

**SHIRE OF BRUCE ROCK**

**MINUTES – ORDINARY MEETING 19 NOVEMBER 2020**

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**SHIRE OF BRUCE ROCK**

**MINUTES – ORDINARY MEETING 19 NOVEMBER 2020**

**1. Declaration of Opening**

The Shire President Cr SA Strange declared the meeting open at 3.30pm.

**2. Record of Attendance/Apologies/Leave of Absence (Previously Approved)**

President	Cr SA Strange
Councillors	Cr AR Crooks
	Cr IS Dolton
	Cr KP Foss
	Cr NC Kilminster
	Cr PG Negri
	Cr BJ Waight
	Cr RA Waye
Chief Executive Officer	Mr DRS Mollenoyux
Deputy Chief Executive Officer	Mr A O’Toole
Executive Assistant	Mrs Melissa Schilling
Manager of Finance	Mrs JL Bow (3.57pm – 5.04pm)
Manager of Works and Services	Mr D Holland (3.58pm to 4.20pm)
Environmental Health Officer	Mr J Goldacre (5.10pm – 5.24pm)
Presentation	Mr R Thornton (3.30pm to 3.57pm)
Apologies	Cr R Rajagopalan

**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

*Cr Kilminster left the Council Chambers at 3.55pm.*

*Cr Kilminster returned to the Council Chambers at 3.57pm.*

*Council Meeting adjourned at 3.57pm.*

*Council Meeting resumed at 3.58pm with all staff and Councillors present.*

**7. Applications for Leave of Absence**

**8. Announcements by Presiding Member**

Condolences to Darren and the Mollenoyux family in the sudden loss of his mother recently.

The President also informed Council of the recent passing of Pat Coakley who was a Councillor from 1995 to 2007. Deepest condolences to the Coakley family.

**9. Confirmation of Minutes**

Ordinary Meeting of Council held on Thursday 15 October 2020.

**COUNCIL DECISION**

**Resolution OCM Nov 20 – 9.1**

**Moved:** Cr Dolton

**Seconded:** Cr Foss

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

**Carried 8/0**

Works and Services Meeting held on Thursday 15 October 2020.

**COUNCIL DECISION**

**Resolution OCM Nov 20 – 9.2**

**Moved:** Cr Waight

**Seconded:** Cr Waye

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

**Carried 8/0**

## 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:

Nil

### Attachments:

*Nil*

### 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 WALGA Advocacy Paper

##### *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.

<b>Consultation</b>	Nil
<b>Statutory Implications</b>	Nil
<b>Policy Implications</b>	Nil
<b>Financial Implications</b>	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

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 10.1.1**

**Moved:** Cr Waye  
**Seconded:** Cr Waight

**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.**

**Carried 8/0**

**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

Nil

### 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**

<b>Risk:</b> Not following the correct purchasing process could result in breach of procurement regulations and not securing the best result for the Shire		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Moderate	Moderate
<b>Action / Strategy</b>		
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 m<sup>3</sup> including GST be included in the Policy and is reviewed during preparations of Annual Budget each year.

*Council decision varied to Office Recommendation to change to the purchase price a flat rate of 50 cents including GST.*

<b>COUNCIL DECISION</b>	
<b>Resolution OCM Nov 20 – 11.2.1</b>	
<b>Moved:</b>	<b>Cr Dolton</b>
<b>Seconded:</b>	<b>Cr Waye</b>
<ol style="list-style-type: none"> <li>1. That Council adopt the draft Policy Acquisition of Road Building &amp; Other Commodities from non-Shire Controlled Land.</li> <li>2. The purchase price of 50 cents per m<sup>3</sup> including GST be included in the Policy and is reviewed during preparations of Annual Budget each year.</li> </ol>	
<b>Carried 8/0</b>	

Mr D Holland left the Council Chambers at 4.20pm and did not return.



### 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**

Nil

**Attachment:**

*Item 11.1.1 Attachment A – Statement of Financial Activity  
October 2020*

#### 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 31<sup>st</sup> 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**

<b>Risk:</b> Financial performance is not monitored against approved budget		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Minor	Moderate
<b>Action / Strategy</b>		
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

<b>OFFICE RECOMMENDATION AND COUNCIL DECISION</b>	
<b>Resolution OCM Nov 20 – 11.3.1</b>	
<b>Moved:</b>	<b>Cr Crooks</b>
<b>Seconded:</b>	<b>Cr Dolton</b>
<b>That the Statements of Financial Activity for the month ending 31st October 2020 as presented be received.</b>	
<b>Carried 8/0</b>	

<b>Agenda Reference and Subject:</b>	<b>11.3.2</b> List of Payments
<b>File Reference:</b>	8.2.3.3 Accounts Payable (Creditors)
<b>Reporting Officer:</b>	Jennifer Bow, Manager of Finance Officer
<b>Author:</b>	Mike Darby, Senior Finance Officer
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	<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**

<b>Risk:</b> Payments are not monitored against approved budget and delegation.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Minor	Moderate
<b>Action / Strategy</b>		
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

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 11.3.2**

Moved: Cr Kilminster

Seconded: Cr Foss

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.

Carried 8/0

**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:**

Nil

**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 Statue 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 2023.

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 1<sup>st</sup> 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**

<b>Risk:</b> That Council provides rates exemptions without considering all necessary information which would result in lower rates revenue being collected.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Minor	Low
<b>Action / Strategy</b>		
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 2023.

*Council decision varies to Officer Recommendation to negotiate for consideration of an ex gratia rate per unit.*

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 11.3.3**

**Moved: Cr Dolton**

**Seconded: Cr Negri**

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 2023.
3. Council directs its delegate for CEACA to seek negotiations through the CEACA Executive and member Councils for consideration of an ex gratia payment per unit.

**Carried 8/0**



<b>Agenda Reference and Subject:</b>	<b>11.3.4</b> Write off Sundry Debtor 84044
<b>File Reference:</b>	8.2.3.2 Accounts – Receivables (Debtors)
<b>Reporting Officer:</b>	Jennifer Bow, Manager of Finance Officer
<b>Author:</b>	Jennifer Bow, Manager of Finance Officer
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	<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 3<sup>rd</sup> 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**

<b>Risk:</b> That sundry debtors remain unpaid resulting in less revenue for the Shire.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Moderate	Moderate
<b>Action / Strategy</b>		
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

<b>OFFICE RECOMMENDATION AND COUNCIL DECISION</b>	
<b>Resolution OCM Nov 20 – 11.3.4</b>	
<b>Moved:</b>	<b>Cr Kilminster</b>
<b>Seconded:</b>	<b>Cr Waye</b>
<b>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.</b>	
<b>CARRIED BY ABSOLUTE MAJORITY 8/0</b>	

**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:**

Nil

**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**

<b>Risk:</b> That sundry debtors remain unpaid resulting in less revenue for the Shire.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Minor	Low
<b>Action / Strategy</b>		
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

<b>OFFICE RECOMMENDATION AND COUNCIL DECISION</b>	
<b>Resolution OCM Nov 20 – 11.3.5</b>	
<b>Moved:</b>	<b>Cr Dolton</b>
<b>Seconded:</b>	<b>Cr Kilminster</b>
<b>That Council write off the amounts owing by sundry debtor 84129, Mineral Crushing Services for the amount of \$7,333.34.</b>	
<b>CARRIED BY ABSOLUTE MAJORITY 8/0</b>	

**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:**

Nil

**Attachments:**

*Nil*

**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
<b>Total to Write Off</b>		<b>\$2,896.08</b>	

**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**

<b>Risk:</b> That sundry debtors remain unpaid resulting in less revenue for the Shire.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Moderate	Moderate
<b>Action / Strategy</b>		
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

<b>OFFICE RECOMMENDATION AND COUNCIL DECISION</b>	
<b>Resolution OCM Nov 20 – 11.3.6</b>	
<b>Moved:</b>	<b>Cr Waight</b>
<b>Seconded:</b>	<b>Cr Crooks</b>
<b>That Council instructs the CEO to write off the following debts by sundry debtors;</b>	
<b>1. Debtor 84016 = \$900.00;</b>	
<b>2. Debtor 83996 = \$1,516.08;</b>	
<b>3. Debtor 84097 = \$110.00; and</b>	
<b>4. Debtor 83251 = \$370.00</b>	
<b>CARRIED BY ABSOLUTE MAJORITY 8/0</b>	

<b>Agenda Reference and Subject:</b>	<b>11.3.7</b> Various Budget Amendments
<b>File Reference:</b>	8.2.7.1 Annual Budget
<b>Reporting Officer:</b>	Jennifer Bow, Manager of Finance Officer
<b>Author:</b>	Jennifer Bow, Manager of Finance Officer
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	<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
		<b>Total Drought Funding</b>	<b>\$500,000</b>

#### 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**

<b>Risk:</b> That the 2020-21 Budget does not reflect the forecast expenditure and revenue for the remaining financial year.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Almost Certain	Moderate	High
<b>Action / Strategy</b>		
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**

Revenue 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 - \$256,078**

Expenditure 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**

<b>Reallocation of Budget Revenue and Expenditure</b>			
	<b>Original 20-21 Budget</b>	<b>Amendment to 20-21 Budget</b>	<b>Amended Budget</b>
<b>Revenue</b>			
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
	<b>\$1,176,302</b>	<b>\$256,078</b>	<b>\$1,432,380</b>
<b>Expenditure</b>			
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
	<b>\$1,000,000</b>	<b>\$44,737</b>	<b>\$1,022,237</b>
<b>Net Funds Remaining Unallocated</b>		<b>\$211,341</b>	

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 Day Covid Safe - \$21,500
  - c. Thank a Volunteer Celebrations - \$1,000
- vi. Reduce capital expenditure:
  - a. Construction of Supermarket – reduce to \$901,880

*Officer Recommendation varied due to an offer of a donation from the Memorial House Committee of approximately \$217,000 towards construction of the supermarket and a re-evaluation of the funding of the supermarket, the Officer's Recommendation requires variation.*

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 11.3.6**

**Moved: Cr Waye**  
**Seconded: Cr Waight**

**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 - \$375,578
  - 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
  - e. GL 130304 – Supermarket Contributions & Donations - \$217,000
  - f. GL 130305 – Supermarket Loan Funding - \$313,000
- 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 Day Covid Safe - \$21,500
  - c. Thank a Volunteer Celebrations - \$1,000
- vi. Reduce capital expenditure:
  - a. Construction of Supermarket – reduce to \$901,880
- vii. Reallocation of remaining \$530,000 and the details of the proposed loan to be resolved at a Special Council Meeting in December 2020.

**CARRIED BY ABSOLUTE MAJORITY 8/0**

*Mrs JL Bow left the Council Chambers at 5.04pm and did not return.*

#### 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:**

Nil

**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

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 11.4.1**

**Moved:** Cr Foss

**Seconded:** Cr Kilminster

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

**Carried 8/0**

**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:**

Nil

**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

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 11.4.2**

**Moved:** Cr Waye

**Seconded:** Cr Crooks

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

**Carried 8/0**

**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:** Nil

**Attachments:** Nil

**Summary**

Council is asked to consider setting a date for the deferred Annual Electors’ Meeting originally scheduled for the 27<sup>th</sup> 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 27<sup>th</sup> 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**

<b>Risk:</b> 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.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Rare	Moderate	Moderate
<b>Action / Strategy</b> 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.

*Council decision varied to Officer Recommendation to determine a date for the Annual Elector’s Meeting.*

<p><b>COUNCIL DECISION</b>  <b>Resolution OCM Nov 20 – 11.4.3</b></p> <p><b>Moved:                      Cr Waight</b>  <b>Seconded:                 Cr Dolton</b></p> <p><b>That Council approves the date for the rescheduled Annual Electors’ Meeting as Wednesday, 9<sup>th</sup> December 2020 at 6.00pm and that this date be publicly advertised with the minimum of 14 days’ notice.</b></p> <p style="text-align: right;"><b>Carried 8/0</b></p>
--

*Mr J Goldacre entered the Council Chambers at 5.10pm.*



**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 <sup>3</sup>	\$47.00
	Bulk Demolition waste - per m3	Per m <sup>3</sup>	\$47.00
	Wrapped Asbestos Waste - per m3	Per m <sup>3</sup>	\$47.00
	Wrapped Asbestos contaminated soil - per m3	Per m <sup>3</sup>	\$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

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 11.4.4**

**Moved: Cr Waye**  
**Seconded: Cr Waight**

**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.**

**CARRIED BY ABSOLUTE MAJORITY 8/0**

## 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:

Nil

### Attachments:

*Item 11.5.1 Attachment A - Info Page - CEO Model Standards November 2020*

*Item 11.5.1 Attachment B - CEO Model Standards Explanatory Notes*

*Item 11.5.1 Attachment C - CEO Standards Consultation Draft*

*Item 11.5.1 Attachment D - Draft Model Standards CEO Recruitment and Performance Reviews Submission 2 November 2020*

*Item 11.5.1 Attachment E - Info Page - Code of Conduct November 2020*

*Item 11.5.1 Attachment F - Code of Conduct Explanatory Notes*

*Item 11.5.1 Attachment G - Code of Conduct Consultation Draft*

### 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 25<sup>th</sup> 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 6<sup>th</sup> 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 13<sup>th</sup> 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**

<b>Risk:</b> 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.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Likely	Moderate	Moderate
<b>Action / Strategy</b>		
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

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 11.5.1**

**Moved: Cr Waye**

**Seconded: Cr Foss**

**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**

**Carried 8/0**

*Mr A O'Toole left the Council Chambers at 5.28pm.*

*Mr A O'Toole returned to the Council Chambers at 5.31pm.*

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

**Agenda Reference and Subject:**

**12.1** Acquisition of Land for Construction of New Grocery Store

**File Reference:**

**Reporting Officer:**

Darren Mollenoyux, Chief Executive Officer

**Author:**

Jennifer Bow, Manager of Finance

**Disclosure of Interest:**

**Attachments:**

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 12.1.1**

**Moved:** Cr Dolton  
**Seconded:** Cr Waight

That Council resolves to accept to introduce 2 late agenda items be addressed at the meeting.

**Carried 8/0**

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 12.1.2**

**Moved:** Cr Waye  
**Seconded:** Cr Foss

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

**Carried 8/0**

**COUNCIL DECISION**

**Resolution OCM Nov 20 – 13.1.3**

**Moved:** Cr Dolton  
**Seconded:** Cr Waye

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

**Carried 8/0**



**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 12.1.4**

**Moved: Cr Waye**

**Seconded: Cr Negri**

**That Council resolves to:**

- i. Endorse the Shire President and Chief Executive Officer signing of the contract of sale and associated transfer documentation for 52 and 52A (Lots 15 and 19) Johnson Street, Bruce Rock, to purchase the land as offered by Mr David Mason, Sole Director, Edward Mason Enterprises Pty Ltd for \$30,000 excluding GST, including the following conditions of sale;**
  - a. That the land is purchased in the condition “as is”;**
  - b. That the generator located on 52A (Lot 19) Johnson Street, Bruce Rock is not included in the sale; and**
  - c. That the contract is subject to Council endorsing the actions of the Shire President and CEO in signing the contract;**
- ii. And, pay for all conveyancing and legal fees associated with the sale and transfer of the abovementioned land, as invoiced by Turbo Settlements, estimated at approximately \$1,200 (excluding GST).**

**Carried 8/0**

**Agenda Reference and Subject:**

**12.2** Disposal of Industrial Lots 437 & 438 Dampier St,  
Bruce Rock

**File Reference:** **3.1.4.6** Industrial Land

**Reporting Officer:** Darren Mollenoyux, Chief Executive Officer

**Author:** Darren Mollenoyux, Chief Executive Officer

**Disclosure of Interest:** Nil

**Attachments:** Nil

**Summary**

Council is asked to consider an offer to purchase two industrial lots, located at Council’s industrial subdivision, namely Lots 437 and 438 Dampier Street, Bruce Rock.

**Background**

At the August 2020 Ordinary Meeting Council resolved as follows;

1. That as part of Council’s commitment to the economic recovery of Bruce Rock it endorses the “COVID19 Business Economic Stimulus Package”, as presented.
2. That Council approves a 20% reduction on the sale price of its five industrial lots for a period of 12 months with the condition that a structure is required and building must commence within 12 months of settlement, with the new amounts as follows;

Lot 437 cnr Strange and Dampier Streets	\$20,700
Lot 438 Dampier Street	\$20,700
Lot 439 Dampier Street	\$18,400
Lot 440 Dampier Street	\$18,400
Lot 430 cnr Dampier and Noonajin Road	\$21,360

*The sale of the lots is to be undertaken in line with section 3.58 of the Local Government Act.*

Following recent advertising and promotion in accordance with Council’s Covid19 stimulus package, Council has received a written offer from Damion Verhoogt the Managing Director of Bruce Rock Engineering(Pundit Pty Ltd, ATF The Verhoogt Family Trust No 2) to purchase Lots 437 (76) and 438 (78) Dampier Street, Bruce Rock at \$20,700 for each lot.

Mr Verhoogt has confirmed that they are not intending to build a structure on the industrial lots under offer although lots will be filled, gravelled, graded and compacted and then used as a hardstand / laydown. Mr Verhoogt also advised that they are intending to construct a 12m x 24m dome shelter on 6 and 4 Strange Street, Bruce Rock, which is currently part of their existing land, as well as proceeding plans for their workshop extension on their existing lots.

A valuation has been obtained for ValWest on the lots under offer and have been valued as follows;

“Market value is the estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller in an arms length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.”

Lot 437 (76) Dampier Streets	\$19,250 inc gst
Lot 438 (78) Dampier Street	\$19,250 inc gst

### **Comment**

Council previously resolved that a condition of sale would be for the construction of a structure on sold lots must commence within 12 months of settlement. Whilst Bruce Rock Engineering have advised they do not intend to build a structure on the offered lots 437 and 438 Dampier Street, Council may wish to still accept the offer as there has not been a high demand for these industrial lots since developed several years ago.

Council may consider conditions on the sale, such as whilst approval may be granted not to build on the lots, that a requirement for installation of a link mesh fence, at minimum on the boundary of lots 436, 437 and 438 Dampier Street, Bruce Rock may be considered.

### **Consultation**

Mr Damion Verhoogt, the applicant  
Jennifer Bow, Manager of Finance  
Simon Brown, Valwest

### **Statutory Implications**

*Shire of Bruce Rock Local Planning Scheme No3;*

*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**

<b>Risk:</b> That the industrial lots not be sold, leading to continual loss of revenue for Council and potential loss of economic progress in the Shire.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Moderate	Moderate
<b>Action / Strategy</b>		
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**

There is currently no budget provision in 2020/21 for the sale of industrial lots, therefore Council will need to resolve to vary the budget to include income of sale of industrial land at \$41,400 inc gst.

**Strategic Implications**

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Infrastructure

2.2 – Encourage greater usage of current Council owned facilities

Economy

Goal 3: Assist the local economy to grow

3.7 – Leverage economic opportunities and development from successful local businesses

Goal 4: Workers and their families can work and reside in the Shire

4.3 – Promote existing residential land and plan for future commercial and residential land developments to meet current and future needs

Governance

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

**Voting Requirements**

Absolute Majority

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 12.2**

**Moved:** Cr Crooks

**Seconded:** Cr Foss

**That Council:**

1. 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 lots to Pundit Pty Ltd, ATF The Verhoogt Family Trust No 2, for the values stated below;

Lot 437 (76) Dampier Streets	\$20,700 inc gst
Lot 438 (78) Dampier Street	\$20,700 inc gst
2. That condition of sale is subject to
  - a) a requirement for Bruce Rock Engineering to install, at minimum, a 180cm high link mesh fence on the boundary of lots 436, 437 and 438 Dampier Street, Bruce Rock within 6 months of settlement.
3. That at the conclusion of the advertising period an item be presented to the December 2020 Ordinary Meeting of Council to consider any submissions, prior to the execution of the transfer of land documentation.
4. That Council resolves to vary the 2020/2021 budget to include income of \$41,400 inc gst for the Sale of industrial land.

**CARRIED BY ABSOLUTE MAJORITY 8/0**

**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:**

Nil

**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*

**COUNCIL DECISION**

**Resolution OCM Nov 20 – 13.1.1**

**Moved:** Cr Dolton

**Seconded:** Cr Foss

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

**Carried 8/0**

**COUNCIL DECISION**

**Resolution OCM Nov 20 – 13.1.2**

**Moved:** Cr Dolton

**Seconded:** Cr Waye

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

**Carried 8/0**

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Nov 20 – 13.1.3**

**Moved:** Cr Crooks

**Seconded:** Cr Kilminster

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

**Carried 8/0**

*Mr J Goldacre left the Council Chambers at 5.24pm and did not return.*

**14. Closure of Meeting.**

The Shire President Stephen Strange thanked everyone for their attendance and declared the meeting closed at 5.40pm.

These minutes were confirmed at a meeting on 17 December 2020.

---

Cr Stephen Strange  
Shire President  
17 December 2020



Shire of  
**Bruce Rock**

*Where friends become family*



# Agenda Attachments

Thursday 19 November 2020



**SHIRE OF BRUCE ROCK**  
**AGENDA ATTACHMENTS 19 November 2020**

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**SHIRE OF BRUCE ROCK**

**MINUTES – ORDINARY MEETING 15 OCTOBER 2020**

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**SHIRE OF BRUCE ROCK**

**MINUTES – ORDINARY MEETING 15 OCTOBER 2020**

**1. Declaration of Opening**

The Shire President Cr SA Strange declared the meeting open at 3.12pm.

**2. Record of Attendance/Apologies/Leave of Absence (Previously Approved)**

President	Cr SA Strange
Deputy President	Cr R Rajagopalan
Councillors	Cr AR Crooks
	Cr IS Dolton
	Cr KP Foss
	Cr NC Kilminster
	Cr PG Negri
	Cr BJ Waight
	Cr RA Waye
Chief Executive Officer	Mr DRS Mollenoyux
Deputy Chief Executive Officer	Mr A O’Toole
Executive Assistant	Mrs Melissa Schilling
Manager of Finance	Mrs JL Bow (3.35pm – 3.45pm)
Environmental Health Officer	Mr J Goldacre (4.31pm – 4.40pm)
Presentation	Mr Leigh Strange (3.12pm to 3.28pm)

**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
15.10.20	Cr ISA Dolton	11.3.2	Ex-Secretary of the Bowling Club and some input into the application.
15.10.20	Mr D Mollenoyux	11.3.2	Secretary of Bruce Rock Football Club
15.10.20	Cr Negri	11.3.2	I am a member of the Bruce Rock Bowling Club

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
15.10.20	Cr Negri	11.3.1	Joint owner of adjoining land

**4. Response to Previous Public Questions Taken on Notice**

**5. Public Question Time**

**6. Petitions/Deputations/Presentations/Submissions**

Leigh Strange, Bruce Rock Football Club

*Leigh Strange left the Council Chambers at 3.28pm.*

**7. Applications for Leave of Absence**

**8. Announcements by Presiding Member**

**9. Confirmation of Minutes**

Ordinary Meeting of Council held on Thursday 17 September 2020.

**COUNCIL DECISION**

**Resolution OCM Oct 20 – 9.1**

**Moved:** Cr Crooks

**Seconded:** Cr Dolton

**That the minutes of the Ordinary Meeting of Council held Thursday 17 September 2020 be confirmed as a true and correct record.**

**Carried 9/0**

Audit Committee Meeting of Council held on Thursday 17 September 2020.

**COUNCIL DECISION**

**Resolution OCM Aug 20 – 9.2**

**Moved:** Cr Waight

**Seconded:** Cr Foss

**That the minutes of the Audit Committee Meeting held Thursday 17 September 2020 be confirmed as a true and correct record.**

**Carried 9/0**

## 10. Regional Reports

<b>Agenda Reference and Subject:</b>	<b>10.1.1</b> WEROC Inc Meeting Minutes October 2020
<b>File Reference:</b>	1.6.9.1 WEROC Inc Meeting Agendas and Minutes
<b>Reporting Officer:</b>	Mr Darren Mollenoyux, Chief Executive Officer
<b>Author:</b>	Mr Darren Mollenoyux, Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	<i>Item 10.1.1 - WEROC Inc. Special General Meeting Minutes 011020</i>

### Summary

Council is asked to receive the minutes from the previous WEROC Inc Board Meeting.

### Background

The last WEROC Inc Board Meeting was held on the 1<sup>st</sup> October 2020 via videoconference.

### Comment

To encourage the WEROC Inc partnership and promote a better understanding by all Councillors it is recommended that WEROC Inc minutes be read and received by Council.

The following items are highlighted for Councils attention:

#### 4.1 Application for Membership

WEROC Inc received formal application for membership from the Shire of Tammin on the 1<sup>st</sup> September 2020. Tammin was requested to provide relevant information, confirm their commitment to the new WEROC Strategic Plan and a financial contribution to join.

The board considered the application and it was resolved to accept the Shire of Tammin's application to become a member of WEROC Inc. Their first meeting will be on the 26<sup>th</sup> November 2020.

**Consultation** Nil

**Statutory Implications** Nil

**Policy Implications** Nil

### Risk Implications

**Risk:** That Council does not receive the minutes or object to decisions of the WEROC Inc Board meeting.

Likelihood	Consequence	Rating
Rare	Insignificant	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 will be managed by routine procedure and is unlikely to need specific application of resources.

**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

**OFFICE RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Aug 20 – 10.1.1**

**Moved:** Cr Waye  
**Seconded:** Cr Waight

**That Council receives the minutes of the WEROC Board Meeting held on the 1st October 2020 via videoconference.**

**Carried 9/0**

*Mr A O’Toole left the Council Chambers at 3.33pm.  
Mr A O’Toole returned to the Council Chambers at 3.35pm.  
Mrs JL Bow entered the Council Chambers at 3.35pm.*

**11. Officers' Reports**

**11.1 Environmental Health Officer**

Nil

## 11.2 Manager of Finance

### Agenda Reference and Subject:

**11.2.1** 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

Nil

### Attachment:

*Item 11.1.1 Attachment A – Statement of Financial Activity  
September 2020*

### 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 30<sup>th</sup> September 2020 are available in the agenda attachment document.

### 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**

<b>Risk:</b> Financial performance is not monitored against approved budget		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Minor	Moderate
<b>Action / Strategy</b>		
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

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION</b>  <b>Resolution OCM Oct 20 – 11.2.1</b></p> <p><b>Moved: Cr Rajagopalan</b>  <b>Seconded: Cr Wayne</b></p> <p><b>That the Statements of Financial Activity for the month ending 30<sup>th</sup> September 2020 as presented be received.</b></p> <p style="text-align: right;"><b>Carried 9/0</b></p>
--

<b>Agenda Reference and Subject:</b>	<b>11.2.2</b> List of Payments
<b>File Reference:</b>	8.2.3.3 Accounts Payable (Creditors)
<b>Reporting Officer:</b>	Jennifer Bow, Manager of Finance Officer
<b>Author:</b>	Mike Darby, Senior Finance Officer
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	<i>Item 11.2.2 Attachment A – List of Payments September 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 September 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**

<b>Risk:</b> Payments are not monitored against approved budget and delegation.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Minor	Moderate
<b>Action / Strategy</b>		
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 AND COUNCIL DECISION**

**Resolution OCM Oct 20 – 11.2.2**

**Moved: Cr Waight**

**Seconded: Cr Negri**

**That Council endorse the list of payments from the:**

- 1. Municipal Account consisting of:**
    - a. EFT voucher numbers EFT16172 to EFT16309 totalling \$265,026.93**
    - b. Cheque number 24031 to 24033 totalling \$7,183.16**
    - c. Trust Cheques Nil**
    - d. Wages and Superannuation payments totalling \$185,966.27 and**
    - e. Credit Card payments \$335.54**
- With all payments totalling \$458,176.36 for the month of September 2020.**

**Carried 9/0**

*Mrs JL Bow left the Council Chambers at 3.45pm and did not return.*

### 11.3 Deputy Chief Executive Officer

**Agenda Reference and Subject:**

**11.3.1** Shire President Stamp

**File Reference:**

**Reporting Officer:**

Alan O’Toole, Deputy Chief Executive Officer

**Author:**

Melissa Schilling, Executive Assistant

**Disclosure of Interest:**

Nil

**Attachments:**

*Nil*

**Summary**

Use of Shire President Stamp September 2020

**Background**

Nil

**Comment**

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

- MOU between Bruce Rock Community Resource Centre and Shire of Bruce Rock

**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 AND COUNCIL DECISION**

Resolution OCM Oct 20 – 11.3.1

Moved: Cr Kilminster

Seconded: Cr Foss

**That Council endorse the use of the Shire President Stamp during September 2020.**

**Carried 9/0**

**Agenda Reference and Subject:**

**11.3.2** Community Crop Lease

**File Reference:**

2.4.1.11 Airstrip Cropping Program

**Reporting Officer:**

Alan O’Toole, Deputy Chief Executive Officer

**Author:**

Alan O’Toole, Deputy Chief Executive Officer

**Disclosure of Interest:**

CEO, Darren Mollenoyux (Closely Associated Person)

Cr Negri (Impartiality)

Cr Dolton (Impartiality)

**Attachments:**

*Item 11.3.2 - CONFIDENTIAL Expressions of Interest from Bruce Rock Football Club and Bruce Rock Bowling Club*

*Mr D Mollenoyux left the Council Chambers at 3.46pm.*

**Summary**

Council are asked to consider the Expressions of Interest (EOI) for allocation of the cropping right to its “Community Crop” located adjacent to the Bruce Rock airstrip, and award the Lease to the most suitable party.

**Background**

The Shire of Bruce Rock leases the cropping rights to the community crop located on the land immediately surrounding the Airstrip. The intention of this is to assist local community groups to raise funds for their activities and thus provide benefit to the wider community. For the past five years the lease of the community crop has been held by the Bruce Rock Football Club, but this Lease is due to expire on 28 February 2021.

At the September 2020 Ordinary Meeting, Council made the following resolutions:

1. *That Council call for Expressions of Interest, to be received from September 21 2020 to 5 October 2020, for the cropping rights to the Bruce Rock Community Crop for up to a maximum of five years.*
2. *That the Expressions of Interest be presented to Council in the form of a Report to the October 2020 Ordinary Meeting of Council.*

Following notices being placed in community information resources, at the close of business on 5<sup>th</sup> October 2020, EOIs were received from the Bruce Rock Bowling Club (the Bowling Club) and the Bruce Rock Football Club (the Football Club).

**Comment**

The Public Notice for Expressions of Interest requested that applicants signal their intentions for:

1. Future management of the area, and 2. Intent for the monies raised. A summary of each Club’s submission addressing these factors is below:
  - a) 1. The Bowling Club’s EOI states that they will form a Cropping Committee which will oversee the maintenance of the land, with work undertaken by its members, many of whom are farmers. Cropping rotation will be adopted with consideration of previous chemical use, the plant back period, and specific weeds to be targeted. Soil testing will be undertaken if required and crops planted in consideration of previous rotations, e.g. canola, then two cereals. Steps will be taken to prevent soil erosion and cropped land will be fertilised according to best practice. Chemical control of weeds and pests will be undertaken, and firebreaks maintained as per Council Policy.
  2. The Bowling Club intends to use monies raised from the cropping rights to contribute towards the replacement of the bowling green surface and attendant works. (A financial summary is contained in the confidential attachment).

The Bowling Club have requested a three year lease, and if there are funds additional to the green replacement, then these will be saved towards the next resurfacing in ten years' time, as to have a functioning bowling green is important to keep the community (all ages) healthy.

- b) 1. The Football Club's EOI includes details of how during their current five year lease they have both improved the quality of the land and also increased the area by reclamation. A program of rotation has been implemented which has seen crops of hay, canola, wheat and acid tolerant barley. They have also cleared the bush back to the original boundary, maintained the firebreaks and sprayed alongside the drive and along the rear of the building. The plan is to continue this management method and thus continually increase the quality and viability of the land.
2. The Football Club intends to use the monies raised from the cropping rights to secure the Club's ongoing financial viability. As well as their core activities, they also organise and otherwise contribute to community events. Fundraising and awareness activities focus on youth development and rural men's health and there is also a women's team which played in the annual EDFL carnival. The Football Club have requested a five year lease and if successful in obtaining this, have stated they will make an annual \$500 donation to both the St John Ambulance and Royal Flying Doctor Service.

Both of the EOIs are Confidential attachments to this report

**Consultation**

Melissa Schilling – Executive Assistant  
 Caris Negri – Community Development Officer

**Statutory Implications**

Nil

**Policy Implications**

Nil

**Risk Implications**

<b>Risk:</b> That the cropping rights to the Community Crop are not leased and therefore this important asset and the benefits from its revenue are lost to the Bruce Rock community.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Rare	Moderate	Moderate
<b>Action / Strategy</b>		
That a Lease to the Community Crop be granted to a party able to make best use of the resource.		

**Financial Implications**

There is no cost associated with the lease.

**Strategic Implications**

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Infrastructure

2.2 Encourage greater usage of current Council owned facilities

Governance

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

**Voting Requirements**

Simple Majority

**Officer Recommendation**

1. That Council considers the Expressions of Interest and awards the cropping rights to the Community Crop to \_\_\_\_\_ for a period of \_\_\_\_\_ years.

*Council decision varied to Officer Recommendation to outline the awarding of the cropping lease to the successful applicant and terms of the lease, following the consideration of needs, merit, planned cropping program and community benefits of both submissions.*

**COUNCIL MOTION**

**Resolution OCM Oct 20 – 11.3.2.1**

**Moved: Cr Dolton**

**Seconded: Cr**

1. That Council considers the Expressions of Interest and awards the cropping rights to the Community Crop to Bruce Rock Bowling Club for a period of 3 years.

**Motion Lapsed due to lack of a seconder.**

**COUNCIL DECISION**

**Resolution OCM Oct 20 – 11.3.2.2**

**Moved: Cr Waye**

**Seconded: Cr Foss**

1. That Council considers the Expressions of Interest and awards the cropping rights to the Community Crop to Bruce Rock Football Club for a period of 3 years.

**Carried 6/3**

*Mr D Mollenoyux returned to the Council Chambers at 4.09pm.*

*Cr Waye left the Council Chambers at 4.10pm.*

**Agenda Reference and Subject:**

**11.3.3** Amendment to the Vehicle and Fuel Usage Policy

**File Reference:**

2.3.1.1 Policy Manual

**Reporting Officer:**

Alan O’Toole, Deputy Chief Executive Officer

**Author:**

Alan O’Toole, Deputy Chief Executive Officer

**Disclosure of Interest:**

Nil

**Attachments:**

*Item 11.3.4 Attachment A – Vehicle and Fuel Usage Policy*

**Summary**

Council is requested to consider and endorse the amendment to Policy 9.1 “Vehicle and Fuel Usage.”

**Background**

Council Policy on Vehicle and Fuel Usage requires some minor amendment to reflect accurately the purpose and intent of allowing Private Use of vehicles while on leave.

**Comment**

It has been noted that there has been some confusion regarding the allowed usage of Shire owned vehicles for staff who have Private Use as part of their employment conditions. This issue has been clarified by the addition of the following clause:

**Use of Vehicles while on Leave**

For those staff members, (excluding the CEO), who have been granted Private Use of vehicles as part of their employment conditions, when on leave this right only extends to periods of Annual or Personal (Sick) leave. It does not extend to **any** other types of leave, including Long Service Leave, Parental (e.g. Maternity/Paternity) Leave, or Unpaid Leave (e.g. Leave Without Pay).

(The CEO may, upon application, be granted use of the allocated vehicle while on Long Service Leave, following approval by Council).

The updated Policy is attached.

**Consultation**

Chief Executive Officer, Darren Mollenoyux

Manager of Finance, Jennifer Bow

**Statutory Implications**

Nil

**Policy Implications**

Amended Policy 9.1 – Vehicle and Fuel Usage

**Risk Implications**

**Risk:** That Council does not adopt the amended Policy, which could potentially lead to further confusion in the future regarding access to Shire-owned vehicles while on leave.

Likelihood	Consequence	Rating
Rare	Moderate	Moderate

**Action / Strategy**

Council adopts the amendment as recommended in the Report.

**Financial Implications**

Nil



**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** Absolute Majority

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Oct 20 – 11.3.3**

**Moved: Cr Rajagopalan**

**Seconded: Cr Waight**

**That Council adopts the amended Policy 9.1 regarding Vehicle and Fuel Usage.**

**Carried /08**

*Cr Waight returned to the Council Chambers at 4.14pm.*

#### 11.4 Chief Executive Officer

**Agenda Reference and Subject:**

**11.4.1** CEO Annual Leave Request

**File Reference:**

Personnel

**Reporting Officer:**

Darren Mollenoyux, Chief Executive Officer

**Author:**

Darren Mollenoyux, Chief Executive Officer

**Disclosure of Interest:**

Darren Mollenoyux, Chief Executive Officer

**Attachments:**

*Nil*

#### Summary

Council is asked to consider approval of annual leave for the Chief Executive Officer and appoint an Acting CEO during his absence.

#### Background

The Chief Executive Officer is seeking annual leave during the 2020 Christmas and January 2021 period.

The CEO's leave proposed leave is as follows;

**25<sup>th</sup> Dec 2020 to 3<sup>rd</sup> January 2021** – The office is closed during this period and as all other staff are also on leave I will still be on call and therefore no Acting CEO is required to be appointed. The CEO will be taking 2 Executive Leave Days, 3 Public Holidays and 1 Annual Leave days during this period.

**4<sup>th</sup> January 2021 up to and including the 26<sup>th</sup> January 2021** – The CEO will be taking 16 Annual Leave days, 1 Public Holiday during this period. There will be a requirement to appoint an Acting CEO during this period.

Adequate Annual Leave is accrued to take the requested leave.

The CEO will still be on call for the period between Christmas and New Year while the Shire Office is closed and adequate arrangements have been put in place to cover harvest ban readings during this period.

#### Comment

January is generally a quiet time, there is no Council meeting and the majority of the Works Crew are on leave.

I have held discussions with the Deputy CEO, Alan O'Toole and I am confident that Alan is capable and suitable to be appointed as Acting CEO during this period. Other Senior Managers will be working during this period to also support Alan.

#### Consultation

Deputy Chief Executive Officer, Alan O'Toole (Deputy Returning Officer)

#### Statutory Implications

Local Government Act 1995

In particular:

5.36. *Local government employees*

(1) *A local government is to employ –*

(a) *a person to be the CEO of the local government; and*

- (b) *such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.*

5.39. *Contracts for CEO and senior employees*

- (a) *an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting*

**Policy Implications** Nil

**Risk Implications**

<b>Risk:</b> That adequate staffing resources are not available to cover the CEO’s period of absence.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Minor	Low
<b>Action / Strategy</b>		
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 will be managed by routine procedure and is unlikely to need specific application of resources.		

**Financial Implications**

It is general practice that the Acting Chief Executive Officer is paid higher duties during this time. This is budgeted for in the annual salaries and wages provision.

**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

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION</b>  <b>Resolution OCM Oct 20 – 11.4.1</b></p> <p><b>Moved: Cr Rajagopalan</b>  <b>Seconded: Cr Foss</b></p> <p><b>That Council:</b></p> <ol style="list-style-type: none"> <li>Approve the annual leave of the Chief Executive Officer, Darren Mollenoyux for the period commencing on 4th January 2021 to 26th January 2021, inclusive.</li> <li>Appoint the Deputy Chief Executive Officer, Alan O’Toole as the Acting Chief Executive Officer for the period from 4th January 2024 to 26th January 2021 inclusive and that Alan is paid at higher duties, equivalent to the current CEO, during this period.</li> </ol> <p style="text-align: right;"><b>Carried 9/0</b></p>
--

**Agenda Reference and Subject:**

**11.4.2** Firewood Collection

**File Reference:**

6.1.2.10 Permission to Remove Dead Wood

**Reporting Officer:**

Darren Mollenoyux, Chief Executive Officer

**Author:**

Darren Mollenoyux, Chief Executive Officer

**Disclosure of Interest:**

Nil

**Attachments:**

*Attachment A – Guide for exemptions of clearing regulations*

*Attachment B – Firewood facts sheet*

*Attachment C – Crown Land Supplier’s License*

**Summary**

Council is asked to review its current practice of issuing permits for the collection of firewood within Council owned/controlled road reserves.

**Background**

Following a letter received from a member of the public, Council requested staff to undertake a review of the wood collection permits and the process currently administered by the Shire of Bruce Rock.

Currently permits are issued for local residents to collect firewood from Council controlled road reserves for personal use and to meet the requirements and required practices of wood collection. Each year the Shire issues between 6 to 13 permits, however in 2020 only 3 permits were issued.

**Comment**

The CEO initially contacted neighbouring Councils to ascertain their position on the issuing of firewood collection permits, where it was identified that this practice has been phased out in most Shires of the past 5 years.

Contact was made with the Environmental Team of WA Local Government Association to investigate parameters and requirements of wood collection. In addition, Council’s NRMO has also undertaken research through the Department of Biodiversity, Conservation and Attractions.

The following information gathered from WALGA and the Department of Biodiversity, Conservation and Attractions highlighted that Council needs to review its current firewood collection permit process and guidelines, whilst determining the practicalities of continuing the practice versus the benefit to the community.

***Legislative context***

*The discussion below gives the legislative framework within which a Local Government could consider granting approval for individuals to take firewood from any of its Reserves.*

*Division 2 of Part 5 of the Environmental Protection Act 1986 (EP Act) regulates the clearing of native vegetation. In general, clearing of native vegetation is not permitted unless a permit is granted by the Department of Environment and Water Regulation (DWER). The taking of wood for firewood is considered clearing under the EP Act but is exempt from requiring a permit in certain circumstances, as follows:*

- The wood is not live;*
- It is carried out by the land owner or occupier, or the land owner or occupier has granted a permit to a third party;*

- *It is used for non-commercial purposes;*
- *Firewood already cleared is not available; and*
- *The total taken is no more than 5 ha per year – extremely difficult to calculate for firewood.*

*Schedule 5 of the EP Act sets out ten (10) Principles where native vegetation should not be cleared, one of which is “it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna.”*

*The definition of clearing also refers to ‘killing or destruction’, and a precautionary interpretation of this would be excessive trampling of vegetation.*

***The role of Local Government in controlling the taking of firewood from its reserves***

*An individual is not allowed to take firewood from a Local Government Reserve unless they have a permit from that Local Government.*

*Arguably, Division 2 of Part 5 of the Environmental Protection Act 1986 (EP Act) gives the ‘head of power’ to establish a permitting process (this is not a legal opinion!)*

*In summary, Local Governments can permit the collection of firewood from its reserves provided that:*

- *The wood is not live;*
- *It is for personal use only;*
- *The wood is not a habitat for fauna;*
- *No other damage is caused to other vegetation; and*
- *It limited 5 ha per year.*

***Some practical considerations***

*It is open to a Local Government to NOT allow the taking of firewood from its reserves, however small Local Governments are unlikely to have the resources to police this. As well, uncontrolled taking of firewood is more likely to cause significant damage to the vegetation than controlled taking of firewood where conditions can be applied. Granting a permit with appropriate conditions would also act as an educative opportunity, even if policing the permit is difficult for the Local Government.*

*With respect to the 5 ha rule, translating the volume of firewood into an area of native vegetation is very difficult, and it is suggested that a pre-cautionary approach is taken where the number of permits granted is limited and the number of trailer loads/utes is also limited.*

Any person collecting firewood needs to abide by the terms of the permit which need to include the following conditions;

*Council has granted you permission to collect firewood on Shire road verges or reserves within the Shire of \_\_\_\_\_ for a one year period subject to the following conditions:*

- 1. Only dead timber is taken;*
- 2. Timber which is habitat for fauna is not to be taken – notably logs with hollows or have active nests for insects;*
- 3. The timber is used for your personal use and not sold for commercial gain;*
- 4. Vehicles are parked in a safe manner and are not causing a hazard for vehicles using a road,*
- 5. Vehicles are parked on existing tracks or areas already cleared;*
- 6. When removing timber, trampling of vegetation is to be minimised and no damage is caused to other shrubs, bushes and trees;*
- 7. You are limited to one standard trailer load;*
- 8. The day after you remove the firewood, you notify the CEO the locations from which you have taken the firewood;*
- 9. OR Before you collect the firewood you are to notify which areas you will take firewood from;*
- 10. You operate any machinery in a safe manner; and*

11. *The areas you work in, including where vehicles are parked and any sawing of timber, is left in a safe and tidy manner, ensuring that any leftover materials will not cause a future hazard by blowing or being washed onto the road and that working near roads can be hazardous*

Additional Information Provided by the Department of Biodiversity, Conservation and Attractions

*“Attached is our factsheet that goes with the receipt of payment which constitutes a permit to collect firewood from a designated area up to one tonne for personal use. The details we collect are name, address, vehicle registration, date of collection and the location of collection which is noted on the receipt and an excel spreadsheet. Should a breach occur through this system it is managed under the Conservation and Land Management Regulations as there are designated areas set aside for firewood.*

*This is not the same for private property or Shire managed land and has been defined under the Biodiversity Conservation Act 2016 that the flora needs to be taken and supplied lawfully. In this case a supplying licence would need to be acquired through licensing demonstrating that the flora has been taken lawfully and then gifted to the public. I have attached a copy of this licence”*

Due to the conditions listed above it will be extremely difficult to administer the requirements, and will create a significant increase in workloads for issuing permits and policing, in particular the ability to monitor the 5ha per year rule.

If Council does not continue the practice of issuing permits (as with most other Councils) we are not required to monitor. However it is acknowledged that this could result in collection being “open slather,” as at least the permit does provide some educational approach to the collection of firewood.

Both WALGA and the Department of Biodiversity, Conservation and Attractions were not able to provide a definitive ‘yes’ or ‘no’ as to continuing with the practice of issuing wood collection permits.

As with many other local governments, Council may resolve to cease the practice due to the complex requirements and not being able to adequately ensure full legislative compliance going forward.

**Consultation**

Amanda Schilling, Natural Resource Management Officer  
Environmental Team at WA Local Government Association  
Fauna Staff at the Department of Biodiversity, Conservation and Attractions

The CEO also held conversations and sought responses on how other neighbouring Councils handled wood collection within their road reserves.

**Statutory Implications**

- Local Government Act 1995
- Shire of Bruce Rock’s Activities on Thoroughfares Local Law 2004 (amended 2019)
- Environmental Protection Act 1986 (EP Act)

Division 2 of Part 5

Regulates the clearing of native vegetation. In general, clearing of native vegetation is not permitted unless a permit is granted by the Department of Environment and Water Regulation (DWER). The taking of wood for firewood is considered clearing under the EP Act but is exempt from requiring a permit in certain circumstances, as follows:

- The wood is not live;
- It is carried out by the land owner or occupier, or the land owner or occupier has granted a permit to a third party;
- It is used for non-commercial purposes;
- Firewood already cleared is not available; and

- The total taken is no more than 5 ha per year – tricky to calculate for firewood.
  - Under the Biodiversity Conservation Act 2016
    - 171. Taking flora
      - (1) A person must not take flora on Crown land unless the person —
        - (a) is engaged in clearing that does not involve the commission of an offence under the Environmental Protection Act 1986 section 51C; or
        - (b) otherwise has lawful authority to take it. (b) in any other case — a fine of \$50 000.
      - (2) A person must not take flora on private land unless the person is an owner or occupier of the land or is authorised in the prescribed way to take it by an owner or occupier of the land.
        - Sub (b) in any other case — a fine of \$50 000.
    - 176. Supplying flora
      - (1) A person must not supply flora except under the authority of a licence.
      - (e) in any other case — a fine of \$50 000.
- Both these offences come with an infringement of \$2500.

**Policy Implications**

Whilst no formal policy exists a Firewood Collection Permit outlining the requirements is issued upon request.

**Risk Implications**

<b>Risk:</b> If Council continues to issue firewood collection permits and breaches occur we are unable to meet the legislative requirements both the permit holder and Council may risk substantial financial penalties.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Likely	Major	High
<b>Action / Strategy</b>		
Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring.		

**Financial Implications**

There is no fee or charge associated with the Firewood Collection Permits, however should Council seek to continue this practice the administrative cost is considerable, including the policing of requirements such as the annual wood taken calculations and ensuring that permit holders are only taking within the required area and their limit of 1 trailer load.

**Strategic Implications**

*Shire of Bruce Rock – Strategic Community Plan 2017-2027*

Governance

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

Goal 13 – Core environmental services help protect our natural environment

13.1 – Proactively manage reserves and natural bushland

**Voting Requirements** Simple Majority

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Oct 20 – 11.4.2**

**Moved: Cr Rajagopalan**

**Seconded: Cr Waye**

- 1. Council ceases the issuing of firewood collection permits on Council owned road reserves effective 15th October 2020.**
- 2. The three current permit holders be advised in writing that their permits are cancelled.**
- 3. That staff undertake a public education campaign through various advertising methods informing the community of the prohibition of taking any wood, whether dead or alive, from any lands under the Shire of Bruce Rock's control.**

**Carried 9/0**



<b>Agenda Reference and Subject:</b>	<b>11.4.3</b> Bruce Rock CRC – Council Representatives
<b>File Reference:</b>	1.3.11.1 Bruce Rock Community Resource Centre
<b>Reporting Officer:</b>	Darren Mollenoyux, Chief Executive Officer
<b>Author:</b>	Darren Mollenoyux, Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	<i>Nil</i>

**Summary**

Council is asked to consider a request from Bruce Rock Community Resource Centre seeking a Council representative on their committee.

**Background**

The Bruce Rock Community Resource Centre have written to advise that they are holding their Annual General Meeting and as per their constitution Council is required to have a sitting representative on their Committee.

**Comment**

Cr Kilminster is the current delegate and Cr Waye is the proxy. Following discussions with the current representatives they have indicated their preference to switch places and it is asked that Council consider their appointment.

**Consultation**

Rochelle Guest, Bruce Rock CRC Coordinator  
 Caris Negri, Community Development Officer  
 Cr Natalie Kilminster  
 Cr Rebecca Waye

**Statutory Implications** Nil

**Policy Implications** Nil

**Risk Implications**

<b>Risk:</b> Council does not support the increase, then a risk of not being a member may occur and we may not receive tourism benefits for our community.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Minor	Low
<b>Action / Strategy</b>		
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.		

**Financial Implications** Nil

**Strategic Implications**

*Shire of Bruce Rock Strategic Community Plan 2017-2027*

*Infrastructure*

*3.5 – Improve signage, infrastructure and aesthetics to link both sides of the Bruce Rock main street that encourages patronage and a reason to visit /stop*

*Goal 6 – Tourism helps to diversify our local economy*

*6.1 - Promote our attractions, amenities and activities in a coordinated approach*

*Governance*

*12.5 – Lead the organisation in a financially responsible and viable manner*

**Voting Requirements** Simple Majority

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Oct 20 – 11.4.3**

**Moved: Cr Foss**

**Seconded: Cr Waight**

**That Council appoints Cr Rebecca Waye as its representative on the Bruce Rock Community Resource Centre Committee and Cr Natalie Kilminster as the Proxy until the October 2021 Council Election.**

**Carried 9/0**

**Agenda Reference and Subject:**

**11.4.4** Light Vehicle Fleet Replacement Policy

**File Reference:**

2.3.1.1 Policy Manual

**Reporting Officer:**

Darren Mollenoyux, Chief Executive Officer

**Author:**

Darren Mollenoyux, Chief Executive Officer

**Disclosure of Interest:**

Nil

**Attachments:**

*Attachment A – Draft Policy 9.4*

**Summary**

Council is asked to consider adopting a new policy to provide guidance in the changeover of its light fleet vehicles.

**Background**

The 2018/2019 audit that was completed by the Auditor General in February 2020 and as part of the management letter the following was reported;

*“Item 3. VEHICLE MANAGEMENT PRACTICES*

*Finding*

*We noted that the Shire does not have a vehicle fleet management policy. We understand that vehicles are sold after reaching a set mileage, and this may result in vehicles being replaced within a short period (ie within 12 months). However, without a formal policy to support the approach, it is unclear whether the Shire has assessed the cost/benefits of this practice.*

*During our review of vehicle sales in 2018-19 we also identified the following:*

- For the July 2018 transaction the quoted price from the selected supplier did not agree to the purchase order price or the final sales invoice price. All 3 prices were different.*
- For the May 2019 transaction, 1 of the 3 supplier quotes obtained did not include a vehicle trade-in price from that supplier. Instead, there was a hand written amount within that quote which appears to be a trade-in price.*

*Rating: Minor*

*Implication*

*Without a vehicle fleet management policy, there is a greater risk that the Shire will not be getting the best value for money from its vehicle purchases.*

*Unresolved discrepancies between quotations, purchase orders and invoices can increase the risk of financial loss or fraud. They can also result in non-compliance with the Shire’s procurement policy.*

*Recommendation*

*The Shire should*

- (1) develop a vehicle fleet management policy. When developing this policy, the Shire should assess whether current practices reflect the best value for money*
- (2) investigate and resolve the discrepancies in the quotations identified above.*

*Management Comment*

*Management will develop a policy for vehicle fleet management. Management will also direct staff involved in procurement and purchasing to ensure that all steps in the procurement process are followed.*

*Responsible Person: MOF*

*Completion Date: 30th September 2020*

**Comment**

As per the recommendation from the Auditor General a Policy has been drafted that will assist Council and staff in providing guidance in the changeover and trade practices for its light fleet vehicles, whilst still ensuring the ability to still obtain value for money when considering the trade of light fleet vehicles.

As Council is aware, the market for light fleet vehicles can fluctuate considerably and a strictly defined Policy would prohibit Council from obtaining value for money with trades. This was most recently evidenced when quotes were received for a vehicle at 15,000km with the average changeover around \$8,000 and for the same vehicle at 30,000km new quotes were obtained with a changeover at \$3,000.

The new Policy would still require budget provision and any changeover/purchase to be undertaken in line with Council’s Purchasing Policy.

**Consultation**

Jennifer Bow, Manager of Finance  
David Holland, Manager of Works and Services

**Statutory Implications**

Local Government Act 1995  
Local Government (Functions & General) Regulations 1996

Audit Report - Local Government Act 1995 s. 7.9 and Local Government (Audit) Regulations 1996 r.9 & 10.

Management Letter - Section 7.9 & 7.12A of Local Government Act 1995 s7.9 & 7.12A and Local Government (Audit) Regulations 1996 r.9 & 10.

**Policy Implications**

Council Policy 2.7 Purchasing

**Risk Implications**

<b>Risk:</b> Compliance – Non-compliance with relevant sections and regulations of the Local Government Act 1995.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Moderate	Moderate
<b>Action / Strategy</b>		
This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedures Risk Matrix. The perceived level of risk is considered to be “Medium” risk and will be managed to mitigate the risks associated with each of the areas of the financial audit.		

**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

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

**Voting Requirements** Absolute Majority

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Oct 20 – 11.4.4**

**Moved: Cr Waight**

**Seconded: Cr Foss**

**That Council adopt the new Policy 9.4 Light Fleet Vehicle Replacement, as presented.**

**Carried by absolute majority 9/0**

**Agenda Reference and Subject:**

**11.4.5** Cricket Training Facility Power Request

**File Reference:**

8.2.7.1 Annual Budget

**Reporting Officer:**

Darren Mollenoyux, Chief Executive Officer

**Author:**

Darren Mollenoyux, Chief Executive Officer

**Disclosure of Interest:**

Nil

**Attachments:**

*Nil*

**Summary**

The Bruce Rock Cricket Club are seeking the reinstatement of power to their training facility and requesting Council’s commitment to resolving the situation.

**Background**

In 2019 the installation of the new lighting (including power upgrade) was undertaken for the synthetic hockey turf with a mains power connection being installed on the old basketball courts. Western Power have since identified that the main power pole in the RV site (which only powered the cricket training facility) was no longer legal as it was classed as a secondary line onto the same reserve. Therefore, Western Power disconnected the power pole leaving the Cricket Club with no power to their training facility.

Alternative power sources were sought but there are no suitable options other than to run a new internal line from the new mains power that was installed on the old basketball court. In the interim the Cricket Club have been bringing a generator to training each week to run their ball machine, which is not ideal.

**Comment**

Staff have worked with Cricket Club representatives to investigate various options including the reinstatement of power, a battery pack for current ball machine and a new ball machine with charger.

The life cycle costing of installation of permanent power being reconnected to the site versus purchasing the correct rechargeable batteries or new machine options with built in charger evidences that it is more economical in the long term to reinstate power supply to the training facility.

The electrical contractor quote is \$3,126 ex gst  
Council costs for trenching approximately \$800

As there was previously power provided to this site the Cricket Club are seeking Council’s consideration to reinstating the power, however their President advised that under Council’s current financial pressures they would make do for this current season and would like to see this project budgeted in 2021/2022 in readiness for the 2021 cricket season.

**Consultation**

Caris Negri, Community Development Officer  
David Holland, Manager of Works & Services  
Bruce Rock Cricket Club, Keenan Verhoogt and Angus Padfield  
Colestan Electrics

**Statutory Implications** Nil

**Policy Implications** Nil

**Risk Implications**

<b>Risk:</b> If budget allocation is not awarded then the project will not proceed.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Moderate	Moderate
<b>Action / Strategy</b>		
If budget or grant funding is not approved the cricket club will continue to not have access to power at their training facility.		

**Financial Implications**

Allocation of \$4,000 in the 2021/2022 Budget for the installation of power to the cricket training facilities at the Bruce Rock Recreation Centre.

**Strategic Implications**

Shire of Bruce Rock Strategic Community Plan 2017-2027

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

Goal 7: Our community are engaged and have a healthy lifestyle

Governance

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

12.5 – Lead the organisation in a financially responsible and viable manner.

**Voting Requirements** Absolute Majority

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION</b>  <b>Resolution OCM Oct 20 – 11.4.4</b></p> <p><b>Moved: Cr Wayne</b>  <b>Seconded: Cr Kilminster</b></p> <p><b>That;</b>  <b>i. Council makes budget provision of \$4,000 in the 2021-22 Budget towards the installation of power to the cricket training facility located at the Bruce Rock Recreation Centre.</b>  <b>ii. The Community Development Officer research and apply for any suitable grant funding towards this project.</b></p> <p style="text-align: right;"><b>Carried 9/0</b></p>
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*Cr Waight left the Council Chambers at 4.28pm.*

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

**13. Confidential Items**

**Agenda Reference and Subject:**

**13.1** CEO Performance Appraisal 2020

**File Reference:**

Personnel

**Reporting Officer:**

Darren Mollenoyux, Chief Executive Officer

**Author:**

Darren Mollenoyux, Chief Executive Officer

**Disclosure of Interest**

Darren Mollenoyux, Chief Executive Officer

**Attachments**

*Confidential Report from John Phillips Consulting*

**COUNCIL DECISION**

**Resolution OCM Oct 20 – 13.1.1**

**Moved:** Cr Rajagopalan

**Seconded:** Cr Kilminster

**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;**

**Carried 9/0**

**COUNCIL DECISION**

**Resolution OCM Oct 20 – 13.1.2**

**Moved:** Cr Rajagopalan

**Seconded:** Cr Kilminster

**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;**

**Carried 9/0**



**COUNCIL DECISION**

**Resolution OCM Oct 20 – 13.1.3**

**Moved: Cr Rajagopalan**

**Seconded: Cr Crooks**

**Report Recommendation**

- (1) Notes that Mr Darren Mollenoyux’s Performance Review in his role as Chief Executive Officer for the Shire of Bruce Rock 2020 annual appraisal has been undertaken;**
- (2) Endorses Mr Mollenoyux’s overall rating of ‘Exceeds Performance Requirements’, and commends him for his work during 2019/20;**
- (3) Endorses the Key Performance Indicators for the 2020/21 appraisal period;**
- (4) Schedules the next review of the CEO’s performance to be commenced by 1 August 2021 and completed by the September 2021 Ordinary Meeting of Council.**
- (5) Notes that Mr Mollenoyux has elected to not apply for an increase to his Total Reward Package due to the prevailing economic and public health circumstances, and thanks him for leading by example.**

**Carried 9/0**

*Mr J Goldacre entered the Council Chambers at 4.31pm.*

**Agenda Reference and Subject:**

**13.2** Landfill Site Operation and Management Service  
Contract and Waste Collection Service Key  
Performance Indicators Review for September  
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:**

Nil

**Attachments:**

*Item 13.2 Attachment A – Landfill site operation and  
management service KPIs SEPTEMBER 2020;*  
*Item 13.2 Attachment B – Waste Collection Service KPIs  
September 2020*

**COUNCIL DECISION**

**Resolution OCM Oct 20 – 13.2.1**

**Moved:** Cr Rajagopalan

**Seconded:** Cr Kilminster

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

**Carried 9/0**

**COUNCIL DECISION**

**Resolution OCM Oct 20 – 13.1.2**

**Moved:** Cr Rajagopalan

**Seconded:** Cr Kilminster

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

**Carried 9/0**

**COUNCIL DECISION**

**Resolution OCM Oct 20 – 13.1.3**

**Moved: Cr Rajagopalan**

**Seconded: Cr Foss**

**That Council resolves to:**

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

**Carried 9/0**

*Mr J Goldacre left the Council Chambers at 4.40pm and did not return.*

**14. Closure of Meeting.**

The Shire President Stephen Strange thanked everyone for their attendance and declared the meeting closed at 4.40pm.

These minutes were confirmed at a meeting on 19 November 2020.

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Cr Stephen Strange  
Shire President  
19 November 2020

<b>Policy Name:</b>	<b>9.6 Acquisition of Road Building &amp; Other Commodities from non-Shire Controlled Land</b>
<b>Department:</b>	Works and Services
<b>Date Adopted:</b>	19 <sup>th</sup> November 2020
<b>Last Reviewed:</b>	

**Preamble** Policy in respect to the purchase price paid for road building materials and other commodities acquired with owner’s approval, from non-Shire controlled land.

**Objective** To ensure that Council’s royalty payment to landowners considers the value of the materials acquired, the “opportunity loss” for the purposes of production during the period of extraction, and the estimated impact on the production income of the landowners.

**Policy** The following guidelines are to be followed when acquiring road building and other commodities from non-Shire controlled land.

1. Where the required quantity, quality or type of material is not available from Shire controlled areas and the material may be available from private property, the following procedure is to be followed:
  - a. Request permission to search for materials from the owner. (Entry/extraction powers under are to be used only as a last resort).
  - b. Calculate the approximate requirement for the project (or yearly requirement of material from the proposed pit) and the expected life of the pit.
  - c. If suitable material is located, a written agreement is to be reached with the owner regarding compensation for materials to be removed.
  - d. Priority must be given at all times to reasonable negotiation to reach an amicable written agreement which is mutually acceptable to the Shire and the landowner.
  - e. Should agreement for the removal of materials not be reached with the owner, procedures to resume an area sufficient for immediate and future needs may be instituted by specific decision of Council.
2. Compensation, taking the form of works, is not to exceed the calculated value of the royalty eligible to be paid.
3. Rehabilitation and reinstatement is separate to compensation, and has the aim of returning the land to its prior purpose and use.
4. All matters are to be agreed in writing and signed by the CEO or Manager of Works and Services on behalf of the Shire, prior to removal of any materials.

## **Application**

5. Compensation shall be agreed in writing prior to excavation, and may take the form of–
  - a. payment;
  - b. works on the owner’s property such as grading, gravel sheeting, drainage works, additional crossovers etc;
  - c. resumption of the portion of land on which the materials are located will be at a mutually acceptable rate;
  - d. compensation must be calculated in proportion to the volume of material extracted, and the impact of the activity on the property.
  
6. The rate of compensation –
  - a. on the basis of volume or tonnage as set by Council from time to time;
  - b. may be increased by not more than 10% on the rate set by Council, should the next nearest suitable source add a significant cost or time of the Shire works.
  
7. Works to rehabilitate the pit once materials have been removed may take place and will be such works as agreed on in writing before excavation commences. These works may include –
  - a. minor levelling,
  - b. over burden imports & spreading,
  - c. stockpiling of original topsoil and spreading after extraction is completed.
  
8. Council reserves the right to enforce its rights to extract gravel by legal means if arrangements cannot be made with landholders.
  
9. The principles of this Policy are to apply to taking of sand or other material to the extent relevant.
  
10. Gravel royalty to be paid is 44 cents - 55 cents per m3.

## **Head of Power**

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

**List of Accounts for October 2020**

<b>Chq/EFT</b>	<b>Date</b>	<b>Name</b>	<b>Description</b>	<b>Amount</b>
<b>Municipal Account EFTs</b>				
EFT16293	02/10/2020	SHIRE OF BRUCE ROCK	PAYROLL DEDUCTIONS	1483.71
EFT16294	02/10/2020	AUSTRALIAN GOVERNMENT CHILD SUPPORT AGENCY	PAYROLL DEDUCTIONS	\$166.66
EFT16295	02/10/2020	C-STORE DISTRIBUTION	SUPERMARKET ORDER	\$1,326.78
EFT16296	02/10/2020	CODY EXPRESS TRANSPORT	SUPERMARKET FREIGHT CHARGES	\$1,106.17
EFT16297	02/10/2020	EASTWAY FOOD SUPPLIES	SUPERMARKET ORDER	\$1,861.93
EFT16298	02/10/2020	LION - DAIRY & DRINKS FINANCE PTY LTD	SUPERMARKET ORDER	\$880.60
EFT16299	02/10/2020	LUKERATIVE PLUMBING, GAS & MAINTENANCE	TWO STED SUBSIDIES	\$3,000.00
EFT16300	02/10/2020	MAROK WA PTY LTD	SUPERMARKET ORDER	\$1,449.95
EFT16301	02/10/2020	MARTINS PRODUCE	SUPERMARKET ORDER	\$1,169.34
EFT16302	02/10/2020	METCASH TRADING LIMITED	SUPERMARKET ORDER	\$17,960.11
EFT16303	02/10/2020	PETER MICHAEL FUCHSBICHLER	RUBBISH COLLECTION AND REFUSE SITE MAINTENANCE FORTNIGHT ENDING 30/09/2020	\$3,387.02
EFT16304	02/10/2020	SAMANTHA LEE BOYD	PAYROLL DEDUCTIONS	\$103.22
EFT16305	02/10/2020	SANDS FRIDGE LINES	SUPERMARKET FREIGHT CHARGES	\$147.35
EFT16306	02/10/2020	SHIRE OF BRUCE ROCK - T/AS BRUCE ROCK SUPERMARKET	PURCHASES FROM SUPERMARKET FOR SEPTEMBER 2020	\$628.22
EFT16310	08/10/2020	2C2U IT PTY LTD	MEDICAL CENTRE IT SUPPORT	\$99.00
EFT16311	08/10/2020	AFGRI EQUIPMENT AUSTRALIA	PARTS FOR JOHN DEERE MOWER	\$1,654.99
EFT16312	08/10/2020	AUSTRALIA POST	POSTAGE FOR SEPTEMBER 2020	\$512.08
EFT16313	08/10/2020	AVON VALLEY TOYOTA	VEHICLE CHANGE OVER BK1	\$4,035.90
EFT16314	08/10/2020	BADGELINK	NAME BADGE FOR STAFF MEMBER	\$21.50
EFT16315	08/10/2020	BEING THERE SOLUTIONS PTY LTD	SUBSCRIPTION TO PLAN PLUS VIDEO AND TELEPHONE CONFERENCING - SEPTEMBER 2020	\$275.00
EFT16316	08/10/2020	BOC LIMITED	BOTTLE RENTAL SEPTEMBER 2020	\$109.82
EFT16317	08/10/2020	BROWNLEY'S PLUMBING & GAS	CONNECT SHIRE PROPERTY TO STED SCHEME AND ONE STED SUBSIDY	\$9,131.20
EFT16318	08/10/2020	BRUCE ROCK COMMUNITY RESOURCE CENTRE (INC)	PROVISION OF TOURISM SERVICE 2020/2021	\$4,400.00
EFT16319	08/10/2020	BRUCE ROCK LPO	STATIONERY PURCHASES	\$157.99
EFT16320	08/10/2020	BUNNINGS WAREHOUSE	CONSUMABLES FOR DEPOT RENOVATIONS	\$53.33
EFT16321	08/10/2020	BURGESS RAWSON PTY LTD	WATER USAGE AT LEASED PROPERTIES	\$600.29
EFT16322	08/10/2020	BUSSELTON SHIPWRIGHT SERVICES PTY LTD	FINAL PAYMENT FOR RESURFACING OF POOL SLIDE	\$18,750.00
EFT16323	08/10/2020	CALEB CHOW	REIMBURSE DOCTOR FOR TYRO TAKINGS SEPTEMBER 2020	\$460.00
EFT16324	08/10/2020	COLESTAN ELECTRICS	ELECTRICAL WORKS AT SHIRE PROPERTY	\$215.88
EFT16325	08/10/2020	COPIER SUPPORT	METER READING ON PHOTO COPIER	\$684.27
EFT16326	08/10/2020	COUNTRYWIDE FRIDGELINES PTY LTD	SUPERMARKET FREIGHT CHARGES	\$95.54
EFT16327	08/10/2020	CRISP WIRELESS PTY LTD	CRISP LINK BETWEEN ADMIN OFFICE AND DEPOT	\$1,705.00
EFT16328	08/10/2020	DEPARTMENT OF FIRE AND EMERGENCY SERVICES (DFES)	2020/21 ESL LEVY ON SHIRE PROPERTIES	\$5,949.15
EFT16329	08/10/2020	DEPARTMENT OF MINES AND PETROLEUM	BSL FOR SEPTEMBER 2020	\$56.65
EFT16330	08/10/2020	DEPT OF ENVIRONMENT & CONSERVATION	INTERPRETIVE PANELS FOR INFO SHELTER AT BRUCE'S ROCK	\$1,112.65
EFT16331	08/10/2020	E & MJ ROSHER PTY LTD	REPLACEMENT ENGINE BK117	\$5,645.20
EFT16332	08/10/2020	EASTERN DISTRICT CONTRACTORS	ERECT NEW FENCE WITH GATE AT LANDFILL	\$776.00
EFT16333	08/10/2020	EASTWAY FOOD SUPPLIES	SUPERMARKET ORDER	\$2,750.99
EFT16334	08/10/2020	GREAT SOUTHERN FUEL SUPPLIES	FUEL FOR SEPTEMBER 2020	\$904.77
EFT16335	08/10/2020	HIPPOCKET WORKWEAR & SAFETY GERALDTON	UNIFORMS PURCHASE	\$250.20
EFT16336	08/10/2020	JOHN PHILLIPS CONSULTING	UNDERTAKE CEO ANNUAL PERFORMANCE REVIEW	\$2,200.00
EFT16337	08/10/2020	LANDGATE	COPY OF CERTIFICATE OF TITLE	\$53.40
EFT16338	08/10/2020	LIBERTY OIL RURAL PTY LTD	BULK DIESEL	\$19,648.00

EFT16339	08/10/2020	LONDONBERRY NOMINEES PTY LTD T/AS EDGECOMBES JEWELLERS	KEYS CUT FOR WORKSHOP, CRIB ROOM & DEPOT	\$180.00
EFT16340	08/10/2020	MARKETFORCE	RECRUITMENT ADVERTISING	\$486.93
EFT16341	08/10/2020	MARTINS PRODUCE	SUPERMARKET ORDER	\$1,140.46
EFT16342	08/10/2020	MERREDIN TELEPHONE SERVICES	SECURITY MONITORING FOR SEPTEMBER 2020	\$70.40
EFT16343	08/10/2020	METCASH TRADING LIMITED	SUPERMARKET ORDER	\$3,734.01
EFT16344	08/10/2020	NUTRIEN AG SOLUTIONS	SUPPLY MATERIALS FOR LANDFILL FENCE	\$2,680.42
EFT16345	08/10/2020	OFFICEWORKS BUSINESS DIRECT	OFFICE STATIONERY	\$849.50
EFT16346	08/10/2020	ROE TOURISM ASSOCIATION	2020-2021 RTA FULL MEMBERSHIP & CONTRIBUTION TO EXECUTIVE OFFICER POSITION	\$6,000.00
EFT16347	08/10/2020	SANDS FRIDGE LINES	SUPERMARKET FREIGHT CHARGES	\$484.50
EFT16348	08/10/2020	SNAP MIDLAND	PRINTING OF SHIRE OF BRUCE ROCK TOURISM BROCHURES	\$665.00
EFT16349	08/10/2020	STAR TRACK EXPRESS PTY LTD	FREIGHT CHARGES	\$35.86
EFT16350	08/10/2020	SW TAYLOR	PROMPT SAFETY SOLUTION SERVICES 2020 - 2021	\$1,100.00
EFT16351	08/10/2020	SYNERGY	ELECTRICITY USAGE	\$9,904.03
EFT16352	08/10/2020	T-QUIP	PARTS FOR SMALL PLANT	\$294.05
EFT16353	08/10/2020	TRANSTRUCT	POOL SLIDE STAIR REMOVAL	\$3,696.00
EFT16354	08/10/2020	TWO DOGS HOME HARDWARE	KEY CUTTING	\$17.35
EFT16355	08/10/2020	TASMAN CHEMICALS PTY LTD	CLEANING SUPPLIES	\$130.30
EFT16356	08/10/2020	TOLL TRANSPORT PTY LTD	FREIGHT CHARGES	\$49.62
EFT16357	08/10/2020	WA DISTRIBUTORS PTY LTD T/AS ALLWAYS FOODS	CLEANING SUPPLIES	\$132.35
EFT16358	08/10/2020	WALLIS COMPUTER SOLUTIONS	IT SUPPORT AND SUPPLIES FOR OFFICE AND DEPOT	\$1,216.95
EFT16359	08/10/2020	WESFARMERS KLEENHEAT GAS PTY LTD	RENTAL FEES & BULK GAS	\$2,415.05
EFT16360	08/10/2020	WESTERN DIAGNOSTIC PATHOLOGY	ICUP INSTANT TEST KITS	\$856.35
EFT16361	08/10/2020	WIDEAWAKE PTY LTD T/AS IDEAL SALES	SUPERMARKET ORDER	\$522.87
EFT16362	08/10/2020	WEST COAST ASBESTOS REGISTERS	REMOVAL AND DISPOSAL OF ASBESTOS FROM SHIRE PROPERTY	\$2,816.00
EFT16363	12/10/2020	SHIRE OF BRUCE ROCK - CREDIT CARD	CREDIT CARD FOR OCTOBER 2020, HEALTHENGINE, CROWN ACCOMMODATION, CARD FEE & INTERNET	\$1,317.66
EFT16364	14/10/2020	C-STORE DISTRIBUTION	SUPERMARKET ORDER	\$2,948.98
EFT16365	14/10/2020	EASTWAY FOOD SUPPLIES	SUPERMARKET ORDER	\$1,507.92
EFT16366	14/10/2020	LION - DAIRY & DRINKS FINANCE PTY LTD	SUPERMARKET ORDER	\$954.05
EFT16367	14/10/2020	MAROK WA PTY LTD	SUPERMARKET ORDER	\$931.30
EFT16368	14/10/2020	MARTINS PRODUCE	SUPERMARKET ORDER	\$4,129.20
EFT16369	14/10/2020	METCASH TRADING LIMITED	SUPERMARKET ORDER	\$9,711.62
EFT16370	14/10/2020	SANDS FRIDGE LINES	SUPERMARKET FREIGHT CHARGES	\$200.02
EFT16371	15/10/2020	AUSTRALIAN GOVERNMENT CHILD SUPPORT AGENCY	PAYROLL DEDUCTIONS	\$166.66
EFT16372	15/10/2020	SAMANTHA LEE BOYD	PAYROLL DEDUCTIONS	\$103.22
EFT16373	15/10/2020	SHIRE OF BRUCE ROCK	PAYROLL DEDUCTIONS	\$1,483.71
EFT16374	21/10/2020	AUSTRALIAN TAXATION OFFICE	BAS FOR SEPTEMBER 2020	\$35,563.00
EFT16375	22/10/2020	ALAN O'TOOLE	REIMBURSEMENT FOR ITEMS PURCHASE ON SHIRE'S BEHALF	\$37.42
EFT16376	22/10/2020	AVON WASTE	EMPTY RECYCLING AND BULK COLLECTION FOR THE MONTH OF SEPTEMBER 2020	\$3,645.38
EFT16377	22/10/2020	AUSRECORD	ARCHIVE BOXES	\$88.00
EFT16378	22/10/2020	BADGELINK	NAME BADGE FOR STAFF MEMBER	\$21.50
EFT16379	22/10/2020	BK AIR & SERVICES	AIRCON REPAIRS AT SHIRE PROPERTY	\$1,430.00
EFT16380	22/10/2020	BROWNLEY'S PLUMBING & GAS	PLUMBING AND GAS REPAIRS AT VARIOUS SHIRE PROPERTIES, ANNUAL BLACK FLOW TEST FOR STANDPIPES AND ONE STED SUBSIDY	\$4,449.82
EFT16381	22/10/2020	BRUCE ROCK DISTRICT HIGH SCHOOL	DONATION TOWARDS WHEATBELT & BEYOND YOUTH MENTORING PROGRAM	\$1,500.00



EFT16382	22/10/2020	BRUCE ROCK PAINTING & DECORATING SERVICE	EXTERNAL PAINTING OF TOWN HALL	\$6,831.00
EFT16383	22/10/2020	BRUCE ROCK TYRES	TYRES FOR BK103 & BK062	\$3,258.97
EFT16384	22/10/2020	BUNNINGS WAREHOUSE	STRIP CURTAINS AND GRIP TAPE	\$49.51
EFT16385	22/10/2020	BURGESS RAWSON PTY LTD	INDUSTRIAL RENT AND MANAGEMENT FEES	\$327.37
EFT16386	22/10/2020	C-STORE DISTRIBUTION	SUPERMARKET ORDER	\$1,160.74
EFT16387	22/10/2020	CARTRIDGE WORLD COTTESLOE	PRINTER SUPPLIES FOR MED CENTRE	\$320.45
EFT16388	22/10/2020	CODY EXPRESS TRANSPORT	SUPERMARKET FREIGHT CHARGES	\$751.86
EFT16389	22/10/2020	COLESTAN ELECTRICS	INSTALL NEW METER BOX AT SHIRE PROPERTY FOR SEPTIC SYSTEM	\$1,914.83
EFT16390	22/10/2020	COMBINED PEST CONTROL WA P/L	ANNUAL TERMITE INSPECTIONS	\$4,237.20
EFT16391	22/10/2020	COMM-LINK ENTERPRISES	SUPPLY & INSTALL 2 SLIDE AUTOMATION GATES	\$4,424.20
EFT16392	22/10/2020	COUNTRYWIDE FRIDGELINES PTY LTD	SUPERMARKET FREIGHT CHARGES	\$31.19
EFT16393	22/10/2020	EASTWAY FOOD SUPPLIES	SUPERMARKET ORDER	\$1,829.27
EFT16394	22/10/2020	ELDERS RURAL SERVICES AUSTRALIA LIMITED	CHEMICALS FOR AQUATIC CENTRE	\$1,613.89
EFT16395	22/10/2020	ELEC TECH DIESEL SERVICES PTY LTD	SERVICE BK51	\$603.24
EFT16396	22/10/2020	GREAT EASTERN FREIGHTLINES	FREIGHT CHARGE	\$82.29
EFT16397	22/10/2020	GRANO DIRECT	CONCRETING SUPPLIES	\$582.37
EFT16398	22/10/2020	HIPPOCKET WORKWEAR & SAFETY GERALDTON	UNIFORMS FOR STAFF MEMBER	\$89.65
EFT16399	22/10/2020	IRVINE TRANSPORT	STONE AND METAL DUST FOR BATCHING PLANT	\$4,095.97
EFT16400	22/10/2020	JR & A HERSEY PTY LTD	WORKSHOP CONSUMABLES	\$394.90
EFT16401	22/10/2020	LION - DAIRY & DRINKS FINANCE PTY LTD	SUPERMARKET ORDER	\$1,018.68
EFT16402	22/10/2020	LOCK, STOCK AND FARRELL	PADLOCK & KEYS	\$241.85
EFT16403	22/10/2020	MAROK WA PTY LTD	SUPERMARKET ORDER	\$480.40
EFT16404	22/10/2020	MARTINS PRODUCE	SUPERMARKET ORDER	\$5,083.42
EFT16405	22/10/2020	MCCALL MOTORS PTY LTD	PURCHASES FOR SEPTEMBER 2020 (BUILDING MAINTENANCE, TOWN CREW, GARDENERS, CONSTRUCTION, REC CENTRE)	\$1,308.56
EFT16406	22/10/2020	MERREDIN TELEPHONE SERVICES	SUPPLY & INSTALL TELEPHONE AND DATA POINTS IN OFFICE AREA AT DEPOT	\$2,844.66
EFT16407	22/10/2020	METCASH TRADING LIMITED	SUPERMARKET ORDER	\$11,601.55
EFT16408	22/10/2020	MATT GILBERT CARPENTRY & MAINTENANCE	RE-ROOF SHIRE PROPERTY	\$1,419.00
EFT16409	22/10/2020	NB HARDWARE & AG SUPPLIES	VARIOUS ITEMS FOR GARDENERS	\$274.02
EFT16410	22/10/2020	OFFICEWORKS BUSINESS DIRECT	OFFICE & DEPOT STATIONERY	\$437.82
EFT16411	22/10/2020	PETER MICHAEL FUCHSBICHLER	RUBBISH COLLECTION & REFUSE SITE MAINTENANCE FNE 15/10/2020	\$3,387.02
EFT16412	22/10/2020	PRACTICAL PRODUCTS	NEW GLASS DOOR UPRIGHT FRIDGE FOR AQUATIC ENTRE	\$3,245.00
EFT16413	22/10/2020	QC ULTIMATE CLEAN	CARPET CLEANING AT SHIRE RENTAL PROPERTY (TO BE REIMBURSED)	\$308.00
EFT16414	22/10/2020	QUREMED	SNAKE BITE KITS	\$178.20
EFT16415	22/10/2020	RODGER EDWIN GEORGE	HIRE OF MINI EXCAVATOR	\$330.00
EFT16416	22/10/2020	SANDS FRIDGE LINES	SUPERMARKET FREIGHT CHARGES	\$602.37
EFT16417	22/10/2020	SEEK LIMITED	RECRUITMENT ADVERTISING	\$764.50
EFT16418	22/10/2020	SHIRE OF CORRIGIN	REIMBURSEMENT FOR COUNCILLOR TRAINING	\$387.67
EFT16419	22/10/2020	SIGMA CHEMICALS	FILTERS FOR HYDRO POOL	\$225.51
EFT16420	22/10/2020	STAR TRACK EXPRESS PTY LTD	FREIGHT FROM VARIOUS LOCATIONS TO BRUCE ROCK	\$881.49
EFT16421	22/10/2020	SYNERGY	ELECTRICITY USAGE	\$64.82
EFT16422	22/10/2020	THE HONDA SHOP	PART FOR SMALL PLANT	\$2.40
EFT16423	22/10/2020	THE WORKWEAR GROUP PTY LTD	UNIFORM ORDER FOR STAFF MEMBER	\$350.00
EFT16424	22/10/2020	TRANSTRUCT	MATERIALS FOR PRIVATE WORKS	\$224.51
EFT16425	22/10/2020	TWO DOGS HOME HARDWARE	CHEST FREEZER FOR SUPERMARKET	\$1,208.06
EFT16426	22/10/2020	WA DISTRIBUTORS PTY LTD T/AS ALLWAYS FOODS	CLEANING SUPPLIES	\$69.10
EFT16427	22/10/2020	WALLIS COMPUTER SOLUTIONS	IT SUPPORT AND SUPPLIES	\$5,149.00
EFT16428	22/10/2020	WHEATBELT LIQUID WASTE	PUMP OUT KWOLYIN CAMPSITE	\$572.00

EFT16429	22/10/2020	WHEATBELT UNIFORMS, SIGNS & SAFETY	PORTABLE FIRE EQUIPMENT SERVICE & REPLACEMENTS WHERE NEEDED FOR VEHICLES AND SHIRE PROPERTIES	\$2,158.75
EFT16430	29/10/2020	AUSTRALIAN GOVERNMENT CHILD SUPPORT AGENCY	PAYROLL DEDUCTIONS	\$166.66
EFT16431	29/10/2020	SAMANTHA LEE BOYD	PAYROLL DEDUCTIONS	\$103.22
EFT16432	29/10/2020	SHIRE OF BRUCE ROCK	PAYROLL DEDUCTIONS	\$1,641.44
EFT16433	29/10/2020	BRUCE ROCK DISTRICT HIGH SCHOOL	ANNUAL DONATION TOWARDS 2020 AWARD CEREMONY	\$100.00
EFT16434	29/10/2020	C-STORE DISTRIBUTION	SUPERMARKET ORDER	\$1,824.11
EFT16435	29/10/2020	COCA-COLA AMATIL	SUPERMARKET ORDER	\$1,357.10
EFT16436	29/10/2020	DR RAMESH RAJAGOPALAN	ELECTED MEMBERS CLAIM	\$574.25
EFT16437	29/10/2020	EASTWAY FOOD SUPPLIES	SUPERMARKET ORDER	\$1,709.98
EFT16438	29/10/2020	LION - DAIRY & DRINKS FINANCE PTY LTD	SUPERMARKET ORDER	\$1,384.29
EFT16439	29/10/2020	LUKERATIVE PLUMBING, GAS & MAINTENANCE	TWO STED SUBSIDIES	\$2,500.00
EFT16440	29/10/2020	MAROK WA PTY LTD	SUPERMARKET ORDER	\$458.80
EFT16441	29/10/2020	MARTINS PRODUCE	SUPERMARKET ORDER	\$3,576.22
EFT16442	29/10/2020	MECHANICAL SOLUTIONS AUSTRALIA PTY LTD	CONTRACT LABOUR HIRE TEMPORARY MECHANIC	\$4,076.60
EFT16443	29/10/2020	METCASH TRADING LIMITED	SUPERMARKET ORDER	\$10,364.71
EFT16444	29/10/2020	PETER MICHAEL FUCHSBICHLER	RUBBISH COLLECTION & REFUSE SITE MAINTENANCE FNE 28/10/2020	\$3,387.02
EFT16445	29/10/2020	SANDS FRIDGE LINES	SUPERMARKET FREIGHT CHARGES	\$370.07
EFT16446	29/10/2020	WALLIS COMPUTER SOLUTIONS	IT SUPPORT	\$54.00
EFT16447	29/10/2020	WESTERN DIAGNOSTIC PATHOLOGY	DRUG SCREENING	\$38.50
EFT16448	31/10/2020	BENDIGO BANK (FUNDS TRANSFER FEES)	FUNDS TRANSFER FEES FOR OCTOBER GST (EOM TRANSACTION)	\$4.59
EFT16449	31/10/2020	DEPARTMENT OF TRANSPORT (DOT CLEARING)	DOT CLEARING 29/10/2020 (EOM TRANSACTION)	\$1,432.50
EFT16450	31/10/2020	DEPARTMENT OF TRANSPORT (DOT CLEARING)	DOT CLEARING 30/10/2020 (EOM TRANSACTION)	\$6,033.75
<b>Total EFTs</b>				<b>\$345,222.39</b>

<b>Municipal Account Cheques</b>				
24034	08/10/2020	LANDGATE - REGISTRAR OF TITLES	NOTING ON CERTIFICATE OF TITLE THAT SHIRE PROPERTY IS NOW SEWERED	\$178.20
24035	08/10/2020	SHIRE OF BRUCE ROCK	PETTY CASH RECOUP SEPTEMBER 2020, CAKES - COUNCIL AFTERNOON TEA & STAFF LEAVING MORNING TEA, STAFF LEAVING GRATUITY, PLATE CHANGE OLD BK1, KETTLE FOR C/VAN PK & FOOD FOR MENTAL HEALTH BREAKFAST	\$117.25
24036	08/10/2020	TELSTRA	TELEPHONE USAGE	\$2,133.43
24037	08/10/2020	WATER CORPORATION	WATER USAGE	\$616.44
24038	14/10/2020	BOND ADMINISTRATOR	LODGEMENT OF BOND WITH BOND ADMINISTRATOR	\$200.00
24039	14/10/2020	SHIRE OF BRUCE ROCK	FLOAT FOR AQUATIC CENTRE ENTRY FEES FOR 2020/21 SEASON	\$200.00
<b>Total Municipal Account Cheques</b>				<b>\$3,445.32</b>
<b>Trust Account Cheques</b>				
1943	09/10/2020	CULTIVATORS COMMITTEE INCORPORATED	LADIES DAY 2020 SPONSORSHIP	\$500.00
<b>Total Trust Account Cheques</b>				<b>\$500.00</b>
<b>Wages and Salaries</b>				
	30/09/2020	PAYROLL DIRECT DEBIT OF NET PAYS	WAGES FOR FORTNIGHT ENDING 30/09/2020	\$68,938.05
	14/10/2020	PAYROLL DIRECT DEBIT OF NET PAYS	WAGES FOR FORTNIGHT ENDING 14/10/2020	\$68,691.75
	28/10/2020	PAYROLL DIRECT DEBIT OF NET PAYS	WAGES FOR FORTNIGHT ENDING 28/10/2020	\$73,672.64
<b>Total Wages and Salaries</b>				<b>\$211,302.44</b>
<b>Municipal Account Direct Debits</b>				
DD6858.1	14/10/2020	WALGS PLAN	PAYROLL DEDUCTIONS	\$9,274.45
DD6858.2	14/10/2020	REST INDUSTRY SUPER	SUPERANNUATION CONTRIBUTIONS	\$209.33
DD6858.3	14/10/2020	HOST PLUS SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	\$290.31
DD6858.4	14/10/2020	BT SUPER FOR LIFE	SUPERANNUATION CONTRIBUTIONS	\$181.13
DD6858.5	14/10/2020	VIRGIN MONEY SUPER	SUPERANNUATION CONTRIBUTIONS	\$193.23
DD6858.6	14/10/2020	BENDIGO SMART SAVER SUPER	SUPERANNUATION CONTRIBUTIONS	\$133.48
DD6858.7	14/10/2020	AMP RETIREMENT SAVINGS ACCOUNT	SUPERANNUATION CONTRIBUTIONS	\$61.53
DD6858.8	14/10/2020	MACQUARIE SUPER ACCUMULATOR	SUPERANNUATION CONTRIBUTIONS	\$162.49
DD6858.9	14/10/2020	SUPERWRAP PERSONAL SUPER PLAN	SUPERANNUATION CONTRIBUTIONS	\$376.50
DD6875.1	28/10/2020	WALGS PLAN	PAYROLL DEDUCTIONS	\$9,625.85
DD6875.2	28/10/2020	REST INDUSTRY SUPER	SUPERANNUATION CONTRIBUTIONS	\$207.99
DD6875.3	28/10/2020	HOST PLUS SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	\$309.66
DD6875.4	28/10/2020	BT SUPER FOR LIFE	SUPERANNUATION CONTRIBUTIONS	\$181.13
DD6875.5	28/10/2020	WEALTH PERSONAL SUPERANNUATION AND PENSION FUND	PAYROLL DEDUCTIONS	\$688.21
DD6875.6	28/10/2020	VIRGIN MONEY SUPER	SUPERANNUATION CONTRIBUTIONS	\$193.23
DD6875.7	28/10/2020	BENDIGO SMART SAVER SUPER	SUPERANNUATION CONTRIBUTIONS	\$157.00
DD6875.8	28/10/2020	AMP RETIREMENT SAVINGS ACCOUNT	SUPERANNUATION CONTRIBUTIONS	\$33.31
DD6875.9	28/10/2020	MACQUARIE SUPER ACCUMULATOR	SUPERANNUATION CONTRIBUTIONS	\$129.61
DD6858.10	14/10/2020	WEALTH PERSONAL SUPERANNUATION AND PENSION FUND	PAYROLL DEDUCTIONS	\$347.86
DD6858.11	14/10/2020	MACQUARIE SUPER ACCUMULATOR	SUPERANNUATION CONTRIBUTIONS	\$138.78
DD6858.12	14/10/2020	PRIME SUPER	SUPERANNUATION CONTRIBUTIONS	\$560.64
DD6858.13	14/10/2020	AUSTRALIAN SUPER	SUPERANNUATION CONTRIBUTIONS	\$1,153.12
DD6858.14	14/10/2020	AMP LIFE LIMITED	SUPERANNUATION CONTRIBUTIONS	\$114.18
DD6858.15	14/10/2020	BT SUPER FOR LIFE	SUPERANNUATION CONTRIBUTIONS	\$377.88
DD6858.16	14/10/2020	BENDIGO SUPER EASY	SUPERANNUATION CONTRIBUTIONS	\$213.12
DD6875.10	28/10/2020	SUPERWRAP PERSONAL SUPER PLAN	SUPERANNUATION CONTRIBUTIONS	\$376.50
DD6875.11	28/10/2020	MACQUARIE SUPER ACCUMULATOR	SUPERANNUATION CONTRIBUTIONS	\$491.61

DD6875.1 2	28/10/2020	PRIME SUPER	SUPERANNUATION CONTRIBUTIONS	\$518.18
DD6875.1 3	28/10/2020	AUSTRALIAN SUPER	SUPERANNUATION CONTRIBUTIONS	\$1,152.17
DD6875.1 4	28/10/2020	AMP LIFE LIMITED	SUPERANNUATION CONTRIBUTIONS	\$77.21
DD6875.1 5	28/10/2020	BT SUPER FOR LIFE	SUPERANNUATION CONTRIBUTIONS	\$490.47
DD6875.1 6	28/10/2020	BENDIGO SUPER EASY	SUPERANNUATION CONTRIBUTIONS	\$213.16
			<b>Total Direct Debits</b>	<b>\$28,633.32</b>

<b>Credit Card Payments</b>				
EFT16363	12/10/2020	HEALTHENGINE	HEALTHENGINE APP, SMS RECALLS & NEW PATIENTS	\$122.10
		CROWN TOWERS	ACCOMMODATION FOR COUNCILLOR AT WALGA CONFERENCE (PART TO BE RECOUPED)	\$460.46
		CROWN METROPOL	ACCOMMODATION FOR OFFICER AT WALGA CONFERENCE	\$325.86
		BENDIGO BANK	CARD FEE	\$4.00
		ACTIV8ME	INTERNET FOR SEPTEMBER/OCTOBER 2020	\$45.40
		WESTNET	INTERNET FOR OCTOBER 2020	\$109.95
		WESTNET	INTERNET FOR OCTOBER 2020	\$89.95
		WESTNET	INTERNET FOR OCTOBER 2020	\$69.99
		WESTNET	INTERNET FOR OCTOBER 2020	\$89.95
			<b>Total Credit Card Payments</b>	<b>\$1,317.66</b>

<b>Total Municipal Account EFT Payments</b>	<b>\$345,222.39</b>
<b>Total Municipal Account Cheques Payments</b>	<b>\$3,445.32</b>
<b>Total Trust Cheque Payments</b>	<b>\$500.00</b>
<b>Total Wages</b>	<b>\$239,935.76</b>
<b>Total</b>	<b>\$589,103.47</b>



Australian Government



Australian  
Charities and  
Not-for-profits  
Commission

THIS CERTIFIES THAT

**Central East Aged Care Alliance Inc**

ABN: 40792001012

HAS BEEN REGISTERED BY THE

**Australian Charities and Not-for-profits Commission**

ON THE DATE OF

**29/01/2020**

CERTIFIED BY

**Hon. Dr Gary Johns**

Commissioner

Australian Charities and Not-for-profits Commission



CENTRAL EAST AGED CARE ALLIANCE INC  
PO BOX 6161  
EAST PERTH WA 6892

Our reference: 7114660980022  
Phone: 1300 130 248  
Client ID: 40 792 001 012

18 February 2020

## Your organisation is endorsed for charity tax concessions

Dear Sir/Madam

We have endorsed your organisation for charity tax concessions and enclose your *Notice of endorsement for charity tax concessions*.

The following details will appear on the Australian Business Register:

- your organisation's endorsement to access charity tax concessions
- the date or period of effect.

You can view the details including the type of charity concessions at [www.abr.business.gov.au](http://www.abr.business.gov.au)

If your organisation has also applied for other endorsements, you will receive separate notification.

### What you need to do

Your organisation should regularly review its entitlement to charity tax concessions. We recommend a yearly review. If there are any changes (for example, to governing rules, structure or operations) and you are no longer entitled to endorsement, you must notify us before or as soon as possible after the event.

### For more information

Detailed information on your non-profit entitlements, obligations and how to subscribe to regular updates is available from our website, [www.ato.gov.au/non-profit](http://www.ato.gov.au/non-profit)

You can phone us on **1300 130 248** between 8.00am and 6.00pm, Monday to Friday for help with matters specific to non-profit organisations, including the endorsement process for charities and deductible gift recipients, income tax, goods and services tax (GST) and fringe benefits tax (FBT) concessions.

### What you need if you phone us

We need to know we are talking to the right person before we can discuss your tax affairs. We will ask for details only you or someone you have authorised would know. An authorised contact is someone who you have previously told us can act on your behalf. It will help if you quote 'Our reference', which you will find at the top of this letter. If you can, please have your Australian business number with you.

Yours faithfully

William Day  
Deputy Commissioner of Taxation



18 February 2020

## Notice of endorsement for charity tax concessions

This endorsement notice has been issued to:

Name	<b>CENTRAL EAST AGED CARE ALLIANCE INC</b>
Australian business number	<b>40 792 001 012</b>

**CENTRAL EAST AGED CARE ALLIANCE INC**, a registered charity, is endorsed to access the following tax concessions from the dates shown:

**Income tax exemption** from **29 January 2020** under Subdivision 50-B of the *Income Tax Assessment Act 1997*.

**GST concessions** from **29 January 2020** under Division 176 of *A New Tax System (Goods and Services Tax) Act 1999*.

**FBT rebate** from **29 January 2020** under section 123E of the *Fringe Benefits Tax Assessment Act 1986*.

As a rebatable employer, your organisation is entitled to have its FBT liability reduced by a rebate equal to 47% of the gross FBT payable (subject to a capping of \$30,000 per employee). If the total grossed-up taxable value of fringe benefits provided to an employee is more than \$30,000, a rebate cannot be claimed for your organisation's FBT liability on the excess amount.

### Reportable fringe benefits

If the value of certain fringe benefits provided to your organisation's employees exceeds \$2,000 in an FBT year, your organisation is required to record the grossed-up taxable value of those benefits on its employee's payment summary for the corresponding income year.

Your organisation's endorsement to access charity tax concessions, together with the date or period of effect, is entered in the public register maintained by the Australian Business Registrar at [www.abr.business.gov.au](http://www.abr.business.gov.au)

Your organisation must notify us in writing if it ceases to be entitled to endorsement.

Chris Jordan  
Commissioner of Taxation  
Registrar of the Australian Business Register





Government of **Western Australia**  
Department of **Commerce**

## WESTERN AUSTRALIA

*Associations Incorporation Act 1987*  
(Section 9(1))

Registered No: A1019189C

# Certificate of Incorporation

This is to certify that

**CENTRAL EAST AGED CARE ALLIANCE INC**

has this day been incorporated  
under the *Associations Incorporation Act 1987*

Dated this fifteenth day of July 2015

A handwritten signature in black ink, appearing to read 'D. Smith', written over a horizontal line.

Commissioner for Consumer Protection



**CEACA**  
Supporting Age Friendly Communities

# THE CENTRAL EAST AGED CARE ALLIANCE INC

## CONSTITUTION



Level 8, AMP Building  
140 St Georges Terrace  
Perth WA 6000

GPO Box L890  
Perth WA 6842  
DX 110 Perth

T 08 9321 3755  
F 08 9321 3465  
E [info@kottgunn.com.au](mailto:info@kottgunn.com.au)

[kottgunn.com.au](http://kottgunn.com.au)  
*advoc*

**> WHEN THERE'S  
BUSINESS AT STAKE**  
WE'RE YOUR LEGAL PARTNERS

Liability limited by a scheme approved under the Professional Standards Legislation.

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## **1. PRELIMINARY**

---

### **1.1 Name of Association**

The name of the Association shall be "Central East Aged Care Alliance Inc".

### **1.2 Vision of the Association**

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. The Association will implement agreed strategies and secure funding from sources including State and Commonwealth governments, the private sector and not for profit organisations to facilitate the achievement of the Associations objects and purposes including providing for construction, management and maintenance of housing in the Region.

### **1.3 Objects and Purposes of Association**

The objects and purposes of the Association are:

- (a) advancing the social or public welfare of the aged or individuals with disabilities in the Region;
- (b) relieving the poverty, distress or disadvantage of the aged or individuals with disabilities in the Region;
- (c) caring for and supporting the aged or individuals with disabilities in the Region;
- (d) providing and managing affordable housing, accommodation and services for the aged or individuals with disabilities in the Region;
- (e) seeking funds and assistance from various sources to achieve the provision and management of affordable housing, accommodation and services for the aged or individuals with disabilities in the Region;
- (f) developing new and innovative ways of delivering affordable housing, accommodation and services for the aged or individuals with disabilities in the Region;
- (g) raising and promoting government and community awareness of the needs of the aged or individuals with disabilities in the Region for affordable housing, accommodation and services;
- (h) working with government and the community to develop policies and programmes to increase the availability of affordable housing, accommodation and services for the aged or individuals with disabilities in the Region;
- (i) acting in a manner consistent with that of a Registered Charity; and
- (j) purposes that are incidental or ancillary to, and in furtherance or in aid of, the foregoing objects and purposes.

### **1.4 Quorum for Management Committee Meeting**

Fifty (50%) percent of the Management Committee Members plus one constitute a quorum for the conduct of the business at a Management Committee Meeting.

## 1.5 Quorum for General Meetings

Fifty (50%) percent of the total number of Members plus one (being a natural person or a person appointed under Rule 6.3(a)) present in person, or present through the use of technology under Rule 17.1(a)(ii), and eligible to cast a vote under these Rules at a General Meeting will constitute a quorum for the conduct of business at a General Meeting.

## 2. INTERPRETATION

---

### 2.1 Definitions

In these Rules, unless the contrary intention appears:

**Act** means the Associations Incorporation Act 2015 (WA);

**Annual General Meeting** means the annual general meeting convened under Rule 23.1;

**Associate Member** means a person, local government, body corporate, or incorporated association that:

- (a) satisfies the requirements of Rule 5.3(a); and
- (b) whose application for membership is accepted by the Management Committee under Rule 5.5; and
- (c) have complied with Rule 5.6;

**Association** means Central East Aged Care Alliance Inc;

**Books of the Association** has the meaning given to it in section 3 of the Act, and includes the following —

- (a) a Register;
- (b) Financial Records, Financial Statements and Financial Reports, however compiled, recorded or stored;
- (c) a document;
- (d) any other record of information;

**By-laws** means by-laws made by the Association under Rule 25;

**Code of Conduct** means the Code of Conduct of the Association (if any) which may be amended or added to from time to time by the Management Committee as it deems appropriate;

**Commissioner** means the person designated as the Commissioner from time to time under the Act;

**Financial Records** has the meaning given to it in section 62 of the Act and includes:

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain:

- (i) the methods by which financial statements are prepared; and
- (ii) adjustments to be made in preparing financial statements;

**Financial Report** has the meaning given to it in sections 62 and 63 of the Act;

**Financial Statements** has the meaning given to it in section 62 of the Act;

**Financial Year** has the meaning given to it in Rule 22;

**Foundation General Members** of the Association are the Members listed in Rule 5.2(a);

**General Meeting** means an Annual General Meeting or a Special General Meeting of the Association;

**General Member** means a person, local government, body corporate or incorporated association that:

- (a) satisfies the requirements of Rule 5.2(b); and
- (b) whose application for membership is accepted by the Management Committee under Rule 5.5; and
- (c) have complied with Rule 5.6;

**Management Committee** means the committee of management required by the Act which is the body responsible for the management of the affairs of the Association;

**Management Committee Meeting** means a meeting referred to in Rule 14.1;

**Management Committee Member** means a member of the Management Committee elected or appointed under Rule 12;

**Member** means a person, local government, body corporate or incorporated association that becomes a member of the Association under these Rules;

**Office Holder** has the meaning given to it at Rule 10.2(c);

**Ordinary Resolution** means a resolution to decide a question, matter or resolution at a General Meeting that is not a Special Resolution;

**Poll** means voting conducted in written form which may include, but is not limited to a secret ballot (as opposed to general agreement or a show of hands);

**Region** means the aggregate of the districts of the local governments that are General Members of the Association;

**Register** means the register of Members referred to in Rule 8.1(a);

**Registered Charity** means a registered charity as defined in the Income Tax Assessment Act 1997 (Cth);

**Rules** means this constitution of the Association as amended from time to time under Rule 24.2;

**Special General Meeting** means the meeting convened under Rule 18;

**Special Resolution** is a resolution of the Association passed in accordance with Rule 19.1;

**Surplus Property** has the meaning given to it in the Act and means the property remaining when the Association is wound up or cancelled after satisfying:



- (a) the debts and liabilities of the Association; and
  - (b) the costs, charges and expenses of winding up the Association,
- but does not include the Books of the Association;

**Tier 3 Association** has the meaning given to it in section 62 of the Act;

## 2.2 Interpretation

In these Rules, unless the contrary intention appears:

- (a) (**headings**) underlining, numberings, typesetting styles and layouts are for convenience only and do not affect the interpretation of these Rules;
- (b) (**gender**) a reference to any gender includes every gender;
- (c) (**person**) the word person includes a firm, a partnership, a joint venture, an organisation or an authority;
- (d) (**may**) the word may is permissive and not mandatory;
- (e) (**singular includes plural**) the singular includes the plural and vice versa;
- (f) (**grammatical form**) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (g) (**including**) the word including and similar expressions are not words of limitation and a general description of any matter or thing whatever shall not be read down if followed by any specific examples of that matter or thing;
- (h) (**regulations**) a reference to a law includes regulations and instruments made under the law;
- (i) (**amendments to statutes**) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision;
- (j) (**from time to time**) a power, an authority or a discretion reposed in the members', a member, the Management Committee or an Office Holder may be exercised at any time and from time to time;
- (k) (**function**) a reference to a function includes a reference to a power, authority and duty; and
- (l) (**exercise of a function**) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty.

## 2.3 Notices

- (a) A notice or other communication connected with these Rules has no legal effect unless it is in writing and given as follows:
  - (i) delivered by hand to the nominated address of the addressee;
  - (ii) sent by post to the nominated postal address of the addressee; or

- (iii) sent by e-mail or any other method of electronic communication (including facsimile) to the nominated electronic address of the addressee.
- (b) Any notice given to a Member under these Rules, must be sent to Member's address as set out in the Register.
- (c) When a notice is:
  - (i) delivered by hand under Rule 2.3(a)(i) it is properly served when delivered to, and received by, the recipient;
  - (ii) sent by ordinary pre-paid post under Rule 2.3(a)(ii), it is taken to have been received five (5) working days after posting;
  - (iii) sent by email under Rule 2.3(a)(iii), it is taken to have been received at the time when the sender receives confirmation on its server that the message has been transmitted;
  - (iv) sent by facsimile under Rule 2.3(a)(iii), it is taken to have been received at the time shown on the transmission report as the time the whole facsimile was sent.

### **3. POWERS OF THE ASSOCIATION**

---

#### **3.1 Powers of the Association**

The powers conferred on the Association are the same as those conferred by section 14 of the Act, so that subject to the Act, the Association may do all things necessary or convenient for carrying out its objects or purposes in a lawful manner, and in particular may:

- (a) acquire, hold, deal with, and dispose of any real or personal property;
- (b) open and operate bank accounts;
- (c) invest its money:
  - (i) as trust funds may be invested under the *Trustees Act 1962* Part III; or
  - (ii) in any other manner authorised by the Rules;
- (d) borrow money upon such terms and conditions as the Association thinks fit;
- (e) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
- (f) appoint agents to transact any business of the Association on its behalf;
- (g) enter into any other contract it considers necessary or desirable;
- (h) employ such persons as the Association deems appropriate to pursue the objects of the Association or to administer the affairs of the Association; and
- (i) act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or thing as a trustee that, if done otherwise, would contravene the Act or the Rules.

### **3.2 Paid Officers**

- (a) The Management Committee may appoint from time to time an independent Chairperson and an Executive Officer for the Association and any other paid officers as may be required to conduct the affairs of the Association and may also terminate such appointments.
- (b) The term of appointment, remuneration and other employment terms and conditions of a Chairperson or Executive Officer or other paid officer shall be on terms agreed by the Management Committee.

### **3.3 Office of the Association**

The office of the Association shall be at such place as the Management Committee may from time to time determine.

## **4. NOT FOR PROFIT**

---

- (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.
- (b) A payment may be made to a Member out of the funds of the Association only if it is authorised under Rule 4(c).
- (c) A payment to a Member out of the funds of the Association is authorised if it is:
  - (i) the payment in good faith to the Member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
  - (ii) the payment of interest on money borrowed by the Association from the Member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
  - (iii) the payment of reasonable rent to a Member for premises leased by the Member to the Association; or
  - (iv) the reimbursement of reasonable expenses properly incurred by the Member on behalf of the Association.

## **5. BECOMING A MEMBER**

---

### **5.1 Minimum Number of Members**

The Association must have at least six Members with full voting rights.

### **5.2 General Members**

- (a) Foundation General Members are General Members of the Association.

The Foundation General Members of the Association are:

- (i) Shire of Bruce Rock;
- (ii) Shire of Kellerberrin;

- (iii) Shire of Koorda;
  - (iv) Shire of Merredin;
  - (v) Shire of Mt Marshall;
  - (vi) Shire of Mukinbudin;
  - (vii) Shire of Nungarin;
  - (viii) Shire of Trayning;
  - (ix) Shire of Westonia;
  - (x) Shire of Wyalkatchem; and
  - (xi) Shire of Yilgarn.
- (b) Any:
- (i) local government; and
  - (ii) any person, body corporate or incorporated association with interests or objectives which include objectives consistent with the objects of the Association;
- may apply to be a General Member of the Association.
- (c) A General Member has all the rights provided to Members under the Rules, including full voting rights, and is eligible for nomination, election and appointment to the Management Committee as an Office Holder or ordinary Management Committee Member.

### **5.3 Associate Members**

- (a) Any person, local government, body corporate or incorporated association that is not eligible, or does not wish, to be a General Member of the Association may apply to be an Associate Member of the Association.
- (b) An Associate Member shall enjoy the same privileges and be subject to the same obligations as a General Member, except an Associate Member is not entitled or eligible to:
- (i) vote at any General Meeting;
  - (ii) propose a resolution at a General Meeting;
  - (iii) call a General Meeting;
  - (iv) be nominated, elected, or appointed as a Management Committee Member or Office Holder;
  - (v) nominate a Management Committee Member or Office Holder; or
  - (vi) nominate a person, local government, body corporate, or incorporated association to be a Member of the Association.

#### **5.4 Applying for Membership**

- (a) A person, local government, body corporate, or incorporated association who wish to become a Member must:
  - (i) be nominated for membership by two General Members; and
  - (ii) apply in writing to the Association, using the form prescribed by the Association (if any) together with any levy due under Rules 9.1 and 9.2.
- (b) A local government, body corporate, or incorporated association who wish to become a Member must comply with Rule 6.3 and appoint in writing a natural person to represent it at General Meetings and on the Management Committee.
- (c) All application forms must:
  - (i) state the full name of the applicant;
  - (ii) state a contact postal, business or residential address, and an email address, for the applicant; and
  - (iii) if applicable, appoint in writing a natural person to represent it at General Meetings and on the Management Committee, and state
    - (A) the name of the appointed person; and
    - (B) a contact postal, business or residential address, and an email address, for the appointed person.
- (d) All application forms must be signed by the applicant and the two nominating General Members (or persons appointed under Rule 6.3(a) with authority to represent the General Members).
- (e) If the Association has more than one class of membership, the application form must specify the applicable class of membership.

#### **5.5 Deciding Membership Applications**

- (a) The Management Committee will consider and decide whether to approve or reject any membership application.
- (b) Subject to Rule 5.5(c) applications will be considered and decided in the order they are received by the Association.
- (c) When considering a membership application, the Management Committee may seek clarification of any matter or further information in support of the application, and may delay its decision to allow for that material to be provided and proceed to consider and decide other applications.
- (d) The Management Committee may approve a membership application if, in the view of the Committee, the applicant:
  - (i) meets the eligibility requirements for the relevant membership class under Rule 5.2(b) or 5.3(a); and
  - (ii) applies under Rule 5.4.

- (e) The Management Committee may refuse to accept a membership application even if the applicant has applied in writing and complies with all the eligibility requirements under Rule 5.2(b) or 5.3(a).
- (f) As soon as is practicable after the Management Committee has made a decision under Rule 5.5, the Management Committee must notify the applicant in writing of the outcome of their membership application but is not obliged to provide reasons for the decision, and the decision of the Management Committee shall be final.

## **5.6 Becoming a Member**

- (a) An applicant becomes a Member if:
  - (i) the applicant is eligible for membership under Rule 5.2(b) or 5.3(a);
  - (ii) the applicant applies in writing using the prescribed form (if any) to the Association under Rule 5.4;
  - (iii) the Management Committee approves the applicant's application for membership submitted under Rule 5.5; and
  - (iv) the applicant has paid the levy due under Rules 9.1 and 9.2 (if any).
- (b) The applicant immediately becomes a Member of the applicable class of membership, and is entitled to exercise all the rights and privileges of that class of membership, and must comply with all of the obligations of membership under these Rules, when Rule 5.6(a) has been fulfilled.

## **5.7 Recording Membership in the Register**

The Secretary must enter the name of a Member in the Register within 28 days after the Member becomes a Member under these Rules.

## **6. LIABILITY AND ENTITLEMENTS OF MEMBERS**

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### **6.1 Classes of Members**

- (a) The membership of the Association consists of:
  - (i) General Members; and
  - (ii) Associate Members;
- (b) The Association may have any class of membership determined by resolution of Members at a General Meeting.
- (c) If the Association has two or more classes of members, no Member can belong to more than one class of membership.
- (d) Subject to any limitation specified in these Rules, each class of membership shall have rights and benefits as determined by the Management Committee or by resolution of Members at a General Meeting.
- (e) The maximum number of General Members is unlimited unless the Association in General Meeting decides otherwise.

## **6.2 Membership Voting Rights of Members**

Each Member that is entitled to vote has one (1) vote at a General Meeting of the Association.

## **6.3 Voting by a local government, body corporate, or incorporated association**

- (a) A Member which is a local government, body corporate, or incorporated association:
  - (i) by written notice to the Association must appoint a natural person to be the Member's representative at a particular General Meeting, or at all General Meetings and on the Management Committee; and
  - (ii) may at any time by written notice to the Association revoke an appointment of their representative provided that in the same notice a replacement representative is appointed.
- (b) A copy of a written notice pursuant to Rule 6.3(a) must be lodged with the Secretary.
- (c) A person appointed under Rule 6.3(a) has authority to represent the local government, body corporate, or incorporated association as a Member:
  - (i) in the case of an appointment in respect of a particular General Meeting, until the conclusion of that General Meeting; or
  - (ii) otherwise, until the appointment is revoked in writing by the local government, body corporate, or incorporated association, and notice of the revocation is given to the Secretary.
- (d) The selection of the person pursuant to Rule 6.3(a) shall be at the discretion of the applicant. Without limiting that discretion, it is the intention of the Association that persons appointed by local government Members should be a person who normally resides within the district of that local government.

## **6.4 Liability of Members**

- (a) A Member is only liable for their outstanding levy payable under Rules 9.1 and 9.2, if any.
- (b) Subject to Rule 6.4(a), a Member is not liable, by reason of the person's membership, for the liabilities of the Association or the cost of winding up the Association.
- (c) Rule 6.4(b) does not apply to liabilities incurred by or on behalf of the Association by the Member before incorporation.

## **6.5 Payment to Members**

- (a) Subject to Rule 6.5(b), no portion of the income or property of the Association may be paid directly or indirectly, by way of dividend, bonus or otherwise to the Members.
- (b) Rule 6.5(a) does not prevent payments authorised by Rule 4(c).

## **6.6 Membership Entitlements not Transferable**

Subject to Rule 6.3(a), a right, privilege or obligation that a person, local government, body corporate or incorporated association has because it, he or she is a Member of the Association:

- (a) is not capable of being transferred to any other person, local government, body corporate, or incorporated association; and
- (b) ends when the membership ceases for that person, local government, body corporate, or incorporated association.

## **7. CEASING TO BE A MEMBER**

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### **7.1 Ending Membership**

- (a) The membership of a Member ends, if the Member:
  - (i) dies;
  - (ii) ceases to be a Member under Rule 9.1(d);
  - (iii) ceases to be a Member under Rule 9.2(d);
  - (iv) resigns as a Member under Rule 7.2; or
  - (v) is expelled from the Association under Rule 7.3.
- (b) For a period of one year after a Member's membership ends, the Secretary must keep a record of:
  - (i) the date on which a person, local government, body corporate, or incorporated association ceases to be a Member under Rule 7.1(a); and
  - (ii) the reason why the person, local government, body corporate, or incorporated association ceases to be a Member.
- (c) If a local government, body corporate, or incorporated association ceases to be a Member, then any appointment to a natural person made by it under Rule 6.3 immediately ceases to have any effect.

### **7.2 Resigning as a Member**

- (a) A Member who has paid all amounts payable by the Member to the Association in respect of their membership, may resign from membership by giving written notice of their resignation to the Secretary.
- (b) The Member resigns:
  - (i) at the time the Secretary receives the notice; or
  - (ii) if a later time is stated in the notice, at that later time.
- (c) Any Member who resigns from the Association remains liable to pay to the Association any outstanding fees or levy which may be recovered as a debt due to the Association by the Member.



### 7.3 Suspending or Expelling Members

- (a) The Management Committee may, by resolution, discipline a Member by any means considered appropriate, or suspend or expel a Member from membership if, in the opinion of the Management Committee:
  - (i) the Member or any person authorised to represent the Member under Rule 6.3 refuses or neglects to comply with these Rules or the Code of Conduct; or
  - (ii) the conduct or behaviour of the Member or any person authorised to represent the Member under Rule 6.3:
    - (A) is detrimental to the interests of the Association; or
    - (B) has brought the Association into disrepute; or
    - (C) has brought discredit on the Association; or
  - (iii) the Member is not solvent (as defined in the Bankruptcy Act 1966 (Cwth)); or
  - (iv) the Member applied for and obtained membership under a false pretence or by providing false information.
- (b) The Management Committee must hold a Management Committee Meeting to decide whether to suspend or expel a Member.
- (c) The Secretary must, not less than 28 days before the Management Committee Meeting referred to in Rule 7.3(b), give written notice to the Member:
  - (i) of the proposed suspension or expulsion and the grounds on which it is based;
  - (ii) of the date, place and time of the Management Committee Meeting;
  - (iii) that the Member, or the Member's representative, may attend the Management Committee Meeting; and
  - (iv) that the Member, or the Member's representative, may address the Management Committee at the meeting and will be given a full and fair opportunity to state the Member's case orally, or in writing, or both.
- (d) At the Management Committee Meeting referred to in Rule 7.3(b) the Management Committee must:
  - (i) give the Member, or the Member's representative, a full and fair opportunity to state the Member's case orally;
  - (ii) give due consideration to any written statement submitted by the Member; and
  - (iii) determine whether or not the Member should be:
    - (A) expelled from the Association; or
    - (B) suspended from membership, and if so, the period that the Member should be suspended from membership; or

- (C) disciplined by any means considered appropriate, which may include reprimanding the Member; or
  - (D) exonerate the Member
- (e) The Secretary must inform the Member in writing of the decision of the Management Committee and the reasons for the decision, within 7 days of the Management Committee Meeting referred to in Rule 7.3(d).
- (f) If the Management Committee has decided to suspend or expel a Member under Rule 7.3(d), the Member is immediately suspended or expelled from membership from the date of that decision irrespective of whether the Member appeals the decision.

#### **7.4 Right of Appeal against Suspension or Expulsion**

- (a) If a Member is suspended or expelled or disciplined under Rule 7.3, the Member may appeal the Management Committee's decision by giving written notice of appeal to the Secretary within 14 days of receiving notice of the Management Committee's decision.
- (b) The notice of appeal must:
- (i) identify the decision appealed against;
  - (ii) provide a summary of the reasons for the appeal;
  - (iii) request the convening of a General Meeting to consider the appeal.
- (c) The Secretary must issue notice to convene a General Meeting to consider the appeal within 14 days after receiving a notice of appeal.
- (d) At the General Meeting referred to in Rule 7.4(c):
- (i) the Member, or the Member's representative, must be given a full and fair opportunity to state the Member's case orally;
  - (ii) the General Meeting may give consideration to any written statement submitted by the Member; and
  - (iii) the General Meeting must determine by resolution;
    - (A) whether or not the decision of the Management Committee should be upheld or changed; and
    - (B) if changed, then what the decision should be.

#### **7.5 Reinstatement of a Member**

If the Management Committee's decision to suspend or expel or discipline a Member is revoked under these Rules, any act performed by the Management Committee or Members in General Meeting during the period that the Member was suspended or expelled from membership under Rule 7.3(e), is deemed to be valid, notwithstanding the Member's inability to exercise their rights or privileges of membership, including voting rights, during that period.

## **7.6 When a Member is Suspended**

- (a) If a Member's membership is suspended under Rule 7.3(e), the Secretary must record in the Register:
  - (i) the name of the Member that has been suspended from membership;
  - (ii) the date on which the suspension takes effect; and
  - (iii) the length of the suspension as determined by the Management Committee under Rule 7.3(d)(iii)(B).
- (b) A Member that has been suspended under Rule 7.3(e) cannot exercise any rights or privileges of membership, including voting rights, during the period they are suspended from membership.
- (c) Upon the expiry of the period of a Member's suspension, the Secretary must record in the Register that the Member is no longer suspended.

## **8. MEMBERSHIP REGISTER**

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### **8.1 Register of Members**

- (a) The Secretary or a person authorised by the Management Committee from time to time must maintain a register of Members and make sure that the Register is up to date.
- (b) The Register must contain:
  - (i) the full name of each Member;
  - (ii) a contact postal, business or residential address, and an email address of each Member;
  - (iii) the class of membership held by the Member;
  - (iv) the date on which the person became a Member; and
  - (v) the name and contact details of any person appointed by the Member under Rule 6.3(a).
- (c) Any change in membership of the Association must be recorded in the Register within 28 days after the change occurs.
- (d) The Register must be kept and maintained at the Association's listed office or at such other place as the Management Committee decides.

### **8.2 Inspecting the Register**

- (a) Any Member, or a person appointed by a Member under Rule 6.3(a), is able to inspect the Register free of charge, at such time and place as is mutually convenient to the Association and the Member.
- (b) A Member must contact the Secretary to request to inspect the Register.
- (c) The Member may make a copy of details from the Register but has no right to remove the Register for that purpose.

### **8.3 Copy of the Register**

- (a) A Member, or a person appointed by a Member under Rule 6.3(a), may make a request in writing for a copy of the Register.
- (b) The Management Committee may require a Member who requests a copy of the Register to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Association.
- (c) The Association may charge a reasonable fee to the Member for providing a copy of the Register, the amount to be determined by the Management Committee from time to time.

### **8.4 When Using the Information in the Register is Prohibited**

A Member, or a person appointed by a Member under Rule 6.3(a), must not use or disclose the information on the Register:

- (a) to gain access to information that a Member has deliberately denied them (that is, in the case of social, family or legal differences or disputes);
- (b) to contact, send material to the Association or a Member for the purpose of advertising for political, religious, charitable or commercial purposes unless the use of the information is approved by the Management Committee; or
- (c) for any other purpose unless the purpose:
  - (i) is directly connected with the affairs of the Association; or
  - (ii) relates to the provision of information to the Commissioner in accordance with a requirement of the Act.

## **9. MEMBERSHIP LEVY**

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### **9.1 Members Discretionary Levy**

- (a) Subject to Rule 30.1(a), the Management Committee may from time to time determine the amount of a Member's discretionary levy to be paid by each Member or each class of Members from time to time.
- (b) Each Member must pay the Member's discretionary levy determined under Rule 9.1(a) to the Treasurer, or a person authorised by the Management Committee to receive payments, as and when decided by the Management Committee.
- (c) If a Member pays the Member's discretionary levy within 2 calendar months after the due date, the Member retains all the rights and privileges of a Member for the purposes of these Rules during that time, including the right to vote.
- (d) Subject to Rule 9.1(e), if a person fails to pay the Member's discretionary levy within 2 calendar months after the due date, the person ceases to be a Member.
- (e) If a person ceases to be a Member under Rule 9.1(d), and subsequently pays to the Association all the Member's discretionary levy, the Management Committee may, if it thinks fit, reinstate the Member's rights and privileges from the date on which the outstanding levy is paid, including the right to vote.

## **9.2 Annual Membership Levy**

- (a) Subject to Rule 30.1(a), the Management Committee may from time to time determine the amount of the annual membership levy, if any, to be paid by each Member or each class of Members.
- (b) Each Member must pay the Member's annual membership levy determined under Rule 9.2(a) to the Treasurer, or a person authorised by the Management Committee to receive payments, as and when decided by the Management Committee.
- (c) If a Member pays the annual membership levy within 2 calendar months after the due date, the Member retains all the rights and privileges of a Member for the purposes of these Rules during that time, including the right to vote.
- (d) Subject to Rule 9.2(e), if a Member fails to pay the annual membership levy within 2 calendar months after the due date, the Member ceases to be a Member of the Association.
- (e) If a Member ceases to be a Member under Rule 9.2(d), and subsequently pays to the Association all the Member's outstanding levy, the Management Committee may, if it thinks fit, reinstate the Member's rights and privileges from the date on which the outstanding levy is paid, including the right to vote.

## **10. POWERS AND COMPOSITION OF THE MANAGEMENT COMMITTEE**

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### **10.1 Powers of the Management Committee**

- (a) The governing body of the Association is to be called the Management Committee and it has authority to control and manage the affairs of the Association.
- (b) Subject to the Act, these Rules and any by-law or lawful resolution passed by the Association in General Meeting, the Management Committee:
  - (i) may exercise all powers and functions as may be exercised by the Association, other than those powers and functions that are required by these Rules to be exercised by General Meetings of the Members; and
  - (ii) has power to perform all acts and do all things as appear to the Management Committee to be necessary or desirable for the proper management of the business and affairs of the Association.

### **10.2 Management Committee Members**

- (a) The Management Committee is to consist of:
  - (i) the Office Holders of the Association; and
  - (ii) not less than one other ordinary Management Committee Member.
- (b) The maximum number of other ordinary Management Committee Members is to be determined by the Management Committee.
- (c) The Office Holders of the Association are:
  - (i) the Chairperson;

- (ii) the Deputy Chairperson;
  - (iii) the Secretary; and
  - (iv) the Treasurer.
- (d) A Management Committee Member must be either:
- (i) a General Member; or
  - (ii) the Chairperson appointed by the Management Committee from time to time.
- (e) Where a General Member is a local government, body corporate, or incorporated association and is elected as a Management Committee Member that General Member shall be represented on the Management Committee by the person appointed under Rule 6.3(a) as representative for that General Member;
- (f) No person is permitted to hold more than one of the positions set out in Rule 10.2(c) at any time.
- (g) No person shall be entitled to hold a position on the Management Committee if the person has been convicted of, or imprisoned in the previous five years for:
- (i) an indictable offence in relation to the promotion, formation or management of a body corporate;
  - (ii) an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or
  - (iii) an offence under Part 4 Division 3 or section 127 of the Act,
- unless the person has obtained the consent of the Commissioner.
- (h) No person shall be entitled to hold a position on the Management Committee if the person is, according to the Interpretation Act (WA) section 13D, a bankrupt or a person whose affairs are administered under insolvency laws unless the person has obtained the consent of the Commissioner.
- (i) The Chairperson must not be when appointed, nor have been within the period of 5 years prior to the appointment, either a Member, a person appointed under Rule 6.3(a) to represent a Member, an employee of a Member or a councillor or officer of a Member.

## **11. ROLE AND RESPONSIBILITIES OF MANAGEMENT COMMITTEE MEMBERS AND OFFICE HOLDERS**

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### **11.1 Obligations of the Management Committee**

The Management Committee must take all reasonable steps to ensure the Association complies with its obligations under the Act and these Rules.

### **11.2 Responsibilities of Management Committee Members**

- (a) A Management Committee Member must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise in the circumstances.

- (b) A Management Committee Member must exercise his or her powers and discharge his or her duties in good faith in the best interests of the Association and for a proper purpose.
- (c) A Management Committee Member or former Management Committee Member must not improperly use information obtained because he or she is a Management Committee Member to:
  - (i) gain an advantage for himself or herself or another person; or
  - (ii) cause detriment to the Association.
- (d) A Management Committee Member or former Management Committee Member must not improperly use his or her position to:
  - (i) gain an advantage for himself or herself or another person; or
  - (ii) cause detriment to the Association.
- (e) A Management Committee Member having any material personal interest in a matter being considered at a Management Committee Meeting must:
  - (i) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Management Committee;
  - (ii) disclose the nature and extent of the interest at the next General Meeting of the Association; and
  - (iii) not be present while the matter is being considered at the Management Committee Meeting or vote on the matter.
- (f) Rule 11.2(e) does not apply in respect of a material personal interest that:
  - (i) exists only because the Management Committee Member belongs to a class of persons for whose benefit the Association is established; or
  - (ii) the Management Committee Member has in common with all, or a substantial proportion of, the members of the Association.
- (g) The Secretary must record every disclosure made by a Management Committee Member under Rule 11.2(e) in the minutes of the Management Committee Meeting at which the disclosure is made.
- (h) No Management Committee Member shall make any public statement or comment or cause to be published any words or article concerning the conduct of the Association unless the person is authorised by the Management Committee to do so and such authority is recorded in the minutes of the Management Committee Meeting.

### **11.3 Chairperson**

The Chairperson:

- (a) must consult with the Secretary regarding the business to be conducted at each Management Committee Meeting and each General Meeting;
- (b) may convene special meetings of the Management Committee under Rule 14.1(c);

- (c) may preside over Management Committee Meetings under Rule 14.3;
- (d) may preside over General Meetings under Rule 17.4; and
- (e) must ensure that the minutes of a General Meeting or Management Committee Meeting are reviewed and signed as correct under Rule 20(b).

#### **11.4 The Deputy Chairperson**

The Deputy Chairperson:

- (a) shall assist the Chairperson in carrying out his or her duties and responsibilities as described in Rule 11.3; and
- (b) shall perform those duties and responsibilities in the absence of, and in accordance with the instructions of, the Chairperson.

#### **11.5 Secretary**

The Secretary shall be responsible for fulfilling the directives of the Management Committee and the day-to-day operations of the Association, and must:

- (a) co-ordinate the correspondence of the Association;
- (b) consult with the Chairperson about all business to be conducted at meetings and convene General Meetings and Management Committee Meetings, including preparing the notices of meetings and of the business to be conducted at each meeting;
- (c) keep and maintain in an up to date condition the Rules as required by Rule 24.1 and any by-laws of the Association made in accordance with Rule 25;
- (d) maintain the register of the Members, referred to in Rule 8.1;
- (e) maintain the record of office holders of the Association, referred to in Rule 11.7;
- (f) ensure the safe custody of the Books (with the exception of the Accounting Records) of the Association under Rule 27.1;
- (g) keep full and correct minutes of Management Committee Meetings and General Meetings; and
- (h) perform any other duties as are imposed by these Rules or the Association on the Secretary.

#### **11.6 The Treasurer**

The Treasurer must:

- (a) ensure all moneys payable to the Association are collected, and that receipts are issued for those moneys in the name of the Association;
- (b) ensure the payment of all moneys referred to in Rule 11.6(a) into the account or accounts of the Association as the Management Committee may from time to time direct;
- (c) ensure timely payments from the funds of the Association with the authority of a General Meeting or of the Management Committee;



- (d) ensure that the Association complies with the account keeping requirements in Part 5 of the Act;
- (e) ensure the safe custody of the Financial Records of the Association and any other relevant records of the Association;
- (f) coordinate the preparation of the Financial Report of the Association prior to its submission to the Annual General Meeting of the Association, as if the Association was a Tier 3 Association;
- (g) assist the reviewer or auditor (if any) in performing their functions; and
- (h) perform any other duties as are imposed by these Rules or the Association on the Treasurer.

### **11.7 Record of Office Holders**

- (a) The Secretary or a person authorised by the Management Committee from time to time must maintain a record of office holders.
- (b) The record of office holders must include:
  - (i) the full name of each Office Holder;
  - (ii) the office held and the dates of appointment and (if applicable) cessation of the appointment; and
  - (iii) a current contact postal, residential or email address of each Office Holder.
- (c) The record of office holders must be kept and maintained at the Secretary's place of residence, or at such other place as the Management Committee decides.

### **11.8 Inspecting the Record of Office Holders**

- (a) Any Member, or a person appointed by a Member under Rule 6.3(a), is able to inspect the record of Office Holders free of charge, at such time and place as is mutually convenient to the Association and the Member.
- (b) The Member may make a copy of details from the record of Office Holders but has no right to remove the record for that purpose.

## **12. APPOINTING MANAGEMENT COMMITTEE MEMBERS**

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### **12.1 Appointment to the Management Committee**

- (a) Management Committee Members (except for the Chairperson) are appointed to the Management Committee by:
  - (i) election at an Annual General Meeting; or
  - (ii) appointment to fill a casual vacancy under Rule 13.1(b).
- (b) The Chairperson:
  - (i) is appointed by the Management Committee under Rule 3.2;
  - (ii) must satisfy Rule 10.2(h).

**12.2 Nominating for Membership of the Management Committee**

- (a) The Secretary must send a notice calling for nominations for election to the Management Committee and specifying the date for the close of nominations, to all General Members at least twenty one (21) days before the date on which the Annual General Meeting is to be held.
- (b) Nominations for election to the Management Committee shall close not less than seven (7) days before the Annual General Meeting.
- (c) The nomination for election must be in the prescribed form:
  - (i) in writing;
  - (ii) signed by the nominator (or the nominator's representative appointed pursuant to Rule 6.3), and the nominee to signify their willingness to stand for election; and
  - (iii) delivered in person, by facsimile transmission, email or post to the Secretary on or before the date for the close of nominations.
- (d) If a nomination for election to the Management Committee is not made in accordance with Rules 12.2(c) the nomination is to be deemed invalid and the Member will not be eligible for election unless Rule 12.3(c) applies.

**12.3 Electing Management Committee Members**

- (a) If the number of valid nominations received under Rule 12.2 is equal or less than to the number of vacancies to be filled for the relevant position on the Management Committee, the Member nominated shall be deemed to be elected at the Annual General Meeting.
- (b) If the number of valid nominations exceeds the number of vacancies to be filled for the relevant position on the Management Committee, elections for the positions must be conducted at the Annual General Meeting.
- (c) If there are not enough valid nominations to fill the number of vacancies for the relevant positions on the Management Committee, the candidates nominated are (if any) deemed to be elected and further nominations may be received from the floor of the Annual General Meeting.
- (d) A General Member who is eligible for election or re-election may have another General Member nominate him or her from the floor for election or re-election.
- (e) Where the number of nominations from the floor exceeds the remaining number of vacancies on the Management Committee, elections for those positions must be conducted.
- (f) If an insufficient number of nominations are received from the floor for the number of vacancies on the Management Committee that remain, each position on the Management Committee for which there is no nomination is declared vacant by the person presiding at the Annual General Meeting and Rule 13.1(b) applies.
- (g) The elections for Office Holders or ordinary Management Committee Members are to be conducted at the Annual General Meeting in the manner directed by the Management Committee.

- (h) A list of candidates, names in alphabetical order, with the names of the Members who nominated each candidate, must accompany the notice of the Annual General Meeting.

#### **12.4 Voting in Elections for Membership of the Management Committee**

- (a) Subject to Rule 19.3(d), each Member (who is a natural person, or a person representing a Member under Rule 6.3(a)) present in person, or present through the use of technology under Rule 17.1(a)(ii), and eligible to cast a vote at the Annual General Meeting may vote for one candidate for each vacant position on the Management Committee.
- (b) A Member who nominates for election or re-election may vote for himself or herself.
- (c) Elections for a position on the Management Committee at the Annual General Meeting shall be conducted by secret ballot. If any candidates receive an equal number of votes, the successful candidate shall be determined by a second or further ballots between the candidates with the equal number of votes until a clear winner is determined.

#### **12.5 Term of Office of Management Committee Members**

- (a) At each Annual General Meeting of the Association, the appointment of:
  - (i) the Deputy Chairperson, Secretary, and Treasurer shall be elected for a term of one (1) year; and
  - (ii) the remaining Management Committee Member or Members to be appointed at the Annual General Meeting shall be elected for a term of one (1) year.
- (b) A Management Committee Member's term will commence on the date of:
  - (i) election at an Annual General Meeting; or
  - (ii) appointment to fill a casual vacancy that arises under Rule 13.1(b); or
  - (iii) in the case of an independent Chairperson appointed by the Management Committee under Rule 3.2, the date of such appointment.
- (c) All retiring Management Committee Members are eligible, on nomination under Rule 12.2, for re-election.

### **13. CEASING TO BE A MEMBER OF THE MANAGEMENT COMMITTEE**

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#### **13.1 Vacant Positions on the Management Committee**

- (a) A casual vacancy occurs in the office of a Management Committee Member and that office becomes vacant if the Management Committee Member:
  - (i) dies;
  - (ii) ceases to be a Member;
  - (iii) becomes disqualified from holding a position under Rule 10.2 (f) or (g) as a result of bankruptcy or conviction of a relevant criminal offence;
  - (iv) becomes permanently incapacitated by mental or physical ill-health;

- (v) resigns from office under Rule 13.2;
  - (vi) is removed from office under Rule 13.3; or
  - (vii) is absent from more than:
    - (A) three (3) consecutive Management Committee Meetings without leave of absence that has been granted by the Management Committee; or
    - (B) three (3) Management Committee Meetings in the same Financial Year without tendering an apology to the person presiding at each of those Management Committee Meetings, where the Management Committee Member received notice of the meetings, and the Management Committee has resolved to declare the office vacant.
- (b) If a position on the Management Committee is declared vacant under Rule 12.3(f), or there is a casual vacancy within the meaning of Rule 13.1(a), the continuing Management Committee Members may:
- (i) appoint a Member to fill that vacancy until the conclusion of the next Annual General Meeting; and
  - (ii) subject to Rule 13.1(c), act despite the vacant position on the Management Committee.
- (c) If the number of Management Committee Members is less than the number fixed under Rule 1.4 as the quorum for Management Committee Meetings, the continuing Management Committee Members may act only to:
- (i) increase the number of Members on the Management Committee to the number required for a quorum; or
  - (ii) convene a General Meeting of the Association.
- (d) Where a Management Committee Member is a General Member that is a local government, body corporate or incorporated association which has appointed a person under Rule 6.3(a):
- (i) the General Member that is a local government, body corporate or incorporated association that appointed that person may give written notice to the Secretary that such person has ceased to be the General Member's appointed representative, and nominate a replacement person as appointed representative; and
  - (ii) upon service of that notice the person who has ceased to be the representative shall cease to be the Management Committee Member, and the replacement person shall become the Management Committee Member, for that General Member.

### **13.2 Resigning from the Management Committee**

- (a) A Management Committee Member may resign from the Management Committee by giving written notice of resignation to the Secretary, or if the Management Committee Member is the Secretary, to the Chairperson.
- (b) The Management Committee Member resigns:

- (i) at the time the notice is received by the Secretary or Chairperson under Rule 13.2(a); or
- (ii) if a later time is stated in the notice, at the later time.

### **13.3 Removal from the Management Committee**

- (a) A Management Committee Member may only be removed from the Management Committee pursuant to Rule 13.1(a)(vi) by a resolution at a General Meeting of the Association.
- (b) The Management Committee Member who faces removal from the Management Committee must be given a full and fair opportunity at the General Meeting to decide the proposed resolution, to state his or her case as to why the Member should not be removed from his or her position on the Management Committee.
- (c) If all Management Committee Members are removed by resolution at a General Meeting, the Members must, at the same General Meeting, elect an interim Management Committee. The interim Management Committee must, within two months, convene a General Meeting of the Association for the purpose of electing a new Management Committee.

## **14. MANAGEMENT COMMITTEE MEETINGS**

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### **14.1 Meetings of the Management Committee**

- (a) The Management Committee must meet at least four (4) times in each year..
- (b) The Management Committee is to determine the place and time of all Management Committee Meetings.
- (c) Meetings of the Management Committee may be convened under Rule 14.2 by:
  - (i) the Chairperson; or
  - (ii) any two Management Committee Members.

### **14.2 Notice of Management Committee Meetings**

- (a) The Secretary must give each Management Committee Member at least 48 hours' notice of each Management Committee Meeting before the time appointed for holding the meeting.
- (b) Notice of a Management Committee Meeting must specify the general nature of the business to be transacted at the meeting.
- (c) Subject to Rule 14.2(d), only the business specified on the notice of the Management Committee Meeting is to be conducted at that meeting.
- (d) Urgent business may be conducted at Management Committee Meetings if the Management Committee Members present at a Management Committee Meeting unanimously agree to treat the business as urgent.

### **14.3 Chairing at Management Committee Meetings**

- (a) The Chairperson or, in the Chairperson's absence, the Deputy-Chairperson is to preside as the chair of each Management Committee Meeting.

- (b) If the Chairperson and the Deputy-Chairperson are absent or unwilling to act, the remaining Management Committee Members must choose one of their number to preside as the chair of that Management Committee Meeting.

#### **14.4 Procedure of the Management Committee Meeting**

- (a) The quorum for a Management Committee Meeting is specified at Rule 1.4. The Management Committee cannot conduct business unless a quorum is present.
- (b) If, within half an hour of the time appointed for the meeting, a quorum is not present the meeting is to stand adjourned to the same time, day and place in the following week.
- (c) If at a meeting adjourned under Rule 14.4(b), a quorum is not present within half an hour of the time appointed for the meeting, the Management Committee Members personally present will constitute a quorum.
- (d) Management Committee Meetings may take place:
  - (i) where the Management Committee Members are physically present together; or
  - (ii) where the Management Committee Members are able to communicate by using any technology that reasonably allows, at the discretion of the person who is the chair of that meeting or a majority of those Management Committee Members physically present, the Management Committee Member to participate fully in discussions as they happen in the Management Committee Meeting and in making decisions, provided that the participation of each Management Committee Member in the Management Committee Meeting must be made known to all other Management Committee Members.
- (e) A Management Committee Member who participates in a meeting as set out in Rule 14.4(d)(ii):
  - (i) is deemed to be present at the Management Committee Meeting; and
  - (ii) continues to be present at the meeting for the purposes of establishing a quorum,

until the Management Committee Member notifies the other Management Committee Members that he or she is no longer taking part in the Management Committee Meeting.
- (f) Subject to these Rules, the Management Committee Members present at the Management Committee Meeting are to determine the procedure and order of business to be followed at a Management Committee Meeting.
- (g) Subject to Rule 14.5, all Management Committee Members have the right to attend and vote at Management Committee Meetings.
- (h) All Members, or other guests, may attend Management Committee Meetings if invited by the Management Committee but the person shall not have any right to comment without invitation, or any right to vote.
- (i) The Secretary or a person authorised by the Management Committee from time to time must keep minutes of the resolutions and proceedings of all Management Committee Meetings together with a record of the names of persons present at each meeting.

**14.5 Voting at Management Committee Meetings**

- (a) Each Management Committee Member (except the person appointed to chair the meeting) present at a Management Committee Meeting has a deliberative vote.
- (b) A question arising at a Management Committee Meeting is to be decided by a majority of votes, but if there is an equality of votes, the person appointed to chair the Management Committee Meeting as set out in Rule 14.3 is entitled to exercise a casting vote.
- (c) Decisions may be made by general agreement or a show of hands.
- (d) A poll by secret ballot must be used if requested by any one Management Committee Member who requires a matter to be determined in this way and the person presiding as chair of the Management Committee Meeting will oversee the ballot.

**14.6 Acts not Affected by Defects or Disqualifications**

Any act performed by the Management Committee, a sub-committee or a person acting as a Management Committee Member is deemed to be valid even if the act was performed when:

- (a) there was a defect in the appointment of a Management Committee Member, sub-committee or person holding a subsidiary office; or
- (b) a Management Committee Member, a sub-committee member or a person holding a subsidiary office was disqualified from being a Member.

**14.7 Unanimous Resolutions Without Meeting**

- (a) A resolution signed by all members of the Management Committee and delivered to the Secretary shall have the same effect as if passed at a Management Committee Meeting.
- (b) A resolution pursuant to Rule 14.7 may be executed in any number of counterparts (whether in original or a copy transmitted by facsimile or pdf document transmitted by email), all of which taken together constitute one and the same document, and the resolution will be deemed to be made at the time the last resolution document signed by a Management Committee Member is received by the Secretary.

**15. REMUNERATION OF MANAGEMENT COMMITTEE MEMBERS**

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Subject to Rule 3.2(a) and 4(c), a Management Committee Member must not receive any remuneration for their services as a Management Committee Member.

**16. SUB-COMMITTEES AND DELEGATION**

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**16.1 Appointment of Sub-Committee**

- (a) The Management Committee may appoint (or may cancel) one or more sub-committees as considered appropriate by the Management Committee from time to time to assist with the conduct of the Association's operations, or to examine or report on any matter.

- (b) Sub-committees may comprise (in such numbers as the Management Committee determines) Members and non-members.
- (c) Subject to these Rules, the sub-committee members present at the sub-committee meeting are to determine the procedure and order of business to be followed at the sub-committee meeting.
- (d) The sub-committee shall remain responsible to, and must follow any directions of, the Management Committee at all times.

## **16.2 Delegation by Management Committee to Sub-Committee**

- (a) The Management Committee may delegate, in writing, to any or all of the sub-committees, any authority, power or functions and may cancel any authority, powers or functions, as the Management Committee sees fit from time to time.
- (b) Despite any delegation under this Rule, the Management Committee may continue to exercise all its functions, including any function that has been delegated to a sub-committee and remains responsible for the exercise of those functions at all times.

## **16.3 Delegation to Subsidiary Offices**

- (a) The Management Committee may create and fill such subsidiary office as may be necessary for the proper and efficient management of the Association's affairs.
- (b) The Management Committee may delegate, in writing, to any person holding a subsidiary office any authority, power or functions and may cancel any authority, powers or functions, as the Management Committee sees fit from time to time.
- (c) Despite any delegation under this Rule, the Management Committee may continue to exercise all its functions, including any function that has been delegated to a subsidiary office and remains responsible for the exercise of those functions at all times.

## **17. GENERAL MEETINGS**

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### **17.1 Procedure for General Meetings**

- (a) General Meetings may take place where the Members (being a natural person or represented by a person appointed under Rule 6.3(a)):
  - (i) are physically present together; or
  - (ii) where the Members are able to communicate by using any technology that reasonably allows the Member to participate fully in discussions as they happen in the General Meeting and in making any decisions, provided that:
    - (A) the use of technology is permitted either by the person presiding as chair of the meeting or by a resolution of those Members physically present; and
    - (B) the participation of the Member in the General Meeting must be made known to all other Members.
- (b) A Member who participates in a meeting as set out in Rule 17.1(a)(ii):



- (i) is deemed to be present at the General Meeting; and
- (ii) continues to be present at the General Meeting for the purposes of establishing a quorum,

until the Member notifies the other Members that he or she is no longer taking part in the General Meeting.

## **17.2 Quorum for General Meetings**

- (a) The Quorum for General Meetings is specified in Rule 1.4.
- (b) Subject to Rules 17.2(c) and (d), no business is to be conducted at a General Meeting unless a quorum of Members entitled to vote under these Rules is present at the time when the meeting is considering that item.
- (c) If, within thirty (30) minutes of the time appointed for the commencement of a General Meeting, a quorum is not present:
  - (i) in the case of a Special General Meeting, the meeting is to stand adjourned to:
    - (A) a place, date, and time as determined by the Management Committee; and
    - (B) the Secretary must give notice of the adjourned Special General Meeting in the same or substantially the same manner as General Meetings are convened;
  - (ii) in the case of an Annual General Meeting, the meeting is to stand adjourned to:
    - (A) the same time and day in the following week; and
    - (B) the same place unless another place is specified by the person acting as the chair of that Annual General Meeting at the time of the adjournment or by written notice to the Members given before the day to which the meeting is adjourned.
- (d) If at the adjourned meeting a quorum is not present within thirty (30) minutes of the time appointed for the commencement of the meeting, the Members present in person, or present through the use of technology under Rule 17.1(a)(ii), and eligible to cast a vote at the meeting are to constitute a quorum.

## **17.3 Notice of General Meetings and Motions**

- (a) The Secretary must give at least:
  - (i) 21 days' notice of a General Meeting to each Member, or
  - (ii) 21 days' notice of a General Meeting to each Member if a Special Resolution is proposed to be moved at the General Meeting.
- (b) The notice convening a General Meeting must specify:
  - (i) the place, date and time of the meeting; and
  - (ii) the particulars and order of the business to be conducted at the meeting.

- (c) The notice convening a General Meeting or any notice of motion must be issued in the manner prescribed by Rule 2.3.

#### **17.4 Presiding Member**

- (a) The Chairperson, or in the Chairperson's absence the Deputy-Chairperson, is to preside as chair of each General Meeting.
- (b) If the Chairperson and the Deputy-Chairperson are absent or unwilling to act, the remaining Management Committee Members must choose one of their number to preside as chair of the General Meeting.

#### **17.5 Adjournment of General Meetings**

- (a) The person presiding over a General Meeting, at which a quorum is present, may adjourn the meetings from time to time and place to place with the consent of a majority of Members present in person, or present through the use of technology under Rule 17.1(a)(ii), and eligible to cast a vote at the meeting.
- (b) No business is to be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.
- (c) When a General Meeting is adjourned for 14 days or more, the Secretary must give notice of the adjourned meeting in accordance with Rules 23 and 17.3 as if that General Meeting was a new General Meeting.

### **18. SPECIAL GENERAL MEETINGS**

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#### **18.1 Special General Meeting**

- (a) The Management Committee may at any time convene a Special General Meeting of the Association.
- (b) The Secretary must issue a notice to convene a Special General Meeting of the Association within 28 days after receiving a written request to do so from at least 20 per cent of the total number of General Members.

#### **18.2 Request for Special General Meeting**

A request by the General Members for a Special General Meeting must:

- (a) state the purpose of the meeting;
- (b) be signed by the required number of General Members making the request as specified in Rule 18.1(b); and
- (c) be lodged with the Secretary.

#### **18.3 Failure to Convene Special General Meeting**

- (a) If the Secretary fails to convene a Special General Meeting within the 28 days referred to in Rule 18.1(b), the General Members who made the request may convene a Special General Meeting within 3 months after the original request was lodged as if the Members were the Management Committee.
- (b) A Special General Meeting must be convened in the same or substantially the same manner as General Meetings are convened by the Management Committee

and the Association must pay the reasonable expenses of convening and holding the Special General Meeting.

## **19. MAKING DECISIONS AT GENERAL MEETINGS**

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### **19.1 Special Resolutions**

- (a) A Special Resolution must be moved at a General Meeting where notice of the Special Resolution has been given under Rule 19.1(c).
- (b) A Special Resolution of the Association is required to:
  - (i) amend the name of the Association;
  - (ii) amend the Rules, under Rule 24.2;
  - (iii) affiliate the Association with another body;
  - (iv) transfer the incorporation of the Association;
  - (v) amalgamate the Association with one or more other incorporated associations;
  - (vi) voluntarily wind up the Association;
  - (vii) cancel incorporation; or
  - (viii) request that a statutory manager be appointed.
- (c) Notice of a Special Resolution must:
  - (i) be in writing;
  - (ii) include the place, date and time of the meeting;
  - (iii) include the intention to propose a Special Resolution;
  - (iv) set out the wording of the proposed Special Resolution; and
  - (v) be given in accordance with Rule 2.3.
- (d) If notice is not given in accordance with Rule 19.1(c), the Special Resolution will have no effect.
- (e) A Special Resolution must be passed at a General Meeting at which there is a quorum and be supported by the votes of not less than three-fourths of the Members present in person, or present through the use of technology under Rule 17.1(a)(ii), and eligible to cast a vote at the meeting.

### **19.2 Ordinary Resolutions**

Subject to these Rules, a majority of votes will determine an Ordinary Resolution.

### **19.3 Voting at meetings**

- (a) Subject to these Rules, each General Member has one vote at a General Meeting of the Association.
- (b) A person casts a vote at a meeting either by:

- (i) voting at the meeting either in person; or
  - (ii) through the use of technology under Rule 17.1(a)(ii).
- (c) In the case of an equality of votes at a General Meeting, the person acting as chair of the meeting is entitled to exercise a second or casting vote.
- (d) A Member is only entitled to vote at a General Meeting if the Member's name is recorded in the Register (and where required has appointed a person under Rule 6.3(a)), as at the date the notice of the General Meeting was sent out under Rule 17.3.

#### **19.4 Manner of Determining Whether Resolution Carried**

- (a) Unless a Poll is demanded under Rule 19.5, if a question arising at a General Meeting of the Association is determined by general agreement or a show of hands, a declaration must be made by the person acting as chair of the General Meeting that the resolution has been:
- (i) carried unanimously;
  - (ii) carried by a particular majority; or
  - (iii) lost.
- (b) If the declaration relates to a Special Resolution, then subject to Rule 19.1(c), the declaration should state that a Special Resolution has been determined.
- (c) The declaration made under Rule 19.4(a) must be entered into the minute book of the Association.
- (d) The entry in the minute book of the Association under Rule 19.4(c) is evidence of the fact that the resolution has been determined, without proof of the number or proportion of the votes recorded in favour of or against that resolution.

#### **19.5 Poll at General Meetings**

- (a) At a General Meeting, a Poll on any question may be demanded by either:
- (i) the person acting as chair of the meeting; or
  - (ii) at least three Members of the Members present in person, or present through the use of technology under Rule 17.1(a)(ii), and eligible to cast a vote at the meeting.
- (b) If a Poll is demanded at a General Meeting, the Poll must be taken in a manner as the person acting as chair of the meeting directs and a declaration by the person acting as chair of the result of the Poll is evidence of the matter so declared.
- (c) If a Poll is demanded at a General Meeting, the Poll must be taken:
- (i) immediately in the case of a Poll which relates to electing a person to preside over the meeting;
  - (ii) immediately in the case of a Poll which relates to adjourning the meeting; or
  - (iii) in any other case, in the manner and time before the close of the meeting as the person acting as chair directs.

## **20. MINUTES OF MEETINGS**

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- (a) The Secretary or a person authorised by the Management Committee from time to time must keep minutes of the resolutions and proceedings of all General Meetings and Management Committee Meetings together with a record of the names of persons present at each meeting. The minutes are to be taken and then to be entered within 30 days after the holding of each meeting, into a minute book kept for that purpose.
- (b) The Chairperson must ensure that the minutes of a General Meeting or Management Committee Meeting under Rule 20(a) are reviewed and signed as correct by:
  - (i) the person acting as chair of the General Meeting or Management Committee Meeting to which those minutes relate; or
  - (ii) the person acting as chair of the next succeeding General Meeting or Management Committee Meeting.
- (c) When minutes have been entered and signed as correct under this Rule, they are, until the contrary is proved, evidence that:
  - (i) the General Meeting or Management Committee Meeting to which they relate was duly convened and held;
  - (ii) all proceedings recorded as having taken place at the General Meeting or Management Committee Meeting did in fact take place at the meeting; and
  - (iii) all appointments or elections purporting to have been made at the meeting have been validly made.
- (d) The minutes of General Meetings may be inspected by a Member under Rule 27.2.
- (e) The minutes of Management Committee Meetings may be inspected by a Member under Rule 27.2 unless the Management Committee determines that the minutes of Management Committee Meetings generally, or the minutes of a specific Management Committee Meeting are not to be available for inspection.

## **21. FUNDS AND ACCOUNTS**

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### **21.1 Control of Funds**

- (a) The funds of the Association must be kept in an account in the name of the Association in a financial institution determined by the Management Committee.
- (b) The funds of the Association are to be used in pursuance of the objects of the Association.
- (c) The Treasurer shall open and operate and maintain bank accounts in the name of the Association and shall have all moneys received by the Association deposited into such an account.
- (d) The Treasurer may open accounts with any financial institution in the name of the Association for the investment of Association moneys received into an Association bank account.

- (e) Payments from an Association account with any bank or other financial institution shall only be made if authorised by both:
  - (i) the Treasurer or in the Treasurer's absence by a duly authorised Management Committee Member; and
- (f) another duly authorised Management Committee Member. All expenditure above the maximum amount set by the Management Committee from time to time must be approved or ratified at a Management Committee Meeting.

## **21.2 Source of Association Funds**

- (a) The funds of the Association may be derived from a levy of Members, donations, State or Commonwealth grants, interest, and any other sources approved by the Management Committee.
- (b) The Association must, as soon as practicable:
  - (i) deposit all money received by the Association, to the credit of the Association's bank account, without deduction; and
  - (ii) after receiving any money, issue an appropriate receipt.

## **21.3 Financial Records**

- (a) The Association must keep Financial Records that:
  - (i) correctly record and explain its transactions, financial position and performance; and
  - (ii) enable true and fair financial statements to be prepared in accordance with Part 5 of the Act.
- (b) The Association must retain its Financial Records for at least 7 years after the transactions covered by the records are completed.

## **21.4 Financial Reports**

- (a) For each financial year, the Association must ensure that the requirements under Part 5 of the Act are met.
- (b) Without limiting Rule 21.4(a), those requirements include—
  - (i) the preparation of a Financial Report;
  - (ii) an audit of the Financial Report; and
  - (iii) the presentation of the Financial Report to the Annual General Meeting (and a copy of the auditor's report); and
  - (iv) if required by the regulations made under the Act, the lodgement of the annual return with the Commissioner.

## **21.5 Audit of the Financial Report**

The Association must ensure that an audit is undertaken of the Financial Report of the Association.

## **22. FINANCIAL YEAR OF THE ASSOCIATION**

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The financial year of the Association is the period of 12 months commencing on 1 July and ending on 30 June.

## **23. ANNUAL GENERAL MEETINGS**

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### **23.1 Annual General Meeting**

- (a) Subject to Rule 23.1(b), the Association must convene an Annual General Meeting each calendar year:
  - (i) within 6 months after the end of the Association's Financial Year; or
  - (ii) within a longer period as the Commissioner may allow.
- (b) If the Association requires the approval from the Commissioner to hold its Annual General Meeting within a longer period under Rule 23.1(a)(ii), the Secretary must apply to the Commissioner no later than four months after the end of the Association's Financial Year.

### **23.2 Notice of Annual General Meeting**

The notice convening an Annual General Meeting must specify that it is the Annual General Meeting of the Association and otherwise must comply with Rules 2.3 and 17.3 (as applicable).

### **23.3 Business to be Conducted at Annual General Meeting**

- (a) Subject to Rule 23.1, the Annual General Meeting of the Association is to be convened on a date, time and place as the Management Committee decides.
- (b) At each Annual General Meeting of the Association, the business of the Annual General Meeting shall include in this order:
  - (i) confirmation of the minutes of the last preceding Annual General Meeting and of any Special General Meeting held since that meeting if the minutes of that Special General Meeting have not yet been confirmed;
  - (ii) the Chairperson's report;
  - (iii) the Treasurer's report;
  - (iv) the Association, must present the Financial Report of the Association for the preceding Financial Year;
  - (v) if applicable, appoint or remove an auditor in accordance with the Act;
  - (vi) present a copy of the auditor's report to the Association;
  - (vii) the election of the Office Holders and ordinary Management Committee Members whose terms expire;
  - (viii) special business of which notice is given; and
  - (ix) general business.

## **24. RULES OF THE ASSOCIATION**

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### **24.1 Rules of the Association**

- (a) These Rules bind every Member and the Association and each Member agrees to comply with these Rules.
- (b) The Association must provide, free of charge, a copy of the Rules in force, at the time membership commences, to each person who becomes a Member under Rule 5.5.
- (c) The Association must keep a current copy of the Rules.

### **24.2 Amendment of Rules, Name and Objects**

- (a) The Association may only alter, rescind or add to these Rules by Special Resolution at a General Meeting.
- (b) When a Special Resolution amending the Rules is passed, the required documents must be lodged with the Commissioner within:
  - (i) one month after the Special Resolution is passed; or
  - (ii) a longer period as the Commissioner may allow.
- (c) Subject to Rule 24.2(d), an amendment to the Rules does not take effect until the required documents are lodged with the Commissioner under Rule 24.2(b).
- (d) An amendment to the Rules that changes or has the effect of changing:
  - (i) the name of the Association; or
  - (ii) the objects or purposes of the Association,

does not take effect until the required documents are lodged with the Commissioner under Rule 24.2(b) and the approval of the Commissioner is given in writing.

## **25. BY-LAWS OF THE ASSOCIATION**

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- (a) The Members of the Association may make, amend and repeal by-laws for the management of the Association by Ordinary Resolution at a General Meeting provided that the by-laws are not inconsistent with the Rules or the Act.
- (b) The by-laws made under Rule 25(a):
  - (i) do not form part of the Rules;
  - (ii) may make provision for:
    - (A) rights and obligations that apply to each class of membership;
    - (B) requirements for financial reporting, financial accountability or audit of accounts in addition to those prescribed by the Act and the Rules;
    - (C) restrictions on the powers of the Management Committee including the power to dispose of assets; and



- (D) any other matter that the Association considers necessary or appropriate; and
- (iii) must be available for inspection by Members.

## **26. AUTHORITY REQUIRED TO BIND ASSOCIATION**

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### **26.1 Executing Documents**

The Association may execute a document without using a common seal if the document is signed by:

- (a) any two Management Committee Members; or
- (b) one Management Committee Member and a person authorised by the Management Committee.

### **26.2 Use of the Common Seal**

- (a) If the Association has a common seal on which its corporate name appears in legible characters:
  - (i) the Secretary or any other person as the Management Committee from time to time decides must provide for its safe custody; and
  - (ii) it must only be used under resolution of the Management Committee.
- (b) The Association executes a document with its common seal, if the fixing of the seal is done:
  - (i) under resolution of the Management Committee; and
  - (ii) witnessed by any two of the Chairperson , the Deputy Chairperson , or the Secretary.
- (c) Every use of the common seal must be recorded in the Management Committee's minute book.

## **27. THE ASSOCIATION'S BOOKS AND RECORDS**

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### **27.1 Custody of the Books of the Association**

- (a) Except as otherwise decided by the Management Committee from time to time, the Secretary must keep in his or her custody or under his or her control all of the Books of the Association with the exception of including the Financial Records, which, except as otherwise directed by the Management Committee from time to time, are to be kept under the custody or control of the Treasurer.
- (b) The Books of the Association must be retained for at least 7 years.

### **27.2 Inspecting the Books of the Association**

- (a) Subject to these Rules, and in particular Rule 20(e), a Member is able to inspect the Books of the Association, with the exception of the Financial Records, free of charge at such time and place as is mutually convenient to the Association and the Member.

- (b) A Member must contact the Secretary to request to inspect the Books of the Association.
- (c) The Member may copy details from the Books of the Association but has no right to remove the Books of the Association for that purpose.

### **27.3 Prohibition on Use of Information in the Books of the Association**

A Member must not use or disclose information in the Books of the Association except for a purpose:

- (a) that is directly connected with the affairs of the Association; or
- (b) related to the provision of the information to the Commissioner in accordance with a requirement of the Act.

### **27.4 Returning the Books of the Association**

Outgoing Management Committee Members are responsible for transferring all relevant assets and Books of the Association to the new Management Committee within 14 days of ceasing to be a Management Committee Member.

## **28. RESOLVING DISPUTES**

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### **28.1 Disputes Arising under the Rules**

- (a) This Rule applies to:
  - (i) disputes between Members; and
  - (ii) disputes between the Association and one or more Members that arise under the Rules or relate to the Rules of the Association.
- (b) In this Rule "Member" includes any former Member whose membership ceased not more than six months before the dispute occurred.
- (c) The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.
- (d) If the parties are unable to resolve the dispute, any party to the dispute may refer the dispute to the Management Committee under Rule 28.2 or to mediation under Rule 28.3 by giving written notice to the Secretary and to the other parties specifying:
  - (i) the parties to the dispute,
  - (ii) details of, the dispute, and
  - (iii) whether the dispute is referred to the Management Committee for determination or to mediation.

### **28.2 Determination by Management Committee**

If the dispute is referred to the Management Committee:

- (a) The Secretary must convene a Management Committee Meeting within 28 days after the Secretary receives notice of the dispute under Rule 28.1(d) for the Management Committee to determine the dispute.

- (b) At the Management Committee Meeting to determine the dispute, all parties to the dispute must be given a full and fair opportunity to state their respective cases orally, in writing or both.
- (c) The Secretary must inform the parties to the dispute of the Management Committee's decision and the reasons for the decision within 7 days after the Management Committee Meeting at which the dispute is determined.

### **28.3 Mediation**

If the dispute is referred to mediation:

- (a) The mediator must be:
  - (i) a person chosen by agreement between the parties; or
  - (ii) in the absence of agreement within 7 days of notice of the dispute under Rule 28.1(d):
    - (A) if the dispute is between a Member and another Member, then a person appointed by the Secretary; or
    - (B) if the Association, the Management Committee or a Management Committee Member are a party to the dispute then a person nominated by the Resolution Institute or its successor organisation, who accepts appointment as mediator.
- (b) A Member can be a mediator, but the mediator cannot be a Member who is a party to the dispute.
- (c) The parties to the dispute must acting reasonably and in good faith attempt to settle the dispute by mediation.
- (d) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least 5 days before the mediation session.
- (e) Subject to any direction from the mediator regarding the procedure for the conduct of the mediation, the mediation will be conducted in accordance with the Mediation Rules of the Resolution Institute.
- (f) The costs of the mediation must be paid for equally by the parties to the dispute.
- (g) The mediator shall be independent of, and act fairly and impartially as between the parties. The Mediator shall assist the parties to negotiate between themselves a mutually acceptable resolution of the dispute.
- (h) Information provided by the parties in the course of the mediation is confidential and cannot be used in any other legal proceedings that may take place in relation to the dispute.

### **28.4 Inability to Resolve Disputes**

If a dispute cannot be resolved under the procedures set out in the Rules, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.

## 29. CANCELLATION AND DISTRIBUTION OF SURPLUS PROPERTY

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- (a) The Association may cease its activities and have its incorporation cancelled in accordance with the Act if the General Members, who are on the Register of Members and who are eligible to vote under the Rules, resolve by Special Resolution that the Association will:
- (i) apply to the Commissioner for cancellation of its incorporation; or
  - (ii) appoint a liquidator to wind up its affairs.
- (b) The Association must be wound up under Rule 29(a)(ii) and Part 9 of the Act before cancellation can take place if it has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings.
- (c) Upon cancellation of the Association the Surplus Property must only be distributed to one or more of the entities listed in clause 29(d) which:
- (i) must have objects and purposes which are charitable at law and are similar to the objects and purposes of the Association; and
  - (ii) must have rules prohibiting the distribution of its assets and income to its members.
- (d) Entities to which the Surplus Assets may be distributed pursuant to 29(c) must be either:
- (i) an incorporated association under the Act;
  - (ii) a company limited by guarantee that is registered as mentioned in section 150 of the Corporations Act 2001 (Cwth); or
  - (iii) a co-operative registered under the Co-operatives Act 2009 that, at the time of the distribution, is a non-distributing co-operative as defined in that Act;
- and the entity must comply with both clause 29(c)(i) and clause 29(c)(ii)

## 30. RESERVE POWERS OF THE FOUNDATION GENERAL MEMBERS

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### 30.1 Reserve Powers

During the period of three (3) years (**Reserve Power Period**) immediately following the General Meeting at which this Constitution is adopted by the Association:

- (a) The Management Committee can only impose an annual levy or a discretionary levy on Members pursuant to Rule 9 if the amount of the levy is approved by a resolution of not less than seven (7) of the Foundation General Members. The resolution must be either:
- (i) at a meeting of the Foundation General Members convened for that purpose by the Secretary or such other person authorised by the Management Committee from time to time; or
  - (ii) by written resolution of the Foundation General Members prepared and sent to all Foundation General Members for that purpose by the Secretary or such other person authorised by the Management Committee from time to time.

- (b) The Management Committee must include at least one (1) member that is a person nominated by a Foundation General Member pursuant to Rule 6.3.

**30.2 Expiry of Reserve Powers**

From the expiry of the Reserve Power Period this Rule 30 shall cease to apply.

**30.3 Review of Reserve Powers**

A review of the reserve powers of the Foundation General Members under Rule 30.1 shall be undertaken by the Management Committee within two years of the adoption of this Constitution. Any extension or amendment of the reserve powers of this Rule 30 can only be made pursuant to Rule 24.2.



# CEACA

Supporting Age Friendly Communities

## Supporting Evidence – Rates Exemption

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Central East Aged Care Alliance (CEACA) is a collaboration of 11 Local Governments in Western Australia. CEACA was established to conduct research in conjunction with the Wheatbelt Development Commission and Regional Development Australia Wheatbelt which found there was significant under-resourcing of housing, health care beds and other age-appropriate related resources across the region. Formed in 2012, CEACA's membership includes the Shires of Bruce Rock, Kellerberrin, Koorda, Merredin, Mt Marshall, Mukinbudin, Nungarin, Trayning, Westonia, Wyalkatchem and Yilgarn.

The 71 units are now fully owned by CEACA Inc and managed by an agency, Force Real Estate. The first occupants moved into the units in October 2019 and the last of the sites, Bruce Rock was handed over to CEACA in July 2020. Occupancy is now at 86%.

CEACA Inc work with the Shires, the Community Resource Centres, Doctors and local hospitals and health services to ensure that suitable housing is offered to those in most need. All local health services have CEACA information on hand and are aware of the allocations process.

We have also recently worked with Hearing Bus Australia to arrange for visits to the Shires to conduct free hearing checks for not only CEACA tenants, but all residents. The Hearing Bus Australia team also approached local health services with a view to them participating in the day. This was a great initiative for the areas as many do not get access to appropriate health care.

### Design

All 71 CEACA units were designed in accordance with the *Liveable Housing Guidelines* which have been developed by industry leaders in consultation with community members and provide assurance that a home is easier to access, navigate and live in, as well more cost effective to adapt when life's circumstances change.

- People who sustain a temporary injury or have ongoing injuries benefit from Liveable Homes due to the easy to operate door handles and the step free pathway to all key areas of the home.
- People with a disability and their families will benefit from Liveable Homes that enable them to take advantage of better housing choices and gives them the opportunity to visit the homes of friends and relatives.

CEACA offer Gold (Standard) units as well as 16 Platinum (Disability) units, both of which are open plan and easy care. All units offer new carpets, blinds, ceiling fans and a split system air-conditioner in the main living area for comfort during the extreme range of temperatures in the region.



# CEACA

Supporting Age Friendly Communities

As an organisation, we are proud to have assisted the local communities in the following ways:

1. Enabled young apprentices on very low incomes to remain in their community surrounded by friends and family rather than having to travel to and from the City. This supports local businesses.
2. Assisted those living with domestic violence to become independent.
3. Enabled those who are no longer able to manage larger properties due to poor health or disability to downsize whilst remaining in their chosen community near their friends and family.
4. Provided suitable housing options for indigenous community members.
5. Assisted those who would otherwise be homeless.

The original intent for CEACA Inc was to provide affordable living options for those over 65 years and those living with a disability or neurological disorder, however this has evolved to cater for a wider variety of groups and needs of those not only living in the region, but for people who wish to move to the Wheatbelt to be with family, friends and support networks.

We have provided housing to people who would otherwise have been homeless due to lack of choice in the region and have given others the opportunity to move closer to family, friends, and essential services.

In early 2020 we were approached by one of the 11 Shires and a local business and were asked to give consideration to offering housing to young apprentices in the area who would otherwise have to leave the town and take up work in the City due to the lack of affordable housing and travel involved. We reviewed the conditions of these leases and have accepted them on a trial basis. We are happy to report that these apprentices still reside in the units and have been able to remain in place, surrounded by their family and friends. We see this as a great success story as they stay in the town of their choice, they keep local businesses going, stay close to family and contribute to that town by spending money.

On an operational level, we have developed policies and procedures that are sound and ensure that not only are CEACA protected, but so are their tenants and the community at large.

Although this is a new project, CEACA are continually looking at ways to bring improvements to their units and will soon be installing solar panels to all units for the benefit of their tenants. This is a priority for CEACA as we understand that most of our tenants are on very low or low incomes.

During the COVID-19 lockdown, we approached Bunnings in Perth and asked them if they could send anything out to the 11 Shires to keep the tenants and residents occupied. They were kind enough to offer art and woodworking packs to all 11 Shires and sent so many that the local non-CEACA residents also benefited. The feedback was fantastic, and these packs were also used by the local Men's Shed, schools, library, and other clubs/associations in the region.



# CEACA

Supporting Age Friendly Communities

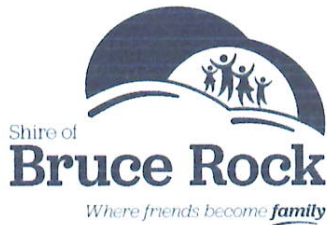
CEACA like to lead by example and we feel we demonstrate this by:

- Ensuring we have the correct policies and procedures in place to protect not only CEACA but our tenants and the wider community.
- We continually look at ways that we can improve.
- We treat all applicants fairly and with respect.
- We conduct ourselves in a professional manner.
- We are open to change and are continually looking into new opportunities.
- We are flexible – we understand that applicants and tenants are all different and sometimes have complex needs. We do assess everyone fairly.

We have also taken the decision to allow tenants to bring their pet with them, as recognise the importance of pets to people, particularly the elderly and their wellbeing and believe the benefits far outweigh any risks involved with allowing them into the units.

CEACA are currently conducting research with other like-minded organisations into way of improving the availability and delivery of services to those living in the Wheatbelt region.





## Privacy

The personal information collected on this form will only be used by the Shire of Bruce Rock for the sole purpose of providing requested and related services. Information will be stored securely by us and will not be disclosed to any third parties without your express written consent.

## SHIRE OF BRUCE ROCK

54 Johnson Street, Bruce Rock WA 6418  
Postal: PO Box 113, Bruce Rock WA 6418

ABN: 22 148 096 754

Phone: 08 9061 1377

Email : [admin@brucerock.wa.gov.au](mailto:admin@brucerock.wa.gov.au)

Website : [www.brucerock.wa.gov.au](http://www.brucerock.wa.gov.au)

This application form is to be used by organisations seeking exemption from rates, pursuant to the provisions of Section 6.26 of the Local Government Act 1995. In doing so you are objecting to the rate book under Section 6.76 of the Local Government Act 1995. The application for exemption will be checked based on the information you have provided, and you will be advised of the outcome in due course. Please attach any additional documents requested, as failure to do so may result in the application being refused.

Please note that where exemption from rates is approved, the property will still be subject to the Emergency Services Levy and any other service fees or charges, if applicable, such as rubbish collection charges. All properties granted exemption from rates are subject to periodic reviews to ensure continued approval.

**Instructions:** Please print clearly in the spaces provided.

### 1. PROPERTY ADDRESS DETAILS

Street address	100 BRUCE ROCK (63) - AS PER NOTICE 63 BUTCHER STREET, BRUCE ROCK (6 UNITS)
Suburb	BRUCE ROCK
Rates Assessment Number (if known)	A2512

### 2. WHAT IS THE CURRENT USE OF THE PROPERTY? Please provide full details:

Residential units leased - affordable housing for the aged, disabled and those on low or very low incomes

### 3. PROPERTY OWNER DETAILS

Organisation:	CENTRAL EAST AGED CARE ALLIANCE INC.		
Property Owner: if different to above			
Postal Address:	LEVEL 2, BUILDING C, 355 SCARBOROUGH BEACH RD, OSBORNE PARK		
Telephone:	9444 4815	Postcode:	6017
Mobile:	0494 364 466	Facsimile:	-
E-mail:	nicholas.hopkins@ceaca.org.au		

### 4. APPLICANT DETAILS

Contact Person:	NICHOLAS HOPKINS		
Position Title:	CEO		
Postal Address:	LEVEL 2, BUILDING C, 355 SCARBOROUGH BEACH RD, OSBORNE PARK		
Telephone:	0494 364 466	Postcode:	6017
Mobile:	0494 364 466	Facsimile:	-
E-mail:	nicholas.hopkins@ceaca.org.au		

### 5. ORGANISATION INFORMATION

Is/does the organisation:

An incorporated body as per the Associations Incorporations Act 1987 (WA)? Yes  No   
*If yes, provide a Certificate of Incorporation*

Is the organisation considered 'not for profit' and registered under the Australian Charities and Not for Profit Commission (ACNC) and Public Benevolent Institution Status? Yes  No   
*If yes, please provide the registration number and provide a copy of the registration certificate*

Have a Charity Tax Exemption from the Australian Tax Office (ATO)? Yes  No   
*If yes, provide a certificate of tax exemption from the ATO*

Leasing the property? Yes  No   
*If yes, provide a copy of the lease and confirm if the lessee is responsible for payment of the rates*

Have planning approval for the land use of the property? Yes  No   
*A site inspection may be required and if found not to be compliant with the approved use, the application may be disallowed*

**6. DOCUMENTATION REQUIREMENTS**

Please provide a copy of (in addition to those specified in Section 4):

- Organisation's Constitution
- Written statement outlining the nature of the Organisation's operations.

It should include the following details:

- Use and occupancy of the property
- Type of service provided (e.g. food, accommodation etc)
- Frequency of service provision (e.g. full-time, daily, weekly etc)
- Detailed information as to whether payment is received for the service.

A plan of the property, showing all buildings and outbuildings

OR

A floor plan of the leased property area, if only part of the property is the subject of this application

A Copy of the current years audited financial statements for the Organisation  
*(If this exemption applies to only a portion of land owned by this Organisation, provide the relevant statements for the land this application applies to.)*

---

**7. AUTHORISATION**

By signing this application, I hereby certify that the information provided is true and correct to the best of my knowledge.

Name: Position:

NICHOLAS HOPKINSON, CEO

Organisation:

CENTRAL EAST AGED CARE ALLIANCE INC

Signature of Applicant:



Date:

16/10/20

# OFFICE USE ONLY

## 1. CONSIDERATIONS

Approval with Town Planning Scheme?

YES

NO

Has the property been inspected?

YES

NO

Recommend for non-rateable status?

YES

NO

Applicant/Owner Name: \_\_\_\_\_

Section of the Local Government Act 1995      6.26(2) \_\_\_\_\_

Exemption Description: \_\_\_\_\_

Reason for non-rateable status:

New Application

Review of Exemption

Amount of rates to be exempted and dates to be applicable from (application date). The approval will be for a period of \_\_\_\_ years, unless circumstances change.

Amount: \_\_\_\_\_      Date (from): \_\_\_\_\_

Rubbish bin changes to be levied and dates to be applicable from:

Amount: \_\_\_\_\_      Date (from): \_\_\_\_\_

---

**2. DECISION UNDER DELEGATED AUTHORITY**

This application has been:

DECLINED for  
non-rateable status

APPROVED for partial  
non-rateable status

APPROVED for  
non-rateable status

**Name:**

--	--	--

**Signature:**

	<b>Date:</b>	
--	--------------	--

OR

**Council Resolution Reference:** \_\_\_\_\_

**Date of Council Meeting:** \_\_\_\_\_

WESTERN AUSTRALIA

**OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS ACT 2005**

**STATUTORY DECLARATION**

**APPLICATION FOR RATES EXEMPTION UNDER  
SECTION 6.26 OF THE LOCAL GOVERNMENT ACT 1995.**

**STATEMENT OF PROPERTY USE FOR THE YEAR ENDING 30 JUNE 20**

(1) Christian name or names  
and surname of declarant in full (1) NICHOLAS HOLKIN  
(2) Address 16 SEATTLE COURT, QUINDARUP WA  
In the State of Western Australia  
(3) Occupation CHIEF EXECUTIVE OFFICER

Sincerely declare as follows:-

The property located at 63 BUTCHER STREET, BRUCE ROCK (6 UNITS)  
is used by CENTRAL EAST AGED CARE ALLIANCE INC  
for the purposes of AFFORDABLE LIVING FOR THE AGED, DISABLED  
AND THOSE ON VERY LOW OR LOW INCOMES  
Description of the activities the  
property is used for THE PROPERTIES PROVIDE AFFORDABLE LIVING OPTIONS FOR  
THOSE IN THE WHEATBELT AND UNITS FOR THOSE WITH DISABILITIES  
for the period << \_\_\_ to \_\_\_ >> or from \_\_\_ to \_\_\_ .

The applicant agrees to advise the Local Government's Rating Services Section as soon as there is **ANY** change to the purpose/s as stated above.

This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005*

Declared at Osborne Park  
this 16th day of October 2002  
In the presence of [Signature]  
(Signature of authorised witness)  
Janne Tracty  
(Name of authorised witness and qualification as such a witness)

(4) Signature of person making the declaration  
[Signature]  
(4)

**\*Important** This Declaration must be made before any of the following persons:-

Academic {post-secondary institution}  
Accountant  
Architect  
Australian Consular Officer  
Australian Diplomatic Officer  
Bailiff  
Bank Manager  
Chartered secretary  
Chemist  
Chiropractor  
Company auditor or liquidator  
Court officer {Judge, magistrate, registrar or clerk}  
Defence Force officer {Commissioned, Warrant or NCO {with 5 years continuous service}}  
Dentist  
Doctor  
Electorate Officer {State – WA only}  
Engineer  
Industrial organisation secretary  
Insurance broker  
Justice of the Peace {any State}  
Lawyer  
Local government CEO or deputy CEO  
Local government councillor  
Loss adjuster  
Marriage Celebrant  
Member of Parliament {State or Commonwealth}  
Minister of religion  
Nurse  
Optometrist  
Patent Attorney  
Physiotherapist  
Podiatrist  
Police officer  
Post Officer manager  
Psychologist  
Public Notary,  
Public Servant {State or Commonwealth}  
Real Estate agent  
Settlement agent  
Sheriff or deputy Sheriff  
Surveyor  
Teacher  
Tribunal officer  
Veterinary surgeon

Or,

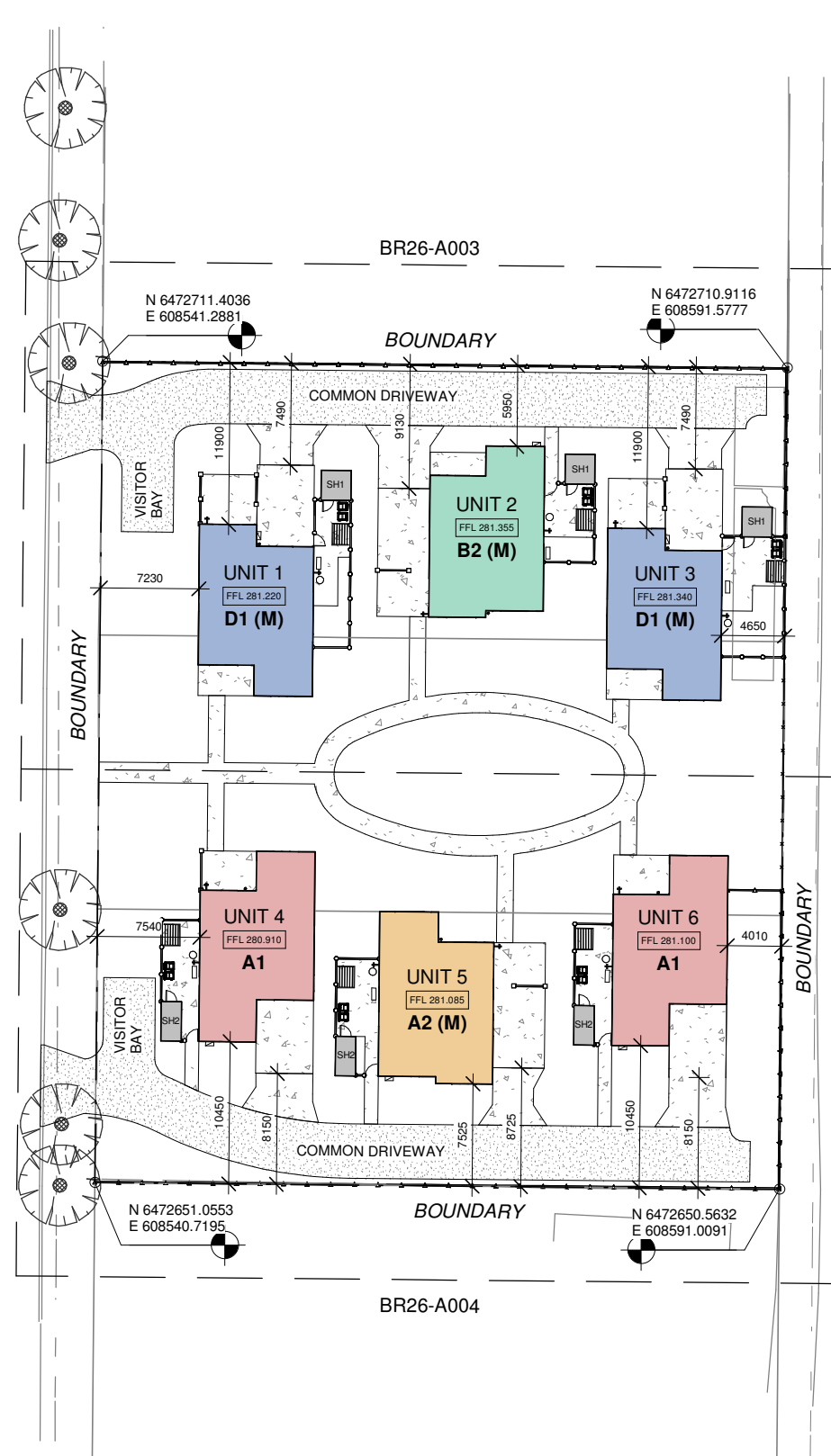
Any person before whom, under the *Statutory Declarations Act 1959* of the Commonwealth, a Statutory Declaration may be made.

---

**FOR INFORMATION:** Any authorised witness for the State of Western Australia may also witness a Commonwealth Statutory Declaration, as long as they are in Western Australia at the time of witnessing {Schedule 2, item 231 of the Commonwealth Statutory Declarations Regulations 1993}.

**IMPORTANT INFORMATION:**

AS OF 1 JANUARY 2006 THERE IS NO PROVISION FOR COMMISSIONERS FOR DECLARATIONS IN THE STATE OF WESTERN AUSTRALIA



**OVERALL SITE PLAN**

1 : 500

	UNIT TYPE A1
	UNIT TYPE A2
	UNIT TYPE A3
	UNIT TYPE B1
	UNIT TYPE B2
	UNIT TYPE D1
	UNIT TYPE D2

**HOUSE TYPES**



**KEY PLAN**

1 : 1000

DB	DISTRIBUTION BOARD - REFER TO ELEC. ENG. DWGS.		LOT BOUNDARY
NBN	NBN NTD - REFER TO ELEC. ENG. DWGS. <b>ROBE TO TYPICAL DETAIL ON GENERAL NOTES SHEET</b>		EXISTING TREES TO REMAIN
NBN-F	FUTURE NBN MODEM - REFER TO ELEC. ENG. DWGS. <b>ROBE TO TYPICAL DETAIL ON GENERAL NOTES SHEET</b>		CONCRETE PADS, CROSSOVERS AND FOOTPATHS - REFER TO CIVIL ENG. DWGS.
AC	AIR CONDITIONER (OUTDOOR UNIT)		ACCESS ROADS - REFER TO CIVIL ENG. DWGS.
AC-I	AIR CONDITIONER (INDOOR UNIT)		FT-1 FENCE TYPE 1 - LYSAGHT 'NEETASCREEN' FENCING - 1.8m HIGH
AC-D	AIR CONDITIONER CONDENSATE DRAIN - LOCATION INDICATIVE ONLY		FT-2 FENCE TYPE 2 - LYSAGHT 'NEETASCREEN' FENCING - 1.5m HIGH
SH1	COLORBOND GARDEN SHED TYPE 1 - 2.2m x 2.2m BY OTHERS - REFER TO PLAN FOR DOOR LOCATION		FT-3 FENCE TYPE 3 - LYSAGHT 'NEETASCREEN' FENCING - 1.2m HIGH
SH2	COLORBOND GARDEN SHED TYPE 2 - 1.5m x 2.9m BY OTHERS - REFER TO PLAN FOR DOOR LOCATION		FT-4 FENCE TYPE 4 - COLORBOND 'CLICK'N'FIT' SLATTED FENCING - 1.5m HIGH
BINS	BIN STORAGE - LOCATION INDICATIVE ONLY		FT-5 FENCE TYPE 5 - O'BRIENS 'WELDMESH' FENCING - 0.9m HIGH
DRYING YARD	DRYING YARD WITH 1.6m WIDE x 1.2m DEEP FOLDING CLOTHES LINE WITH PROPRIETARY GROUND MOUNTING KIT		HC EXTERNAL HOSECOCK
HWU	HOT WATER UNIT		(M) DENOTES MIRRORED TYPICAL UNIT - REFER TO FLOOR PLAN FOR DETAILS

**SITE LEGEND**

DATA IS SUPPLIED FOR INFORMATION ONLY WITH THE HARD COPY TAKING PRECEDENCE EVERY TIME.  
DO NOT SCALE FROM THIS DRAWING. VERIFY ALL DIMENSIONS ON SITE, PRIOR TO COMMENCEMENT OF ANY WORKS.  
THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL SCHEDULES OF WORKS, SPECIFICATIONS, FINISHES AND EQUIPMENT SCHEDULES.

**GENERAL NOTES**  
**DRAWING TO BE READ IN CONJUNCTION WITH GENERAL NOTES SHEET**

REV	DATE	DESCRIPTION	BY
3	13.09.18	ISSUED FOR CONSTRUCTION	MD
2	05.09.18	ISSUED FOR CONSTRUCTION	MD
1	09.08.18	ISSUED FOR CONSTRUCTION	JB
0	03.08.18	ISSUED FOR CONSTRUCTION	MD
C	06.07.18	ISSUED FOR BUILDING LICENCE	MD
B	06.07.18	ISSUED FOR 90%	MD
A	28.05.18	PRELIMINARY REVIEW	MD

REVISIONS			
<b>FOR CONSTRUCTION</b>			

**FOR CONSTRUCTION**



CLIENT:  
**CENTRAL EAST AGED CARE ALLIANCE (CEACA)**

PROJECT:  
**CEACA SENIORS HOUSING DEVELOPMENT 71 UNITS**

DRAWING TITLE:  
**OVERALL SITE PLAN**

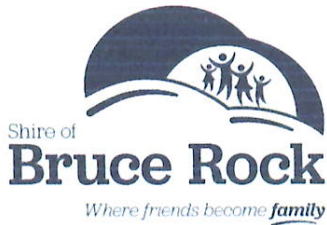
SITE  
LOTS 26 - 28 BUTCHER ST, BRUCE ROCK

DRAWN: MD	CHECKED: YH	ENG: TADROS	CLIENT REP: M. LEE
-----------	-------------	-------------	--------------------

CONTRACT No. TBC	DWG No. BR26-A002	REV 3
------------------	-------------------	-------

SCALE: As indicated @ A3





## Privacy

The personal information collected on this form will only be used by the Shire of Bruce Rock for the sole purpose of providing requested and related services. Information will be stored securely by us will not be disclosed to any third parties without your express written consent.

## SHIRE OF BRUCE ROCK

54 Johnson Street, Bruce Rock WA 6418  
Postal: PO Box 113, Bruce Rock WA 6418

ABN: 22 148 096 754

Phone: 08 9061 1377

Email : [admin@brucerock.wa.gov.au](mailto:admin@brucerock.wa.gov.au)

Website : [www.brucerock.wa.gov.au](http://www.brucerock.wa.gov.au)

This application form is to be used by organisations seeking exemption from rates, pursuant to the provisions of Section 6.26 of the Local Government Act 1995. In doing so you are objecting to the rate book under Section 6.76 of the Local Government Act 1995. The application for exemption will be checked based on the information you have provided, and you will be advised of the outcome in due course. Please attach any additional documents requested, as failure to do so may result in the application being refused.

**Please note that where exemption from rates is approved, the property will still be subject to the Emergency Services Levy and any other service fees or charges, if applicable, such as rubbish collection charges. All properties granted exemption from rates are subject to periodic reviews to ensure continued approval.**

**Instructions:** Please print clearly in the spaces provided.

### 1. PROPERTY ADDRESS DETAILS

Street address	201 BRUCE ROCK ST (AS PER NOTICE) UNIT 1 & UNIT 2 87 BUTCHER ST
Suburb	BRUCE ROCK
Rates Assessment Number (if known)	A2614

### 2. WHAT IS THE CURRENT USE OF THE PROPERTY? Please provide full details:

Residential units being leased - affordable housing for the aged, disabled & those on very low or low incomes.

### 3. PROPERTY OWNER DETAILS

Organisation:	CENTRAL EAST AGED CARE ALLIANCE INC		
Property Owner: if different to above			
Postal Address:	LEVEL 2, BUILDING C, 355 SCARBOROUGH BEACH RD, OSBORNE PARK		
Telephone:	08 9444 4815	Postcode:	6017
Mobile:	0404 364 466	Facsimile:	-
E-mail:	nicholas.hopkins@ceaca.org.au		

### 4. APPLICANT DETAILS

Contact Person:	NICHOLAS HOPKINS		
Position Title:	CEO		
Postal Address:	LEVEL 2, BUILDING C, 355 SCARBOROUGH BEACH RD, OSBORNE PARK		
Telephone:	08 9444 4815	Postcode:	6017
Mobile:	0404 364 466	Facsimile:	-
E-mail:	nicholas.hopkins@ceaca.org.au		

### 5. ORGANISATION INFORMATION

Is/does the organisation:  
An incorporated body as per the Associations Incorporations Act 1987 (WA)?  
*If yes, provide a Certificate of Incorporation*

Yes  No

Is the organisation considered 'not for profit' and registered under the Australian Charities and Not for Profit Commission (ACNC) and Public Benevolent Institution Status?  
*If yes, please provide the registration number and provide a copy of the registration certificate*

Yes  No

Have a Charity Tax Exemption from the Australian Tax Office (ATO)?  
*If yes, provide a certificate of tax exemption from the ATO*

Yes  No

Leasing the property?  
*If yes, provide a copy of the lease and confirm if the lessee is responsible for payment of the rates*

Yes  No

Have planning approval for the land use of the property?  
*A site inspection may be required and if found not to be compliant with the approved use, the application may be disallowed*

Yes  No

**6. DOCUMENTATION REQUIREMENTS**

Please provide a copy of (in addition to those specified in Section 4):

- Organisation's Constitution
- Written statement outlining the nature of the Organisation's operations.

It should include the following details:

- Use and occupancy of the property
- Type of service provided (e.g. food, accommodation etc)
- Frequency of service provision (e.g. full-time, daily, weekly etc)
- Detailed information as to whether payment is received for the service.

A plan of the property, showing all buildings and outbuildings

**OR**

A floor plan of the leased property area, if only part of the property is the subject of this application

A Copy of the current years audited financial statements for the Organisation  
*(If this exemption applies to only a portion of land owned by this Organisation, provide the relevant statements for the land this application applies to.)*

---

**7. AUTHORISATION**

By signing this application, I hereby certify that the information provided is true and correct to the best of my knowledge.

**Name: Position:**

NICHOLAS HOPKIN, CEO

**Organisation:**

CENTRAL EAST AGED CARE ALLIANCE INC.

**Signature of Applicant:**



**Date:**

16/10/20

# OFFICE USE ONLY

## 1. CONSIDERATIONS

Approval with Town Planning Scheme?	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Has the property been inspected?	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Recommend for non-rateable status?	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>

Applicant/Owner Name: \_\_\_\_\_

Section of the Local Government Act 1995 6.26(2) \_\_\_\_\_

Exemption Description: \_\_\_\_\_

Reason for non-rateable status:

New Application

Review of Exemption

Amount of rates to be exempted and dates to be applicable from (application date). The approval will be for a period of \_\_\_\_\_ years, unless circumstances change.

Amount: \_\_\_\_\_ Date (from): \_\_\_\_\_

Rubbish bin changes to be levied and dates to be applicable from:

Amount: \_\_\_\_\_ Date (from): \_\_\_\_\_

---

**2. DECISION UNDER DELEGATED AUTHORITY**

This application has been:

DECLINED for  
non-rateable status

APPROVED for partial  
non-rateable status

APPROVED for  
non-rateable status

**Name:**

**Signature:**

	<b>Date:</b>	

**OR**

**Council Resolution Reference:**

\_\_\_\_\_

**Date of Council Meeting:**

\_\_\_\_\_

WESTERN AUSTRALIA

OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS ACT 2005

STATUTORY DECLARATION

APPLICATION FOR RATES EXEMPTION UNDER  
SECTION 6.26 OF THE LOCAL GOVERNMENT ACT 1995.

STATEMENT OF PROPERTY USE FOR THE YEAR ENDING 30 JUNE 20

- (1) Christian name or names and surname of declarant in full (1) NICHOLAS HOPKIN
- (2) Address (2) of 16 SEATTLE COURT, QUINDALUP WA -  
In the State of Western Australia
- 3) Occupation (3) CHIEF EXECUTIVE OFFICER

Sincerely declare as follows:-

The property located at 87 BUTCHER STREET, BEUCE ROCK (2 UNITS)  
is used by CENTRAL EAST AGED CARE ALLIANCE INC  
for the purposes of AFFORDABLE LIVING FOR THE AGED, DISABLED  
AND THOSE ON VERY LOW OR LOW INCOMES  
Description of the activities the property is used for THE PROPERTIES PROVIDE AFFORDABLE LIVING OPTIONS FOR  
THOSE IN THE WHEATBELT AND UNITS FOR THOSE WITH DISABILITIES  
for the period << to >> or from to

The applicant agrees to advise the Local Government's Rating Services Section as soon as there is ANY change to the purpose/s as stated above.

This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005*

Declared at Osborne Park  
this 16th day of October 2002  
In the presence of  
(Signature of authorised witness)  
Jeanne Trochy  
(Name of authorised witness and qualification as such a witness)

(4) Signature of person making the declaration  
(4)

**\*Important** This Declaration must be made before any of the following persons:-

Academic {post-secondary institution}  
Accountant  
Architect  
Australian Consular Officer  
Australian Diplomatic Officer  
Bailiff  
Bank Manager  
Chartered secretary  
Chemist  
Chiropractor  
Company auditor or liquidator  
Court officer {Judge, magistrate, registrar or clerk}  
Defence Force officer {Commissioned, Warrant or NCO {with 5 years continuous service}}  
Dentist  
Doctor  
Electorate Officer {State – WA only}  
Engineer  
Industrial organisation secretary  
Insurance broker  
Justice of the Peace {any State}  
Lawyer  
Local government CEO or deputy CEO  
Local government councillor  
Loss adjuster  
Marriage Celebrant  
Member of Parliament {State or Commonwealth}  
Minister of religion  
Nurse  
Optometrist  
Patent Attorney  
Physiotherapist  
Podiatrist  
Police officer  
Post Officer manager  
Psychologist  
Public Notary,  
Public Servant {State or Commonwealth}  
Real Estate agent  
Settlement agent  
Sheriff or deputy Sheriff  
Surveyor  
Teacher  
Tribunal officer  
Veterinary surgeon

Or,

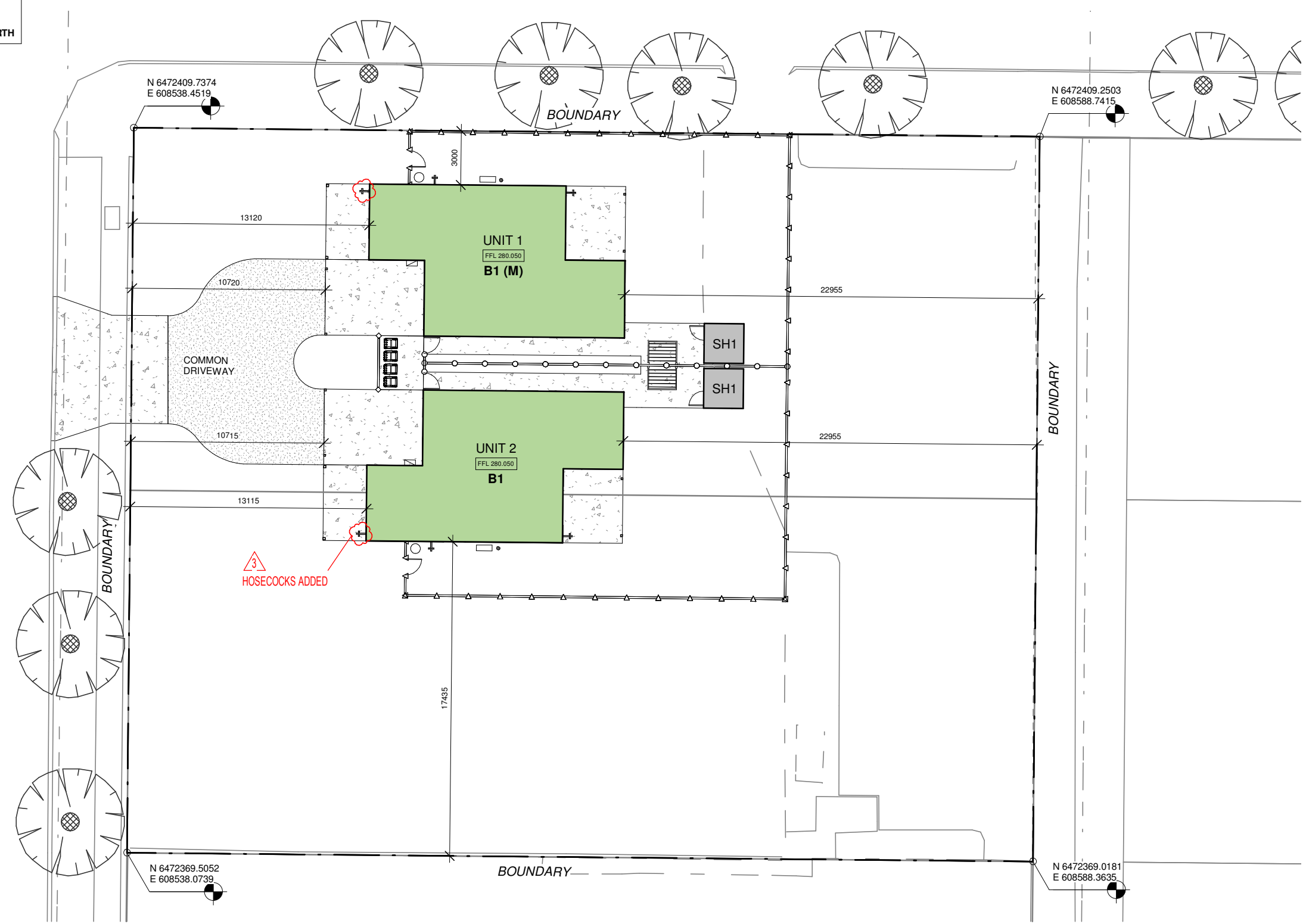
Any person before whom, under the *Statutory Declarations Act 1959* of the Commonwealth, a Statutory Declaration may be made.

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**FOR INFORMATION:** Any authorised witness for the State of Western Australia may also witness a Commonwealth Statutory Declaration, as long as they are in Western Australia at the time of witnessing {Schedule 2, item 231 of the Commonwealth Statutory Declarations Regulations 1993}.

**IMPORTANT INFORMATION:**

AS OF 1 JANUARY 2006 THERE IS NO PROVISION FOR COMMISSIONERS FOR DECLARATIONS IN THE STATE OF WESTERN AUSTRALIA

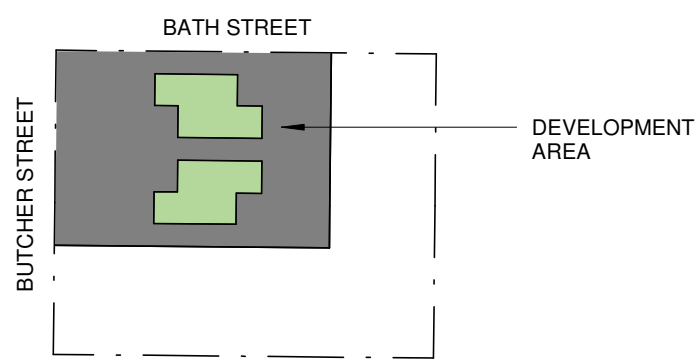


**OVERALL SITE PLAN**

1 : 250

**KEY PLAN**

1 : 1000



SITE LEGEND	
DB	DISTRIBUTION BOARD - REFER TO ELEC. ENG. DWGS.
NBN	NBN NTD - REFER TO ELEC. ENG. DWGS. ROBE TO TYPICAL DETAIL ON GENERAL NOTES SHEET
NBN-F	FUTURE NBN MODEM - REFER TO ELEC. ENG. DWGS. ROBE TO TYPICAL DETAIL ON GENERAL NOTES SHEET
AC	AIR CONDITIONER (OUTDOOR UNIT)
AC-I	AIR CONDITIONER (INDOOR UNIT)
AC-D	AIR CONDITIONER CONDENSATE DRAIN - LOCATION INDICATIVE ONLY
SH1	COLORBOND GARDEN SHED TYPE 1 - 2.2m x 2.2m BY OTHERS - REFER TO PLAN FOR DOOR LOCATION
SH2	COLORBOND GARDEN SHED TYPE 2 - 1.5m x 2.9m BY OTHERS - REFER TO PLAN FOR DOOR LOCATION
BINS	BIN STORAGE - LOCATION INDICATIVE ONLY
DRYING YARD	DRYING YARD WITH 1.6m WIDE x 1.2m DEEP FOLDING CLOTHES LINE WITH PROPRIETARY GROUND MOUNTING KIT
HWU	HOT WATER UNIT
(M)	EXTERNAL HOSECOCK
HC	EXTERNAL HOSECOCK
(M)	DENOTES MIRRORED TYPICAL UNIT - REFER TO FLOOR PLAN FOR DETAILS
(Circle with cross)	LOT BOUNDARY
(Circle with dot)	EXISTING TREES TO REMAIN
(Stippled area)	CONCRETE PADS, CROSSOVERS AND FOOTPATHS - REFER TO CIVIL ENG. DWGS.
(Dashed line)	ACCESS ROADS - REFER TO CIVIL ENG. DWGS.
(FT-1 symbol)	FENCE TYPE 1 - LYSAGHT 'NEETASCREEN' FENCING - 1.8m HIGH
(FT-2 symbol)	FENCE TYPE 2 - LYSAGHT 'NEETASCREEN' FENCING - 1.5m HIGH
(FT-3 symbol)	FENCE TYPE 3 - LYSAGHT 'NEETASCREEN' FENCING - 1.2m HIGH
(FT-4 symbol)	FENCE TYPE 4 - COLORBOND 'CLICK'N'FIT' SLATTED FENCING - 1.5m HIGH
(FT-5 symbol)	FENCE TYPE 5 - O'BRIENS 'WELDMESH' FENCING - 0.9m HIGH

DATA IS SUPPLIED FOR INFORMATION ONLY WITH THE HARD COPY TAKING PRECEDENCE EVERY TIME.

DO NOT SCALE FROM THIS DRAWING. VERIFY ALL DIMENSIONS ON SITE, PRIOR TO COMMENCEMENT OF ANY WORKS.

THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL SCHEDULES OF WORKS, SPECIFICATIONS, FINISHES AND EQUIPMENT SCHEDULES.

**GENERAL NOTES**

**DRAWING TO BE READ IN CONJUNCTION WITH GENERAL NOTES SHEET**

REV	DATE	DESCRIPTION	BY
3	19.10.18	ADDITIONAL HOSECOCKS ADDED	MD
2	13.09.18	ISSUED FOR CONSTRUCTION	MD
1	09.08.18	ISSUED FOR CONSTRUCTION	MD
0	03.08.18	ISSUED FOR CONSTRUCTION	MD
C	06.07.18	ISSUED FOR BUILDING LICENCE	MD
B	06.07.18	ISSUED FOR 90%	MD
A	28.05.18	PRELIMINARY REVIEW	MD

**REVISIONS**

**FOR CONSTRUCTION**



CLIENT:  
**CENTRAL EAST AGED CARE ALLIANCE (CEACA)**

PROJECT:  
**CEACA SENIORS HOUSING DEVELOPMENT 71 UNITS**

DRAWING TITLE:  
**OVERALL SITE PLAN**

SITE  
LOTS 56 - 57 BUTCHER ST, BRUCE ROCK

DRAWN: MD	CHECKED: YH	ENG: TADROS	CLIENT REP: M. LEE
CONTRACT No. TBC	DWG No. BR56-A002	REV 3	

SCALE: As indicated @ A3





Contact: Aaron Hiew  
Email: [ahiew@hlbinsol.com.au](mailto:ahiew@hlbinsol.com.au)  
Phone: 08 9215 7900

CEO	DCEO	WORKS
EHO	BS	NRM
MOF	SFO	FO
CDO	EXO	ADMIN
09 APR 2019		
FILE <i>J.2.3.2</i>		
RECORD <i>ICR4199059</i>		

4 April 2019

TO THE CREDITOR OR MEMBER AS ADDRESSED

Dear Sir / Madam

**Miluc Civil Pty Ltd (Formerly in Liquidation)**  
**ACN 114 798 533**  
**("the Company")**

I refer to my appointment as Liquidator of the above Company on 4 October 2018 and my previous communications with you.

I write to advise that the liquidation was concluded on 3 April 2019.

Pursuant to section 70-6(4) of the Insolvency Practice Schedule of the Corporations Act 2001, notice is hereby given that an end of administration return was lodged in relation to the external administration of the Company with the Australian Securities & Investments Commission on 3 April 2019.

I advise that there were no receipts or payments in this liquidation.

If you have any queries, please liaise with the above contact.

Yours sincerely

Kim Wallman – Former Liquidator of  
Miluc Civil Pty Ltd (Formerly in Liquidation)  
ACN 114 798 533

**FORM 1 - DISPOSAL OF COMMERCIAL, INDUSTRIAL & BULK DEMOLITION WASTE**

Use **FORM 2** for Asbestos Disposal.

**Bruce Rock Landfill Site**

*For additional entries, please use extra pages*

Date of Disposal	Brief Description of Waste Type	Volume m <sup>3</sup>	Vehicle Registration number.	Location of waste source (e.g. address or location no.)

I, \_\_\_\_\_  
(full name)

on behalf of:

\_\_\_\_\_  
(Company name, if applicable)

**Address**

\_\_\_\_\_  
(Company OR private individuals residential address)

- ✓ I will be disposing within the approved/arranged designated area at the Bruce Rock Landfill site; and
- ✓ In the event the undersigned does NOT return the key OR reports the loss of the key then I accept accountability for the full financial cost for the replacement of the key and/or padlock as the case requires on a cost recovery basis.

**PLEASE SEE THE CONDITIONS OVERLEAF BEFORE SIGNING**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Contact phone number: \_\_\_\_\_

Queries regarding this matter should be directed to the Bruce Rock Shire Environmental Health Officer Mr J Goldacre on Mob: **0447 127 731** or by email: [admin@brucerock.wa.gov.au](mailto:admin@brucerock.wa.gov.au) or at the Administration Office (Shire of Bruce Rock office)

located 54 Johnson Street, Bruce Rock, 6418 Ph: **9061 1377** in the event the EHO is unavailable.

**Fees for disposal of waste at the Bruce Rock Landfill site current for 2020-2021:**

Waste Type	X GST	GST	Total
Commercial Waste (per m <sup>3</sup> & next highest m <sup>3</sup> )*	\$42.73	\$4.27	<b>\$47.00</b>
If out of normal Landfill operating hours, attendance/supervision fee <u>if required</u> .	\$42.73	\$4.27	<b>\$47.00</b>

\*m<sup>3</sup> = Length X Width X Height

**CONDITIONS**

You will be invoiced by the Shire of Bruce Rock if payment is not made on the day.

Failure to dispose of waste in the appropriate/approved location without prior approval by a Shire of Bruce Rock staff member will result in the person responsible being invoiced for the cost of removing the waste.

Only waste generated within the local government district of Bruce Rock can be accepted at the landfill site.

**Please Note:**

- Pallets cannot be accepted at the Bruce Rock Landfill Site.
- Contaminated waste cannot be accepted at the Bruce Rock Landfill Site.

# INFOPAGE

To: All Local Governments

From: Tony Brown  
Executive Manager Governance &  
Organisational Services

Date: 2 November 2020

Priority: High

Subject: **UPDATE:** Draft *Local Government (Administration) Amendment Regulations (No.2) 2020* – Model standards for CEO recruitment, performance and termination



Operational Area:	<b>Governance</b>
Key Issues:	<ul style="list-style-type: none"><li>• Amendments to the <i>Local Government Act 1995</i> to provide for mandatory model standards for CEO recruitment, performance and termination were passed in 2019 but are yet to come into effect.</li><li>• Consultation on draft <i>Local Government (Administration) Amendment Regulations (No.2) 2020</i> prescribing the proposed model standards is open until Friday 13 November.</li><li>• Local Governments are requested to provide a response to WALGA by 13 November.</li></ul>
Action:	<b>Council Consideration Required: Feedback Requested – 13 November 2020</b>

## Background

The *Local Government Legislation Amendment Act 2019* introduced numerous amendments to the *Local Government Act 1995*, including the yet to commence insertion of new sections introducing mandatory Model Standards for CEO recruitment, performance and termination.

In March 2019 the Department of Local Government, Sport and Cultural Industries invited WALGA and other parties to participate in the CEO Recruitment, Performance Review and Termination Working Group to develop Model Standards. The Department discontinued the Working Group in May 2019 and released a Consultation Paper without endorsement by the Working Group in October 2019.

At the WALGA State Council meeting held in December 2019, based on sector feedback, State Council resolved to request that the Working Group be reconvened to develop and endorse Model Standards for further sector consultation, and identified several concerns with the proposals in the Consultation Paper. Throughout 2020, WALGA sought advice from the Department on the progress of draft regulations and a sector consultation process. The Department has now released the draft *Local Government (Administration) Amendment Regulations (No.2) 2020* (Draft Regulations), to prescribe the Model Standards, together with Explanatory Notes. Both documents are available via the [Department's website](#). A short consultation period will close on Sunday 6 December 2020, following WALGA's advocacy for further time to enable Councils to consider this matter.

WALGA notes that the Working Group was not reconvened, and the Draft Regulations include several elements that were highlighted as matters of concern by the sector. Due to the short time frame WALGA provides the following information as our initial concerns;

1. Requirement to re-advertise CEO positions after 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 waste 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.

## 2. Independent panel member

Clause 8 of the Draft Regulations requires the selection panel to include at least one person who is neither a council member nor an employee of the local government. There is no guidance on the skills, experience or knowledge of the independent person, or their role on the panel. This has the potential to pose significant risk to the local government, as there are inadequate controls on the conduct of such a person (i.e. they will not be captured by a Code of Conduct as Panel is not a committee of Council). WALGA supports the ongoing use of an independent qualified and licensed recruitment consultant to provide guidance (as opposed to active participation) in both the recruitment process and to assist with obligations to finalise the employment of a CEO.

## 3. Transparency and procedural fairness – Schedule 2

The consultation draft emphasised that it is essential that the recruitment process is transparent and appropriately documented. Similar commentary featured in the *Report of the Inquiry into the City of Perth*, however the Draft Regulations fail to address these issues.

The selection panel is 'established' under cl.8 of Schedule 2 of the Draft Regulations, with no reference to the formation of a committee of Council under Sec. 5.8 of the Act. Cl. 9(4) of Schedule 2 includes a reference to the selection panel acting in accordance with the principles of s.5.40 of the Act. Similarly, cl.14 requires the local government to ensure confidentiality of information provided, rather than imposing this responsibility equally on the selection panel, or individual panel members.



If the selection panel were established as a committee in accordance with s.5.8 of the Act, the requirements relating to the calling and convening of meetings, keeping of minutes and agendas, confidentiality, declaration of conflicts of interest and application of the Code of Conduct would apply.

The Draft Regulations will delete current r.18C, requiring a local government to approve a process for the selection and appointment of a CEO. Schedule 2 does not include a similar requirement for the selection panel to follow a process decided upon by the Council. This removes Council from important input in, or oversight of, the process by which the selection panel assesses the candidates and makes recommendations.

4. Council decision making authority

Schedule 2, Cl. 9(2)(a) requires the selection panel to recommend one or more applicants it considers suitable, with Cl. 9(2)(b) requiring that it advise Council if it considers no applicants are suitable. In the second event, Cl. 10 requires the local government to carry out a new recruitment process. Bypassing Council in this decision-making process appears to directly conflict with Sec. 5.36(2) of the Act, where it is the Council that determines if a person is or is not suitably qualified to be employed as CEO.

WALGA is seeking to coordinate a sector response and seeks feedback from Member Local Governments on the Draft Regulation. Please provide any comments by **4pm Friday 13<sup>th</sup> November 2020** to [governance@walga.asn.au](mailto:governance@walga.asn.au).

**For further information please contact:**

Executive Manager Governance & Organisational Services, Tony Brown  
on 9213 2051 or email [tbrown@walga.asn.au](mailto:tbrown@walga.asn.au) or Manager Governance, James McGovern on 9213 2093  
or email [jmcgovern@walga.asn.au](mailto:jmcgovern@walga.asn.au)

## **LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS (No.2) 2020 – EXPLANATORY NOTES**

These regulations will bring into effect **section 22** of the *Local Government Legislation Amendment Act 2019*.

In particular, the following will take effect: sections 5.39A, 5.39B & 5.39C.

<b>Section in Amendment Act</b>	<b>Section in LG Act</b>	<b>Topic</b>
<b>Section 22</b>	<b>5.39A 5.39B 5.39C</b>	Model standards for CEO recruitment, performance and termination. Adoption of Model Standards Policy for temporary employment or appointment of CEO.
<b>Regulation</b>	<b>Amends</b>	<b>Explanation</b>
Regulation 18A – Vacancy in position of CEO or senior employee to be advertised (Act s.5.36(4) and 5.37(3))	18A <i>Local Government (Administration) Regulations 1996</i>	Regulation 18A(1) is being amended to align with the new State-wide public notice provisions. If the position of CEO, or of a senior employee, becomes vacant the local government must give State-wide public notice of the position in accordance with the requirements of the Local Government Act (sections 5.36(4) and 5.37(3)).  Regulation 18A(2)(da) provides that the State-wide public notice must include a website address where the job description form (JDF) for the position can be accessed.
Regulation 18C – Selection and appointment process for CEOs.	18C <i>Local Government (Administration) Regulations 1996 – Repealed</i>	Regulation 18C is being repealed. The prescribed model standards for CEO recruitment and appointment outlined at Division 2 (Clauses 3-14) of the <i>Local Government (Administration) Amendment Regulations 2020</i> replace 18C.  Local governments are required to determine the selection criteria for the position of CEO prior to a recruitment process being undertaken. The local government must approve by a resolution of an absolute majority of council, a job description form which sets out the duties and responsibilities of the position (5(2)(a)) and details the selection criteria (5(2)(b)).

		<p>A position vacancy must be advertised in accordance with 5.36(4) of the <i>Local Government Act</i> and 18A of the <i>Local Government (Administration) Regulations 1996</i>. A JDF form must also be made available on the local government's official website.</p> <p>As part of the process of selection, a panel must be established to conduct the recruitment and selection process. The selection panel must be made up of council members and at least one independent person who is not a current councillor or employee of the local government. The independent person should have experience in the recruitment and selection of CEO's and / or senior executives. It is the role of the selection panel to recommend one or more suitable applicants to the position of CEO based on the selection criteria outlined in the JDF.</p> <p>A final decision to make an offer of appointment to the position of CEO must be made by an absolute majority of council. The resolution must also approve the proposed terms of the contract.</p> <p>Appointment of the successful applicant to CEO must also be made by an absolute majority decision of council after negotiation of the final contract terms between the successful applicant and the local government and following the applicant's acceptance of the offer.</p>
<p>Regulation 18D – Performance review of CEO, local government's duties as to</p>	<p><i>Local Government (Administration) Regulations 1996 - 18D Repealed</i></p>	<p>Regulation 18D is being repealed. The prescribed model standards for performance review outlined at Division 3 of the of the <i>Local Government (Administration) Amendment Regulations 2020</i> (clauses 15-19) replace 18D.</p> <p>Local governments are required to review the performance of a CEO annually in accordance with section 5.38 of the Act. Division 3 sets out the process for performance review, including establishing the performance criteria upon which to base the review and the requirement to endorse the performance review by absolute majority on its completion.</p> <p>The CEO must be notified of the results of the performance review, including any issues identified in relation to the performance of the CEO, and how the local government proposes to address and manage those issues.</p>



<p>Regulation FA – Prescribed model standards for CEO recruitment, performance and termination (Act s.5.39A(1)).</p>	<p><i>Local Government (Administration) Regulations 1996</i> – 18FA is a new clause.</p>	<p>Regulation 18FA sets out the model standards for local governments in relation to the recruitment, performance review and termination of employment of a local government CEO.</p>
<p>Regulation 18FB – Certification of compliance with adopted standards for CEO recruitment (Act s.5.39B(7))</p>	<p><i>Local Government (Administration) Regulations 1996</i> – 18FB is a new clause.</p>	<p>Regulation 18FB requires local governments to certify that they have adopted the standards under section 5.39B of the Act. 18FB applies in relation to the recruitment and appointment of a local government CEO.</p> <p>A copy of the resolution to appoint the CEO in accordance with the adopted standards must be provided to the Department of Local Government, Sport and Cultural Industries within 14 days of the decision to appoint.</p>
<p>Regulation 18FC – Certification of compliance with adopted standards for CEO termination (Act s.5.39B(7)).</p>	<p><i>Local Government (Administration) Regulations 1996</i> – 18FC is a new clause</p>	<p>Regulation FC requires a local government to certify that they have adopted the standards under section 5.39B of the Act. 18FC applies in relation to the termination of a CEO's employment contract.</p> <p>If a local government makes the decision to terminate the employment of the CEO, it must certify that the CEO's employment contract was terminated in accordance with the adopted standards for termination as outlined in regulations.</p>
<p><b>Division 2 – Standards for recruitment of CEOs</b></p> <p>Regulation 4 – Application of Division</p>	<p><i>Local Government (Administration) Regulations 1996</i> – Reg 4 replaces 18C.</p>	<p>Regulation 18C of the <i>Local Government (Administration) Regulations 1996</i> is repealed. Instead, Regulation 4 applies in relation to Division 2 - the recruitment and selection process of a local government CEO.</p> <p>Division 2 does not apply in the event that the position of CEO is to be filled by a person in a prescribed class or in relation to the renewal of the CEO's contract, unless the CEO has been employed for a period of 10 or more consecutive years and a period of 10 or more years has elapsed since a selection and recruitment process was carried out</p>

		For the purposes of 5.36(5)(a), a person in a prescribed class includes a person who is and will continue to be employed by another local government and is contracted for a period of less than five years, or the person will be acting in the position of CEO for a period of less than one year.
Regulation 5 – Determination of selection criteria and approval of job description form.	<i>Local Government (Administration) Regulations 1996 – Reg 5 is a new clause.</i>	<p>Regulation 5 deals with determining the selection criteria for the position of CEO. It is a requirement that the local government base the selection criteria on the necessary skills, knowledge, experience and qualifications necessary to effectively perform the role and responsibilities associated with the position.</p> <p>The local government must approve (by absolute majority) a job description form (JDF) that sets out the duties and responsibilities of the position and the selection criteria.</p>
Regulation 6 – Advertising Requirements	<i>Local Government (Administration) Regulations 1996 – Reg 6 is a new clause.</i>	Regulation 6 deals with advertising the position of CEO where the position becomes vacant or the incumbent has held the position for 10 or more consecutive years. It is a requirement of the Local Government Act (s 5.36(4)) that upon the position of CEO becoming vacant, it must be advertised in a manner prescribed. Regulation 18A of the <i>Local Government (Administration) Regulations 1996</i> sets out the requirements for State-wide advertising.
Regulation 7 – Job description form to be made available by local government.	<i>Local Government (Administration) Regulations 1996 – Reg 7 is a new clause.</i>	Regulation 7 requires a local government to provide a copy of the JDF to a person upon request. The local government must either provide the web address where the JDF can be downloaded or alternatively if the person is unable to access the website, email a copy, or send a hard copy in the post.
Regulation 8 – Establishment of selection panel for appointment of CEO.	<i>Local Government (Administration) Regulations 1996 – Reg 8 is a new clause.</i>	Regulation 8 requires a local government to establish a selection panel to conduct the selection and recruitment process for appointment of a person to the position of CEO.

		<p>The selection panel must comprise of council members and at least one independent person who is not a councillor nor an employee of the local government.</p> <p>It is recommended that the independent person or persons have relevant experience in the recruitment and selection of CEO's and / or senior executives. It is the role of the selection panel to recommend one or more suitable applicants to the position of CEO based on the selection criteria outlined in the JDF.</p> <p>It is at the discretion of the local government to determine the number of people on the selection panel.</p>
<p>Regulation 9 – Recommendation by selection panel.</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 9 is a new clause.</i></p>	<p>It is the role of the selection panel to recommend a preferred applicant or applicants for appointment to the position of CEO. Regulation 9 requires the selection panel to make an assessment of each applicant's ability to perform the role of CEO based on their knowledge, experience, qualifications and skills as measured against the selection criteria outlined in the JDF.</p> <p>If the selection panel considers none of the applicants suitable for appointment to the position, they must advise the local government of that fact.</p> <p>If the selection panel considers none of the applicants suitable for appointment to the position of CEO, they may recommend changes be made to the duties and responsibilities of the position or the selection criteria.</p> <p>The selection panel must act in an impartial and transparent manner and in accordance with the principles set out in section 5.40 of the Act.</p> <p>The selection panel is responsible for ensuring that any applicant or applicants they recommend for appointment have demonstrated they meet the selection criteria and have had their qualifications verified. The selection panel must exercise due diligence in verifying referees, work history, skills and any other claims made by the applicant.</p>

<p>Regulation 10 – New process to be commenced if no suitable applicants.</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 10 is a new clause.</i></p>	<p>If the selection panel finds that none of the applicants are suitable to be appointed to the position of CEO, they must advise the local government in accordance with 9(2)(b).</p> <p>Regulation 10 requires the recruitment and selection process to be undertaken again if the selection panel advises the local government it considers none of the applicants to be suitable for appointment to the position of CEO.</p> <p>Unless the selection panel recommends changes be made to the duties and responsibilities of the position or the selection criteria, clause 5 does not apply. In this instance, the original JDF previously approved by the local government (under clause 5) is the JDF form for the purposes of the new recruitment and selection process.</p>
<p>Regulation 11 – Offer of appointment to position of CEO.</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 11 is a new clause.</i></p>	<p>Regulation 11 requires the decision to make an offer of employment to an applicant to the position of CEO to be made by an absolute majority of council.</p> <p>The council must approve making the offer of employment to the preferred applicant and the proposed terms of the contract to be entered into.</p>
<p>Regulation 12 – Appointment to position of CEO</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 12 is a new clause.</i></p>	<p>Regulation 12 deals with the appointment of the successful applicant to the position of CEO subsequent to the offer of appointment having been made, the final terms of the contract agreed to and the applicant accepting the offer of employment.</p> <p>The appointment of the successful applicant to the position of CEO by the local government must be made by an absolute majority of council. Council must endorse the appointment and approve the terms of the negotiated contract.</p>

<p>Regulation 13 – Recruitment to be undertaken on expiry of certain CEO contracts.</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 13 is a new clause.</i></p>	<p>Regulation 13 applies if a local government CEO has held the position for a period of 10 or more consecutive years upon expiry of the CEO’s contract. Regulation 13 also applies if a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position has occurred and the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.</p> <p>Subclause 13(2)(a)(ii) is drafted to allow for the possibility that a CEO who has, for example, held office for 10 years and has their contract renewed for another 5-year term following the recruitment and selection process. In that case, clause 13(2)(a)(ii) will operate to ensure that another 10 years can pass before another recruitment process is required. In the absence of clause 13(2)(a)(ii), when the renewed term came to an end, the CEO would have held the position for 15 consecutive years and clause 13(2)(a)(i) would operate to require a process to be undertaken.</p> <p>The local government must carry out the recruitment and selection process before expiry of the incumbent CEO’s contract.</p> <p>The incumbent CEO may have their contract of employment renewed upon expiry if they are selected in accordance with the recruitment and selection process at subclause (3).</p>
<p>Regulation 14 – Confidentiality of information</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 14 is a new clause.</i></p>	<p>Regulation 14 requires confidentiality to be observed by the local government as part of the process of recruitment and selection. Information obtained as part of this process must only be used for, or in connection with, recruitment and selection.</p>
<p><b>Division 3 – Standards for review of performance of CEOs</b></p> <p>Regulation 15 sets out the standards to be observed by the local government in relation to the review of the performance of CEOs.</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 15 replaces regulation 18D which is repealed.</i></p>	<p>Regulation 18D is repealed. Division 3 effectively deals with the requirement to consider the performance review of the CEO in accordance with section 5.38 of the Act.</p>

<p>Regulation 16 – Performance review process to be agreed between local government and CEO.</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 16 is a new clause.</i></p>	<p>Regulation 16 requires the local government and the CEO to agree on the process for performance review and any performance criteria that are additional to those specified in the contract. For example, the local government and the CEO may wish to include additional performance criteria after 1 or 2 years into a contract term as circumstances and priorities change.</p> <p>The process for performance review must be consistent with clauses 17 (Carrying out a performance review), 18 (Endorsement of the performance review) and 19 (CEO to be notified of the results of the performance review).</p> <p>The process for performance review and the selection criteria upon which the review will be based must be set out in a written document.</p>
<p>Regulation 17 – Carrying out a performance review</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 17 is a new clause</i></p>	<p>Regulation 17 deals with how a review of a CEO's performance must be carried out. A performance review must be carried out in an impartial and transparent manner. It must also be comprehensive, and evidence based. The CEO's performance must be measured against the performance criteria as specified in the CEO's contract and any other performance criteria as agreed and set out in the documented performance review process.</p>
<p>Regulation 18 – Endorsement of performance review by local government</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 18 is a new clause</i></p>	<p>Regulation 18 requires that a performance review is endorsed by an absolute majority of council upon completion.</p>
<p>Regulation 19 – CEO to be notified of results of performance review</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 19 is a new clause</i></p>	<p>Regulation 19(a) requires a local government to notify the CEO of the results of the performance review in writing. If the review identifies any performance issues, the local government must outline how it proposes to address and manage those issues.</p>

		The local government must notify the CEO of the results of the performance review after it has been endorsed by an absolute majority of council.
<p><b>Division 4 – Standards for termination of employment of CEOs.</b></p> <p>Regulation 20 – sets out the standards to be observed by the local government in relation to the termination of the employment of CEOs.</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 20 is a new clause</i></p>	<p>Regulation 20 provides an overview of Division 4 – Standards for termination of employment of CEOs.</p>
<p>Regulation 21 – General principles applying to any termination.</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 21 is a new clause</i></p>	<p>Regulation 21 outlines the general principles that must apply to any termination of a CEO's employment contract. Decisions relating to termination of employment must be made in an impartial and transparent manner.</p> <p>A CEO must be afforded procedural fairness in relation to the process for termination of employment. This includes:</p> <ol style="list-style-type: none"> <li>a) being informed of their rights, entitlements and responsibilities;</li> <li>b) notification of any allegations against the CEO;</li> <li>c) being given a reasonable opportunity to respond to the allegations;</li> <li>d) and genuinely considering any response provided by the CEO to the allegations.</li> </ol>
<p>Regulation 22 – Additional principles applying to termination for performance related reasons.</p>	<p><i>Local Government (Administration) Regulations 1996 – Reg 22 is a new clause</i></p>	<p>Regulation 22(1) applies if the local government proposes to terminate the employment of a CEO based on the CEO's work-related performance.</p> <p>Subclauses 22(2)(a)-(d) and 22(3) require that a CEO's employment must not be terminated unless the local government has:</p> <ul style="list-style-type: none"> <li>• previously identified any issues with the CEO's performance as part of the performance review process;</li> <li>• informed the CEO of the performance issues;</li> </ul>

		<ul style="list-style-type: none"> <li>• given the CEO reasonable opportunity to address and implement a plan to remedy the performance issues;</li> <li>• determined that the CEO has not remedied the performance issues to the satisfaction of the local government; and</li> <li>• 22(3) reviewed the performance of the CEO within the preceding 12 months in accordance with 5.38(1) of the Local Government Act.</li> </ul>
Regulation 23 – Decision to terminate.	<i>Local Government (Administration) Regulations 1996 – Reg 23 is a new clause</i>	Regulation 23 requires that a decision to terminate the employment of a CEO must be made by an absolute majority of council.
Regulation 24 – Notice of termination of employment.	<i>Local Government (Administration) Regulations 1996 – Reg 24 is a new clause</i>	Regulation 24 requires that a local government must provide notice in writing of the decision to terminate the employment of a CEO. Written notice must include the local government’s reasons for termination.



## **Local Government (Administration) Amendment Regulations (No. 2) 2020**

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## **Local Government (Administration) Amendment Regulations (No. 2) 2020**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Local Government (Administration) Amendment Regulations (No. 2) 2020*.

### **2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government Legislation Amendment Act 2019* section 22 comes into operation.

### **3. Regulations amended**

These regulations amend the *Local Government (Administration) Regulations 1996*.

*[The following text is the Local Government (Administration) Regulations 1996 showing proposed amendments in track changes. A formal amending instrument will be drafted at a later stage.]*

### **Part 1 — Preliminary**

*[There are no amendments to this Part.]*

### **Part 2 — Council and committee meetings**

*[There are no amendments to this Part.]*

### **Part 3 — Electors' meetings**

*[There are no amendments to this Part.]*

### **Part 4 — Local government employees**

*[Heading inserted: Gazette 26 Aug 2011 p. 3482.]*

#### **18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))**

- (1) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government is to [give Statewide public notice of the position](#) ~~advertise the position in a newspaper circulating generally throughout the State~~ unless it is proposed that the position be filled by —
  - (a) a person who is, and will continue to be, employed by another local government and who will fill the position on a contract or contracts for a total period not exceeding 5 years; or
  - (b) a person who will be acting in the position for a term not exceeding one year.
- (2) [The Statewide public notice](#) ~~An advertisement referred to in subregulation (1)~~ is to contain —
  - (a) the details of the remuneration and benefits offered; and
  - (b) details of the place where applications for the position are to be submitted; and
  - (c) the date and time for the closing of applications for the position; and
  - (d) the duration of the proposed contract; and
  - (da) [a website address where the job description form for the position can be accessed; and](#)
  - (e) contact details for a person who can provide further information about the position; and

- (f) any other information that the local government considers is relevant.

*[Regulation 18A inserted: Gazette 31 Mar 2005 p. 1037-8; amended: Gazette 19 Aug 2005 p. 3872; 3 May 2011 p. 1594.]*

**18B. Contracts of CEOs and senior employees, content of (Act s. 5.39(3)(c))**

For the purposes of section 5.39(3)(c), a contract governing the employment of a person who is a CEO, or a senior employee, of a local government is to provide for a maximum amount of money (or a method of calculating such an amount) to which the person is to be entitled if the contract is terminated before the expiry date, which amount is not to exceed whichever is the lesser of —

- (a) the value of one year's remuneration under the contract; or  
(b) the value of the remuneration that the person would have been entitled to had the contract not been terminated.

*[Regulation 18B inserted: Gazette 13 May 2005 p. 2086.]*

~~**18C. Selection and appointment process for CEOs**~~

~~The local government is to approve a process to be used for the selection and appointment of a CEO for the local government before the position of CEO of the local government is advertised.~~

~~*[Regulation 18C inserted: Gazette 31 Mar 2005 p. 1038.]*~~

~~**18D. Performance review of CEO, local government's duties as to**~~

~~A local government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.~~

~~*[Regulation 18D inserted: Gazette 31 Mar 2005 p. 1038.]*~~

**r. 18E**

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**18E. False information in application for CEO position, offence**

A person must not, in connection with an application for the position of CEO of a local government —

- (a) make a statement, or give any information, as to academic, or other tertiary level, qualifications held by the applicant that the person knows is false in a material particular; or
- (b) make a statement, or give any information, as to academic, or other tertiary level, qualifications held by the applicant which is false or misleading in a material particular, with reckless disregard as to whether or not the statement or information is false or misleading in a material particular.

Penalty: a fine of \$5 000.

*[Regulation 18E inserted: Gazette 31 Mar 2005 p. 1038-9; amended: Gazette 19 Aug 2005 p. 3872; 4 Mar 2016 p. 650.]*

**18F. Remuneration and benefits of CEO to be as advertised**

The remuneration and other benefits paid to a CEO on the appointment of the CEO are not to differ from the remuneration and benefits advertised for the position under section 5.36(4).

*[Regulation 18F inserted: Gazette 31 Mar 2005 p. 1039.]*

**18FA. Prescribed model standards for CEO recruitment, performance and termination (Act s. 5.39A(1))**

Schedule 2 sets out model standards for local governments in relation to the following —

- (a) the recruitment of CEOs;
- (b) the review of the performance of CEOs;
- (c) the termination of the employment of CEOs.



**18FB. Certification of compliance with adopted standards for CEO recruitment (Act s. 5.39B(7))**

(1) In this regulation —

*adopted standards* means the standards adopted by a local government under section 5.39B or, if the local government has not adopted standards under that section, the standards taken under section 5.39B(5) to be the local government’s adopted standards.

(2) This regulation applies if —

(a) a local government appoints a person to the position of CEO of the local government; and

(b) the local government’s adopted standards in relation to the recruitment of CEOs apply to the appointment.

(3) At the time of appointing the person to the position of CEO, the local government must, by resolution\*, certify that the person was appointed in accordance with the local government’s adopted standards in relation to the recruitment of CEOs.

*\* Absolute majority required.*

(4) A copy of the resolution must be given to the Departmental CEO within 14 days after the resolution is passed by the local government.

**18FC. Certification of compliance with adopted standards for CEO termination (Act s. 5.39B(7))**

(1) In this regulation —

*adopted standards* has the meaning given in regulation 18FB(1).

(2) This regulation applies if a local government terminates the employment of the CEO of the local government.

(3) At the time of terminating the CEO’s employment, the local government must, by resolution\*, certify that the CEO was terminated in accordance with the local government’s adopted

**r. 18G**

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standards in relation to the termination of the employment of CEOs.

\* Absolute majority required.

- (4) A copy of the resolution must be given to the Departmental CEO within 14 days after the resolution is passed by the local government.

**18G. Delegations to CEOs, limits on (Act s. 5.43)**

Powers and duties of a local government exercised under the following provisions are prescribed under section 5.43(i) as powers and duties that a local government cannot delegate to a CEO —

- (a) section 7.12A(2), (3)(a) or (4); and
- (b) regulations 18C and 18D.

*[Regulation 18G inserted: Gazette 31 Mar 2005 p. 1039.]*

**19. Delegates to keep certain records (Act s. 5.46(3))**

Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —

- (a) how the person exercised the power or discharged the duty; and
- (b) when the person exercised the power or discharged the duty; and
- (c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.

**19A. Payments in addition to contract or award, limits of (Act s. 5.50(3))**

- (1) The value of a payment or payments made under section 5.50(1) and (2) to an employee whose employment with a local

government finishes after 1 January 2010 is not to exceed in total —

- (a) the value of the person's final annual remuneration, if the person —
  - (i) accepts voluntary severance by resigning as an employee; and
  - (ii) is not a CEO or a senior employee whose employment is governed by a written contract in accordance with section 5.39;

or

- (b) in all other cases, \$5 000.

- (2) In this regulation —

**final annual remuneration** in respect of a person, means the value of the annual remuneration paid, or payable, to the person by the local government which employed that person immediately before the person's employment with the local government finished.

*[Regulation 19A inserted: Gazette 31 Mar 2005 p. 1032; amended: Gazette 13 Jul 2012 p. 3218.]*

## **Part 5 — Annual reports and planning**

*[There are no amendments to this Part.]*

## **Part 6 — Disclosure of financial interests and gifts**

*[There are no amendments to this Part.]*

## **Part 7 — Access to information**

*[There are no amendments to this Part.]*

## **Part 8 — Local government payments and gifts to members**

*[There are no amendments to this Part.]*

**Part 9 — Codes of conduct for employees**

*[There are no amendments to this Part.]*

**Part 10 — Training**

*[There are no amendments to this Part.]*

Consultation Draft

## Schedule 1 — Forms

[There are no amendments to this Schedule.]

### Schedule 2 — Model standards for CEO recruitment, performance and termination

[r. 18FA]

#### Division 1 — Preliminary provisions

##### 1. Citation

These are the [insert name of local government] *Standards for CEO Recruitment, Performance and Termination*.

##### 2. Terms used

(1) In these standards —

*Act* means the *Local Government Act 1995*;

*additional performance criteria* means performance criteria agreed by the local government and the CEO under clause 16(1)(b);

*applicant* means a person who submits an application to the local government for the position of CEO;

*contract of employment* means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO;

*contractual performance criteria* means the performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of the Act;

*job description form* means the job description form for the position of CEO approved by the local government under clause [5(2)];

*local government* means the [insert name of local government];

*selection criteria* means the selection criteria for the position of CEO determined by the local government under clause [5(1)] and set out in the job description form;

*selection panel* means the selection panel established by the local government under clause [8] for the appointment of a person to the position of CEO.

- (2) Other terms used in these standards that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

**Division 2 — Standards for recruitment of CEOs**

**3. Overview of Division**

This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.

**4. Application of Division**

- (1) Except as provided in subclause (2), this Division applies to any recruitment and selection process carried out by the local government for the appointment of a person to the position of CEO.
- (2) This Division does not apply —
- (a) if it is proposed that the position of CEO be filled by a person in a class prescribed for the purposes of section 5.36(5A) of the Act; or
  - (b) in relation to a renewal of the CEO's contract of employment, except in the circumstances referred to in clause [13(2)].

**5. Determination of selection criteria and approval of job description form**

- (1) The local government must determine the selection criteria for the position of CEO, based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of that particular local government.
- (2) The local government must, by a resolution of an absolute majority of the council, approve a job description form for the position of CEO which sets out —
- (a) the duties and responsibilities of the position; and
  - (b) the selection criteria for the position determined in accordance with subclause (1).

**6. Advertising requirements**

(1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and the *Local Government (Administration) Regulations 1996* regulation 18A.

(2) If clause [13] applies, the local government must advertise the position of CEO in the manner referred to in the *Local Government (Administration) Regulations 1996* regulation 18A as if the position was vacant.

**7. Job description form to be made available by local government**

If a person requests the local government to provide to the person a copy of the job description form, the local government must —

(a) inform the person of the website address referred to in the *Local Government (Administration) Regulations 1996* regulation 18A(2)(da); or

(b) if the person advises the local government that the person is unable to access that website address —

(i) email a copy of the job description form to an email address provided by the person; or

(ii) mail a copy of the job description form to a postal address provided by the person.

**8. Establishment of selection panel for appointment of CEO**

(1) The local government must establish a selection panel to conduct the recruitment and selection process for the appointment of a person to the position of CEO.

(2) The selection panel must comprise —

(a) council members (the number of which is to be determined by the local government); and

(b) at least 1 person who is neither a council member nor an employee of the local government.

**9. Recommendation by selection panel**

(1) The selection panel must assess each applicant's knowledge, experience, qualifications and skills against the selection criteria.

(2) Following the assessment referred to in subclause (1), the selection panel must —

(a) recommend to the local government one or more applicants who the selection panel considers are suitable for appointment to the position of CEO; or

(b) if the selection panel considers that none of the applicants are suitable for appointment to the position of CEO — advise the local government of that fact.

(3) If the selection panel considers that none of the applicants are suitable for appointment to the position of CEO, the selection panel may recommend to the local government the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.

(4) The selection panel must act under subclauses (1), (2) and (3) —

(a) in an impartial and transparent manner; and

(b) in accordance with the principles set out in section 5.40 of the Act.

(5) The selection panel must not recommend an applicant to the local government under subclause (2)(a) unless the selection panel has —

(a) assessed the applicant as having demonstrated that the applicant's knowledge, experience, qualifications and skills meet the selection criteria; and

(b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and

(c) whether by contacting referees provided by the applicant or making any other enquiries the selection panel considers appropriate, verified the applicant's character, work history, skills, performance and any other claims made by the applicant.

**10. New process to be commenced if no suitable applicants**

(1) If the selection panel advises the local government under clause [9(2)(b)] that the selection panel considers that none of the applicants are suitable for appointment to the position of CEO, the local government must carry out a new recruitment and selection process for the position in accordance with these standards.



(2) However, unless the local government considers that changes should be made to the duties and responsibilities of the position or the selection criteria —

(a) clause [5] does not apply to the new recruitment and selection process; and

(b) the job description form previously approved by the local government under clause [5] is the job description form for the purposes of the new recruitment and selection process.

**11. Offer of appointment to position of CEO**

(1) Any decision by the local government to make an offer of appointment to the position of CEO to an applicant must be made by a resolution of an absolute majority of the council.

(2) The resolution must approve —

(a) the making of the offer of appointment to the applicant; and

(b) the proposed terms of the contract of employment to be entered into by the local government and the applicant.

**12. Appointment to position of CEO**

(1) In this clause —

*negotiated contract* means the contract of employment referred to in paragraph (b) of the definition of *successful applicant*;

*successful applicant* means an applicant who —

(a) has been made an offer of appointment to the position of CEO under clause [11]; and

(b) has negotiated with the local government the terms of the contract of employment to be entered into by the local government and the applicant; and

(c) following that negotiation, has accepted the offer of appointment.

(2) Any appointment of a successful applicant to the position of CEO by the local government must be made by a resolution of an absolute majority of the council.

**Local Government (Administration) Amendment Regulations (No. 2) 2020**

**Schedule 2** Model standards for CEO recruitment, performance and termination

**Division 2** Standards for recruitment of CEOs

**cl. 13**

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(3) The resolution must —

- (a) endorse the appointment of the successful applicant to the position of CEO; and
- (b) approve the terms of the negotiated contract.

**13. Recruitment to be undertaken on expiry of certain CEO contracts**

(1) In this clause —

*commencement day* means the day on which the *Local Government (Administration) Amendment Regulations (No. 2) 2020* regulation [regulation inserting new r. 18FA] comes into operation.

(2) This clause applies if —

(a) upon the expiry of the contract of employment of the person (the *incumbent CEO*) who holds the position of CEO —

(i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and

(ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;

and

(b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.

(3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be appointed to the position of CEO after the expiry of the incumbent CEO's contract of employment.

(4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be appointed to the position of CEO.

**14. Confidentiality of information**

The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.

**Division 3 — Standards for review of performance of CEOs**

**15. Overview of Division**

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

**16. Performance review process to be agreed between local government and CEO**

(1) The local government and the CEO must agree on —

- (a) the process by which the CEO's performance will be reviewed; and
- (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.

(2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses [17], [18] and [19].

(3) The matters referred to in subclause (1) must be set out in a written document.

**17. Carrying out a performance review**

(1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.

(2) The local government must —

- (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and

- (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

**18. Endorsement of performance review by local government**

Following a review of the performance of the CEO, the local government must, by a resolution of an absolute majority of the council, endorse the review.

**19. CEO to be notified of results of performance review**

After the local government has endorsed a review of the performance of the CEO under clause [18], the local government must inform the CEO in writing of —

- (a) the results of the review; and  
(b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

**Division 4 — Standards for termination of employment of CEOs**

**20. Overview of Division**

This Division sets out standards to be observed by the local government in relation to the termination of the employment of CEOs.

**21. General principles applying to any termination**

- (1) The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.
- (2) The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —
- (a) informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and  
(b) notifying the CEO of any allegations against the CEO; and  
(c) giving the CEO a reasonable opportunity to respond to the allegations; and

- (d) genuinely considering any response given by the CEO in response to the allegations.

**22. Additional principles applying to termination for performance-related reasons**

- (1) This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.

- (2) The local government must not terminate the CEO's employment unless the local government has —

- (a) in the course of carrying out the review of the CEO's performance referred to in subclause (3) or any other review of the CEO's performance, identified any issues (the *performance issues*) related to the performance of the CEO; and

- (b) informed the CEO of the performance issues; and

- (c) given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and

- (d) determined that the CEO has not remedied the performance issues to the satisfaction of the local government.

- (3) The local government must not terminate the CEO's employment unless the local government has, within the preceding 12 month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

**23. Decision to terminate**

Any decision by the local government to terminate the employment of a CEO must be made by a resolution of an absolute majority of the council.

**24. Notice of termination of employment**

- (1) If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.

- (2) The notice must set out the local government's reasons for terminating the employment of the CEO.

**Local Government (Administration) Amendment Regulations (No. 2) 2020**

**Schedule 2** Model standards for CEO recruitment, performance and termination

**Division 4** Standards for termination of employment of CEOs

**cl. 24**

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Clerk of the Executive Council

Consultation Draft

## Reasons for Opposing CEO Standards about Contract Readvertising

### 1. It diminishes Council's general competence powers

The proposal significantly diminishes the general competence powers of Councils in relation to critical decisions around ongoing relationships with an existing CEO.

### 2. No logical rationale presented for the change

A letter from the Department states that the recommendation is "intended to ensure local governments are testing the market". This makes no sense as a Council has the power to 'test the market' whenever a contract ends.

More tellingly, the letter also notes "it could also facilitate a mechanism for Councils not to renew contracts and ... avoid them having to make hard decisions. This won't necessarily apply in all circumstances; however, it could assist some Councils".

This appears to be the underlying rationale for the legislative proposal and it is a completely inappropriate response to an issue. If Councils are unwilling to fulfil their roles and make hard decisions, they should be given training and assisted to build capacity in decision making; not have the hard decision removed.

It should also be noted that quite a number of Councils have been willing to make hard decisions in relation to the continuing employment of CEOs over recent years.

The proposed legislation also highlights the problem of a 'one size fits all' approach, with all local governments affected significantly by provisions which "could assist some Councils".

### 3. It will significantly increase employments costs

The cost of an Executive search program could easily exceed \$30,000. This cost will be placed on local governments whose Councils are completely satisfied with their CEO's performance and want the person to continue.

### 4. It is discriminatory against local government

If requiring CEOs to reapply for their jobs after 10 years is considered appropriate, why does this policy not apply to all leaders in the State Government?

### 5. It will generate cynicism, allegations of patronage and potentially provide false optimism to non-incumbent candidates

There will be situations where a Council has a very good working relationship with the CEO, the CEO has been performing well and Council wants to offer the CEO a third term. In such situations, if the current CEO is offered a third term following advertising, unsuccessful applicants are likely to be cynical about the process and it could generate claims of patronage, particularly if unsuccessful applicants are more qualified and credentialed (although they would have less directly relevant experience).

Further, the most frequently asked questions by people considering applying for a position are - is someone currently acting in the position? And - how long have they been acting? Both of these questions demonstrate potential applicant concerns about 'wasting their time' in applying.

If a Council is completely satisfied with the performance of a current CEO and would like to reappoint the person, other applicants are likely to feel that their time has been wasted and that the legislative requirement has provided false optimism.

#### **6. It unnecessarily distracts local governments from their core function**

The recruitment process not only involves dollar costs but a significant time commitment.

Where a Council is completely satisfied with the performance of the CEO, the time commitment to undertake an 'unnecessary' selection process will distract a local government from its core function of serving the community.

#### **7. It will have a disproportionately negative effect on regional local governments**

CEOs working in regional local governments will generally move in from outside of the district with their families. These families integrate into the community. Reapplying for a job under such circumstances will not only create stress for the CEO but also for families and, in turn, the broader community into which they family is integrated.

#### **8. It will impact negatively on Councils with a good relationship with their CEO**

A rational or cautious CEO, coming towards the end of 10 years of service with a local government, would seek alternative employment rather than run the gauntlet of a recruitment process with their current Council which may, or may not, lead to continuing employment. If the CEO is unsuccessful in the selection process with their current Council, the CEO would become unemployed which, for most rational and cautious people, is not a desirable outcome.

This would have a disproportionate impact on regional local governments when a Council loses a CEO that they are completely satisfied with and subsequently finds it difficult to attract and retain a replacement.

#### **9. It will cause unnecessary unrest for local government staff**

CEOs set organisational culture and values. Uncertainty about who will be the future CEO as a CEO approaches 10 years with a local government will, inevitably, cause unrest and unease amongst the staff and distract from high quality work performance.

#### **10. Local governments are unlikely to operate at maximum capacity as CEOs approach 10 years**

CEOs will, almost certainly, become risk averse as they approach 10 years with a local government and know they have to contend with a full public selection process. This risk averse approach is broadly acknowledged as providing the best opportunity to become the successful candidate. However, the implications are that the whole local government will become more risk averse and less able to provide good governance to the people of the district.



# INFOPAGE

To: All Local Governments

From: Tony Brown  
Executive Manager Governance &  
Organisational Services

Date: 6 November 2020

Priority: High

Subject: Draft *Local Government (Code of Conduct) Regulations 2020* –  
Mandatory Code of Conduct for council members, committee members and  
candidates



Operational Area:	<b>Governance</b>
Key Issues:	<ul style="list-style-type: none"><li>• Amendments to the <i>Local Government Act 1995</i> to provide for a mandatory code of conduct for council members, committee members and candidates were passed in 2019 but are yet to come into effect.</li><li>• Consultation on draft <i>Local Government (Model Code of Conduct) Regulations 2020</i> prescribing the proposed code of conduct is open until Sunday 6 December.</li><li>• Local Governments are requested to provide a response to WALGA by 13 November.</li></ul>
Action:	<b>Council Decision required (If possible) Feedback Requested – 13 November 2020</b>

## Background

The *Local Government Legislation Amendment Act 2019* introduced numerous amendments to the *Local Government Act 1995*, including a requirement for Local Governments to adopt a mandatory Code of Conduct for council members, committee members and candidates that is yet to take effect.

In 2019 the Department of Local Government, Sport and Cultural Industries invited WALGA and other parties to participate in the Mandatory Code of Conduct Working Group. The Department discontinued the Working Group and released a Consultation Paper without endorsement by the Working Group in September 2019.

At the WALGA State Council meeting held in December 2019, based on sector feedback, State Council resolved to request that the Working Group be reconvened to develop an endorsed mandatory Code of Conduct for further sector consultation. State Council also identified several concerns with the proposals in the Consultation Paper.

Throughout 2020, WALGA sought advice from the Department on the progress of draft regulations and a sector consultation process. The Department has now released the draft *Local Government (Model Code of Conduct) Regulations 2020* (Draft Regulations), to prescribe the mandatory Code of Conduct, together with Explanatory Notes. Both documents are available via the [Department's website](#). Consultation will close on Sunday 6 December.

WALGA notes that the Working Group was not reconvened, and the Draft Regulations include several elements that were highlighted as matters of concern by the sector.

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.

# INFOPAGE



WALGA is seeking to coordinate a sector response and seeks feedback from Member Local Governments on the Draft Regulation. Please provide any comments by **4pm Friday 13<sup>th</sup> November 2020** to [governance@walga.asn.au](mailto:governance@walga.asn.au) to enable an agenda item to be prepared for the November/December round of Zone and State Council meetings.

**For further information please contact:**

Executive Manager Governance & Organisational Services, Tony Brown  
on 9213 2051 or email [tbrown@walga.asn.au](mailto:tbrown@walga.asn.au) or Manager Governance, James McGovern on 9213 2093  
or email [jmcgovern@walga.asn.au](mailto:jmcgovern@walga.asn.au)

## **LOCAL GOVERNMENT (MODEL CODE OF CONDUCT) REGULATIONS 2020 – EXPLANATORY NOTES**

These regulations will bring into effect **sections 48 to 51** of the *Local Government Legislation Amendment Act 2019*.

In particular, the following will take effect: sections 5.102A, 5.103, 5.104 and 5.105.

	<b>Regulation</b>	<b>Explanation</b>
<b>3</b>	Model Code of Conduct	These regulations provide for the model code of conduct for council members, committee members and candidates in Schedule 1.
<b>4</b>	<i>Local Government (Rules of Conduct) Regulation 2007</i> repealed.	The new Local Government (Model Code of Conduct) Regulations repeal the Rules of Conduct regulations as the rules now form part of the Model Code.
<b>5</b>	<i>Local Government (Administration) Regulations 1996</i> amended	<p>This clause amends Administration Regulation 29 (Information to be available for public inspection) to delete the requirement to keep a register maintained under regulation 12(5) of the Rules of Conduct. This regulation was deleted when the new gifts framework was introduced in 2019.</p> <p>This clause also inserts new Part 9A – Minor breaches by council members. It replaces regulation 4 of the existing Rules of Conduct Regulations (Contravention of certain local laws) and inserts it into the Administration Regulations.</p> <p>It provides that a contravention of a local law that relates to the conduct of people at council or committee meetings is a minor breach for the purposes of section 5.105(1)(b) of the Act. This is not a rule of conduct, which is why it is separate to the provisions in the Model Code.</p>
<b>6</b>	<i>Local Government (Audit) Regulations 1996</i> amended	This clause amends the statutory requirements for the compliance audit return to capture the adoption of the Model Code under section 5.104 and deletes the reference to the Rules of Conduct Regulations.
<b>7</b>	<i>Local Government (Constitution) Regulations 1998</i> amended	This clause amends Schedule 1 Form 7 (Declaration by elected member of council) of the Constitution Regulations, to reference the code of conduct adopted by the relevant local government, rather than Rules of Conduct Regulations.
	<b>Schedule 1 – Model code of conduct</b>	
<b>1</b>	Citation	New section 5.104 of the Local Government Act will require local governments to adopt the model code of conduct within three months of these Regulations coming into operation.

		<p>The Model Code, as drafted, provides a template for local governments to adopt the code as their own by inserting their local government name.</p> <p>In accordance with section 5.104(3), local governments can include additional behaviours under Division 3 that are not inconsistent with the Code, which may not currently be represented.</p> <p>To adopt the code, a resolution needs to be passed by an absolute majority. Once the code is adopted, it must be published on the local government's website.</p>
<b>2</b>	Terms Used	This clause defines Act, candidate and publish. All other terms used that are also in the Act have the same meaning, unless the contrary intention appears.
	<b>Division 2 – General principles</b>	
<b>3</b>	Overview of Division	<p>As per new section 5.103(2)(a), the Model Code is to contain general principles to guide behaviour. These are set out in Division 2.</p> <p>Throughout the Model Code, where appropriate, the principles, behaviours and rules of conduct are separated into three categories; personal integrity, relationships with others and accountability.</p>
<b>4</b>	Personal Integrity	<p>This clause outlines specific personal integrity principles, including the need to:</p> <ul style="list-style-type: none"> <li>• act with reasonable care, diligence, honesty and integrity</li> <li>• act lawfully</li> <li>• avoid damage to the reputation of the local government</li> <li>• act in accordance with the trust placed in council members and committee members, and</li> <li>• participate in decision-making in an honest, fair, impartial and timely manner.</li> </ul>
<b>5</b>	Relationships with others	This clause outlines principles for relationships with others, including the need to treat others with respect and maintain and contribute to a harmonious, safe and productive work environment.
<b>6</b>	Accountability	This clause outlines principles for accountability, including the need for decisions to be based on relevant and factually correct information, and to make decisions on merit.
	<b>Division 3 - Behaviour</b>	
<b>7</b>	Overview of Division	As per new section 5.103(2)(b), the Model Code is to contain requirements relating to behaviour.

		This division sets the standards of behaviour which enable and empower council members to meeting the principles outlined in Division 2. Division 3 behaviour breaches are managed by local governments, and so the division also includes provisions about how to manage complaints. The emphasis should be on an educative role to establish sound working relationships and avoid repeated breaches, rather than punishment.
<b>8</b>	Personal Integrity	This clause provides behaviours for council members, committee members and candidates, as well as behaviours specific to council and committee members.  It includes a behaviour that the use of social media and other forms of communication complies with the code.
<b>9</b>	Relationships with others	This clause provides for behaviours related to relationships with others, including the requirement to: <ul style="list-style-type: none"> <li>• deal with the media in a positive, informative and appropriate manner</li> <li>• not disparage the character of another council member, committee member, candidate or local government employee</li> <li>• not impute dishonest or unethical motives to another council member, committee member, candidate of local government employee</li> <li>• not make a statement that the member of candidate knows, or could reasonably be expected to know, is false or misleading.</li> </ul>
<b>10</b>	Complaints about alleged breach	This clause provides that a person may make a complaint alleging a breach of Division 3 by submitting the complaint in writing (in a form approved by the local government) within one month of the alleged breach occurring.  The local government is to authorise at least one person to accept the complaints.
<b>11</b>	Local government to deal with complaints	The process for consideration of a complaint is at the discretion of the local government, however, the Code requires that after considering the complaint, the local government must make a finding as to whether the breach occurred.  A local government is also required to dismiss a complaint if it is satisfied that the complaint relates to behaviour which occurred at a council or committee meeting that has already been dealt with or the person responsible for the behaviour has taken remedial action in accordance with the meeting procedures local law.  It is a requirement, in accordance with 11(3), that before making a finding, the person to whom the complaint relates, is given a reasonable opportunity to be heard.

		<p>A finding about whether the breach has occurred should be based on whether it is more likely than not that the breach occurred. This is the same premise used by the Standards Panel in its decision making.</p> <p>After a finding has been made, written notice of the outcome should be given to the complaint and the person to whom the complaint relates.</p> <p>If a finding of breach is made, the local government can choose to take no further action or develop a plan to address the person's behaviour. This could include training, mediation, counselling or any other action considered appropriate.</p>
12	Other provisions about complaints	<p>Clause 12 provides that the procedure for dealing with complaints is a matter for the local government (to the extent it is not inconsistent with clause 11).</p> <p>If a complaint is made about a candidate, the alleged breach cannot be dealt with unless the candidate is elected as a council member.</p>
	<b>Division 4 – Rules of conduct</b>	
13	Overview of Division	<p>As per section 5.103(2)(c), the Code contains specific rules of conduct. The rules of conduct are specific rules, for which alleged breaches are referred to the Standards Panel.</p> <p>A reference to a council member in this division includes a council member acting as a committee member.</p>
14	Misuse of local government resources	This is based on current regulation 8 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> , Misuse of local government resources.
15	Securing personal advantage or disadvantaging others	This is based on current regulation 7 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> , Securing personal advantage or disadvantaging others.
16	Prohibition against involvement in administration	This is based on current regulation 9 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> , Prohibition against involvement in administration.
17	Relations with local government employees	<p>This is based on current regulation 10 of the <i>Local Government (Rules of Conduct) Regulations 2007</i>, Relations with local government employees.</p> <p>This regulation also applies to candidates.</p>
18	Disclosure of information	This is based on current regulation 6 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> , Use of information.

19	Disclosure of interest	This is based on current regulation 11 of the <i>Local Government (Rules of Conduct) Regulations 2007</i> , Disclosure of interest.
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# Local Government (Model Code of Conduct) Regulations 2020

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## **Local Government (Model Code of Conduct) Regulations 2020**

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations are the *Local Government (Model Code of Conduct) Regulations 2020*.

#### **2. Commencement**

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government Legislation Amendment Act 2019* sections 48 to 51 come into operation.

## **Part 2 — Model code of conduct**

### **3. Model code of conduct (Act s. 5.103(1))**

The model code of conduct for council members, committee members and candidates is set out in Schedule 1.

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## **Part 3 — Repeal and consequential amendments**

### **Division 1 — Repeal**

**4. *Local Government (Rules of Conduct) Regulations 2007*  
repealed**

The *Local Government (Rules of Conduct) Regulations 2007* are repealed.

### **Division 2 — Other regulations amended**

**5. *Local Government (Administration) Regulations 1996*  
amended**

- (1) This regulation amends the *Local Government (Administration) Regulations 1996*.
- (2) Delete regulation 29(1)(baa).
- (3) After regulation 34C insert:

## **Part 9A — Minor breaches by council members**

**34D. *Contravention of local law as to conduct*  
(Act s. 5.105(1)(b))**

- (1) In this regulation —  
*local law as to conduct* means a local law relating to the conduct of people at council or committee meetings.
- (2) The contravention of a local law as to conduct is a minor breach for the purposes of section 5.105(1)(b) of the Act.

**6. Local Government (Audit) Regulations 1996 amended**

- (1) This regulation amends the *Local Government (Audit) Regulations 1996*.
- (2) In regulation 13 in the Table:
  - (a) under the heading “*Local Government Act 1995*” delete “s. 5.103” and insert:

s. 5.104

- (b) delete:

<b><i>Local Government (Rules of Conduct) Regulations 2007</i></b>		
r. 11		

**7. Local Government (Constitution) Regulations 1998 amended**

- (1) This regulation amends the *Local Government (Constitution) Regulations 1998*.
- (2) In Schedule 1 Form 7 delete “*Local Government (Rules of Conduct) Regulations 2007*.” and insert:

code of conduct adopted by the <sup>3</sup> ..... under section 5.104 of the *Local Government Act 1995*.

## **Schedule 1 — Model code of conduct**

[r. 3]

### **Division 1 — Preliminary provisions**

#### **1. Citation**

This is the *[insert name of local government] Code of Conduct for Council Members, Committee Members and Candidates*.

#### **2. Terms used**

(1) In this code —

*Act* means the *Local Government Act 1995*;

*candidate* means a candidate for election as a council member;

*publish* includes to publish on a social media platform.

(2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

### **Division 2 — General principles**

#### **3. Overview of Division**

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

#### **4. Personal integrity**

(1) A council member, committee member or candidate should —

(a) act with reasonable care and diligence; and

(b) act with honesty and integrity; and

(c) act lawfully; and

(d) identify and appropriately manage any conflict of interest, including by the refusal of gifts that may give the appearance of a conflict of interest or an attempt to corruptly influence behaviour; and

(e) avoid damage to the reputation of the local government.

- (2) A council member or committee member should —
- (a) act in accordance with the trust placed in council members and committee members; and
  - (b) participate in decision-making in an honest, fair, impartial and timely manner; and
  - (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
  - (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

**5. Relationships with others**

- (1) A council member, committee member or candidate should —
- (a) treat others with respect, courtesy and fairness; and
  - (b) respect and value diversity in the community.
- (2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

**6. Accountability**

A council member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to the public and represent all constituents.

### **Division 3 — Behaviour**

#### **7. Overview of Division**

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

#### **8. Personal integrity**

- (1) A council member, committee member or candidate —
  - (a) must ensure that their use of social media and other forms of communication complies with this code; and
  - (b) must only publish material that is factually correct.
- (2) A council member or committee member —
  - (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
  - (b) must comply with all policies, procedures and resolutions of the local government.

#### **9. Relationships with others**

A council member, committee member or candidate —

- (a) must not bully or harass another person in any way; and
- (b) must deal with the media in a positive, informative and appropriate manner and in accordance with any relevant policy of the local government; and
- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local



government employee in connection with the performance of their official duties; and

- (f) when attending a council or committee meeting —
  - (i) must not act in an abusive or threatening manner towards another person; and
  - (ii) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
  - (iii) must not repeatedly disrupt the meeting; and
  - (iv) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
  - (v) must comply with any direction given by the person presiding at the meeting; and
  - (vi) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting;

and

- (g) must direct to the CEO any request for a query or complaint to be dealt with, or other work or action to be undertaken, by a local government employee.

**10. Complaints about alleged breach**

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
  - (a) in writing in the form approved by the local government; and
  - (b) to a person authorised under subclause (3); and
  - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints made under subclause (1).

**11. Local government to deal with complaints**

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under subclause (2), make a finding as to whether the alleged breach the subject of the complaint has occurred.
- (2) The local government must dismiss the complaint if it is satisfied that —
  - (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
  - (b) either —
    - (i) the behaviour was dealt with by the person presiding at the meeting; or
    - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.
- (3) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (4) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (5) If the local government makes a finding that the alleged breach has occurred, the local government may —
  - (a) decide to take no further action; or
  - (b) in consultation with the person to whom the complaint relates, develop and implement a plan to address the person's behaviour.
- (6) A plan under subclause (5)(b) may include requirements for the person to participate in training, mediation or counselling or to take any other action the local government considers appropriate.
- (7) The local government must give written notice to the complainant and to the person to whom the complaint relates of —
  - (a) its finding in relation to the complaint under subclause (1) or its decision to dismiss the complaint under subclause (2); and
  - (b) its reasons for the finding or decision.

**12. Other provisions about complaints**

- (1) A complaint made under clause 10(1) about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints made under clause 10(1) may be determined by the local government to the extent that it is not provided for in clause 11.

**Division 4 — Rules of conduct**

**13. Overview of Division**

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

**14. Misuse of local government resources**

- (1) In this clause —  
*electoral purpose* means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*;  
*resources of a local government* includes —
  - (a) local government property; and
  - (b) services provided, or paid for, by a local government.
- (2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

**15. Securing personal advantage or disadvantaging others**

- (1) A council member must not make improper use of their office —
  - (a) to gain, directly or indirectly, an advantage for the council member or any other person; or

(b) to cause detriment to the local government or any other person.

(2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

**16. Prohibition against involvement in administration**

(1) A council member must not undertake a task that contributes to the administration of the local government.

(2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

**17. Relations with local government employees**

(1) In this clause —

*local government employee* means a person —

(a) employed by a local government under section 5.36(1) of the Act; or

(b) engaged by a local government under a contract for services.

(2) A council member or candidate must not —

(a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or

(b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or

(c) act in an abusive or threatening manner towards a local government employee.

(3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

(4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event at which members of the public are present, the council member or candidate must not orally, in writing or by any other means —

- (a) make a statement that a local government employee is incompetent or dishonest; or
  - (b) use an offensive or objectionable expression when referring to a local government employee.
- (5) Subclause (4)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

**18. Disclosure of information**

- (1) In this clause —
- closed meeting** means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
- confidential document** means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;
- document** includes a part of a document;
- non-confidential document** means a document that is not a confidential document.
- (2) A council member must not disclose information that the council member —
- (a) derived from a confidential document; or
  - (b) acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subclause (2) does not prevent a council member from disclosing information —
- (a) at a closed meeting; or
  - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
  - (c) that is already in the public domain; or
  - (d) to an officer of the Department; or
  - (e) to the Minister; or
  - (f) to a legal practitioner for the purpose of obtaining legal advice; or
  - (g) if the disclosure is required or permitted by law.

**19. Disclosure of interests**

- (1) In this clause —
- interest* means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.
- (2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —
- (a) in a written notice given to the CEO before the meeting; or
  - (b) at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —
- (a) that they had an interest in the matter; or
  - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —
- (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
  - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest if —
- (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
  - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.

- (7) The nature of the interest must be recorded in the minutes of the meeting.

Clerk of the Executive Council

Consultation Draft