



Agenda

Ordinary Meeting of Council

To be held in Council Chambers
54 Johnson Street, Bruce Rock
Thursday 20 October 2022
Commencing 3.00pm



Notice of Ordinary Meeting of Council

Dear President and Councillors,

The next Ordinary Meeting of Council will be held on **Thursday 20 October 2022 at 3.00pm** in Council Chambers, at 54 Johnson Street, Bruce Rock.

Please contact the undersigned for any enquiries regarding the Agenda prior to the meeting.

A handwritten signature in blue ink, appearing to read "Darren Mollenoyux".

Darren Mollenoyux
CHIEF EXECUTIVE OFFICER

DISCLAIMER

PLEASE READ THE FOLLOWING IMPORTANT DISCLAIMER BEFORE PROCEEDING:

Statements or decisions made at this meeting should not be relied or acted on by an applicant or any other person until they have received written notification from the Shire. Notice of all approvals, including planning and building approvals, will be given to applicants in writing. The Shire of Bruce Rock expressly disclaims liability for any loss or damages suffered by a person who relies or acts on statements or decisions made at a Council or Committee meeting before receiving written notification from the Shire.

The advice and information contained herein is given by and to Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Our Mission

We will achieve our vision by maintaining and enhancing the Bruce Rock lifestyle, increase business and employment opportunities and achieve population growth in an environmentally sustainable way.

Our Values

Respect, Inclusiveness, Fairness and Equality & Communication

SHIRE OF BRUCE ROCK

AGENDA – ORDINARY MEETING 20 OCTOBER 2022

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SHIRE OF BRUCE ROCK

AGENDA – ORDINARY MEETING 18 AUGUST 2022

- 1. Declaration of Opening**
- 2. Record of Attendance/Apologies/Leave of Absence (Previously Approved)**

Leave of Absence – Cr NC Kilminster

- 3. Declarations of Interest**

In accordance with Section 5.65 of the Local Government Act 1995 the following disclosures of **financial** interest were made at the Council meeting.

Date	Name	Item No	Reason

In accordance with Section 5.65 of the Local Government Act 1995 the following disclosures of **Closely Association Person and Impartiality** interest were made at the Council meeting.

Date	Name	Item No	Reason

In accordance with Section 5.60B and 5.65 of the Local Government Act 1995 the following disclosures of **Proximity** interest were made at the Council meeting.

Date	Name	Item No	Reason

- 4. Response to Previous Public Questions Taken on Notice**
- 5. Public Question Time**
- 6. Petitions/Deputations/Presentations/Submissions**
- 7. Applications for Leave of Absence**
- 8. Announcements by Presiding Member**
- 9. Confirmation of Minutes**

Ordinary Meeting of Council held on Thursday 15 September 2022

Recommendation:

That the minutes of the Ordinary Meeting held Thursday 15 September 2022 be confirmed as a true and correct record.

10. Officers' Reports

10.1 Manager of Works and Services

See Confidential Items

10.2 Manager of Finance

Agenda Reference and Subject:	10.2.1 Statement of Financial Activity
File Reference:	8.2.6.2 Financial Reporting
Reporting Officer:	Jennifer Bow, Manager of Finance
Author:	Jennifer Bow, Manager of Finance
Disclosure of Interest	
Attachment:	<i>Nil</i>

Summary

A statement of financial activity must be produced monthly and presented to Council.

Background

In accordance with the Local Government Act 1995, a Statement of Financial Activity must be presented to each Council meeting, including a comparison of actual year to date to the budget year to date and variances from it. It must also include explanations of any variances and any other associated information that would be useful for readers of the report.

Comment

The Statement of Financial Activity will be made available to Councillors prior to the meeting.

Consultation

Darren Mollenoyux, Chief Executive Officer
Alan O'Toole, Deputy Chief Executive Officer
David Holland, Manager of Works and Services
Julian Goldacre, Environmental Health Officer
Mike Darby, Senior Finance Officer and other staff

Statutory Implications

r. 34 Local Government (Financial Management) Regulations 1996

34. Financial activity statement required each month (Act s. 6.4)

(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail –

- (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and*
- (b) budget estimates to the end of the month to which the statement relates; and*
- (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and*
- (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
- (e) the net current assets at the end of the month to which the statement relates.*

(4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be –

- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
- (b) recorded in the minutes of the meeting at which it is presented.*

Policy Implications

Nil

Risk Implications

Risk: Financial performance is not monitored against approved budget		
Likelihood	Consequence	Rating
Possible	Minor	Moderate
Action / Strategy		
The monthly financial report tracks the Shire’s actual financial performance against its budgeted financial performance to ensure that the Council is able to monitor to Shire’s financial performance throughout the year.		

Financial Implications

Comparison of actual year to date to the 2022-23 Budget

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2022-2032

Governance

4.3 Our organisation is well positioned and has capacity for the future

Voting Requirements

Simple Majority

Officer Recommendation

That the Statements of Financial Activity for the month ending 30 September 2022 are received.

Agenda Reference and Subject:	10.2.2 List of Payments
File Reference:	8.2.3.3 Accounts Payable (Creditors)
Reporting Officer:	Jennifer Bow, Manager of Finance Officer
Author:	Mike Darby, Senior Finance Officer
Disclosure of Interest:	
Attachments:	<i>Item 10.2.2 Attachment A – List of Payments September 2022</i>

Summary

List of payments made since the last Ordinary Council Meeting.

Background

As the Chief Executive Officer has been delegated the authority to make payments from the municipal and trust funds, a list of payments made is to be presented to Council each month. Also, in accordance with Finance Policy Number 2.3, included is a list of payments made with the CEO’s credit card.

Comment

Following is a list of payments made from Council’s Municipal and Trust Accounts and payments made with the CEO’s credit card for the month of September 2022.

If you have any queries regarding the list of payments, please advise prior to the meeting to enable staff to seek relevant information.

Consultation

Nil

Statutory Implications

s.6.10 Local Government Act 1995

r.13(1) Local Government (Financial Management) Regulations 1996

Policy Implications

Nil

Risk Implications

Risk: Payments are not monitored against approved budget and delegation.		
Likelihood	Consequence	Rating
Possible	Minor	Moderate
Action / Strategy		
The monthly list of payments provides an open and transparent record of payments made under the appropriate approved delegations.		

Financial Implications

Payments must be made in accordance with 2022/23 Budget.

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2022-2032

Governance

4.3 Our organisation is well positioned and has capacity for the future

Voting Requirements

Simple Majority

Officer Recommendation

That Council endorse the list of payments from the:

- 1. Municipal Account consisting of:**
 - a. EFT voucher numbers EFT20194 to EFT20357 totalling \$4087,136.53**
 - b. Cheque number 86 to 92 totalling \$12,929.27**
 - c. Trust EFT Payments**
 - d. Wages and Superannuation payments totalling \$271,810.43 and**
 - e. Credit Card payments \$710.25**

With all payments totalling \$692,876.23 for the month of September 2022.

Agenda Reference and Subject:	10.2.2 Budget Amendment for Replacement Aircon Required for 5 Bean Road, Bruce Rock Residence
File Reference:	8.7.2.1 Annual Budget
Reporting Officer:	Jennifer Bow, Manager of Finance Officer
Author:	Jennifer Bow, Manager of Finance Officer and Julian Goldacre
Disclosure of Interest:	
Attachments:	<i>Nil</i>

Summary

A budget amendment is required due to the need to replace the air-conditioning system in the doctor's residence located at 5 Bean Road, Bruce Rock as this was not budgeted for in the 2022-23 Budget.

Background

The EHO has inspected the air-conditioning unit in the doctor's residence after it was reported that it was not operating properly. Due to the age of the unit, a full replacement has been recommended which has not been budgeted for this financial year. It will be necessary to replace the unit as soon as possible in time for the warmer weather.

Comment

The EHO has recommended a full replacement of the air-conditioning system at the Doctor's residence at 5 Bean Road, Bruce Rock, however this was not included in the budget and will cost approximately \$18,000.

