



ORDINARY AGENDA

Notice is hereby given that an **ORDINARY Meeting** of the Council will be held:

DATE: Tuesday, 23 February 2021

TIME: 4.00pm

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

A handwritten signature in black ink, appearing to read "P. Sheedy".

Paul Sheedy
ACTING CHIEF EXECUTIVE OFFICER

DISCLAIMER

This agenda has yet to be dealt with by the Council. The Recommendations shown at the foot of each item have yet to be considered by the Council and are not to be interpreted as being the position of the Council. The minutes of the meeting held to discuss this agenda should be read to ascertain the decision of the Council.

In certain circumstances members of the public are not entitled to inspect material, which in the opinion of the Chief Executive Officer is confidential, and relates to a meeting or a part of a meeting that is likely to be closed to members of the public.

No responsibility whatsoever is implied or accepted by the Shire of Plantagenet for any act, omission, statement or intimation occurring during Council or Committee meetings.

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 or Committee meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting 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 intimation of approval made by any member of 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 advises that anyone who has any application lodged 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.

The Shire of Plantagenet advises that any plans or documents contained within this agenda may be subject to copyright law provisions (Copyright Act 1968, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction. It should be noted that Copyright owners are entitled to take legal action against any persons who infringe their copyright. A reproduction of material that is protected by copyright may represent a copyright infringement.

MEMBERSHIP – Quorum (5)

Members:

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

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.

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	1
2	RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED).....	1
3	PUBLIC QUESTION TIME.....	1
3.1	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	1
3.2	PUBLIC QUESTION TIME - SECTION 5.24 LOCAL GOVERNMENT ACT 1995	1
4	PETITIONS / DEPUTATIONS / PRESENTATIONS	1
5	DISCLOSURE OF INTEREST	1
6	APPLICATIONS FOR LEAVE OF ABSENCE.....	1
7	CONFIRMATION OF MINUTES	2
8	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....	2
9	REPORTS OF COMMITTEES AND OFFICERS	3
9.1	STRATEGIC DEVELOPMENT REPORTS.....	3
9.1.1	ALBANY HIGHWAY BEAUTIFICATION – MURAL WALL, VIEWING PLATFORM AND PARKING BAY	3
9.1.2	PLANTAGENET BUSINESS DEVELOPMENT CENTRE	7
9.2	WORKS AND SERVICES REPORTS	11
9.2.1	WILSON PARK MOUNT BARKER – LIABILITY RISK ADVICE.....	11
9.3	CORPORATE SERVICES REPORTS.....	16
9.3.1	FINANCIAL STATEMENTS – JANUARY 2021.....	16
9.3.2	LIST OF ACCOUNTS – JANUARY 2021.....	18
9.3.3	REPORT ON SIGNIFICANT ADVERSE TRENDS IN FINANCIAL POSITION 2019-2020	20

9.3.4	POLICY ADOPTION – SALEYARDS - ALLOCATION OF LOADING AND SELLING POSITIONS AND OTHER SPACE TO STOCK AGENTS	23
9.3.5	AWN LIVESTOCK & PROPERTY – REQUEST TO OPERATE AT SALEYARDS	28
9.3.6	COMPLIANCE AUDIT RETURN 2020	34
9.4	EXECUTIVE SERVICES REPORTS	37
9.4.1	CODE OF CONDUCT COUNCIL MEMBERS	37
9.4.2	COMPLAINTS OFFICER	42
9.4.3	CODE OF CONDUCT COMPLAINTS FORM	45
9.4.4	MODEL STANDARDS – CHIEF EXECUTIVE OFFICER RECRUITMENT	48
10	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	53
11	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING	53
12	CONFIDENTIAL	53
13	CLOSURE OF MEETING	53

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

On establishing there is a quorum, the Presiding Member will declare the meeting open.

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

Members Present:

In Attendance:

Apologies:

Members of the Public Present:

Previously Approved Leave of Absence:

Cr Marie O'Dea

Emergency Evacuation Procedures/Disclaimer:

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

4 PETITIONS / DEPUTATIONS / PRESENTATIONS

5 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

6 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

7 CONFIRMATION OF MINUTES

Minutes, as circulated, of the Ordinary Meeting of the Shire of Plantagenet, held on 27 January 2021.

Officer Recommendation

That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 27 January 2021 as circulated, be taken as read and adopted as a correct record.

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 STRATEGIC DEVELOPMENT REPORTS

9.1.1 ALBANY HIGHWAY BEAUTIFICATION – MURAL WALL, VIEWING PLATFORM AND PARKING BAY

File Ref: N54225

Attachments: Albany Highway North Entry 8.2.2021
Albany Highway Visitors Bay 8.2.2021
Mural Art Wall 8.2.2021

Responsible Officer: Andrus Budrikis
Executive Manager Strategic Development

Author: Laura Adams
Economic Development Officer

Proposed Meeting Date: 23 February 2021

PURPOSE

The purpose of this report is to seek endorsement of the plans for a mural wall and viewing platform at the Albany Highway and Muir Highway roundabout and for renovations to the visitor parking bay directly south of the roundabout.

BACKGROUND

In April 2019 a workshop was held to consider options and strategies for encouraging tourists and travellers using Albany Highway to enter into the Mount Barker CBD. Following this workshop, an amendment was entered into the 2019/20 Budget to fund engaging a qualified consultant to produce a concept plan for the entrances to Mount Barker townsite along Albany Highway. In February 2020 landscape architects Emerge Associates were engaged to produce the Albany Highway concept, via an addendum to their instruction to design a concept plan for Mount Barker Hill infrastructure. The areas identified to consider were:

- Albany Highway/Muir Highway roundabout
- Old Police Station Museum
- Lowood Road North entry
- Memorial Drive
- Albany Highway – Railway Station to Wilson Park; and
- Lowood Road South entry.

A workshop was held in July 2020 to provide feedback to Emerge Associates on their draft concept, which suggested the following developments:

Roundabout

- a. Planting
- b. Directional signs
- c. Banner poles
- d. Feature mural wall

- e. Exposed aggregate paving to roundabout circumference and median strips
- f. New path along Albany Highway to Recreation Centre

Old Police Station Museum Complex and Visitor Parking Bay

- a. Directional signs
- b. Planting
- c. Visitor bay upgrade
- d. Replace bollards (or paint)

Lowood Road North Entrance

- a. Consolidated directional signs
- b. Planting
- c. Mural walls
- d. Parking off McDonald Avenue
- e. Feature statue
- f. Continuation of historical farm equipment display

Memorial Drive

- a. Consolidated directional signs
- b. Planting
- c. Upgrade paths
- d. Exposed aggregate paving to median strips

Albany Highway Railway Precinct to Oatlands Road

- a. Planting
- b. Consolidated directional signs
- c. Turf over drain
- d. Additional historical farm machinery display

Lowood Road South Entry

- a. Planting
- b. Consolidated directional sign
- c. Turf over swales in front of existing feature entry walls
- d. Exposed aggregate paving to median strips.

Subsequently, aspects of this concept plan have been identified by the Council to progress to design and construction. This report concerns the feature mural wall and associated viewing platform near the Albany/Muir Highway roundabout, and renovations to the nearby visitor parking bay.

STATUTORY ENVIRONMENT

The Albany Highway road reserve includes the proposed mural and viewing platform site, plus the visitor parking bay. This road reserve is vested to Main Roads.

ASSET MANAGEMENT IMPLICATIONS

The infrastructure built on the road reserve would remain the responsibility of the Shire of Plantagenet for asset management, liability and maintenance implications.

FINANCIAL IMPLICATIONS

\$300,000.00 has been allocated from Local Roads and Community Infrastructure Program funding (LRCIP Round 1) for these developments.

BUDGET IMPLICATIONS

The Financial Year 2020-2021 budget line Albany Highway Beautification 51837.0252 is \$330,000.00. The estimated cost for the construction of a mural wall, viewing platform, and reconstruction of the visitor parking bay including new signage, picnic facilities and shelter, is \$258,000.00.

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

There are no legal implications for the Shire of Plantagenet relating to this report. The planning implications will fall to Main Roads, whom the road reserve is vested in.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Corporate Business Plan 2020 - 2021 provides at Outcomes 2 (Enhancing Natural and Built Environment) and 3 (Prosperous and sustainable local economy) the following Strategy:

Strategy 2.3.2:

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

Strategy 3.4.1:

'Promote and support local and regional tourism initiatives.'

Strategy 3.4.2:

'Provide infrastructure and services to support tourism.'

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

REGIONAL IMPLICATIONS

This project ties in with other tourism infrastructure projects (such as the Mount Barker Hill developments) to progress the wider aim of developing Plantagenet's tourism offer as a gateway to the region.

OFFICER COMMENT

It has been determined that LRCIP (Round 1) funding will be used for the design and construction of the mural wall and viewing deck, and renovations to the parking bay. This grant can specifically be used for design and survey contractors.

