

**SHIRE OF BRUCE ROCK**  
**MINUTES – ORDINARY MEETING 15 AUGUST 2019**

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**SHIRE OF BRUCE ROCK**

**MINUTES – ORDINARY MEETING 15 AUGUST 2019**

**1. Declaration of Opening**

The Shire President Cr SA Strange declared the meeting open at 2.07pm.

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

President	Cr SA Strange
Deputy President	Cr R Rajagopalan
Councillors	Cr AR Crooks
	Cr KP Foss
	Cr NC Kilminster
	Cr PG Negri
	Cr MK Thornton
	Cr BJ Waight
Chief Executive Officer	Mr DRS Mollenoyux
Deputy Chief Executive Officer	Mr A O’Toole
Environmental Health Officer	Mr J Goldacre (2.08pm to 2.31pm)
Manager of Finance	Mrs JL Bow (2.33pm to 3.05pm)
Leave of Absence	Cr IS Dolton

**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
15.08.19	Cr Mk Thornton	13.5.3	Partner submitted an EOI for Café Lease

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

Date	Name	Item No	Reason

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

Date	Name	Item No	Reason

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

**5. Public Question Time**

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

## 7. Applications for Leave of Absence

### **COUNCIL DECISION**

**Resolution OCM Aug 19 – 7.1**

**Moved: Cr Rajagopalan**

**Seconded: Cr Foss**

**That Cr PG Negri be granted leave of absence for the Ordinary Council Meeting held 19 September 2019.**

**Carried 8/0**

## 8. Announcements by Presiding Member

Cr Strange reported on recently being the guest speaker for eRotary which took place via the internet and had attendees from a variety of different Shires. Bruce Rock's main involvement in eRotary is through the Annual Swimming event, but the eRotary endeavour in general was commended as a very valuable and useful organisation.

## 9. Confirmation of Minutes

Ordinary Meeting of Council held on Thursday 18 July 2019.

### **COUNCIL DECISION**

**Resolution OCM Aug 19 – 9.1**

**Moved: Cr Crooks**

**Seconded: Cr Foss**

**That the minutes of the Ordinary Meeting of Council held Thursday 18 July 2019 be confirmed as a true and correct record.**

**Carried 8/0**

Audit Committee Meeting held on Monday 29 July 2019.

### **COUNCIL DECISION**

**Resolution OCM Aug 19 – 9.2**

**Moved: Cr Rajagopalan**

**Seconded: Cr Kilminster**

**That the minutes of the Audit Committee Meeting held Monday 29 July 2019 be received.**

**Carried 8/0**

Special Meeting of Council held on Monday 29 July 2019.

### **COUNCIL DECISION**

**Resolution OCM Aug 19 – 9.3**

**Moved: Cr Rajagopalan**

**Seconded: Cr Waight**

**That the minutes of the Special Council Meeting held Monday 29 July 2019 be received.**

**Carried 8/0**

**10. Regional Reports**

No Report

*Mr J Goldacre entered the Council Chambers at 2.08pm.*

## 11. Officers' Reports

### 11.1 Environmental Health Officer

<b>Agenda Reference and Subject:</b>	<b>11.1.1 Information Bulletin June July 2019</b>
<b>File Reference:</b>	Nil
<b>Reporting Officer:</b>	Julian Goldacre, Environmental Health Officer
<b>Author:</b>	Julian Goldacre, Environmental Health Officer
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	Nil

#### Summary

To accept the Environmental Health Officer Information Bulletin for the months of June and July 2019 for activities undertaken.

#### Background

The Environmental Health Officer will provide a report of activities undertaken during the preceding two months inclusive of Deputised and Delegated functions. This Information Bulletin will cover the months of June and July 2019.

#### Comment

As part of the role of EHO in asset management the following major items have been undertaken:

- 1) The Bruce Rock Town Hall deteriorated gutters, undersized downpipes, asbestos eaves and failed outside lighting have now been replaced with new materials. It was experienced by the contractor that the roof sheeting on the lower roof facing north is severely deteriorated and has holes because of evaporative air-conditioning discharging water onto the roof. A quotation has been sought to look at replacing the deteriorated roof sheeting. Painting quotes are presently being sourced;
- 2) The EHO has assisted the Chief Executive Officer and Community Development Officer to negotiate the preparation of an alternative power supply for the hockey grounds lighting with Western Power and E Consulting as well as opening of Tenders for supply of lighting infrastructure;
- 3) A new air-conditioned system was installed at the Recreation Centre Club bar and function room area replacing a defective old unit;

Compilation and review of the Shire housing, Public Buildings and Commercial properties proposed works for the 2019-2020 financial year has been completed and submitted to the Manager of Finance.

Working through the Bruce Rock Engineering planning proposal to accommodate Residential Design Codes requirements.

The EHO attended as Regional Secretary the Central Wheatbelt Health and Building Group meeting hosted by Northam Shire which covered topics such as: remediating and future proofing building built on clay soils; food recall process explained and small producers, waste strategy and action plan; proposed legislation to deal with building cladding; private pool fencing and inspection and approval outcomes; Public Health Unit Northam key trends and water consultant addressing recent water related health issues.

The EHO worked with the Works Manager and Modular WA to finalise site works for the septic system and leach drains for the new dwelling at Lot 118 Curlew Drive. The EHO used delegated authority as Deputy to Council by Resolution OCM Sep 17 – 12.1.3 to approve the permit to construct the apparatus for the treatment of sewerage.

The EHO assisted the CEO to complete the comprehensive Government Regional Officer Housing checklist to determine suitability of the new dwelling on Lot 118 Curlew Drive.

The EHO has liaised with Racing Gaming and Liquor regarding a works order issued in July for works to be undertaken by the owner of the Bruce Rock Hotel. Discussions with the present Manager of the Hotel reveals works are being undertaken.

The EHO is assisting the CEO in applying to Water Corporation to consider the connection of the Johnson Street Singles Units to the Septic Tank Effluent Disposal system.

The annual return for inspected private swimming pools and spas has been completed and submitted to the Building Commission. Nine inspections were done for the eight known pools and spas in Bruce Rock.

Waste Avoidance and Resource Recovery Strategy 2030 - After the Auditor General's Report 23 released in October 2016 it was resolved by Government to reassess how the waste strategy first floated in 2008 should be better focused. A review of the previous *modus operandi* revealed in Report 23 showed that whilst the Government of the time legislated the *Waste Avoidance and Resource Recovery Act 2007* the Waste Authority was not appropriately funded and staffed to properly facilitate the then waste strategy. Whilst the Auditor General declared that regional waste data was lacking, it was completely missed that many regional local governments conducted empirical bin audits for waste and recycling types and volumes. The EHO worked on such programs and was told by the consultant that the volumes and types of waste were 'typical' with very little variation between city and country, i.e. almost a 'standard', so it is disappointing that the funding, time and effort was apparently to no avail.

The 'new' waste strategy shows more commitment to actually making the strategy work and brings everyone to the table and is indicative of active changes of attitude towards waste generation and how to minimise and recycle wastes. Called the 'Waste Avoidance and Resource Recovery Strategy 2030', it was released in February 2019 along with the Action Plan which clarifies the specific actions, timelines, lead responsibilities and collaborations that will be progressed to achieve the objectives of the Waste Strategy 2030. Key targets of the Action Plan focus on a 10 percent reduction in waste per capita by 2025, material recovery to 70 percent by 2025, and all waste is to be managed and/or disposed to better practice facilities by 2030. The last point regarding 'better practice facilities could prove problematic for regional landfills given the current Department of Water and Environment Regulation still cannot release the Western Australian low risk landfill construction guidelines document. Previously the Department of Environment and Regulation used the Victorian landfill guidelines which were designed for townsites of 5,000 persons, although it was applied in Western Australia to townsites of 600 persons with obvious issues experienced.

Key actions forming part of the Waste Strategy 2030 are to develop state-wide communications to support consistent messaging on waste avoidance, resource recovery and appropriate waste disposal behaviours, which is welcome. It is also proposed to undertake a strategic review of Western Australia's waste infrastructure (including landfills) by 2020 to guide future infrastructure development, which will be interesting depending on the official and unofficial terms of reference for such an activity and the relative short timeframe of just over a year. It is proposed that any 'better practice' outcomes will be developed in consultation with stakeholders and given the observed enthusiasm of Waste Authority Officers this could work as a mutually beneficial endeavour provided further restructuring and/or

redundancies are not progressed by the Environment Minister and/or Treasury which has been the case in the past.

A part of the Waste Strategy 2030 is the ongoing container deposit scheme progression. The State Government has announced on 18 July 2019 that 'WA Return Recycle Renew' (WARRRL), a not-for-profit organisation, has been appointed as the scheme coordinator for Containers for Change. Western Australia's container deposit scheme, Containers for Change, will start on Tuesday, 2 June 2020. The Shire of Bruce Rock has registered as wanting to participate in the collection network for the container deposit scheme which is non-binding and allows WARRRL to approach the Shire with expressions of interest or to engage to see how the Shire of Bruce Rock can assist with recycling collection. Recently WARRRL put out an invitation to any interested community groups, charities, social enterprises, service organisations and businesses to apply to become a Refund Point.

The role of a Refund Point includes collecting eligible containers deposited by members of the public and charity organisations, counting and sorting of containers returned, facilitate customer refunds of 10c per eligible container returned, and connecting with the community to ensure awareness and understanding of the Scheme. The Shire of Bruce Rock has advertised the invitation to get involved on the Shire website and local paper.

