the Local Government Act.

Invariably, the vehicles that the Council needs to arrange disposal of do not have owners that can be readily identified, as is the case with any other litter.

Legislation with regard to licensing of vehicles and purchasing and selling of vehicles does not give local government any authority to pursue, for instance, former owners. Potentially, if the fine for not submitting a Notification of Change of Ownership form was increased to an amount more substantial than the existing \$100.00, it may encourage better compliance with the law.

The matter could be referred to the Great Southern Zone of WALGA so that investigation can be undertaken on behalf of all local authorities in Western Australia to develop a solution to the dumping of car bodies.

## **VOTING REQUIREMENTS**

Simple Majority

**COUNCIL DECISION**

That:

1. Council request that the issue of abandoned vehicles on Council controlled land be submitted for agenda consideration at the next WALGA Zone meeting to be held on the 30 August 2019;
2. The issue of full cost recovery of disposal is met by the legal owner, identified by the VIN number be part of WALGA Zone discussion;
3. The identified owner be held responsible for any littering charges be raised at the same meeting; and
4. Main Roads WA be contacted for their support in full cost recovery for abandoned vehicles on Main Roads controlled land.

**LOST (1/7)**

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

**9.4.2 LOCAL LAWS REVIEW - STANDING ORDERS**

<b>File Ref:</b>	<b>N49024</b>
<b>Attachment:</b>	<a href="#">Standing Orders Local Law 2019</a>
<b>Responsible Officer:</b>	<b>Rob Stewart</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Rob Stewart</b> <b>Chief Executive Officer</b>
<b>Proposed Meeting Date:</b>	<b>13 August 2019</b>

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**PURPOSE**

The purpose of this report is to review the Council's Standing Orders Local Law.

**BACKGROUND**

The local law to be reviewed is the Shire's Standing Orders Local Law. This local law was adopted in 2008 and has remained unchanged.

Section 3.16 (1) of the *Local Government Act 1995* (the Act) requires a local government to review a local law within a period of eight years from the day when it commenced.

The purpose of the proposed local law is to provide for the conduct of meetings of the Council, Committees and electors.

The effect of the proposed local law is intended to result in:

- a) better decision-making at meetings;
- b) the orderly and efficient conduct of meetings;
- c) greater community participation and understanding of the business of the Council; and
- d) more open and accountable local government.

A workshop was held with Councillors on 16 July 2019 to discuss the review of this Local Law.

**STATUTORY ENVIRONMENT**

Section 3.12 of the Act provides for the statutory procedure that a local government must follow in the creation of a new local law, with the initial steps being:

- a) to give local public notice that the local government proposes to make a new local law and seeking submissions on the proposed local law within 42 days.
- b) provision of a copy of the proposed local law to the Minister for Local Government; Heritage; Culture and The Arts.

Regulation 3 of the *Local Government (Functions and General) Regulations 1996* provides that:

*'for the purpose of section 3.12 of the Act, the person presiding at a Council meeting is to give notice of the purpose and effect of a local law by ensuring that;*

- a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and*
- b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law'.*

## **EXTERNAL CONSULTATION**

The review of local laws has been previously undertaken as a joint project with the member Councils of the Southern Link VROC.

Consultation has taken place with the Governance Department of the Western Australian Local Government Association.

Further consultation, by the Shire of Plantagenet, has taken place with Darrell Forrest Advisory Services.

## **FINANCIAL IMPLICATIONS**

Advertising costs will be met from the current budget allocation.

## **POLICY IMPLICATIONS**

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

## **LEGAL IMPLICATIONS**

Local Laws, once adopted and gazetted, become legally enforceable.

## **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 4.6.7:

*'Ensure the Shire's property, administration and records systems are managed effectively and efficiently'*

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

## **REGIONAL IMPLICATIONS**

The Southern Link VROC Strategic Directions 2015-2020 identifies at Goal Four (Increase capacity through collaboration) the following strategy:

Strategy 1 – *'Share systems and processes between member LGAs'*.



**OFFICER COMMENT**

On 16 July 2019 a workshop was held to discuss issues relating to proposed amendments to the Standing Orders Local Law. In particular Cr Moir raised issues that potentially require further debate.

Cr Moir indicated during the workshop that he believed Clause 11.8(2) unfairly curtailed the rights of a mover of an amendment for a right of reply.

Although procedural motions do not generally allow for debate, it is acknowledged that Clause 11.8(1) does allow the mover of a substantive motion the right of reply for the formal motion 'that the question be now put'.

Therefore, the current Clause 11.8(2) could be deleted and replaced with the words: 'If the motion 'that the question be now put', is carried during debate on an amendment, the presiding member is to offer the right of reply and then put the motion to vote without further debate.'

The other matter that created discussion related to Clause 5.3 'Motions of which previous notice has been given'. Clause 5.3(4)(d) provides that (the CEO): '...may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.'

