

## Fit for Work Policy

### 1. Purpose

This Fit For Work Policy and Procedure outlines Yarriambiack Shire Council's (YSC) organisational approach and commitment to the management of staff and their ability to undertake their work, as defined by the *Occupational Health and Safety Act 2004*.

This Policy and Procedure should be read and implemented in conjunction with YSC's OHS Policy. Combined, they set out the minimum requirements to meet mandatory Occupational Health & Safety obligations.

This Policy and Procedure is intended to ensure all Employees (refer to definitions for what constitutes an employee) are in a condition to safely carry out work. This Policy and Procedure combines a range of strategies including education / awareness training, employee assistance programs, Alcohol and other Drug (AOD) testing and, where necessary, the taking of disciplinary action for a breach of this Procedure.

All employees are responsible for reading and understanding the Policy and Procedure. The purpose of this Policy and Procedure is to provide the framework for the management of general employee fitness for work, including non-work related illness and injury. YSC has an expectation that all employees are able to undertake the inherent requirements of their role or their reasons for being on the YSC's property in a safe manner.

### 2. Scope

This Policy and Procedure applies to all persons undertaking work on behalf of YSC, including employees, contractors (including agency staff), volunteers, work experience / placements and apprentices.

YSC regards it essential that all persons engaged in its operations, are aware of and fully comply with, all legislative and organisational requirements.

Where an individual is identified as being potentially unfit for work an assessment will be undertaken and a subsequent meeting with the individual will be conducted.

Yarriambiack Shire Council will take appropriate actions to reduce or eliminate the risk.

The individual will be provided with appropriate support options and self-disclosure will be encouraged.

Staff may be deemed unfit for many reasons, such as:

- a) Fatigue.
- b) Stress.
- c) Trauma.
- d) Medical conditions.
- e) Alcohol and illicit drugs.
- f) Medication or misuse of prescription medication.
- g) Exposure to extreme weather conditions, chemicals and noise.

### 3. Objectives

This Policy and Procedure aims to assist employees with their general fitness for work through education, counselling and referral to healthcare practitioners where appropriate. The objectives of this policy and procedure are to ensure that the expectation for employee fitness for work is clearly defined and that Direct Managers have the information required to manage the issues outlined in this Fit For Work Policy and Procedure.

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This Policy prescribes YSC’s intention to ensure a safe work place and safe work practices by ensuring that all employees are in a fit condition to perform their work without compromising their own safety, the safety of fellow employees or members of the public. YSC is required to comply with Legislative and other occupational health and safety obligations and must take steps to ensure it meets its obligations to employees and conducts its operations in a safe and responsible manner.

Whilst the misuse of alcohol and other drugs (AOD) may have an impact on an individual’s fitness for work, there are inevitable trade-offs which must be made between individual lifestyle choices and the obligations individuals have to themselves and others with whom they work. YSC believes it has established fair and accountable parameters which meet all obligations. The management of the risks associated with the use of AOD at work is essential to ensuring a safe and healthy work environment. Any individual present in the workplace, who has consumed AOD could; endanger lives, present a potential risk to safety, and potentially cause damage to property and equipment which YSC seeks to prevent.

This Policy and Procedure is intended to ensure all employees are in a condition to safely carry out work. The unauthorised use of AOD by employees is strictly prohibited. Any employee identified as contravening this Procedure may be subject to YSC’s disciplinary procedures, which may include termination of an employee’s employment or a contractor’s engagement.

If this Policy and Procedure is in conflict with any relevant legislation then that legislation will take precedence over this Procedure.

#### **4. Roles and Responsibilities**

##### ***Human Resources***

- a) Ensure there is an Employee Assistance Program in place for all Staff.
- b) Provide mandatory drug and alcohol training sessions (online and face to face).
- c) Corporate induction to include managing stress, fatigue, heat and Council requirements in relation to drugs (illicit and prescription) and alcohol information.
- d) Manage any positive / negative drug and alcohol results in accordance with the policy and procedure.
- e) Manager any notification / advice from employees regarding alcohol/drug dependency in accordance with the policy and procedure.
- f) Provide employee assistance program information to staff when necessary.

##### ***CEO and Directors***

- a) Ensure the health, safety, and welfare at work of all employees, and members of the public whom may be affected by the actions of employees in accordance with the *Victorian Occupational Health and Safety Act 2004*.
- b) Provide and maintain for employees a working environment that is safe and without risks to health, so far as is reasonably practicable.
- c) Where executive level gatherings, Employer Briefings, or Employer Meetings are being held, Officers should be unimpaired by alcohol. Analysis, recommendations and decision-making of senior officers carries higher weight in terms of influence across the organisation and community, and is therefore of higher risk to the organisation.
- d) As per manager and employee responsibilities.

