

Agenda

Ordinary Meeting of Council

To be held in Council Chambers
54 Johnson Street, Bruce Rock
Thursday 19 November 2020
Commencing 3.00pm



Notice of Ordinary Meeting of Council

Dear President and Councillors,

The next Ordinary Meeting of Council will be held on **Thursday 19 November 2020 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 19 NOVEMBER 2020

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SHIRE OF BRUCE ROCK
AGENDA – ORDINARY MEETING 19 NOVEMBER 2020

1. Declaration of Opening
2. Record of Attendance/Apologies/Leave of Absence (Previously Approved)
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
Rodney Thornton (RoadWise) – Wheatbelt South Road Safety Snapshot
7. Applications for Leave of Absence
8. Announcements by Presiding Member
9. Confirmation of Minutes

Ordinary Meeting of Council held on Thursday 15 October 2020.

Recommendation:

That the minutes of the Ordinary Meeting held Thursday 15 October 2020 be confirmed as a true and correct record.

Works and Services Meeting held on Thursday 15 October 2020.

Recommendation:

That the minutes of the Works and Services Meeting held Thursday 15 October 2020 be received.

10. Regional Reports

Agenda Reference and Subject:	10.1.1 WALGA State Council Agenda November 2020
File Reference:	1.6.5.1 WALGA State Council Minutes and Agendas
Reporting Officer:	Mr Darren Mollenoyux, Chief Executive Officer
Author:	Mr Darren Mollenoyux, Chief Executive Officer
Disclosure of Interest:	
Attachments:	<i>Nil</i>

Summary

Council is asked to review the WALGA State Council Agenda and provide direction for its voting delegate for the upcoming WALGA Great Eastern Zone Meeting.

Background

Following the review of WALGA State Council and Zone processes last year, State Council resolved to implement some changes to the agenda process. A key outcome of the review is to make the State Council agenda shorter, sharper, and more forward-looking with the aim of engendering greater engagement with the agenda by WALGA's members. It has also been resolved to cease the hard copy production of the State Council agenda.

The agenda has been distributed electronically to all CEO's and Elected Members.

As per previous advice WALGA have requested that State Council agenda items for decision are considered by Councils, either in formal Council meetings, or in briefing or concept forums. It would be beneficial for State Council agenda items for decision to be considered by Council in a formal or informal meeting to provide guidance and direction to their Zone representatives and to raise awareness of contemporary strategic advocacy and policy issues for all Elected Members and staff.

Comment

To encourage the improved awareness and promote a better understanding by all Councillors it is recommended that WALGA State Council Agenda and items requiring a decision be addressed by Council.

The following items that require direction from Council are;

5.1 WA Public Libraries Agreement

Executive Summary

WALGA has developed an Advocacy Paper focusing on key issues identified in final reports of three recent Local Government Inquiries:

- 1. Final Report of the Local Government Review Panel*
- 2. Report of the Inquiry into the City of Perth*
- 3. Select Committee into Local Government Final Report*

The Advocacy Paper aims to highlight strategic policy issues, leveraging previous detailed policy development work, at a key stage of Phase two of the Review of the Local Government Act 1995.

WALGA Recommendation

That:

- 1. Ongoing advocacy relating to the Review of the Local Government Act 1995 be noted;*
and,
- 2. The Advocacy Positions for a New Local Government Act: Key issues from recent Inquiries into Local Government – be endorsed.*

The WALGA State Council Agenda was distributed via email to Councillors during the month. Additional reports in the agenda are for noting or information, if Councillors have any strong particular points or views they wish raised at the Zone meeting in reference to the Matters for Noting or Key Activities please raise them during the Council meeting so voting delegates can make comment.

A full copy of the State Council Agenda is provided as Attachment A.

Consultation	Nil
Statutory Implications	Nil
Policy Implications	Nil
Financial Implications	Nil

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Governance

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

- 12.2 Continue to build our voice and strategic projects within our regional groupings

Voting Requirements Simple Majority

Officer Recommendation

That Council provides direction for its voting delegate for the WALGA State Council Agenda Items listed for consideration at the WALGA Great Eastern Zone Meeting on the 26th November 2020.

11. Officers' Reports

11.1 Environmental Health Officer

Nil

11.2 Manager of Works and Services

Agenda Reference and Subject:

11.2.1 Acquisition of Road Building & Other Commodities from non-Shire Controlled Land Policy

File Reference:

6.5.2.5 Gravel Supplies/Materials

Reporting Officer:

David Holland, Manager of Works and Services

Author:

David Holland, Manager of Works and Services

Disclosure of Interest

Attachment:

Item 11.2.1 Attachment A – Draft Policy 9.6 Draft Acquisition of Road Building & Other Commodities from non-Shire Controlled Land

Summary

Council to consider implementing a Policy for the purchase of gravel and other materials from non-Shire owned land.

Background

The Shire has received correspondence from a land holder, requesting payment for the materials taken by the Council for road building purposes. There had been a previous verbal arrangement that this practice could take place, but no formal mechanism has been established by which it could be addressed.

Comment

To formalise this situation and provide guidance to Officers in the future, Council are requested to consider and approve the purchasing of road building and other materials from non-Shire controlled land. Research has been undertaken, including how this practice is conducted by surrounding Shires, and Council is asked to consider adopting a Council Policy which covers:

- Approval to purchase road building and other materials from any landowner at a fair price when required;
- Prior to entering the property and extracting material, agreement with the landowner on the terms of the transaction in writing;
- Following use of the land for extraction to rehabilitate the pits where possible, to an agreed standard.

The Draft Policy is included for consideration.

Consultation

Darren Mollenoyux, Chief Executive Officer
Jennifer Bow, Manager of Finance

Statutory Implications

Local Government Act 1995, Section 3.27, (Schedule 3.2)

Policy Implications

2.7 Purchasing Policy

Risk Implications

Risk: Not following the correct purchasing process could result in breach of procurement regulations and not securing the best result for the Shire		
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 “Medium” risk and will be managed by specific monitoring and response procedures.		

Financial Implications

Council has budget provision for the completion of roads projects as part of its 2020/21 Works program.

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Infrastructure

Goal 2.4 Support the improvement and maintenance of assets in a strategic way

Governance

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

Voting Requirements

Simple Majority

Officer Recommendation

1. That Council adopt the draft Policy Acquisition of Road Building & Other Commodities from non-Shire Controlled Land
2. The purchase price of 44 cents to 55 cents per m³ including GST be included in the Policy and is reviewed during preparations of Annual Budget each year.

