



SHIRE OF JERRAMUNGUP

NOTICE OF COUNCIL MEETING

To the President and Councillors,

Please be advised that an Ordinary Meeting of the Council of the Shire of Jerramungup is to be held on

Wednesday, 18 March 2020
At the Council Chambers,
Jerramungup
Commencing at 2:00pm

Council Meeting Procedures

1. All Council meetings are open to the public, except for matters raised by Council under "confidential items".
2. Members of the public may ask a question at an ordinary Council meeting under "public question time".
3. Members of the public who are unfamiliar with meeting procedures are invited to seek advice at the meeting. If unsure about proceeding, just raise your hand when the presiding member announces public question time.
4. All other arrangements are in accordance with the Council's Code of Conduct, policies and decisions of the Shire.

Martin Cuthbert
CHIEF EXECUTIVE OFFICER
12 March 2020

AGENDA

This page has been left intentionally blank

OUR GUIDING VALUES

Progressive, Prosperous and a Premium Place to Live and Visit

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of Jerramungup (Shire) for any act, omission or statement or intimation occurring during Council or Committee meetings.

The Shire disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular, and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any Elected Member or officer of the Shire during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire.

The Shire warns that anyone who has any application lodged with the Shire must obtain and should only rely on written confirmation of the outcome of the application and any conditions attaching to the decision made by the Shire in respect of the application.

NOTES FOR MEMBERS OF THE PUBLIC

PUBLIC QUESTION TIME

The Shire of Jerramungup extends a warm welcome to you in attending any Shire meeting. The Shire is committed to involving the public in its decision making processes whenever possible. The ability to ask questions during ‘Public Question Time’ is of critical importance in pursuing this public participation objective. The Shire sets aside a period of ‘Public Question Time’ to enable a member of the public to put questions. Questions should only relate to the business of the Shire and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Presiding Member may either answer the question or direct it to an officer to answer, or it will be taken on notice.

Any comments made by a member of the public become a matter of public record as they are minuted by Council. Members of the public are advised that they are deemed to be held personally responsible and legally liable for any comments made by them that might be construed as defamatory or otherwise considered offensive by any other party.

MEETING FORMALITIES

Local government Council meetings are governed by legislation and regulations. During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation. Members of the public shall ensure that their mobile telephone or audible pager is not switched on or used during any Shire meeting. Members of the public are hereby advised that the use of any electronic, visual or audio recording device or instrument to record proceedings of the meeting is not permitted without the permission of the Presiding Member.

COPYRIGHT

Any plans or documents contained within this agenda may be subject to copyright law provisions (*Copyright Act 1968*, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction. It should be noted that copyright owners are entitled to take legal action against any persons who infringe their copyright. A reproduction of material that is protected by copyright may represent a copyright infringement.

NOTES FOR ELECTED MEMBERS

NATURE OF COUNCIL'S ROLE IN DECISION MAKING

- Advocacy:** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive/Strategic:** The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations, grants, and setting and amending budgets.
- Legislative:** Includes adopting local laws, town planning schemes and policies.
- Administrative:** When Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.
- Review:** When Council reviews a decision made by Officers.
- Information:** Includes items provided to Council for information purposed only that do not require a decision of Council (that is for 'noting').

ALTERNATIVE MOTIONS

Councillors wishing to make alternative motions to officer recommendations are requested to provide notice of such motions in written form to the Executive Assistant prior to the Council meeting.

DECLARATIONS OF INTERESTS

Elected Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences. Section 5.60A of the *Local Government Act 1995* states;

"a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person."

Section 5.60B states;

"a person has a proximity interest in a matter if the matter concerns –

(a) a proposed change to a planning scheme affecting land that adjoins the person's land; or

(b) a proposed change to the zoning or use of land that adjoins the person's land; or

(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land."

Regulation 34C (Impartiality) states;

"interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association."

2020 MEETING DATES

At its Ordinary Meeting of Council on 20 November 2019, Council adopted the following meeting dates for 2020:

January	-	-	Council in Recess
Wednesday	19 February 2020	2.00pm	Council Chambers, Jerramungup
Wednesday	18 March 2020	2.00pm	Council Chambers, Jerramungup
Wednesday	15 April 2020	2.00pm	Emergency Services Shed, Bremer Bay
Wednesday	20 May 2020	2.00pm	Council Chambers, Jerramungup
Wednesday	17 June 2020	2.00pm	Council Chambers, Jerramungup
Wednesday	15 July 2020	2.00pm	Council Chambers, Jerramungup
Wednesday	19 August 2020	2.00pm	Emergency Services Shed, Bremer Bay
Wednesday	16 September 2020	2.00pm	Council Chambers, Jerramungup
Wednesday	21 October 2020	2.00pm	Council Chambers, Jerramungup
Wednesday	18 November 2020	8.30am	Council Chambers, Jerramungup
Wednesday	16 December 2020	8.30am	Emergency Services Shed, Bremer Bay

Council's Audit Committee meet when required. Details of these meetings are advised as appropriate.

APPLICATION FOR LEAVE OF ABSENCE

In accordance with section 2.25 of the *Local Government Act 1995*, an application for leave requires a Council resolution granting leave requested. Council may grant approval for Leave of Absence for an Elected Member for ordinary Council meetings for up to but not more than six consecutive meetings. The approval of the Minister is required for leave of absence greater than six ordinary Council meetings. This approval must be by Council resolution and differs from the situation where an Elected Member records their apologies for the meeting. A failure to observe the requirements of the Act that relates to absence from meetings can lead to an Elected Member being disqualified should they be absent without leave for three consecutive meetings.

Shire of Jerramungup

Table of Contents

Ordinary Meeting of Council

Wednesday 18 March 2020

1.0	DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS	8
2.0	RECORD OF ATTENDANCE	8
2.1	ATTENDANCE	8
2.2	APOLOGIES.....	8
2.3	APPROVED LEAVE OF ABSENCE.....	8
2.4	ABSENT	8
2.5	DISCLOSURE OF INTERESTS.....	8
2.5.1	DECLARATIONS OF FINANCIAL INTERESTS.....	8
2.5.2	DECLARATIONS OF PROXIMITY INTERESTS.....	8
2.5.3	DECLARATIONS OF IMPARTIALITY INTERESTS	8
3.0	APPLICATIONS FOR LEAVE OF ABSENCE	9
4.0	ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS.....	9
5.0	RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	9
6.0	PUBLIC TIME.....	9
6.1	PUBLIC QUESTION TIME.....	9
6.2	PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS	9
7.0	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS	9
8.0	RECOMMENDATIONS AND REPORTS OF COMMITTEES	10
8.1	AUDIT COMMITTEE.....	10
8.1.1	COMPLIANCE AUDIT RETURN 2019	10
9.0	REPORTS	13
9.1	TECHNICAL SERVICES	13
9.1.1	WORKS REPORT FOR FEBRUARY 2020.....	13
9.2	CORPORATE SERVICES	15
9.2.1	ACCOUNTS FOR PAYMENT – FEBRUARY 2020.....	15
9.2.2	MONTHLY FINANCIAL REPORT – FEBRUARY 2020	18
9.3	DEVELOPMENT SERVICES	21
9.3.1	SOUTH WEST NATIVE TITLE SETTLEMENT – LAND BASED CONSULTATION	21
9.3.2	PROPOSED NINE LOT RESIDENTIAL SUBDIVISION	24
9.4	EXECUTIVE SERVICES	28
9.4.1	INFORMATION BULLETIN FEBRUARY 2020.....	28
9.4.2	LOCAL GOVERNMENT HOUSE TRUST – DEED OF VARIATION	30
9.4.3	ELECTED MEMBER CONTINUING PROFESSIONAL DEVELOPMENT POLICY	33
9.4.4	TRANSFER OF RESERVE, ST JOHN AMBULANCE WA.....	36
10.0	MATTERS FOR WHICH THE MEETING MAY BE CLOSED	38
11.0	COUNCILLOR REPORTS.....	38
12.0	NEW BUSINESS OF AN URGENT NATURE	38
13.0	CLOSURE	38
13.1	DATE OF NEXT MEETING	38
13.2	CLOSURE OF MEETING	38

ORDINARY COUNCIL MEETING AGENDA

1.0 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

The meeting was opened atpm by the Shire President.