**Consultation**

Rebecca Brown, Manager, Waste and Recycling, Western Australian Local Government Association.

**Statutory Implications**

*Health (Miscellaneous Provisions) Act 1911;*  
*Waste Avoidance and Resource Recovery Act 2007;*  
*Local Government Act 1995;*  
*Building Act 2011;*

**Policy Implications**

Nil

**Risk Implications**

Nil

**Financial Implications**

Nil.

**Strategic Implications**

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

**Governance**

Goal 7 Our community are engaged and have a healthy lifestyle  
Goal 7.7 Environmental Health Services – Create a community health plan incorporating community life, local planning, parks and facilities, transport, social support and community participation to embed preventative health measures and health promotion locally.

**Voting Requirements**

Simple Majority.

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.1.1**

**Moved: Cr Rajagopalan**

**Seconded: Cr Kilminster**

**To accept the Environmental Health Officer Information Bulletin for the months of June and July 2019.**

**Carried 8/0**



**Agenda Reference and Subject:**

**11.1.2** Application for Development Approval for a 36-meter weighbridge and hut, relocated sample platform/hut, and relocated accommodation and septic system on Lot 201 Kellerberrin-Shackleton Road and Lot 429 Bruce Rock-Quairading Road

**File Reference:**

A2468 Co-Operative Bulk Handling Ltd

**Reporting Officer:**

Julian Goldacre, Environmental Health Officer

**Author:**

Julian Goldacre, Environmental Health Officer

**Disclosure of Interest**

Nil

**Attachments:**

*Item 11.1.2 – Attachment A - Development Application Co-Operative Bulk Handling Weighbridge and Hut Works*  
*Item 11.1.2 – Attachment B - Development Application Relative to Lots and Planning Scheme*

**Summary**

Approve the Co-operative Bulk Handling Ltd Development Application for new 36 metre weighbridge with hut to replace existing 16-metre-long weighbridge with hut and relocate sample platform/hut on Lot 201 Kellerberrin-Shackleton Road and Lot 429 Bruce Rock-Quairading Road. Approve the continuing of the non-conforming use of the Co-operative Bulk Handling Ltd activities on Lot 429 Bruce Rock-Quairading Road. A condition and advice notes as listed.

**Background**

The Local Government of Bruce Rock received from Co-operative Bulk Handling Ltd (CBH) an application for Development Approval on the 11 June 2019. The application is for a proposed new 36-metre weighbridge with hut to replace the existing 16-metre weighbridge with hut, to relocate the sample platform/hut as well as the accommodation building and septic system; road works are also proposed on the site. The proposed development is on Lot 201 Kellerberrin-Shackleton Road and Lot 429 Bruce Rock-Quairading Road. Attachment 11.1.2 – A, contains the documents received from CBH in relation to the Development Application proposal with Local Government reference number ‘CBH DA Shackleton Weighbridge’.

Advertising of this proposed Development Application was required given part of the development occurs on land zoned ‘Public Purposes’ as shown in Attachment 11.1.2 – B which triggers a continuing of a ‘non-conforming use’. Advertising formally on the Shire of Bruce Rock webpage, Notice Boards and the Local Newspaper commenced on the 18 July 2019 and concluded on the 2 August 2019. No written responses were received in regards to this Development Application.

**Comment**

The proposed development relative to the *Shire of Bruce Rock Local Planning Scheme No 3* (Scheme) covers land zoned ‘Rural’ and ‘Public Purpose’. The current and proposed extension of the activity of grain receivals and storage on Rural zoned land is a permitted use under the Scheme. Part of the development occurs on land zoned ‘Public Purposes’ which has no definition of a particular use therefore requires Council consent to permit the current use deemed ‘non-conforming’ to continue under the Scheme. The

current grain receipt and storage activity is historic and an essential economic endeavour supporting the rural businesses. There are no perceived issues with the proposed development within the Scheme and the activity is supported by the Shire of Bruce Rock Planning Strategy. The proposed development will essentially improve truck weighing facilities which will incorporate moving buildings presently onsite to other locations within the grain receipts and storage operations area.

Points to be covered as advice notes relate to the limitations on the road network for the Kellerberrin-Shackleton Road, which is rated as a Tandem Drive Network 4.3. The moving of the existing buildings proposed being the accommodation building and grain sampling building will require a Building Permit. The existing apparatus for the treatment of sewerage will require an application for an apparatus for the treatment of sewerage to be submitted and the disused leach drain decommissioned (the Officer noting that relocating an apparatus for the treatment of sewerage is not at all a common practice). Should the accommodation building onsite host more than six persons then will be required to be registered as a lodging house.

**Consultation**

Nil.

**Statutory Implications**

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

**Policy Implications**

Nil.

**Risk Implications**

<b>Risk:</b> Development proceeds outside of the scope approved by Council.		
<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 “Medium” risk and will be managed by specific monitoring and response procedures.		

**Financial Implications**

Development Application fee of \$1,957.

**Strategic Implications**

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

**Governance**

- Goal 3 Assist the local economy to grow
- 3.7 Leverage economic opportunities and developments from successful local businesses

**Voting Requirements**

Simple majority.

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.1.2**

**Moved: Cr Crooks  
Seconded: Cr Thornton**

**That Council**

- 1. Approve the Development Application as presented in item 11.1.2 Attachment - Development Application Co-Operative Bulk Handling Weighbridge and Hut and Works for the purpose of a new 36 metre weighbridge with hut to replace existing 16-metre-long weighbridge with hut and relocate sample platform/hut on Lot 201 Kellerberrin-Shackleton Road and Lot 429 Bruce Rock-Quairading Road; and**
- 2. Approve the non-conforming use extension of the Shackleton Co-Operative Bulk Handling grain receival and storage operations on Lot 429 Bruce Rock-Quairading Road.**
- 3. Approve the following Conditions:**
  - a) This development approval is for the works shown on the stamped approved plans with application reference number 'CBH DA Shackleton Weighbridge' only.**

**Advice Notes of requirements under other written laws, but not limited to, and is provided in good faith for the purpose to assist Co-Operative Bulk Handling Ltd or a person/s acting on behalf of Co-Operative Bulk Handling Ltd as follows:**

- 1. This development approval decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect;**
- 2. A Building Permit is required for the approved development with regards to the relocating of the accommodation and sampling buildings, prior to works commencing, in accordance with the Building Act 2011. Fees apply;**
- 3. Limitations exist for the Kellerberrin-Shackleton Road, which is rated as a Tandem Drive Network 4.3 only;**
- 4. Before a Building Permit can be issued by the Local Government of Bruce Rock, a completed 'Application to construct or install an apparatus for the treatment of sewage' in accordance with the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974 is required to be submitted to the Local Government of Bruce Rock. The application and a report by the Local Government of Bruce Rock Environmental Health Officer will be forwarded to the Department of Health Water Unit who will assess the application and provide comment and/or issue an approval to construct. Fees apply; and**
- 5. Under the Shire of Bruce Rock Health Local Law 2016, should the building used for worker accommodation lodge more than six persons then the accommodation must comply with requirements under Part 8 for registration as a Lodging House as required. An application for registration must be submitted to the Local Government of Bruce Rock Environmental Health Officer to undertake the Lodging House registration. Fees apply.**

**Carried 8/0**

**Agenda Reference and Subject:**

**11.1.3** Western Australian Planning Commission proposed boundary realignments for Residential Lots 29 and 30 Mills Street Shackleton

**File Reference:** A666 30 Mills Street, Shackleton

**Reporting Officer:** Julian Goldacre, Environmental Health Officer

**Author:** Julian Goldacre, Environmental Health Officer

**Disclosure of Interest** Nil

**Attachments:** *Item 11.1.3 - A – WAPC Application 515-19 Lots 29 & 30 Mills Street Shackleton*

**Summary**

Council approves the Western Australian Planning Commission proposed boundary realignments for Residential Lots 29 and 30 Mills Street Shackleton with one condition.

**Background**

On the 17 June 2019 the Shire of Bruce Rock received an electronic referral for an application for development approval for Lots 29 and 30 Mills Street Shackleton submitted by the Western Australian Planning Commission. The Environmental Health Officer undertook an inspection of the property to determine the location of the apparatus for the treatment of sewerage to ensure the systems were to be isolated on the two proposed Lots and within the required setbacks and were deemed to be so.

**Comment**

There currently exist two dwellings on Lots 29 and 30, both zoned 'Residential' under the *Shire of Bruce Rock Local Planning Scheme No3*, with the bulk of both buildings on Lot 30. The original main dwelling was approved for construction in the 1960s, and the second habitable building approved in 1989. The second habitable building has an approval for an apparatus for the treatment of sewerage, and the main dwelling construction predates requiring such regulatory approval requirements.

The proposal as submitted to align the boundary of Lots 29 and 30 Mills Street is for the purpose to create two lots with a single residence on each. Lot 30 Mills Street will be given a truncation on the north-west corner and it is noted that to the south a water and power service easement is described. No battle-axe Lot is proposed and all existing structures on the two Lots will remain in place. The land has been declared to have no contamination and is determined to not be at risk to acid sulphate soils. The two Lots are not in a Bushfire Prone Area; no dewatering is proposed and no excavation of 100 cubic meters of soil or more is proposed.

The Lot labelled at '1' in the plan shown in Attachment 11.1.3 – A will have a street frontage to Hammond Street and in the event of a crossover being required will need to submit an application to the Shire of Bruce Rock. The Lot labelled '2' in the plan shown in Attachment 11.1.3 – A is on a corner Lot and is currently served by a driveway onto Mills Street; should a crossover be required onto Hammond Street then an application to the Shire of Bruce Rock will required to be submitted. There is no perceived impact on amenity given the existing structures are already in place and the two Lots are separated by either road or the right of way from immediate neighbours.

**Consultation**

Nil.

**Statutory Implications**

*Planning and Development Act 2005; and  
Shire of Bruce Rock Local Planning Scheme No3.*

**Policy Implications**

Nil

**Risk Implications**

Nil

**Financial Implications**

Nil

**Strategic Implications**

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

**Governance**

- 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.

**Voting Requirements**

Simple Majority.

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.1.3**

**Moved: Cr Waight  
Seconded: Cr Thornton**

**That Council:**

- 1. Endorse the Western Australian Planning Commission application for development approval number 515-19 to realign the boundaries of Lots 29 and 30 Mills Street Shackleton including to truncate the north-west corner of Lot 30 Mills Street and accommodate an easement for water and power services at the south of Lots 29 and 30 as presented in Attachment 11.1.3 – A, with the following condition:
  - a) Should either Lot 29 and/or 30 as shown in Attachment 11.1.3 – A require the construction of a crossover then an application for such is required to be submitted to the Shire of Bruce Rock and the cross over is to be constructed to the satisfaction of the Shire of Bruce Rock Works Manager.****

**Carried 8/0**

*Mr J Goldacre left the Council Meeting at 2.31pm and did not return.*

*Mrs JL Bow entered the Council Chambers at 2.33pm.*

## 11.2 Manager of Works & Services

<b>Agenda Reference and Subject:</b>	<b>11.2.1</b> Works & Services Information Report
<b>File Reference:</b>	
<b>Reporting Officer:</b>	Glenn Casley, Manager of Works & Services
<b>Author:</b>	Glenn Casley, Manager of Works & Services
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	Nil

### Town & Gardening Crew

- Main Street tidied up
- Single units weeded and tidied up
- Street sweeping completed in the 4 towns
- Op shop and Police Station gardens mowed
- Museum mowed and tidied up
- Rec Centre entrance planted and mulched
- Curlew Drive entrance planted and mulched
- Private works - Avid Resources (supply of sand and gravel)
- Private works supply of concrete to Shire of Narembeen
- New house backfilled with alfresco, porch and garage areas concreted
- Sculpture Park and Amphitheatre mowed and tidied up

### Construction Crew

- Maintenance Grading is going well but needing some more rain
- Private Works Sheep Yard pad
- RRG Bruce Rock-Narembeen Rd will be the first major project after Maintenance grading finishes

### Workshop

- BK103 service truck set up
- BK6519 truck service, replace front hub seals
- BK851 sign truck service and brake repairs
- BK51 Subaru smash repairs from hitting kangaroo
- BK9269 gardeners trailer repair broken welds and tail lights
- BK409 grader repair coolant leak on front of engine and replace heater hoses
- Replace air conditioner pump and hose into cab
- BK09 car service
- 4 vehicle inspections
- Brian was away for 2 weeks holiday during this period

**Rec Centre**

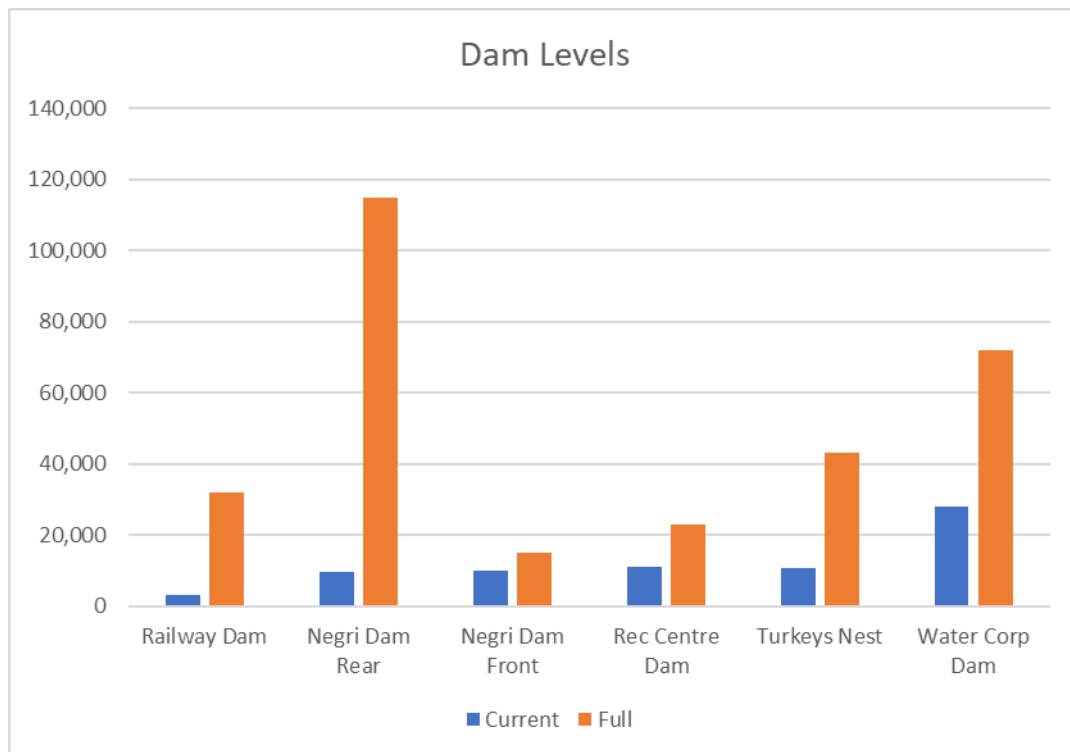
- Oval Mowed
- Hockey field tidied up
- Rec Centre surrounds tidied up
- Weeds sprayed
- Rec Centre entrance planting complete
- Curlew Drive entrance gardens planting completed
- Rec Centre entrance weeded
- Oval marked for football
- Bricks pressure cleaned to remove bird droppings
- New pump fitted to septic tanks

**Vehicles/Machinery Changeover**

- Nil

**Dams**

• Dam	• Current	• Capacity
• Railway Dam	• 1,500kl	• 32,000kl full
• Negri Dam Rear	• 9,500kl	• 115,000kl full
• Negri Dam Front	• 9,000kl	• 15,000kl full
• Rec Centre Dam	• 11,000kl	• 23,000kl full
• Turkeys Nest	• 10,500kl	• 43,000kl full
• Water Corp Dam	• 25,000kl	• 71,808kl full



**Installation of Speed Humps Rec Centre**

New speed humps have been installed at the Rec Centre to slow traffic in and out past the Hockey field.

**COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.2.1**

**Moved: Cr Kilminster**

**Seconded: Cr Foss**

**That the Manager of Works and Services Information Report be received.**

**Carried 8/0**



### 11.3 Manager of Finance

<b>Agenda Reference and Subject:</b>	<b>11.3.1</b> Statement of Financial Activity
<b>File Reference:</b>	8.2.6.2 Financial Reporting
<b>Reporting Officer:</b>	Jennifer Bow, Manager of Finance
<b>Author:</b>	Jennifer Bow, Manager of Finance
<b>Disclosure of Interest</b>	Nil
<b>Attachment:</b>	<i>Attachment 11.3.1 – Monthly Financials July 2019</i>

#### Summary

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

#### Background

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

#### Comment

The financial statements for the month ending 31<sup>ST</sup> July 2019 are included as an attachment.

#### Consultation

Chief Executive Officer  
 Deputy Chief Executive Officer  
 Manager of Finance  
 Manager of Works and Services  
 Senior Finance Officer and other staff

#### Statutory Implications

r. 34 Local Government (Financial Management) Regulations 1996

#### 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 2018/19 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 COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.3.1**

**Moved: Cr Rajagopalan**

**Seconded: Cr Negri**

**That the Statements of Financial Activity for the month ending 31st July 2019 as presented be received.**

**Carried 8/0**

<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>	
<b>Attachments:</b>	Nil

**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 also payments made with the CEO’s credit card for the month of July 2019.

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 2018/19 and 2019/20 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 COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.3.2**

**Moved: Cr Crooks**

**Seconded: Cr Rajagopalan**

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

- 1. Municipal Account consisting of:**
  - a. EFT voucher numbers EFT14466 to EFT14578 totalling \$901,723.70**
  - b. Cheque number 23933 to 23939 totalling \$38,847.15**
  - c. Trust Cheque 1930 totalling 9,936.00**
  - d. Wages and Superannuation payments totalling \$194,101.05 and**
  - e. Credit Card payments totalling \$893.34**

**With all payments totalling \$1,144,607.90 for the month of July 2019.**

**Carried 8/0**

<b>Agenda Reference and Subject:</b>	<b>11.3.3</b> Interim Audit Management Letter
<b>File Reference:</b>	8.2.6.1 Annual Audit
<b>Reporting Officer:</b>	Jennifer Bow, Manager of Finance
<b>Author:</b>	Jennifer Bow, Manager of Finance
<b>Disclosure of Interest</b>	Nil
<b>Attachments:</b>	<i>Item 11.3.3 – Interim Audit Management Letter</i>

**Summary**

AMD has completed our interim audit for the year ending 30th June 2019 and have issued a Management Letter containing issues that need to be addressed. This item has already been received by the Audit Committee.