Discussion took place in regard to the word 'may' so that the word 'may' was replaced with the word 'shall'.

The words 'may' and 'shall' have particular meanings in accordance with the Interpretations Act and the (unlikely) scenario of several Notices of Motion being presented to the CEO prior to a Council meeting would require significant allocation of time. It is suggested that the 'may' remain so that the Council's existing policy A/AMM/1 'Notices of Motion' can be implemented.

That policy reads:

'When a Notice of Motion is brought before the Council:

1. The Council will adjourn the motion to allow the Chief Executive Officer to prepare a report on the matter concerned for the Council's consideration;
2. The Adjournment will allow sufficient time for due preparation of that report to allow the Chief Executive Officer to create the report and will be negotiated on the day; and
3. This policy would not apply for minor issues such as a condolence motion, and the like.'

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

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

That:

1. As the Shire of Plantagenet intends to undertake a review of its Standing Orders Local Law to determine whether such local law requires amendment or repeal, local public notice be given advising:
  - a) the Standing Orders Local Law is being reviewed;
  - b) a copy of the local law may be inspected or obtained at the Shire Office; and
  - c) submissions about the local law may be made to the Shire of Plantagenet.
- 2 The purpose of the proposed local law is to provide for the conduct of meetings of the Council, Committees and electors.
3. The effect of the proposed local law is intended to result in:
  1. better decision-making at meetings;
  2. the orderly and efficient conduct of meetings;
  3. greater community participation and understanding of the business of the Council; and
  4. more open and accountable local government.

**CARRIED (8/0)**

**NO. 162/19**

**9.4.3 LOCALS LAWS REVIEW - BUSH FIRE BRIGADES**

<b>File Ref:</b>	<b>N48846</b>
<b>Attachment:</b>	<a href="#">Bush Fire Brigades Local Law 2019</a>
<b>Responsible Officer:</b>	<b>Rob Stewart</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Nolene Wake</b> <b>Executive Officer</b>
<b>Proposed Meeting Date:</b>	<b>13 August 2019</b>

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**PURPOSE**

The purpose of this report is to review the Bush Fire Brigades Local Law.

**BACKGROUND**

The local law to be reviewed is the Shire's Bush Fire Brigades Local Law. This local law was adopted in 2008 and has remained unchanged since.

Section 3.16 (1) of the *Local Government Act 1995* (the Act) requires a local government to review a local law within a period of eight years from the day when it commenced.

**STATUTORY ENVIRONMENT**

Section 3.12 of the Act provides for the statutory procedure that a local government must follow in the creation of a new local law, with the initial steps being:-

- a) to give local public notice that the local government proposes to make a new local law and seeking submissions on the proposed local law within 42 days.
- b) provision of a copy of the proposed local law to the Minister for Local Government; Heritage; Culture and The Arts.

Regulation 3 of the *Local Government (Functions and General) Regulations 1996* provides that:

*'for the purpose of section 3.12 of the Act, the person presiding at a Council meeting is to give notice of the purpose and effect of a local law by ensuring that;*

- a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and*
- b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law'.*

The purpose of the review of the local law is to make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

The effect of the proposed local law is to align existing local laws with changes in law and operational practices.

## **EXTERNAL CONSULTATION**

The review of local laws has been previously undertaken as a joint project with the member Councils of the Southern Link VROC.

Consultation has taken place with the Governance Department of the Western Australian Local Government Association.

Further consultation, by the Shire of Plantagenet, has taken place with Darrell Forrest Advisory Services.

## **FINANCIAL IMPLICATIONS**

Advertising costs will be met from the current budget allocation.

## **POLICY IMPLICATIONS**

This Local Law refers to a grievance policy. Although no grievance policy has yet been written, it is planned to complete this after consultation with Brigades.

## **LEGAL IMPLICATIONS**

Local Laws, once adopted and gazetted, become legally enforceable.

## **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 4.6.7:

*‘Ensure the Shire’s property, administration and records systems are managed effectively and efficiently’*

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

## **REGIONAL IMPLICATIONS**

The Southern Link VROC Strategic Directions 2015-2020 identifies at Goal Four (Increase capacity through collaboration) the following strategy:

Strategy 1 – *‘Share systems and processes between member LGAs’*.

## **OFFICER COMMENT**

Whilst the basis for the Bush Fire Brigades Local Law 2019 is the model Local Law, the following modifications have been made:

1. Previous clause 4.5 – Record Keeping, has been deleted as this is redundant by coverage through other legislation; and
2. Schedule 1 ‘Rules Governing the Operation of Bush Fire Brigades’ has been added.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION/COUNCIL DECISION**

Moved Cr L Handasyde, seconded Cr B Lang:

That:

1. As the Shire of Plantagenet intends to undertake a review of its Bush Fire Brigades Local Law to determine whether such local law requires amendment, local public notice be given advising:
  - a) the Bush Fire Brigades Local Law is being reviewed;
  - b) a copy of the local law may be inspected or obtained at the Shire Office;  
and
  - c) submissions about the local law may be made to the Shire of Plantagenet.
2. The purpose of the review of the local law is to make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.
3. The effect of the proposed local law is to align existing local laws with changes in law and operational practices.