The EHO has received quotes from 2 contractors and both were similar in costings. Due to the size of the house, a larger unit is required for heating and cooling. It is expected to get 10 years of operation from the unit.

Currently the air-conditioning unit in the residence is a smaller unit which does not operate efficiently or effectively and requires repairs to the fan unit at a minimum.

Council is asked to consider a budget amendment of \$18,000 for installation of the unit. Additional savings to cover this expenditure will need to be found in the Budget Review.

Consultation

Darren Mollenoyux, Chief Executive Officer
Jennifer Bow, Manager of Finance
Julian Goldacre, Environmental Health Officer

Statutory Implications

Regulation 33 of Local Government (Financial Management) Regulations 1996

Policy Implications

Nil

Risk Implications

Risk: That the 2022-23 Budget does not reflect the forecast revenue for the remaining financial year.		
Likelihood	Consequence	Rating
Almost Certain	Moderate	High
Action / Strategy		
This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “High” risk. As a High Risk, the Manager of Finance will be monitoring the progress regularly.		

Financial Implications

Decrease in revenue

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2022-2032

4. Governance

4.1 Our organisation is well positioned and has capacity for the future

Voting Requirements

Absolute Majority

Officer Recommendation

That Council adopts an amendment to the 2022-23 Budget for the following;

- i. **GL 073212 EXP – Med Cent – Doctor’s House (5 Bean Rd) for \$18,000.**

10.3 Environmental Health Officer

Agenda Reference and Subject:

10.3.1 Western Australian Planning Commission referral for comment on Application Number 162734 subdivision Lots 21, 28, & 7679 Daadenning Creek Rd, Daadenning Creek.

File Reference:

A979 29 Kwolyin East Road Kwolyin

Reporting Officer:

Julian Goldacre, Environmental Health Officer

Author:

Julian Goldacre, Environmental Health Officer

Disclosure of Interest

Nil

Attachments

Item 10.3.1 Attachment A - Diagram & Mappings of subdivision proposal;
Item 10.3.1 Attachment B - WAPC & Surveyor correspondence with documents.

Summary

Council has received no comment/s, or advice or concern/s regarding the Western Australian Planning Commission that with regards to Application Number 162734 being the part of for the subdivision of Lot 7679 Kwolyin East Road, Kwolyin within the Bruce Rock Shire.

Background

The Western Australian Planning Commission (WAPC) has received an application for subdivision of land that has been designated the reference number 162734 which is now referred to the Shire of Bruce Rock for comment. Notwithstanding the due date, the EHO has requested an extension which has been approved by the WAPC to be able to table the 162734 application to this Council meeting.

Comment

This proposed subdivision is relevant only to Lot 7679 Kwolyin East Road, Kwolyin within the Shire of Bruce Rock and this is summarised as presented in the first two pages on Attachment A to assist. The balance of the proposed subdivisions is of relevance only to the Shire of Kellerberrin.

In short, the Lot 7679 is to be reduced in size from 120.93 Hectares to 83.65 Hectares although will keep the dwelling, farm sheds and water tanks within the Bruce Rock Shire. Also, the balance of Lot 7679 will be allocated to a proposed Lot 52 predominantly within the Kellerberrin Shire. A drive-by inspection revealed activity at the dwelling and that the dwelling to be retained is of a substantial brick and tile with post and lintel verandah construction exhibiting some elegance. Furthermore, the mapping and E Lodgement form (Attachment B) denotes mains power supply and no reticulated scheme water service depending on rainwater and bore water along with three water tanks which are of limited volume being collectively of 106 kilolitres if able/capable of holding that volume of water.

The Shire of Bruce Rock Local Planning Strategy is not supportive to fragmentation of rural land. Notwithstanding this, the proposed Lot 53 is of a size which is reflected in surrounding Lots in the greater area. The existing dwelling will not result in a new access to the Kwolyin East Road as the intention is to encompass the status quo of the existing farmhouse settlement. The submission 'Form 1A' report provided in Attachment B does not reveal any concerns related to the proposed subdivision. The stated intention is that the land is retained for cropping and pasture.

Consultation

Mr F Scibilia, Senior Planning Officer, Land Use Planning, Dept of Planning, Lands, & Heritage.

Statutory Implications

Planning and Development Act 2005.

Policy Implications

Shire of Bruce Rock Local Planning Strategy.

Risk Implications

Risk: The proposed subdivision occurs outside the Western Australian Planning Commission endorsed decision if so issued.		
Likelihood	Consequence	Rating
Unlikely	Minor	Low
Action / Strategy		
This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “Low” risk and can be managed by routine procedure, and is unlikely to need specific application of resources.		

Financial Implications

Nil.

Strategic Implications

None applicable. Referral by WAPC for comment only.

Voting Requirements

Simple majority.

Officer Recommendation

That Council

Inform the Western Australian Planning Commission that with regards to Application Number 162734 being the part of for the subdivision of Lot 7679 Kwolyin East Road, Kwolyin within the Bruce Rock Shire, that no comment/s, or advice or concern/s will be submitted in this instance.

Agenda Reference and Subject:

10.3.2 Request for a time period to undertake temporary works to facilitate road works to facilitate vehicle movement to approved grain depot located on Lot 251, Kellerberrin – Shackleton Road, Shackleton.

File Reference:

A2468 Lot 251 Kellerberrin – Shackleton Road, Shackleton

Reporting Officer:

Julian Goldacre, Environmental Health Officer

Author:

Julian Goldacre, Environmental Health Officer

Disclosure of Interest

Cr Strange, Cr Crooks, Cr Foss, Cr Negri

Attachments

Item 10.3.2 Attachment A - CBH Shackleton temporary road site plan

Item 10.3.2 Attachment B - CBH General Manager Undertakings Letter CBH Shackleton Sit.

Summary

Approve the time period commencing 20th October 2022 and ending 30th June 2023 for the temporary works to facilitate road access for the approved Grain Depot site located on Lot 251, Kellerberrin – Shackleton Road, Shackleton. Furthermore, that Council provides the following advice note stating that the undertakings provided in the letter signed by the General Manager of Kwinana South dated 14 September 2022 are expected to be actioned to a mutually beneficial, collaborative, and practicable manner between Co-operative Bulk Handling Ltd and the Shire of Bruce Rock.

Background

At the Ordinary Meeting of Council held on the 15 September 2022 Council Resolution OCM Sep 22 – 10.3.1 was made. This resolution approved the development of three bulk bins and associated infrastructure to expand the holding capacity of the Shackleton Co-operative Bulk Handling Ltd (CBH) site.

Unfortunately, despite the urgency of this approved development in preparation for this season crop, a Public Transport Authority (PTA) approval is required as CBH leases part of the railway corridor from PTA under a 99-year lease. Furthermore, the PTA lease the whole rail network to ARC Infrastructure (ARC). There is a crossover between the CBH leases which involve ARC and this results in CBH and ARC needing to work hand in hand with PTA. To facilitate the required approvals, it is required that CBH obtain the ‘Section 47’ authorisation to undertake works pursuant to the *Rail Freight Systems Act 2000*, and then the PTA then are required to refer the application to ARC for comment.

Consequently, CBH has now sought approval for a time period for ‘temporary works’ for an alternative entry and exit road.

Comment

Given the time frame of up to seven months to facilitate the Section 47 approval for the road access over the rail corridor at the CBH Shackleton site, ARC have suggested to CBH that in order to meet the CBH Shackleton site construction commencement in October 2022 then access may need to be taken off Kellerberrin-Shackleton Road. CBH have submitted a request for temporary works time period approval for a road access point opposite Jermyn Street. This will allow trucks to access the weighbridge and sample hut then turn back out onto the Kellerberrin – Shackleton road then back into the CBH site via the temporary road access and exit point (Attachment A).

The EHO expressed some concern on the concentration of traffic in a small area as well as possible use by greater than normal haulage traffic using Jermyn Street, amongst other matters discussed. CBH through a letter dated 14 September 2022 signed by the General Manager of Kwinana South (Attachment B) was subsequently provided with full details of the CBH commitments. CBH has committed, amongst other listed commitments, to ensuring the temporary works access road will be constructed and managed to the Shire of Bruce Rock’s satisfaction, as well as to ensure a commitment to engage with concerned residents during the truck activity and dealing with any concerns and complaints.

The Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulation) does have provision for ‘temporary works’ to not require Development Approval. The local government role is to stipulate the time period which cannot exceed a 12-month period.

CBH have requested temporary works for the additional road to allow vehicles to access the three bulk bins previously approved. The time period requested is for 9 months commencing 1st October 2022 and ending 30th June 2023 whilst CBH works towards the completion of the Section 47 approvals process to be able to construct the originally intended access roads over the rail corridor. The requested temporary works and use will cease before the end date should the Section 47 approval be accomplished. Furthermore, as per the letter in Attachment B signed by the General Manager, CBH have given strong undertakings to ensure works, engagement, remediation, constructions, safety measures, and local liaisons are accomplished to a mutually beneficial, collaborative, and practicable manner between CBH, the Shire of Bruce Rock and the citizens of Shackleton.

Whilst this matter does not require a formal Development Application, advertising was undertaken within the Shackleton townsite and surrounding addresses on the postal run starting 6 October 2022. The Notice and letters provide the recipient the details of the CBH request and the reasons for the request, and where the details of the CBH undertakings letter and site plan can be viewed. Copies of the letter from CBH and the site plan have been provided at the Shackleton Post Office and the Shackleton & District Club. Comments have been invited.

Consultation

Mr T Roberts, Co-operative Bulk Handling Ltd, Specialist Regulatory Approvals – Government & Industry Relations

Statutory Implications

Planning and Development (Local Planning Schemes) Regulations 2015, & Shire of Bruce Rock Local Planning Scheme No 3.

Policy Implications

Shire of Bruce Rock Local Planning Strategy.

Risk Implications

Risk: The proposed temporary works occurs outside the endorsed plans approved by Council with no consultation, and/or formal amendment. And the CBH undertakings are not honoured.

Likelihood	Consequence	Rating
Unlikely	Moderate	Moderate

Action / Strategy

This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “Medium” risk and will be managed by specific monitoring and response procedures.

Financial Implications

Nil.

Strategic Implications

Economy

2.1 Assist the local economy to grow

Voting Requirements

Simple majority.

Officer Recommendation

That Council:

1. Approve the time period commencing 20th October 2022 and ending 30th June 2023 for the temporary works to facilitate road access for the approved Grain Depot site located on Lot 251, Kellerberrin – Shackleton Road, Shackleton.

That Council furthermore provides the following advice note stating the following:

The undertakings provided in the letter signed by the General Manager of Kwinana South dated 14 September 2022 are expected to be actioned to a mutually beneficial, collaborative, and practicable manner between Co-operative Bulk Handling Ltd and the Shire of Bruce Rock.

Agenda Reference and Subject:

10.3.3 Request to reside in a caravan for three months at 80 Johnson Street whilst dwelling renovations are undertaken.

File Reference: **A314** 80 Johnson Street Bruce Rock

Reporting Officer: Julian Goldacre, Environmental Health Officer

Author: Julian Goldacre, Environmental Health Officer

Disclosure of Interest

Attachments *Nil*

Summary

That Council gives approval in writing to Mr Cameron and his partner to camp in the caravan at 80 Johnson Street, Bruce Rock not longer than three months from the date of this Resolution. And; That Mr Cameron and his partner are obliged to comply with the requirements of the Caravan Parks and Camping Grounds Regulations 1997 requirements.

Background

The EHO was informed that the property located at 80 Johnson Street (Dwelling) had been recently sold. This property has an outstanding Requisition and Dwelling House maintenance issues which were served on the previous Owner. The EHO became aware of activity at the Dwelling and undertook an investigation with the DCEO Mr O’Toole.

Comment

On the 19 September the EHO and DCEO visited the Dwelling to investigate the building occupancy status. The Occupier Mr C Cameron met with the EHO and the DCEO where the EHO showed the relevant authorisation and that there were some concerns with the Dwelling. Mr Cameron pointed out that he was working diligently to tidy up the property and Dwelling which was clear and present. Furthermore, Mr Cameron said he had the local plumber inspect the septic system who advised it was suitable for minimal use.

Observed on the premises it was a caravan positioned behind the dwelling. Mr Cameron openly stated he and his partner are living in the caravan whilst they dealt with the inside renovations which included dealing with asbestos. The EHO advised that to be able to live in a caravan it required Council approval and could only be for a maximum of three months, and provided that there was access to a toilet, laundry, and bathroom. Mr Cameron said he would like to ask for permission and that the required amenities were functional. Mr Cameron provided an email on the 20 September 2022 requesting permission to stay in the caravan.

Mr Cameron from the EHO and DCEO observations is actively restoring and cleaning the premises and dwelling. Mr Cameron has been fully upfront and willing to facilitate requirements for the septic system, Dwelling House maintenance, and formally ask for permission to stay in the caravan. Mr Cameron discussed in detail his works renovating previous dwellings which has been supported by a close relative. In this instance, it would be reasonable to allow Mr Cameron and his partner to reside in the caravan for three months whilst the dwelling renovations are undertaken and to allow Mr Cameron to establish himself and his partner into the Bruce Rock community.

Whilst the local government can approve occupancy of a caravan on land they have permission or ownership of for a maximum period of three months, the responsible Minister can approve up to 12 months on application.

Consultation

Mr A O’Toole, Deputy Chief Executive Officer.

Statutory Implications

Caravan Parks and Camping Grounds Regulations 1997.

Policy Implications

Nil

Risk Implications

<p>Risk: The Occupier exceeds the approved three month period. This would then require the Minister responsible for the caravan and camping portfolio to declare an extended approval at the request of Mr Cameron</p>		
Likelihood	Consequence	Rating
Possible	Moderate	Moderate
Action / Strategy		
<p>This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “Medium” risk and will be managed by specific monitoring and response procedures.</p>		

Financial Implications

Nil

Strategic Implications

Economy

2.3 Workers and their families can work and reside in the Shire reside in the Shire

Voting Requirements

Simple majority.

Officer Recommendation

That Council

- 1) Gives approval in writing to Mr Cameron and his partner to camp in the caravan at 80 Johnson Street, Bruce Rock not longer than three months from the date of this Resolution. And;
- 2) Mr Cameron and his partner are obliged to comply with the requirements of the Caravan Parks and Camping Grounds Regulations 1997 requirements.

10.4 Deputy Chief Executive Officer

See Confidential Items

10.5 Chief Executive Officer

Agenda Reference and Subject:

10.5.1 Offer to Purchase 39 Railway Parade, Bruce Rock

File Reference:

Reporting Officer:

Darren Mollenoyux, Chief Executive Officer

Author:

Darren Mollenoyux, Chief Executive Officer

Disclosure of Interest:

Attachments:

*Item 10.5.1 Attachment A - Confidential Market Valuation –
39 Railway Parade Bruce Rock*

Summary

Council is asked to consider an offer from Mary Schick to purchase a vacant Council lot at 39 (lot 184) Railway Parade, Bruce Rock.

Background

On the 6th September 2022 Council received a written offer of \$10,500 inc gst from Mary Schick to purchase one of Council's vacant land blocks located at 39 (lot 184) Railway Parade, Bruce Rock.

The applicant has advised that they will be building a shed on the site which is located next to Mary Schick's property.

This was presented for consideration at the September 2022 Ordinary Meeting of Council where the following resolution was made:

COUNCIL DECISION

Resolution OCM Sep 22 – 12.1.1

Moved: Cr Crooks

Seconded: Cr Kilminster

To assist Council in making a determination, the CEO write to the applicant requesting further information regarding the intended usage of the land and proposed structure.

CARRIED BY ABSOLUTE MAJORITY 8/0

The CEO formally wrote to Mary Schick seeking further information on the shed and usage of 39 (lot 184) Railway Parade, Bruce Rock.

The following response has been received;

"In response to your letter of the 22 August 2022 and the Council's request to seek further information on proposed shed to be built on the above mentioned land.

