

Council

Local Government Insurance Service  
Preliminary Liability Risk Advice  
Wilson Park, Mount Barker

Meeting Date: 23 February 2021

Number of Pages: 15

1<sup>st</sup> December 2020

David Lynch  
Executive Manager Works and Services  
Shire of Plantagenet

(By email only)

Dear David,

**LGIS Risk Management**

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**Preliminary Liability Risk Advice: Wilson Park, Mount Barker.**

We refer to our recent meeting with Amy Chadbourne at which time we inspected Wilson Park and surrounds.

At this time, we discussed the issue of fencing and sightlines in relation to the park and surrounding roads.

The purpose of this advice is to comment broadly on risks and public safety issues noted during our inspection and to provide the Shire with some commentary and suggestions on how best Council can manage Wilson Park into the future.

Attached are a selection of images to contextualise our comments.

**Wilson Park-Insurance and Property Valuation arrangements.**

By way of background, the current property insurance arrangements for Wilson Park (records indicate the reserve number as 6454) as noted on Councils Asset Register at December 2020 are as follows:

| <u>Item</u>                                | <u>Sum Insured</u> |
|--|--------------------|
| Netball Kiosk (near Brigade training area) | \$15,500.00        |
| Gazebo                                     | \$65,650.00        |
| Wilson Park Toilets                        | \$141,250.00       |
| Wilson Park Playground Equipment           | \$555,500.00       |
| Mount Barker Skate park                    | \$237,350.00       |

The above Shire assets were the subject of a property insurance valuation in May 2019 by Griffin Valuation Services.

Public Liability insurance in respect of Wilson Park (Lot 6454) is provided in accordance with the LGIS Broadform Public Liability Protection policy wording.

**Assumptions and observations.**

- A feature of the park is a number of raised grass and vegetated mounds. In particular and in reference to the children's play area tunnel, sight lines for parents wishing to supervise younger children has been somewhat compromised. We would suggest this has been identified by Council in the past given the Shire have taken the precaution of installing a fence/gate as the tunnel exits onto the Lowood Road side of the park (i.e.; the other side of the raised vegetated landscaping).
- The raised landscaping under which the tunnel is located is heavily vegetated which further hinders sightlines towards Lowood Road from the main children's play area.
- We noted also that sightlines for those visiting the gazebo were somewhat compromised by vegetation growing around the gazebo hindering views of the rail crossing point on eastern perimeter of the park.

### Recommendations and Comments.

We understand that going forward Wilson Park may be the subject of further work to enhance the visitor experience in particular tourists visiting Mount Barker. By way of example, some improvement work has already taken place in relation to the basketball court, which is co-located near to the Skate facility albeit these assets are to the north of Wilson Park.

Specifically, we understand that some issues have been raised by the community in relation to the railed fencing along the parks border with Lowood Road.

We understand that these issues concern line of sight should, for example, a child make their way around the raised landscaping. They would in theory then find themselves on the grassed and mulched perimeter of the park and grassed verge to Lowood Road.

In terms of an unsupervised child leaving the dedicated play area and making their way into close proximity with Lowood Road; it would certainly be the case that the rail fencing does not prevent access on to the highway given the fence is in sections. This type of fencing could be considered more 'boundary marking' rather than a fence designed to prevent access.

We understand that Council are shortly to undertake a formal review of road safety and usage issues involving Lowood Road. We would recommend that as part of this process the Shire consider the following;

- What is the intent of the rail fencing along Lowood Road? Is the current arrangement simply to mark the boundary of the park or to prevent/minimise the opportunity for young people to access the highway. Australian Standards do not specify that Wilson Park must include fencing however, it would be reasonable for the Shire to have a clear and settled intention on the nature and function of fencing to this side of the park.
- Signage on Lowood Road. It may be reasonable to install road signage alerting vehicle users that children are in the vicinity near to Wilson Park.
- We understand that the majority of visitors to the park access the area without the need to cross Lowood Road into Wilson Park. As part of the broader road review process, would it be necessary to consider the provision of a safe and appropriately signed safe crossing point should reviews indicate that some users are accessing Wilson Park from the western side.
- As noted above, vehicle speeds are limited to 50KPH. Is it necessary to review this particularly if into the future additional visitors to the area are attracted to Wilson Park following any further enhancements or improvements (essentially further 'inviting' people to recreate in the area).



