



ORDINARY AGENDA

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

DATE: Tuesday, 28 March 2023

TIME: 5.00pm

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

John Fathers
ACTING CHIEF EXECUTIVE OFFICER

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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.

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

The Presiding Member acknowledges the Traditional Custodians of the land on which we meet today, paying respects to their Elders past, present and emerging.

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:

Nil

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

6.1 APPLICANT: CR M O'DEA

Cr M O'Dea requested Leave of absence from 3 May to 10 May 2023 inclusive.

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MINUTES OF COUNCIL HELD 21 FEBRUARY 2023

Minutes, as circulated, of the Ordinary Meeting of the Shire of Plantagenet, held on 21 February 2023.

OFFICER RECOMMENDATION

That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 21 February 2023 as circulated, be taken as read and adopted as a correct record.

7.2 SPECIAL MINUTES OF COUNCIL HELD 21 MARCH 2023

Minutes, as circulated, of the Special Meeting of the Shire of Plantagenet, held on 21 March 2023.

OFFICER RECOMMENDATION

That the Minutes of the Special Meeting of the Shire of Plantagenet, held on 21 March 2023 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 DEVELOPMENT SERVICES REPORTS

9.1.1 DRAFT LOCAL PLANNING POLICY NO. 2 – TOURIST DEVELOPMENT

File Ref:	N60506
Attachment:	<u>Town Planning Policy No.14- Rural Tourist Accommodation & Additional Houses</u>
Responsible Officer:	Delma Baesjou- Executive Manager Development Services
Author:	André Pinto Senior Planner
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to further review Town Planning Policy No.14 Rural Tourist Accommodation & Additional Houses, and consider Draft Local Planning Policy 2 - Tourist Development.

BACKGROUND

The Planning and Development Act 2005 legislates the use and development of land in Western Australia through the planning system. The Shire's Local Planning Scheme No. 5 (LPS5) is a key part of this planning system, controlling the use and form of buildings. This is supported by various local and state planning policies.

Town Planning Policy No.14 Rural Tourist Accommodation & Additional Houses (TPP 14) was adopted by the Council at its meeting held on 12 December 2006, in accordance with clause 7.6 of the former Town Planning Scheme No.3 (TPS3).

Review is required to bring the policy into conformity with LPS5, current 'model' definitions and community expectations with regards to changes in tourism since 2006 when the Policy was first adopted.

Draft LPP2- Tourist Development will accommodate for tourism developments throughout the Shire and provide guidance on their assessment and approval. TPP14 dealt with ancillary dwellings and tourist accommodation. The Ancillary Dwellings component of TPP14 was addressed previously, refer to item 9.1.4 of the OCM 21 February 2023. The policy will deal with short-stay and tourist accommodation to bring those activities into conformity with the definitions and guidelines in the recently released WAPC position statement Planning for Tourism, and up to date with State-wide standards given how much this space has transformed since the initial adoption of the Town Planning Policy 14 in 2006.

Since 2006, drastic changes have occurred in the tourism market. The market has shifted from caravan parks and bed and breakfasts being key drivers of tourism accommodation, to the inclusion of 'Hipcamp', 'Airbnb', and nature-based tourism parks. With this market shift comes a requirement to update policies to reflect, assess

against and provide guidance to planning for these within our communities and various zones. This is the aim of LPP2.

EXTERNAL CONSULTATION

No external consultation has occurred in relation to this report. Formal advertising of the draft Policy is required prior to adoption, in accordance with Schedule 2, clauses 4 and 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Plantagenet Local Planning Scheme No. 5 (LPS5)

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

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 Corporate Business Plan 2022/23 – 2025/26 provides:

At *Outcome 2.2 Infrastructure* the following Strategy:

Strategy 2.2.2:

‘Encourage development that is consistent with the individual character of towns’

At *Outcome 4 Performance & Leadership* the following Strategies:

Strategy 4.1.1:

‘A Shire that listens and considers the needs of each community.’

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

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Operational</i> Staff would deal with applications and enquiries on their merits, without overarching guidance	<i>Likely</i>	<i>Moderate</i>	<i>Moderate</i>	Endorse the review and update of the policy
Opportunity: <i>Ensure consistency with legislation and State Planning Policies and meet contemporary community expectations.</i>				

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

Tourist Developments within the Shire of Plantagenet are currently regulated by *Town Planning Policy 14- Rural Tourist Accommodation and Additional Houses* which was adopted by Council in 2006. Since 2006, the tourist accommodation market has shifted drastically, and the policy has not kept pace with trends in the market. It is no longer considered a suitable policy to assess against and guide tourism development in today's market, which is counter intuitive to improving tourism in the Shire.

With the introduction of "Hipcamp", "Airbnb", Nature Based Tourism Parks and other non-traditional forms of tourism, market expectations have changed, and the policy is required to adapt accordingly to provide such guidance. With the reduction in popularity of traditional caravan parks and bed and breakfasts, and shift in the market for more flexible camping and tourism accommodation styles, the new policy aims to allow for this flexibility, whilst also providing suitable controls around these forms of development. This will ensure consistency across not only the Shire of Plantagenet, but also align with other local governments across the State.

Furthermore, the Policy is required to be updated to align with the expectations of the Western Australian Planning Commission's position statement *Planning for Tourism*. This position statement clearly shows the shift in the market, and that definitions and requirements of such development need updating to accommodate for this development accordingly.

The Policy aims to include parameters around fire safety, potable water supply, on-site waste-water management and constructed, practical access and proximity to community services and facilities. Many items that are under addressed in the current Town Planning Policy.

The Policy will further assist in improving tourism in the Shire, and work in conjunction with other initiatives in the Shire to attract more people to the area, especially the target audience of the younger demographic. This can show the target demographic the

benefits of the area, by attracting them through tourism with the idea they may look to eventually move and live in the Shire once they see the liveability and natural tourism here.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Draft Local Planning Policy 2 – Tourist Development as follows:

1. CITATION

This Local Planning Policy prepared under Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.

