

SHIRE OF BRUCE ROCK

MINUTES – SPECIAL COUNCIL MEETING 31 MARCH 2020

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**SHIRE OF BRUCE ROCK**

**MINUTES – SPECIAL MEETING 31 MARCH 2020**

**1. Declaration of Opening & Roll Call**

The Shire President Cr SA Strange took a roll call and declared the meeting open at 6.01pm

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

President	Cr SA Strange
Deputy President	Cr R Rajagopalan
Councillors	Cr AR Crooks
	Cr IS Dolton
	Cr KP Foss
	Cr NC Kilminster
	Cr PG Negri
	Cr RA Waye
Chief Executive Officer	Mr DRS Mollenoyux
Acting Deputy Chief Executive Officer	Mrs MJ Schilling
Acting Executive Assistant	Miss CE Negri
Late Apology	Cr BJ Waight

**3. Declaration of Purpose of Meeting**

*The purpose of the meeting is for Council to make decisions regarding undertaking a major trading transaction for a temporary supermarket service to the community.*

**4. Declarations of Interest**

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

Date	Name	Item No	Reason

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

Date	Name	Item No	Reason

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

Date	Name	Item No	Reason

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

**6. Public Question Time**

**7. Announcements by Presiding Member**

## 8. Reports of Officers

### 8.1 Chief Executive Officer

<b>Agenda Reference and Subject:</b>	
<b>8.1.1</b>	<b>Temporary Supermarket – Major Trading Undertaking</b>
<b>File Reference:</b>	
<b>Reporting Officer:</b>	Darren Mollenoyux Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	<i>Item 8.1.1 Attachment A – Confidential Business Case</i>

#### Summary

Council is requested to consider undertaking the establishment of a Temporary Supermarket due to the loss of the only grocery store (due to fire) in town and the current pandemic situation.

#### Background

On Wednesday 25<sup>th</sup> March 2020 the only grocery store in Bruce Rock burnt to the ground leaving the town with no access to groceries during a current pandemic and lockdown restrictions.

It was evident from the outset that an alternative site would be required, and arrangements were put in place by Council staff to establish the Bruce Rock Town Hall as a temporary grocery store. Meanwhile the President and CEO liaised with Ministers, Departments, WALGA, potential suppliers, business and transport companies to seek to supply groceries to the store.

With this in motion options were being investigated as the best arrangements to establish a temporary business to operate from the temporary store. Liaison then took place with a regional business consultant to seek some support and direction on likely options for our community to ensure essential food services were available and provided to the vulnerable people of the Shire and those who don't have the ability to travel.

Various options were further investigated, however on each occasion the business establishment arrangements fell through or were going to take too long to establish, leaving Shire establishing a temporary shore as the only realistic and workable solution in the short term.

A letter was sent to the Minister for Local Government seeking an exemption to enable the Shire to undertake a Major Trading Undertaking, however it was established later that day that this would not be required. The letter is as follows;

*“Council is seeking an exemption from the requirements of section 3.59 Local Government Act 1995 with regards to undertaking a major trading undertaking, less than \$2 million. Council plans to operate a supermarket and grocery store temporarily, following the destruction and loss of the only grocery store in Bruce Rock, by arson on Wednesday 25th March 2020. We are seeking this exemption under regulation 9.3(b) Local Government (Functions and General) Regulations 1996 whereby the Minister is able to grant an exemption.*

*This is an emergency situation for our community and the Shire President, myself, staff and other local business leaders have been trying to find alternative businesses or community organisations to take on the trading activities but no suitable solutions have been found. Either alternative businesses are*

*unwilling to take on this addition responsibility or community/incorporated bodies do not have the correct structure to undertake this activity. Additionally, the time also involved to set up a separate legal entity will take too long and time is critical when your community needs food.*

*This is the last operation that Council wishes to take on however in this time of COVID-19 and travel restrictions, the availability of food and groceries in our community is highly critical and a most pressing need, particularly for the elderly and vulnerable.*

*The Shire of Bruce Rock is the only option to take on this responsibility. As per the your comments on Friday 27th March 2020, where local governments need to do everything within its means to ensure the survival of our communities during COVID-19, we feel that there is nothing more essential than the provision of a grocery store to our community.*

*If you require any more information on this emergency situation in Bruce Rock, please do not hesitate to contact our Shire President, Mr Stephen Strange on 0429 611 324 or myself on 0428 611 377."*

### **Comment**

Since sending the letter we have been advised that the Minister's approval is only required over \$2 million, however the letter still provides the relevant details so that the Minister and the Department are aware of our situation and our temporary approach to ensure the best outcome for our community.