- Wilson Park is located to the rear of the main Shire offices in Mount Barker being part of Lot number 6454.
- The park provides formed footpaths, gazebo, reticulated grassed open public space, play equipment (including a tunnel under formed grass/vegetated landscaping), BBQ's, bench seating, toilet facilities and pole mounted lights.
- In terms of the tunnel, which forms part of the broader play experience for children, given the exit point of the tunnel faces Lowood Road, Council have installed railed fencing with a latched gate to avoid younger children making their way onto the public highway.
- Lowood Road is located broadly to the West of the Park. This road is a main thoroughfare through Mount Barker with a speed limit we understand set at 50KPH.
- Whilst we have not sighted traffic count figures, anecdotally we understand that Lowood Road has had vehicle numbers of 2,000 per day. The Shire may wish to verify this.
- To the North of the park area is car parking accessed via Hicks Close. This also allows access to the skate facility and bitumen basketball courts together with parking for Council staff.
- An active freight rail line borders the east of the park where a dedicated pedestrian crossing point is located allowing access across the rail line to a formed public footpath which runs parallel (North) with State Route 30.
- Fencing on the eastern perimeter of Wilson Park comprises steel pedestrian railed fencing which we assume has been installed and is the responsibility of the rail authorities. Where this steel fencing ends on the Wilson Park side, further perimeter fencing has been provided in the form of timber uprights with wire.
- At the south east, corner of Wilson Park the fence line angles back towards Montem Street where the fence design changes to treated timber pine posts with single horizontal rails. Some minor maintenance work may be required to fencing at this point.
- The fence to Montem Street provides gaps including modified curbing to allow vehicle access into Wilson Park.
- As the timber, fence line on Montem Street approaches the junction with Lowood Road (broadly the southwest corner of the park) the type of fencing changes to steel tubular railings (sectional) which are concreted into the ground.
- This tubular rail fence continues along the western perimeter of the park as it borders Lowood Road. We noted that a pictogram and text pole mounted sign has been installed noting that snakes have been observed in this area.
- In terms of the interior of the park, this is clean, tidy and well maintained.
- The gazebo sits some distance from the main playground area and is accessed by feature rock and concrete steps. No provision was in place for accessing the gazebo by wheelchair users.
- Whilst we did not inspect all trees within the park, those along the perimeters of Montem Street and Lowood Road appeared to be in a safe and healthy condition.

- Signage could be installed in the play area encouraging visitors to supervise the activities of children.
- Work could be undertaken to the landscaping within the park where it borders Lowood Road with vegetation pruned to allow improved sight lines. Similar work could be undertaken around the gazebo to allow better sight lines to the rail line and park area more broadly.
- Some minor repair work is required to fencing to the south east of the park.
- Parks and Leisure Australia (WA) in their publication Guidelines for Community Infrastructure makes mention in relation to accessibility indicating under General Principles that community facilities should be readily accessible to people of all abilities and be compliant with the requirements of the *Disability Discrimination Act 1992* and *AS 1428 Access & Mobility Design Set*. Given there may be future improvements to the park and surround this publication may be a useful tool during any planning and design process.

### Public Liability.

In terms of the existing fence where the park borders Lowood Road, it may be reasonable to suggest that the 'likelihood' of an unsupervised child making their way onto the highway is 'unlikely' assuming reasonable parental supervision. However, should this occur, the 'consequences' could be extreme. Council are clearly aware of this possibility given that steps have already been taken in the past to secure the exit point of the tunnel leading from the play area.

When determining the question of whether Council has exercised reasonable steps to ensure visitor safety the following principles dwell within the *Civil Liability Act 2002* and are as follows:

1. the **probability of harm** occurring if action was not taken (e.g. the likelihood of someone making their way onto Lowood Road);
2. the **seriousness of the harm** (in this case seriousness of an injury sustained or damage suffered).
3. the **burden of taking precautions** to avoid or mitigate the risk of personal injury or property damage (e.g. the difficulty, cost and resource implications of taking reasonable steps to safeguard users/visitors to Wilson Park);
4. the **social utility** of the activity that underpins the risk (in this case the importance of providing a safe and secure environment at Wilson Park).

The above dot points are made for reference purposes only. The issue at hand concerns young children, which for obvious reasons add further complexities in the event of an incident giving rise to a claim. The question of reputational outcomes are likely to be of greater significance to the Shire.

No doubt Council will consider the matters raised in due course and we would be happy to provide further commentary if required.

In the meantime, thank you for taking the time to assist us with the site inspection arrangements and please pass on our thanks to Amy Chadbourne for taking the time to meet with us.

We hope this correspondence is of some assistance.