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**Managers, Coordinators, Team Leaders and Supervisors**

- a) Ensure the health, safety, and welfare at work of all employees, and members of the public whom may be affected by the actions of employees in accordance with the Victorian *Occupational Health and Safety Act 2004*.
- b) Undertake mandatory drug and alcohol training, and reasonable suspicion and impairment training.
- c) Undertake training in relation to managing stress and wellbeing in the workplace.
- d) Instruct an employee to stop their work immediately and, if necessary, remove them from the workplace where it is suspected that an employee's performance is impaired due to the influence of alcohol, drugs or other health/wellbeing related issues, and there is a perceived risk to the individual or others, such as arising from operating plant, machinery or other vehicles. Where this situation arise request a drug/alcohol test (if applicable) immediately via Human Resources or the Chief Executive Officer (CEO).
- e) Prior to an employee commencing with Yarriambiack Shire Council, employees who may drive a Council vehicle or use mobile plant must submit verification of their licences and qualifications. Line Managers must ensure that employees, before commencing, hold the required driver's licence or where necessary an appropriate endorsed licence or competency certificate, and there are no restrictions.
- f) Not allow a vehicle to be driven by any person not holding a relevant licence or certificate.
- g) Conduct work according to this Fit For Work Policy/Procedure.
- h) As per employee responsibilities.

**All employees, contractors, agency staff, volunteers, work experience / placements, apprentices**

Have a responsibility to and must:

- a) Be fit for work.
- b) Able to perform their work competently.
- c) Function in a manner that does not threaten the health and safety of themselves or others.
- d) Notify their Line Manager or Human Resources if having difficulty managing personal use of drugs (illicit or prescription) or alcohol.
- e) Notify their Line Manager before coming into work if diagnosed with a contagious illness, or been in contact with another person who has a contagious illness.
- f) Notify their Line Manager, Human Resources or the Occupational Health and Safety (OHS) Officer if exposed to industrial chemicals, extreme heat, stress, fatigue or other contributing factor to being unfit for work.
- g) Discuss with the treating doctor outlining normal duties, where an employee is on a prescribed medication that has side effects, or has an illness that may impact on their ability to undertake a job, to advise their Line Manager.
- h) Request a certificate from the doctor that indicates the level of impairment, if any.
- i) Discuss with a pharmacist the known side-effects of any over the counter medications.
- j) Notify Line Manager, Human Resources or the OH&S Officer if someone is observed as being not fit for work.

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- k) Not buy, sell, manufacture, be in possession of or use illegal drugs while engaged in Yarriambiack Shire Council works or on Council premises.
- l) Must immediately notify the Council of any change in their licence or permit for vehicles or plant that may affect their ability to undertake their allocated tasks.
- m) Comply with any drug and alcohol testing as required by the organisation in line with the Fit For Work Policy/Procedure.

**5. Definitions**

**Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols in methyl and isopropyl alcohol, no matter how it is packaged or in what form the alcohol is stored, utilised or found. (The only exception is products which contain alcohol and are used for legitimate reasons in the workplace ie. such as Listerine).

**Approved Rehabilitation Program** means a rehabilitation program provided by an organisation with recognised expertise in the assessment, treatment and rehabilitation of people suffering from misuse of AOD.

**Authorised Function** means a function usually conducted in YSC’s controlled workplace where alcohol can be served. An authorised function shall require the written authorisation of a manager or director as specified in Appendix A.

**Blood Alcohol Content or BAC** means blood alcohol content as measured by breath analysis on an Australian Standard compliant breath testing device when operated by an Accredited Technician and/or by laboratory analysis of a saliva sample.

**Cause Testing** means testing for cause based on actual incident or reasonable suspicion of AOD use.

**CEO** means Chief Executive Officer or acting Chief Executive Officer of YSC.

**Council Event** means an event conducted outside the workplace at which alcohol is served. A Council event shall be conducted at a time clearly separated from the working day.

**Council Vehicle** means a vehicle owned, leased, hired or used by either an employee or contractor for Council business during working hours. A vehicle is not deemed to be a Council vehicle if it forms part of an employee/contractor's salary package and is being used for private purposes on which Fringe Benefits Tax is paid by the employee/contractor.

**Contractor** means any person who performs work for the Council either as an independent contractor or an employee of an independent contractor.

**Employee** means employees, contractors, agency staff, volunteers, work experience/placements and apprentices.

**Employee Assistance Program (EAP)**, means a program incorporating established procedures for the referral to specialist counselling service of employees with personal problems which may impact upon work performance. The EAP is provided via an independent organisation in order to ensure confidentiality.