2.0 RECORD OF ATTENDANCE

2.1 ATTENDANCE

ELECTED MEMBERS:

STAFF:

VISITORS:

GALLERY:

2.2 APOLOGIES

2.3 APPROVED LEAVE OF ABSENCE

2.4 ABSENT

2.5 DISCLOSURE OF INTERESTS

Section 5.65 and 5.70 of the *Local Government Act 1995* requires an Elected Member or officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Elected Member or officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

An Elected Member who makes a disclosure under section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow an Elected Member to speak, the extent of the interest must also be stated.

2.5.1 DECLARATIONS OF FINANCIAL INTERESTS

2.5.2 DECLARATIONS OF PROXIMITY INTERESTS

2.5.3 DECLARATIONS OF IMPARTIALITY INTERESTS

3.0 APPLICATIONS FOR LEAVE OF ABSENCE

4.0 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS

In accordance with regulation 14A of the *Local Government (Administration) Regulations 1996* Council must approve (by Absolute Majority) the attendance of a person, not physically present at a meeting of Council, by audio contact. The person must be in a 'suitable place' as approved (by Absolute Majority) by Council. A 'suitable place' means a place that is located in a townsite or other residential area and 150km or further from the place at which the meeting is to be held.

5.0 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

6.0 PUBLIC TIME

6.1 PUBLIC QUESTION TIME

6.2 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS

7.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Ordinary Council Meeting held 19 February 2020.

That the Minutes of the Ordinary Council Meeting of the Shire of Jerramungup held in the Council Chambers, Jerramungup, on 19 February 2020 be CONFIRMED

Audit Committee Meeting held 18 March 2020.

That the Minutes of the Audit Committee Meeting of the Shire of Jerramungup held in the Council Chambers, Jerramungup, on 18 March 2020 be CONFIRMED

8.0 RECOMMENDATIONS AND REPORTS OF COMMITTEES

8.1 AUDIT COMMITTEE

8.1.1 COMPLIANCE AUDIT RETURN 2019

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	
Author:	Rachel Smith, Executive Assistant
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	10 March 2020
Attachments:	1. Compliance Audit Return 2019

Authority/Discretion: Legislative

SUMMARY:

For the Council to adopt and authorise the signing of the Compliance Audit Return (CAR) for 2019 prior to it being submitted to the Department of Local Government, Sport and Cultural Industries.

BACKGROUND:

The 2019 CAR was made available to local government authorities by the Department of Local Government, Sport and Cultural Industries via its centralised portal called SmartHub.

The structure of the return is similar to previous years with a focus on areas of compliance considered high risk. For the 2019 return there is a new section related to CEO review and Reporting which are optional questions and Election questions were reintroduced due to local government elections being held in October 2019.

In accordance with the *Local Government Act 1995* and *Local Government (Audit) Regulations 1996* a local government is required to complete an annual Compliance Audit Return for the period 1 January to 31 December each year. The CAR is to be forwarded to the Department of Local Government, Sport and Cultural Industries by 31 March each year after being presented to the Compliance and Strategic Review Committee and adopted by Council.

The aim of the CAR is to build good governance by promoting and enforcing compliance and encouraging all local governments to move beyond minimum compliance through continuous improvement.

The CAR contains the following compliance categories:

- Commercial Enterprises by Local Governments (5)
- Delegation of Power/Duty (13)
- Disclosure of Interest (19)
- Disposal of Property (2)
- Elections (2)
- Finance (14)
- Integrated Planning and Reporting (7)
- Local Government Employees (5)
- Official Conduct (6)
- Tenders for Providing Goods and Services (27)

CONSULTATION:

No community consultation is required on this matter. However, a number of officers who have compliance responsibility relevant to the CAR were consulted.

Source documents such as, but not limited to, minutes of meetings, declarations of interest, annual and primary returns, resolutions of Council, and public notices, were all utilised in evidencing the Shire's compliance with the requirements of the Compliance Audit Return.

Guidance has been communicated by the Department of Local Government, Sport and Cultural Industries via government circulars, guidelines and direct contact.

COMMENT:

The period examined by this audit is 1 January to 31 December 2019 and the completed return is required to be:

- Reviewed by the Audit Committee;
- Considered and adopted by Council;
- Certified by the President and CEO following Council adoption;
- Submitted together with a copy of the Council Minutes to the Department by 31 March 2020.

The CAR assists the Shire to monitor legislative compliance by examining a range of prescribed requirements under regulation 13 of the *Local Government (Audit) Regulations 1996* in detail. The Shire's audit findings must be recorded in the Compliance Audit Return pro forma which is duly completed and provided as an attachment.

As required by regulation, the 2019 CAR has been reviewed by the Audit Committee and is now referred to the March Ordinary Meeting of Council for adoption prior to submission to the Department of Local Government, Sport and Cultural Industries.

In carrying out the compliance return for 2019 there were no areas of non-compliance identified.

STATUTORY ENVIRONMENT:***Section 7.13(i) of the Local Government Act 1995******7.13. Regulations as to audits******(1) Regulations may make provision—***

- (i) requiring local governments to carry out, in the prescribed manner and in a form approved by the Minister, an audit of compliance with such statutory requirements as are prescribed whether those requirements are—*
 - (i) of a financial nature or not; or*
 - (ii) under this Act or another written law.*

Local Government (Audit) Regulations 1996 – 14 and 15:***Regulation 14 – Compliance audits by local governments***

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*

- (a) *presented to the council at a meeting of the council; and*
- (b) *adopted by the council; and*
- (c) *recorded in the minutes of the meeting at which it is adopted.*

Regulation 15 – Compliance audit return, certified copy of etc. to be given to Executive Director

- (1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with –*
 - (a) *a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and*
 - (b) *any additional information explaining or qualifying the compliance audit,*

is to be submitted to the Executive Director by 31 March next following the period to which the return relates.

- (2) *In this regulation — certified in relation to a compliance audit return means signed by –*
 - (a) *the mayor or president; and*
 - (b) *the CEO.*

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;

Aspiration 2.5 – Civic Leadership: To provide strong civic leadership and governance systems that are open and transparent and ethical.

Objectives:

2.5.2 – Maintain a highly accountable and transparent governance network and decision making process

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial implications to be considered as part of this report.

WORKFORCE IMPLICATIONS:

There are no workforce implications to be considered as part of this report.

POLICY IMPLICATIONS:

Policy implications do not apply to this report and it is the opinion of the author that policy development is not required.