11.3 Manager of Finance

Agenda Reference and Subject:	11.3.1 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>Item 11.1.1 Attachment A – Statement of Financial Activity October 2020</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 financial statements for the month ending 31st October 2020 will be available for download on Tuesday 17 November 2020.

Consultation

Darren Mollenoyux, Chief Executive Officer
Alan O'Toole, Deputy Chief Executive Officer
David Holland, Manager of Works and Services
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 subregulation (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 2020/21 Budget

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

That the Statements of Financial Activity for the month ending 31st October 2020 as presented be received.

Agenda Reference and Subject:	11.3.2 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 11.2.2 Attachment A – List of Payments October 2020</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 October 2020.

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 2020/21 Budget

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

That Council endorse the list of payments from the:

- 1. Municipal Account consisting of:**
 - a. EFT voucher numbers EFT16293 to EFT16450 totalling \$345,222.39**
 - b. Cheque number 24034 to 24039 totalling \$3,445.32**
 - c. Trust Cheque 1943 totalling \$500.00**
 - d. Wages and Superannuation payments totalling \$239,935.76 and**
 - e. Credit Card payments \$1,317.66**

With all payments totalling \$589,103.47 for the month of October 2020.

Agenda Reference and Subject:

11.3.3 Rates Exemption Application from CEACA for Charitable Land Use (s.6.26(2)(g))

File Reference:

8.1.1.3 Rates - Exemptions

Reporting Officer:

Jennifer Bow, Manager of Finance Officer

Author:

Jennifer Bow, Manager of Finance Officer

Disclosure of Interest:

Attachments:

Item 11.2.3 Attachment A - CEACA ACNC Certificate
Item 11.2.3 Attachment B - CEACA ATO Endorsement
Item 11.2.3 Attachment C - CEACA Certificate of Incorporation
Item 11.2.3 Attachment D - CEACA Constitution
Item 11.2.3 Attachment E - CEACA Summary
Item 11.2.3 Attachment F - Application for 63 Butcher St
Item 11.2.3 Attachment G - Map of 63 Butcher St
Item 11.2.3 Attachment H - Application for 87 Butcher St
Item 11.2.3 Attachment I - Map of 87 Butcher St

Summary

An application has been received from Central East Aged Care Alliance Incorporated (CEACA) to apply for a rates exemption under s.6.26(2)(g) of the Local Government Act for charitable land use, for the properties they own in Butcher Street, Bruce Rock.

Council are asked to consider this application as the CEO does not have delegated authority to give an exemption under section 6.26 of the Local Government Act 1995.

Background

CEACA was formed as an alliance between 11 shires including Bruce Rock, Kellerberrin, Koorda, Merredin, Mt Marshall, Mukinbudin, Nungarin, Trayning, Westonia, Wyalkatchem and Yilgarn with an aim of investigating need for suitable housing for the aged in the region and then securing funding to build aged care accommodation in the Region. An incorporated body was formed to apply for funding, manage the project and manage the tenancies and maintenance of the properties.

CEACA is a not for profit entity whose vision is;

“The Association and its constituent members recognise the need for affordable, suitable and sustainable housing that meets the needs of an ageing population in the Region.”

One of its main objectives listed in its constitution at 1.3(d) is; *“providing and managing affordable housing, accommodation and services for the aged or individuals with disabilities in the Region;”*

It is a not-for-profit entity and this is evidenced by the following section also in its constitution at 4.(a); *“The property and income of the Association shall be applied solely towards promoting the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any Member, except in good faith in the promotion of those objects or purposes.”*

CEACA is also endorsed by the Australian Taxation Office (ATO) for charity tax concessions and has been registered with the Australian Charities and Not-for-profits Commission (ACNC).

Comment

WALGA have a very useful guide for assisting Councils in determining whether land can be classified as exempt from rates and much information has been taken from “Rates and Charitable Land Use Exemption Applications; Best Practice Guideline” which has assisted Officers in this matter.

Section 6.26(2)(g) of the Local Government Act provides a rates exemption for “land used exclusively for charitable purposes.” However, claimants applying for an exemption under this section must provide necessary evidence so that Council can make an objective assessment as to their eligibility.

CEACA have submitted an application which included their constitution, certificate of incorporation, ATO Endorsement Charity Tax Concession, ACNC Certificate, a map of properties and a statutory declaration declaring that the CEACA Inc is for the purpose of affordable living for the aged, disabled and those on very low or low incomes. The applications were received for the properties CEACA own and constructed housing on at 63 Butcher Street and 87 Butcher Street, Bruce Rock.

“Charitable purposes” is not defined in the Local Government Act 1995 but the definition is largely based on the preamble to the Statute of Elizabeth I enacted by the English Parliament in 1601. The Western Australian case law has furthered this definition to include that for a purpose to be charitable;

- (a) it must fall within the purposes set out in the Statute of Elizabeth I, or by Lord Macnaghten; and
- (b) there must be a public benefit, being a benefit directed to the general community, or to a sufficient section of the community to amount to the public.

In the case of CEACA, it is an incorporated body which has also achieved charitable status with the ATO and also the ACNC. As per its constitution, one of its objectives is *“providing and managing affordable housing, accommodation and services for the aged or individuals with disabilities in the Region.”*

A summary of State Administrative Tribunal (SAT) determinations are included in WALGA’s Best Practice Guide. In making a determination on charitable purposes, SAT will generally ask similar questions;

- 1. Is the land used for exclusively charitable purposes?
- 2. A benefit to the public?

Therefore, in assessing the application from CEACA, these 2 questions can be applied.

- 1. Is the land used for exclusively charitable purposes?

CEACA has built housing for the aged, disabled and low income. There are no other operations being conducted by CEACA from these properties other than the provision of housing for the aged, disabled and low income.

- 2. A benefit to the public?

The housing is available to any person who is aged, disabled or of low income. An application form must be submitted to be considered for housing however this is not limited to specific persons and therefore available to a section of the community which would amount to the public.

Having considered all the evidence provided in the application from CEACA, Council would be confident in approving this application for a rates exemption under section 6.26(2)(g), on the properties located at 63 and 87 Butcher Street, Bruce Rock.

Council should also only provide this exemption for a period so that the charitable nature of CEACA can be re-assessed to ensure that they maintain the use of the land for charitable purposes. A period of three years would see this exemption extend to 30 June 2024.

The exemption will only extend to the rates. Rubbish charges and the Emergency Services Levy will still be applied to the rates record. The rates raised this year were raised from 1st August 2020 due to the delay in the connections to the STED Scheme which had previously made the units uninhabitable. The rates for the period 1 August 2020 to 30 June 2021 are as follows;

63 Butcher Street = \$3,007.45
 87 Butcher Street = \$1,084.88
Total \$4,092.33

CEACA’s rates were raised as interim rates from 1 August 2020 and not included in the 2020-21 Rates Modelling or the Annual Budget.