The preference is for the mural wall and viewing platform to be situated in the Albany Highway road reserve, as indicated in the attached plan. Main Roads' permission is required for this to progress. A Main Roads representative has indicated that this project could be compliant with their requirements if the infrastructure is situated as far away from the roundabout as it can feasibly be, does not unduly distract drivers, meets safety requirements (such as: the viewing platform would not have a roof, be made of frangible material and would be Universal Access compliant).

As an alternative, Mount Barker Community College have indicated their willingness to investigate the possibility of situating the mural wall within a paddock south-east of the roundabout. This lot is vested to the Department of Education, but further enquiries would have to be made in the first instance to determine whether this vesting would allow such a development.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Council endorses the proposed location and concept design of the mural wall, viewing platform and visitor parking bay components of the Albany Highway Beautification project as per the drawings:

- a) Albany Highway North Entry: proposed location of mural art wall and viewing platform, dated 8 February 2021
- b) Albany Highway North Entry Visitors Bay: site plan dated 8 February 2021
- c) Albany Highway North Entry Mural Art Wall Concept Design: dated 8 February 2021.

9.1.2 PLANTAGENET BUSINESS DEVELOPMENT CENTRE

File Ref:	N54225
Responsible Officer:	Andrus Budrikis Executive Manager Strategic Development
Author:	Laura Adams Economic Development Officer
Proposed Meeting Date:	23 February 2021

PURPOSE

The purpose of this report is to provide an update on the operation of the Plantagenet Business Development Centre (PBDC), an initiative to help local businesses recover from losses sustained as a result of the COVID-19 restrictions.

BACKGROUND

In April 2020, a business survey was promoted on the Shire's Facebook page and sent to various businesses within the Shire of Plantagenet to inform our response to economic setbacks resulting from COVID-19 restrictions. A key finding from the data received was that businesses have been impacted in disparate ways across various aspects of their operations, and that any resulting support package would have to be multi-agency in order to provide the coverage required.

On May 2020, the CEO, Executive Manager Strategic Development and Economic Development Officer met with Tracey Bridges, Executive Officer of Business Great Southern to discuss possibilities for assisting with economic recovery in our Shire. Business Great Southern provides free business counselling, and also incorporates the Albany Business Centre, an 'incubator' that provides an affordable location to host businesses that are starting out. As a result of this discussion the idea of hosting a physical Business Development Centre was formed, and Business Great Southern pledged its support of the initiative. They have written to the Shire of Plantagenet to offer free one-on-one consultations, to run at least two events a month, and to facilitate networking ideas for the community which comply with social distancing.

At a workshop on 14 July 2020, the Council provided direction on a draft Business Plan for the Plantagenet Business Centre. It was advised that Shire officers should investigate alternate venues and provide an update to the August Council meeting.

At Council's meeting held on 11 August 2020 it was resolved that:

- 1) The Council endorses the trial of a Business Development Centre at 25 Lowood Road to the 28 February 2021.*
- 2) The Executive Manager Strategic Development works with the Mount Barker Community Resource Centre to provide business activities and services.*
- 3) The Executive Manager Strategic Development negotiates future cooperation and possible co-location with the Mount Barker Visitor Centre.*

Following this, a short-term lease was negotiated for the shop at 23B Lowood Road to run until 28 February 2021. The shop was fitted out with loaned furniture from

Shire storage, the Mt Barker CRC and library, and from Shire officers' own belongings. IT infrastructure was loaned from the Shire offices.

STATUTORY ENVIRONMENT

The Shire of Plantagenet's existing Public Liability policy was sufficient to cover activities at 23B Lowood Road. The only additional insurance required was a short-term addition to cover the value of the windows at the shop.

EXTERNAL CONSULTATION

The Plantagenet Business Survey was followed up by phone conversations with business owners to offer tailored support and explore these issues further. External agencies with expertise in providing business support services have also been consulted, as have stakeholders providing similar services locally.

Operation of the Plantagenet Business Development Centre has been an exercise in external consultation, both to gather insights into how local small and micro-businesses operate, and to inform ratepayers about Shire development projects.

FINANCIAL IMPLICATIONS

Expenses have been funded from Other Expenses – Economic Development 21811.0572. The total cost of the project to date was \$3,660.17.

BUDGET IMPLICATIONS

The Financial Year 2020-2021 budget line Economic Development 21811.0572 had sufficient funds to cover the expenditure.

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

There are no legal implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Corporate Business Plan 2020 - 2021 provides at Outcome 3 (Prosperous and sustainable local economy) the following Strategy:

Strategy 3.1.3 - Support the promotion and marketing of local businesses

Strategy 3.2.2 - Promote and support local industry development initiatives

Strategy 3.3.1 - Develop, maintain and strengthen relationships with local businesses

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

REGIONAL IMPLICATIONS

This concept plan for the BDC was developed in consultation with regional business agencies such as Business Great Southern, and services at the BDC were delivered in partnership with Business Great Southern, Albany Business Centre, Albany Chamber of Commerce, Mt Barker CRC, and various associations such as Make A Scene artists' collective.

OFFICER COMMENT

A full program of PBDC events on Mondays and Thursdays was released for October and November, featuring a roundtable event on a different topic every Monday morning followed by one-on-one business counselling appointments in the afternoons. Thursday featured a variety of workshops and sessions with different project partners, and some Shire-run information sessions such as a Q&A on Shire development projects (namely the swimming pool redevelopment and Mount Barker Hill tourism infrastructure and trails), and a session on how to supply goods and services to the Shire.

The program was advertised online, via flyers and in Plantagenet News. Engagement with the business counselling sessions was good, with an average of two individual hour-long sessions being booked per week. Three of these sessions resulted in local individuals developing business plans for starting their own businesses: a graphic design consultancy, online IT support, and a coffee concession stand for a plant nursery.

Attendance of group sessions was mixed. Local businesses providing tangible products such as goods and services were found to be less likely to engage with workshops – potentially because they had established businesses that did not perceive a need for the assistance, or potentially because they did not perceive a need to develop plans to operate strategically. There was high engagement from home-based businesses, particularly with regards to developing online sales platforms. Based on the response to the October/November program, a more tailored approach was taken for December/January.

A call-out for artwork to display at the PBDC was responded to by several local individual artists, crafters and art groups. This high engagement led to an Albany-based artists' collective being invited to run a session for these artists on how to set up and operate pop-up gift shops, which was popular and may encourage local groups to become more entrepreneurial.

The programs that were run at the PBDC evidently had value to certain types of local small and micro-businesses. Elements of the same programs could be run without requiring place-based provision through assisting the Mt Barker CRC to fill their Business Development sessions, based on insights identified through the PBDC and subsequent wider issues that may develop. For this reason it is not recommended to keep the PBDC open in the current location on Lowood Road.

Another element of the PBDC program that had high engagement was a proposal from Albany Chamber of Commerce around producing a regional online business directory. A comprehensive Plantagenet Business Directory is something that could be produced and hosted by the Shire to avoid the difficulties inherent in member-based organisations providing this service; namely that many smaller business

would be unwilling or unable to become members. It has been confirmed that the Shire of Plantagenet website would be capable of hosting such a directory. The key input required would be staff time to gather the details of all businesses in Plantagenet that want to participate, with future commitment of further time required to ensure the details are kept up-to-date.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That:

- 1. The Council endorses the production of an online Plantagenet Business Directory to be hosted on the Shire of Plantagenet website.**
- 2. The Economic Development Officer works with the Mount Barker Community Resource Centre to provide business activities and services.**

9.2 WORKS AND SERVICES REPORTS

9.2.1 WILSON PARK MOUNT BARKER – LIABILITY RISK ADVICE

File Ref:	N54283
Attachment:	<u>Liability Risk Advice – Wilson Park, Mount Barker</u>
Responsible Officer:	David Lynch Executive Manager Works and Services
Author:	Nicole Selesnew Project Officer Works and Services
Proposed Meeting Date:	23 February 2021

PURPOSE

The purpose of this report is to review a preliminary Liability Risk Advice assessment for Wilson Park, Mount Barker.

BACKGROUND

Reserve 6454 located on Lowood Road, Mount Barker, is commonly referred to as Wilson Park. The reserve is vested with the Shire of Plantagenet for the purpose of recreation. The area extends from Hicks Close at the rear of the Shire Administration Office through to Montem Street and is bordered by Lowood Road and the railway line. The Wilson Park facilities include the public toilets, skate park, basketball area, children's playground, shaded seating area and gazebo with BBQ facilities.

In October 2018 a post and rail fence with chicken wire was removed from the park area which bordered Lowood Road and Montem Street. The fence was dilapidated and the chicken wire trapped leaves and twigs, creating a suitable area for snakes. Shire staff had observed snakes in the area which also resulted in the installation of warning signs.

Following the removal of the fence there was several comments published on the Shire of Plantagenet Facebook page regarding the lack of appropriate fencing between the playground and Lowood Road. One of the concerns was children running through a tunnel located underneath a playground mound, cited in close proximity to Lowood Road, and continuing on to the road.

The Chief Executive Officer authorised the installation of a rail fence with a latch gate at the Lowood Road side of the tunnel November 2019, alleviating concerns about the tunnel.