VOTING REQUIREMENT:

Simple majority

OFFICER RECOMMENDATION:

That Council:

- 1. ADOPTS the completed 2019 Compliance Audit Return for the period 1 January 2019 to 31 December 2019 as attached;**
- 2. AUTHORISES the Shire President and Chief Executive Officer to sign the joint certification; and**
- 3. SUBMITS the completed Compliance Audit Return, and any additional information explaining or quantifying the compliance audit, to the Department of Local Government, Sport and Cultural Industries by 31 March 2020.**

9.0 REPORTS

9.1 TECHNICAL SERVICES

9.1.1 WORKS REPORT FOR FEBRUARY 2020

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	
Author:	Murray Flett, Manager of Works
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	5 March 2020
Attachments:	Road Construction Schedule February 2020
Authority/Discretion:	Information

SUMMARY:

For Council to note the works completed for the prior month.

BACKGROUND:

Road Construction

This month the works crew have undertaken numerous jobs some of which included, gravel sheeting 1km of Marnigarup East Road before moving to Bremer Bay Airstrip to start gravel sheeting the Water Bomber turnaround area. This work also involved upgrading the access track and additional areas around the tank to make it easier for personnel when supporting the water bombers. The Water Bomber taxi area will be sealed later this month as part of the Shires reseal program which will be undertaken by COLAS.

After the Airstrip works, the crew moved to Little Boat Harbour Road where they formed up and started gravel sheeting the road and big car park area which will also be sealed later this month. While the crew were onsite, they also gravel sheeted the little access track down to the bottom car park turnaround area and reinstated the storm water run-off mounds to stop any erosion from winter rains.

The crew also boxed out and widened Bremer Bay Road from Frantom Way to Roberts Road. This section of sealed road was only 5.4 metres wide and will be widened to 7 metres. This widening work will also be sealed later this month.

Whilst in the Bremer Bay area the crew also undertook gravel patching of pavement blowouts on Cuneo Drive.

As these works were being undertaken in Bremer Bay, the road trains carting stock water to the 8 tanks on the old oval in Jerramungup were getting bogged in the very dry material so the crew had to gravel sheet the turnaround area alongside the tanks.

They also cleaned up the old tennis courts site in Needilup and installed a 15m diameter sand pad ready for the installation of a 250,000 litre tank. This will be filled from the Needilup Community Dam by solar pump and used by surrounding farmers for stock water.

Attached is the year to date 2019/2020 construction program.

Town Services

The Town Services team have been busy addressing the onset of weeds due to recent rains in both Jerramungup and Bremer Bay town sites. The town services crew have been patching potholes in some of the older sealed roads prior to winter rains and commencement of the reseal program.

The crew also completed fire mitigation works around Council infrastructure to ensure the integrity of these assets.

Road Maintenance

With these extremely dry conditions, it has been very difficult for the crew to maintain some of the busier roads to an acceptable standard given the large number of road trains carting gypsum, lime and fertiliser in preparation for seeding. Routine maintenance grading and gravel patching will continue to rectify some of the failures in the road pavement until more favourable conditions occur and we can undertake full winter grades.

At this time of year, please be aware of the changing road conditions and drive accordingly as the pavement can deteriorate very quickly.

CONSULTATION:

Internal.

COMMENT:

This report is for information only to advise Council on the previous months works activities.

STATUTORY ENVIRONMENT:

There are no statutory implications for this report.

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 – 2026; Aspiration 3.4 – Service and Infrastructure Provision: To lobby, advocate for and deliver a first class transport and telecommunications network.

Objectives:

3.4.1 – Continued improvements on the local road network.

FINANCIAL IMPLICATIONS:

The works completed are included in the 2019/2020 Shire of Jerramungup budget.

WORKFORCE IMPLICATIONS:

This report provides an overview of the outside workforce operations for the previous month.

POLICY IMPLICATIONS:

Policy implications do not apply to this report and it is the opinion of the author that policy development is not required.

VOTING REQUIREMENT:

Simple Majority

OFFICER RECOMMENDATION:

That Council RECEIVE the works report for February 2020.

9.2 CORPORATE SERVICES**9.2.1 ACCOUNTS FOR PAYMENT – FEBRUARY 2020**

Location/Address:	N/A
Name of Applicant:	N/A
Author:	Sarah Van Elden, Finance Officer
Responsible Officer:	Charmaine Solomon, Deputy Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	3 March 2020
Attachments:	<ul style="list-style-type: none"> a. List of Accounts Paid to 29 February 2020 b. Credit Card Statement 27 January 2020 – 27 February 2020
Authority/Discretion:	Information

SUMMARY:

For Council to note the list of accounts paid under the Chief Executive Officer's delegated authority during the month of February 2020.

BACKGROUND:

Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the Shire's municipal and trust funds. In accordance with regulation 13 of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the Chief Executive Office is to be provided to Council.

CONSULTATION:

Internal consultation within the Finance Department.

COMMENT:

All municipal fund expenditure included in the list of payments is incurred in accordance with the 2019-20 Annual Budget as adopted by Council at its meeting held 17 July 2019 (Minute No. OCM190706 refers) and subsequently revised or has been authorised in advance by the President or by resolution of Council as applicable.

The table below summarises the payments drawn on the funds during the month of February 2020. Lists detailing the payments made are appended as an attachment.

FUND	VOUCHERS	AMOUNTS
Municipal Account		
Last Cheque Used	28172	
EFT Payments	16908 – 17012	\$573,443.69
Direct Deposits		\$24,958.15
Municipal Account Total		\$598,401.84
Trust Account		
Trust Account Total		\$0.00
Grand Total		\$598,401.84

CERTIFICATE

This schedule of accounts as presented, which was submitted to each member of the Council, has been checked and is fully supported by vouchers and invoices which are submitted herewith and which have

been duly certified as to the receipt of goods and the rendition of services and as to prices computation, and costings and the amounts shown have been paid.

STATUTORY ENVIRONMENT:

Local Government (Financial Management) Regulations 1996

12. Payments from municipal fund or trust fund, restrictions on making

12(1) A payment may only be made from the municipal fund or a trust fund—

- (a) if the local government has delegated to the Chief Executive Officer the exercise of its power to make payments from those funds—by the CEO: or*
- (b) otherwise, if the payment is authorised in advance by a resolution of the council.*

The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.

13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared—

- (a) the payee's name; and*
- (b) the amount of the payment; and*
- (c) the date of the payment; and*
- (d) sufficient information to identify the transaction.*

(2) A list of accounts for approval to be paid is to be prepared each month showing—

- (a) for each account which requires council authorisation in that month—*
 - (i) the payee's name; and*
 - (ii) the amount of the payment; and*
 - (iii) sufficient information to identify the transaction; and*
- (b) the date of the meeting of the council to which the list is to be presented.*

(3) A list prepared under subregulation (1) or (2) is to be—

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and*
- (b) recorded in the minutes of that meeting.*

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;

Aspiration 2.5 – Civic Leadership to provide strong civic leadership and governance systems that are open and transparent and ethical.

Objectives:

2.5.2 – Maintain a highly accountable and transparent governance network and decision making process.

FINANCIAL IMPLICATIONS:

All expenditure from the municipal fund was included in the annual budget as adopted or revised by Council.

WORKFORCE IMPLICATIONS:

There are no workforce implications for Council.