Once the exemption has been granted, staff will contact Landgate and notify them of the approval as the roll will be updated with the properties removed from the rating roll (Roll 1 GRV) and placed on Roll 2 – Rates Exemptions.

Consultation

CEO, MOF and SFO

Statutory Implications

Local Government Act 1995

6.26. Rateable land

(2) *The following land is not rateable land —*

(g) *land used exclusively for charitable purposes; and*

Policy Implications

Nil

Risk Implications

Risk: That Council provides rates exemptions without considering all necessary information which would result in lower rates revenue being collected.		
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

No effect on the 2020-21 Budget, as income was not budgeted for.

The Shire has increased rubbish charge income of \$2,025.51 due to additional services.

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Goal 4 Workers and their families can work and reside in the Shire
 10 Year Outcome – Workers and their families reside in and contribute to the local economy

Goal 7 Our community are engaged and have a healthy lifestyle
Short Term Strategy (1 – 2 years) 7.1 Encourage and help facilitate the administration of
the planned CEACA units and the current Retirement Village

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

Voting Requirements

Simple Majority

Officer Recommendation

That Council;

- 1. grant CEACA an exemption for rates on the grounds that the land is used for charitable purposes in accordance with section 6.26(2)(g) of the Local Government Act 1995 for the properties located at 63 Butcher Street (A2512) and 87 Butcher Street (A2614), Bruce Rock; and**
- 2. provide this exemption for the period 1 August 2020 to 30 June 2024.**

Agenda Reference and Subject:	11.3.4 Write off Sundry Debtor 84044
File Reference:	8.2.3.2 Accounts – Receivables (Debtors)
Reporting Officer:	Jennifer Bow, Manager of Finance Officer
Author:	Jennifer Bow, Manager of Finance Officer
Disclosure of Interest:	
Attachments:	<i>Item 11.3.4 - Attachment A Letter from HLB Mann Judd Insolvency WA</i>

Summary

Council are asked to consider writing off a sundry debtor for rent and quoted private works with a contractor associated with construction of the STED Scheme in Bruce Rock.

Background

Miluc Civil Pty Ltd were appointed by the Water Corporation to complete the installation of the infrastructure required for the STED Scheme in the townsite of Bruce Rock.

However, Council received correspondence from HLB Mann Judd Insolvency WA in October 2018 that they had been appointed as a liquidator and that they would seek to wind up the company rather than continuing to trade.

Comment

Miluc Civil Pty Ltd hired plant and equipment from the Shire. They purchased materials and cement and also rented out 2 factory units and stayed in the chalets at the Caravan Park from time to time. At the end of the project, they requested a quote for private works which was completed for repairs to crossovers and kerbs damaged during construction and installation of the STED Scheme.

The amounts outstanding were:

Rent on Units 2 and 3 Swan Street, Factory Units @ \$903.00 per month = \$1,806.00
Private Works Job (Quote Number 0065) = \$14,300.00
Accommodation in Chalets in Caravan Park for 2 nights @\$115.50 per night = \$231.00
Total outstanding \$16,337.00 (inc GST)

Staff were in continual contact with the debtor who advised that they were waiting for funds to be released from the Water Corporation.

As the Shire was an unsecured creditor, we were advised on 3rd April 2019 that the liquidation had concluded and that there were no payments or receipts.

Consultation

CEO, Darren Mollenoyux
DCEO, Alan O'Toole
SFO, Mike Darby

Statutory Implications

Local Government Act 1995

Local Government Act, section 6.12 (c) gives the Council the authority to write off any amount of money.

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,
- which is owed to the local government.

* Absolute majority required.

- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.

Policy Implications

2.4 Procedures for Outstanding Debtors

Risk Implications

Risk: That sundry debtors remain unpaid resulting in less revenue for the Shire.		
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 a “Moderate” risk and will be managed by specific monitoring and response procedures.		

Financial Implications

Reduction in collectable sundry debtors of \$16,337.00

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

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

Voting Requirements

Absolute Majority

Officer Recommendation

That Council instructs the CEO to write off the amounts owing by sundry debtor 84044, Miluc Civil Pty Ltd for the amount of \$16,337.00.

Agenda Reference and Subject:

11.3.5 Write off Sundry Debtor 84129

File Reference:

8.2.3.2 Accounts – Receivables (Debtors)

Reporting Officer:

Jennifer Bow, Manager of Finance Officer

Author:

Jennifer Bow, Manager of Finance Officer
Alan O’Toole, Deputy Chief Executive Officer

Disclosure of Interest:

Attachments:

Nil

Summary

Council are asked to consider writing off a sundry debtor for the Lease fee for the Bruce Rock Quarry after Mineral Crushing Services made payment of the Shire’s legal costs in consideration of preparation, enactment and dissolving of the Lease.

Background

Following a Tender process, Mineral Crushing Services Pty were awarded the Lease of Bruce Rock Quarry to commence operation on 6 January 2019. However due to operational issues with the company no extraction work was commenced, which culminated in a request in November 2019 for Mineral Crushing Services to be released from the Lease.

Following legal advice this request was formally presented to Council at the March 2020 Council Meeting and it was resolved that Mineral Crushing Services be released from the Lease on payment of the Shire’s legal fees in relation to the establishment and cessation of the Lease. It was also resolved at the same Meeting that all fees associated with Mineral Crushing Services’s Lease of Bruce Rock Quarry be waived on payment of the Shire’s legal costs. The payment by Mineral Crushing Services to the Shire for reimbursement of legal costs has now been made.

Comment

Given that all parties have now met their obligations under this agreement Council are asked to write off this debt.

Consultation

CEO, Darren Mollenoyux
DCEO, Alan O’Toole
SFO, Mike Darby

Statutory Implications

Local Government Act 1995

Local Government Act, section 6.12 (c) gives the Council the authority to write off any amount of money.

6.12. Power to defer, grant discounts, waive or write off debts

- (1) *Subject to subsection (2) and any other written law, a local government may —*
- (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) *waive or grant concessions in relation to any amount of money; or*
 - (c) *write off any amount of money,*
- which is owed to the local government.*

** Absolute majority required.*

(2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*

Policy Implications

2.4 Procedures for Outstanding Debtors

Risk Implications

Risk: That sundry debtors remain unpaid resulting in less revenue for the Shire.		
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 a “Low” risk and can be managed by routine procedure, and is unlikely to need specific application of resources.		