A series of bent steel frame bollards were also installed between the playground, Lowood Road and Montem Street to prevent vehicles from entering the site.

Neither of these fence installations were designed to act as a playground barrier between the play areas and adjoining roads.

During 2020 there were two recorded complaints about the lack of barrier fencing between the playground and Lowood Road. Councillors have also reported approaches by members of the community concerned about the lack of barrier fencing.

The Executive Manager Works and Services (EMWS) reviewed the fencing standards at a number of other public playgrounds in June 2019. The review found there was no consistent approach to fencing, for example:

- a) Kojonup playground - directly abuts Albany Highway (in a 50km/hr zone) and is fenced;
- b) Collie and Dunsborough playgrounds are not fenced and they are in prominent, high traffic areas similar to Lowood Road;
- c) Eyre Park playground in Albany is not fenced. The Park contains a lake which is also not fenced; and
- d) Pemberton's playground is partially fenced.

Kidsafe WA has advised that the only playground that legally requires a fence is a children's service, such as a day care centre. If a fence is installed then it needs to follow Australian Standards that detail the height, spacing and strength of the fence.

In November 2020 the EMWS sought advice from the Local Government Insurance Services (LGIS) Risk Management Team, asking for a review of the whole Wilson Park playground area. A Senior Risk Consultant visited the site and carried out a park audit, reviewing the risks and public safety issues present in the park and providing some suggestions on how to manage these issues.

STATUTORY ENVIRONMENT

There is a series of Australian Standards that cover a range of playground components including surfacing, fencing, materials and soft fall.

AS 4685.0:2017 *Playground equipment and surfacing – Part 0: Development, installation, inspection, maintenance and operation* is a key, base standard.

Parks and Leisure Australia (WA) also produce a range of guidelines for community infrastructure including playgrounds.

EXTERNAL CONSULTATION

Consultation has occurred with Kidsafe WA and LGIS.

FINANCIAL IMPLICATIONS

There is a range of recommendations provided in the LGIS review of Wilson Park. The recommendations that the EMWS is suggesting action be taken can be funded through the Parks & Rec Grounds – Facilities Maintenance account (20219.0047).

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

Policy 'I/PRP/1 – Playground Equipment Maintenance and Improvement' applies.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2016-2027 provides at Outcome 1.3 (A cohesive and supportive community) the following:

Strategy 1.3.5:

'Improve the amenity of community spaces and Shire facilities to promote participation and wellbeing.'

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

STRATEGIC RISK IMPLICATIONS

The LGIS inspection raised a number of risks and public safety issues and provided consequent commentary and suggestions on how best to manage these risks.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The LGIS Preliminary Liability Risk Advice report lists eight points that require consideration and/or action in order to ensure the Council has exercised reasonable steps to ensure user safety in Wilson Park. These are:

1. Clarifying the intention of the rail fencing that borders the playground, Lowood Road and Montem Street. If the intention is to provide a vehicle barrier and clear property delineation then the fencing is deemed sufficient. If the intention is to provide a barrier between the play area and adjoining roads to prevent children from crossing on to the road, then the fencing is insufficient and requires amendments.

As noted previously, Kidsafe WA has advised that barrier fencing is not a requirement for public playgrounds. LGIS has also noted in their report that Australian Standards do not specify that a park such as Wilson Park must be fenced.

It is the opinion of the EMWS that the bent steel frame bollards, installed between the playground, Lowood Road and Montem Street, are designed to prevent vehicle access into the playground space and to delineate the playground from surrounding land uses. The fence was not installed to act as a

pedestrian barrier between the playground and adjoining roads and should be recognised only as a vehicular barrier.

2. Install signage on Lowood Road alerting drivers that children are in the vicinity.

The EMWS has indicated that signs can be placed along Lowood Road, on either side of Wilson Park, alerting drivers that people will be accessing Wilson Park.

3. Consider the provision of a safe and appropriately signed crossing point if it is deemed there is a significant number of people accessing the park from the western side of Lowood Road.

The Council's previous attempts to have a pedestrian crossing installed in the central business area of Lowood Road were not supported by Main Roads Western Australia (MRWA) as the site failed to meet the criteria for a pedestrian crossing. MRWA noted that there was insufficient vehicle movements to warrant a crossing. Further, the Shire has not received any complaints about difficulties crossing Lowood Road to access the park.

It is recommended that this suggestion be noted, but no further action be taken.

4. Consider a review of the speed limit along Lowood Road, in particular if more people are attracted to Wilson Park following further enhancements or improvements.

The existing speed limit along Lowood Road is 50km/h. Shire Officers have suggested a reduction to speed limits along Lowood Road at Roadwise meetings. MRWA has indicated they would not support further lowering of the speed through this area.

It is recommended that this suggestion be noted, but no further action be taken.

5. Signage be installed in the play area encouraging park users to supervise the activities of children.

The EMWS has indicated that signs can be placed in the main entrances to the play areas encouraging people to supervise their children.

6. Prune vegetation to improve sight lines between the park, Lowood Road, Montem Street, the gazebo which contains the BBQ and railway line.

The EMWS has indicated this can be achieved within the Park Maintenance work schedule.

7. Carry out some minor repair work to the south east park fence (between the park and the rail corridor).

The EMWS has indicated this can be achieved within the Park Maintenance work schedule.

8. Ensure any future park enhancements or refurbishments incorporate access for people with disabilities. The LGIS review highlights the 'Guidelines for Community Infrastructure' document, produced by Parks and Leisure Australia (WA), as a concise guide for ensuring parks are accessible to people of all abilities. The document also takes into account the requirements of the Disability Discrimination Act 1992 and Australian Standards for Access and Mobility design.

The EMWS has noted this recommendation and will ensure the Youth Park Precinct Plan, which covers the whole of Reserve 6454, considers access and inclusion of people with all abilities.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That:

1. The attached Local Government Insurance Service 'Preliminary Liability Risk Advice for Wilson Park' review, dated 1 December 2020, be noted.
2. The bent steel rail barriers between the Wilson Road Playground, Lowood Road and Montem Street be recognised as a vehicle barrier to prevent vehicles accessing the site.
3. Signage be installed on Lowood Road within close proximity to the Wilson Park boundary, alerting drivers to the presence of people accessing Wilson Park facilities.
4. Signage be installed in the Wilson Park playground encouraging park users to supervise the activities of children.
5. Vegetation be pruned to improve sight lines throughout Wilson Park including, but not limited to, play areas that border Lowood Road and Montem Street, surrounding the park gazebo and areas adjoining the railway corridor.
6. Repair work be carried out to the fence bordering the south east corner of Wilson Park and the rail corridor.
7. Consider the requirements for people of all abilities when undertaking any reviews of Wilson Park facilities.

9.3 CORPORATE SERVICES REPORTS

9.3.1 FINANCIAL STATEMENTS – JANUARY 2021

File Ref:	N54212
Attachment:	<u>Financial Statements</u>
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	23 February 2021

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 31 January 2021.

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

That the Financial Statements for the period ending 31 January 2021 be received.

9.3.2 LIST OF ACCOUNTS – JANUARY 2021

File Ref: N54319
Attachment: List of Accounts – January 2021
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Vanessa Hillman
Accounts Officer
Proposed Meeting Date: 23 February 2021

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of January 2021.

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 (19 May 2020). 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

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 January 2021 be received and recorded in the minutes of the Council, the summary of which is as follows:

1. Electronic Payments and Direct Debits totalling \$418,128.99.
2. Municipal Cheques 47048 – 47056 and 47058 - 47069 totalling \$41,047.99 and;
3. Cancelled Cheque 47057.

**9.3.3 REPORT ON SIGNIFICANT ADVERSE TRENDS IN FINANCIAL POSITION
2019-2020**

File Ref:	N53996
Attachments:	<u>2019/2020 Audit Report</u> <u>Draft Report on Significant Adverse Trends in Financial Position – 2019/2020</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	23 February 2021

PURPOSE

The purpose of this report is to endorse a report to the Minister for Local Government advising what action has and will be taken in respect to matters raised within the audit report in terms of significant adverse trends.

BACKGROUND

Under the Local Government Act 1995, the Shire of Plantagenet is required to prepare an audited Annual Financial Report each financial year.

The Shire's 2019/2020 audit report was received from the Shire's auditor, David Tomasi of Moore Australia Audit (WA) on 27 November 2020 and is attached to this document.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 7.12A(4) of the Act requires that a local government must:

- '(a) prepare a report addressing any matters identified as significant by the auditor in the audit report, and stating what action the local government has taken or intends to take with respect to each of those matters; and*
- (b) give a copy of that report to the Minister within 3 months after the audit report is received by the local government.'*

Section 7.12A(5) further requires that:

'Within 14 days after a local government gives a report to the Minister under subsection (4)(b), the CEO must publish a copy of the report on the local government's official website.'

FINANCIAL IMPLICATIONS

There are no immediate financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no direct asset management implications as no assets are being created or acquired.

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.