POLICY IMPLICATIONS:

Finance Policy FP5 – Corporate Credit Card

Finance Policy FP6 – Purchasing

VOTING REQUIREMENT:

Simple Majority

OFFICER RECOMMENDATION:

That Council, pursuant to regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, NOTES the Chief Executive Officer's list of accounts paid under delegated authority being;

- a) The List of Accounts Paid to 29 February 2020 as detailed in Attachment 9.2.1(a).**
- b) The Credit Card Statement 27 January 2020 – 27 February 2020 as detailed in attachment 9.2.1(b).**

9.2.2 MONTHLY FINANCIAL REPORT – FEBRUARY 2020

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	
Author:	Tamara Pike, Senior Finance Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	11 March 2020
Attachments:	Monthly Financial Report for the period ending 29 February 2020
Authority/Discretion:	Information

SUMMARY:

For Council to note the statement of financial activity for the period ended 29 February 2020 as required by the *Local Government Act 1995* ('the Act').

Pursuant to section 6.4 of the *Local Government Act 1995* and regulation 34(4) of the *Local Government (Financial Management) Regulations 1996* ('the Regulations'), a local government is to prepare, on a monthly basis, a statement of financial activity that reports on the Shire's financial performance in relation to its adopted/amended budget.

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the Shire's financial performance on a year to date basis for the period ending 29 February 2020.

BACKGROUND:

At its meeting held 17 July 2019 (Minute No. OCM190706 refers), Council adopted the annual budget for the 2019-20 financial year. The figures in this report are compared to the adopted budget.

It should be noted that these reports do not represent a projection to the end of year position or that there are funds surplus to requirements. It represents the year to date position to 30 June 2020 and results from a number of factors identified in the report. There are a number of factors that influence any variances, but it is predominately due to the timing of revenue and expenditure compared to the budget estimates. The notes to the statement of financial activity identify and provide commentary on the individual key material revenue and expenditure variances to date.

The following detail is included in the financial report:

- The annual budget estimates.
- The operating revenue, operating income, and all other income and expenses.
- Any significant variations between year to date income and expenditure and the relevant budget provisions to the end of the relevant reporting period.
- Identify any significant areas where activities are not in accordance with budget estimates for the relevant reporting period.
- Provide likely financial projections to 30 June for those highlighted significant variations and their effect on the end of year result.
- Include an operating statement.
- Any other required supporting notes.

Additionally, and pursuant to regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year. At its meeting on 17 July 2019, the Council adopted (Minute No. OCM190706 part 1.6 refers) the following material variance reporting threshold for the 2019-20 financial year:

1.6 Adoption of Material Variance for Monthly Reports – Financial Management regulation 34

That Council ADOPT a material variance level of 10% with a minimum \$10,000.00 variance for the 2019/2020 financial year for monthly reporting purposes.

CONSULTATION:

Internal consultation within the Finance Department and Council's financial records.

In accordance with section 6.2 of the *Local Government Act 1995*, the annual budget was prepared having regard to the Strategic Community Plan, prepared under section 5.56 of the *Local Government Act 1995*.

COMMENT:

The financial report contains annual budget estimates, actual amounts of expenditure, revenue and income to the end of the month. It shows the material differences between the budget and actual amounts where they are not associated to timing differences for the purpose of keeping Council abreast of the current financial position.

All expenditure included in the financial statements is incurred in accordance with Council's adopted budget or subsequent approval in advance.

STATUTORY ENVIRONMENT:

Section 34 of the *Local Government (Financial Management) Regulations 1996* provides:

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

- (1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail—*
 - (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and*
 - (b) *budget estimates to the end of the month to which the statement relates;*

and

 - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and*
 - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - (e) *the net current assets at the end of the month to which the statement relates.*
- (2) *Each statement of financial activity is to be accompanied by documents containing—*
 - (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and*
 - (b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity may be shown—*
 - (a) *according to nature and type classification; or*
 - (b) *by program; or*
 - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be—*

- (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
 - (b) *recorded in the minutes of the meeting at which it is presented.*
- (5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;

Aspiration 2.5 – Civic Leadership: To provide strong civic leadership and governance systems that are open and transparent and ethical.

Objectives:

2.5.2 – Maintain a highly accountable and transparent governance network and decision making process.

FINANCIAL IMPLICATIONS:

Expenditure for the period ending 29 February 2020 has been incurred in accordance with the 2019-20 budget parameters, which have been structured on financial viability and sustainability principles.

Details of any budget variation in excess of \$10,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

WORKFORCE IMPLICATIONS:

There are no workforce implications for Council.

POLICY IMPLICATIONS:

AP4 – Regional Price Preference

FP1 – Capitalisation and Depreciation of Non-Current Assets

FP2 – Rates and Accounts Collection

FP3 – Investments

FP6 – Procurement of Goods and Services Policy

Significant Accounting Policies as detailed within the Monthly Financial Report

VOTING REQUIREMENT:

Simple Majority

OFFICER RECOMMENDATION:

That Council RECEIVES the Monthly Financial Report incorporating the Statement of Financial Activity for the period ending 29 February 2020 in accordance with section 6.4 of the *Local Government Act 1995*.

9.3 DEVELOPMENT SERVICES

9.3.1 SOUTH WEST NATIVE TITLE SETTLEMENT – LAND BASED CONSULTATION

Location/Address:	Various land parcels/locations
Name of Applicant:	Department Planning, Lands and Heritage
File Reference:	CP.AD.2
Author:	Noel Myers, Manager of Development
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	3 March 2020
Attachments:	Table Comments and Location Maps
Authority/Discretion:	Information

SUMMARY:

For Council to consider the possible future disposition of a number of Crown Land parcels to create the Noongar Estate as part of the South-West Native Title Settlement.

BACKGROUND:

The State of Western Australia has committed to allocating up to 320,000 hectares of Crown Land to the Noongar People to create the Noongar Land Estate, in accordance with the six registered Indigenous Land Use Agreements (ILUA) for the South West Native Title Settlement (the Settlement). The ILUAs were registered at the Native Title Tribunal on 17 October 2018 and required legal processes are currently occurring. Further information regarding the Settlement and the Noongar Land Estate can be found on the Department of the Premier and Cabinet Website via the following link:

<https://www.dpc.wa.gov.au/swnts/Pages/default.aspx>

The Department of Planning, Lands and Heritage (DPLH) is responsible for undertaking an identification and assessment process for land parcels within the boundaries of the Settlement. This process includes referring land to relevant agencies for comment. While awaiting conclusive registration and the subsequent date upon which the Settlement becomes effective, DPLH is undertaking necessary referrals to ensure that land parcels as identified by the Noongar People are made ready for transfer.

The DPLH have prepared a spreadsheet comprising of land parcels identified for possible transfer. The Shire is being requested to provide comments on each of the land parcels in relation to the following:

1. Is the Shire of Jerramungup (Shire) supportive of the transfer of this land to the Noongar People under the Settlement?
2. Does the Shire have any interest in the land?
3. Does the Shire have existing or planned infrastructure within the land parcel that requires protection? If yes, please provide details and advise if access to this infrastructure will need to be maintained.
4. Is the land parcel subject to any mandatory connection to services?
5. Are any future proposals for the land identified? If so – provide detail of what is proposed and in what timeframe?
6. Are there any future proposals for adjoining land that may affect the land identified in the spreadsheet? If so, in what timeframe?
7. Advise of any proposed planning scheme amendments that may affect the zoning of this land at a State or Local Government level. If a scheme amendment is to occur, what is the change proposed and when will it come into effect?

8. Advise of any known land management issues such as site contamination, hazards, debris or rubbish dumping, unauthorised land use and environmental considerations (such as inundation or similar site constraints).
9. Provide any additional comments on the proposed transfer of this land as part of the Settlement.