**Employer** means the Organisation that employs Employee’s.

**Fit for Work / Unimpaired** means that the Employee is in a fit and proper condition to work safely and legally.

**illicit Drugs** means any drugs defined and specified as prohibited or illegal under any Federal, State or Territory legislation and drugs for which a medical prescription has not been issued to the person using the drug, the level of consumption was in excess of the prescribed dose or in the case of over the counter medication the level of consumption was in excess of the recommended dose or not in accordance with warnings detailed. (Illegal drugs do not include medication prescribed for an individual and used by that individual in

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strict accordance with the prescribed dose. Further, it does not include over the counter medication used in strict accordance with recommended dose and warnings).

**Independent Testing Provider** means the specialist testing provider engaged by YSC to administer the Alcohol & Other Drug (AOD) testing regime.

**Major Incident** means any incident which requires; an investigation by Workplace Standards, hospitalisation, property damage which could result in an insurance claim, death or serious injury.

**Manager** means a person who has responsibility for the supervision or coordination of a work group(s), department or work team, including delegated authority to direct the work of employees within each work group.

**Non Negative** means the result of an initial BAC or on-site Drug Test

**Personal Information** has the meaning given in the *Privacy and Data Protection Act 2014*.

**Positive** means the result of sample confirmed as positive by a NATA accredited laboratory.

**Presumptive Positive** means the initial test is positive and requires to be laboratory tested to confirm testing.

**Prescription Drugs** means drugs prescribed by a doctor or purchased from a pharmacist.

**Random** means anyone, anywhere, anytime during working hours.

**Working Hours** means the time between the commencement and the conclusion of work activities on behalf of the Employer on any one working day. Normal working hours shall include lunch or other meal breaks and the Employer business conducted away from the Employer’s premises, recalls and includes travel to and from work when the employee is using an Employer’s vehicle.

**Visitor** means any person who attends any workplace of YSC who is not an employee or contractor.

**Workplace** means any site owned, leased, administered or controlled by Yarriambiack Shire Council.

## Fit for Work Procedure

This Procedure may not cover all potential situations relating to employees being fit to work. Where the procedure is silent in these situations it is expected employees behaviour will be in accordance with the YSC's values and Employee Code of Conduct.

### 1 General fitness for work requirement

Employees of YSC are required to maintain a level of general health and fitness that enables them to successfully complete the inherent requirements of their role. The Victorian Equal Opportunity and Human Rights Commission state that "an employer can refuse to employ an injured worker or allow them to return to work in order to protect the health, safety or property of any person including that employee". Employees may not be able to attend work or return to work if they do not meet this general health and fitness requirement due to:

- a) An illness or injury sustained inside or outside of work.
- b) Being affected by drugs and or alcohol.
- c) Increased risk of exacerbating this illness or injury at work.
- d) Risk of injuring other workers or members of the public.

The employee upon request will be required to present a medical clearance that confirms their fitness to undertake their normal substantive role including their normal hours, prior to returning to work where there is concern that:

- a) The employee cannot safely perform the inherent requirements of their role.
- b) The employee has suffered an injury or illness (physical or psychological) that could impact on their own or others health and safety in the workplace.
- c) The employee has been absent from the workplace for an extended period.
- d) The employee has undergone significant medical treatment.

### 2 Fatigue, Stress and Mental Health

Employees are encouraged to access the Employee Assistance Program (EAP) to assist with psychological or general support needs. Employees are expected to be adequately rested prior to attending work.

In accordance with the Council's Enterprise Agreement and applicable Leave Guidelines, employees are encouraged to regularly take their roster day off, time in lieu and annual leave entitlements so as to maintain a healthy work/life balance which supports their fitness for work.

#### 2.1 Fatigue

Fatigue management is a shared responsibility between management and workers as it involves factors both inside and outside of work. Fatigue is mental or physical exhaustion that stops a person from being able to function normally, however fatigue is more than just feeling tired or drowsy. It is normal to become tired through physical or mental effort. The level of fatigue varies and depends on work load, length of shift, previous hours and days worked, time of day or night worked. An employee's personal/social life may also impact the levels of fatigue which can directly affect their performance and or safety at work. Where legislation prescribes fatigue management strategies and appropriate procedures will be developed to meet compliance requirements.

#### 2.2 Stress

Stress is a feeling that is created when you react to certain events. Up to a point, stress can be a positive contributor to achievement and success; however negative stress can create immediate and long term problems, with physical, emotional and behavioural issues

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arising. Negative stress affects how you cope with day to day life. If stress becomes a problem, it may be helpful to talk to somebody about what is upsetting you. This may be simply managed by discussing the issue with a work colleague, your Health and Safety Representative, your Manager/Supervisor, your Union Representative, a Medical Professional or the EAP.