This Policy may be cited as LPP No. 2 Tourist Development.

2. CRITERIA

2.1. To provide for tourist accommodation in the various areas of the Shire in a manner that does not conflict with existing or potential agricultural or horticultural pursuits.

2.2. To provide a balance between agriculture or horticulture and tourism, such that tourism does not dominate and does not detrimentally impact, the sustainable use or availability of agricultural land.

2.3. To acknowledge tourism as an appropriate source of employment and income to the benefit and prosperity of the community of the Shire.

2.4. To optimise both the agricultural and tourism potential of the rural areas of the Shire without detrimental impact on the inherent beauty, amenity and value of those areas.

2.5. This policy applies to the residential, peri-urban and rural areas of the municipal district of the Shire of Plantagenet and to all land zoned: Residential, Commercial, Service Commercial, Mixed Use, Tourism, Rural, Rural Residential, Rural Smallholdings, Rural Village and Special Use.

3. INTRODUCTION

The purpose of this planning policy is to set out the objectives and policy provisions which the Shire shall have regard to in the assessment and determination of application for Development Approval. The policy relates to land uses such as Bed & Breakfasts, Caravan Parks, Chalet, Holiday Accommodation, Holiday House, Nature Based Park and Tourist Development proposals. This may formally cover “Airbnb”, “Hipcamp”, “Eco-Tourism” proposals and other similar concepts.

Refer to *Table 3- Zoning Table* in the Shire’s Local Planning Scheme to check land use permissibility.

4. DEFINITIONS

Words and expression used in this policy have the same meaning as they have in the Local Planning Scheme and other relevant legislation.

Bed and Breakfast- means a dwelling —

- a. used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
- b. containing not more than 2 guest bedrooms.

Caravan Park means premises that are a caravan park as defined in the Caravan Parks and *Camping Grounds Act 1995* section 5(1).

Holiday Accommodation means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot.

Holiday House means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.

Hosted Accommodation – means a dwelling or ancillary dwelling, or a portion thereof, used for the purpose of short-term accommodation, with a permanent resident who is present overnight for the duration of the stay either in the dwelling or ancillary dwelling.

Keeper/Manager – a person who permanently resides at a premises providing short-term accommodation and is responsible for the upkeep and management of the accommodation.

Nature Based Park means a facility in an area that:

- a. is not in close proximity to an area that is built up with structures used for business, industry or dwelling-houses at intervals of less than 100 metres for a distance of 500 metres or more.
- b. has been predominately formed by nature.
- c. has limited or controlled artificial light and noise intrusion.
- d. A natural landscape can include an agricultural setting if the other criteria are met.

Short-term Accommodation – means temporary accommodation provided on a commercial basis, either continuously or from time-to-time with no guest accommodated for periods totalling more than 3 months in any 12-month period.

Tourist Development means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide —

- a. short-term accommodation for guests
- b. onsite facilities for the use of guests; and
- c. facilities for the management of the development.

5. DEVELOPMENT REQUIREMENTS

5.1. General Requirements

- a. Up to 5 units of tourist development are permitted on any one lot. Greater than 5 will trigger the need for Council Determination.
- b. Applications for 10 or more units of Tourism Development will be expected to contribute to local road upgrades. The amount of which will be at the discretion of the Shire.
- c. A keeper/manager is not required to reside at the premises whilst it is being used for tourist accommodation purposes.
- d. The use of one or more existing multiple or grouped dwellings within a complex for the purposes of tourist accommodation shall generally not be supported.

- e. **Proposals including a mix of uses including permanent residential and tourist accommodation within the same development should provide sufficient separation of the uses to ensure the amenity of permanent residents is adequately protected.**
- f. **All tourist accommodation units will be sited in a manner that will not impinge on the amenity or character of the area. The Shire may require additional vegetation screening to be planted and established prior to approval of the proposal.**
- g. **Car parking for tourist accommodation shall be a minimum of 1 parking space per unit.**
- h. **It is preferable that Tourist Developments be on a lot serviced by a bitumen sealed road. Applications for Tourist Developments on lots serviced by a gravel road will be considered on their merits. Where the lot is not abutting a constructed public road, the requirements of clause 32 (8) of LPS5 apply and the application may be refused.**
- i. **External Building Materials of tourist accommodation units and/or additional houses must be compatible with the site's surrounding and sympathetic to the natural environment around it.**
- j. **Each tourist accommodation unit, requires a source of potable water to a capacity of 92,000 litres. All water tanks are to be fitted with 65mm (2.5") female camlock outlets for Emergency Services.**
- k. **Subdivision, by way of freehold or strata title, arising from the approved tourist development of any given site will not be provided with recommended approval by the Shire to the Western Australian Planning Commission (WAPC).**
- l. **Temporary approvals for periods of 12 months may be considered in certain circumstances where amenity impacts are considered to be potentially greater.**

5.2. Management Plans

All proposals for tourist accommodation and other uses outlined in the purpose section of this policy shall include the lodgement of a management plan which shall address:

- a. **Control of Noise and other disturbances**
- b. **Complaints management procedures**
- c. **Security of guests, visitors and neighbours**
- d. **Control of anti-social behaviour and potential conflict between tourists/guests/visitors and permanent residents of the area**
- e. **Car parking for guests and visitors**
- f. **Number of bedrooms and beds; and**
- g. **Contact details of Owner and Keeper/Manager.**

5.3. Bushfire Prone Tourism Developments

- a. **A Tourist Development proposed in a Bushfire Prone Area may require a:**
 - i. **Bushfire Attack Level Assessment**
 - ii. **Bushfire Management Plan or Statement**
 - iii. **Emergency Evacuation Plan**

Such documents are to be prepared by an accredited bushfire practitioner.