The Shire has been requested to provide comments by 7 April 2020 (40 days from receipt of the email). Where no response is received from the Shire within the 40-day timeframe, this will be taken as having no comment on the land parcels referred.

CONSULTATION:

Internal consultation with all other applicable service units has been undertaken, no external consultation undertaken by the Shire.

COMMENT:

There are eight (8) land parcels identified within the Shire that may be transferred as part of the South-West Settlement.

A table has been prepared for each of the nominated lots and comments have been provided by the administration as they apply to each of the lots responding to each of the nine questions set out above (See Tables 1 – 8 Attached).

At this juncture there has been no discussion as to whether the various land parcels will be transferred in their current form of tenure, nor does it discuss what arrangements are to be set in place about the future management of the Fitzgerald River National Park although it is reasonable to assume this would be a form of joint management should the transfer proceed.

Notwithstanding the possible transfer of ownership, all current scheme and policy provisions will continue to apply to the lots and a change in ownership does not infer any additional development rights or exemptions from having to obtain land use and development approvals.

An issue that arises from the possible transfer of the lots is the question as to whether the public will continue to have access to places that the public has traditionally had access to. This question arises most specifically to the beach around the Dillon Bay area. The question of exclusive native title possession and the public's continued right of access to beaches impacted by Native Title Determinations is currently before the High Court with a decision expected later towards the middle of 2020.

Notwithstanding those arguments pertaining to native title rights currently being considered by the High Court, the cadastral boundary of the lot fronting onto Dillon Bay appears to extend toward what would be regarded as the low water mark insofar it captures the entirety of the accessible areas of the beach, albeit the subject lot does not front onto the entirety of the beach. Given this area is regularly visited by and is valued by the broader public, Council may wish to caveat any support of the transfer of the land to the parcel being modified to ensure the public continues to enjoy access to the beaches around the area. Principally this would be best achieved by the subject lot being redefined and coastal reserve created forward of the lot boundary and the high water mark.

It is the expectation that Council would have the opportunity to make further comment on possible land transfers once the DPLH had reviewed comments provided by stakeholders and prior to any final decision being made on the transfer of land.

STATUTORY ENVIRONMENT:

Native Title Act 1993

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 - 2026;
Aspiration 2.3 – Healthy and Happy Community: To promote and deliver programs, initiatives and infrastructure that contribute to a healthier, happier community.

Objective:

2.3.8 – Implement initiatives to harness and recognise the Shire’s cultural values and history.

FINANCIAL IMPLICATIONS:

There are no financial implications for this report.

WORKFORCE IMPLICATIONS:

There are no workforce implications for this report.

POLICY IMPLICATIONS:

Policy implications do not apply to this report and it is the opinion of the author that policy development is not required.

VOTING REQUIREMENT:

Simple Majority

OFFICER RECOMMENDATION:

1. That COUNCIL endorses the comments provided in Table 1 in respect to the possible transfer of the Eight (8) nominated land parcels and advises the Department of Planning Lands and Heritage that the Council’s submission should be regarded as being a preliminary review only.
2. That Council advises the Department of Planning Lands and Heritage that it is their expectation that further consultation and the opportunity to make further comment would be provided once the matters raised in these preliminary submissions were reviewed and prior to any final decision being made as to which parcels are to be transferred.

9.3.2 PROPOSED NINE LOT RESIDENTIAL SUBDIVISION

Location/Address:	Lot 9000 Barnes Drive, Bremer Bay
Name of Applicant:	MNG Surveys on behalf Bremer Bay Investments
File Reference:	A1603508
Author:	Noel Myers, Manager of Development
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	10 March 2020
Attachments:	Plan of Subdivision
Authority/Discretion:	Legislative

SUMMARY:

- For Council to consider a subdivision application to create nine (9) residential zoned lots fronting Barnes Drive Bremer Bay;
- It is recommended that the application be conditionally supported;
- Council is to provide a recommendation on the application to the Western Australian Planning Commission (WAPC).

BACKGROUND:

Zoning:

Lot 9000 Barnes Drive is Residential R15 under the Shire of Jerramungup Local Planning Scheme No.2.

The Objectives of the Residential Zone include:

- To retain the single house as the predominant form of residential development in a town;
- To provide for lifestyle choice in and around a town with a range of residential densities;
- To allow for the establishment of non-residential uses subject to local amenities not being adversely affected.

Previous Considerations:

- The subdivision of the subject land parcel as proposed by this application was originally envisioned within the adopted Subdivision Guide Plan (SGP) dated 16 December 2004 for Part Lot 110 Bremer Road, Bremer Bay;
- The original SGP proposed the land be subdivided into a total of 286 residential zoned lots with an average lot size of 679m²;
- Since the time of the adoption of the original SGP, the land has been developed on a staged basis that has resulted in a total of 43 small lots with average areas of 679m² being released and the balance of the land was subdivided into 32 'balance' lots with an average area of 5,000m².
- The 32 remaining 5,000m² balance lots have been configured so that they may be further subdivided into smaller lots consistent with the original SGP;
- A 2.8ha parcel of land required to satisfy the overall 10% Open Space requirements was ceded from the initial subdivision of the land and has been vested to the management of the Shire. This action has alleviated the requirement for subsequent stages of the subdivision to cede land for Open Space.

Clause 5.30.2 of LPS No.2 acknowledges that any Subdivision Guide Plan duly approved by both the local government and endorsed by the Western Australian Planning Commission shall have the same force and effect as if it was approved as Structure Plan in accordance with Clause 5.29.6. The effect of this Clause is

that the future subdivision of land that falls within the area of an approved SGP is required to be developed in accordance with that approved plan.

CONSULTATION:

The WAPC has referred the application to the Shire for comment along with other service authorities with an interest in the land which includes Western Power and the Water Corporation.

Internal consultation has been undertaken with Manager of Works.

COMMENT:**Location and Site Description**

The subject lot is located on the northern side of Barnes Drive and is immediately adjacent to the Bremer Bay Primary School. The site is accessed by both Barnes Drive and Prideaux Link.

The subject site is 6,322m² and is generally levelled and cleared. The land backs onto single residential lots that face McGlade Close that were part of the initial land release that was undertaken in accordance with the SGP as described in preceding sections of this report. The adjacent land on the southern side of Barnes Drive is also captured by the same SGP and is proposed by that plan that the lot is to be developed with lots of similar size and configuration.

Past Approvals

The land has been subject of several past subdivision approvals issued by the WAPC that have since expired. Conditions applied to those approvals have addressed typical conditions pertaining to the new lots being connected to services, the land being drained and filled and provided with pedestrian accessways. The scope of works required to satisfy conditions of approval have previously been documented on approved engineering drawings prepared to satisfy conditions of WAPC approval No.127189.

As the further subdivision of the subject land has not been progressed under those past approvals those conditions are yet to be fulfilled and therefore the current application will need to be conditioned in similar manner to past approvals. In particular, conditions will need to be applied so that drainage systems are installed at the rear of the lots so that stormwater from individual lots may be directed into the existing local drainage system and the table drain that extends across the front of the lot is to be filled and replaced with hydraulic pipework to convey stormwater. This will then enable the installation of the footpath consistent with past approvals and also the Shire's adopted bike plan. A condition is also to be applied that requires the proponent to install a uniform boundary fence at the eastern most boundary that abuts the Primary School carpark area.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The intent of State Planning Policy (SPP) 3.7 Planning in Bushfire Prone Areas (Department of Planning and Western Australian Planning Commission, 2015) is to ensure that bushfire risks are considered in a timely manner and that planning documents demonstrate the appropriate application of the various policy measures.