It was very difficult to obtain a builder to help build this shed, so I have decided that I will no longer build on this site. I do not want to build from kit form which seemed to be the only option available to me.

The land will remain unbuild on for the foreseeable future, if at all. I plan to fence off completely and revegetate it. Being a buffer and extension to my property at 41 Railway Parade. Also, in doing this

it will stop the flow of vehicles that use it as a shortcut and, also the dumping of beer bottles etc there.

On first enquiry on purchasing this land some time ago, it was advised to me that there was not a need or a timescale to build a house or develop the land. Could you please confirm this as I do not want to be locked into the land having to build.”

Comment

As the applicant has changed their intentions for the land, Council needs to consider if the proposed usage to fence, plant trees and not build is the best usage for the land.

This lot has been available for purchase on Council’s vacant land list and website for the past three years, with Mary Schick previously making lower offers for the same lot. There are 9 vacant lots within the Townsite of Bruce Rock owned by Council and available for purchase.

In considering the offer Council needs to consider the length of time the land has been available with little interest and potential benefits from selling the lot, such as no longer requiring maintenance of the lot.

As per section 3.58 of the Local Government Act a valuation of the land is required for Council’s consideration and assessment against the offer from the applicant.

A market valuation has been undertaken and the market valuation is assessed as below;

Vacant Land 39 Railway Parade, Bruce Rock

Market Valuation Extract

*There is little consistency between market evidence indicating a broader value range. The above information and the evidence attached herein indicates a Market Valuation Range of **\$10,000 to \$20,000**. We have adopted the midpoint of **\$15,000** in this instance, reflecting a land rate of \$15/m2.*

Consultation

Jennifer Bow, Manager of Finance

Mike Darby, Senior Finance Officer

Statutory Implications

Local Government Act 1995 - Sect 3.58

3.58 - Disposing of property

(1) In this section —

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to —

(a) the highest bidder at public auction; or

(b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

(a) it gives local public notice of the proposed disposition —

(i) describing the property concerned; and

(ii) giving details of the proposed disposition; and

(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

- and
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or

Policy Implications Nil

Risk Implications

Risk: If Council does not approve the disposal of land it may remain sold for an unknown period of time.		
Likelihood	Consequence	Rating
Possible	Moderate	Moderate
Action / Strategy		
That Council seek an amicable arrangement to assist in the development of the lot and increasing investment into Bruce Rock.		

Financial Implications

Council has a budget provision of \$15,000 in 2022/23 for the income for sale of vacant land.

Council needs to consider the offer of \$10,500 inc gst against the market valuation of \$15,000

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2022-2032

Economy

- 2.1 Assist the local economy to grow
- 2.3 Workers and their families can work and reside in the Shire

Voting Requirements Absolute Majority

Officer Recommendation

That Council:

1. Considers the offer of \$10,500 inc gst from Mary Schick to purchase Council’s vacant lot located at 39 Railway Pde, Bruce Rock. and;
2. If Council agrees then;
 - a) In accordance with section 3.58 of the Local Government Act Council authorises the Chief Executive Officer to give local public notice of its intention to dispose of the following lot to Mary Schick for the amounts stated below;
39 (Lot 184) Butcher St, Bruce Rock \$10,500 inc GST
 - b) That at the conclusion of the advertising period should there be no public submissions the CEO be authorised to proceed with the lease or if submissions are received an item be presented to the October 2022 Ordinary Meeting of Council to consider, prior to the execution of the disposal/sale of 39 (Lot 184) Railway Parade, Bruce Rock.
 - c)

Agenda Reference and Subject:

10.5.2 South West Native Title Settlement Reserve 13503
& 17099

File Reference:

Reporting Officer:

Darren Mollenoyux, Chief Executive Officer

Author:

Darren Mollenoyux, Chief Executive Officer

Disclosure of Interest:

Attachments:

Item 10.5.2 Attachment A - Map of Reserve R13503 & 17099

Summary

The Department of Planning, Lands and Heritage is seeking comments relating to the South West Native Title Settlement – Land Base Consultation – Land List 11 relating to Reserves R13503 and R 17099 within the Shire of Bruce Rock.

Background

Council has received a letter from the Department of Planning, Lands and Heritage as follows:

The South West Native Title Settlement (Settlement) is a landmark native title agreement reached between the State Government (State) and the six Noongar Agreement Groups. The six requisite Indigenous Land Use Agreements (ILUAs) were conclusively registered, leading to the Settlement commencing on 25 February 2021 after some years of delay. The Settlement recognises the Agreement Groups as the Traditional Owners of the south west of Western Australia, while resolving native title in exchange for a negotiated package of benefits. The area subject to the Settlement is depicted in the attached map.

A key negotiated benefit is the delivery of a 320,000 hectare Noongar Land Estate, in accordance with the Noongar Land Base Strategy (Annexure J to the ILUAs). The Noongar Land Estate will contain up to 300,000 hectares of land transferred in reserve or leasehold, and up to 20,000 hectares of land transferred in freehold. The Landholding Body for all land transferred is the Noongar Boodja Land Sub Pty Ltd, which will hold and manage the land in the Noongar Land Estate in consultation with the soon to be established Noongar Regional Corporations. All land will be used and managed in line with Noongar cultural, social and economic aspirations for the benefit of generations to come.

For more information on the Settlement, please refer to the Department of the Premier and Cabinet website: <https://www.wa.gov.au/organisation/departments-of-the-premier-and-cabinet/south-west-native-title-settlement>

Over the next five years, the Department of Planning, Lands and Heritage (Department) will progress selected land parcels through to transfer under the Settlement, subject to all necessary consultation and approvals with stakeholders. Land eligible for inclusion in the Noongar Land Estate includes:

- unallocated Crown land;*
- unmanaged reserves;*
- land owned or held by the Aboriginal Lands Trust / Aboriginal Affairs Planning Authority; and*
- land owned or held by State agencies or Local Government Authorities, at the discretion of the State agency or Local Government Authority.*

A key part of the process being followed by the Department involves the referral of land under consideration for inclusion in the Noongar Land Estate to relevant State agencies and Local Government Authorities. To that end, please find attached a spreadsheet comprising of land parcels identified for possible transfer. It would be appreciated if you could provide comments on each of the land parcels directly into the column labelled 'Referee Comments' in relation to the following:

1. Is the Shire supportive of the transfer of this land to the Noongar People under the Settlement?
2. Does the Shire have any interest in the land?
3. Does the Shire have existing or planned infrastructure within the land parcel that requires protection? If yes, please provide details and advise if access to this infrastructure will need to be maintained.
4. Is the land parcel subject to any mandatory connection to services?
5. Are any future proposals for the land identified? Please provide detail of what is proposed and in what timeframe?
6. Are there any future proposals for adjoining land that may affect the land identified in the spreadsheet? If so, in what timeframe?
7. Please advise of any proposed planning scheme amendments that may affect the zoning of this land at a State or Local government level. If a scheme amendment is to occur, what is the change proposed and when will it come into effect?
8. Please advise of any known land management issues such as site contamination, hazards, debris or rubbish dumping, unauthorised land use and environmental considerations (such as inundation or similar site constraints).
9. Please provide any additional comments on the proposed transfer of this land as part of the Settlement.

Once you have considered the land identified, the South West Settlement Project team would be pleased to receive your comments by email to swsettlement@dplh.wa.gov.au.

In accordance with the abovementioned Annexure J of the ILUAs, your advice is required to be returned within 40 days of receiving this email. As a result, please provide your comments by 2 November 2022. Should this timeframe not be achievable, please let me know as a matter of priority. Where no response is received from the Shire within the 40 day timeframe, this will be taken as having no comment on the land parcels referred.