STRATEGIC RISK IMPLICATIONS

There are no direct strategic risk implications for this report, although it is noted that the Strategic Risk Register incorporates key controls on asset sustainability practices. These include having an asset management plan and long term financial plan linked to that plan. It is noted that these documents both require more rigour.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

A key audit requirement requires the auditor to identify any financial trends which it considers adverse and of concern. For the 30 June 2020 year, the Auditor has raised the following significant matters.

- 'a) In our opinion, the following matters indicate a significant adverse trend in the financial position of the Shire:*
- i. The Asset Sustainability Ratio has been below the DLGSCI standard for all 3 years reported in the annual financial report.*
 - ii. The Operating Surplus Ratio has been below the DLGSCI standard for all 3 years reported in the annual financial report. '*

A draft report has been prepared which explains how the ratios are formulated, the reasons why the ratios are below the Department of Local Government, Sport and Cultural Industries standards and actions that have and are proposed to be taken to improve them.

In summary, the Shire has been aware for some time that an improvement of these and other ratios influenced by asset values was dependent on verification of asset

condition and depreciation data. By far, road depreciation is the major contributor to the sub-standard ratios.

A condition assessment was done on the sealed road network in 2018/2019. The fresh data realised a reduction in the accumulated depreciation on roads of about \$38 million and substantially improved the Asset Consumption Ratio (from a basic to intermediate level).

A review of depreciation for Buildings, Infrastructure - Parks and Infrastructure - Other has also now been carried out. The annual depreciation in these categories reduced from 2018/2019 levels by \$720,423.00 (36%). The 2019/2020 ratios have improved (from what they otherwise would have been) as a result.

The Shire is continuing to verify the condition and remaining useful life of unsealed road infrastructure to ensure depreciation rates are reliable.

Nevertheless, the Shire's auditor has advised that interpretation of this Asset Sustainability Ratio should be considered together with the Asset Consumption Ratio (ACR) and the Asset Renewal Funding Ratio (ARFR). The ACR of 0.68 is now sitting at an intermediate level indicating the Council's assets are in an acceptable condition and the ARFR of 0.86 is consistently above its target of 0.750, indicating the planned renewal and replacement expenditure over the next 10 years is sufficient to meet the required renewal and replacement expenditure.

It is also considered that, to some degree, the Operating Surplus Ratio does not accurately represent the local government scenario, whereby a significant proportion of infrastructure renewal (expensed via depreciation) is met by capital grant income.

Finally, the current ratio benchmarks are a 'one size fits all' approach. It is understood that the majority of rural local governments have not had an Operating Surplus Ratio that met the standards, and there has been an indication by the Auditor General that this benchmark may need review.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That:

- 1. In accordance with Section 7.12A of the Local Government Act 1995, the attached report addressing matters identified as significant by the Shire's auditor in the 2019/2020 Audit Report, stating what action has and will be taken with respect to those matters, be adopted.**
- 2. The report in clause 1 above be forwarded to the Minister for Local Government and be published on the Shire of Plantagenet website.**

9.3.4 POLICY ADOPTION – SALEYARDS - ALLOCATION OF LOADING AND SELLING POSITIONS AND OTHER SPACE TO STOCK AGENTS

File Ref: N54132
Responsible Officer: Paul Sheedy
Acting Chief Executive Officer
Author: John Fathers
Deputy Chief Executive Officer
Proposed Meeting Date: 23 February 2021

PURPOSE

The purpose of this report is to recommend the adoption of new policy relating to the allocation of loading and selling positions and other space to stock agents at the Mount Barker Regional Saleyards.

BACKGROUND

The Shire has received a request from AWN Livestock & Property for access to and use of the Mount Barker Regional Saleyards facility for auction sales. At the Saleyards Advisory Committee meeting held on 20 October 2020, discussion on this application prompted a request to the Chief Executive Officer to prepare a draft policy position with regard to shared infrastructure and other relevant factors to mitigate occupational health and safety and other operating issues resulting from additional stock agents operating at the Mount Barker Regional Saleyards.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

This report recommends the adoption of a new Council policy.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 3.5 (Appropriate infrastructure that supports sustainable economic development) the following Strategy:

Strategy 3.5.5:

'Manage and maintain the Saleyards to ensure that the facility is successful and self-sustaining.'

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

OFFICER COMMENT*Selling Positions and Annual Rotation*

The saleyards has been divided into three sections for loading and selling of cattle (one per agent). When the saleyards first opened, it was agreed that every 12 months (On 10 March each year, the anniversary of the opening of the facility) the two major agents (now Elders and Nutrien) would swap from the eastern side to the western side and vice versa. This was for reasons of equity in the use of the facilities. There are benefits in showing animals in the eastern pens as this is the access and congregation area for buyers.

The physical constraints of the saleyards are not conducive to three or more agents rotating. The 'middle' position should continue to be occupied by the agent(s) with the lowest average throughput. This is due to the location of the weighbridges to the selling pens and the logistics of moving cattle from dirt pens to the stacking pens and then to the weighbridges and interference with the other users coming off the opposing weighbridge.

In addition to this, the agents rotate selling positions each week (ie: which agent sells 1st, 2nd and 3rd.) For example, in week 1, the order will be Elders, Nutrien and West Coast Livestock. Week 2 will be Nutrien, West Coast Livestock and Elders. Week 3 will be West Coast Livestock, Elders and Nutrien.

This was introduced for reasons of fairness among agents as there is a benefit to selling earlier rather than later. In the event of a 4th agent, this same approach should apply. All of these things could be formalised in a policy position.

Office Space

There is a need for agents to have an office. The agents are responsible for the following, which requires a networked PC with access to the Shire's version of the LE Saleyards software (LESY):

Day before sale day:

- Agents enter in the NVDs onto LESY.
- Agents do online PIC check and Livestock Protection Assurance (LPA) check.
- Agents to provide NVD's to saleyards staff to scan them into the system.

Sale Day:

- Agents put in pen no's and mark no's into LESY and print penning sheets.
- Agents take buyers bids and enter into LESY.
- Agents liaise with saleyards staff to co-ordinate buyers and transporters among agents.

- Agents liaise with saleyards staff to confirm sale details in LESY are correct (saleyards staff then process the sale).

It is considered unlikely that agents will want to share office space and computers, due to potential access to each other's commercially sensitive information.

The policy position should be that, if office space is not available in the current building, prospective agents will seek approval to provide suitable accommodation with networked PC and access to the Shire's version of the LE Saleyards software, at their cost.

Allocation of receival ramps and pens

The allocation of receiving ramps and lairage/dirt pens are worked out on a throughput basis with figures based on the previous year's throughput (to 9 March), excluding breeder and special sales. Based on last year's figures:

- Nutrien has approximately 65% of the yarding they are allocated 4.5 receival ramps and one complete weighbridge with all stacking pens on that weighbridge.
- Elders with 32% have two receival ramps and share the other weighbridge with:
- WCL who have 3% of the throughput for the last changeover year and have half a receival ramp.

With their low throughput WCL, would be theoretically entitled to less than half a ramp (based on throughput share) but they are provided half at the moment as they need somewhere to unload their cattle. The lack of co-operation between agents has made this difficult and unworkable. From a policy perspective, it is considered that the market share allocation of ramps is appropriate, but that receival ramps (and adjoining drafting pens) not be shared; that is the allocation be rounded down.

Further, it is considered that all agents should have an allocation of a minimum of five lairage/dirt pens. While this gives smaller agents more pens in proportion to their cattle numbers, a minimum number of pens are required due to the variability of cattle sold.

Allocation of selling pens would be based on nominations, as is done currently.

As indicated in the report relating to the AWN application, permitting a fourth agent to operate at the saleyards is not supported by Saleyards staff without significant additional infrastructure.

Nevertheless, the following draft policy points are suggested if the Committee is inclined to recommend approval. It should be noted that the list is minimal as much of the decision making is operational and highly variable depending on particular circumstances. Further, some of the policy points are already well entrenched procedures.

Original Recommendation

If agreeable, the Committee could make a recommendation to the Council along the following lines.

That it be a recommendation to the Council that the following policy position be adopted with regard to saleyards operations and shared infrastructure to mitigate occupational health and safety and other operating issues resulting from additional stock agents operating at the Mount Barker Regional Saleyards:

1. The saleyards is currently divided into three sections for loading and selling of cattle; Eastern, western and middle. On 10 March each year, the anniversary of the opening of the facility, the two major agents will swap from the eastern side to the western side and vice versa. The middle position will be occupied by the agent(s) with the lowest average throughput.
2. The stock agents will rotate selling positions each week (that is, which agent sells 1st, 2nd and 3rd etc). Whichever agent sells first one week, will sell second in the following week, with other agents moving up the order.
3. The allocation of receiving ramps and lairage/dirt pens will be determined on a throughput basis with figures based on the previous year's throughput (to 9 March), excluding breeder and special sales. Receiving ramps (and adjoining drafting pens) will not be shared; the allocation to be rounded down to the nearest single ramp.
4. Any agent participating in a sale will have a minimum allocation of five lairage/dirt pens.
5. If office space is not available in the current building, prospective agents will seek approval to provide suitable accommodation with networked PC and access to the Shire's version of the LE Saleyards software, at their cost.