Accordingly, the applicant has had a Bushfire Management Plan prepared to assess the level of risk and to ensure that the land is suitable for the intended purpose.

From the BAL Assessment and BAL Contour Maps, the following bushfire hazard issues have been identified:

- Proposed lots 250 – 254 are subject to a rating of BAL-12.5 when assessed at the lot boundaries;
- Proposed lots 255 – 258 are subject to a rating of BAL Low when assessed at the lot boundaries;
- The BAL ratings provided in the BAL Contour Maps and associated tables are indicative only and are for the purposes of demonstrating compliance with the bushfire protection criteria of SPP 3.7;

- Individual BAL assessments are required to determine the final BAL ratings for applicable buildings prior to the issuance of building permits;
- Future residential buildings and any associated Class 10a buildings are to be constructed to the applicable construction standard of AS 3959;
- Due to five of the nine proposed lots within the proposed subdivision being subject to a rating above BAL-LOW the relevant bushfire protection criteria apply.

The above assessment indicates that the land is suitable for the intended purpose and there are no peculiar or untoward mitigation measures required to be set in place to maintain the BAL ratings.

Conditions to be applied:

The current application is essentially a repeat of past applications and approvals and the Shire holds approved engineering drawings that show the scope of works required to be undertaken to 'deliver' the nine new individual lots. In applying conditions to this new application the Shire must reference the WAPC's Schedule of Model Subdivision Conditions. Typically, the Shire may only may apply standardised conditions unless there are extenuating circumstances.

At the time of completing this report, the administration is still in process of cross referencing conditions of past approvals applied to this land to the current standardised conditions as set by the WAPC. This matter is ongoing and to ensure that the report is finalised in time for the agenda it is proposed that the Council delegate authority to CEO to issue the WAPC the conditions to which the Council supports the application being approved.

In line with past approvals the proposed conditions would be drawn to address the following matters:

- Drainage – applicant to install drainage systems at the rear of each new lot to connect into the local storm water drainage system;
- A drainage easement being prepared and lodged on the title of the land;
- Drainage – the existing swale drain extending across the frontage of the proposed lots is to be filled and replaced with hydraulic pipes and side entry pits (as provided for within approved engineering plans);
- A pedestrian access path to Council specifications is to be constructed across the front of the proposed lots and be designed to match into the existing surrounding footpath network;
- Kerbing to be installed along the section of Barnes Drive adjacent to the subject lot in accordance with approved engineering plans;
- Uniform fencing being constructed along the boundaries of all of the proposed lots abutting the adjacent Primary Street carpark;

The satisfaction of the conditions listed above would be at the developers cost. It is noted that the Council is limited to applying conditions to which it is responsible for clearing. (Conditions regarding connection to water and sewer services would be applied by Water Corporation/Western Power).

STATUTORY ENVIRONMENT:

The Shire of Jerramungup is a referral body only in the assessment of subdivisions. Decisions are made by the Western Australian Planning Commission (WAPC) assessed against the WAPC State Planning Policies, Development Control Policies and having due regard to the Shire's Local Planning Scheme.

The applicant has a right of review to the State Administrative Tribunal if aggrieved by any decision made by the WAPC.

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 – 2026;
Aspiration 2.2 – Improved Livability: To develop initiatives and programs, supported by high quality infrastructure that improves lifestyle outcomes and makes the Shire of Jerramungup an attractive place to live.

Objectives:

2.2.8 – Increased housing availability options (ownership, rentals, workers accommodation)

FINANCIAL IMPLICATIONS:

Additional lots will raise additional rates for the Shire and have ongoing maintenance requirements for the Shire as well.

WORKFORCE IMPLICATIONS:

There are no workforce implications for this report.

POLICY IMPLICATIONS:

Policy implications do not apply to this report and it is the opinion of the author that policy development is not required.

VOTING REQUIREMENT:

Absolute Majority

OFFICER RECOMMENDATION:

That **COUNCIL:**

1. **Recommend that the Western Australian Planning Commission approve the application for 9 lots on Lot 9000 Barnes Drive, Bremer Bay subject to conditions;**
2. **BY AN ABSOLUTE MAJORITY, delegates authority to the Chief Executive Officer to submit the list of Conditions of approval to the Western Australian Planning Commission.**

9.4 EXECUTIVE SERVICES

9.4.1 INFORMATION BULLETIN FEBRUARY 2020

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	
Author:	Martin Cuthbert, Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	10 March 2020
Attachments:	February 2020 Information Bulletin
Authority/Discretion:	Information

SUMMARY:

To advise Council on the information items for February 2020 including actions that have been undertaken in relation to decisions of Council and actions performed under delegated authority.

BACKGROUND:

There is no specific requirement to report on actions performed under delegated authority to Council. However, to increase transparency this report has been prepared for Council and includes actions performed under delegated authority for the month of February 2020.

CONSULTATION:

Internal, all officers that have been deemed responsible for enacting each Council decision has provided an update on its status.

COMMENT:

The Status of Council Decisions report is an important administrative tool used by the Shire to monitor the implementation of Council decisions. Any Council decision that has not yet been fully implemented will remain on the list until it has been completed.

Once the minutes of each Council meeting have been completed, the Executive Assistant uploads each decision of Council into the spreadsheet and allocates it to the relevant Shire office for actioning and comment. The spreadsheet is accessible by all relevant Shire officers.

The Shire enters into various agreements by affixing its Common Seal. The *Local Government Act 1995* states that the Shire is a body corporate with perpetual succession and a Common Seal. Those documents that are to be executed by affixing the Common Seal or signed by the Shire President and the Chief Executive Officer are reported to Council for information on a regular basis.

STATUTORY ENVIRONMENT:

Local Government (Administration) Regulations 1996

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

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

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

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 – 2026;
Aspiration 2.5 – Civic Leadership: To provide strong civic leadership and governance systems that are open and transparent and ethical.

Objectives:

2.5.2 – Maintain a highly accountable and transparent governance network and decision making process

FINANCIAL IMPLICATIONS:

There are no financial implications for this report.

WORKFORCE IMPLICATIONS:

There are no workforce implications for this report.

POLICY IMPLICATIONS:

Policy implications do not apply to this report and it is the opinion of the author that policy development is not required.

VOTING REQUIREMENT:

Simple Majority

OFFICER RECOMMENDATION:

That Council RECEIVE the Information Bulletin including the actions performed under delegated authority for the month of February 2020.

9.4.2 LOCAL GOVERNMENT HOUSE TRUST – DEED OF VARIATION

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	
Author:	Martin Cuthbert, Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	N/A
Date of Report:	11 March 2020
Attachments:	a) Deed of Variation (Draft) b) Clause 12 of Trust Deed 1994
Authority/Discretion:	Executive

SUMMARY:

This item seeks Council's consent to a variation for the Local Government House Trust.

BACKGROUND:

The Shire received correspondence from WALGA Chief Executive Officer Nick Sloan on Wednesday 19 February seeking Council's consent by formal resolution to a variation to the Trust Deed for the Local Government House Trust ("The Trust").

The Shire of Jerramungup is a unit holder and beneficiary to the Local Government House Trust, holding 3 units as advised in WALGA's recent Quarterly Report Q4 2019.