Financial Implications

Reduction in collectable sundry debtors of \$7,333.34

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

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

Voting Requirements

Absolute Majority

Officer Recommendation

That Council write off the amounts owing by sundry debtor 84129, Mineral Crushing Services for the amount of \$7,333.34.

Agenda Reference and Subject:	11.3.6 Write off Sundry Debtors
File Reference:	8.2.3.2 Accounts – Receivables (Debtors)
Reporting Officer:	Jennifer Bow, Manager of Finance Officer
Author:	Jennifer Bow, Manager of Finance Officer Mike Darby, Senior Finance Officer
Disclosure of Interest:	
Attachments:	<i>Nil</i>

Summary

Council are asked to consider writing off several sundry debtors as they are deemed as uneconomical to recover.

Background

Several sundry debtors have been deemed uneconomical to refer to our debt collectors due to the small debts outstanding.

Staff have tried various efforts in which to try to recover the amounts outstanding, prior to appointing a debt collector.

Comment

As to not identify each sundry debtor, the following table outlines the debtor number with a description of the debt and the amount outstanding and the number of days outstanding to the end of October 2020.

Debtor Number	Nature of Debt	Amount	Number of Days Outstanding
84016	Outstanding rent on a commercial building. Some of rent outstanding was paid with bond forfeited.	\$900.00	514
83996	Outstanding rent and expenses payable upon vacating residential property. Bond was forfeited which paid for some of outstanding amounts	\$1,516.08	603
84097	A trading permit for a business that visited monthly.	\$110.00	893
83251	Fire mitigation works on a property that was sold for non-payment of rates but this amount was not allocated against the property at the time. Fire mitigation works are now allocated against the rate record of the property.	\$370.00	2080
Total to Write Off		\$2,896.08	

Consultation

CEO, Darren Mollenoyux
SFO, Mike Darby

Statutory Implications

Local Government Act 1995

Local Government Act, section 6.12 (c) gives the Council the authority to write off any amount of money.

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,
- which is owed to the local government.

* Absolute majority required.

(2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.

Policy Implications

2.4 Procedures for Outstanding Debtors

Risk Implications

Risk: That sundry debtors remain unpaid resulting in less revenue for the Shire.		
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 a “Moderate” risk and will be managed by specific monitoring and response procedures.		

Financial Implications

Reduction in collectable sundry debtors of \$2,896.08.

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

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

Voting Requirements

Absolute Majority

Officer Recommendation

That Council instructs the CEO to write off the following debts by sundry debtors;

1. Debtor 84016 = \$900.00;
2. Debtor 83996 = \$1,516.08;
3. Debtor 84097 = \$110.00; and
4. Debtor 83251 = \$370.00

Agenda Reference and Subject:	11.3.7 Various Budget Amendments
File Reference:	8.2.7.1 Annual Budget
Reporting Officer:	Jennifer Bow, Manager of Finance Officer
Author:	Jennifer Bow, Manager of Finance Officer
Disclosure of Interest:	
Attachments:	<i>Nil</i>

Summary

A budget amendment is required due to changes to several grants allocated in the 2020-21 Budget.

Background

The Chief Executive Officer has received advice since the adoption of the 2020-21 Budget of the following changes to some of the capital and operating grants allocated in the Budget;

- i. \$500,000 Drought Funding cannot be used towards reconstruction of a commercial building for the Shop as it is outside the scope of the funding
- ii. \$150,000 Saluting Their Service application was unsuccessful for upgrade to the war memorial and sculpture park
- iii. \$375,578 Local Roads and Community Infrastructure additional funding will be available until 31 December 2021.
- iv. \$8,000 from CBH Grass Roots Funding for installation of synthetic turf (stepped seating area) and opening up of entrance at the Amphitheatre was successfully applied for
- v. \$21,500 Australia Day COVID Safe Funding towards making Australia Day celebrations Covid safe and rebranding was successfully applied for
- vi. \$1,000 Thank A Volunteer Celebrations was successfully applied for.

The installation of the synthetic turf at the Amphitheatre was not included in the original budget as we were not certain that we would receive any funding. The total project is estimated at \$115,357 and staff are seeking updated quotes for the works.

Due to the changes, a reallocation of funding in the budget is required. Any additional Council funds will be allocated at the Budget Review in February 2021.

Comment

Drought Funding

The \$500,000 Drought Funding was originally allocated towards the construction of a commercial building for the shop. After several discussions with the Federal Government, we have been advised that we would not be able to use funds for this purpose as it does not fit the permissible expenditure. This therefore requires a reallocation of projects towards this funding. The only other requirement of the Drought Funding is that the grant funds cannot be used for staff wages. As such, staff are re-quoting several jobs so that they can be completed entirely or mostly by contractors.

Staff have reviewed the Budget and identified several projects that will fit the Drought Funding requirements. These projects were originally funded by Council resources, but this will now be covered by funding.

This includes;

Job Number	Description	Total Project	Funding
J11347	Asphalting the Rec Centre Carpark	\$ 97,300	\$ 90,000
J11346	Upgrading the drainage at the Rec Centre	\$150,000	\$125,000
New Job Code	Amphitheatre Synthetic Grass & Opening Up	\$115,357	\$100,000
J11242	Memorial Gardens	\$175,000	\$ 79,000
J11244	Pebble Paving in Sculpture Park	\$ 36,000	\$ 36,000
J11245	Synthetic Grass in War Memorials	\$ 35,000	\$ 35,000
Various KR	Kerbing Replacement in Town	\$ 37,091	\$ 30,000
New Job Code	Adverse Event Plan for Drought (required as part of Funding requirements)	\$ 5,000	\$ 5,000
		Total Drought Funding	\$500,000

Local Roads and Community Infrastructure Grant

The Chief Executive Officer was advised that Council is receiving any additional allocation of funding of \$375,578 with an extension to the completion date for the funding of 31 December 2021.

This LRCI Funding can be utilised to construct a commercial property. Therefore, a total of \$901,880 funds to be allocated to the construction of the supermarket building. The budget allocation was \$1,000,000 however on advice from the consultant working with Council regarding the rebuild of a supermarket building, the construction costs of the building are likely to be approximately \$900,000 and therefore the allocation for this in the budget needs to be reduced.

Saluting Their Service Funding

Ann-Marie Jensen, our contract Community Development Officer, applied for this grant for upgrades to the war memorial and sculpture park. However, Council only received the \$25,000 towards a new memorial. The \$150,000 which was included in the budget was not funded. Therefore, staff have reallocated funding towards this project and most funding for this will come from the Drought Funding.

CBH Grass Roots Funding

Ann-Marie Jensen, also applied for funding of \$20,000 from the CBH Grass Roots fund to go towards installation of synthetic turf and opening up of the entrance to the amphitheatre (which was a priority identified under the Main Street Revitalisation Project). This project was not included in the budget and the grant funding was also not included. The total cost for this project is \$115,357 and \$8,000 was received from CBH. This project has also been included in the Drought Funding as the parameters of the project meet the eligibility requirements and \$100,000 of Drought Funding has been allocated to this.

Australia Day Covid Safe Grant

Caris Negri, the Community Development Officer, has been successful in obtaining \$21,500 towards Australia Day celebrations with the grant funding to ensure that the event is Covid safe but will be used for purchasing other equipment to ensuring social distancing and additional cleaning etc.

Thank a Volunteer Celebrations

Caris Negri was also successful in obtaining \$1,000 for Thank a Volunteer Celebrations which will be used in conjunction with our Welcome Back event held in February each year.

Consultation

CEO, MOF and CDO

Statutory Implications

Regulation 33 of Local Government (Financial Management) Regulations 1996

Policy Implications

Nil

Risk Implications

Risk: That the 2020-21 Budget does not reflect the forecast expenditure and 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 ImplicationsRevenue Implications

Drought Funding - \$500,000 already included in the budget

Saluting Their Service – grant not awarded and so won't receive \$150,000 budgeted

LRCI Funding - \$375,578 additional funds not included in Budget

CBH Grass Roots Funding - \$8,000 additional funds not included in Budget

Australia Day Covid Safe - \$21,500

Thank a Volunteer Celebrations - \$1,000

Total Net Increase to Grant Funds - \$256,078Expenditure Implications

Synthetic Turf in Amphitheatre and Opening Up Entrance – not included in budget so increase expenditure of \$115,357

Construction of Supermarket Building – reduction of \$98,120 in expenditure

Adverse Events Plan for Drought – not included in budget so increase expenditure of \$5,000

Australia Day Covid Expenditure – not included in the budget so increase expenditure of \$21,500

Thank a Volunteer Celebrations expenditure - not included in the budget so increase expenditure of \$1,000

Total Net Increase to Expenditure - \$44,737

Reallocation of Budget Revenue and Expenditure			
	Original 20-21 Budget	Amendment to 20-21 Budget	Amended Budget
Revenue			
Drought Funding - Economic Services	\$500,000	-\$500,000	\$0
Drought Funding - Rec & Culture	\$0	\$470,000	\$470,000
Drought Funding -Transport	\$0	\$30,000	\$30,000
LRCI Funding	\$526,302	\$375,578	\$901,880
Saluting Their Service	\$150,000	-\$150,000	\$0
CBH Grass Roots	\$0	\$8,000	\$8,000
Australia Day Covid Safe	\$0	\$21,500	\$21,500
Thank a Volunteer	\$0	\$1,000	\$1,000
	\$1,176,302	\$256,078	\$1,432,380
Expenditure			
Synthetic Turf Amphitheatre	\$0	\$115,357	\$115,357
Adverse Event Plan for Drought	\$0	\$5,000	\$5,000
Reduction for Construction Costs Supermarket	\$1,000,000	-\$98,120	\$901,880
Australia Day Covid Safe	\$0	\$21,500	\$21,500
Thank a Volunteer	\$0	\$1,000	\$1,000
	\$1,000,000	\$44,737	\$1,022,237
Net Funds Remaining Unallocated		\$211,341	

Overall, \$211,341 funds will need to be allocated at the Budget Review in February 2021. Council is already running with a \$45,939 deficit following the Budget Amendments approved in September OCM which will reduce this to \$165,402 of unallocated Council funds.

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

Absolute Majority

Officer Recommendation

That Council adopt the following amendments to Budget for 2020-21;

- i. Increase to revenue;
 - a. GL 130303 – Supermarket Grant Funding - Local Roads Community Infrastructure Funding - \$901,880
 - b. GL 111307 Amphitheatre Grants Other - CBH Grass Roots - \$8,000
 - c. GL 114305 Pool Grants – Aust Day - Australia Day Covid Safe - \$21,500
 - d. GL 138306 – Community Development Grants - Thank a Volunteer - \$1,000
- ii. Reallocation to non-operating grants;
 - a. GL 032331 – Drought Funding – reduce to \$0
 - b. GL 111310 – Amphitheatre – Non Operating Grants – Drought Funding \$100,000
 - c. GL 131314 – Rec Centre – Non-Operating Grants – Drought Funding \$220,000
 - d. GL 117302 - Other Culture Grants – Drought Funding \$150,000
 - e. GL 121318 – Transport Other Grants – Drought Funding \$30,000

- iii. **Reduction of revenue;**
 - a. **GL 117302 – Other Culture Grants – Saluting their Service Grant \$150,000**
- iv. **Increase to operating expenditure;**
 - a. **Adverse Event Plan for Drought - \$5,000**
- v. **Increase to capital expenditure;**
 - a. **Amphitheatre Synthetic Turf & Opening Up - \$115,357**
 - b. **Australia Dar Covid Safe - \$21,500**
 - c. **Thank a Volunteer Celebrations - \$1,000**
- vi. **Reduce capital expenditure:**
 - a. **Construction of Supermarket – reduce to \$901,880**

11.4 Deputy Chief Executive Officer

Agenda Reference and Subject:

11.4.1 Shire President Stamp

File Reference:**Reporting Officer:**

Alan O’Toole, Deputy Chief Executive Officer

Author:

Melissa Schilling, Executive Assistant

Disclosure of Interest:**Attachments:**

Nil

Summary

Use of Shire President Stamp October 2020

Background

Nil

Comment

As per Council’s policy, the Shire President Stamp has been used during the months of October 2020 as follows:

- Acknowledgement of STED connection at Bruce Rock Community Resource Centre
- Non-Standard wastewater service agreement at Bruce Rock Community Resource Centre
- Annual Performance Review 2020 Letter to CEO

Consultation

Nil

Statutory Implications

Council Policy

Policy Implications

Nil

Financial Implications

Nil

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

That Council endorse the use of the Shire President Stamp during October 2020

Agenda Reference and Subject:

11.4.2 Shire Common Seal

File Reference:

Reporting Officer:

Alan O’Toole, Deputy Chief Executive Officer

Author:

Melissa Schilling, Executive Assistant

Disclosure of Interest:

Attachments:

Nil

Summary

Use of Shire Common Seal in October 2020

Background

Nil

Comment

As per Council’s policy, the Shire Common Seal has been used during the months of October 2020 as follows:

- Acknowledgement of STED connection at Bruce Rock Community Resource Centre
- Non-Standard wastewater service agreement at Bruce Rock Community Resource Centre
- Transfer of Land 39 Railway Pde (Rates Recovery)
- Transfer of Land 5 Westral Street (Rates Recovery)
- Transfer of Land to Shackleton District Club

Consultation

Nil

Statutory Implications

Council Policy

Policy Implications

Nil

Financial Implications

Nil

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

That Council endorse the use of the Shire Common Seal during October 2020

Agenda Reference and Subject:	11.4.3 New Date for deferred Annual Electors Meeting 2019
File Reference:	8.2.6.5 Annual Report
Reporting Officer:	Alan O’Toole, Deputy Chief Executive Officer
Author:	Alan O’Toole, Deputy Chief Executive Officer
Disclosure of Interest:	
Attachments:	<i>Nil</i>

Summary

Council is asked to consider setting a date for the deferred Annual Electors’ Meeting originally scheduled for the 27th March 2020, which was cancelled due to COVID19 and social distancing requirements.

Background

At the February 2020 Ordinary Council Meeting the Annual Report was presented to Council for adoption and the date set for the Annual Electors Meeting, this being 27th March 2020. In accordance with Council’s resolution and the Local Government Act 1995 requirements, advertising was undertaken advising of the availability of the 2018/19 Annual Report and Annual Electors meeting details. However, In the days prior to the Annual Electors meeting date, the impacts of COVID-19 and social distancing requirements were implemented which impacted Council’s ability to hold its Annual Electors’ Meeting as scheduled. Following conversations with WALGA governance staff and the Department of Local Government it was suggested that whilst Council should not proceed with its Annual Electors’ Meeting, it needed to ensure that it took appropriate steps to enable the ratepayers and community similar access and ability to ask questions as would normally occur at the Annual Electors’ Meeting. The CEO prepared a Public Notice advising of the cancellation of the Annual Electors’ Meeting, and that the following measures had been put in place to enable the electors to be informed as per the scheduled business of the Meeting:

1. Confirmation of the 2019 minutes of the AGM of Electors

A copy of the minutes is available on the Shire’s website

2. Business arising from previous Annual Electors Meeting minutes

There was no general business or any questions raised at the 2019 meeting

3. Receiving of the 2018/19 Annual Report

A copy of the Annual Report can be accessed via the following means:

- Council Website
- Emailed upon request via the Shire Office admin@brucerock.wa.gov.au
- Posted upon request by phoning the Shire Office 08 9061 1377

4. General Business

If Electors have any general business to raise, or would like to ask any questions, please email or write to the Chief Executive Officer by 14th April 2020 and it will be raised at the April 2020 Council Meeting & written response will be provided.

Comment

At the time of this report no questions had been received from the public.

A Ministerial Order taking effect from 4 November 2020 means that 2019-20 Electors’ Annual Meetings and Electors’ Special Meetings can now take place if they operate in a COVID-19 safe environment. With regard to this advice, Council is now asked to consider the rescheduling of the deferred Annual Electors’ Meeting. It is required that the CEO give the public and Elected Members 14 days’ notice of the proposed date.

Consultation

CEO, Darren Mollenoyux

Statutory Implications

LOCAL GOVERNMENT ACT 1995 - SECT 5.27

5.27 Electors' general meetings

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.

5.29 Convening electors' meetings

- (1) The CEO is to convene an electors' meeting by giving —
 - (a) at least 14 days' local public notice; and
 - (b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.
- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.

5.30 Who presides at electors' meetings

- (1) The mayor or president is to preside at electors' meetings.
- (2) If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at an electors' meeting in accordance with that section.
- (3) If the circumstances mentioned in section 5.34(a) or (b) apply and —
 - (a) the office of deputy mayor or deputy president is vacant; or
 - (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president, then the electors present are to choose one of the councillors present to preside at the meeting but if there is no councillor present, able and willing to preside, then the electors present are to choose one of themselves to preside.

5.32 Minutes of electors' meetings

The CEO is to —

- (a) cause minutes of the proceedings at an electors' meeting to be kept and preserved; and
- (b) ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.

5.33 Decisions made at electors' meetings

- (1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —
 - (a) at the first ordinary council meeting after that meeting; or
 - (b) at a special meeting called for that purpose, whichever happens first.

- (2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors’ meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

Policy Implications

Nil

Risk Implications

Risk: The CEO has been informed by the Minister for Local Government that in person Annual Electors’ Meetings can now take place as required under the Local Government Act, and so not to do so may be deemed a breach of the Local Government Act 1995.		
Likelihood	Consequence	Rating
Rare	Moderate	Moderate
Action / Strategy Council consider a date for the Annual Electors’ Meeting to be held in coming weeks.		

Financial Implications

Nil

Strategic Implications

Shire of Bruce Rock Strategic Community Plan 2017-2027

Governance

Goal 12.5 Lead the organisation in a financially responsible and viable manner

Voting Requirements

Simple Majority

Officer Recommendation

That Council approves the date for the rescheduled Annual Electors’ Meeting as _____ and that this date be publicly advertised with the minimum of 14 days’ notice.

Agenda Reference and Subject:

11.4.4 Fee Reduction Request – Bruce Rock Landfill Site

File Reference:

4.1.1.2 Refuse Site General

Reporting Officer:

Alan O’Toole, Deputy Chief Executive Officer

Author:

Alan O’Toole, Deputy Chief Executive Officer

Disclosure of Interest:

Nil

Attachments:

Item 11.4.4 Attachment A – Disposal of Commercial, Industrial and Bulk Demolition Waste

Summary

Council is asked to consider a request from Mr Keenan Verhoogt from Bruce Rock Engineering to reduce the cost of disposing of commercial waste at the Bruce Rock Landfill Site.

Background

On 20 October 2020, the Environmental Health Officer, Mr Julian Goldacre, wrote to a number of local businesses, which are known to be frequent users of the Bruce Rock Landfill Site, advising them of the Shire’s intention to enact the full Fees and Charges structure relating to the operation of the Landfill. These include charging \$47 per cubic metre for Bulk Commercial waste. In order to facilitate the correct administration of this charge, changes were made to the key and padlock system on the gates at the Site to ensure that access could be controlled, and a new Form (Form 1) was introduced which needs to be filled in and signed at the Shire Office on each occasion. In addition, Bruce Rock Engineering were informed that the Landfill Site can no longer take high volumes of pallets as these are now classified as “putrescible” waste and can no longer be burnt, which means they must be crushed and buried. If many pallets were accepted and disposed of in this manner at the Site this would rapidly lead to the Landfill becoming full.