During discussion at the Saleyards Advisory Committee meeting held on 8 December 2020, members requested that this item be brought back to the Committee at its next meeting, with the following amendments:

Item 1 – The middle sentence be amended to read:

'On 10 March each year, the anniversary of the opening of the facility, and for the following 12 months, the agent with the highest throughput will operate from the eastern side and the agent with the second highest throughput will operate from the western side.'

Item 5 – In this instance, the policy note that the annual entry fee would not apply.

At the Saleyards Advisory Committee meeting held on 27 January 2021, members agreed to a further change to Clause 3 of the policy recommending that the application of that clause is to be at the discretion of the Saleyards Manager depending on the circumstances on any particular sale day.

VOTING REQUIREMENTS

Simple Majority

SALEYARDS COMMITTEE RECOMMENDATION

That new Council Policy TU/S/1 – Saleyards - Allocation of Loading and Selling Positions and Other Space to Stock Agents, as follows:

OBJECTIVE:

To:

1. **Allocate Saleyards infrastructure to stock agents in a fair and operationally efficient manner and to mitigate occupational health and safety risks.**
2. **Determine a position with regard to office allocation in the event of additional stock agents requesting to operate at the facility.**

POLICY :

1. The saleyards is currently divided into three sections for loading and selling of cattle; Eastern, western and middle. On 10 March each year, the anniversary of the opening of the facility, and for the following 12 months, the agent with the highest throughput will operate from the eastern side and the agent with the second highest throughput will operate from the western side. The middle position will be occupied by the agent(s) with the lowest average throughput.
2. The stock agents will rotate selling positions each week (that is, which agent sells 1st, 2nd and 3rd etc). Whichever agent sells first one week, will sell second in the following week, with other agents moving up the order.
3. The allocation of receiving ramps and lairage/dirt pens will be determined on a throughput basis with figures based on the previous year's throughput (to 9 March), excluding breeder and special sales. Receival ramps (and adjoining drafting pens) will not be shared; the allocation to be rounded down to the nearest single ramp. The application of this clause is to be at the discretion of the Saleyards Manager depending on the circumstances on any particular sale day.
4. Any agent participating in a sale will have a minimum allocation of five lairage/dirt pens.
5. If office space is not available in the current building, prospective agents will seek approval to provide suitable accommodation with networked PC and access to the Shire's version of the LE Saleyards software, at their cost. In this instance, the annual entry fee will not apply.'

be adopted.

9.3.5 AWN LIVESTOCK & PROPERTY – REQUEST TO OPERATE AT SALEYARDS

File Ref: N53632
Responsible Officer: Paul Sheedy
Acting Chief Executive Officer
Author: John Fathers
Deputy Chief Executive Officer
Proposed Meeting Date: 23 February 2021

PURPOSE

The purpose of this report is to consider a request from AWN Livestock & Property to operate at the Mount Barker Regional Saleyards.

BACKGROUND

The Shire has received a request from AWN Livestock & Property for access to and use of the Mount Barker Regional Saleyards facility for auction sales.

The Shire has a procedure for such requests, which has been developed based on legal advice. This procedure requires advice to be sought from all current agents in regard to operational and capacity constraints, operating hours and safety issues. Issues of market share, previous contributions and other commercial factors should not be considered.

STATUTORY ENVIRONMENT

Section 46(1) of the Commonwealth Competition and Consumer Act 2010 currently prohibits firms with a substantial degree of market power from engaging in conduct having the purpose, effect or likely effect of substantially lessening competition in that market or any other market in which the corporation (or related corporation) supplies or acquires goods or services.

EXTERNAL CONSULTATION

Discussions and correspondence has also been entered into with other agents operating at the facility.

FINANCIAL IMPLICATIONS

Currently, an annual entry fee of \$4,000.00 would apply, although a proposed new policy (elsewhere in the agenda) provides for no annual entry fee if an office is not available. A licence fee of \$1.00 per head of livestock throughput would apply (in addition to other saleyards fees passed onto vendors).

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

Policy implications do not apply for this report. Policy development has been included elsewhere in the agenda.

LEGAL IMPLICATIONS

Consultation took place with the Shire's legal representative in drafting the current agreement template.

Further, the Council received legal advice in 2012 on the (now amended) provisions of Section 46(1) of the Commonwealth Competition and Consumer Act 2010. That section prohibited a corporation that has '*a substantial degree of power in a market from taking advantage of that power in that or any other market for the purpose of:*

- (a) *eliminating or substantially damaging a competitor of the corporation or of a body corporate that is related to the corporation in that or any other market;*
- (b) *preventing the entry of the person into that or any other market; or*
- (c) *detracting or preventing a person from engaging in competitive conduct in that or any other market.'*

Section 46(1) now states as follows:

- '(1) A corporation that has a substantial degree of power in a market must not engage in conduct that has the purpose, or has or is likely to have the effect, of substantially lessening competition in:
- (a) *that market; or*
 - (b) *any other market in which that corporation, or a body corporate that is related to that corporation:*
 - (i) *supplies goods or services, or is likely to supply goods or services; or*
 - (ii) *supplies goods or services, or is likely to supply goods or services, indirectly through one or more other persons; or*
 - (c) *any other market in which that corporation, or a body corporate that is related to that corporation:*
 - (i) *acquires goods or services, or is likely to acquire goods or services; or*
 - (ii) *acquires goods or services, or is likely to acquire goods or services, indirectly through one or more other persons.'*

While there has been some 'watering down' of the legislation, the procedure based on the legal advice is still considered to be appropriate.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Strategic Community Plan 2017-2026 provides at Outcome 3.5 (Appropriate infrastructure that supports sustainable economic development) the following Strategy:

Strategy 3.5.5:

'Manage and maintain the Saleyards to ensure that the facility is successful and self-sustaining.'

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

STRATEGIC RISK IMPLICATIONS

Declining the application may result in legal action being taken against the Council. However, this risk will be mitigated by the process being followed.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

Correspondence from Existing Agents

Nutrien Ag Solutions

In Nutrien's view, the facilities at the Saleyards are already at maximum capacity for the Thursday livestock sales. If the Incoming Agent was to also sell at the Saleyards on this day, it would put unmanageable pressure on the facilities and would result in:

- a) inefficient stock loading and unloading areas;
- b) inappropriate pen densities due to increased livestock numbers; and
- c) additional stress to livestock.

It is concerned that the Saleyards, while currently fit for purpose, are not adequately resourced to appropriately manage the addition of the incoming Agent's business and significant upgrades to the facilities, and changes to the operational procedures, are required before access is granted to the Incoming Agent. It considers that the Incoming Agent should be responsible for such costs.

Of most concern to Nutrien Ag Solutions, is in trying to understand how the Shire intends to deal with the increased occupational health and safety risk posed by the addition of the Incoming Agent at the Thursday livestock sales.

If the Shire does decide to allow the Incoming Agent to sell livestock at the Thursday livestock sales (which we believe will severely pose a risk to the occupational health and safety standards currently deployed), then we would appreciate if the Shire can please demonstrate in writing to us, that it has devised safe operating policies to adequately address the increased pressure on the facilities as a result of the Incoming Agent.

For the avoidance of doubt, Nutrien Ag Solutions does not object to the Incoming Agent selling livestock at the Saleyards, however for the reasons set out above, it does not believe that the Incoming Agent should be permitted to engage in the Thursday livestock sales.

Elders

Whilst Elders does not have an issue with market competition, it does have concerns to the proposed entry of AWN. Its primary concern is around the safety of staff, agents and the general public. Its understanding as communicated by the Department of Agriculture recently is that pen selling densities will soon be reduced by around 30% which raises safety concerns with a fourth agent as the capacity of the yards will be reduced. This also presents potential animal welfare issues.

Westcoast Livestock

West Coast livestock believes an additional agent into the yards would pose some problems regarding sharing of ramps, weighbridge, laneways and actual space etc within the yards.

However if reasonable debate can take place ensuring these issues and others can be alleviated and discussed maturely then it shouldn't attempt to block it from happening.

As a relatively new Agent in the yards it appreciated the opportunity and support given us, and have committed not to make it difficult for the Shire or the Agent with the application or possible entry to the yards.

Operating Constraints

As stated above, agents were asked to comment on operational and capacity constraints, operating hours and safety issues. In response to the legal advice previously obtained, the Shire should not consider issues of market share, previous contributions and other commercial factors.

Given the experience with the entry of West Coast Livestock, Shire staff can advise more confidently about the operational constraints of allowing entry of a fourth agent. Saleyards staff have some serious concerns about occupational health and safety (OHS) if any additional agents are allowed to operate in the facility. As it stands at the moment, officially there are three agents, although staffing wise, there are still as many of the former Landmark and Primaries personnel working cattle. Allowing even more people into the environment is not recommended.