- b. Notwithstanding, the minimum setbacks applicable in the zone, new Tourist Developments should generally be setback a minimum of 20 metres from any lot boundary to accommodate a suitable Asset Protection zone within the subject land, where applicable.
- c. The Shire shall determine on application the need for fire protection measures such as Asset Protection Zones (APZ's), firebreaks, escape routes, clearing of vegetation and standpipe and hose facilities in consultation with the Department of Fire and Emergency Services.
- d. Where a Bushfire Attack Level Assessment of BAL-40 and BAL-Flame Zone applies and the rating cannot be reduced it is considered inappropriate for a Tourist Development land use and an application for development approval will be refused.

5.4. Water Supply

- a. The Ancillary Dwelling requires a source of potable water to a capacity of 92,000 litres. All water tanks are to be fitted with 65mm (2.5") female camlock outlets for Emergency Services.
- b. Tourism Units are to be located within relatively close proximity of each other to enable shared use of infrastructure and to minimise the development footprint.

5.5. Septics

The applicant must demonstrate that efficient long-term on-site effluent disposal can be achieved without potential impact to public health, water supplies, neighbouring properties or the environment. Conventional effluent disposal area must be setback 100 metres of any creek, river, dam or spring, however, approved ATU's may allow this setback to be reduced to 50 metres.

5.6. Nature Based Parks

A Nature Based Park operator is to fill in a Licence Application under *Schedule 1, Form 1* of the *Caravan Parks and Camping Grounds Regulations 1997* and submit it to the Shire for approval. The management plan will be an attachment to Form 1. The Management Plan is to be submitted at the time of the Planning Application for initial review, the Licence Application can be submitted post Planning Approval being granted.

Nature based parks are generally exempt from the above "General Requirements" as the intent is to provide minimal services in the most natural setting possible. The Shire will follow the Department of Local Government, Sport and Cultural Industries' *"Nature Based Parks: Licencing Guidelines for Developers and Local Government"* when assessing such applications. The below items will be considered when assessing such applications:

- i. locational factors which may assist in determining appropriate locations for unhosted forms of short-term rental

accommodation within residential areas (refer to the Guidelines for further information)

- ii. limits to the number of guests and/or rooms
- iii. limits to nights the property can be made available for rental in any one year
- iv. provision of car parking
- v. minimum services such as potable water and reticulated sewerage
- vi. preparation and approval of a Management Plan
- vii. waste management
- viii. whether pets of guests (such as dogs) are permitted
- ix. managing for potential noise nuisance.

5.7. Caravan Parks

Development standards for caravan parks are contained in the Western Australian Planning Commission's *Planning Bulletin 49/2014 'Caravan Parks'* and shall be used by the Shire in the assessment of these proposals.

6. PERMISSIBILITY

Where an application satisfies the requirements of this Policy, conditional Development Approval may be issued under the relevant delegation.

Proposals that do not satisfy the criteria will be assessed on their merits and determined by the Council.

This Local Planning Policy No. 2 supersedes Town Planning Scheme Policy No. 14.'

Adopted on2023 in accordance with clauses 3, 4, 5 and Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

be advertised in accordance with the Planning Regulations.

9.1.2 POLICY REVIEW - SWIMMING CARNIVALS

File Ref:	N60548
Responsible Officer:	David Johnson APM Manager Community and Recreation Services
Author:	Isabelle Draffehn Community Development Officer
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to review Council Policy CS/SP/1 – Swimming Carnivals.

BACKGROUND

This policy was last reviewed by the Council at its meeting held on 24 April 2018.

EXTERNAL CONSULTATION

No external consultation has occurred in relation to this report.

STATUTORY ENVIRONMENT

The Department of Health 'Code of Practice for the Design, Construction, Operation, Management and Maintenance of Aquatic Facilities' is silent on matters relating to Swimming Carnivals.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

The policy provides for the exclusion of members of the public during swimming carnivals. This may cause a decrease in revenue, however, this is compensated partly by attendees and spectators paying entry at swimming carnivals.

BUDGET IMPLICATIONS

There are no budget implications for this report.

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 Corporate Business Plan 2022/23 – 2025/26 provides:

At Outcome 1.3 Health and Wellbeing, the following Strategy:

Strategy 1.3.2:

'A healthy and active Community.'

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

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational</i> <i>Pool not being available to other community members during pool swimming carnivals</i>	<i>Rare</i>	<i>Insignificant</i>	<i>Low</i>	<i>Mitigate with good community notice.</i>
<i>Financial</i> <i>Losing income whilst swimming carnivals are in progress</i>	<i>Possible</i>	<i>Insignificant</i>	<i>Low</i>	<i>Offset with spectator fees</i>
Opportunity: Provide a safe environment for school aged children and prevent cancellation of events due to health incidents in pool water				

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The Mount Barker Swimming Pool holds an average of three to five swimming carnivals per year with participation of local and regional schools. The pool staff advertises carnival dates at the pool to inform other pool users of pool closures.

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

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council Policy CS/SP/1 – Swimming Carnivals:

‘OBJECTIVE

To assist the Pool Manager in making suitable arrangements for Swimming Carnivals.

POLICY

The Council will permit school and other similar type swimming carnivals at the Mount Barker Swimming Pool, subject to:

- 1. The host organisation holding appropriate and adequate insurance for the event.**
- 2. The host organisation providing adequate supervision for the event.**
- 3. Exclusion of members of the public from the main pool during such events.’**

be endorsed.

9.1.3 POLICY REVIEW – USE OF A CIRCUS VENUE

File Ref:	N60549
Responsible Officer:	David Johnson APM Manager Community and Recreation Services
Author:	Isabelle Draffehn Community Development Officer
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to review Council Policy RS/EF/1 – Use of a Circus Venue and recommend that this policy be endorsed.