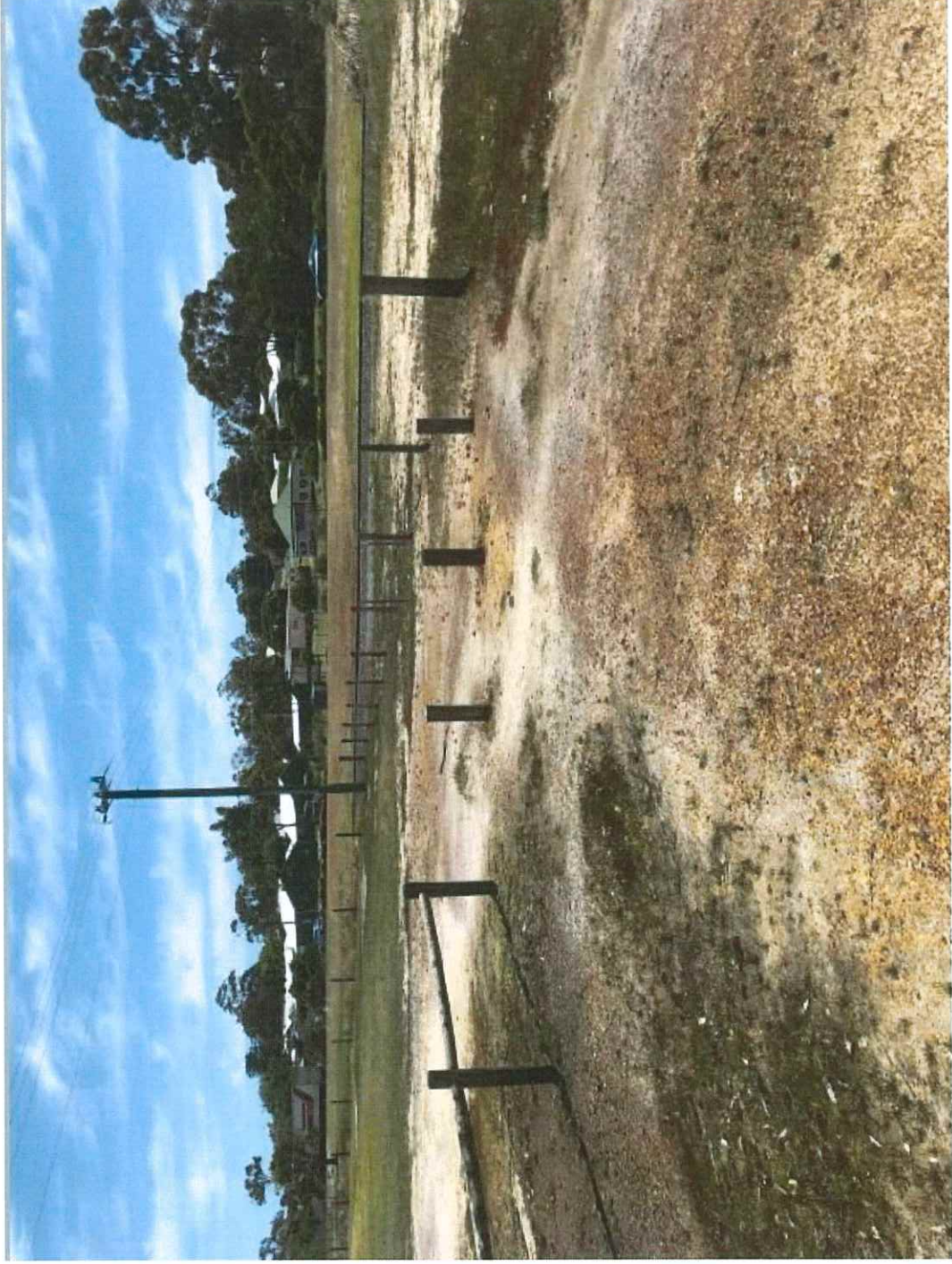
Yours sincerely,

**Robert Mackenzie**  
Senior Risk Consultant  
Encl; Images





**Shire of Plantagenet Wilson Park Site Inspection Photographs & Comments**

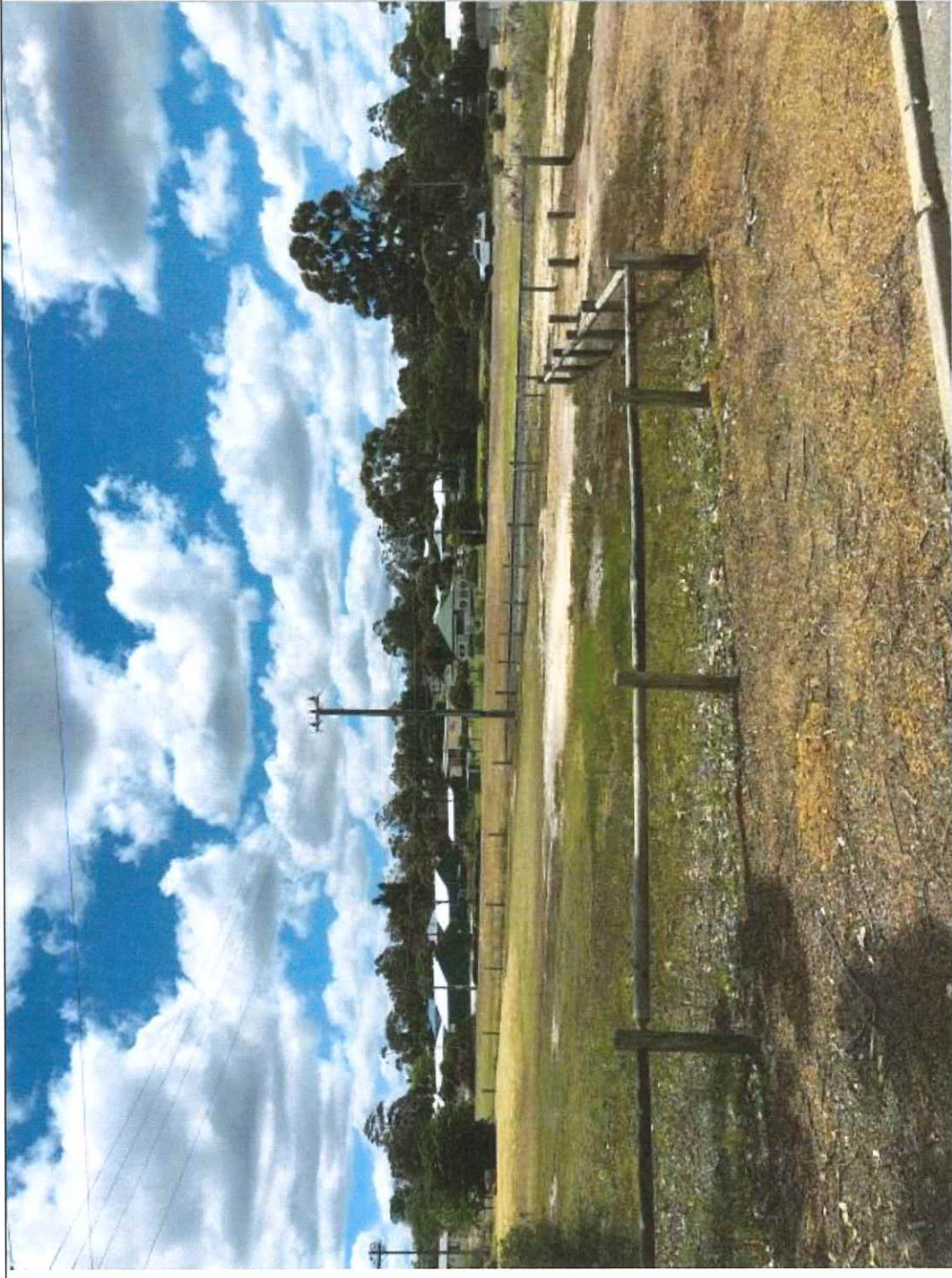


South east corner of Wilson Park indicating rail line and commencement of treated pine fence to Montem Street. Some minor repair work is required to the steel wire to the fencing as it angles away from the rail line.