The Trust's Board of Management is seeking to vary the Trust Deed in order to assist the Trust's income tax exempt status. As stipulated by the Deed, the Trust requires consent of at least 75 per cent of all beneficiaries in order to execute this variation.

As a beneficiary, the Shire of Jerramungup is requested to consent to the attached Deed of Variation supported by a resolution of Council; and to communicate this consent to WALGA in writing. WALGA are requesting consent for the Trustee (WALGA) to formally execute the attached Deed of Variation.

Further details on the particular Deed Variations and objectives to be achieved by this variation are outlined below.

Background on the Local Government House Trust

The Local Government House Trust ("The Trust") exists primarily to provide building accommodation for the Western Australian Local Government Association. Since January 2014, the Trust has provided WALGA with accommodation at 170 Railway Parade West Leederville.

The current trust deed commenced in 1993 and was amended in 2002 to reflect the merger of the metropolitan and country associations into WALGA. The current Trust Deed pronounces WALGA as Trustee and unit holders as Beneficiaries, with the Trustee holding property and associated monies "upon Trust" and in proportion to the units provided.

Commencement date of the current deed is 17 February 1993, with a vesting date 79 years from commencement – which means that the Trust ends in 2072.

The Trust is exempt from income tax on the basis of being a State/Territory Body (STB) pursuant to Division 1AB of the *Income Tax Assessment Act 1936*.

Trust Deed Variation

Trust Deed amendments set out in the Deed of Variation are based on legal advice and are intended to assist the Trust's income tax exempt status by strengthening the position that the Trust is a State/Territory Body (STB).

Legal advice identified that the Trustee's ability to retire and appoint a new Trustee might affect the Trust's classification as a State or Territory Body (STB). This view, while based upon highly technical grounds, is a risk nonetheless.

Subsequently the Deed of Variation aims to strengthen the position that the Trust is a STB through the following amendments:

1. Removing the existing Trustee's power to retire and appoint a new Trustee (Clause 2.1 and 2.2 (22.3) of the Deed of Variation);
2. Enabling the beneficiaries to appoint and remove a Trustee (Clause 2.2 (22.4) of the Deed of Variation), and
3. Ensuring that the Board of Management is the 'governing body' of the Trust (Clause 2.3 of the Deed of Variation).

The three proposed amendments when applied to the relevant clauses inserted by the Deed of Variation dated 5 June 2002 will subsequently read as follows (proposed amendments shown in red text):

1. Variation 2.1 amends clause 22.1 to point to additional clause:

22.1 Any Trustee of the Trust may retire as Trustee of the Trust. ~~The~~ Subject to clause 22.3, the right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.
2. Variation 2.2 inserts two new clauses:

22.3 The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.

22.4 The Beneficiaries may at any time by Special Resolution:

(a) remove a Trustee from the office as Trustee of the Trust; and

(b) appoint such new or additional Trustee.
3. Variation 2.3 insert a new clause 13A

13A Delegation to the Board of Management

Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.

CONSULTATION:

Public consultation is not applicable to this report.

COMMENT:

The first two amendments outlined above remove powers granted to the Trustee in the 2002 Deed Variation resulting from the merger to a single Association representing WA Local Governments. These amendments which previously facilitated the transfer of trusteeship to the then new Western Australian Local Government Association are removed, but with the clarification that any appointment must be with the consent of the beneficiaries.

The final amendment intends to confirm that power rests with the Board of Management. As the Board of Management comprises Local Governments, this satisfies the requirements of a STB for tax purposes. This

amendment reflects the actual operation of the Trustee in implementing the decisions of the Board of Management whilst retaining sufficient operational discretion to place and renew investments and pay suppliers.

These amendments provide greater power to beneficiaries through the Board of Management, and as such it is anticipated they will be considered acceptable.

STATUTORY ENVIRONMENT:

Local Government Act 1995

Income Tax Assessment Act 1936

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 – 2026; Aspiration 2.5 – Civic Leadership: To provide strong civic leadership and governance systems that are open and transparent and ethical.

Objectives:

2.5.2 – Maintain a highly accountable and transparent governance network and decision making process.

FINANCIAL IMPLICATIONS:

There are no financial implications for this report.

WORKFORCE IMPLICATIONS:

There are no workforce implications for this report.

POLICY IMPLICATIONS:

Policy implications do not apply to this report and it is the opinion of the author that policy development is not required.

VOTING REQUIREMENT:

Simple Majority

OFFICER RECOMMENDATION:

That, with respect to the Local Government House Trust – Deed of Variation, Council:

- 1. CONSENT to a variation to the Trust Deed for the Local Government House Trust (The Trust) as detailed in attachment 1 to this report; and**
- 2. COMMUNICATE this consent in writing to the Local Government House Trust's Board of Management.**

9.4.3 ELECTED MEMBER CONTINUING PROFESSIONAL DEVELOPMENT POLICY

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	
Author:	Martin Cuthbert, Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	N/A
Date of Report:	15 January 2020
Attachments:	Draft Elected Member Continuing Professional Development Policy
Authority/Discretion:	Legislative

SUMMARY:

As part of the State Governments review of the *Local Government Act 1995*, Council is required to endorse the Elected Member Continuing Professional Development Policy.

BACKGROUND:

As part of the Local Government Act Review, Parliament on 27 June 2019 passed the *Local Government Legislation Amendment Act 2019*. The Amendment Act addressed the complex and significant role that the Shire President and Elected Members take on when elected to Council.

One of the substantial changes to the Act included an introduction of mandatory training for candidates and Elected Members. The changes to the Act also require Councils to adopt a policy in relation to the continuing professional development of Elected Members with a requirement for a Policy to be published on the local government website.

The Department of Local Government, Sport and Cultural Industries (DLGSC) have subsequently advised that all Council Members will need to complete the Council Member Essentials training course, within 12 months of being elected. The course has been developed to provide Council Members with the skills and knowledge to perform their roles as leaders in their district.

CONSULTATION:

Public consultation is not applicable to this report.

The Chief Executive Officer has consulted with the Executive Management Team and utilised the Department of Local Government, Sport and Cultural Industries (DLGSCI) and local government sector consultation. It should be noted that the proposed policy position was guided by the requirements of legislation.

COMMENT:

The Shire President and Elected Members of the Shire of Jerramungup will be required to undertake the mandatory training of Council Member Essentials within 12 months of being elected to Council, unless in the previous 5 years, they have passed the Diploma of Local Government 52756WA (Elected Member) or the course titled LGASS00002 Elected Member Skill Set.

The Council Member Essentials course comprises of the following five units:

- Understanding Local Government – ½ day (Prerequisite);
- Serving on Council – ½ day;
- Meeting Procedures – 2 days;
- Conflicts of Interests – 1 day; and
- Understanding Financial Reports and Budgets – 1 day.

The training will take approximately five days to complete face to face or online. Once completed the training is valid for five years so the requirement for training for an individual Elected Member is after every second election. All five units are expected to be available for online learning by March 2020.

There are currently three training organisations able to provide the training with several delivery options available, being:

- WALGA;
- South Metropolitan TAFE; or
- North Metropolitan TAFE.

The new policy requires the Shire of Jerramungup to ensure continuing professional development opportunities be provided to the Shire President and Elected Members independently from the mandatory training requirements.

The Shire will investigate opportunities for professional skill development based on the direction of Council or individual Elected Members requests.

The Act does not prescribe an amount to be set aside for this purpose, and the draft policy presented to Council suggests that this be done during the annual budget process so that WALGA and other training agencies can provide an overview and indication of costs for training for consideration at that time.