The three locations identified in the Shire of Bruce Rock are;

Lot No.	Pin No.	Street Name	LGA	Claim Group	Reserve No.	Reserve Purpose	Area ha
16816	966425	Bruce Rock- Quairading Rd & Eujinyn Sth Rd	Bruce Rock	Ballardong	R 13503	Water	0.13
16642	744559	Bruce Rock Naremben Rd	Bruce Rock	Ballardong	R 17099	Camping	1.01
16816	966424	Bruce Rock- Quairading Rd & Eujinyn Sth Rd	Bruce Rock	Ballardong	R 13503	Water	6.43

Council previously considered comment on these reserves in December 2015 and resolved as follows:

COUNCIL DECISION

Resolution December 15-13.3.2

Moved: Cr Rajagopalan

Seconded: Cr Thornton

That Council responds to the Department of Lands and provides the below responses relating to the South West Native Title Settlement – Land Base Consultation for the Shire of Bruce Rock listed reserves.

Reserve 13503

1. *Any future proposals for the land identified? If so, in what timeframe?*
Council has no proposals for Reserve 13503.
2. *Any proposed planning scheme amendments? If so, in what timeframe?*
Council has no planning scheme amendments for Reserve 13503.
3. *Any future proposals for either the creation or amendments to reserves?*
Council has no future plan for the creation or amendment to Reserve 13503.
4. *Any known land management issues e.g. Contamination etc.*
Council staff is not aware of any current land management issues or contamination. It should be noted that a cleared part of the reserve has been used for many years for stockpile of blue metal stone for roadworks within the area, this would need to be cleared should the Section 83 lease occur.

Reserve 17099

1. *Any future proposals for the land identified? If so, in what timeframe?*
Council has no proposals for Reserve 17099.
2. *Any proposed planning scheme amendments? If so, in what timeframe?*
Council has no planning scheme amendments for Reserve 17099.
3. *Any future proposals for either the creation or amendments to reserves?*
Council has no future plan for the creation or amendment to Reserve 17099.
4. *Any known land management issues e.g. Contamination etc.*
Council staff is not aware of any current land management issues or contamination.

In regards to Reserve 17099 being a “Camping Reserve” Council has concern that potential could exist in the future, should interest arise for the claimants request to convert it to a camping ground implications could occur under the new Caravan and Camping Act and Health Act which ‘bind the crown’ in a way that it could be incumbent of the Local Government to enforce the Acts and its regulations.

Council currently has ample camping grounds within the Shire and as Council has no future plans for this to become a camping ground as it could be an additional cost and management issue outside of Council strategic directions.

In addition, Council is concerned that there may be an increased bushfire danger risk from unmanaged reserves and believes that there needs to be clear plans in place by the vested body as to the management of firebreaks.

Comment

Staff have considered the information received and provide the following guidance on the new questions asked for each reserve:

RESERVE 13503

- Makes up 2 of the listed claims
- Reserve without a Management Order
- Responsible Authority – Water Corporation
- Purpose – Water Reserve
- Primary Interest Holder – State of Western Australia

1. Is the Shire supportive of the transfer of this land to the Noongar People under the Settlement?
Council has previously indicated that they had no objections to the transfer of Reserve R13503.
2. Does the Shire have any interest in the land?
Council has not previously shown interest in the land and staff do not believe there is any use for the land for Council.
3. Does the Shire have existing or planned infrastructure within the land parcel that requires protection? If yes, please provide details and advise if access to this infrastructure will need to be maintained.
Staff are not aware of any existing infrastructure or aware of any proposed for the land parcel.
4. Is the land parcel subject to any mandatory connection to services?
Council has no mandatory service connection requirements for Reserve R13503.
5. Are any future proposals for the land identified? Please provide detail of what is proposed and in what timeframe?
Staff are not aware of any proposals for Reserve R13503.
6. Are there any future proposals for adjoining land that may affect the land identified in the spreadsheet? If so, in what timeframe?
Staff are not aware of any future proposals on land adjoining Reserve R13503, however would recommend that the Department of Planning, Lands and Heritage undertake consultation with adjoining property owners to seek their comments and any proposals.
7. Please advise of any proposed planning scheme amendments that may affect the zoning of this land at a State or Local government level. If a scheme amendment is to occur, what is the change proposed and when will it come into effect?
Council has no current or short term plans to amend its Town Planning Scheme.
8. Please advise of any known land management issues such as site contamination, hazards, debris or rubbish dumping, unauthorised land use and environmental considerations (such as inundation or similar site constraints).
As previously advised in 2015 - Council staff are not aware of any current registered land management issues or contamination. However, it should be noted that a cleared part of the reserve has been used by Main Roads WA and their contractors for many years to stockpile blue metal stone for roadworks within the area, this would need to be cleared should the Section 83 lease occur.
9. Please provide any additional comments on the proposed transfer of this land as part of the Settlement.

The only additional comments would be to reiterate previous resolution feedback being:

The only concern may be in regard to any potential change of Reserve purpose, such as camping. Potential could exist that in the future, should interest arise for the claimant's request to convert it to a camping ground implication could occur under the new Caravan and Camping Act and Health Act which 'bind the crown' in a way that it could be incumbent of the Local Government to enforce the Acts and its regulations.

Council currently has ample camping grounds within the Shire and as Council has no future plans for this to become a camping ground it could be an additional cost and management issue outside of Council's strategic directions.

In addition, Council is concerned that there may be an increased bushfire danger risk from unmanaged reserves and believes that there needs to be clear plans in place by the vested body as to the management of firebreaks.

RESERVE 17099

- Reserve without a Management Order
 - Responsible Authority – Department of Lands
 - Purpose – Camping Reserve
 - Primary Interest Holder – State of Western Australia
1. Is the Shire supportive of the transfer of this land to the Noongar People under the Settlement?
Council may have an objection to the transfer of Reserve R17099, should it be used for the listed reserve purpose, being “Camping” and the requirements and implications associated.
 2. Does the Shire have any interest in the land?
Council has not previously shown interest in the land and staff do not believe there is any use for the land for Council.
 3. Does the Shire have existing or planned infrastructure within the land parcel that requires protection? If yes, please provide details and advise if access to this infrastructure will need to be maintained.
Staff are not aware of any existing infrastructure or aware of any proposed for the land parcel.
 4. Is the land parcel subject to any mandatory connection to services?
Council has no mandatory service connection requirements for Reserve R17099.
 5. Are any future proposals for the land identified? Please provide detail of what is proposed and in what timeframe?
Staff are not aware of any proposals for Reserve R17099.
 6. Are there any future proposals for adjoining land that may affect the land identified in the spreadsheet? If so, in what timeframe?
Staff are not aware of any future proposals on land adjoining Reserve R17099, however would recommend that the Department of Planning, Lands and Heritage undertake consultation with adjoining property owners to seek their comments and any proposals.
 7. Please advise of any proposed planning scheme amendments that may affect the zoning of this land at a State or Local government level. If a scheme amendment is to occur, what is the change proposed and when will it come into effect?
Council has no current or short term plans to amend it’s Town Planning Scheme.
 8. Please advise of any known land management issues such as site contamination, hazards, debris or rubbish dumping, unauthorised land use and environmental considerations (such as inundation or similar site constraints).
As previously advised in 2015 - Council staff are not aware of any current registered land management issues or contamination.
 9. Please provide any additional comments on the proposed transfer of this land as part of the Settlement.

The additional comments would be to reiterate previous resolution feedback being;

The issue raised by our EHO is in regard to Reserve 17099 being a “Camping Reserve”- the potential could exist that in the future, should interest arise for the claimants request to convert it to a camping ground implications could occur under the new Caravan and Camping Act and Health Act which ‘bind the crown’ in a way that it could be incumbent of the Local Government to enforce the Acts and its regulations.

Council currently has ample camping grounds within the Shire and as Council has no future plans for this to become a camping ground it could be an additional cost and management issue outside of Council strategic directions.

In addition, Council is concerned that there may be an increased bushfire danger risk from unmanaged reserves and believes that there needs to be clear plans in place by the vested body as to the management of firebreaks.