BACKGROUND

The policy provides guidelines on the appropriate venue for a circus and conditions that must be met to permit a circus to be held.

The policy was adopted in May 2003 and last reviewed 4 December 2018.

EXTERNAL CONSULTATION

No external consultation has occurred in relation to this report.

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 3.54(1) provides for a Local Government to manage and control land that is vested in it under the Land Administration Act 1997.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

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 Corporate Business Plan 2022/23 – 2025/26 provides:
At *Outcome 3.2. Tourism, Arts & Culture*, the following Strategy:

Strategy 3.2.1:

‘Support festivals, events and activities that strengthen our sense of identity and celebrate our history and heritage.’

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

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational:</i> That the Council risks being seen as unsupportive of a local community event.	<i>Rare</i>	<i>Insignificant</i>	<i>Low Moderate</i>	<i>Allow Frost Park to be used for future circus type events.</i>

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The last circus to be held in Mount Barker was in October 2017 at Frost Park.

This policy is appropriate as Frost Park remains the most suitable venue for a circus.

The level of Public Liability Insurance is also appropriate by current standards.

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

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That:

Council Policy RS/EF/1 – Use of a Circus Venue, as follows:

OBJECTIVE

To provide guidelines on the appropriate venue for a circus in Mount Barker.

POLICY

The Council will, with regard to a circus venue in Mount Barker, permit the use of Frost Park for such purposes subject to:

1. All normal charges and bonds being paid in advance.
2. Evidence of a Public Liability Insurance Cover to the sum of \$20 million being sighted to the satisfaction of the Chief Executive Officer.
3. The circus performance not clashing with any other scheduled event at Frost Park.
4. Consultation with Shire staff to locate reticulation, power and/or drainage structures at the site prior to anything being hammered or dug into the ground.
5. Any damage to Frost Park being repaired by the circus operators at their expense.
6. Circus organisers obtaining all necessary permits and approvals prior to the event.'

be endorsed.

9.2 WORKS AND SERVICES REPORTS

9.2.1 POLICY REVIEW – REVOKE POLICY - BUSH FIRE GUIDELINES – VEHICLE MOVEMENT BANS

File Ref:	N55886
Responsible Officer:	David Lynch Executive Manager Works and Services
Author:	Amy Chadbourne Senior Administration, Works and Services
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to recommend that Council Policy RS/FP/2 Bush Fire Guidelines – Vehicle Movement Bans, be revoked.

BACKGROUND

This policy has been active since February 2006. The last review took place at the Council Meeting held on 22 May 2018.

EXTERNAL CONSULTATION

No external consultation has occurred in relation to this report.

STATUTORY ENVIRONMENT

Bush Fires Act 1954

Bush Fires Regulations 1954

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

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 Corporate Business Plan 2022/23 – 2025/26 provides:

At Outcome 1.5 A safe Plantagenet the following:

Strategy 1.5.1:

‘Support the community in emergency and fire management planning, preparedness, response and recovery.’

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

STRATEGIC RISK IMPLICATIONS

The Strategic Risk Register (Business and Community Disruption) incorporates a key control for the support and co-ordination of Bush Fire Brigade activities. The control is rated as adequate, and the Community Emergency Services Manager is responsible. There is no reference to this policy in this document.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The policy is not required as clear definition of a harvest and vehicle movement ban are provided in the Shire of Plantagenet’s Annual Bush Fire Mitigation Notice (ABFMN). The ABFMN is available to all residents and clearly outlines bush fire mitigation measures which are required for the fire season. In addition, the Shire has a phone number which provides recorded information relating to harvest and vehicle movement bans as well as restricted and prohibited burning times.

The Bush Fires Act 1954 and the Bush Fires Regulations 1954 contain sufficient guidance for bush fire prevention measures.

Accordingly, it is recommended that this policy be revoked.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council Policy No RS/FP/2 Bush Fire Guidelines– Vehicle Movement Bans, as follows:

‘OBJECTIVE

The objective of this Policy is to determine the conditions under which certain activities that may occur during a Harvest Ban and/or Vehicle Movement Operation of Combustion Engine Ban.

POLICY DEFINITIONS

‘Registered On and Off Loading area’ means an area free of inflammable material, except live standing trees to a radius of 50 metres from the centre of the area.

‘Mobile Fire Fighting Unit’ means having a water carrying capacity of 400 litres, fitted with a minimum of 20 metres of 19-millimetre diameter fire fighting hose and pump capable of delivering water to full capacity through an adjustable nozzle in the spray and jet configurations.

‘Harvest Ban’ means any operation of machinery involved in harvesting seed crops/timber and/or other produce must come to a complete stop in paddocks when a ban is in place.

‘Vehicle Movement/Operation of Combustion Engines Ban’ means no vehicles to be driven unless on a constructed gazetted road and/or front entrance of property residences when the ban is in place and no combustion engines to be operated.

POLICY

- 1. Under the Bush Fires Regulations 1954 (38A) the following regulated activities may take place when a Harvest Ban and/or Vehicle Movement/Operation of Combustion Engines Ban is in place:**
 - a. Loading and offloading of grain, fertiliser and feed is only permitted on sites which are approved and registered by the Council on an annual basis and which comply with the definition of a Registered On and Off Loading area. A mobile fire fighting unit shall be in attendance at all times the site is in use during the ban period.**
 - b. Water carting for stock and domestic purposes, provided a mobile fire fighting unit accompanies the vehicle being used for water carting purposes, or alternatively, the water carting vehicle acts as the mobile fighting unit and meets the requirements as detailed in the definition of a mobile fire fighting unit (including the retention of 400 litres at all times).**
 - c. All necessary travel to, from and within piggeries, sheep or cattle feed lots, provided this is undertaken in or is accompanied by a mobile fire fighting unit.**
 - d. All carting of livestock necessary for animal welfare, provided that a mobile fire fighting unit accompanies such a vehicle.**
 - e. All activities attending to the immediate welfare of animals provided that a mobile fire fighting unit accompanies such a vehicle.**
 - f. Activities which have received specific exemptions from the Shire of Plantagenet or the Chief Bush Fire Control Officer.**
 - g. All other activities or operations may only be undertaken during Harvest Bans and/or Vehicle Movement/Operation of Combustion Engines Bans after approval has been granted by the Council. Approvals must be sought on an individual basis and if granted, may be subject to conditions.**
 - h. Once the Fire Danger Index reaches 50 or above, all regulated activities must cease excluding those for the immediate welfare of stock, provided that a mobile fire fighting unit accompanies such a vehicle.’**

be revoked.