**CARRIED (8/0)**

**NO. 163/19**

#### **9.4.4 MEMORANDUM OF UNDERSTANDING - MUTUAL SUPPORT IN PLANNING AND RESPONDING TO BUSHFIRES WITHIN OR NEAR PLANTATION ESTATES AND OTHER BUSHFIRES AS REQUIRED**

<b>File Ref:</b>	<b>N49090</b>
<b>Attachment:</b>	<a href="#">Memorandum of Understanding</a>
<b>Responsible Officer:</b>	<b>Rob Stewart</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Rob Stewart</b> <b>Chief Executive Officer</b>
<b>Proposed Meeting Date:</b>	<b>13 August 2019</b>

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#### **PURPOSE**

The purpose of this report is to recommend the adoption of a Memorandum of Understanding (MOU) between the Department of Fire and Emergency Services, Forest Industries Federation WA (Inc), Department of Biodiversity, Conservation and Attractions, Parks and wildlife Services and Participating Local Governments to establish mutual emergency response capability arrangements for: bushfires within or near plantation estates and bushfires not impacting plantation estates but where plantation resources may be requested to support the local bush fire fighting response.

#### **BACKGROUND**

A number of other Councils have signed this MOU, including our South Coast Alliance partners the Shire of Denmark and the City of Albany.

#### **STATUTORY ENVIRONMENT**

Bush Fires Act 1954

#### **FINANCIAL IMPLICATIONS**

There are no financial implications for this report.

#### **EXTERNAL CONSULTATION**

This matter has been discussed with Superintendent Wayne Green of the Department of Fire and Emergency Services (DFES).

#### **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.’*

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and

Strategy 1.9.3:

*'Work with bush fire brigades to deliver fire mitigation strategies across the Shire.'*

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

### **REGIONAL IMPLICATIONS**

Our Alliance partners have already agreed to participate in this MOU.

### **OFFICER COMMENT**

Although the Shire, its Brigades, volunteers and the plantation sector already cooperate to a high level, the signing of the MOU would further cement such relationships.

The DFES Superintendent in Albany also supports the signing of the MOU by local government authorities, if for no other reason, to have cooperation levels evidenced in writing.

The signing of the MOU would require nothing further from the Council compared with our existing commitments pursuant to the Bush Fires Act 1954.

Nevertheless, in a spirit of cooperation and collaboration, signing is recommended.

### **VOTING REQUIREMENTS**

Simple Majority

### **OFFICER RECOMMENDATION/COUNCIL DECISION**

**Moved Cr L Handasyde, seconded Cr B Lang:**

**That the Shire President and Chief Executive Officer be authorised to sign the Memorandum of Understanding (MOU) between the Department of Fire and Emergency Services, Forest Industries Federation WA (Inc), Department of Biodiversity, Conservation and Attractions, Parks and Wildlife Services and Participating Local Governments for mutual support in planning and responding to bushfires within or near plantation estates and other bushfires as required .**

**CARRIED (8/0)**

**NO. 164/19**

**10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

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

Moved Cr K Clements, seconded Cr M O'Dea:

That new business of an urgent nature, namely:

The formation of a committee in relation to murals  
be introduced to the meeting.

**CARRIED (8/0)**

**NO. 165/19**

**COUNCIL DECISION**

Moved Cr K Clements, seconded Cr L Handasyde:

That:

1. A committee, to be known as the Mountains and Murals Advisory Committee be formed pursuant to Section 5.9(2)(c) of the Local Government Act 1995;
2. The duties of the committee are to advise the Council on the creation of wall murals in Mount Barker and any associated mural festival;
3. The committee shall be made up of three Councillors, the Executive Manager Strategic Development and four other persons; and
4. The committee shall disband on 31 January 2020.

**CARRIED (8/0)**

**NO. 166/19**

**Absolute Majority**



**COUNCIL DECISION**

**Moved Cr K Clements, seconded Cr J Moir:**

**That the following Councillors, staff and other persons be appointed to the Mountains and Murals Advisory Committee:**

- 1. Crs Chris Pavlovich, Marie O’Dea and Len Handasyde be appointed as Council members;**
- 2. Sgt David Johnson, Ms Kristy Kempton, Ms Tina Johnson and Mr Stuart Roberts as other persons; and**
- 3. Mr Andrus Budrikis Executive Manager Strategic Services.**

**CARRIED (8/0)**

**NO. 167/19**

**Absolute Majority**

**12 CONFIDENTIAL**

**13 CLOSURE OF MEETING**

4:15pm The Presiding Member declared the meeting closed.

**CONFIRMED: CHAIRPERSON** \_\_\_\_\_ **DATE:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_