Consultation

Julian Goldacre, Environmental Health Officer
 David Holland, Manager of Works and Services
 Jennifer Bow, Manager of Finance
 Mike Darby, Senior Finance Officer /Rates

Statutory Implications

Land Administration Act 1997 – Section 83

83. Transfer etc. of Crown land to advance Aboriginal people

- (1) The Minister may for the purposes of advancing the interests of any Aboriginal person or persons —
 - (a) transfer Crown land in fee simple; or
 - (b) grant a lease of Crown land, whether for a fixed term or in perpetuity,

to that person or those persons, or to an approved body corporate, on such conditions as the Minister thinks fit in the best interests of the person or persons concerned.

(2) Subsection (1) does not limit the right of any Aboriginal person, or a body corporate, to apply for and acquire an interest in or the fee simple of Crown land under any other provision of this Act.

- (3) In subsection (1) —
 - approved body corporate means a body corporate that the Minister is satisfied —
 - (a) is to hold the land or the lease in trust for the Aboriginal persons concerned; or
 - (b) has a membership that comprises only the Aboriginal persons concerned.

Policy Implications Nil

Risk Implications

Risk: This is not a Council owned reserve and Council has previously resolved that it has no purpose for the land, therefore there is no direct impact to Council or its asset management		
Likelihood	Consequence	Rating
Unlikely	Minor	Low
Action / Strategy		
This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix.		

The perceived level of risk is considered to be “Low” risk and requires input only.

Financial Implications Nil

Strategic Implications

Community

1.3 *Maintain Shire owned facilities in a strategic manner and meet community needs*

Environmental

3.2 *Conservation of our natural environment and resources*

Voting Requirements Simple Majority

Officer Recommendation

- 1) That the CEO writes to the Department of Planning, Lands and Heritage and responds to questions 1 – 9 as outlined in the comments of this item for both Reserve 13503 and Reserve 17099.
- 2) That the response to the Department of Planning, Lands and Heritage highlights Council’s concerns regarding the Reserve 17099 being a “Camping Reserve” potential could exist that in the future, should interest arise for the claimants request to convert it to a camping ground implications could occur under the new Caravan and Camping Act and Health Act which ‘bind the crown’ in a way that it could be incumbent of the Local Government to enforce the Acts and its regulations.

Council currently has ample camping grounds within the Shire and as Council has no future plans for this to become a camping ground it could be an additional cost and management issue outside of Council strategic directions.

That comment is raised on Reserve 13503 - it should be noted that a cleared part of the reserve has been used by Main Roads WA and their contractors for many years to stockpile blue metal stone for roadworks within the area, this would need to be cleared should the Section 83 lease occur.

In addition, Council raised concern for both Reserves concerned that there may be an increased bushfire danger risk from unmanaged reserves and believes that there needs to be clear plans in place by the vested body as to the management of firebreaks.

- 3) Council requests that the Department of Planning, Lands and Heritage ensures that it consults with all adjoining property owners to seek comment on the proposed transfer of Reserve R13503 and R17099.

Agenda Reference and Subject:

10.5.3 Request to Keep Additional Dogs in Townsite

File Reference:

Reporting Officer:

Darren Mollenoyux, Chief Executive Officer

Author:

Darren Mollenoyux, Chief Executive Officer

Disclosure of Interest:

Attachments:

Item 10.5.3 Attachment A - Letter of Request

Summary

Council is asked to consider an application from Jessica Devantier to keep more than two dogs (being 3) at a property within the Bruce Rock Townsite, under Council’s Local Laws relating to the Keeping of Dogs.

Background

Council has received an application from Jessica Devantier to keep three (3) dogs at 55 Dampier Street, Bruce Rock which her family will be renting privately. The three dogs details are as follows;

	Breed	Name	Age	Sex	M/chip	Sterilised
1	Great Dane	Mel	7	F	Y	Y
2	German Shorthaired Pointer cross with Arab	Nugget	3	M	Y	Y
3	Mastiff Cross	Polly	1	F	Y	Y

Attached is a copy of the letter from the applicant Jessica Devantier which outlines that they are moving to Bruce Rock in the new year for work and the reasons why they are requested to keep their three dogs.

Comment

After liaising with the WA Contract Ranger Service, who assist in Council dog controls, and in accordance with Council’s Dogs Local Laws it is recommended that Council accepts the application with the following conditions;

- As per the applicants letter the 6 foot colour bond fence and gates around the property must be inspected and approved by Council’s Ranger and that they are maintained and remain secured condition to contain the dogs at all times.
- The Shire Ranger has advised she will also consult with the adjoining neighbours to seek any concerns.
- Yards to be maintained in a clean well-kept condition
- All dogs to be microchipped and registered with the local government.
- That the keeping of additional dogs (beyond 2) will not be considered, if any of the above animals is deceased.
- That the applicant be advised that the Shire of Bruce Rock reserves the right to revoke this approval in accordance with section 26(3)(c) of the Dog Act should any of the above conditions not be met, or any complaints or nuisance resulting from the keeping of four dogs on the property.

Consultation

WA Contract Ranger Services
Alan O’Toole, DCEO

Statutory Implications

Shire of Bruce Rock Dogs Local Law Reviewed 2019

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must—
 - (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
 - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - © ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - © where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.
 - (3) Notwithstanding subclauses (1) and (2), the confinement of dangerous dogs is dealt with in the Act and Regulations.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which ©—
 - (a) licensed under Part 4 as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of Dogs Local Law 2005
 - (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite; or
 - (b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite.

Dog Act 1976 – Section 26 Limitations as to Numbers

- (3) Where by a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption —
 - (a) may be made subject to conditions, including a condition that it applies only to the dogs specified in the exemption; and
 - (b) cannot authorise the keeping in or at those premises of —
 - (i) more than 6 dogs that have reached 3 months of age; or
 - (ii) a dog under that age unless it is a pup of a dog whose keeping is authorised by the exemption; and
 - © may be revoked or varied at any time.

Policy Implications Nil

Risk Implications

Risk: That the number of dogs could create excessive noise and be subject to complaints from neighbours		
Likelihood	Consequence	Rating
Possible	Moderate	Moderate
Action / Strategy		
This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “High”. As a high-risk matter, the Chief Executive Officer will be monitoring progress.		

Financial Implications

Each Dog will require registration and the appropriated legislated fees will apply.

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Governance

Goal 12 Council leads the organisation in a strategic and flexible manner

Voting Requirements

Simple Majority

Officer Recommendation

- 1) That the application from Jessica Devantier to home three dogs at 55 Dampier Street, Bruce Rock be approved, with the following conditions: -
 - a) The dogs housed are –

	Breed	Name	Age	Sex	M/chip	Sterilised
1	Great Dane	Mel	7	F	Y	Y
2	German Shorthaired Pointer cross with Arab	Nugget	3	M	Y	Y
3	Mastiff Cross	Polly	1	F	Y	Y

- b) As per the applicants letter the 6 foot colour bond fence and gates around the property must be inspected and approved by Council’s Ranger and that they are maintained and remain secured condition to contain the dogs at all times. In addition the Ranger is to consult with adjoining neighbours for consideration.
 - c) Yards to be maintained in a clean well-kept condition
 - d) All dogs to be microchipped and registered with the local government.
- 2) That the keeping of additional dogs (above 2) will not be considered, if any of the above animals is deceased.
- 3) That the applicant be advised that the Shire of Bruce Rock reserves the right to revoke this approval in accordance with section 26(3)(c) of the Dog Act should any of the above conditions not be met, or any complaints or nuisance resulting from the keeping of four dogs on the property.

Agenda Reference and Subject:

10.5.4 Review of Councillor Representation

File Reference:

Reporting Officer:

Darren Mollenoyux, Chief Executive Officer

Author:

Darren Mollenoyux, Chief Executive Officer

Disclosure of Interest:

Attachments:

Summary

Council is asked to consider correspondence from the Minister of Department of Local Government, Sport and Cultural Industries in relation to the proposed Local Government Act Reform where a reduction in Councillor numbers will be mandated, and Council's decision to undertake the Voluntary Pathway or the Reform Election Pathway.

Background

On the 20th September 2022 the Minister for Local Government wrote to Local Governments regarding the impending Local Government Reforms and in particular the reduction in Councillor numbers in line with the reforms, with Local Government with populations of less than 5,000 being required to have between 5 – 7 Councillors.