On 21 October 2020, Mr Keenan Verhoogt, Tyre and Mechanical Manager at Bruce Rock Engineering wrote to the CEO requesting that the Council reconsider the charge of \$47 per cubic metre, and suggesting an \$10.00 per cubic metre would be more reasonable. Mr Verhoogt also questioned why the Site can now only take a small number (3-4 per week) of broken pallets discarded by Bruce Rock Engineering, and also wished to discuss other administrative issues.

The DCEO replied by letter to Mr Verhoogt on 22 October addressing the concerns and the reasons for the Shire taking the actions it had, and also requesting that Mr Verhoogt contact the Shire again should there be any further issues he would like Council to consider. The DCEO followed this up with an email to Mr Verhoogt on 27 October 2020, offering a further opportunity for Bruce Rock Engineering to provide information for consideration by Council at the November Council Meeting.

Mr Verhoogt responded by email on 27 October re-stating that he would like the \$47 amount to be “re-visited” by Council, and that \$8-\$11 per cubic metre was “far more realistic.” He also suggested that “a fixed monthly fee for access could be considered”.

Comment

The Shire’s Landfill Site Fees and Charges are formulated taking into consideration a variety of factors to ensure that all the costs for the ongoing operation and maintenance of the Site are captured. If this were not the case (i.e. that not all costs are recouped), then this would result in an increase in the general rates for the Shire, which would mean that residential ratepayers would in effect be paying some of the operational costs of commercial businesses.

To further ensure that the Shire is charging within the norm for its size and population, and in line with other Shires in the region, comparisons were made with the Fees and Charges of neighbouring Local Governments, and others in the surrounding region.

The results of this comparison for the disposal of Commercial and Bulk waste are shown in the table below.

Shire	Type of Waste	Rate (per cubic metre)
Narembeen	Building Rubble	\$45
Quairading	Mixed Construction Rubble	\$95.91
	Mixed General	\$95.91
Merredin	Commercial Bulk Waste/Builders Demolition Waste	\$61
Corrigin (Bendering)	Bulk Commercial/Industrial Waste	\$48
Kondinin	Commercial Waste	\$45

In addition, guidance was sought from WALGA regarding this issue and input invited based on their sector-wide knowledge. Ms Rebecca Brown (WALGA) responded with the following (excerpt from email to Julian Goldacre 28/10/20):

Local Government has no legislative responsibility to manage anything other than its own waste and waste from households. It does not have to manage commercial waste.

If the waste was taken to the metropolitan area (it) would need to pay the Waste Avoidance and Resource Recovery Levy which is \$105m3 for inert waste and \$70 per tonne for putrescible waste.

I think your approach of charging what the service costs, plus planning for the future is the only way to go about it. There would need to be a really compelling reason for not charging a business the true costs, as the other approach would be to charge everyone in the community...for the cost of managing that businesses waste. I would suggest that approach would mean rate increases which would make more than one business unhappy.

I think this is probably an issue for every small non-metropolitan Local Government which has commercial businesses.

In response to Mr Verhoogt’s suggestion to pay a fixed monthly access fee, although this has some merit, it does not address the issue of monitoring, and therefore managing, the amount of waste being disposed of, which could lead to the Site becoming full in a shorter time than has been planned for. Once the Landfill site becomes full then more land would have to be acquired for development into a Landfill Site, which would create a further impost on the Shire’s resources.

Consultation

Mr Darren Mollenoyux, CEO

Mr Julian Goldacre, Environmental Health Officer

Mrs Jennifer Bow, Manager of Finance

Ms Rebecca Brown, WALGA

Statutory Implications

Local Government Act 1995 s.6.16 & s.6.19

6.16. Imposition of fees and charges

(1) *A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.*

** Absolute majority required.*

(3) *Fees and charges are to be imposed when adopting the annual budget but may be -*

(a) *imposed* during a financial year; and*

(b) *amended* from time to time during a financial year.*

** Absolute majority required.*

6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of

(a) *its intention to do so; and*

(b) *the date from which it is proposed the fees or charges will be imposed.*

Policy Implications

Nil

Risk Implications

Risk: The Shire does not adequately monitor and control commercial access and waste disposal at the Landfill Site.		
Likelihood	Consequence	Rating
Possible	Moderate	Moderate
Action / Strategy		
Control measures and Fees and Charges are implemented as stated.		

Financial Implications

The 2020-2021 Budget included the Fees and Charges for Waste as stated in the table below. To ensure that Budget Objectives are met, the correct Fees and Charges should be applied.

DESCRIPTION	DETAILS	CHARGING	2020/21
Disposal Fees for Refuse Site (For Waste Generated in the Shire of Bruce Rock Only)	Bulk Commercial/Industrial inert waste - per m3	Per m ³	\$47.00
	Bulk Demolition waste - per m3	Per m ³	\$47.00
	Wrapped Asbestos Waste - per m3	Per m ³	\$47.00
	Wrapped Asbestos contaminated soil - per m3	Per m ³	\$47.00
	Administration and supervision charge for observing waste disposal & statutory recording of wrapped asbestos & contaminated soil	Per delivery	\$47.00

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Infrastructure

Goal 2 Maintain Shire owned facilities in a strategic manner and also to meet community needs

Community

Goal 10 Our organisation is well positioned and has capacity for the future

Governance

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

Voting Requirements

Absolute Majority

Officer Recommendation

That Council endorse the control of access to, and disposal of commercial waste at, the Bruce Rock Landfill Site; and that the applicable fee of \$47 per cubic metre be charged for this service as per Council's Fees and Charges.

11.5 Chief Executive Officer

Agenda Reference and Subject:	11.5.1 Department of Local Government’s Draft Code of Conduct and CEO Standards
File Reference:	2.3.3.1 Local Government Acts and Regulations
Reporting Officer:	Darren Mollenoyux, Chief Executive Officer
Author:	Darren Mollenoyux, Chief Executive Officer
Disclosure of Interest:	
Attachments:	<p><i>Item 11.5.1 Attachment A - Info Page - CEO Model Standards November 2020</i></p> <p><i>Item 11.5.1 Attachment B - CEO Model Standards Explanatory Notes</i></p> <p><i>Item 11.5.1 Attachment C - CEO Standards Consultation Draft</i></p> <p><i>Item 11.5.1 Attachment D - Draft Model Standards CEO Recruitment and Performance Reviews Submission 2 November 2020</i></p> <p><i>Item 11.5.1 Attachment E - Info Page - Code of Conduct November 2020</i></p> <p><i>Item 11.5.1 Attachment F - Code of Conduct Explanatory Notes</i></p> <p><i>Item 11.5.1 Attachment G - Code of Conduct Consultation Draft</i></p>

Summary

Council is asked to consider making a submission to the Department of Local Government in relation to their Draft Code of Conduct and CEO Standards and to provide comment on the WA Local Government Association’s proposed submission on both documents.