**Background**

At the completion of the annual audit, the auditor prepares an Audit Report and a Management Letter outlining any areas or issues that Council needs to address.

**Comment**

The interim audit management letter is performed as a phase of the audit in accordance with the audit plan. The focus of the interim audit is to evaluate the overall control environment, but not for the purpose of expressing an opinion on the effectiveness of internal control, and to obtain an understanding of the key business processes, risks and internal controls relevant to the audit of the annual financial report.

The Interim Audit Management Letter contained eight findings that were identified during the audit that require addressing. The Management Letter has been attached for your information however a summary of the findings is presented.

INDEX OF FINDINGS	RATING		
	Significant	Moderate	Minor
Annual Report Submission		✓	
Synergy Access Restrictions		✓	
Procurements and Payments		✓	
Operating Procedures			✓

As per the Management Letter, the ratings are based on the audit team’s assessment of risks and concerns with respect to the probability and/or consequence of adverse outcomes if action is not taken. The ratings are as follows;

- i. **Significant** – findings where there is potentially a significant risk to the entity should the finding not be addressed by the entity promptly.
- ii. **Moderate** – findings which are of sufficient concern to warrant action being taken by the entity as soon as practicable
- iii. **Minor** – findings that are not of primary concern but still warrant action being taken.

The findings have been listed in the following table :

Shire of Bruce Rock – MINUTES 15 August 2019

Area	Finding Rating	Auditors Comments	Implication	Recommendation	Managements Comments	Respon Officer	Comp Date
Annual Report Submission	Moderate	We noted the Shire of Bruce Rock's 30 June 2018 audit report was issued on the 12 December 2018 for receipt by the Chief Executive Officer, however the annual report was not submitted to the Departmental CEO within 30 days as required by Regulation 51(2) of the Local Government (Financial Management) Regulations 1996 (lodgement date 20 May 2019-129 days late).	Non-compliance with Regulation 51(2) of the Local Government (Financial Management) Regulations 1996.	We recommend, in accordance with Section 51(2) of the Local Government (Financial Management) Regulations 1996, a copy of the annual financial report of a local government be submitted to the Departmental CEO within 30 days of the receipt by the local government's CEO of the auditor's report on the financial report.	This was a complete oversight by the officer responsible for the submission of the annual financial report to the Departmental CEO within 30 days after receiving the auditor's report.  In future, the CEO and officer responsible, Manager of Finance, will ensure that the annual financial report is submitted within the necessary timeframe.	MOF	31/12/19
Synergy Access Restrictions	Moderate	At the time of our interim visit our review of the Synergy 'user privileges' report and discussions with the Manager of Finance identified: <ul style="list-style-type: none"> <li>Employee access to Synergy is not being removed on termination; and</li> <li>Level of user access in Synergy is inappropriate based on their positions and there are a high number of employees with access to 'all systems'.</li> </ul>	Increased risk of unauthorised changes occurring within Synergy due to fraud or error.	We recommend a review be undertaken of staff current user access levels in Synergy Soft to determine whether their user access levels are appropriate for their role.	A review of the levels of user access or privileges in Synergy Soft has been undertaken and users now have reduced or restricted viewing privileges unless they require full access to complete their duties as required.	MOF	30/6/19
Procurements and Payments	Moderate	During our procurement and payments testing, we identified the following: <ol style="list-style-type: none"> <li>The "Signing Purchase Orders" policy does not specify a maximum threshold for the following positions: <ol style="list-style-type: none"> <li>Chief Executive Officer;</li> <li>Deputy Chief Executive Officer;</li> </ol> </li> </ol>	<ul style="list-style-type: none"> <li>Risk policies do not provide adequate guidance relating to purchasing limits of designated employees.</li> <li>If the required number of quotes are not obtained and retained, management and Council cannot be assured that staff have obtained the necessary</li> </ul>	We recommend: <ol style="list-style-type: none"> <li>All designated employees are assigned with a purchasing threshold within the "Signing Purchase Orders" policy;</li> <li>The "purchasing form" is utilised to document quotations, in particular verbal quotations, to</li> </ol>	The Purchasing and Procurement Policy has been identified by staff in conjunction with reviewing regulation 17, as an area that requires extensive revision and amendments to ensure that it complies with the Act and various Regulations.  As part of the extensive review,	DCEO	31/12/19

Shire of Bruce Rock – MINUTES 15 August 2019

Area	Finding Rating	Auditors Comments	Implication	Recommendation	Managements Comments	Respon Officer	Comp Date
		<p>c. Manager of Finance; • Risk policies do not provide adequate guidance relating to purchasing limits of designated employees.</p> <ul style="list-style-type: none"> <li>• If the required number of quotes are not obtained and retained, management and Council cannot be assured that staff have obtained the necessary quotes, that open competition principles have been applied, and that there was compliance with relevant policies. As a result, there is an increased risk of non-compliance with the Local Government (Functions and General) Regulations 1996 Part 4.</li> <li>• Increased risk of non-compliance with established policies.</li> </ul> <p>d. Manager of Works and Services; and</p> <p>e. Environmental Health Officer.</p> <p>2. The “purchasing form” is not being used to document verbal quotations to evidence compliance with the Shire’s purchasing policy;</p> <p>3. The “list of payments” presented to Council at the meeting held 18 April 2019, was incomplete as it did not contain details of a cheque which had</p>	<p>quotes, that open competition principles have been applied, and that there was compliance with relevant policies. As a result, there is an increased risk of non-compliance with the Local Government (Functions and General) Regulations 1996 Part 4.</p> <ul style="list-style-type: none"> <li>• Increased risk of non-compliance with established policies.</li> </ul>	<p>demonstrated compliance with the Shire’s established purchasing policy;</p> <p>3. The list of payments presented to Council acknowledge cancelled cheques and electronic fund payments, to ensure the listing is a complete list containing all cheque and electronic fund transfer payment numbers utilised during the period referenced; and</p> <p>4. All goods and services are procured in accordance with the Shire’s purchasing policy, with any deviations documented and approved accordingly.</p>	<p>staff will ensure that;</p> <p>i. All designated employees are assigned with a purchasing threshold within the “Signing Purchase Orders” policy;</p> <p>ii. The “purchasing form” is utilised to document quotations, in particular verbal quotations, to demonstrated compliance with the Shire’s established purchasing policy;</p> <p>iii. The list of payments presented to Council acknowledge cancelled cheques and electronic fund payments, to ensure the listing is a complete list containing all cheque and electronic fund transfer payment numbers utilised during the period referenced; and</p> <p>iv. All goods and services are procured in accordance with the Shire’s purchasing policy, with any deviations documented and approved accordingly.</p>		

Shire of Bruce Rock – MINUTES 15 August 2019

Area	Finding Rating	Auditors Comments	Implication	Recommendation	Managements Comments	Respon Officer	Comp Date
		been cancelled; and 4. One instance was identified whereby a procurement of an item over \$5,000 was not accompanied by evidence of three written or verbal quotations, as required by the Shire's purchasing policy.					
Operating Procedures	Minor	As raised within our 2018 interim management letter we identified a lack of formal documented procedures relating to: <ul style="list-style-type: none"> <li>The collection, recording, reconciliation and banking of monies;</li> <li>Procurement and other general accounts payable duties; and</li> <li>Payments or refunds from trust funds.</li> </ul>	Existing procedures and practices are not formally documented.	We recommend formal documented procedures be developed and endorsed by Council.	Staff will develop formal documented procedures for; <ul style="list-style-type: none"> <li>i. Collection, recording, reconciliation and banking of monies</li> <li>ii. Procurement and other general accounts payable duties; and</li> <li>iii. Payments or refunds from trust funds.</li> </ul>	MOF	30/9/19



**Consultation** CEO, MOF and AMD (Council’s external auditors)

**Statutory Implications**

*Local Government (Financial Management) Regulations 1996, r.34(5), Local Government Act 1995, Local Government (Audit) Regulations 1996*

**Policy Implications**

Nil

**Risk Implications**

<b>Risk:</b> Compliance – Non-compliance with relevant sections and regulations of the Act and recommended best practice in procurement.		
<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 findings in the Interim Audit Management Letter.		

**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 COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.3.3**

**Moved: Cr Rajagopalan**

**Seconded: Cr Foss**

**That Council receives this item from the Audit Committee regarding the Interim Audit Management Letter and management’s comments for the year ended 30th June 2019.**

**Carried 8/0**

**Agenda Reference and Subject:**

**11.3.4 Sale of Land Auction**

**File Reference:**

**Reporting Officer:**

Jennifer Bow, Manager of Finance

**Author:**

Jennifer Bow, Manager of Finance

**Disclosure of Interest**

Nil

**Attachments:**

Nil

**Summary**

To impose terms and conditions as the local government thinks fit, including payment arrangements and the fixing of a reserve price for the land that is to be auctioned on Friday 16<sup>th</sup> August 2019 for the recovery of rates which have remained unpaid for 3 or more years.

**Background**

Council agreed at the Ordinary Council Meeting in September 2018 to commence the process to recover rates from the 8 properties that have arrears of more than three years.

The Auction has been advertised and set for 1pm Friday 16<sup>th</sup> August 2019 at the Bruce Rock District Club.

**Comment**

A Memorial of Advertisement has been lodged on each parcel of land and the Registrar of Titles has advised that this has been registered. A Memorial of Advertisement remains in force for twelve months from the date of registration and acts as an absolute caveat until it is withdrawn or expires.

Documents that are not “instruments” for the purposes of the Transfer of Land Act 1893 may continue to be endorsed on the title to the land by the Registrar of Titles without the consent of the Local Government during the period that the Memorial of Advertisement is in force on the title. This includes such documents as: caveats, applications to amend the name of registered proprietors, surrenders of lease, discharges of mortgage, withdrawals of caveat and notifications.

Documents lodged in registrable form together with the relevant local government’s consent will be processed in accordance with Landgate’s usual registration procedures.

This prohibition covering the registration of the memorial does not extend beyond 12 months from the day on which the memorial is delivered to the Registrar of Titles or Deeds. This prohibition does not apply if a person having an estate or interest in the land, within seven days prior to the notified time of actual sale of the land, pays the local government the outstanding rates and or service charges and the costs incurred to that time in proceedings relating to the proposed sale of the land. (Sch. 6.3 cl.2.(4) and cl.7.; s.6.69)

Acceptance of payment of the outstanding rates and or service charges by the local government, within the seven days prior to the notified sale, or after the seven days has elapsed on such terms and conditions as agreed between the parties, puts a stay on the proposed sale proceedings. (Sch. 6.3 cl.2.(4); s.6.69).

No fees are payable for withdrawal of the Memorial of Advertisement. If after the expiry of twelve months the Memorial of Advertisement has not been removed, it is ignored as an encumbrance.

If a contract for sale has not been entered into within 12 months from the date that the land is offered for sale by public auction notice, in the form of Form 5, the proceedings for the power to sell the land cease to have effect.

Proceedings can however be recommenced after this 12 months period, and the same power of sale of land proceeding requirements apply again for any proposed future sale. (Sch. 6.3 cl.7.)

If a contract of sale is entered into within the twelve month period after the date the land is offered for sale pursuant to the power of sale, a Transfer (Landgate Form T5) giving effect to this sale may be accepted for registration by the Registrar of Titles during or after this period unless a dealing has been lodged which prevents registration of the Transfer.

A sale of land by a local government discharges the land and the owners, present and past, from any liability for rates, service charges or other money due to the local government at the time of sale and secured by a charge over the land, or otherwise recoverable under the Act or another written law (s.6.73(a) to (d)).

The local government is required to apply the proceeds from the sale of the land in the manner set out in Sch. 6.3 cl.5. This lists the priority of payment allocation from the sale proceeds, summarised as follows;

Priority and payment allocation:

1. The costs and charges and expenses incurred by the local government in the land sale process.
2.
  - (i) Unpaid rates and service charges for the land
  - (ii) Costs and other money due or imposed by the Crown or an instrumentality of the Crown (e.g. State agency or department)
  - (iii) Other amounts due to the local government under the Act or other written law. Where insufficient funds remain after the first step has taken place, Sch. 6.3 cl.5.(b)(iii) provides the detail on how any remaining sale proceeds are to be distributed.
3. Vendor's costs and expenses relating to the conferring of title upon the purchaser of the land.
4. The discharge of a charge on the land relating to drainage and sewerage connection and fittings.
5. The discharge of other mortgages and encumbrances on the land both registered and unregistered.
6. Within 12 months, payment of any sale proceeds that remain to the person or persons with an entitlement to the land but for the sale (Sch. 6.3 cl.5.).

Where the local government exercises its power of sale under sections 6.64(1)(b) and 6.68 and Schedule 6.3 of the Local Government Act 1995, a Transfer (Landgate Form T5) executed by the local government using its common seal is used for transfers of land under the Transfer of Land Act 1893.

The local government's power of sale includes:

- the power to sell the land (in whole or in part, together or in lots) by public auction, or by private treaty if the land has been offered, though not sold, by public auction;
- the power to impose terms and conditions the local government thinks fit, for instance payment arrangements, and the fixing of a reserve price;
- the power to vary a contract of sale by agreement and to buy in at the auction;
- the power to rescind a contract for sale on default of the other party, without being answerable for loss occasioned by the rescission and resale; and
- the power to make thoroughfares, grant easements of right-of-way or drainage over the land as the circumstances require, and as the local government thinks fit. (Sch. 6.3 cl.3.(a) to (d)).

As Council is able to set payment arrangements and set a reserve price and it is recommended that a deposit of 10% is paid on auction day and the reserve is set to cover all selling costs which includes the auctioneer costs, advertising, hiring of the club. Details will be provided at the Council meeting given that this will be kept confidential.

Staff will also prepare the Auction Particulars and Conditions of Sale for each lot to be auctioned (blank document has been provided by auctioneer).

**Consultation** CEO, MOF and SFO

### **Statutory Implications**

#### **Local Government Act 1995, section 6.68(3)**

#### **Schedule 6.3 — Provisions relating to sale or transfer of land where rates or service charges unpaid**

#### **[Section 6.68(3)]**

### **3. Power of sale**

*The power of sale includes —*

- (a) *power to sell the whole or part of the land either together or in lots —
  - (i) *by public auction; or*
  - (ii) *by private contract, if having been offered for sale by public auction, it has not been sold, subject to such terms and conditions with respect to the payment of the purchase money or any other matter, including power to fix a reserve price, as the local government thinks fit; and**
- (b) *power to vary a contract of sale by agreement with the other party to the contract, and to buy in at auction; and*
- (c) *power to rescind a contract for sale on default by the other party to the contract, and to resell without being answerable for loss occasioned by the rescission and resale; and*
- (d) *power to make such thoroughfares and to grant such easements of right-of-way or drainage over the land as the circumstances of the case require and the local government thinks fit.*

### **5. Application of purchase money**

*Where a local government has exercised its power of sale it is required to apply the proceeds of sale in the following manner —*

- (a) *firstly — in payment of the costs, charges and expenses properly incurred by the local government in or incidental to the sale or attempted sale or the exercise of any other power conferred upon the local government by Part 6, Division 6, Subdivision 6 or this Schedule; and*
  - (b) *secondly — in payment of —
    - (i) *unpaid rates or service charges, for the time being due to or imposed by the local government in respect of the land; and*
    - (ii) *costs and other money, if any, due to or imposed in favour of the Crown in right of the State or a department, agency, or instrumentality of the Crown in right of the State; and*
    - (iii) *other amounts due to the local government under this or another written law, in respect of the land at the time of the sale, but where the payments required by paragraph (a) to be made have been made, and the balance of the money then remaining is not sufficient for the payment in full of the items required by this paragraph to be made, the local government is to distribute the balance of the money so remaining, between the Crown, the department, the agency, the instrumentality, and the local government, pro rata with the amounts of their claims, respectively, unless the Governor, or the Minister controlling the department, agency, instrumentality as the case requires, consents to rank after the local government; and**
- (c) *thirdly — in payment of the vendor's costs and expenses of and incidental to conferring upon the purchaser a title to the land; and*
- (d) *fourthly — in or towards the discharge of a charge, if any, on the land under a written law relating to the construction of drains and fittings to connect the land with a sewer; and*

- (e) *fifthly — in or towards the discharge of other mortgages and encumbrances on the land, both registered and unregistered, according to their priorities at law so far as they can be ascertained by the local government; and*
- (f) *sixthly — in payment of the residue of the money within 12 months after the local government has received it to —*
- (i) *the person who would, but for the proceedings for sale, be entitled to the land; or*
- (ii) *if there are several persons who would be so entitled, then to those persons in the proportions in which they would be respectively so entitled,*
- but if —*
- (I) *a person is entitled to an estate in reversion or remainder in the land, the local government may pay that residue into the Supreme Court under section 99 of the Trustees Act 1962; and*
- (II) *within that period of 12 months the local government has not paid the residue to the person entitled to it, it is to, on the expiration of that period, pay that residue into the Supreme Court under that section of that Act; and*
- (III) *at the expiration of 6 years after the money is so paid into the Supreme Court, proceedings have not been commenced or are not pending and the Court has not made an order to the contrary the money is to be paid into the Consolidated Account.*

**Policy Implications**

Nil

**Risk Implications**

<b>Risk:</b> That rates remain unpaid resulting in less income for the Shire.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Minor	Minor
<b>Action / Strategy</b> To follow the debt recovery policy and legislative requirements to ensure that all outstanding rates are collected where possible.		

**Financial Implications**

Recovery of outstanding rates or if not sold, a reduction in income due to rates balances being written off.