In addition, Local Governments within Band 3 and 4 will no longer be able to have wards. This does not impact Bruce Rock as we removed wards in 2005.

The Minister's letter states:

Work on a Bill to amend the Local Government Act 1995 (the Act) is ongoing, and a Bill is expected to be introduced into Parliament in early 2023.

Many of the reform proposals related to council representation are based on recent trends, and are intended to provide greater consistency between districts. Accordingly, for more than half of all local governments, the reforms will not require any specific change to the size or structure of the council.

However, the reform proposals do require some local governments to:

- *Reduce the number of elected members on council in accordance with population thresholds; or*
- *Change from a council elected mayor or president to a directly elected mayor or president (this reform affects only band 1 and 2 local governments); or*
- *Abolish wards (for band 3 and 4 local governments with wards); or*
- *Implement more than one of the above.*

The Amendment Act will also provide that optional preferential voting will apply for all local government elections. As you may know, optional preferential voting means that all electors have the choice to number preferences for as many or as few candidates as they wish to.

I appreciate the significant interest in the reform proposals, and transitional arrangements for the upcoming 2023 ordinary elections. Many councils have expressed a proactive intent to implement reforms as early as possible.

I also acknowledge that, for some local governments, it may be desirable to implement changes to the size of the elected council over two ordinary election cycles.

The Department of Local Government, Sport and Cultural Industries (DLGSC) has completed an initial review, and identified that your local government may need to reduce the number of council members under the proposed reforms.

As you would know, the Act already provides that local governments may initiate proposals to change the size or structure of the council. Accordingly, I write to advise of two pathways your local government may consider for making these election transition arrangements.

Voluntary Pathway

Your local government may decide to implement these changes on a voluntary basis. This pathway will require the council to make the steps outlined below, and could involve staging any larger changes in the number of councillors over two ordinary elections. This pathway provides the greatest possible lead time to plan for next year's ordinary elections.

If your council wishes to undertake this process, it should, by 28 October 2022:

- *Advise the DLGSC of its intention to undertake a voluntary process. This advice should include a high-level plan outlining the potential changes to be implemented for the ordinary elections to be held in 2023 (and in 2025, if applicable); and*
- *Initiate a Ward and Representation Review to determine the specific changes to the structure of the council for the 2023 and 2025 ordinary elections, to be completed by 14 February 2023.*

I appreciate that significant effort is required to complete a Ward and Representation Review. The Ward and Representation Review would need to be initiated ahead of the 28 October 2022 date, and finalised by 14 February 2023, to ensure that the timeframes set out in the Act can be practically met.

While the Ward and Representation Review can consider the size of the council, and any wards, any changes should not diverge from the proposed reforms. Further information is attached to this letter to assist with this process.

Reform Election Pathway

Alternatively, it is intended that the Amendment Act will provide for all changes to be implemented through reform elections in 2023. This pathway would provide that all of the council's offices can be declared vacant, all wards can be abolished (if applicable), and the number of council offices would be set based on the reform proposals.

Elections would then be held to fill all council offices, with a split between two and four year terms as might be necessary to re-establish an ordinary election cycle. For local governments in band 1 or 2, the newly-elected council would then be able to consider whether to establish new wards through a future Ward and Representation Review.

Your local government may specifically decide to follow the Reform Election Pathway. If this is the council's intention, I request that you advise the DLGSC by 28 October 2022.

It is also intended that the Amendment Act will contain provisions for the Reform Election Pathway to apply if a local government:

- *Does not advise of an intention to follow the Voluntary Pathway, or*
- *Decides to follow the Voluntary Pathway, but does not suitably complete a Ward and Representation Review by the dates outlined in this letter.*

Next Steps

In line with the above, I request that your council considers these matters, and provides formal written advice on the preferred pathway to the DLGSC by 28 October 2022.

Given the timeframes already established in the Act, no extension to the dates specified in this letter will be possible.

Timeline and steps – local government ward and representation reviews

The following steps will need to occur to allow all required local governments to meet the 30 June 2023 timeframe of publication in the Government Gazette of any proposed ward and representation review changes, ahead of the October 2023 local government elections. Please note that all stages that are currently followed for ‘regular’ reviews are included below.

Table 1 includes suggested timeframes which will need to be considered by all local governments that will be required to undertake a review ahead of the October 2023 elections.

All local governments should aim to have their completed reviews submitted to the Local Government Advisory Board (the Advisory Board) by no later than **14 February 2023**.

Table 1 – proposed timeframes for local government actions

Due date (latest possible)	Requirements/actions
28 October 2022	Council resolves to undertake a ward and representation review A comprehensive discussion paper is developed
December 2022	Completion of six-week consultation period
December 2022 - January 2023	Draft review report is prepared, considered and adopted by council
14 February 2023	Formal review report is submitted to the Advisory Board

Please note that the above dates are suggestions only, as each council will have to consider their own calendars for their monthly meetings. It is also possible that some affected councils will have an earlier meeting in December 2022, and then no meeting in January 2023. This is why mid to late December 2022 is suggested as the date by which the draft review report should be considered by council.

Table 2 - Ward and representation review process – for local governments

	Existing Requirements/Actions	Timeframe
1	The council resolves to undertake a ward and representation review	Variable
2	A comprehensive discussion paper is developed	Variable
3	Council advertises that it is conducting a review and the associated public submission period opens (minimum 6 weeks)	6 Weeks
4	The discussion paper is made available to the community for consideration, and public submissions are invited on the matter	
5	Public submission period closes	
6	The Council assesses all submissions, considers options for change against the relevant factors to be considered, and drafts a report, which includes their decision, for the Local Government Advisory Board (the Advisory Board)	Variable
7	The formal report is presented to Council on the outcome of the public submissions and the proposed ward and/or boundary changes	Variable
8	Council resolves to adopt the report to the Advisory Board	Variable
9	The preferred option is submitted to the Advisory Board via the formal report, for the Board’s consideration and recommendation	Variable
10	The Advisory Board considers the council’s review report, and a recommendation is submitted to the Minister, which can either be accepted or rejected	Variable

Comment

Council had raised, and had initial discussions at the August and September 2022 Councillor Information Sessions regarding, the impending changes to the Local Government Act and Bruce Rock's requirement to reduce Councillor numbers to between 5- 7. Council had requested that the CEO prepare a report to Council to consider this.

Obviously, Council has now received a formal request from the Minister to consider a voluntary reduction in Councillor numbers/representation and therefore the Chief Executive Officer has prepared this report and a Review of Councillor Representation document will be provided for Council to consider prior to commencing public consultation.

Council last undertook a review of its Councillor Representation in 2010 / 2011 where it resolved and was endorsed by the Local Government Advisory Board to reduce its Councillor number from 11 to 10 at the 2011 Ordinary Election and then from 10 to 9 at the 2013 Ordinary Election. At that time Council did not have Wards as they were abolished in 2005, therefore no Wards review was undertaken.

No further reviews have been undertaken since that time and Council still has 9 Councillors and no wards.

During the Local Government Reform consultation period Council had strong views against a significant reduction in Councillor numbers and strongly supported WALGA's and the Great Eastern Zone's position to seek the number of Councillors for populations less than 5,000 to be set at between 5-7 not a maximum of 5 that was proposed.

Council's response to this component the reform process was as follows:

The Shire of Bruce Rock strongly supports WALGA's response to this proposed change and specifically the provision for 5 to 7 Council Members for populations up to 5,000.

Council currently has 9 Councillors and would consider a reduction to only 5 as detrimental to the running of the organisation. The impacts on our Council and how hard it would be to manage the workload balance of only 5 Councillors is of concern. It would be unreasonable for only 5 Councillors to adequately and effectively serve on the many Council, Community and Regional committees, delegations, and representations.

In addition, we are based in a strong farming district and reducing to only 5 Councillors would limit our ability to have diversity on Council. If we had to reduce from 9 to 5 Councillors, we would likely end up with limited diversity on Council and therefore not be providing the diversity our community needs. We currently have a good balance with 5 Farmers, a Freight Company Manager, an Education Registrar, a Dentist & a Child Health Nurse.