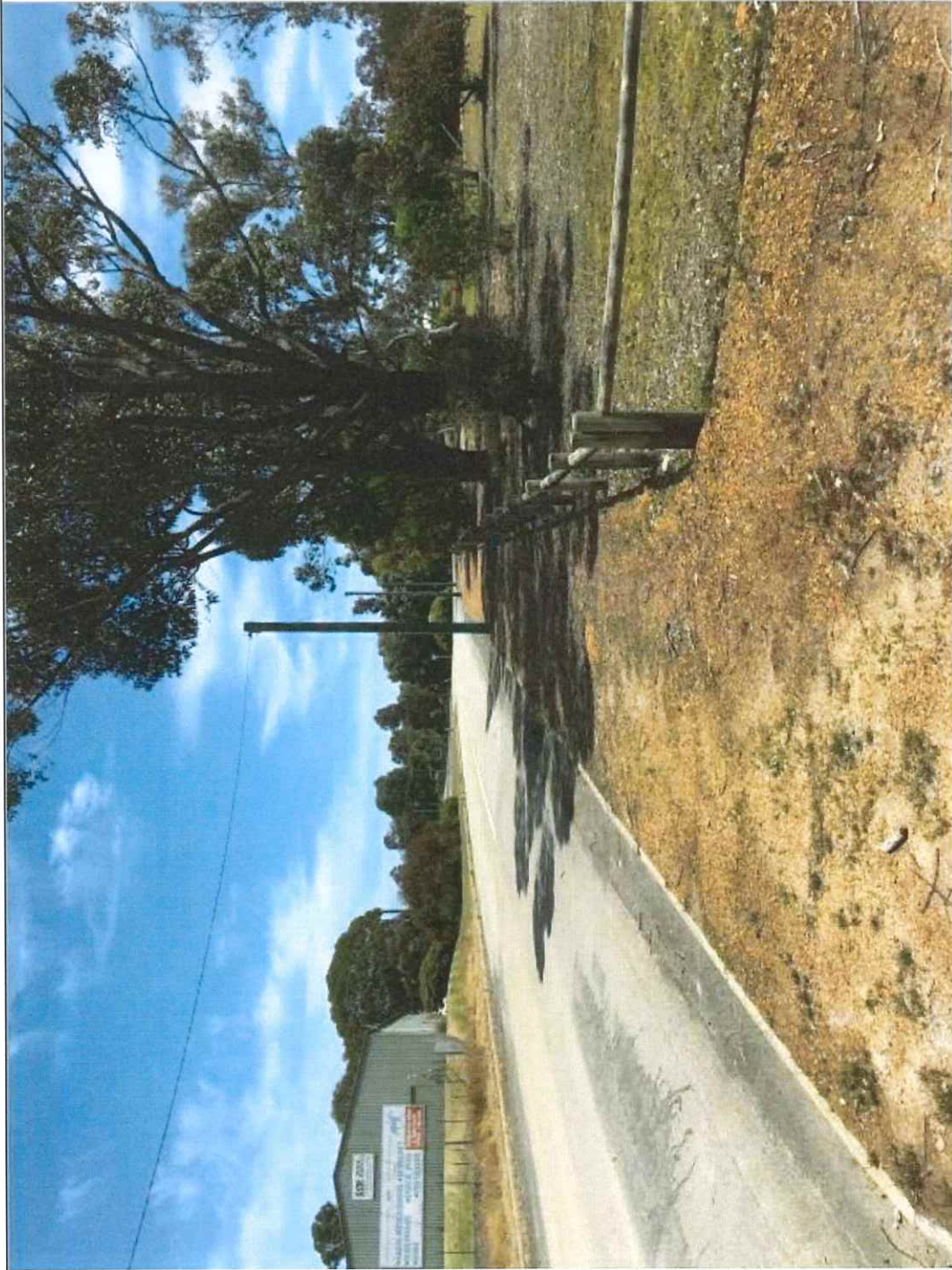
**Shire of Plantagenet Wilson Park Site Inspection Photographs & Comments**



Nature of fencing to Montem Street.



Shire of Plantagenet Wilson Park Site Inspection Photographs & Comments



As above.





**Shire of Plantagenet Wilson Park Site Inspection Photographs & Comments**



Vehicle access point into Wilson Park from Montem Street. Can this entry point be secured from unauthorized vehicles?





**Shire of Plantagenet Wilson Park Site Inspection Photographs & Comments**



View of fencing along Montem Street indicating point where treated timber fence changes to rail fencing.



Shire of Plantagenet Wilson Park Site Inspection Photographs & Comments



View of exit point from tunnel leading from play area into perimeter of park and verge of Lowood Street. Note fenced area to exit point and signage indicating presence of snakes and vegetation





**Shire of Plantagenet Wilson Park Site Inspection Photographs & Comments**



View from perimeter of Wilson Park looking across Lowood Street.





**Shire of Plantagenet Wilson Park Site Inspection Photographs & Comments**



View looking away from Wilson Park towards Shire office, note basketball court.





**Shire of Plantagenet Wilson Park Site Inspection Photographs & Comments**



View looking north along Lowwood Road. Note raised landscaping and tunnel exit point.



Shire of Plantagenet Wilson Park Site Inspection Photographs & Comments



Gazebo-vegetation around this structure could be pruned to improve sight lines.