**Strategic Implications**

Shire of Bruce Rock – Strategic Community Plan 2017-2027

**Governance**

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

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That Council sets the following conditions for the auction of land with outstanding rates in accordance with Sch. 6.3 cl.3.(a) of the Local Government Act 1995;

1. that the winning bidder will be required to pay a 10% deposit of the winning bid at auction with balance of payment required within 30 days of date of sale; and
2. that the reserve price for each assessment to be the selling costs which includes statutory advertising, auctioneer costs and hire of the District Club for the auction (total costs divided equally across all assessments)

*Council decision varied to Officer Recommendation to set a different reserve price.*

**COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.3.4**

**Moved: Cr Rajagopalan**

**Seconded: Cr Thornton**

**That Council sets the following conditions for the auction of land with outstanding rates in accordance with Sch. 6.3 cl.3.(a) of the Local Government Act 1995;**

- 1. that the winning bidder will be required to pay a 10% deposit of the winning bid at auction with balance of payment required within 30 days of date of sale; and**
- 2. that the reserve price for each assessment to be \$1500 per block.**

**Carried 8/0**

*Mrs JL Bow left the Council Chambers at 3.05pm and did not return.*

#### 11.4 Deputy Chief Executive Officer

**Agenda Reference and Subject:**

**11.4.1** Shire 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 President Stamp in July 2019.

**Background**

Nil

**Comment**

As per Council’s policy, the Shire Seal has been used during the month of July 2019 as follows:

- Quarry Lease
- Client Authorisation Sale of Land 224,226,228 Butcher Street

**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 COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.4.1**

**Moved: Cr Thornton**

**Seconded: Cr Rajagopalan**

**That Council endorse the use of the Shire Seal during July 2019.**

**Carried 8/0**

**Agenda Reference and Subject:**

**11.4.2** Motorcross Track on Airstrip Reserve

**File Reference:**

Nil

**Reporting Officer:**

Alan O’Toole, Deputy Chief Executive Officer

**Author:**

Alan O’Toole, Deputy Chief Executive Officer

**Disclosure of Interest**

Nil

**Attachments:**

Nil

**Summary**

It has been brought to the Shire’s attention that a motocross track has been created in bushland at the rear of the Airstrip Reserve. There is evidence that this is being used as a recreational activity by some residents on an ad hoc basis. This Report presents information and makes a recommendation regarding the risks involved in the Shire allowing this activity to continue on the site.

**Background**

In May 2019 the Shire was made aware that a section of land at the rear of the Airstrip Reserve is being used by residents as a Motocross Track. By the extent and maturity of the work that has been done to create this track, it is clear that this activity has been going on for some time, presumably over several years. It is believed that the track has been created by local residents using their own equipment. However, now that the Shire has formally been made aware of the presence and continuing use of the track, in order to ascertain if there was any risk or liability involved in allowing this activity on the Airstrip Reserve, the Shire consulted with our insurer, LGIS. This resulted in an inspection from the LGIS Risk Consultant on 31/5/2019. The inspection revealed several risk issues for the Shire, foremost of which is the presence of asbestos on parts of the site, including several large sheets which are the remnants of sheds which have fallen or been taken down at some stage in the past. Other risk issues included in LGIS’s report on the inspection are:

1. The condition and suitability of the tracks are unknown/untested, along with any hidden hazards or dangers posed to those accessing and using the tracks. This will include the presence of asbestos.
2. The potential incompatibility of motorcycles operating in the vicinity of aircraft creating a distraction, obstruction or general hazard to aircraft approaching or attempting to take off.
3. Motorcycles creating damage to the airstrips posing an unsuitable and hazardous surface for aircraft.

**Comment**

To counter the most obvious and immediate danger i.e. that posed by the asbestos, signage announcing the presence of asbestos and prohibiting entry has been placed at various points around the site. In terms of risk liability, this shows that now aware of the hazard, the Shire is warning potential participants of the risks and has prohibited the use of the land for this purpose. Plans are now being made to clear the site of the contaminated material.

With regard to points 2 and 3 above, enquiries have been made with the Civil Aviation Safety Authority (CASA) regarding the proximity of the track to the Airstrip and whether this is acceptable. CASA have advised that there is no problem from their perspective, as long as the users of the track avoid the Airstrip and its immediate vicinity. (There is already some signage in place which warns of Aircraft operating in the area).



With this information available the Shire sought further advice from our insurer LGIS as to whether any liability would lie with the Shire for allowing the motocross activity to continue to take place. LGIS's advice concludes:

"Whether the consequences are related to injury or damage, a potential claim against the Shire could follow, particularly where the Shire is seen to endorse motorcycle riding in the area by making no attempts to control it. The success of such a claim against the Shire would be dependent on the facts of the incident at the time and whether the Shire's response to the risk was a reasonable one. It is unlikely that the placement of a signage stating: "Anybody undertaking recreational activities on this site does so at their own risk" would be regarded as a reasonable response to the risk. It is also unlikely that the Shire would be able to rely on this signage as an appropriate defence to a related claim.

It is also worth the Shire considering that by accepting the tracks the Shire may also be assuming ongoing maintenance responsibilities for the tracks and an ongoing duty to ensure they are reasonably free from defects".

(LGIS's adviser has had considerable experience with issues of this nature, having been involved in assisting a Shire defend itself against a claim after a person using a quad bike had suffered serious injuries when riding in sand dunes on which signage had been placed by the Shire warning of the dangers of this activity. Although the Shire in question ultimately won the case, it was not without significant reputational and financial cost, and also the time and impact on Shire representatives having to appear in court to defend the case was significant.)

It should be noted that, with regard to liability and responsibility, while there is not enough certainty to state categorically that the Shire would definitely be liable in the event of a claim, it is more that in the event of an accident occurring while the motocross activity is taking place on the site, a claim against the Shire could possibly follow. This is because any claim would have to be considered on its merits, and the Shire would have to provide evidence as to why it was not responsible for any damage and/or injury. This would initially be dealt with by the Shire's insurers but could eventually lead to the involvement of legal representation, and the Shire having to defend its position in a legal forum. In this case, the onus would be on the Shire to prove that it had done all it could to mitigate the risks, and had taken all reasonable measures to warn people of the dangers of engaging in this activity on the site. Therefore, the options available to Council are:

1. Allow the motocross activity to continue with the following actions being taken:
  - The site is cleared of as much asbestos as is possible.
  - Appropriate signage is placed at all entry points to the site stating that the area is not maintained by the Shire, and that all (motocross) activity taking place is at the user's own risk.
  - Other signage is placed around the Airstrip itself, directing users to not ride on the Airstrip, or in close proximity to it.

**OR;**

2. To ensure that the Shire does not encounter the risk of liability at all, Council may wish to consider whether a permanent closure of the site for this activity is warranted.

#### **Consultation**

Chief Executive Officer  
Environmental Health Officer  
Manager of Works and Services  
LGIS

#### **Statutory Implications**

Nil

**Policy Implications**

Nil

**Risk Implications**

<b>Risk:</b> Shire allowing Motocross Activity on Airstrip Reserve resulting in injury		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Extreme	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”. As a high-risk matter, the Deputy Chief Executive Officer will be monitoring progress.		

**Financial Implications**

- From LGIS’s advice, in the event of injury or damage occurring as a result of motocross activity being allowed on the Airstrip Reserve, even with cautionary and disclaiming signage, it could still result in a claim against the Shire. This could have a significant impact on the Shire’s financial resources, including engaging legal representation and in Officers’ and Elected Members’ time.
- If Council approves the permanent closure of the motocross track then at some stage in the future Shire resources may be used to physically remove the track and prepare the land for regrowth.
- Additionally, any signage to be placed at the site will present a cost to the Shire.

**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

**Governance**

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

**Community**

Goal 9 Community safety is a valued feature of our lifestyle

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That Council approves the permanent closure of the motocross track on the Airstrip Reserve and at a future time removes the track using Shire resources.

*Council’s Resolution differed from the Officer’s Recommendation in that Option 1 in the Report, namely:*

“Allow the motocross activity to continue with the following actions being taken:

- The site is cleared of as much asbestos as is possible.
- Appropriate signage is placed at all entry points to the site stating that the area is not maintained by the Shire, and that all (motocross) activity taking place is at the user’s own risk.
- Other signage is placed around the Airstrip itself, directing users to not ride on the Airstrip, or in close proximity to it”.

**OFFICER RECOMMENDATION COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.4.1**

**Moved: Cr Rajagopalan**

**Seconded: Cr Kilminster**

**That Council allows the motocross activity to continue with the following actions being taken:**

- **The site is cleared of as much asbestos as is possible.**
- **Appropriate signage is placed at all entry points to the site stating that the area is not maintained by the Shire, and that all (motocross) activity taking place is at the user's own risk.**
- **Other signage is placed around the Airstrip itself, directing users to not ride on the Airstrip, or in close proximity to it.**

**Carried 8/0**

*Council adjourned for afternoon tea at 3.23pm.*

*Council meeting resumed at 3.41pm with all staff and Councillors present.*

**11.5 Chief Executive Officer**

<b>Agenda Reference and Subject:</b>	<b>11.5.1</b> Select Committee into Local Government
<b>File Reference:</b>	2.3.3.1 Local Government Act 1995
<b>Reporting Officer:</b>	Darren Mollenoyux, Chief Executive Officer
<b>Author:</b>	Darren Mollenoyux, Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachment Reference</b>	To be provided to Council Under Separate Cover

**Summary**

Council is asked to consider making a submission to the WA Legislative Council’s Select Committee into Local Government in line with their “Terms of Reference” and to provide comment on the WA Local Government Association’s proposed submission.

**Background**

The WA Legislative Council passed a motion to establish a Select Committee into Local Government. The motion is as per below incorporating the terms of reference;

- (1) *That a Select Committee into Local Government is established.*
- (2) *The Select Committee is to inquire into how well the system of Local Government is functioning in Western Australia, with particular reference to —*
  - (a) *whether the Local Government Act 1995 and related legislation is generally suitable in its scope, construction and application;*
  - (b) *the scope of activities of Local Governments;*
  - (c) *the role of the Department of State administering the Local Government Act 1995 and related legislation;*
  - (d) *the role of Elected Members and Chief Executive Officers/employees and whether these are clearly defined, delineated, understood and accepted;*
  - (e) *the funding and financial management of Local Governments; and*
  - (f) *any other related matters the Select Committee identifies as worthy of examination and Report.*
- (3) *The Select Committee shall comprise five Members.*
- (4) *The Select Committee shall report by no later than 12 months after the motion for its establishment is agreed to and may, if it sees fit, provide interim reports to the House.*

The membership of the Select Committee is as follows:

- Chair: Hon Simon O’Brien, MLC
- Deputy Chair: Hon Laurie Graham, MLC
- Members: Hon Diane Evers, MLC
- Hon Martin Aldridge, MLC
- Hon Charles Smith, MLC

The Select Committee has advised that submissions are being called and close on 23 August 2019.

WALGA has already provided Council with their Draft Submission to the Select Committee into Local Government, which was considered and endorsed at the Special Meeting of Council held on the 29<sup>th</sup> July 2019. The meeting resolved as follows:

*That Council;*

- 1. Supports WALGA's Submission to the WA Legislative Council – Select Committee into Local Government, and seek for the inclusion of the following "other services"*
  - a) Doctors and Allied Health*
  - b) Natural Resource Management*
  - c) Provision of and maintenance of housing (low socio-economic and GROH)*
- 2. That the Chief Executive Officer prepares Council's submission to the WA Legislative Assembly's Committee Clerk for the Select Committee into Local Government, addressing the Committee's Terms of Reference, in line with the direction of Council's views and concerns, to be referred to the Ordinary Council Meeting, 15 August 2019 for endorsement.*
- 3. That as part of Council's submission to the Committee Clerk, a request be made for the WA Legislative Select Committee into Local Government to hold a regional hearing in Bruce Rock.*
- 4. Write to individual members of the Select Committee into Local Government inviting them to visit Bruce Rock and meet with Council.*

The Chief Executive Officer has written to WALGA and informed them of Council's support and sought to include the points raised by Council. A response has since been received thanking Council for its response and that the points raised will be included.

It is important to make the distinction between the "Select Committee" process and the Local Government Act Review process. These are separate and unrelated processes. The Minister for Local Government is continuing with phase two of the Act Review process which is working towards the development of a new Local Government Act.

#### **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 to also include any additional views that Council would like raised with the Select Committee.

Points that have been included to Council's submission are:

- Council's approach and how it differs.
- Additional services we provide in a regional community.
- The impact and impost of providing services that are traditionally the responsibility of other tiers of government, such as;
  - Provision of Doctor
  - Financial & infrastructure support for Health and Allied Services
  - Support of the local Aged Care community through the provision of accommodation and associated support services.
  - Provision of housing for State Government Employees, Police, Nurses, Teachers and Doctor
- Impact on our road network following the closure of Tier 3 rail and subsequent pressure on budgets.
- Rates and impacts on potential freeze or restrictions on increases.

Individuals are also encouraged to make submissions and therefore Councillors may wish to also make their own submission to the Select Committee into Local Government on specific points of interest.

The Chief Executive Officer is preparing the submission on Council's behalf and this will be provided to Councillors under separate cover due to the requirements of the Parliamentary Privilege Clause from the "Making a Submission" Guidelines of the WA Legislative Council.

The draft submission will be emailed to Councillors upon its completion.

**Consultation**

Council input was sought and provided at the Special Meeting of Council 29<sup>th</sup> July 2019. In addition, components of the WALGA Draft Submission have been referenced. Discussion and feedback from members of Council’s Senior Management Team

**Statutory Implications**

WA Legislative Assembly – Select Committee into Local Government

- Terms of Reference
- Making a Submission
  - *You are required to keep your submission confidential until the Committee decides to publicly release it. While it is normal practice for a Committee of the Legislative Council to make a submission public at some stage during its inquiry, this cannot be assumed. Check with the Committee Clerk if you are unsure.*
  - *Parliamentary Privilege*  
*Submissions to Parliamentary Committees are protected by Parliamentary Privilege. This means what you write in your submission to a Committee, so long as it is not deliberately false, cannot be questioned or used against you in a court, tribunal or similar proceedings. Privilege is important as it allows you to be honest and direct in your submission to a Committee without fear of being sued or fear of harassment, intimidation or improper influence by anyone. It is important to note the protection is strictly limited to the information provided to the Committee. If you provide or transmit the contents of your submission to other persons, it may not be protected by Parliamentary Privilege.*
  - *Appearing Before a Committee*  
*Committees may conduct hearings as part of the inquiry process. If you wish to appear before the Committee to explain or elaborate on your submission, you can ask to appear before the Committee as a witness. This request should form part of your submission.*

**Policy Implications** Nil

**Risk Implications**

<b>Risk:</b> Compliance may be increased from legislative changes that could occur from the findings and sector wide reputation may occur.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Rare	Insignificant	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**

**Strategic Implications**

Shire of Bruce Rock – Strategic Community Plan 2017-2027

**Governance**

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

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

**Voting Requirements** Simple Majority

**OFFICER RECOMMENDATION COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.5.1**

**Moved: Cr Rajagopalan**

**Seconded: Cr Foss**

**That Council;**

- 1. Endorses Council's submission to the WA Legislative Assembly's Committee Clerk for the Select Committee into Local Government, as presented.**
- 2. That as part of Council's submission to the Committee Clerk, a request be made for the WA Legislative Select Committee into Local Government to hold a regional hearing in Bruce Rock.**
- 3. Requests the CEO to write to individual members of the Select Committee into Local Government inviting them to visit Bruce Rock and meet with Council.**

**Carried 8/0**

**Agenda Reference and Subject:**

**11.5.2** Tourism Strategy

**File Reference:**

1.3.10.1 General Correspondence Tourism

**Reporting Officer:**

Darren Mollenoyux, Chief Executive Officer

**Author:**

Darren Mollenoyux, Chief Executive Officer

**Disclosure of Interest**

Nil

**Attachment Reference**

*Item 12.5.2 - Attachment A - Draft Tourism Strategy*

**Summary**

Council is to endorse the Shire of Bruce Rock's Tourism Development Strategy and the subsequent actions from each goal.

**Background**

Council has had an ad hoc approach to its involvement, support, membership and financial commitment to tourism within the Shire and region for many years. In 2018 Council held a workshop to set new projects to be included in the CEO's Key Performance Measures and one of those set was for a Draft Tourism Development Strategy to be prepared for Council consideration.

**Comment**

Over the past few months Ashleigh Waight, Community Development Officer, has been preparing a Tourism Development Strategy for Council that will assist in reviewing, guiding and planning a consolidated approach to tourism for the Shire.

The strategy outlines our current approach and involvement in tourism both locally and at a regional level, whilst looking at our infrastructure, services and experiences. The document also outlines our current partnerships and marketing approaches.

In addition to staff input, a community survey was also conducted with 18 respondents completing the survey on tourism in our Shire.

Findings have been outlined, focusing on:

- Identified strengths, weaknesses, opportunities and threats
- Identified infrastructure needs
- Identified services/experience needs

An action plan is proposed addressing four key goal areas, of which each has a list of required actions. The four main goals are:

- Goal 1 – Increase Marketing – Internal and External for the Shire of Bruce Rock, which includes a full review of Council's financial commitment and involvement in tourism groups and memberships
- Goal 2 – Increase quality and quantity of services and experience within the Shire
- Goal 3 – Develop Tourism related infrastructure within the Shire of Bruce Rock
- Goal 4 – Tourism helps to diversify our local economy

This document is not deemed to be a public document and is set as an internal operational document which is intended to be a guide to assist Councillors and staff to ensure the appropriate level of tourism development for Council.



**Consultation**

- The Tourism Development Strategy has been prepared by Ashleigh Waight, Community Development Officer.
- A community survey on tourism in the Shire was undertaken with 18 responses received.
- Council received the Draft Tourism Development Strategy at the July 2019 meeting and feedback was sought.

**Statutory Implications** Nil

**Policy Implications**

Council Policy 7.2 – Community Development  
Policy in respect to the engagement of the community.

To give Council guidelines in respect of engaging the community. This will help the Shire of Bruce Rock make better decisions which reflect the interests and concerns of potentially affected people and entities.

**Risk Implications**

<b>Risk:</b> Not having a Tourism Development Strategy may lead to an ad hoc approach to tourism and ineffective allocation of funding.		
<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 “Medium” risk and will be managed by specific monitoring and response procedures.		