The possible changes to allocation of ramps and pens has been dealt with as a separate report with a policy direction recommended. Whatever arrangement is determined, existing stakeholders / operating agents will have to sacrifice ramp/draft pens/lairage pens and stacking pens from their allocation, as was the case when WCL commenced selling at the facility. We are still having regular conflict and problems with other agent's attitude to WCL. A smooth transition of a fourth agent entering the saleyards would be extremely difficult and highly dependent on co-ordination and respect between agents.

Already there are problems with this sharing as all three agents are moving cattle in the same alleys between ramps and stacking pens. At any one time there is up to 30 agents and casuals working between the seven ramps and two weighbridges. Cattle are moved quickly and efficiently but congestion still often occurs. Because of the volume of cattle coming in at vealer time, animals are moved around the saleyards and sorted everywhere as pens are filled.

All cattle coming into the facility must then go through one common shared laneway before being penned before weighing. This has already, and still does present a much greater risk from an OHS perspective as all three agents can only move cattle this way.

OHS issues will result from greater congestion of cattle and personnel in a common (shared) lane. At the best of times, this requires co-operation and a clear run, with gates open through that run. Having additional agents increases the risk of congestion, cattle turning back on personnel, gates being left open and cattle being mixed together.

After several months of the four agents working within the same complex, Saleyards staff are of the view that having four agents working in the facility has proven to be inefficient and dangerous.

Thankfully, Landmark had commenced its takeover of Primaries which has now resulted in an absorption of that fourth agent (into the combined Nutrien Ag Solutions), bringing us back to three agents.

General Comments

While the position of the Saleyards Advisory Committee has been that the addition of competition into this area can be welcomed, there will likely be no actual increase to cattle numbers coming to the yards; it will be a wider spread among agents.

We have discussed the possibility of opening up another sale day to accommodate more agents but this would be unworkable in the busy season. We already have three sales per weeks in November to January. There isn't another free day on the sale calendar which wouldn't clash with the buyers who attend Muchea, Boyanup, Manjimup and Katanning sales with both sheep and cattle.

Saleyards staff are of the view that without major infrastructure additions or improvements, the facility is not designed or capable of servicing more than three selling agents. In order to safely and efficiently open up the selling roster to more than three agents then the yard capacity would need to be increased with items listed below:

- Additional office (for each agent that applies).
- Extra Weighbridge and 44 extra stack pens (to take the place of the current 'C' Pens).
- Extra selling lane (with the corresponding 24 pens). Mitchell's yards would need to be shifted to the west to accommodate this.
- Extra lairage pens.

During discussion at the Saleyards Advisory Committee meeting held on 27 January 2021, members agreed that the current number of stock agent staff working at the facility was at the upper end of what is desirable, noting that with the merger of Landmark and Primaries, the number of staff is higher with three agents than what it used to be.

Given the current constraints, the Committee agreed to recommend that the request from AWN be declined, although considered that it should be given an opportunity to come to a staff sharing arrangement with an existing operator, upon which the Shire should reconsider the request. Members considered that the most appropriate agent would be West Coast Livestock, as the combined throughput would more likely be an efficient use of one ramp and set of lairage pens.

VOTING REQUIREMENTS

Simple Majority

SALEYARDS COMMITTEE RECOMMENDATION

That:

- 1. The request from AWN Livestock & Property to conduct livestock sales at the Mount Barker Regional Saleyards, be declined on the basis of unacceptable operational constraints and occupational health and safety risks arising from an additional agent and its personnel within the current saleyards configuration.**
- 2. AWN Livestock & Property be advised that the Council will reconsider its application if it can demonstrate a staff sharing arrangement with an existing stock agent operating at the facility, to mitigate the risks in Part 1 above.**

9.3.6 COMPLIANCE AUDIT RETURN 2020

File Ref:	N54260
Attachment:	<u>Compliance Audit Report 2020</u>
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Donna Fawcett Human Resources Coordinator
Proposed Meeting Date:	23 February 2021

PURPOSE

The purpose of this report is to recommend to the Council the adoption of the Compliance Audit Return for the calendar year 1 January 2020 to 31 December 2020.

BACKGROUND

A Compliance Audit is required to be completed once in each calendar year.

STATUTORY ENVIRONMENT

The Compliance Audit is required pursuant to Section 7.13 of the Local Government Act 1995. The Local Government (Audit) Regulations 1996 includes the following sub regulations in Regulation 14:

- '(3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) After the audit committee has reported to the council under sub regulation (3A), the compliance audit return is to be –*
- (a) presented to the council at a meeting of the council; and*
 - (b) adopted by the council; and*
 - (c) recorded in the minutes of the meeting at which it is adopted.'*

After the Compliance Audit Return has been presented to the Council, a certified copy of the return together with:

- (a) A copy of the relevant section of the minutes referred to in the regulations; and*
- (b) any additional information explaining or qualifying the Compliance Audit is to be submitted to the Department of Local Government, Sport and Cultural Industries by 31 March 2021.*

EXTERNAL CONSULTATION

External consultation is not applicable for this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget 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.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

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 provide accurate recording, management, security and reporting functions.'

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 4.6.1.2 – Ensure the Audit function is carried out in accordance with legislative requirements.

STRATEGIC RISK IMPLICATIONS

A key element of the Strategic Risk Register relates to 'Failure to Fulfil Compliance Requirements (Statutory, Regulatory)'. This section of the register contains a number of key controls, one of them being the Compliance Audit Return. Currently, the overall control rating is assessed as adequate.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The completed Compliance Audit Return is attached to the report. The 2020 Compliance Audit revealed one area of non-compliance and one area of improvement. Under Local Government (Functions and General) Regulation 17, information recorded in the Shire's tender register complied with the requirements of that regulation and the tenders register was available for public inspection. However, the register was not published on the Shire's website as required. This has now been rectified.

Pursuant to Section 5.128(1) of the Local Government Act 1995, the Shire was required to prepare and adopt (by absolute majority) a policy in relation to the continuing professional development of council members.

Provisions for non-compulsory elected member training were included in existing policy 'Elected members - Expenses to be Reimbursed', rather than being in a stand alone policy. This resolution was carried by an absolute majority, although the report was not done on the basis of requiring an absolute majority.

While the action taken is considered to be compliant with the above provision, the next report reviewing that policy after the 2021 election should note that it requires an absolute majority decision.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Compliance Audit Return for the calendar year 1 January 2020 to 31 December 2020 be adopted and submitted to the Department of Local Government, Sport and Cultural Industries.

9.4 EXECUTIVE SERVICES REPORTS

9.4.1 CODE OF CONDUCT COUNCIL MEMBERS

File Ref:	N54284
Attachment	<u>Policy No: OP/HRP/3 Code of Conduct Model Code of Conduct</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Paul Sheedy Acting Chief Executive Officer
Proposed Meeting Date:	23 February 2021

PURPOSE

The purpose of this report is to consider revoking of the current Code of Conduct (Policy no: OP/HRP/3) and the adoption of the Model Code of Conduct as the new Code of Conduct that will apply to the Shire of Plantagenet Council Members, Committee Members and Candidates.

BACKGROUND

On 2 February 2021 the Local Government (Model Code of Conduct) Regulations 2021 were proclaimed in the government gazette and take effect from 3 February 2021.

Local governments are now required to adopt a Code of Conduct for Council Members, Committee Members and Candidates that incorporates the Model Code of Conduct within three months of the gazettal of the Local Government (Model Code of Conduct) Regulations 2021

STATUTORY ENVIRONMENT

Local Government Act 1995, sections 5.103 and 5.104

5.103. Model code of conduct for council members, committee members and candidates

- (1) Regulations must prescribe a model code of conduct for council members, committee members and candidates.
- (2) The model code of conduct must include —
 - (a) general principles to guide behaviour; and
 - (b) requirements relating to behaviour; and
 - (c) provisions specified to be rules of conduct.
- (3) The model code of conduct may include provisions about how the following are to be dealt with —
 - (a) alleged breaches of the requirements referred to in subsection (2)(b);
 - (b) alleged breaches of the rules of conduct by committee members.

- (4) The model code of conduct cannot include a rule of conduct if contravention of the rule would, in addition to being a minor breach under section 5.105(1)(a), also be a serious breach under section 5.105(3).
- (5) Regulations may amend the model code of conduct.

5.104. Adoption of model code of conduct

- (1) Within 3 months after the day on which regulations prescribing the model code come into operation, a local government must prepare and adopt* a code of conduct to be observed by council members, committee members and candidates that incorporates the model code.

** Absolute majority required.*

- (2) Within 3 months after the day on which regulations amending the model code come into operation, the local government must amend* the adopted code of conduct to incorporate the amendments made to the model code.

** Absolute majority required.*

- (3) A local government may include in the adopted code of conduct requirements in addition to the requirements referred to in section 5.103(2)(b), but any additional requirements —
 - (a) can only be expressed to apply to council members or committee members; and
 - (b) are of no effect to the extent that they are inconsistent with the model code.
- (4) A local government cannot include in the adopted code of conduct provisions in addition to the principles referred to in section 5.103(2)(a) or the rules of conduct.
- (5) The model code is taken to be a local government's adopted code of conduct until the local government adopts a code of conduct.
- (6) An alleged breach of a local government's adopted code of conduct by a candidate cannot be dealt with under this Division or the adopted code of conduct unless the candidate has been elected as a council member.
- (7) The CEO must publish an up-to-date version of a local government's adopted code of conduct on the local government's official website.

Local Government (Model Code of Conduct) Regulations 2021

EXTERNAL CONSULTATION

No external consultation is required or recommended with the adoption of the Code of Conduct.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

POLICY IMPLICATIONS

The adoption of the new Code of Conduct will seek the previous Code of Conduct policy revoked as the new Code of Conduct is now a statutory document under the Local Government Act and Regulations and can no longer be a policy.

LEGAL IMPLICATIONS

The adopted Code of Conduct now has legal implications for those covered by the Code as its adopted under the Local Government Act (section 5.104) and Regulations.

The Council Member, Committee Member or Candidate are legally required to comply with the requirements of any plan endorsed by the Council when the Council determines that a breach has occurred (Code of Conduct clauses 12(4) and 23).

ASSET MANAGEMENT IMPLICATIONS

There are no asset implications with this report as no assets being created.

STRATEGIC IMPLICATIONS

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

Strategy 4.1.1:

'Provide effective leadership for the community'

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

STRATEGIC RISK IMPLICATIONS

The Shire's Strategic Risk Register sections 'Failure to Fulfil Compliance Requirements (Statutory, Regulatory) and Document Management Processes' are relevant to this report

REGIONAL IMPLICATIONS

There are no regional implications with this report.

OFFICER COMMENT

As part of the gazettal of the Model Code of Conduct regulations there are number of actions that local government are required to complete within three months of the gazettal which are:

1. Adopt a Code of Conduct for Council Members, Committee Members and Candidates. This can be the Model Code of Conduct or Code of Conduct that includes additional behavioural requirements that are not inconsistent with the Model Code of Conduct.
2. Authorise one or more officers (employees) for the purpose of receiving complaints and withdrawal of complaints relating to the Code of Conduct (required by 24 February 2021).
3. Approving a complaint form in accordance with clause 11(2)(a) of the Code.
4. Develop a complaint handling policy and procedure for adoption by the Council.

Points 1-3 above will be dealt with at this Council meeting, whilst point 4 will be left for the incoming CEO to complete in discussion with Council.

It's also been suggested by WALGA that some training should be undertaken (can be inhouse by the CEO) with Council Members and Committee Members so that they have a good understanding of the new Code of Conduct requirements.

It should also be noted that until such time as a Council adopts a Code of Conduct (model or other version) the Model Code of Conduct applies, as it's taken to be the adopted standards from 3 February 2021

The gazettal of the Model Code of Conduct on the 2 February 2021 also resulted in the existing Local Government (Rules of Conduct) Regulations 2007 being repealed as they have now been incorporated into the Model Code of Conduct. Whilst the Rules of Conduct clauses have now been incorporated into the Model Code of Conduct, complaints of a breach in relation to clauses 16 to 22 are still classified as a minor breach complaint and are required to be forwarded by the Complaints Officer to the Standards Panel, via the department to deal with. The Standards Panel will be updating their minor and major breach complaints forms.

If a complaint is made under the Code of Conduct, in relation to clauses 4 to 10, the new Model Code indicates that, unless it's withdrawn, the complaint is to be dealt with by the local government [clause 12(1)] who may dismiss the complaint or determine that an alleged breach has occurred [clause 12(3)] and can then:

- a) Take no action; or
- b) Prepare and implement a plan to address the behaviour of the person to who the complaint relates [clause 12(4)].

The reference to 'the local government' in the Model Code of Conduct means the Council of the local government who has to deal with and decides on any complaints received. I have requested some further clarification from WALGA who are following up with the Department to see if this role can be delegated to a Committee of Council. Clause 15 'Other provisions about complaints' of the Model Code of Conduct indicates:

- (1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.

Under the recent Local Government Act amendments, local governments are now required to have two Codes of Conduct, one for Council Members, Committee Members and Candidates, that is required to be adopted by Council and one for employees that the CEO is required to prepare, which does not require the adoption by Council.

The Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021 gazetted on 2 February 2021 prescribe requirements that the CEO must include in a Code of Conduct for Employees as a minimum. With this report recommending Council revoke Policy No; OP/HRP/3, it's proposed, at this time, that the Acting CEO will adopt the existing policy, with the removal all reference to Council Members and Committee Members and inclusion of prescribed requirements outlined in the recent amendment. The incoming CEO can then make any changes when he chooses.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

That:

- 1. Council Policy No; OP/HRP/3 (detailed in the attachment), be revoked; and**
- 2. Council adopt the Code of Conduct for Council Members, Committee Members and Candidates, as detailed in the attachment, as its Code of Conduct for Council Members, Committee Members and Candidates, as required by Local Government Act 1995, section 5.104 (1).**

9.4.2 COMPLAINTS OFFICER

File Ref: N54285
Responsible Officer: Paul Sheedy
Acting Chief Executive Officer
Author: Paul Sheedy
Acting Chief Executive Officer
Proposed Meeting Date: 23 February 2021

PURPOSE

The purpose of this report is for the Council to authorise the Chief Executive Officer, Shire of Plantagenet, to be the Complaints Officer to receive complaint made against Council Members, Committee Members and Candidates, for any breaches of the new Code of Conduct recently gazetted.

BACKGROUND

On 2 February 2021 the Local Government (Model Code of Conduct) Regulations 2021 were proclaimed in the government gazette and take effect from 3 February 2021.

Local governments are now required to adopt a Code of Conduct for Council Members, Committee Members and Candidates that incorporates the Model Code of Conduct within three months.

One of the requirements of the new Code of Conduct is that local governments are required by the 24 February 2021 to authorise, in writing, one or more persons to receive complaints and withdrawals of complaints.

STATUTORY ENVIRONMENT

Local Government (Model Code of Conduct) Regulations 2021, clause 11(3)

11. Complaint about alleged breach

(3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

EXTERNAL CONSULTATION

No external consultation is required or recommended with the adoption of the form.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget 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.

LEGAL IMPLICATIONS

There are no legal implications with this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset implications with this report as no assets being created.

STRATEGIC IMPLICATIONS

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

Strategy 4.1.1:

'Provide effective leadership for the community'

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

STRATEGIC RISK IMPLICATIONS

The Shire's Strategic Risk Register sections 'Failure to Fulfil Compliance Requirements (Statutory, Regulatory) and Document Management Processes' are relevant to this report

REGIONAL IMPLICATIONS

There are no regional implications with this report.

OFFICER COMMENT

As part of the gazettal of the Model Code of Conduct regulations there are number of actions that local government are required to complete within three months of the gazettal which are:

1. Adopt a Code of Conduct for Council Members, Committee Members and Candidates. This can be the Model Code of Conduct or Code of Conduct that includes additional behavioural requirements that are not inconsistent with the Model Code of Conduct.
2. Authorise one or more officers (employees) for the purpose of receiving complaints and withdrawal of complaints relating to the Code of Conduct (required by 24 February 2021).
3. Approving a complaint form in accordance with clause 11(2)(a) of the Code.
4. Publish the adopted Code of Conduct and complaints form on the local government website
5. Develop a complaint handling policy and procedure for adoption by the Council.

Points 1-3 above will be dealt with at this Council meeting, point 4 will be an administration function undertaken once approved by Council and point 5 will be left for the incoming CEO to complete in discussion with Council.

Given that the CEO is the person who currently receives complaints about Council Members and Committee Members under the existing Code of Conduct and Local Government (Rules of Conduct) Regulations it would appear appropriate that the CEO is the authorised office to receive complaints and the withdrawal of complaints under this new Code of Conduct

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council authorise the Chief Executive Officer, Shire of Plantagenet as the person to receive complaints and withdrawal of complaints, as required under clause 11(3) of the Local Government (Model Code of Conduct) Regulations 2021, in regards to the Shire of Plantagenet Code of Conduct for Council Members, Committee Members and Candidates.

9.4.3 CODE OF CONDUCT COMPLAINTS FORM

File Ref:	N54287
Attachment	<u>Code of Conduct Complaints Form</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Paul Sheedy Acting Chief Executive Officer
Proposed Meeting Date:	23 February 2021

PURPOSE

The purpose of this report is to seek the endorsement of Council of the attached complaints form that will be required to be completed by any person who wishes to lodge a complaint against a Council Member, Committee Member or Candidates under the newly adopted Code of Conduct.

BACKGROUND

On 2 February 2021 the Local Government (Model Code of Conduct) Regulations 2021 were proclaimed in the government gazette and take effect from 3 February 2021.

Clause 11(2)(a) of the Model Code of Conduct indicates that a complaint must be made 'in writing in the form approved by the local government'

STATUTORY ENVIRONMENT

Local Government (Model Code of Conduct) Regulations 2021, clause 11(2)(a)

11. Complaint about alleged breach

- (2) A complaint must be made —
(a) in writing in the form approved by the local government;

EXTERNAL CONSULTATION

No external consultation is required or recommended with the adoption of the complaints form.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget 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.