Council accepts that there may need to be some reduction in elected members for small regional Local Governments. However, a reduction for us from 9 to 5 is too great and a range from 5-7 would allow those Councils that can attract a larger number and diversity of Councillors should have the option to have 7.

It should be noted that Bruce Rock Councillors like many other small Councils don't take the full Councillor's sitting fees, and the financial impact by reducing Councillors is not that significant.

The below table outlines the election cycle options for each of the reduction of Councillor number scenarios to maintain the most effective split for each election period.

Council Membership	Proposed Reduction Schedule for Options	2021	2023	2025
Current 9		4	5	
Option for 7	2 offices abolished 2023		3	4
Option for 6	2 offices abolished 2023 & 1 office abolished in 2025		3	3
Option for 5	2 offices abolished 2023 & 2 offices abolished in 2025		3	2

Council needs to consider the following options;

Option 1) – Undertake the Voluntary Pathway for Reduction in Councillor Numbers

Or

Option 2) – Not undertake the review and be required to reduce Councillor Numbers via the “Reform Election Pathway” which will be mandated with a complete spill (all Councillor positions declared vacant) as outlined in the background letter from the Minister.

Consultation

Council

Manager of Finance, Jennifer Bow

Statutory Implications

Local Government Act 1995 Schedule 2.2 7(1) & (2).

7. Reviews

- (1) Before carrying out a review a local government has to give local public notice advising —
 - (a) that the review is to be carried out; and
 - (b) that submissions may be made to the local government before a day fixed by the notice, being a day that is not less than 6 weeks after the notice is first given.
- (2) In carrying out the review the local government is to consider submissions made to it before the day fixed by the notice.

Policy Implications

Nil

Risk Implications

Risk: If Council does not undertake a review and reduce Councillor numbers under the voluntary method in 2023 it will be forced with a complete spill following the implementation of the new Local Government Act, which will remove some of Council’s own decision making on this matter.

Likelihood	Consequence	Rating
Likely	Moderate	Moderate

Action / Strategy

This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “Medium” risk and will be managed by specific monitoring and response procedures.

Financial Implications

The review process will be undertaken internally, with some advertising costs up to approximately \$1,000.

If Council opts for the voluntary process, there will be the standard costs associated with the Ordinary Election in 2023.

Should Council choose to reduce Councillor numbers, then there will be an annual direct saving of \$3000 per Councillor lost in the first year of election and \$2000 thereafter.

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2022-2032

Governance

- 4.1 Our organisation is well positioned and has capacity for the future
- 4.3 Proactive and well governed Shire

Voting Requirements Absolute Majority

Officer Recommendation

- a) That in response to the Minister for local Government's letter dated 20th September 2022, requesting Local Governments to consider options for the reduction of Councillor Numbers, Council will be undertaking the voluntary pathway with the preference and intention of reducing numbers to 7 at the 2023 Ordinary Election.
- b) That Council endorses the Attached "Review of Councillor Representation for the Shire of Bruce Rock" document for the purpose of undertaking public consultation and seeking submissions.
- c) That Council instructs the Chief Executive Officer to provide local public notice of Council's intention to carry out a review of Councillor numbers and invite submissions as required under Section 2.2 of the Local Government Act.

11. Regional Reports

Nil

12. New Business of an urgent nature introduced by discussion of the meeting

13. Confidential Items

Agenda Reference and Subject:	13.1.1 CEO Performance Appraisal 2022
File Reference:	Personnel
Reporting Officer:	John Phillips Consulting
Author:	Darren Mollenoyux, Chief Executive Officer
Disclosure of Interest:	Darren Mollenoyux, Chief Executive Officer
Attachments:	<i>Item 13.1.1 – Confidential Report from John Phillips Consulting</i>

Officer Recommendation

That in accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to the members of the public for this item as the following sub-section applied:

(b) the personal affairs of any person;

Officer Recommendation

That in accordance with Section 5.23(2) of the Local Government Act 1995, Council reopens the meeting to the members of the public.

Report Recommendation

1 That Council

- a) Notes that Mr. Darren Mollenoyux's 2022 CEO annual performance review has been undertaken;
- b) Endorses Mr. Mollenoyux's overall rating of 'Meets Performance Requirements', and commends him for his efforts during 2021/22;
- c) Endorses the Performance Criteria for the 2022/23 review period;
- d) Schedules the next review of the CEO's performance to be commenced by 1 August 2023 and completed by the September 2023 Ordinary Meeting of Council.

2 That Council:

Endorses an increase to the CEO's Cash Component from \$150,000 to \$151,250, with the Total Reward Package from \$201,283 per annum to an amount of \$205,957 per annum in accordance with the contract of employment and within Band 4 of the prescribed Salaries and Allowances Determinations dated 7 April 2022 (effective 1 July 2022).

Agenda Reference and Subject:

13.1.2 Purchase of 1 x Loader

File Reference:

8.2.8.1 Tenders/Quotes

Reporting Officer:

David Holland, Manager of Works & Services

Author:

David Holland, Manager of Works & Services

Disclosure of Interest

Attachment:

Item 13.1.2 Confidential - Loader Evaluation Summary

Officer Recommendation

That in accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to the members of the public for this item as the following sub-section applied:

- (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
- (e) a matter that if disclosed, would reveal —
 - (i) a trade secret; or
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person,

Officer Recommendation

That in accordance with Section 5.23(2) of the Local Government Act 1995, Council reopens the meeting to the members of the public.

Officer Recommendation

That Council award the WALGA e'Quote VP323582 to Westrac for the supply and delivery of a CAT 950GC Loader as per quoted vehicle.

Agenda Reference and Subject:

13.1.3 Lease of the Equestrian Reserve

File Reference:

2.4.1.4 Lease of Council Owned Property

Reporting Officer:

Alan O’Toole, Deputy Chief Executive Officer

Author:

Alan O’Toole, Deputy Chief Executive Officer

Disclosure of Interest:

Nil

Attachments:

Item 13.1.3 Attachment A - Letter of Lease Request

Officer Recommendation

That in accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to the members of the public for this item as the following sub-section applied:

- (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
- (e) a matter that if disclosed, would reveal —
- (iv) a trade secret; or
- (v) information that has a commercial value to a person; or
- (vi) information about the business, professional, commercial or financial affairs of a person,

Officer Recommendation

That in accordance with Section 5.23(2) of the Local Government Act 1995, Council reopens the meeting to the members of the public.

Officer Recommendation

1. That Council grants the Lease of the Equestrian Reserve 17601, Lot 211 Mitchell Street, Bruce Rock to Gavin and Malene Vad Brownley for equestrian purposes for five years, for the annual contribution of \$1500 (incl. GST), increasing by 5% each year for the duration.
And;
2. That, if awarded, the Lease document includes reference to all of the provisions contained in this report as conditions of the usage.

Agenda Reference and Subject:

13.1.4 Consideration of offer of land at 12 Venemore Street, Shackleton

File Reference: A2465 12 Venemore Street Shackleton

Reporting Officer: Alan O’Toole, Deputy Chief Executive Officer

Author: Alan O’Toole, Deputy Chief Executive Officer

Disclosure of Interest:

Attachments: *Item 13.1.4 Attachment A - Confidential Letter from Mr S White*

Officer Recommendation

That in accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to the members of the public for this item as the following sub-section applied:

- (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
- (e) a matter that if disclosed, would reveal —
- (vii) a trade secret; or
- (viii) information that has a commercial value to a person; or
- (ix) information about the business, professional, commercial or financial affairs of a person,

Officer Recommendation

That in accordance with Section 5.23(2) of the Local Government Act 1995, Council reopens the meeting to the members of the public.

Officer Recommendation

1. That Council accepts the offer of Lot 49, 12 Venemore Street, Shackleton from Mr White of Pingelly in lieu of the debt of \$7258, and arranges the transfer of the same.
2. Council resolves, either immediately or in the future at a time deemed advantageous, make the land available for purchase.

14. Closure of Meeting