**Financial Implications**

Nil

**Strategic Implications**

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

**Infrastructure**

- Goal 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**

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

Chief Executive Officer’s Key Performance Indicators

Council resolved and set the CEO’s Key Performance Indicators in August 2018, with one of the priorities being set as:

- Number 9. Tourism
- Prepare Draft Tourism Strategy
  - Report to Council for comment

**Voting Requirements** Simple Majority

**OFFICER RECOMMENDATION COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.5.2**

**Moved:** Cr Rajagopalan

**Seconded:** Cr Waight

**That Council adopts the Shire of Bruce Rock Tourism Development Strategy 2019 – 2023 (Internal Operational Document) prepared by Council staff, as presented.**

**Carried 8/0**

*Cr MK Thornton left the Council Chambers at 4pm.*

**Agenda Reference and Subject:**

**11.5.3** Expressions of Interest – Retail Outlet

**File Reference:**

2.4.1.5 Council Owned Properties

**Reporting Officer:**

Darren Mollenoyux, Chief Executive Officer

**Author:**

Darren Mollenoyux, Chief Executive Officer

**Disclosure of Interest**

Cr MK Thornton

**Attachment Reference**

Nil

**Summary**

Council is asked to consider Expressions of Interest received for the lease of Council's "Retail Outlet" located at 48 Johnson Street, Bruce Rock.

**Background**

The previous lessee advised Council that they would not be renewing their lease on the Council owned "Retail Outlet" located at 48 Johnson Street, Bruce Rock.

Expressions of Interest were called from interested parties for the lease of the property as a café or retail outlet. The Expressions of Interest period closed on the 9<sup>th</sup> August 2019.

**Comment**

At the close of the Expressions of Interest Period Council had received more than one Expression of Interest and therefore Council must comply with section 3.58 (*Disposal of Property*) of the Local Government Act 1995 and associated regulations.

*Section 3.58(2) & (3) of the Local Government Act states that a local government can only dispose (sell, lease) of property by auction, tender or by private treaty after giving public notice. The public notice is to stipulate the valuation of the property (i.e.: value of annual lease) and the consideration of the proposal (i.e. annual lease fee).*

Therefore, it is requested that Council consider calling Tenders for a 3-year lease of its Retail Outlet located at 48 Johnson Street, Bruce Rock. Council may wish to restrict the Tender to Café proposals or may be open to receiving alternative retail options.

In addition to the lease arrangements, Council staff conducted an inspection of the property and will require several weeks to undertake repairs and maintenance to the internal structure of the building whilst it is vacant. These works include floor coverings, raising damp repairs, painting and minor maintenance works.

Due to "Commercial in Confidence" parameters, and that Cr MK Thornton has disclosed an Interest in this item, the Chief Executive Officer has determined that the Submissions (including Summary and comparison document) will not be made public.

**Consultation**

- The EHO has undertaken an inspection to determine maintenance requirements now that the building has been vacated.
- Advertising was undertaken for a four-week period, with Expressions of Interest to be received by the 9<sup>th</sup> August 2019

### **Statutory Implications**

The Local Government Act 1995 Section.3.58 addresses the disposition of property. The Local Government (Function and General) Regulations 1993 Regulation 30 provides for some exemptions, however, this proposed lease does not fulfil any of the listed criteria other than the following circumstance;

Regulation 30(2)(e) of the Local Government (Functions and General) Regulations 1996 state that a land disposition is exempt from the requirements of Clause 3.58 of the Local Government Act if *“it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee exclusive use of the land”*.

#### *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*

#### *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**

Whilst no formal policy exists, precedent exists from previous decisions of Council and as per this resolution in 2008; *“Council may consider a discount of up to 30% for new businesses renting a factory unit for a period of up to 12 months”.*

**Risk Implications**

<b>Risk:</b> That Council not proceed with tendering for lease of 48 Johnson Street, Bruce Rock		
<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**

The 2019/20 rent on the retail outlet located at Unit 48 Johnson Street, Bruce Rock was previously \$588 per month inc gst, however due to the requirements of section 3.58 of the Local Government Act a valuation will be required to obtain the market value of the rental.

Council budgets for rental income on this retail property. Any variation in rental will need to be adjusted in Council’s budget, however as it is currently vacant it is not generating income.

**Strategic Implications**

Shire of Bruce Rock Strategic Community Plan 2017-2027

**Infrastructure**

- Goal 2 Maintain Shire owned facilities in a strategic manner to meet community needs
  - 2.2 Encourage greater usage of current Shire owned facilities
- Goal 3 Assist the local economy to grow
  - 3.7 Leverage economic opportunities and development from successful local businesses
- Goal 6 Tourism helps to diversify our local economy
  - 6.1 Promote our attractions, amenities and activities in a coordinated approach

**Governance**

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

**Voting Requirements** Absolute Majority

**Officer Recommendation**

1. That Council call for Public Tender for a three-year lease of its retail outlet located at 48 Johnson Street, Bruce Rock.
2. That Council determines if it wishes to seek tenders from Café business proposals only or will consider alternative retail proposal.

*Council decision varied to Officer Recommendation to include Council's preference to retain current rental value and Tender to be measured by qualitative criteria.*

**OFFICER RECOMMENDATION COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.5.3**

**Moved: Cr Rajagopalan**

**Seconded: Cr Waight**

- 1. That Council call for Public Tender for a three-year lease with option of an additional three years of its retail outlet located at 48 Johnson Street, Bruce Rock. With the rental value to be set and tender be assessed with qualitative criteria.**
- 2. That Council seeks tenders from Café business proposals only and will consider alternative retail proposals.**

**CARRIED BY ABSOLUTE MAJORITY 7/0**

*Cr MK Thornton returned to the Council Chambers at 4.13pm*

<b>Agenda Reference and Subject:</b>	<b>11.5.4</b> 2019/20 CSRFF Small Grant Application
<b>File Reference:</b>	1.3.8.14 Shackleton Bowling Club and Recreational Clubs
<b>Reporting Officer:</b>	Darren Mollenoyux, Chief Executive Officer
<b>Author:</b>	Ashleigh Waight, Community Development Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachment Reference</b>	<i>Item 11.5.4 – CSRFF Shackleton Bowling Club Attachment</i>

**Summary**

Council is asked to provide in principle financial commitment to the Shackleton Bowling Club’s CSRFF Small Grant Application for 2019/2020.

**Background**

In April 2015, the Shackleton Bowling Club wrote to Council advising that they want to install a Synthetic Bowling Green to prolong the longevity of its facilities and Bowling Club. Their application in 2015 was unsuccessful due to the land being privately owned by the Shackleton District Club. Following this Council agreed to accept the gifted land from the Shackleton District Club.

In 2019, Council took ownership of Lot 27 & 28 Mills Street, Shackleton to assist the Bowling Club in receiving potential funding to upgrade their facility.

**Comment**

Council’s Community Development Officer, Ashleigh Waight in conjunction with the Shackleton Bowling Club President and Secretary have prepared the CSRFF small grant application for the Department of Local Government, Sport and Cultural Industries with the final project description being:

*“The project consists of design and upgrade of Shackleton’s existing 7 rink grass bowling green to a synthetic surface and upgrade to surrounding paths & green access. The project will involve a new seven rink needle punch synthetic green, utilising the existing shades, shelters, fencing and lighting”*

***A copy of the Grant application has been provided to Councillors.***

The CSRFF application requires a 1/3 financial commitment from each party.

The financial breakdown is as follows;

Shackleton Bowling Club	\$80,961.97 ex gst Cash
Shackleton Bowling Club	\$30,540.00 ( <i>Donated Material &amp; Volunteer Labour</i> )
Shire of Bruce Rock	\$80,961.97 ex gst Cash
CSRFF Small Grant	\$80,961.97 ex gst Cash

Total Project Cost **\$273,425.91**

**Consultation**

The Community Development Officer & Chief Executive Officer have had several meetings with representatives from the Shackleton Bowling Club and the two parties have met with Jenifer Collins from the Department of Local Government, Sport & Cultural Industries.

The Community Development Officer has prepared the grant application with support and direction from the Shackleton Bowling Club President and Secretary.

**Statutory Implications**

Nil

**Policy Implications**

The application meets the requirements of Council Policy No C1.1 – Procedure for Community Grant Applications

**Risk Implications**

<b>Risk:</b> If funding 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 funding is not approved then other funding streams will be explored. Alternatively, the Bowling Club will re-apply in the next round of small grants.		

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

**Financial Implications**

The original proposal was to apply for the large CSRFF grant, however with changes to the guidelines and project limits this application is eligible for the small grant round.

If the grant application is successful Council will be required to make an amendment to the current 2019/20 budget with the addition of \$80,961.97 included in the Budget Review.

**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.
- 2.2 Encourage greater usage of current Shire owned facilities.
- 2.4 Support the improvements and maintenance of assets in a strategic manner.

**Infrastructure**

- Goal 7 Our community are engaged and have a healthy lifestyle.

**Voting Requirements**

Absolute Majority



**OFFICER RECOMMENDATION COUNCIL DECISION**

**Resolution OCM Aug 19 – 11.5.4**

**Moved: Cr Crooks**

**Seconded: Cr Foss**

- 1. That the application for the Shackleton Bowling Club to fund a Synthetic Bowling Green for the 2019/20 CSRFF Small Grant program be submitted to the Department of Local Government, Sport and Cultural Industries.**
- 2. That if the Shackleton Bowling Club's 2019/20 application for the Synthetic Bowling Green is successful, Council makes an amendment to the 2019/20 budget for \$80,961.97 through the budget review process.**

**CARRIED BY ABSOLUTE MAJORITY 8/0**

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

**13. Confidential Items**

**14. Closure of Meeting.**

The Shire President, Stephen Strange thanked everyone for their attendance and declared the meeting closed at 4.21pm.

These minutes were confirmed at a meeting on 19 September 2019

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Cr Stephen Strange  
Shire President  
19 September 2019