Whilst brief in nature due to time constraints and the current pandemic a Bruce Rock Supermarket Business Case has been developed and provided as a confidential attachment to this agenda item, due to Commercial in Confidence details.

Council is reminded that, as per the Premier and Minister for Local Government's comments on Friday the 27<sup>th</sup> March 2020, Local Government's must do everything in the power, utilise all its resources and funds available to ensure our communities survive the pandemic. The Minister also stated "*throw the rule book out the window*" during this time and do the best for our communities.

Whilst staff will make every effort to comply with legislative requirements during this period and establishment of a temporary supermarket, it should be noted that we are in unprecedented circumstances and whilst we won't be reckless, some decisions will be made as a judgement call but will remain in the best interest of the community and Council (always in consultation with Shire President).

It will be recommended that Council resolve to establish a temporary Bruce Rock Supermarket utilising IGA Metcash to predominately provide grocery supplies with the focus on keeping sale prices of groceries at the same level as those at Mason's Shopping Centre.

Council's Environmental Health Officer, Julian Goldacre was requested to provide comments as to the suitability and compliance of this temporary arrangement and advised as follows;

*"The Shire of Bruce Rock Town Hall is zoned under the planning scheme as 'Commercial'. Whilst the Hall as a civic venue for public use is termed a 'non-conforming use' on commercial zoned land, provided that the use does not exceed six months then the use as such is retained. Despite the aforementioned, a simple use on one day for a civic purpose would annul this and will be assessed into the future. The fact the land is zoned 'commercial' means the use as a grocery store and the like is permitted under the Planning Scheme. The use of the Hall as a grocery store is not intended to be a permanent situation.*

*The Hall will be functioning as a 'Civic essential service' whilst efforts to reinstate a grocery store are endeavoured moving forward. The Hall is designated by the Department of Child Protection as a refuge in the event of a disaster (second to the Recreation Centre). It can be soundly argued that the provision of grocery items during the Coronavirus declared Public Health Emergency from the Hall would meet the*

*intent of ensuring essential food supplies in this unprecedented Public Health Emergency affecting the citizens of Bruce Rock.*

*The Hall has been electrically checked, has designated emergency exits and is equipped with tested and tagged power cables and fire extinguishers. The Hall is a public building (Class 9b) built to high standards which meet or exceed that for a Class 6 building (shop). In relation to health the Hall can accommodate up to 99 persons, has a current Form 4 approval which meets the Directive on gatherings issued by the State Government of Western Australia delegates. The amenities are clean and in sound condition and suitable for the use by staff."*

### **Consultation**

Cr Stephen Strange, Shire President

Manager of Finance, Jennifer Bow

Environmental Health Officer, Julian Goldacre

Tony Brown, WALGA Executive Manager Governance & Organisational Services

Caroline Robinson, Wheatbelt Business Network

An informal meeting with relevant business owners was held on 31<sup>st</sup> March 2020 to ensure that we are all on the same page and explain that this is definitely only a temporary measure and not something that Council wants to be doing any longer than it needs to. In addition, discussion was held to ensure that there was no duplication of grocery items being supplied to the community during this period.

### **Statutory Implications**

#### **Local Government Act 1995**

- **Section 3.59 – Commercial enterprises by local governments**

(2) Before it —

- (a) commences a major trading undertaking; or
- (b) enters into a major land transaction; or
- (c) enters into a land transaction that is preparatory to entry into a major land transaction, a local government is to prepare a business plan.

(3) The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —

- (a) its expected effect on the provision of facilities and services by the local government; and
- (b) its expected effect on other persons providing facilities and services in the district; and
- (c) its expected financial effect on the local government; and
- (d) its expected effect on matters referred to in the local government's current plan prepared under section 5.56; and
- (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
- (f) any other matter prescribed for the purposes of this subsection.