Background

On 27 June 2019, the Local Government Legislation Amendment Act 2019 was passed in Parliament. The Act includes a requirement for the introduction of:

- a mandatory code of conduct for council members, committee members and candidates (Code of Conduct); and
- mandatory minimum standards covering the recruitment, selection, performance review and early termination of local government Chief Executive Officers (CEO Standards).

The Department of Local Government, Sport and Cultural Industries sought feedback on the initial proposed “Code of Conduct” and the proposed “CEO Standards” in October 2019 via online survey and open submission period. Council reviewed these documents at its October 2019 Council Meeting and made submissions on both proposed documents. In addition, Council supported WALGA’s position on the sector’s response.

On the 25th October 2020 the Department of Local Government issued two Local Government Alerts in relation to their consultation on both the Draft Code of Conduct for Council Members, Committee Members and Candidates and the Draft Standards for CEO recruitment, performance and termination.

A copy of these documents is provided as an attachment to this item.

The Department has advised that submissions are being called and close on 6th December 2020.

Subsequently WALGA has advised Councils of their proposed approach to responding to these two draft pieces of legislation. Due to the tight timeframe and WALGA requiring sector feedback and voting at its Zone meetings responses from individual Local Governments was sought prior to the 13th November 2020.

The CEO has advised WALGA of Council's position and support in line with our previous submission in late 2019.

Comment

Whilst the WA Local Government Association will make this submission on behalf of the sector it is encouraged that Council also makes a submission to reinforce key points and highlight any concerns.

Individuals are also able and are encouraged to make their own submission and therefore Councillors may wish to also make their own submission to the Department of Local Government.

The Chief Executive Officer is reviewing the proposed documents and, in line with our submission and survey response to the Department of Local Government Survey in November 2019, is preparing a new submission on Council's behalf. Council's submission on the new draft documents will be presented for consideration at the November 2020 Ordinary Council Meeting for endorsement.

The main areas of concern are as follows;

Draft Code of Conduct for Council Members, Committees and Candidates

- Among concerns previously noted is the requirement for Local Governments to determine behavioural breach allegations specified in Division 3 of the Draft Regulations. The administrative process for dealing with breach allegations is unspecified and the option to use external consultants so that impartial and procedurally fair outcomes can be achieved will prove costly, particularly where numerous allegations arise. It is also open for 'any person' to make a complaint which may in extreme circumstances lead to a proliferation of complaints.
- In addition there is concern around the complaints process and the point that a CEO investigating a complaint could potentially be unfairly treated, e.g. if it is prior to performance review or contract review, because they are undertaking the investigation, or make a judgement against the Councillor.

Draft CEO Standards for recruitment, performance and termination

- Requirement to re-advertise CEO position of 10 years of continuous service
Section 5.39(2)(b) of the Local Government Act already limits CEO contracts to a maximum of 5 years and Councils have general competence powers to consider whether to renew the incumbent's contract or advertise the position. Suggesting that a Council must re-advertise the position of a CEO after 10 years is likely to prove unworkable or counterproductive in any case as:
 - Councils conducting a selection process known to involve an incumbent CEO will risk allegations of non-compliance with Section 5.40 of the Local Government Act 'Principles affecting Local Government employees' due to actual or perceived bias, nepotism and lack of merit and equity in relation to other applicants;

- May result in CEOs actively seeking alternative employment as the 10 year horizon approaches, meaning that a CEO that has provided satisfactory or perhaps exemplary service will be unnecessarily lost to the local government;
- Where a CEO is re-employed as a consequence of re-advertising after the 10 year period, this process has incurred unnecessary costs and time wasting for the LG, distracting from achieving its strategic objectives and may further entrench perceptions that contracts are for life, thus negating the very purpose of this proposal.

Further, Division 3 of the Draft Regulations seeks to improve the capacity of local governments to effectively manage CEO employment. This is a far more appropriate and adapted mechanism to address a perceived issue of ‘contracts for life’, by ensuring that the performance of CEOs, whether long serving or newly appointed, is appropriately assessed and managed.

Whilst the 10 year readvertising requirement is the primary issues there are several other areas of concern, being;

- Certain concerns around the independent person required in recruitment and performance reviews
- Transparency and procedural fairness – Schedule 2
- Council decision-making authority

Consultation

Tony Brown, WALGA
 Shire President, Stephen Strange
 Members of Senior Management Team
 LG Professionals

Statutory Implications

The Local Government Legislation Amendment Act 2019

Policy Implications

Any Policies relating to Council’s current Code of Conduct
 Any Policies relating to employment matters affecting the Chief Executive Officer

Risk Implications

Risk: Compliance may be increased from legislative changes that could occur and costs and administrative burden would increase should the CEO Standards be adopted by the Department of Local Government as they are currently proposed.

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

Should some of the proposed changes be implemented by the Department of Local Government, Council would incur higher costs associated with proposed processes for employment, recruitment and performance reviews of CEOs.

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Governance

Goal 10 – Our organisation is well positioned and has capacity for the future

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

Voting Requirements

Simple Majority

Officer Recommendation

That Council requests the Chief Executive Officer to prepare a submission in line with key concerns listed and including any additional points, in response to the Department of Local Government's proposed;

- **Mandatory Code of Conduct for Council Members, Committee Members and Candidates**
- **Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination**

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

13. Confidential Items

Agenda Reference and Subject:

13.1 Landfill Site Operation and Management Service
Contract and Waste Collection Service Key
Performance Indicators Review for October 2020

File Reference:

4.1.1 Waste Management

Reporting Officer:

Mr Julian Goldacre, Environmental Health Officer

Author:

Mr Julian Goldacre, Environmental Health Officer

Disclosure of Interest:

Attachments:

*Item 11.1.1 - Attachment A – Landfill site operation and
management service KPIs OCTOBER 2020;*
*Item 11.1.1 - Attachment B – Waste Collection Service KPIs
OCTOBER 2020*

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:

(e) a matter that if disclosed would reveal - ...

(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 Council resolves to:

Accept the Officer report for the Contractor Refuse and Landfill Contract Key Performance Indicators for the month of October 2020 and ongoing operational undertakings.

14. Closure of Meeting.