### 2.3 Mental Health

Mental Health disorder is a term used to describe a range of clinically diagnosable disorders that significantly interfere with an individual's thinking, emotional or social ability. Mental Health disorders may include but are not limited to; eating disorders, alcohol and drug use, sleep problems, panic disorder, depression, obsessive compulsive disorder and anxiety. If an employee believes they are suffering from any of the above signs and or symptoms they should seek medical advice. If the treating medical practitioner has diagnosed an employee with a mental health disorder, employees are encouraged to advise their Manager/Supervisor of the nature of the illness and discuss any alternative or change in work conditions if required.

If a staff member wishes to discuss this matter with their Manager/supervisor all discussions will be treated in accordance to Council's confidentiality principles. If a staff member discloses a mental health disorder they will not be treated differently as per the principles of the Equal Employment Opportunity Act.

### 2.4 Alcohol and/or Drugs

Fitness for work can be influenced by the consumption of alcohol and/or prescription or illegal/illicit drugs. Employees must not attend work influenced by alcohol or drugs to the extent that their judgment and work performance is impaired, or where they are in contravention of legal requirements, or their own or the YSC's public image is or may be affected. Management has no option other than to suspend an employee in accordance with provisions of the enterprise agreement and have the employee transported safely home if it is proven that they are suffering from the effects of alcohol or illegal/illicit drugs or legal prescription drugs. The legal Blood Alcohol Concentration (BAC) limit for drivers in Victoria is below 0.05, YSC therefore requires any person operating or anyone driving an YSC vehicle to be under this limit at all times whilst driving or operating an YSC vehicle.

A number of YSC tasks and activities are required by law to have a **zero** BAC:

- a) Drivers on a probationary license (P plates) or learner permit (L plates).
- b) Drivers of buses.
- c) Drivers of any heavy vehicles with a GVM in excess of 15 tonne will be required to have a zero BAC in accordance with section 52 of the Road Safety Act.
- d) Employee's with a zero BAC conditional license.
- e) Nurses (Immunisation and Maternal Child Health)
- f) Local Laws / Ranger with Firearms Licence

Management would expect that employees who have responsibilities that require direct contact with the community and/or are responsible for the care of others will have zero impairment while at work. Should an employee have an accident in a YSC vehicle and be tested over the prescribed BAC limit or have a presence of illicit drugs, the YSC vehicle insurance will be invalidated. Under these circumstances, the employee will be held fully liable for all damages and costs. Employees driving or operating YSC vehicles must report to their Direct Manager if they are found to be over the BAC by the Police while driving or operating an YSC vehicle. Employees that operate YSC vehicles or use their own private vehicle for the Council's business that have their licence cancelled or suspended for any reason are required to notify their Direct Manager immediately. Actions in breach of the above may lead to disciplinary action.

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### 3 Loss of driver's licence due to BAC and/or drug testing

Employee's who lose their driver's licence for any reason, including alcohol consumption and/or drug use, must inform Human Resources, their Manager and Supervisor as soon as possible.

YSC will assess each circumstance individually, however Employees who have lost their licence due to BAC or drug related offences, and have driving as an inherent requirement of their role should not expect to be found alternative duties but YSC will work with impacted Employees to assess each case on its merits. Contractors and Volunteers will be randomly audited to ensure valid driver's licences are being maintained.

### 4 The Use, Sale, Possession, or Distribution of Alcohol and Other Drugs

During working hours, while on YSC premises/worksites or when driving YSC vehicles, all Employees and visitors must not:

- a) Consume alcohol or illegal drugs.
- b) Distribute alcohol or illegal drugs.
- c) Sell alcohol or illegal drugs.
- d) Be in possession of alcohol or illegal drugs.
- e) Attend the workplace with a blood alcohol content exceeding the levels outlined in the Alcohol and or Drugs section of this procedure for Roles/Activities/Sites.
- f) If tested for illegal drugs return a **Confirmed 'positive' test result.**

#### 4.1 Drug Types Tested

- a) Alcohol
- b) Amphetamines
- c) Cocaine
- d) Methamphetamines
- e) Opiates
- f) THC (Cannabis)
- g) Benzodiazepines

### 5 Gifts/ Limited Carriage of Packaged Alcohol

The only exceptions to the above are;

- a) Where an employee receives a gift of alcohol and is therefore in possession of alcohol. In such circumstances the alcohol shall be stored unopened and removed unopened from the Council's premises and/or worksite at the end of the working day.

The employee must also refer to and be compliant with the Council's Gift and Hospitality Policy.

### 6 Consumption of Alcohol

Consumption of alcohol regulated under this policy/procedure must always be within the legal limits and appropriate standards of behaviour must be maintained at all times. Where work related social or business functions involve the consumption of alcohol, appropriate management of the situation must take place. This will include the following minimum requirements:

- a) An authorised function shall have a clearly defined purpose and must have approval of the CEO.