(4) The local government is to —

- (a) give Statewide public notice stating that —
  - (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and
  - (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and
  - (iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and
- (b) make a copy of the business plan available for public inspection in accordance with the notice; and

(c) *publish a copy of the business plan on the local government's official website.*

(5) *After the last day for submissions, the local government is to consider any submissions made and may decide\* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed. \* Absolute majority required.*

**Local Government (Functions and General) Regulations 1996**

- *Regulation 8A – Amount prescribed for major land transactions; exempt land transactions prescribed (Act s. 3.59)*

(1) *The amount prescribed for the purposes of the definition of major land transaction in section 3.59(1) of the Act is –*

(b) *if the land transaction is entered into by any other local government, the amount that is the lesser of –*

(i) *\$2 000 000; or*

(ii) *10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.*

- *Regulation 10 - Business plans for major trading undertaking and major land transaction, content of*

(1) *If a local government is required to prepare a business plan because of a major trading undertaking or major land transaction that it is to carry on or enter into jointly with another person –*

(a) *the business plan is to include details of the whole undertaking or transaction, even though the local government is not the only joint venturer; and*

(b) *the business plan is to include details of –*

(i) *the identity of each joint venturer other than the local government; and*

(ii) *the ownership of, and any other interests in, property that is involved in, or acquired in the course of, the joint venture; and*

(iii) *any benefit to which a joint venturer other than the local government may become entitled under or as a result of the joint venture; and*

(iv) *anything to which the local government may become liable under or as a result of the joint venture.*

(2) *In subregulation (1) –*

*joint venture means the major trading undertaking or major land transaction that is to be jointly carried on or entered into;*

*joint venturer means the local government or another person with whom the local government is to carry on or enter into the joint venture.*

**Policy Implications**

Nil

**Risk Implications**

In consultation with a business advisor, Shire President and relevant agencies all alternative options were investigated as outlined in the attached Business Case, however the only viable option to proceed in a timely manner and to ensure groceries are provided/available to our community is for Council to establish a Temporary Supermarket (order and collect) service.

Should Council not proceed with this option there would be no groceries / essential food items available to our community during a pandemic and regional lockdown and potentially further travel restrictions.

**Risk:** Whilst Council will likely incur a financial impost for this temporary arrangement, if Council does not proceed to establish a temporary shop, there will be no groceries for our community during a pandemic and lockdown of travel between regions.

Likelihood	Consequence	Rating
Almost Certain	Extreme	Extreme

**Action / Strategy**

This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “Extreme” risk and will be managed at the highest level of authority and subject to continuous monitoring.

**Financial Implications**

Whilst this is uncharted territory, staff are continually working on costs associated with the establishment and running costs associated with the temporary Bruce Rock Supermarket and will provide further financial figures at the Ordinary Meeting of Council scheduled for the 16<sup>th</sup> April 2020.

To date we have based costs up to the 30<sup>th</sup> June 2020, purely as it is the end of a budget period and financial year.

Bruce Rock Supermarket Staff

Staff for the Bruce Rock Supermarket will be recruited from those who lost their jobs following the fire of the previous grocery store.

Staff will be employed as casuals under the General Retail Award (Federal industrial relations award). This is so that we don’t have to worry about leave accruals or pay for public holidays. They will receive a higher level of pay with the casual loading of 25% per hour.

Assuming that hours of supermarket will only be open/managed for 38 hours per week (reduced hours on weekdays with a pickup available on Saturday?).

Calculations are based;

1 x Level 3 (\$27.83 per hour) – up to 15 hours per week (Calculations based on 15 hours p/w)

2 x Level 1 (\$26.76 per hour) – 38 hours each per week (1 fulltime employee & other position fulltime but staffed by 2 employees)

Superannuation paid at 9.5%.

There are 4 public holidays in the period. The final pay for the financial year will be on 24<sup>th</sup> June and 1<sup>st</sup> July falls on a Wednesday and will be in the middle of a pay fortnight. This is for a period of 13 weeks.