LEGAL IMPLICATIONS

There are no legal implications with this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset implications with this report as no assets being created.

STRATEGIC IMPLICATIONS

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

Strategy 4.1.1:

'Provide effective leadership for the community'

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

STRATEGIC RISK IMPLICATIONS

The Shire's Strategic Risk Register sections 'Failure to Fulfil Compliance Requirements (Statutory, Regulatory) and Document Management Processes' are relevant to this report

REGIONAL IMPLICATIONS

There are no regional implications with this report.

OFFICER COMMENT

As part of the gazettal of the Model Code of Conduct regulations there are number of actions that local government are required to complete within three months of the gazettal which are:

1. Adopt a Code of Conduct for Council Members, Committee Members and Candidates. This can be the Model Code of Conduct of Code of Conduct that includes additional behavioural requirements that are not inconsistent with the Model Code of Conduct.
2. Authorise one or more officers (employees) for the purpose of receiving complaints and withdrawal of complaints relating to the Code of Conduct (required by 24 February 2021).
3. Approving a complaint form in accordance with clause 11(2)(a) of the Code.
4. Develop a complaint handling policy and procedure for adoption by the Council.

The Department of Local Government, Sport and Cultural Industries has advised, that by 24 February 2021 local governments should authorise an officer for the purpose of receiving complaints and withdrawal of complaints. It then follows that the new complaints form should be available at a similar time.

If any complaints received before a complaints policy and procedure is adopted by the Council WALGA id recommending that local governments acknowledge and

accept the complaint, but advise the complainant that the complaint cannot be progressed until a policy and procedure is adopted. Complainants would need to be kept appropriately informed of a reasonable timeframe for this to occur.

There is no time frame indicated in the Model Code of Conduct in regards to dealing with complaints, but a reasonable timeframe is required and would think would from part of the complaints policy and procedure that will be established by the incoming CEO. Whilst the history at this Shire would indicate it's unlikely that complaints will be lodged in the near future, development of the complaints policy and procedure should be a priority to be completed and adopted in the next three months.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council endorse the Shire of Plantagenet 'Complaints About Alleged Breach Form – Code of Conduct for Council Members, Committee Members and Candidates' detailed in the attachment to this report.

9.4.4 MODEL STANDARDS – CHIEF EXECUTIVE OFFICER RECRUITMENT

File Ref:	N54323
Attachment	<u>Model Standards for CEO recruitment, performance and termination</u>
Responsible Officer:	Paul Sheedy Acting Chief Executive Officer
Author:	Paul Sheedy Acting Chief Executive Officer
Proposed Meeting Date:	23 February 2021

PURPOSE

The purpose of this report is for Council to consider the adoption of the Model Standard for Chief Executive Officer (CEO) recruitment, performance and termination.

BACKGROUND

On 2 February 2021 the Local Government (Administration) Amendment Regulations 2021 were proclaimed in the government gazette and took effect from that day.

Local governments are now required to adopt a set of standards for CEO recruitment, performance and termination within three (3) months after 2 February 2021. Additional provisions, that are not inconsistent with the model standards, can be included in Council's adopted model.

STATUTORY ENVIRONMENT

Local Government Act 1995, sections 5.39A and 5.39B

5.39A. Model standards for CEO recruitment, performance and termination

- (1) Regulations must prescribe model standards for local governments in relation to the following —
 - (a) the recruitment of CEOs;
 - (b) the review of the performance of CEOs;
 - (c) the termination of the employment of CEOs.
- (2) Regulations may amend the model standards.
[Section 5.39A inserted: No. 16 of 2019 s. 22.]

5.39B. Adoption of model standards

- (1) In this section —
model standards means the model standards prescribed under section 5.39A (1).
- (2) Within 3 months after the day on which regulations prescribing the model standards come into operation, a local government must prepare and adopt*

standards to be observed by the local government that incorporate the model standards.

** Absolute majority required.*

- (3) Within 3 months after the day on which regulations amending the model standards come into operation, the local government must amend* the adopted standards to incorporate the amendments made to the model standards.

** Absolute majority required.*

- (4) A local government may include in the adopted standards provisions that are in addition to the model standards, but any additional provisions are of no effect to the extent that they are inconsistent with the model standards.
- (5) The model standards are taken to be a local government's adopted standards until the local government adopts standards under this section.
- (6) The CEO must publish an up-to-date version of the adopted standards on the local government's official website.
- (7) Regulations may provide for —
- (a) the monitoring of compliance with adopted standards; and
 - (b) the way in which contraventions of adopted standards are to be dealt with.

Local Government (Administration) Regulations 1996, clauses 18A – 18FC

EXTERNAL CONSULTATION

No external consultation is required or recommended with the adoption of the Model CEO Standard

Internally WALGA has suggested that the Council and the CEO should initiate discussions to determine whether any inconsistencies exist between the CEO Standards and the CEO's employment contract and previously agreed Performance Review arranges. If any inconsistencies occur it may be appropriate to seek industrial relations advice before any changes are mad.

FINANCIAL IMPLICATIONS

There are no immediate financial implications for this report.

BUDGET IMPLICATIONS

There are no immediate budget implications for this report, but future CEO recruitment is expected to incur additional costs to comply with the new Local Government Act and Administration Regulations

POLICY IMPLICATIONS

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

However as indicated in the Officer Comment a new policy relating to the temporary employment of a CEO for a period of not exceeding one year will be required going forward.

LEGAL IMPLICATIONS

The adopted CEO Standards will have legal implications as Council will be required to follow them when undertaking recruitment, performance review and termination of a CEO as they are now included in the Local Government Act (section 5.39A and 5.39B) and Administration Regulations.

ASSET MANAGEMENT IMPLICATIONS

There are no asset implications with this report as no assets being created.

STRATEGIC IMPLICATIONS

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

Strategy 4.1.1:

'Provide effective leadership for the community'

Strategy 4.1.3:

'Ensure that 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 sections 'Failure to Fulfil Compliance Requirements (Statutory, Regulatory) and Document Management Processes' are relevant to this report

REGIONAL IMPLICATIONS

There are no regional implications with this report.

OFFICER COMMENT

The CEO Standard amends the existing Local Government (Administration) Regulations 1996 to prescribe model standards for the recruitment, selection performance review and termination, of the local government's CEO. Some of the key provisions within the model standard are:

- As soon as practicable after Council decides to employ or terminate a CEO it must by resolution certify that, the employment or termination, was in accordance with the adopted standards and then send a copy of the resolution to the DLGSC CEO within 14 days.
- The Council must approve the selection criteria and job description for recruitment of the CEO.

- The selection panel must include a least one (1) independent person who is not a council member, an employee or a human resources consultant engaged by the Council.
- If the selection panel considers that none of the applicants are suitable to be employed as the CEO, the panel must recommend to Council that a new recruitment process be carried out or changes be made to the selection criteria and job description, that the selection panel considers should be made.
- The selection panel is required to verify any academic or other tertiary level qualifications the applicant, recommended to Council for appointment, claims to hold.
- If any negotiations on the contract contains terms different to those approved by Council, the negotiated contract must be approved by Council (absolute majority) before entered into.
- Once the CEO has completed a period of employment of 10 or more years the Council is required to carry out a recruitment and selection process.
- Before terminating the employment of a CEO, the Council is required to follow a procedural fairness process that includes, informing the CEO of that person's rights, entitlements and responsibilities in relation to the termination process, notify the CEO of any allegations against the CEO, give the CEO a reasonable opportunity to respond to the allegations and generally consider any response given.
- In relation to performance related termination, the Council is required to inform the CEO of any performance issues, give the CEO reasonable opportunity to address, and implement a plan to remedy the performance issues and determine that the CEO has not remedied the performance issues to the satisfaction of the Council, before it initiates the termination of the CEO.
- Termination of the CEO must not happen unless the Council has, within the preceding twelve (12) month period, reviewed the performance of the CEO.
- Any decision to terminate the CEO must be made by an absolute majority decision of the Council.
- Notice of termination must be given in writing to the CEO setting out the reasons for terminating the CEO's employment.

A number of the above clauses would form part of an existing process of recruitment and selection, performance review and termination, but they have been included to provide Councillors with a detailed understanding of what is in the new Standards.

Finally, as part of the Amendment Regulations a new clause 5.39C has also been added to the Local Government Act that requires a local government to prepare and adopt a policy that sets out the process to be followed by the local government in relation to the employment of a person in the position of CEO for a term not

exceeding 1 year and the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

Given that there is no urgency to have this policy completed this will be left for the incoming CEO to complete and it's also expected that WALGA will develop a model policy that can be adopted by Council.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council adopt the Model CEO Standard, as detailed in the attachment, as its standard in regards to the recruitment, selection, performance review and termination of its Chief Executive Officer, as required by the Local Government Act 1995, section 5.39B.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

12 CONFIDENTIAL

13 CLOSURE OF MEETING