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- b) The provision of low-alcohol and non-alcoholic alternatives to full strength drinks.
- c) The provision of appropriate food to reduce the effects of alcohol.
- d) Adequate monitoring by management of alcoholic intake of individuals at any functions.
- e) No service of alcohol to employees, Contractors and/or visitors under 18 years old.
- f) Control of alcohol distribution at the function.
- g) Cessation of alcohol distribution at the designated time.
- h) Consideration of a participant's ability to return home safely.
- i) Arrange for alternative transportation (such as fellow workers, family members, buses or taxi) when leaving the function where deemed necessary.
- j) Employees whose duties include the selling and serving of alcohol at formal Employer functions must hold a Responsible Serving of Alcohol (RSA) certificate. Where there is a requirement for employees to perform duties within other organisation's operational precincts e.g. emergency management roles, employees must be made aware and comply with that organisation's required practices including being fit for work and within legal requirements of drugs and alcohol in the workplace.

## 7 Authorised Functions and Employer Events

The Employer recognises there will be occasions where employees will consume alcohol at authorised functions and/or events. On such occasions, alcohol may be served, however if consumed, must be consumed in a responsible manner. Having consumed alcohol at an authorised function or Employer event, employees must not return to or commence working if they are over their BAC level as identified in the this Policy/Procedure.

An authorised function or Event shall comply with each of the following requirements:

- a) Authorised in writing by the Chief Executive Officer if alcohol is to be distributed or consumed on the Employer's premises during the working day.
- b) Conducted at the conclusion of the working day of Employees attending the function.
- c) Authorised by a member of the relevant management team and conducted in full compliance with defined criteria.
- d) Conducted in an area designated by a management team member and which does not require the participants to enter any areas of an operating workplace.
- e) Appropriate controls on distribution and consumption of alcohol at authorised functions shall be applied. Control measures shall be consistent with the principles which apply at authorised functions. At all times, regardless of whether the function is an authorised function or Employer event, responsible consumption must occur. Employees are still bound and expected to be within the tolerance levels when next in a work location.

## 8 Information, Advice and Education

Information on the:

- a) Health implications of the misuse of AOD.
- b) The Employer's procedure regarding AOD.
- c) Understanding what to look for in terms of behaviour of someone affected by AOD.
- d) Testing process and implications of privacy and confidentiality.

Shall be provided to all employees who will be required to attend such education at the request of the Employer/Employee.

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New Employees shall receive induction training on the Fit For Work Policy/Procedure. Training records shall be maintained for at least seven (7) years.

Regular information and/or training shall be provided as part of ongoing Health and Wellbeing Programs.

The requirements to comply with this Procedure shall be incorporated in contractor agreements and into the induction of individual contractors.

## 9 Seeking Assistance

The Employer recognises that the misuse of AOD are often treatable conditions. Assistance with the rehabilitation of Employees suffering from problems related to the misuse of AOD may be provided through the Employee Assistance Program (EAP) or other external specialist treatment providers.

## 10 Testing for Alcohol and Other Drugs

The testing method for AOD is using saliva and breath testing. This type of testing is not invasive and is about recent use therefore addressing the question of 'is the person currently fit for work'. The only exception is in pre-employment.

Employees can be tested for AOD in the following circumstances:

- a) During pre-employment medical assessments for applicants and for change in Employee status, e.g. from casual to full-time, testing may be used for high risk roles. Other than as requested as part of a treatment plan this is the only time Testing would be considered to be used (This is known as Pre-Employment Testing).
- b) Following any major incident, or where an Employee may have or has breached safety precautions or procedures. (This is known as an Incident Test).
- c) Where there are reasonable grounds.
- d) Based on observations by a responsible Manager and/or Supervisor of any abnormal conduct or behaviour which may involve the misuse of AOD. Advice maybe provided by Human Resources regarding the need to test and the Manager and/or Supervisor must initiate testing.
- e) Any evidence of possible illegal drug use (suspected drugs and or drug related equipment apparent).

## 11 Alcohol and Drug Testing

In the event that a Direct Manager believes that an employee is under the influence of alcohol and/or drugs, Management may request that the employee undertake the appropriate test; breath alcohol test or saliva drug test. This test will be undertaken by a registered provider and in accordance with Australian Standards. Employees will only have to declare their prescribed medication to the provider conducting the AOD testing just prior to being tested.

## 12 For Cause Testing

Testing may be carried out when an employee presents in an impaired state. Any testing will be undertaken by a trained assessment consultant in instances such as;

- a) An employee is involved in an accident or incident at work.
- b) An employee displays any unsafe behaviour or causes injury to any other person or commits an act of negligence or carelessness or shows disregard for safety.
- c) There is reasonable suspicion to believe that an employee is adversely affected by alcohol or drugs.
- d) An employee who has previously tested positive is being monitored to ensure safe practice.

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- e) Evidence of alcohol or drug use at the workplace is discovered and the employee or employees concerned can be identified with reasonable certainty.

### 13 Refusal to be Tested

An employee who does not co-operate fully with the administration of an alcohol or other drug test without a legitimate reason may be subject to disciplinary action.

### 14 Fit for Work

- a) The program will be monitored by Human Resources. The Fit For Work Policy/Procedure is to be applied at all times when testing for alcohol and other drugs. Guidelines for conducting tests are detailed in Appendix D.
- b) The Employer acknowledges some of its contractors and or associated businesses i.e Other Employer's, may have their own Fit For Work Policy/Procedure. The Employer will use its best endeavours to establish what that Policy/Procedure may be and educate Employees on that Policy/Procedure. On some occasions, however it must be recognised that this may not be possible.
- c) Whenever an employee is in attendance at another Organisation's workplace, the onus is ultimately on the employee to fully comply with that particular Fit For Work Policy/Procedure whatever that procedure may be.

The following response must be taken to presumptive positive or non-negative test results.

#### **Presumptive Positive or Non-negative to Alcohol above the persons prescribed BAC level:**

- a) Ensure the Employee is safely returned home.

#### **Presumptive Positive or Non-negative to Other Drugs:**

- a) Ensure the Employee is safely returned home unless an Employee declaration has been completed by an employee's Medical Practitioner, and provided to, and accepted by the Responsible Manager and/or Supervisor in consultation with Human Resources.

### 15 Returning to Work (post non-work related illness or injury)

The employee must provide a medical clearance that specifies their fitness to return to their substantive role prior to returning to work. In some instances, Management may approve a graduated return to work or temporary modified work duties after a non-work related illness or injury.

The Employer's Reasonable Adjustment policy should be referred to. The Employer's Return to Work officer will write to the employee and provide documentation for the employee to take to their Medical Practitioner to obtain the medical clearance. This will include a position description, physical requirements information and any other relevant information regarding the inherent requirements of the role.

The Employer's Return to Work Officer may also write directly to the Medical Practitioner where appropriate – in this circumstance the employee will be asked to sign a medical release allowing the Employer's Return to Work Officer to contact the treating Medical Practitioner directly in relation to the employee's ability to perform the inherent requirements of their role.

If the employee has no treating Medical Practitioner or refuses to attend their treating Medical Practitioner, the Employer's Return to Work Officer may organise for an independent medical assessment at the Employer's expense to take place.

If an employee's attendance and performance is contradictory to the medical advice provided, the Employer may suspend the employee in accordance with provisions in the enterprise agreement and require them to attend an independent medical assessment at the Employer's expense. A decision relating to their return to the workplace will be

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determined in conjunction with the independent medical advice. The Employer retains the right not to accept an employee back to work who is not able to meet the inherent requirements of their position due to a non-work related condition.

## 16 Vehicle Interlocks

Council will not fit interlock devices to its fleet, including private use vehicles.

## 17 Medication

Employees are expected to obtain information from a qualified medical practitioner or pharmacist as to whether their medication will compromise their fitness for work. Where medication will adversely affect or impair their ability to perform duties safely, or employees are unsure of their fitness for work, they should inform their direct Manager or Supervisor and not attend work until a clearance is provided from their Medical Practitioner. It is expected that employees access their sick leave in accordance with the Enterprise Agreement or applicable Leave Guidelines if they are unwell or on medication that detrimentally affects their ability to perform their work, or that will impact on health and safety of themselves or others around them. If an employee is required to take prescribed medication that will have an adverse effect on their ability to safely undertake their duties then the following will apply:

- a) The employee must notify their immediate Manager/Supervisor should the medical practitioner advice that the prescription medication will affect the employee's ability to undertake their duties in a safe manner or of any warnings attached to the medication which will impact on the person's ability to work safely.
- b) If the employee's performance will be affected as a result of taking the medication to the extent that the risk to the individual or others is increased, then the direct manager will consult with that individual to make adjustments to the work requirements, where practicable. It is recommended that an employee discusses, with their medical practitioner, what effects their prescription medication may have, if any.
- c) If it is not practicable to make adjustments to the work requirements, the individual will be sent home at their own cost.
- d) Drugs (including prescription and over the counter medication) must not be offered to another person, at an Employer's worksite or facility under any circumstances.
- e) The employee must only consume the dosage as prescribed by their medical practitioner.
- f) Over the counter medications must only be taken in accordance with the manufacturer's directions. If there is any doubt regarding the impact that this medication will have on an employee to undertake their duties in a safe manner then advice should be sought from a pharmacist. If the pharmacist indicates that the medication will impact on the employee's ability to perform their work safely then they must advise their direct Manager and/or Supervisor.
- g) Panadol or similar medication will not be made available to employees in Employer First Aid Kits and will not be administered by First Aid representatives or any other employee.

## 18 Testing Program, Handling Test Results, Retaining Records, Privacy and Confidentiality

### 18.1 Testing Program and Handling Results

The Employer will carefully select and monitor all persons responsible for administering the testing program, and will implement measures to ensure appropriate standards are maintained. Samples will only be used for the purpose of testing for the presence of AOD.

### 18.2 Retaining Records

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Copies of all results will be retained for seven years from the date of creation. Access to copies of results of all AOD tests will be made available to the employee or contractor upon request.

### **18.3 Privacy and Confidentiality**

The Employer will not use personal information collected from employees, contractors in a manner that contravenes the Privacy Act 1988 or this Policy/Procedure.

Information obtained in the process of conducting tests will be treated in the strictest confidence. Individual test results shall not be released to anyone who is not directly involved in the testing process, without specific authorisation by the employee or contractor who was tested, to release the results to others, except as follows:

- a) The employee, contractor has agreed to release information for rehabilitation or a return to work program in which the results of the test must be known to facilitate further action concerning the employee.
- b) When the results of the test become subject to a dispute, however the information may only be released to other parties on a "need to know" basis.
- c) When complying with any legal requirement.

## **19. Compliance and Disciplinary Action**

### **19.1 Employees**

The primary focus of this Procedure is to ensure people are fit for work/unimpaired. However, where an investigation suggests a breach of this Policy/Procedure has occurred disciplinary action may be taken. This may include termination of the employee's employment.

### **19.2 Contractors**

Any contractor who fails to comply with the requirements in this procedure shall be denied access to workplaces. Furthermore, the Employer reserves the right to take such action as it deems appropriate as a consequence of the contractor's conduct, including reviewing and/or terminating any contract in which the contractor is involved. A contractor who exceeds .05 will not, under any circumstance, be allowed to return to a work place until he/she can demonstrate a .05 required by this Policy/Procedure. Should a contractor test positive to illegal drugs he/she will not, under any circumstance be allowed to return to a work place until he/she tests negative. Such testing must be undertaken by an Accredited Technician from the Independent Testing Provider. The cost of such testing must be met by the contractor.

### **19.3 Breaches of Procedure**

Any failure to adhere to this Procedure will be managed in accordance with the Employer's Managing Conduct and Performance Policy.

### **19.4 Grievance Procedure**

Refer to the Employer's Dispute Prevention and Settlement Procedure as per the Yarriambiack Shire Council Enterprise Agreement No.8 2018.

## **20. Related Legislation and Documents**

- a) *Occupational Health and Safety Act 2004*
- b) *Occupational Health and Safety Regulations 2017*
- c) *Road Safety Act 1986*
- d) Human Resource Policy and Guidelines
- e) Employee Code of Conduct
- f) Occupational Health and Safety Manual
- g) Occupational Health and Safety Guidelines
- h) Yarriambiack Shire Council Enterprise Agreement

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**CEO Approved Policy**

<b>Adopted:</b>	CEO Approved Date	CEO Name	CEO Signature
<b>Reviewed:</b>	01 July 2020	Jessie Holmes	

**Appendix A – Information, Advice and Education Programs**

*Employees, contractors and volunteers will receive information on:*

- a) The health implications of the misuse of alcohol and other drugs (AOD), including illicit and prescription drugs.
- b) The effects of the misuse of alcohol and other drugs on safety and performance.
- c) The early detection of problems related to the misuse of alcohol or other drugs.
- e) The health effects of stress, anxiety, fatigue, heat/cold exposure and understanding mental health.
- f) The Employee Assistance Program.

*Managers, Team Leaders and Supervisors will be trained in:*

- a) Recognition and documentation of performance or behavioural problems suggestive of a potential problem relating to (but not limited to) the misuse of alcohol or other drugs, stress, anxiety, fatigue and mental health.
- b) The responsibilities of managers for the implementation of the Employer's Policy and Procedures.
- c) Referral procedures for specialist assistance.
- d) Confidentiality and disciplinary procedures.
- e) Employee and contractor benefits while participating in the rehabilitation program.
- f) Duty of care responsibilities and the OHS obligations of the Organisation and its employees and contractors.

**Appendix B – Guidelines for the Management of Employees Who Seek Assistance for Problems Consistent with Alcohol and Drug Misuse**

- a) An employee who may have problems related to the misuse of alcohol or other drugs (AOD) are encouraged to seek assistance from their manager, human resources or the Employee Assistance Program as soon as practicable.
- b) An employee who on reasonable grounds, based on observations of abnormal conduct or behaviour or incidents in which safety is compromised suspects a problem in another person, may bring the matter to the attention of their manager or human resources as soon as practicable.
- c) Where an employee raises concerns regarding another employee, the manager must make appropriate inquiries as soon as practicable, e.g observe the employee, in an attempt to confirm whether or not there is a potential problem.
- d) Where a problem may exist the manager must as soon as practicable discuss the problem with the employee. The manager shall not attempt to diagnose the problem. The employee will be entitled to have representation e.g. Union Delegate or Health and Safety representative.
- e) The employee must be referred to the Employee Assistance Program should a problem be identified. The referral can be initiated by either party.
- f) Where a problem related to AOD misuse is confirmed the employee may be referred to an organisation with recognised expertise in the assessment, treatment and rehabilitation of people suffering from misuse of AOD.
- g) The Employee's Medical Practitioner shall liaise with the organisation responsible for the rehabilitation of the employee to monitor progress, with the Employee's permission.
- h) The Employee's Medical Practitioner should provide regular reports to the Human Resource Manager on the employee's progress. Confidentiality of medical information shall be maintained.
- i) Upon completion of a rehabilitation program, the Employee, the Employee's own Medical Practitioner and the Employer Designated Medical Practitioner may determine the requirements for ongoing review after consideration of the nature of the initial problem and the work to which the employee will return.
- j) Information collected in the management process detailed above shall only be used or disclosed as far as is necessary for a return to work program.

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## Appendix C – Guidelines for Conducting Alcohol and Other Drug (AOD) Tests

### Method of Testing

The Employer will use saliva and breath analysis procedures for all random, incident and cause testing. Testing will be conducted in a manner designed to protect employees and contractors privacy and safeguard the integrity of the testing process to ensure the validity of the test results.

### Testing

A testing plan will be created to ensure all employees (including contractors) are tested twice per year (at minimum).

### Identification of the Employee or Contractor

The Accredited Technician shall ensure the individual from whom the sample is collected is positively identified through photo identification or identification confirmation by a Manager. The sample collection will not proceed if the individual's identity cannot be established.

### Right to have another Person Present

An employee or contractor may request the presence of another person to witness the testing procedure. Such requests must be facilitated provided the other person can attend the site within a maximum of one (1) hour of the request being made.

### Sample Collection

Samples for alcohol or drug (AOD) tests should be collected privately at a site designated by the Independent Testing Provider, utilising standard sampling procedures for the particular test used. If the Independent Testing Provider has a reason to believe that an adulterated or substitute sample has been provided, the employee or contractor will be required to submit a second sample.

### Additional Samples

Where the onsite test result is a non-negative test result, additional samples will be obtained immediately.

### Chain of Custody

An appropriate chain of custody procedure will be followed in the administration of all AOD testing by the Independent Testing Provider.

### Laboratory Confirmation

The Independent Testing Provider shall ensure the appropriately sealed and labelled non negative sample is forwarded immediately to a NATA accredited laboratory for laboratory analysis on the GCMS or LCMS testing device. Verbal results shall be advised to the Employee, Contractor and Human Resource Manager as soon as they become available with written confirmation provided thereafter.

### Storage of Samples

Any samples which are confirmed positive for alcohol or other drugs will be retained in appropriate storage by the laboratory conducting the analysis for a minimum of three (3) months.

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**Appendix D – Guidelines to Determine Whether an Employee May Be Affected by Alcohol and/or Drugs, Stress, Fatigue, Mental Health or other Medical Conditions**

May include, but is not limited to:

- Work performance and work patterns.
- High number of mistakes.
- Extremes in performance.
- Difficulty in remembering instructions or handling complex situations.

Physical Symptoms or Conditions:

- Weariness.
- Exhaustion.
- Excessive blinking.
- Blank stares.
- Unusual efforts to cover arms.
- Wearing sunglasses at unusual times.
- Slurring of words
- Smelling of alcohol.
- Unable to stand up straight without assistance.

Absenteeism and Personal Health:

- Increase in absence especially before and after weekends.
- Consistently late.
- Disappear from job regularly.
- Signs of nervousness or emotional distress.

Social interaction on the job:

- Withdrawing or avoiding peers.
- Overly sociable.
- Unusual outbursts of emotion e.g. angry or irritable.

Accidents and Concentration:

- Highly accident prone on and off the job.
- Taking unnecessary risks or needlessly endangering others.
- Difficulty concentrating.
- Appear to be confused.

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