Total Wages = \$31,865.73

Total Superannuation = \$3,027.24

Total Wage Costs = \$34,892.97

There will be a small charge for workers compensation insurance, however this should be less than \$1,000 and will be added to our total wages at the end of the year.

Supplier & Setup

We will be using Metcash as the main supplier and to date the setup costs for their service and IT associated costs are as follows;

IT Set Up:

1 laptop - \$2,000  
1 pc with monitor - \$1,500  
1 multi-function printer - \$600  
1 mono-printer - \$300  
1 bar code scanner - \$200  
Booster for Wifi - \$500

General set up (included travel and onsite set up) - \$1,000

IT Set Up Approximately \$5,000

EMC is the online software recommended by Metcash. This is a back office and one lane POS (point of sale). The quote included 3 months of support as well. \$3,302 (ex GST). At this stage we have not included integrated scales but are borrowing a set of scales for the short term. We may need to purchase a set.

There is also a monthly host fee of \$230 per month from Metcash which includes all product lines from Metcash and any new product lines.

The Eftpos machines are being provided by Bendigo Bank at no fee charge.

Approximately \$10,000 to set up with IT and software.

There are also electrical costs and installation of security alarm which are still being finalised, although these will be of long term benefit and security to Council's asset.

The security system will also be monitored which will be an additional cost of \$8 per week, ie \$104 for the 13 weeks.

The phone line is already charged to the hall at \$35 per month but this will obviously increase if used as the main telephone line for the supermarket.

Other costs which are being finalised and will be clearer at the April 2020 Council meeting include;

- Cleaning
- Weekly purchase of Groceries (initial purchase \$15,000)
- Freight & Delivery costs
- IT and Point of Sale equipment purchase and set up
- Contents insurance
- Electricity

Groceries will be sold at mark-up arrangements to match sale price of those already used at Mason's shopping centre.

There will obviously be income from the sale of goods which will offset some costs, but these figures are not fully known at this stage and will be provided as we proceed over the coming weeks.

## Strategic Implications

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

#### Infrastructure

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

#### Economy

Goal 6 Workers and their families can work and reside in the Shire

#### Community

Goal 7 Our community are engaged and have a healthy lifestyle

9 Community Safety is a valued feature of our lifestyle

#### Governance

Goal 10 Our Organisation is well positioned and had capacity for the future

12 Council leads the organisation in a strategic and flexible manner

12.5 Lead the organisation in a financially responsible and viable manner

#### Voting Requirements

Absolute Majority

#### OFFICER RECOMMENDATION AND COUNCIL DECISION

##### Resolution SCM March 20 – 8.1.1

Moved: Cr Foss

Seconded: Cr Waye

1. That Council immediately establishes a Temporary Grocery shop, namely “Bruce Rock Supermarket” in the Bruce Rock Town Hall, noting that this is an emergency arrangement and only for a short term.
2. That Council staff and Shire President continues to work with relevant parties to seek a permanent solution going forward for the provision of a grocery store in Bruce Rock.
3. That Council makes a budget variation to include costs associated with the establishment and running of the temporary Bruce Rock Supermarket to the 30th June 2020 or earlier should an alternative suitable business option be established. With 2019/20 expenditure of \$80,000 and income of \$80,000 to be reviewed at the Ordinary Meeting of Council to be held on 21st May 2020.
4. That the Manager of Finance provide further financial figures at the April 2020 Council meeting and provide monthly financial reports to Council on the Bruce Rock Supermarket.
5. That Council approves Janine Cosgrove to write purchase orders on the provision that they are countersigned by either the Chief Executive Officer or the Manager of Finance.
6. That Council, in accordance with S6.16 Local Government Act s6.19, that fees and charges, being sale price of grocery lines will be in line with Metcash or other suppliers cost, plus recommended markup including freight recovery formula.

CARRIED BY ABSOLUTE MAJORITY 8/0

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

**10. Roll Call & Closure of Meeting.**

The Shire President, Stephen Strange performed a roll call, thanked everyone for their attendance and declared the meeting closed at 6.43pm.

These minutes were confirmed at a meeting on 16 April 2020.

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Cr Stephen Strange  
Shire President  
16 April 2020