9.2.2 POLICY REVIEW – BUSH FIRE – PERMIT TO BURN

File Ref:	N60203
Attachment:	<u>Policy with changes</u>
Responsible Officer:	David Lynch Executive Manager Works and Services
Author:	Amy Chadbourne Senior Administration, Works and Services
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to review Council Policy RS/FP/3 Bush Fire – Permit to Burn.

BACKGROUND

This policy was reviewed by the Council at its meeting held on 22 May 2018.

EXTERNAL CONSULTATION

The policy was discussed with members of the Bush Fire Advisory Committee at a workshop held on 12 October 2021.

STATUTORY ENVIRONMENT

Bush Fires Act 1954, Section 15A 'Bush Fire Control Officer issuing permits to burn to comply with directions of local government'

Bush Fires Act 1954, Section 23 'Burning during prohibited burning times'

Bush Fires Act 1954, Section 24 'Bush on land growing subterranean clover may be burnt during prohibited burning times'

Bush Fires Act 1954, Section 24A 'Bush on land in prescribed irrigation areas may be burnt during prohibited times for purpose of germinating clover'

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

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 Corporate Business Plan 2022/23 – 2025/26 provides:

At *Outcome 1.5 A safe Plantagenet* the following:

Strategy 1.5.1:

‘Support the community in emergency and fire management planning, preparedness, response and recovery.’

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

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Operational</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Approving the revised policy provides clear guidance regarding obtaining a permit</i>
<i>Opportunity: Fire control officer approving a permit</i>				

STRATEGIC RISK IMPLICATIONS

The Strategic Risk Register (Business and Community Disruption) incorporates a key control for the support and co-ordination of Bush Fire Brigade activities. The control is rated as adequate and the Community Emergency Services Manager is responsible.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

Section 23 (2) of the Bush Fires Act 1954 allows for any Fire Control Officer (FCO) or the Chief Executive Officer (CEO) in the absence of an FCO to give a permit to burn during Prohibited Times under certain circumstances.

Following discussions with the Chief Bush Fire Control Officer (CBFCO) and Chief Fire Weather Officer (CFWO), it is recommended that Council’s policy be strengthened in regard to this section to only allow the CBFCO in consultation with the CFWO to issue a permit to burn.

Further the Policy is amended to reflect the times that such burning be carried to allow from 4.00pm to midnight in accordance with section 23(2)(a)(ii).

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That amended Council Policy No RS/FR/3 Bush Fire – Permits to Burn During Prohibited Burning Times, as follows:

‘OBJECTIVE

To provide direction to Bush Fire Control Officers for conditions that may be applied to Permits to Burn during Prohibited Burning Times.

POLICY**1. Scope**

This policy applies to properties located within the Shire of Plantagenet.

2. Legislation/Standards

Bush Fires Act 1954, Section 15A ‘Bush Fire Control Officer issuing permits to burn to comply with directions of local government’

Bush Fires Act 1954, Section 23 ‘Burning during prohibited burning times’

Bush Fires Act 1954, Section 24 ‘Bush on land growing subterranean clover may be burnt during prohibited burning times’

Bush Fires Act 1954, Section 24A ‘Bush on land in prescribed irrigation areas may be burnt during prohibited times for purpose of germinating clover’.

3. Application of Policy

The Chief Bush Fire Control Officer, in consultation with the Chief Fire Weather Officer and other Fire Control Officers, may issue a permit to burn during prohibited burning times with the following conditions.

- a) Protective burning around buildings may be permitted during the hours of 4.00pm to 12.00am (midnight).**
- b) Permits to burn on a Sunday shall not be issued.**
- c) Permits to burn shall not be issued for Christmas Day or Good Friday.**
- d) Permits to burn bush on land growing subterranean clover for the purpose of harvesting shall not be issued except by the Chief Bush Fire Control Officer, Deputy Chief Bush Fire Control Officers or the Chief Executive Officer.**
- e) Permits issued to burn on land growing subterranean clover shall not be for areas exceeding 75 hectares.’**

be endorsed.

9.2.3 ROADWISE COMMITTEE - REPLACEMENT OF MEMBER

File Ref:	N60202
Responsible Officer:	David Lynch Executive Manager Works and Services
Author:	Amy Chadbourne Senior Administration/Project Officer Works and Services
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to note the resignation of one member of the Plantagenet RoadWise Committee and to consider the appointment of a new member.

BACKGROUND

The Plantagenet RoadWise Committee was created with the following functions:

- ‘1. To provide a structured forum for stakeholders to consider and discuss road safety issues; and*
- 2. To discuss and make recommendation regarding the identification and appropriate counter measures to negative attitudinal, behavioural and environmental factors linked to enforcement, engineering, education, encouragement and evaluation of road safety initiatives.’*

Ms Pauline Hughes, the Mount Barker Community College representative has resigned from the Plantagenet RoadWise Committee.

STATUTORY ENVIRONMENT

Local Government Act 1995, Section 5.8 ‘Establishment of committees’

The Plantagenet RoadWise Committee was formed under Section 5.9 (2)(c) which provides that a Committee is to comprise ‘... council members, employees and other person.’ These appointments must be adopted by an Absolute Majority.

Sections 5.10 and 5.11 refer to ‘Appointment of committee members’ and ‘Tenure of committee member’ respectively.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

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 Corporate Business Plan 2022/23 – 2025/26 provides:

At *Outcome 1.5 A Safe Plantagenet* the following:

Strategy 1.5.2

‘Safety on roads and public open space.’

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

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

Pursuant to Section 5.11 of the Local Government Act 1995, Ms Hughes resigned from her role as the MBCC representative.

Correspondence received from the MBCC principal Mr Andrew Fraser nominated Mr Wesley Beck as the representative for the MBCC.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

That:

- 1. The resignation of Ms Hazel (Pauline) Hughes from the Plantagenet RoadWise Committee be accepted and Ms Hughes be thanked for her service.**
- 2. Mr Wesley Beck be appointed as a committee member on the Plantagenet RoadWise Committee.**

9.3 CORPORATE SERVICES REPORTS

9.3.1 ELECTIONS 2023 - LOCAL GOVERNMENT - METHOD OF VOTING

File Ref:	N60258
Responsible Officer:	Cameron Woods Chief Executive Officer
Author:	John Fathers Deputy Chief Executive Officer
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to recommend the appointment of the Western Australian Electoral Commission (WAEC) to be responsible for the conduct of the October 2023 Ordinary Local Government Elections and to endorse those elections to be conducted as postal ballots.

BACKGROUND

The Council has used the WAEC to conduct postal voting elections for every election held since May 1988.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 4.61 (1) of the Act states:

'The election can be conducted as a -

"postal election" which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or

"voting in person election" which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.'

Section 4.61 (2) of the Act states:

'The Local Government may decide (absolute majority required) to conduct the election as a postal election.'

Section 4.20(4) of the Act states:

'A Local Government may, having first obtained the written agreement of the Electoral Commissioner, declare (absolute majority required) the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.'

EXTERNAL CONSULTATION

Correspondence has been received from the WAEC.

FINANCIAL IMPLICATIONS

An amount of approximately \$33,000.00 would need to be allocated for the conduct of the 2023 elections. Costs not included in this estimate include:

- Non-statutory advertising (i.e. additional advertisements in community newspapers and promotional advertising);
- Any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns; and
- Staff members within the polling place on election day and for the count.

BUDGET IMPLICATIONS

The costs above will need to be included in the 2023/2024 annual budget.

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

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational</i> Having the administration involved may be seen to be less than fully transparent. <i>Operational</i> Further, WAEC staff are expert in running elections and have extensive resources to do so.	<i>Possible</i>	<i>Minor</i>	<i>Moderate</i>	<i>Endorse the conduct of the election by WAEC</i>

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The Council has used the WAEC to conduct postal voting elections for every election held since May 1988. The conduct of the elections has been to a high standard. It is also preferable for the administration to be removed from the process.

It is therefore recommended that October 2023 elections be held as a postal ballot, to be conducted by the WAEC.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

That:

1. In accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner of Western Australia be responsible for the conduct of the Shire of Plantagenet 2023 ordinary elections together with any other elections or polls which may also be required.
2. In accordance with Section 4.61(2) of the Local Government Act 1995, the method of conducting the election will be as a postal election.

9.3.2 FINANCIAL STATEMENTS – FEBRUARY 2023

File Ref:	N60471
Attachment:	<u>Financial Statements – February 2023</u>
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Vanessa Hillman Senior Finance Officer
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 28 February 2023.

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.
- 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.

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational</i> That Council does not receive the financial activity statements as required by S6.4 of the LG Act 1995	<i>Rare</i>	<i>Insignificant</i>	<i>Low</i>	<i>That Council receives the financial activity statements as required by legislation.</i>

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Financial Statements for the period ending 28 February 2023 be received.

9.3.3 LIST OF ACCOUNTS - FEBRUARY 2023

File Ref:	N60483
Attachment:	<u>List of Accounts - February 2023</u>
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Faye Smith Finance Officer
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of February 2023.

EXTERNAL CONSULTATION

No external consultation has occurred in relation to this report.

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 (28 June 2022). 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.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

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

There are no strategic implications for this report.

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational</i> That Council does not receive the list of payments	<i>Rare</i>	<i>Insignificant</i>	<i>Low</i>	<i>That Council receives the list of payments as required by legislation.</i>

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional 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 28 February 2023 be received and recorded in the minutes of the Council, the summary of which is as follows:

1. Electronic Payments and Direct Debits totalling \$1,031.777.29; and
2. Cheque 47242 totalling \$171.65.

9.3.4 POLICY REVIEW - VEHICLE REGISTRATION PLATES

File Ref:	N60500
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Donna McDonald Senior Administration/Human Resources Officer
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to review Council Policy No. A/PA/12 – Vehicle Registration Plates.

BACKGROUND

This policy is reviewed every four years and was last reviewed by the Council at its meeting held on 26 March 2019.

STATUTORY ENVIRONMENT

There are no statutory implications for this report.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

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

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

RISK MITIGATION IMPLICATIONS

There are no risk mitigation implications for this report.

OFFICER COMMENT

It is considered that the current policy is sufficient and should be endorsed without alteration.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council Policy No. A/PA/12 – Vehicle Registration Plates, as follows:

‘OBJECTIVE:

To apply restrictions to the allocation of local authority (Numeral-PL) vehicle registration plates.

POLICY:

That with respect to the issue of local authority vehicle registration plates (Numeral-PL), the Council will not issue plates with a zero prefix.’

be endorsed.

9.4 EXECUTIVE SERVICES REPORTS

9.4.1 LICENCE – MOUNT BARKER AMATEUR SWIM CLUB

File Ref:	N60038
Attachments:	<u>Draft Licence</u>
Responsible Officer:	David Johnson Manager Community & Recreation Services
Author:	Donna Fawcett Human Resources Coordinator
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to seek the Council's endorsement of a licence between the Shire of Plantagenet and the Mount Barker Amateur Swim Club (MBASC) for the Mount Barker Memorial Swimming Pool Function Room.

BACKGROUND

The Mount Barker Amateur Swim Club (Barracudas) are based at the Mount Barker Memorial Swimming Pool and currently host approximately 70 members. The club has been in existence for several decades.

Since its inception, the club has utilised the pool to host training, club days and regional swim meets. The lack of available indoor space at the pool site resulted in the Volunteer Management Committee hosting General and Annual General Meetings at hotels or private homes.

The use of the Mount Barker Memorial Swimming Pool is currently by an informal agreement by way of a letter of request to utilise the site on certain days.

In 2022, Stage 1A of the upgrades to the pool was completed which included a designated function room at the western end of the new complex.

EXTERNAL CONSULTATION

Consultation has taken place with members of the MBASC Committee to ascertain their needs and requirements.

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 3.58 applies to the disposition of property, including leasing. Under the Local Government (Functions and General) Regulations a disposition of land is an exempt disposition and is excluded from the application of Section 3.58, if:

'the land is disposed of to a body, whether incorporated or not – the objects of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and members of which are not enlisted or permitted to receive a pecuniary profit from the body's transactions.'

As such, the licence to the MBASC would be an exempt disposition.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

An annual licence fee of \$480.00 and a bond of \$500.00 will be applicable.

BUDGET IMPLICATIONS

There are no budget implications for this report.

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 Corporate Business Plan 2022/23 – 2025/26 provides:

At *Outcome 1 Community* the following Strategy:

Strategy 1.3.2:

'A healthy and active Community.'

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

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational</i> That the Council risks being seen as unsupportive of a local community group	<i>Likely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Endorse the licence</i>
Opportunity: To acknowledge the successful operation of the Mount Barker Amateur Swim Club by providing a new licence agreement for the function / club rooms.				

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

This is a new agreement between the Shire of Plantagenet and the Mount Barker Amateur Swim Club (MBASC) for non-exclusive use of the function room at the Mount Barker Memorial Swimming Pool as a clubroom during the summer season.

As the use is seasonal in nature and is non-exclusive, a Licence Agreement is the preferred method of formalising the use of the facility.

The annual licence fee of \$480 (\$20.00 per week) has been agreed to by the MBASC and endorsed by the Recreation Advisory Committee at its meeting held on 17 May 2022.

The licence agreement is seasonal and applicable for the swimming pool season, commencing on 1 November annually. Access to the function room by the MBASC is Monday and Wednesday afternoons, 3.00pm to 6.00pm and one Saturday per month for personal best time trials, 10.00am to 12.00noon. Access at other times is to be booked via the pool management.

At its meeting held on 21 February 2023, the Council resolved that:

- '1. The item be adjourned to enable the CEO to engage with the Mount Barker Amateur Swim Club to establish how assignment of financial responsibility for damage to / or repairs of facilities/equipment hired by the Swim Club will be managed.*
- 2. A further report be brought back to the Council at its meeting to be held on 28 March 2023.'*

Consultation was undertaken with the Swim Club President on 24 February 2023 to provide clarity around obligations as directed by the Council.

In order to protect both the user group and the Shire of Plantagenet, a post use check and clean will be completed prior to any future hire. The introduction of a Facility Inspection Checklist, signed and dated by swimming pool staff will ensure any damage or unsatisfactory conditions can be recorded, directed to and dealt with by the appropriate group. Any damage will be photographed, time and date stamped.

The implementation of this procedure has been accepted by the President as a satisfactory solution to the concerns raised by the MBASWC.

Consultation was also undertaken with the Shire's legal advisor regarding the correct type of agreement to be entered into by both parties. The professional opinion was provided that a Licence Agreement was the correct documentation.

Further legal advice was received that public liability insurance for incidents occurring at the venue are covered under the Shire of Plantagenet's insurance, so the clause in the original licence relating to insurance coverage has been removed. It is worth noting that the Mount Barker Amateur Swim Club holds its own public liability as a matter of business.

It is recommended that the MBASC be afforded a licence for a term of five years. Changes to the licence agreement presented previously have been made to reflect the start date, clarifications on insurance and access times.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That authority be granted to the Shire President and the Chief Executive Officer to affix the Common Seal of the Council to the Licence Agreement (as attached) between the Shire of Plantagenet and the Mount Barker Amateur Swim Club for the Mount Barker Memorial Swimming Pool Function Room.

9.4.2 RENEWAL OF LEASE - MOUNT BARKER TENNIS CLUB

File Ref:	N60331
Attachment:	<u>Draft Lease</u>
Responsible Officer:	David Johnson APM Manager Community and Recreation Services
Author:	Donna Fawcett Human Resources Coordinator
Proposed Meeting Date:	28 March 2023

PURPOSE

The purpose of this report is to recommend the renewal of the lease agreement between the Shire of Plantagenet and the Mount Barker Tennis Club (MBTC) for a portion of Lot 152 McDonald Avenue, Mount Barker for the purpose of a tennis club.

BACKGROUND

The current lease agreement between the Shire of Plantagenet and the Mount Barker Tennis Club commenced on 1 July 2017 and expired on 30 June 2022. This lease renewal replaced the original agreement signed on 1 July 1996, which ran for a period of 21 years.

The lease has continued on a 'holding over' basis as per Clause 5.8 of the lease agreement.

EXTERNAL CONSULTATION

Consultation has taken place with the committee of the MBTC.

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 3.58 applies to the disposition of property, including leasing. Under the Local Government (Functions and General) Regulations a disposition of land is an exempt disposition and is excluded from the application of Section 3.58, if:

'the land is disposed of to a body, whether incorporated or not – the objects of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and members of which are not enlisted or permitted to receive a pecuniary profit from the body's transactions.'

As such, the lease to the MBTC would be an exempt disposition.

POLICY IMPLICATIONS

Policy A/PA/14 – Sporting and Community Organisations Using Council and Vested Land - Rateability provides that an organisation leasing or renting land and/or facilities from the Council shall be rateable, unless provisions of the Local Government Act 1995 provide for them to be non-rateable.

Section 3.d. of the policy 'Other Service Organisation/Sporting Club' (of which the MBTC is identified) states the following:

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

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

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

FINANCIAL IMPLICATIONS

Rental received from the MBTC will be \$10.00 per annum (excluding GST).

The MBTC is responsible for all outgoings, and all building and grounds maintenance on the leased area.

BUDGET IMPLICATIONS

There are no budget implications for this report.

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 Corporate Business Plan 2022/23 – 2025/26 provides:

At Outcome 1 Community, the following Strategies:

Strategy 1.3.2:

‘A healthy and active community.’

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

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational That the Council risks being seen as unsupportive</i>	<i>Likely</i>	<i>Moderate</i>	<i>medium</i>	Endorse the renewal of the lease agreement

of a local community group				
<i>Opportunity:</i> To acknowledge the history of the Mount Barker Tennis Club whilst being aware of the current issues the club now faces.				

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The MBTC has a long, proud history but has been in a period of dormancy over the past four years and has struggled to attract new members or deliver social or competition tennis activities.

The MBTC has only four financial members, who have dedicated decades of service to the club. These four members make up the current committee. The MBTC has exclusive use of a Shire-owned facility which is severely underutilised. The MBTC has now unlocked the gates to the courts and provides free usage to the public in an effort to increase attendance at the facility.

It is recognised that the MBTC has invested in infrastructure at the facility, including a kitchen upgrade, maintenance of the facility and a co-contribution to have the light towers installed.

The Manager of Community and Recreation Services first met with the committee of the MBTC on 20 June 2022, to discuss the upcoming lease renewal and the underutilisation of the courts and clubhouse.

With concerns over the long-term sustainability and viability of the club, Shire officers have undertaken extensive consultation with Tennis West to investigate ways of re-invigorating the club and attracting new members. The options provided by Tennis West have been relayed to the committee of the MBTC.

With Local Government under pressure to assist community groups and not-for-profit organisations with access to limited space to operate, consultation with the MBTC has also centred around shared use, and the club's willingness to entertain a co-tenant in what is currently an exclusive tennis space.

At its recent committee meeting held on 14 February 2023, the MBTC's situation was further discussed, with no improvements identified by way of increased membership or club activities over the past seven months. However, the committee was open to co-tenancy, pending agreements on the timings of that use, and the arrangements around shared costs.

In a letter to the CEO dated 1 March 2023, the MBTC has further discussed the matter of co-tenancy and now confirmed they are no longer willing to share the facility with another organisation.

The matter of co-tenancy should be investigated, and any new lease agreement should reflect the right of the Shire of Plantagenet to be able to allow another user group to share the facility, pending a workable agreement being formulated between the MBTC and that group regarding shared costs and usage times. The use of the courts will not be part of any negotiations with other user groups. The ongoing use of the courts will be managed solely by the MBTC.

A recent request by the Kendenup Tennis Club to repurpose four of the light towers at the Tennis Club was not supported by the committee.

The new lease agreement document has been drafted using the Shire's updated standard template lease. The terms and conditions are similar to the current agreement. A new clause provides that the Lessee will be responsible for the cost of any policy excess in the event of an insurance claim and in some cases, the cost of repairs where that cost is less than the policy excess.

It is recommended that a new lease be offered for a period of five years. A clause should be considered to include a review every 12 months to ensure the club is meeting the terms of their lease regarding usage. This recommendation is offered in consideration of the following points:

- MBTC occupies a Shire owned facility that has been underutilised for the past four years;
- MBTC currently has only four active, financial members;
- a five-year lease with annual reviews will provide an opportunity to ascertain whether the club has the resources available, and the energy, to remain viable and sustainable; and
- It will allow officers to work with the club to explore viability options and shared use.

It is noticed since the previous meeting between the MBTC and the Manager of Community and Recreation Services that serious effort has been made to reignite tennis at the facility with several positive events held at the club in the last month.

Further, it is recommended that the Mount Barker Tennis Club receive a 100% waiver for rates charges.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION**That:**

- 1. Authority be granted to the Shire President and Chief Executive Officer to affix the Common Seal of the Council to the lease agreement (as attached) between the Shire of Plantagenet and the Mount Barker Tennis Club for a portion of Lot 152 McDonald Avenue, Mount Barker, for the purpose of a tennis club.**
- 2. For the purposes of interpreting Council Policy A/PA/14 'Sporting and Community Organisations using Council and Vested land – rateability' it is determined, due to the benefits to the Shire, number of active participants and the not for profit status of the Lessee, that a 100% waiver of annual levied rates shall apply.**

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING**12 CONFIDENTIAL****12.1.1 TENDER CO7-2223 – PLANTAGENET PANEL OF PRE-QUALIFIED SUPPLIERS FOR BUSHFIRE MITIGATION ACTIVITY FUND**

File Ref: N60468
Responsible Officer: David Lynch
Executive Manager Works and Services
Author: Victoria Holloway
Bushfire Risk Mitigation Coordinator
Proposed Meeting Date: 28 March 2023

PURPOSE

The purpose of this report is to consider submissions received for Tender CO7-2223 Panel of Pre-Qualified Suppliers for Bushfire Mitigation Activity Fund.

OFFICER RECOMMENDATION

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

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

13 CLOSURE OF MEETING