STATUTORY ENVIRONMENT:

Local Government Act 1995

Division 10 – Training and development

5.126. Training for council members

- (1) Each council member must complete training in accordance with regulations.*
- (2) Regulations may —*
 - (a) prescribe a course of training; and*
 - (b) prescribe the period within which training must be completed; and*
 - (c) prescribe circumstances in which a council member is exempt from the requirement in subsection (1); and*
 - (d) provide that contravention of subsection (1) is an offence and prescribe a fine not exceeding \$5 000 for the offence.*

5.127. Report on training

- (1) A local government must prepare a report for each financial year on the training completed by council members in the financial year.*
- (2) The CEO must publish the report on the local government's official website within 1 month after the end of the financial year to which the report relates.*

5.128. Policy for continuing professional development

- (1) A local government must prepare and adopt* a policy in relation to the continuing professional development of council members.*

** Absolute majority required.*

- (2) A local government may amend* the policy.*

** Absolute majority required.*

- (3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.*
- (4) The CEO must publish an up-to-date version of the policy on the local government's official website.*
- (5) A local government –*
 - (a) must review the policy after each ordinary election; and*
 - (b) may review the policy at any other time.*

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 – 2026; Aspiration 2.5 – Civic Leadership: To provide strong civic leadership and governance systems that are open and transparent and ethical.

Objectives:

2.5.2 – Maintain a highly accountable and transparent governance network and decision making process.

FINANCIAL IMPLICATIONS:

The financial implications to the Shire are not known at this stage, however there will be costs associated with training and professional development. Any additional costs determined for the 2019/2020 financial year will be addressed during the Budget Review process.

An allocation for Elected Member training and professional development will be included each year as part of the annual budget process.

WORKFORCE IMPLICATIONS:

The Draft Policy provides direction for Elected Members to undertake required training and ongoing professional development.

POLICY IMPLICATIONS:

The proposal recommends establishment of a new policy, consistent with the intent of the legalisation.

When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under the Act.

The Chief Executive Officer must publish an up-to-date version of the policy on the local government's official website.

VOTING REQUIREMENT:

Absolute Majority

OFFICER RECOMMENDATION:

That Council, BY AN ABSOLUTE MAJORITY, :

- 1. ADOPTS the Elected Member Continuing Professional Development Policy pursuant to section 5.128 of the *Local Government Act 1995* as attached to this report; and**
- 2. That the Chief Executive Officer include the Policy on the Shire of Jerramungup website.**

9.4.4 TRANSFER OF RESERVE, ST JOHN AMBULANCE WA

Location/Address:	Crown Reserve 51778, Garnett Road, Bremer Bay
Name of Applicant:	St John Ambulance WA
File Reference:	CR.SP.1
Author:	Martin Cuthbert, Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	11 March 2020
Attachments:	Letter from St John Ambulance WA
Authority/Discretion:	Executive

SUMMARY:

For Council to support the creation of a new Reserve with a Management Order in favour of St John Ambulance WA for the purpose of a proposed future St John Ambulance WA Sub Centre.

BACKGROUND:

The Shire has long advocated for new and improved health facilities in Bremer Bay due to concerns with the standard of the current health infrastructure in Bremer Bay. As part of Councils planning for a new town centre provision was made for new health facilities to be included.

Given the planning that has gone into the new town centre development, it is very appropriate that any new community facilities are constructed in the town centre. In encouraging St John Ambulance WA to consider a new facility for Bremer Bay, it is recommended that the Shire offer in kind support to advance the proposal. It is recommended that a proposed lot on Garnett Road is formally earmarked as the desired location for a new St John Ambulance WA Facility in Bremer Bay.

CONSULTATION:

Significant consultation has occurred over a long period of time between the Shire of Jerramungup, Health Department, St John Ambulance WA, Doctors, health service providers and the Great Southern Development Commission.

COMMENT:

Although the provision of health infrastructure is not a primary function of local government, it is recognised that the provision of modern fit for purpose facilities attracts and retains staff. Without facilities and the staff to deliver health services, small regional towns such as Bremer Bay struggle to maintain a permanent population.

Bremer Bay and the sub-region consistently attracts a large tourist population through spring, summer and autumn. This places extra burden on already stretched volunteer resources who are required to cater for more than 3,000 through the shoulder seasons and in excess of 6,500 people during the peak period. This will continue to increase in future years with the development of new tourism products and a greater emphasis on marketing the South Coast Region.

St John Ambulance WA are seeking to construct a new building which would include 2 ambulances, training room, kitchen facilities and short term accommodation to allow for the introduction of voluntourism to assist during peak periods. The approximate area of land required to facilitate this would be in the vicinity of 5,000m², with a management order in favour of St John Ambulance WA.

In order to progress this matter, the Council will need to progress a request through to the Department of Planning, Lands and Heritage requesting that existing Reserve No.51778 be amended to create a new and

separate Reserve. It is highlighted that Council's agreement to relinquish its interest in the land does not bind it to future servicing costs.

Securing the land at no cost to St John Ambulance WA will be a key component of obtaining the required funds to enable the project to proceed.

STATUTORY ENVIRONMENT:

There are no statutory implications for this report.

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2016 – 2026; Aspiration 2.3 – Healthy and Happy Community: To promote and deliver programs, initiatives and infrastructure that contribute to a healthier, happier community.

Objectives:

2.3.6 – Provide local opportunities to access health and wellbeing services.

Aspiration 3.2 – Economic Diversity: To support initiatives which develop strong, diverse and resilient local businesses.

Objectives:

3.2.1 – Continue the development of the Bremer Bay Town Centre including the town square and designs for the civic centre.

FINANCIAL/BUDGET IMPLICATIONS:

The value of the proposed lot will be an in-kind contribution towards a new Bremer Bay St John Ambulance WA Sub-Centre Facility.

Council may accrue survey costs associated with the creation of the new Reserve.

WORKFORCE IMPLICATIONS:

There are no workforce implications for this report.

POLICY IMPLICATIONS:

Policy implications do not apply to this report and it is the opinion of the author that policy development is not required.

VOTING REQUIREMENT:

Simple Majority

OFFICER RECOMMENDATION:

That Council **RESOLVES** to:

1. Advise St John Ambulance WA that Council supports the creation of a new Reserve with a Management Order in their favour as an in-kind contribution from the Shire of Jerramungup towards the Bremer Bay Ambulance Facility;
2. That Council agrees to relinquish its interests in the portion of Reserve No.51778 where it is proposed to create a new Reserve in favour of St Johns Ambulance WA or other nominated body;
3. That Council initiates actions with the Department of Planning, Lands and Heritage to relinquish its interest in the portion of Reserve 51778 and confirms its support towards the creation of a new reserve to be created with a management order in favour of St John Ambulance WA or their nominated body.

10.0 MATTERS FOR WHICH THE MEETING MAY BE CLOSED
(CONFIDENTIAL MATTERS)

11.0 COUNCILLOR REPORTS

12.0 NEW BUSINESS OF AN URGENT NATURE

13.0 CLOSURE

13.1 DATE OF NEXT MEETING

The next ordinary meeting of Council will be held Wednesday, 15 April 2020, commencing at 2.00pm, in the Emergency Services Shed, Bremer Bay.

13.2 CLOSURE OF MEETING

The Presiding Member closed the meeting atpm

These minutes were confirmed at a meeting held

.....

Signed:

Presiding Person at the meeting at which these minutes were confirmed

Date: