



SHIRE OF JERRAMUNGUP

ORDINARY COUNCIL MEETING

**Held at the Council Chambers
Jerramungup
Wednesday, 24 February 2021**

MINUTES

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Shire of Jerramungup
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Wednesday 24 February 2021

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ORDINARY COUNCIL MEETING MINUTES

1.0 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

The meeting was opened at 2.00pm by the Shire President.

2.0 RECORD OF ATTENDANCE

2.1 ATTENDANCE

ELECTED MEMBERS:

Cr Robert Lester	Shire President (Chair)
Cr Joanne Iffla	Deputy Shire President
Cr Rex Parsons	Councillor
Cr Julie Leenhouders	Councillor
Cr Andrew Price	Councillor
Cr Drew Dawson	Councillor

STAFF:

Martin Cuthbert	Chief Executive Officer
Charmaine Solomon	Deputy Chief Executive Officer
Murray Flett	Manager of Works
Noel Myers	Manager of Development
Tamara Pike	Senior Finance Officer
Janna Cheshire	Project Officer/Building Surveyor

VISITORS:

Nil

GALLERY:

Nil

2.2 APOLOGIES

Cr Bill Bailey	Councillor
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2.3 APPROVED LEAVE OF ABSENCE

Nil

2.4 ABSENT

Nil

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

Cr Rex Parsons declared a Financial Interest in item 9.3.2 Proposed Disposition of Reserve No.24619, Lot 155 Bremer Bay Road, Bremer Bay. The nature of the interest is that he is a Director and Stakeholder of Megatime P/L the proposed lessor.

Cr Joanne Iffla declared a Financial Interest in item 9.3.3 Mobile Coffee and Food Van New Licence to operate from various locations Bremer Bay. The nature of the interest is that she is Café owner in Bremer Bay.

Cr Rex Parsons declared a Financial Interest in item 9.3.4 Partial Road Closures – Bremer Bay Road and Cuneo Drive, Bremer Bay. The nature of the interest is that he is a Director and Stakeholder of Megatime P/L the proposed lessor.

2.5.2 DECLARATIONS OF PROXIMITY INTERESTS

Nil

2.5.3 DECLARATIONS OF IMPARTIALITY INTERESTS

Cr Rex Parsons declared an Impartial Interest in item 10.2 Tender Consideration – Jerramungup Swimming Pool. The nature of the interest is that he knows and has had previous business dealings with one of the tenderers.

3.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

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

Nil

6.2 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS

Nil

7.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Bremer Bay Community Development Committee Meeting held 3 February 2021.

That the Minutes of the Bremer Bay Community Development Committee Meeting held in the Bremer Bay Town Hall on 3 February 2021 be CONFIRMED.

Annual Electors Meeting held 3 February 2021.

That the Minutes of the Annual Electors Meeting held in the Bremer Bay Town Hall on 3 February 2021 be CONFIRMED.

Special Meeting of Council held 3 February 2021.

That the Minutes of the Special Council Meeting held in the Bremer Bay Town Hall on 3 February 2021 be CONFIRMED.

MOTION: OCM210201

MOVED: Cr Price

SECONDED: Cr Parsons

That the Minutes of the Bremer Bay Community Development Committee Meeting held in the Bremer Bay Town Hall on 3 February 2021 be CONFIRMED

That the Minutes of the Annual Electors Meeting held in the Bremer Bay Town Hall on 3 February 2021 be CONFIRMED

That the Minutes of the Special Council Meeting held in the Bremer Bay Town Hall on 3 February 2021 be CONFIRMED

CARRIED: 6/0

8.0 RECOMMENDATIONS AND REPORTS OF COMMITTEES

Nil

9.0 REPORTS

9.1 TECHNICAL SERVICES

9.1.1 WORKS REPORT FOR DECEMBER 2020 AND JANUARY 2021

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:	2 February 2021
Attachments:	1. Road Construction Program Schedule
Authority/Discretion:	Information

SUMMARY:

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

BACKGROUND:

Road Construction

During December the Construction crew commenced and completed forming and gravel sheeting the last section of Dillon Bay Road. The crew then assisted Bitutek our sealing contractor, in completing the 2 coat seal on the minor widening works on Bremer Bay Road. After this, they moved to Jerramungup town site to assist with the 2 coat seal on Sydney Street and some additional pavement repairs on Collins and Newton Streets. These 2 coat seals consist of a layer of bitumen with a layer of 10mm aggregate and then an additional layer of bitumen with a second layer of 7mm aggregate. The benefit of a 2 coat seal is that it eliminates the necessity to seal these sections 12 months after the initial Primerseal works which saves on contractor mob & de-mob costs.

The crew then formed up and gravel sheeted another section of Meechi Road prior to a well deserved break over the Christmas period. After the break the guys undertook a week of maintenance whilst the water tanker as being repaired prior to forming up the next section of Meechi Road to be re-sheeted.

Attached is the year to date 2020/2021 Construction Program.

Town Services

The Town Services were again stretched over these last months and could not keep on top of the weed infestations prior to the Christmas period mainly in Bremer Bay due to some summer rains. The Shire had to seek support from local contractors in Bremer Bay to knock down the weeds.

Road Maintenance

These last months have seen the crew gravel sheeting numerous clay sections on bus routes to the north east of Jerramungup town site. The crew were also patching numerous blowouts on roads in the north eastern section of the shire. These roads have a minimal gravel pavement thickness and the heavy vehicle movements cause significant damage to the road surface. The crew will be spending a considerable time patching blowouts in these areas to maintain the integrity of the road surface.

With the additional heavy vehicle movements due to harvest, local contractors were periodically engaged to grade those roads that we very corrugated as our shire graders were committed on other roads.

As always, if you see any issues on the road network please don't hesitate to contact the Shire with the location.

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/BUDGET 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 December 2020 and January 2021.

MOTION: OCM210202

MOVED: Cr Iffla

SECONDED: Cr Dawson

That Council RECEIVE the works report for December 2020 and January 2021.

CARRIED: 6/0

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

Location/Address:	N/A
Name of Applicant:	N/A
Author:	Sarah Van Elden, Accounts Officer
Responsible Officer:	Charmaine Solomon, Deputy Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	9 February 2021
Attachments:	1. List of Accounts Paid to 31 December 2020 2. Credit Card Statement 27 November 2020 – 27 December 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 December 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 2020-21 Annual Budget as adopted by Council at its meeting held 19 August 2020 (Minute No. OCM200805 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 December 2020. Lists detailing the payments made are appended as an attachment.

FUND	VOUCHERS	AMOUNTS
Municipal Account		
Last Cheque Used	28175	
EFT Payments	17885 – 17996	\$518,857.71
Direct Deposits		\$37,384.46
Municipal Account Total		\$556,242.17
Trust Account		
Trust Account Total		\$0.00
Grand Total		\$556,242.17

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.

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

FINANCIAL IMPLCATIONS:

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

WORKFORCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

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 31 December 2020 as detailed in Attachment 9.2.1(a).
- b) The Credit Card Statement 27 November 2020 – 27 December 2020 as detailed in attachment 9.2.1(b).

MOTION: OCM210203**MOVED: Cr Parsons****SECONDED: Cr Leenhouders**

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 31 December 2020 as detailed in Attachment 9.2.1(a).
- b) The Credit Card Statement 27 November 2020 – 27 December 2020 as detailed in attachment 9.2.1(b).

CARRIED: 6/0

9.2.2 ACCOUNTS FOR PAYMENT – JANUARY 2021

Location/Address:	N/A
Name of Applicant:	N/A
Author:	Sarah Van Elden, Accounts Officer
Responsible Officer:	Charmaine Solomon, Deputy Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	9 February 2021
Attachments:	1. List of Accounts Paid to 31 January 2021 2. Credit Card Statement 27 December 2020 – 27 January 2021
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 January 2021.

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 2020-21 Annual Budget as adopted by Council at its meeting held 19 August 2020 (Minute No. OCM200805 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 January 2021. Lists detailing the payments made are appended as an attachment.

FUND	VOUCHERS	AMOUNTS
Municipal Account		
Last Cheque Used	28175	
EFT Payments	17997 – 18063	\$359,964.34
Direct Deposits		\$35,854.25
Municipal Account Total		\$395,818.59
Trust Account		
Trust Account Total		\$0.00
Grand Total		\$395,818.59

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.

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

FINANCIAL IMPLCATIONS:

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

WORKFORCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

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;

- c) The List of Accounts Paid to 31 January 2021 as detailed in Attachment 9.2.1(a).
- d) The Credit Card Statement 27 December 2020 – 27 January 2021 as detailed in attachment 9.2.1(b).

MOTION: OCM210204**MOVED: Cr Parsons****SECONDED: Cr Price**

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 31 January 2021 as detailed in Attachment 9.2.1(a).
- b) The Credit Card Statement 27 December 2020 – 27 January 2021 as detailed in attachment 9.2.1(b).

CARRIED: 6/0

9.2.3 MONTHLY FINANCIAL REPORT – DECEMBER 2020

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	
Author:	Tamara Pike, Senior Finance Officer
Responsible Officer:	Charmaine Solomon, Deputy Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	9 December 2020
Attachments:	Monthly Financial Report for the period ending 31 December 2020
Authority/Discretion:	Information

SUMMARY:

For Council to note the statement of financial activity for the period ended 30 November 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 31 December 2020.

BACKGROUND:

At its meeting held 19 August 2020 (Minute No. OCM200805 refers), Council adopted the annual budget for the 2020-21 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 November 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 19 August 2020, the Council adopted (Minute No. OCM200805 Officer Recommendation 4 refers) the following material variance reporting threshold for the 2020-21 financial year:

Officer Recommendation 4: 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 2020/2021 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 31 December 2020 has been incurred in accordance with the 2020-21 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 31 December 2020 in accordance with section 6.4 of the *Local Government Act 1995*.

MOTION: OCM210205

MOVED: Cr Dawson

SECONDED: Cr Iffla

That Council RECEIVES the Monthly Financial Report incorporating the Statement of Financial Activity for the period ending 31 December 2020 in accordance with section 6.4 of the *Local Government Act 1995*.

CARRIED: 6/0

9.2.4 MONTHLY FINANCIAL REPORT – JANUARY 2021

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	
Author:	Tamara Pike, Senior Finance Officer
Responsible Officer:	Charmaine Solomon, Deputy Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	9 February 2020
Attachments:	Monthly Financial Report for the period ending 31 January 2021
Authority/Discretion:	Information

SUMMARY:

For Council to note the statement of financial activity for the period ended 30 November 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 31 December 2020.

BACKGROUND:

At its meeting held 19 August 2020 (Minute No. OCM200805 refers), Council adopted the annual budget for the 2020-21 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 November 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 19 August 2020, the Council adopted (Minute No. OCM200805 Officer Recommendation 4 refers) the following material variance reporting threshold for the 2020-21 financial year:

Officer Recommendation 4: 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 2020/2021 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 31 January 2021 has been incurred in accordance with the 2020-21 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 31 January 2021 in accordance with section 6.4 of the *Local Government Act 1995*.

MOTION: OCM210206

MOVED: Cr Leenhouders

SECONDED: Cr Price

That Council RECEIVES the Monthly Financial Report incorporating the Statement of Financial Activity for the period ending 31 January 2021 in accordance with section 6.4 of the *Local Government Act 1995*.

CARRIED: 6/0

Tamara Pike left the meeting at 2.25pm and did not return.

9.3 DEVELOPMENT SERVICES

9.3.1 UPDATE ON SOUTH WEST NATIVE TITLE SETTLEMENT AND ESTABLISHMENT OF THE NOONGAR LAND ESTATE

Location/Address:	Various land parcels - Boxwood Hill
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:	9 February 2021
Attachments:	Location Plans
Authority/Discretion:	Administrative

SUMMARY:

The purpose of this report is to update Council on the progress of the South West Native 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).

Confirmation has been received from the Department of Planning, Lands and Heritage that the six ILUAs comprising the Settlement were conclusively registered on 27 January 2021. With the ILUAs conclusively registered, Settlement Effective Date will be 25 February 2021. Settlement Effective Date is the date that Settlement formally commences.

The indicative date for appointment of the Trustee of Noongar Boodja Trust (NBT) (Trust Effective Date) is 15 March 2021. After Trust Effective Date, the Western Australian Government will make the first financial payments into the Trust and start the process to transfer land assets for the establishment of the Noongar Land Estate (NLE).

The Noongar Land Estate:

The Project Team is preparing land already offered and accepted in [Annexure X](#) of the ILUAs to be transferred after Trust Effective Date. It is planned to complete the transfer of this land within a few months of Trust Effective Date.

Annexure X land is comprised of:

- 89 parcels of Crown land with a total area of 1,087.3 hectares; and
- 32 parcels of ALT/ AAPA land with a total area of 25.9 hectares.

Over the next 5 years of Implementation, the Project Team will continue the work required to establish the NLE in accordance with the Noongar Land Base Strategy – Annexure J to the ILUAs. This will necessitate ongoing consultation with key stakeholders, which includes the Shire, in relation to land that is potentially suitable for inclusion into the NLE. The Project Team will therefore provide updates on the process to establish the Noongar Land Estate as it progresses and upfront notice where is planned to undertake consultation with the Shire.

It is noted that the Shire has previously been consulted and provided responses on possible land parcels that may eligible for transfer to the NLE on three separate occasions:

Ordinary Council Meeting 20 February 2013 – Item 10.3.5,

Ordinary Council Meeting 18 March 2020 – Item 9.3.1, and

Ordinary Council Meeting 15 April 2020 – Item 9.3.1,

The seven parcels of land which are now to be transferred were the subject of consideration at the 20 February 2013 meeting.

CONSULTATION:

Not applicable in this instance.

COMMENT:

The conclusive registration of the six Indigenous Land Use Agreements for the South West Native Title Settlement is a significant matter for the Native Title holders.

The Noongar Land Estate (NLE) will provide the Noongar people with a significant asset to be developed in line with Noongar cultural, social and economic aspirations for the benefit of generations to come.

There are seven parcels of land located within the Shire that have been identified for transfer to the NBT within a few months of Trust Effective Date. The subject lots were set out in Annexure X of the ILUAs and as such there are no matters arising from the current action that requires Council to make any decision or recommendation on at this time.

The initial parcel of lots to be transferred are all located within the Boxwood Hill townsite and are described as being:

- Lot 5 Maelaleuca Street, Boxwood Hill
- Lot 6 Maelaleuca Street, Boxwood Hill
- Lot 7 Maelaleuca Street, Boxwood Hill
- Lot 8 Maelaleuca Street, Boxwood Hill
- Lot 9 Maelaleuca Street, Boxwood Hill
- Lot 12 Maelaleuca Street, Boxwood Hill
- Lot 13 Maelaleuca Street, Boxwood Hill

A location plan is attached for context.

All of the subject lots are zoned 'Townsite/R10' under Shire of Jerramungup Local Planning Scheme No.2 and the lots are all presently vacant and uncleared with access to all lots available from constructed roadways.

The designated Townsite zoning allows for a range of uses such as may be found in small townsites but subject to the preservation of local amenities. Surrounding land uses including two existing residential dwellings and the Roadhouse is located immediately beyond the east and vacant land to the west.

Any future development and use of the land is subject to the normal land use controls, relevant policies and legislation.

The lots are currently designated as Unallocated Crown Land and the conversion of those of those into freehold title will increase land availability and development opportunities within the townsite.

STATUTORY ENVIRONMENT:

Native Title Act 1993

STRATEGIC IMPLICATIONS:

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

Strategic Direction 2 – Community	Aspiration 2.2 - Improved Livability	2.2.8 Increased housing availability options (ownership, rentals, workers accommodation)
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FINANCIAL/BUDGET IMPLICATIONS:

The Noongar Boodja Trust will be required to meet the standard costs, including rates and service charges, associated with owning freehold land.

WORKFORCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

VOTING REQUIREMENT:

Simple majority

OFFICER RECOMMENDATION:

That COUNCIL:

1. **Receives the update on the progress of the South West Native Title Settlement and establishment of the Noongar Land Estate;**
2. **That Council write to the South West Sea and Land Council to acknowledge the recent conclusive registration of the six Indigenous Land Use Agreements and invite the Noongar Boodja Trust to contact the Shire to discuss and receive advice as to their future development intent for the land.**

MOTION: OCM210207**MOVED: Cr Dawson****SECONDED: Cr Iffla****That COUNCIL:**

1. **Receives the update on the progress of the South West Native Title Settlement and establishment of the Noongar Land Estate;**
2. **That Council write to the South West Sea and Land Council to acknowledge the recent conclusive registration of the six Indigenous Land Use Agreements and invite the Noongar Boodja Trust to contact the Shire to discuss and receive advice as to their future development intent for the land.**

CARRIED: 6/0

Cr Parsons declared a Financial Interest in Item 9.3.2. Due to the nature of this interest, Cr Parsons left the meeting at 2.32pm.

9.3.2 PROPOSED DISPOSITION OF RESERVE NO.24619, LOT 155 BREMER BAY ROAD, BREMER BAY

Location/Address:	Reserve 24619 Lot 155 Bremer Bay Road, Bremer Bay
Name of Applicant:	Megatime Pty Ltd
File Reference:	A1604429
Author:	Noel Myers, Manager of Development
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	11 February 2021
Attachments:	N/A
Authority/Discretion:	Legislative

SUMMARY:

Report proposes the grant of a new lease over Reserve 24619, Lot 155 Bremer Bay Road, Bremer Bay to Megatime Pty Ltd following the conclusion of the land disposal process as is required by way of section 3.58 *Local Government Act 1995*.

BACKGROUND:

In brief:

- Council at its Ordinary Meeting of Council held on 16th December 2020, considered and supported a proposal to grant a new lease for Megatime Pty Ltd over the subject land for Caravan and Camping purposes, consistent with the Special Use zoning of the land. The decision of the Council at that meeting was:

Item 10.2 – MOTION: OCM201219:

That Council DISPOSES of Reserve 24619 – Lot 155 Bremer Bay Road, Bremer Bay via lease to Megatime Pty Ltd for purposes of Caravan and Camping subject to the following conditions:

- All requirements of section 3.58 (3) and (4) of the Local Government Act 1995 being carried out;***
- Lease term to be 21 years commencing 30 September 2020 and expiring 30 September 2041 with a review to be undertaken as at 26 January 2025;***
- The annual lease fee to commence at \$21,741.50 pa with annual Consumer Price Index or 3% pa, whichever is the greatest;***
- Megatime Pty Ltd being responsible to meet the full cost of the upgrades of the hot water systems servicing the ablution block located on the subject Lot 155;***
- Council agrees to meet 50% of costs associated with the connection of the property to the Water Corporation sewer to a maximum amount of \$15,000;***
- Council agrees to meet 50% of costs associated with any headworks charges that may accrue with the connection of the property to the Water Corporation sewer pending receipt of such costs and such costs being acceptable to the Chief Executive Officer;***
- That Megatime Pty Ltd become liable for all future non-structural maintenance and upgrade costs to the existing buildings on the subject lot, being the ablution block and storage shed; and***

- h. That Megatime Pty Ltd agrees to defer the Shire's maximum contribution of \$15,000 towards the costs associated with the connection of the lot to the Water Corporation sewer till 26 January 2025, payable upon 26 January 2025 or sooner at a mutually agreed date.***

MOTION CARRIED: 6/0

- Following the resolution of Council, the proposed lease was advertised for public comment. No submissions concerning the proposed disposition were received by the closure time and date.

CONSULTATION:

The provisions of section 3.58 of the *Local Government Act 1995* (the Act) requires that public advertising be undertaken before a lease is granted and the Act also determines what forms/methods of advertising are acceptable.

The proposed lease was advertised from the 2nd February 2020 through to 15th February 2020 inviting submissions concerning the proposed lease. Copies of the Notice concerning the proposed disposition were posted on:

- Public Notices section on the Shire website;
- Council's Facebook site;
- Shire Noticeboards in Bremer Bay and Jerramungup;
- The Council Buzz; and
- The Jerry Journal.

The resolution of Council concerning the terms of the proposed new lease were put to and accepted by Megatime Pty Ltd.

COMMENT:

The proposed disposition of the land has been progressed in accordance with the requirements of the Local Government Act pertaining to lease proposals.

That requisite advertising of the proposal has not attracted any submissions that require further consideration of the Council and it may now proceed to determine the matter.

STATUTORY ENVIRONMENT:

Statutory Requirements

Section 3.58 of the *Local Government Act 1995* deals with the disposal of property including the lease of property.

The Land Administration Act requires that the Minister for Lands approve any Lease proposed over Crown Land.

STRATEGIC IMPLICATIONS:

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

- Aspiration 3.3 – Tourism Promotion and Development: To assist local business and community groups to expand a year round resilient tourism and service industry.

FINANCIAL/BUDGET IMPLICATIONS:

The financial implications are set out within the officer recommendation

WORKFORCE IMPLICATIONS:

There are no workforce implications arising from consideration of this matter.

POLICY IMPLICATIONS:

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

SUMMARY:

The officer recommendation is to dispose of the land via lease to Megatime Pty Ltd for a period of 21 years on the terms proposed by Council's past resolution made at the Ordinary Meeting of Council held on the 16 December 2020.

In formulating the recommendation, the following items have been taken into consideration:

- 1) Most appropriate and compatible land use of the site.
- 2) Current Infrastructure requirements and demands of the site.
- 3) Demonstrated capability of proposed management.
- 4) Financial return of the site and proposed offsets.

Having regard to the matters set out above, it is the recommendation of the administration that Council agrees to lease the land to Megatime Pty Ltd for it use the land for Caravan and Camping uses in accordance with provision of Local Planning Scheme No.2.

VOTING REQUIREMENT:

Simple majority

OFFICER RECOMMENDATION:

That Council:

1. **NOTES its' previous resolution of 16 December 2020, Item 10.2 – MOTION: OCM201219.**
2. **Disposes of Reserve 24619 – Lot 155 Bremer Bay Road, Bremer Bay via lease to Megatime Pty Ltd for purposes of Caravan and Camping subject to the following conditions:**
 - a. **Lease term to be 21 years commencing 30 September 2020 and expiring 30 September 2041 with a review to be undertaken as at 26/01/2025;**
 - b. **The annual lease fee to commence at \$21,741.50 p/a with annual Consumer Price Index or 3% p/a;**
 - c. **Megatime Pty Ltd being responsible to meet the full cost of the upgrades of the hot water systems servicing the ablution block located on the subject Lot 155;**
 - d. **Agrees to meet 50% of costs associated with the connection of the property to the Water Corporation sewer to a maximum amount of \$15,000 – exclusive of any headworks costs;**
 - e. **That Megatime Pty Ltd become liable for all future non-structural maintenance and upgrade costs to the existing buildings on the subject lot, being the ablution block and storage shed; and**
 - f. **That Megatime Pty Ltd become liable for all future non-structural maintenance and upgrade costs to the existing buildings on the subject lot, being the ablution block and storage shed;**
 - g. **That Megatime Pty Ltd agrees to defer the Shire's maximum contribution of \$15,000 towards the costs associated with the connection of the lot to the Water Corporation sewer till 26 January 2025, payable upon 26 January 2025 or sooner at a mutually agreed date.**

MOTION: OCM210208**MOVED: Cr Price****SECONDED: Cr Dawson****That Council:**

- 1. NOTES its' previous resolution of 16 December 2020, Item 10.2 – MOTION: OCM201219.**
- 2. Disposes of Reserve 24619 – Lot 155 Bremer Bay Road, Bremer Bay via lease to Megatime Pty Ltd for purposes of Caravan and Camping subject to the following conditions:**
 - a. Lease term to be 21 years commencing 30 September 2020 and expiring 30 September 2041 with a review to be undertaken as at 26/01/2025;**
 - b. The annual lease fee to commence at \$21,741.50 p/a with annual Consumer Price Index or 3% p/a, whichever is the greatest;**
 - c. Megatime Pty Ltd being responsible to meet the full cost of the upgrades of the hot water systems servicing the ablution block located on the subject Lot 155;**
 - d. Agrees to meet 50% of costs associated with the connection of the property to the Water Corporation sewer to a maximum amount of \$15,000 – exclusive of any headworks costs;**
 - e. That Megatime Pty Ltd become liable for all future non-structural maintenance and upgrade costs to the existing buildings on the subject lot, being the ablution block and storage shed; and**
 - f. That Megatime Pty Ltd become liable for all future non-structural maintenance and upgrade costs to the existing buildings on the subject lot, being the ablution block and storage shed;**
 - g. That Megatime Pty Ltd agrees to defer the Shire's maximum contribution of \$15,000 towards the costs associated with the connection of the lot to the Water Corporation sewer till 26 January 2025, payable upon 26 January 2025 or sooner at a mutually agreed date.**
 - h. Council agrees to meet 50% of costs associated with any headworks charges that may accrue with the connection of the property to the Water Corporation sewer pending receipt of such costs and such costs being acceptable to the Chief Executive Officer.**
 - i. That Megatime Pty Ltd be responsible for all costs associated with the development and finalisation of the lease.**

CARRIED: 5/0

Reason for variation: Condition h and Condition i, were inadvertently left off from the officer recommendation when the item was prepared for Council's consideration.

Cr Iffla declared a Financial Interest in Item 9.3.3. Due to the nature of this interest, Cr Iffla left the meeting at 2.36pm.

Cr Parsons returned to the meeting at 2.36pm.

9.3.3 MOBILE COFFEE AND FOOD VAN. NEW LICENCE TO OPERATE FROM VARIOUS LOCATIONS BREMER BAY

Location/Address:	Bremer Bay locations
Name of Applicant:	F Leoni and G Meade
File Reference:	DB.PL.1
Author:	Noel Myers, Manager of Development
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	11 December 2020
Attachments:	Location Plans (x 3)
Authority/Discretion:	Legislative

SUMMARY:

Council is requested to consider the issue of a planning approval and licence to allow the new (prospective) owner of the Orca Coffee Company to continue to operate the coffee van from four fixed locations within Bremer Bay and to attend market and events.

BACKGROUND:

The current owner of the Orca Coffee Van was first granted approval to operate from three fixed locations in Bremer Bay by Council at the Ordinary Meeting of Council held 21 May 2014. The decision of the Council at that meeting was:

OC140508 Moved Cr Leenhouders/Seconded Cr Daniel

That Council,

1. ***Approve the proposed 'Mobile Food & Coffee Van' to operate in approved locations within the car parks at Paperbarks Park, Blossoms Beach, Fisheries Beach Marina and Native Dog Beach Road if Blossoms Beach Road becomes unpassable, Bremer Bay at subject to the following conditions:***
 - i) Development shall be carried out in accordance with the approved plans and details submitted with the planning application.***
 - ii) The areas of operation are limited to a maximum of 40m² at each location.***
 - iii) The areas of operation are to be delineated by portable barriers whilst the service is in operation to the satisfaction of the Chief Executive Officer.***
 - iv) Attendance at markets and events is permitted as required.***
 - v) The proponent is to ensure that the area immediately around the food and coffee van is kept in a clean and tidy condition at all times.***
 - vi) Formal arrangements being put in place for a suitable rubbish collection service to the satisfaction of the Chief Executive Officer prior to the commencement of the service.***
 - vii) The proponent is to maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times.***
 - viii) The proponent is solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the food and coffee van.***
 - ix) Provision of an indemnity from the proponent indemnifying the Shire of Jerramungup in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the proponent.***
 - x) Evidence of suitable public liability insurance being supplied to the Shire of Jerramungup.***

- xi) This approval expires should the proponent cease operations for a period greater than 12 months, commencing from the start date in late 2015.*

2. Advise the applicant in footnotes on the planning approval that:

- a) This approval is issued to the applicant only and is not transferable. Should the food van be sold the new owner will need to reapply.*
- b) The produce to be sold is generally limited those nominated in the application which includes food, drinks, dairy products and ice-cream.*

3. Authorises the Chief Executive Officer to make all necessary arrangements for a Licence to be issued under the Land Administration Act over a portion of Reserves 21496, 46625 and granting non-exclusive use of a portion of the Reserve.

Carried by Absolute Majority 5-0

The applicant and the Shire subsequently secured a Licence Agreement to occupy the relevant sites as required by Condition No.3 of Council's approval and has since operated the business in accordance with the terms of Council's approval without incident.

CONSULTATION:

No external consultation has taken place in respect to this matter at this time.

Should Council be supportive towards the grant of approval to the new prospective owner then the application would be advertised for public comment (21 days) with authority being delegated to the CEO to issue the approval post the conclusion on the advertising period.

Approval under the delegation would only be granted on the basis that no sustainable objection being received. Should a relevant sustainable objection be received that cannot be reasonably resolved then the matter would be referred back to the next available Council meeting for determination.

COMMENT:

The current application proposes the issue of an approval to the purchaser of the Orca Coffee Company so as that they may continue to operate the business in the same manner and terms as it has operated since the time of its initial approval. Specifically, the applicant is seeking Council's approval to the continued use of discrete locations being:

- Carpark at Paperbark Park;
- Carpark at Blossoms and Native Dog Beaches; and
- Fisheries Beach Marina.

All of the existing and proposed locations are local reserves.

- The Paperbarks car park is a local reserve in Local Planning Scheme No.2 for the purpose of 'recreation'. The car park is located on Reserve 21496 which is managed by the Shire of Jerramungup for the purpose of Camping, Caravan Park and Recreation.
- Blossoms Beach car park is also a local reserve in local Planning Scheme No.2 for the purpose of 'recreation'. The car park is also located within Reserve 46625 which is managed by the Shire of Jerramungup for the purpose of 'Public Recreation'. The end of Native Dog Beach Road is proposed as an alternative location if Blossoms Beach Road becomes impassable.
- Fisheries Beach marina carpark is a local reserve in Local Planning Scheme No.2 for the purpose of 'Recreation'. The car park is also located within Reserve 511 which is managed by the Shire of Jerramungup for the purpose of "Recreation".

It is noted that the Coffee Van also operates periodically from the Bremer Bay Caravan Park which is consistent with the various uses permitted on that property by virtue of the Special Use zoning under Local Planning Scheme No.2. This use of this location sits outside the scope of the matter before Council and is provided for information only and does not require any consideration by the Council at this time.

The requirement for a new approval and specifically the requirement to obtain a new Licence Agreement to access the locations described above arises from Clause 16 within the approved Licence Agreement. The Licence Agreement was issued to the favour of the current owner only and states that the *“Licence is not capable of being transferred or assigned to any other person or entity”*.

Scheme requirements

The food van is proposed to operate in three reserves and as such Council in determining the matter is required to have ‘due regard’ for the purpose of the reserve/s.

The purpose of the reserves are ‘recreation’. The van would be primarily servicing people who would be recreating at those locations and the use would be regarded as being consistent with the reserves purpose and incidental to the primary use of the land.

Assessment

The relevant planning matters as set out within clause 10.2 of the Scheme to be considered include:

- (i) *The compatibility of the use with its setting;*
- (j) *Any social uses that have an effect on the amenity of the locality;*
- (n) *the preservation of the amenity of the locality; and*
- (p) *whether the proposed means of access to and egress from the site are adequate and whether adequate parking provision has been made for the loading, unloading, manoeuvring and parking of vehicles.*

The proposal is generally considered to comply with the requirements of the Scheme as evidenced by:

- The van is of a mobile form that can and has historically been brought to and from the sites on an as needed basis and is of a form and type that is not out of character with a beach side location;
- The locations are not serviced by any other commercial enterprise;
- The parking areas at each location are not compromised by the presence of the van;
- All carparking areas have toilets and rubbish bins within close proximity; and
- The business has operated for some five years without any significant incidents being reported to Council.

The previously prepared License Agreement included specific clauses regarding implementation of appropriate management practices and it is proposed that any new License would again replicate those conditions to ensure the business operated so that areas were appropriately managed and maintained.

Mobile vs permanent

The report to Council in its previous consideration of the original application (Item 10.3.2 – OC140508) had discussed the various merits of supporting mobile services and the tension that arises between fixed businesses that accrue overheads that are not borne by mobile services.

The argument was put that the mobile service supplement the range of options to the community during peak tourist periods that may not be able to be fully met by those fixed businesses and being located at the town’s main beaches they are servicing a different clientele. Further, the report noted that mobile services may have the potential to reduce the demand for land in established commercial areas if allowed to ‘scatter’ throughout a townsite, however, this is countered by the argument that businesses in established commercial areas have an advantage in that people are drawn to the accumulation of services available in those areas.

This tension between supporting fixed businesses and providing support toward mobile services that offer a different service to the community is not exclusive to this Shire and many local governments across the state are seeking how to find an appropriate balance between the competing demands.

In this particular situation some of the potential conflict is addressed by nominating fixed locations that the business may operate from that are set well away from those other competing fixed businesses and by virtue of its relatively small service capacity, offers and services a different clientele.

Proposed Licence Agreement:

The applicant is seeking a new licence so as that the business can continue to trade in the same manner as per Council's previous terms and conditions albeit with a new owner/operator.

The original licence was granted for a term of ten (10) years effective from 4 December 2015, expiring 4 December 2025 with no further term. As date of this report there remains approximately 4 years and 10 months of the original term to run.

The applicant is seeking a new licence with a term of 10 years from the date that the licence agreement is executed.

Summary

The Orca's Coffee Van has operated effectively and without incident for some five years of its original ten-year approval and comes before Council now to enable the existing operator to sell the business to another local resident of the Shire who intends to continue to operate the business on the same terms and conditions as per Council's past approval.

STATUTORY ENVIRONMENT:

Land Administration Act 1997 – in respect to the leasing of land;

Town Planning Scheme No.2 – in respect to land use permissibility

State Planning Policy 3.7 – Planning for Bushfire Prone Areas

STRATEGIC IMPLICATIONS:

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

- **Aspiration 3.2 – Economic Diversity**

To support initiatives which develop strong, diverse and resilient local businesses.

FINANCIAL/BUDGET IMPLICATIONS:

All costs involved with the preparation and registration of the licence agreement are to be for the care of the applicant.

An annual licence fee of \$500 paid in advance is to be levied and an additional fee for power consumption at the Paperbarks location is to be paid by the applicant. The Fee for power consumption is to be determined by and to the satisfaction of the Chief Executive Officer following investigation into past accounts.

WORKFORCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

VOTING REQUIREMENT:

Simple majority

OFFICER RECOMMENDATION:

That Council;

1. **Approve the proposed Mobile Food and coffee Van to operate in approved locations within the car parks at paperbarks Park, Blossoms Beach, fisheries Beach Marina and Native Dog Beach Road if Blossoms Beach Road becomes impassable, Bremer Bay subject to the following conditions:**
 - i) **Development shall be carried out in accordance with the approved plans and details submitted with the planning application;**
 - ii) **The areas of operation are limited to a maximum of 40m² at each location;**
 - iii) **The areas of operation are to be delineated by portable barriers whilst service is in operation to the satisfaction of the Chief Executive Officer;**
 - iv) **Attendance at markets and events is permitted as required and by way of invitation by the permit holder/event organiser;**
 - v) **The proponent is to ensure that the area immediately around food and coffee van is kept in a clean and tidy condition at all times;**
 - vi) **The proponent is to maintain all chairs, tables and other structures used in conjunction with service in a good, clean and serviceable condition at all times;**
 - vii) **The proponent is responsible for the disposal of packaging and waste arising from the operation of the business and is not to place such waste in public bins;**
 - viii) **The proponent is solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the food and coffee van;**
 - ix) **The Shire of Jerramungup shall not have any liability in respect to of or arising from any mishap, accident or misadventure in relation to the Activity allowed under this approval;**
 - x) **The applicant shall confirm that it holds a current Public Liability Insurance policy and provide the Shire with a copy of the Certificate of Currency noting the interest of the Shire of Jerramungup**
 - xi) **This approval shall expire should the proponent cease operations for a period greater than six (6) months, commencing from the effective date of the License Agreement;**
 - xii) **The approval be granted to the applicant being F. Leoni and G Meade only and is not transferable. Should the food van be sold the new owner will need to reapply;**
 - xiii) **Produce to be sold is generally limited to those nominated in the previous License Agreement between M Hicks and the Shire of Jerramungup dated 5 December 2015 and specified in Item 10.5 and 10.6 of the Schedule.**
2. **Delegates Authority to the Chief Executive Officer to grant Development Approval to the proposed use following completion the required 21-day public consultation period. Such delegation is granted on the basis that there are no sustainable objections received from the consultation process that cannot be satisfactorily resolved. Should a relevant sustainable objection be received that cannot be reasonably resolved then the matter is required to be referred back to the next available Council meeting for determination**
3. **Authorises the Chief Executive Officer to make all necessary arrangements for a Licence to be issued under the under the Land Administration Act over a portion of Reserves 21496, 46625 and 511 granting non-exclusive use of a portion of the Reserve.**

MOTION: OCM210209**MOVED: Cr Price****SECONDED: Cr Parsons****That Council:**

- 1. Approve the proposed Mobile Food and coffee Van to operate in approved locations within the car parks at paperbarks Park, Blossoms Beach, fisheries Beach Marina and Native Dog Beach Road if Blossoms Beach Road becomes impassable, Bremer Bay subject to the following conditions:**
 - i) Development shall be carried out in accordance with the approved plans and details submitted with the planning application;**
 - ii) The areas of operation are limited to a maximum of 40m² at each location;**
 - ii) The areas of operation are to be delineated by portable barriers whilst service is in operation to the satisfaction of the Chief Executive Officer;**
 - iv) Attendance at markets and events is permitted as required and by way of invitation by the permit holder/event organiser;**
 - v) The proponent is to ensure that the area immediately around food and coffee van is kept in a clean and tidy condition at all times;**
 - vi) The proponent is to maintain all chairs, tables and other structures used in conjunction with service in a good, clean and serviceable condition at all times;**
 - vii) The proponent is responsible for the disposal of packaging and waste arising from the operation of the business and is not to place such waste in public bins;**
 - viii) The proponent is solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the food and coffee van;**
 - ix) The Shire of Jerramungup shall not have any liability in respect to of or arising from any mishap, accident or misadventure in relation to the Activity allowed under this approval;**
 - x) The applicant shall confirm that it holds a current Public Liability Insurance policy and provide the Shire with a copy of the Certificate of Currency noting the interest of the Shire of Jerramungup**
 - xi) This approval shall expire should the proponent cease operations for a period greater than six (6) months, commencing from the effective date of the License Agreement;**
 - xii) The approval be granted to the applicant being F. Leoni and G Meade only and is not transferable. Should the food van be sold the new owner will need to reapply;**
 - xiii) Produce to be sold is generally limited to those nominated in the previous License Agreement between M Hicks and the Shire of Jerramungup dated 5 December 2015 and specified in Item 10.5 and 10.6 of the Schedule.**
- 2. Delegates Authority to the Chief Executive Officer to grant Development Approval to the proposed use following completion the required 21-day public consultation period. Such delegation is granted on the basis that there are no sustainable objections received from the consultation process that cannot be satisfactorily resolved. Should a relevant sustainable objection be received that cannot be reasonably resolved then the matter is required to be referred back to the next available Council meeting for determination**

- 3. Authorises the Chief Executive Officer to make all necessary arrangements for a Licence to be issued under the Land Administration Act over a portion of Reserves 21496, 46625 and 511 granting non-exclusive use of a portion of the Reserve.**

CARRIED: 5/0

Cr Parsons declared a Financial Interest in Item 9.3.4. Due to the nature of this interest, Cr Parsons left the meeting at 2.42pm.

Murray Flett left the meeting at 2.42pm.

Cr Iffla returned to the meeting at 2.43pm.

Murray Flett returned to the meeting at 2.44pm.

9.3.4 PARTIAL ROAD CLOSURES – BREMER BAY ROAD AND CUNEO DRIVE, BREMER BAY

Location/Address:	Portions Bremer Bay Road and Cuneo Drive, Bremer Bay.
Name of Applicant:	Shire of Jerramungup
File Reference:	
Author:	Noel Myers – Manager of Development
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	19 February 2021
Attachments:	Location Plans
Authority/Discretion:	Legislative

SUMMARY:

The purpose of this report is to seek Council’s endorsement to initiate actions to effect the partial closure of portions of the Bremer Bay Road and Cuneo Drive road reserves.

The partial closures are proposed to resolve the situation where areas of the Bremer Bay Caravan Park grounds and improvements have been identified as encroaching into the two adjoining road reserves.

BACKGROUND:

- Shire holds a management order over Reserve No.21496 on which the Bremer Bay Caravan Park is located;
- Megatime Pty Ltd holds a current lease from the Shire to operate the caravan park and the lease encapsulates those portions of land and buildings and other improvements that encroach into the road reserve
- The Shire had become aware of the encroachment issue in 2018 and whilst preliminary investigations have been made into the matter, no formal action has been initiated to resolve the matter;
- The encroachments are of a historical nature insofar that they have occurred when the caravan park was operated under the management of the Shire and prior to the execution of the current lease arrangements with Megatime Pty Ltd;
- The administration has previously had a ‘pick-up’ survey prepared by a licensed land surveyor in order to accurately identify the location and the nature of the encroachments and services and has made a budget provision to progress the resolution of the matter.

COMMENT:

The Council is being requested to initiate actions to resolve the situation whereby elements of the Bremer Bay Caravan Park encroach into the two adjoining road reserves.

The encroachments as identified above are of a historical nature insofar they predate the execution of the current lease with the current lessee. The operative lease has been drawn to encapsulate all the effective ground areas that form the caravan park which means that the action to rectify the land tenure arrangements should not require any change or impact upon the terms of the current lease. Similarly, the proposed changes to the cadastral boundary of the Reserve should not require any modifications to the ‘set out’ or improvements that form part of the caravan park. As such, there would be no visible change to the status quo required to effect the closures as being proposed

The need to progress the matter has become a priority as the lessees are seeking to make alterations and additions to the utility buildings to improve the business operation, however it has been identified that the building is bisected by the cadastral boundary of the lot and this issue is preventing the Shire being able to issue a building permit as the building encroaches over the lot boundary. The proposed action will rectify this and other issues that currently exist.

STATUTORY ENVIRONMENT:

Road closures are required to be progressed in accordance with the requirements set out under the Land Administration Act 1997 and the Land Administration Regulations as set out below:

LAND ADMINISTRATION ACT 1997 – S58 Closing Roads

- (1) When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.
- (2) When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.
- (3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.
- (4) On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —
 - (a) by order grant the request; or
 - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or
 - (c) refuse the request.
- (5) If the Minister grants a request under subsection (4) —
 - (a) the road concerned is closed on and from the day on which the relevant order is registered; and
 - (b) any rights suspended under section 55(3)(a) cease to be so suspended.
- (6) When a road is closed under this section, the land comprising the former road —
 - (a) becomes unallocated Crown land; or
 - (b) if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.

LAND ADMINISTRATION REGULATIONS 1998 – REG 9**9. Local government request to close road permanently (Act s. 58(2)), requirements for**

For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request —

- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require; and
- (b) sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed; and
- (c) copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government's comments on those submissions; and
- (d) a copy of the relevant notice of motion referred to in paragraph (c); and
- (e) any other information the local government considers relevant to the Minister's consideration of the request; and

- (f) written confirmation that the local government has complied with section 58(2) and (3) of the Act.

FINANCIAL/BUDGET IMPLICATIONS:

Costs will arise with the closure associated with the preparation of further survey documentation and lodgement fees.

Responsibility for the payment of such costs should reasonably fall to the care of the Shire as holder of the management order over the land and a budget provision has been made to accommodate these costs which are anticipated to be no more than \$5,000.

WORKFORCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

SUMMARY:

Preliminary investigations suggest that the proposed partial road closure should not be overly problematical from the perspective that the current location and alignment of improvements and infrastructure can be adequately accommodated within the revised tenure arrangements.

The alternative action to initiating the road closure process is to require the removal the portions of the buildings and other improvements encroaching into the road reserves and observe the existing road reserve. If this option was to be pursued it is likely that there would be significant implications arising that would require separate legal advice to be obtained before any action was initiated.

Should the Council be agreeable to the request to initiate the partial closure it will be necessary to progress the matter in accordance with section 58 of the LAA and regulation 9 of the *Land Administration Regulations 1998* which deals with the public advertising of the proposed closure. Following the closure of the advertising period, the application will be referred back to the Council for consideration of any submissions that are received. Once Council has completed its statutory obligations, the matter is referred to the Department Planning, Lands and Heritage for approval.

It is highlighted that this report authorises the Administration to commence the necessary consultation process associated with the road closure process only and the matter will be referred back to Council for further consideration following the conclusion of the consultation process. There would be further clarity at that time as to the design of the area and also as to the cost implications.

Having regard to the above, it is the recommendation of the Administration that the Council may authorise the initiation of the road closure process.

VOTING REQUIREMENT:

Absolute majority

OFFICER RECOMMENDATION:**That Council:**

1. Pursuant to section 58 of the Land Administration Act 1997, resolves to initiate actions to effect the partial closure of the Bremer Bay Road and Cuneo Drive road reserves as shown on attached Drawing 2018-64-01A;
2. That the motion to partially close the portion of road described in 1) above, be advertised for a period of not less than 35 days in a newspaper circulating within the district;
3. That subject to the final approval from the Minister for the partial closure of the road, the land to be excised from the road reserves be amalgamated into the adjoining lots being Lots 130 – Portion Reserve No.21496 Bremer Bay Road and Cuneo drive, Bremer Bay and to be used for Caravan and Camping purposes, consistent with the existing management order and land use

MOTION: OCM210210**MOVED: Cr Price****SECONDED: Cr Leenhouwers****That Council:**

1. Pursuant to section 58 of the Land Administration Act 1997, resolves to initiate actions to effect the partial closure of the Bremer Bay Road and Cuneo Drive road reserves as shown on attached Drawing 2018-64-01A;
2. That the motion to partially close the portion of road described in 1) above, be advertised for a period of not less than 35 days in a newspaper circulating within the district;
3. That subject to the final approval from the Minister for the partial closure of the road, the land to be excised from the road reserves be amalgamated into the adjoining lots being Lots 130 – Portion Reserve No.21496 Bremer Bay Road and Cuneo drive, Bremer Bay and to be used for Caravan and Camping purposes, consistent with the existing management order and land use

CARRIED BY AN ABSOLUTE MAJORITY: 5/0

Cr Parsons returned to the meeting at 3.09pm.

9.4 EXECUTIVE SERVICES

9.4.1 LEASE, BREMER BAY COMMUNITY RESOURCE CENTRE

Location/Address:	Lot 649 on Deposited Plan 189638
Name of Applicant:	N/A
File Reference:	CP.US.34
Author:	Rachel Smith, Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	15 February 2021
Attachments:	Draft Lease – Bremer Bay CRC
Authority/Discretion:	Executive

SUMMARY:

This item addresses the draft lease agreement prepared between the Shire of Jerramungup and the Bremer Bay Community Resource and Visitor's Centre Inc with a recommendation that it be accepted and that the President and CEO be authorised to execute the lease.

BACKGROUND:

The lease between the Shire of Jerramungup and the Bremer Bay Community Resource and Visitor's Centre Inc expired on the 31 March 2021, Council staff have been negotiating the renewal of the lease with the Bremer Bay Community Resource and Visitor's Centre Manager.

CONSULTATION:

McLeod's Solicitors

Manager, Bremer Bay Community Resource and Visitor's Centre

COMMENT:

A lease agreement is required to formalise the services provided by the Bremer Bay Community Resource Centre. Under the Management Order the Shire has the power to lease the Land for any term not exceeding 21 years. The lease is now submitted to Council for approval.

The Shire shall remain entitled to use the following parts of the Premises as required at its discretion;

- (a) one room for office purposes;
- (b) the meeting room; and
- (c) the town hall

STATUTORY ENVIRONMENT:

3.58. Disposing of property

- (1) In this section —
 - dispose* includes to sell, lease, or otherwise dispose of, whether absolutely or not;
 - property* includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —

- (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
- (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

[Section 3.58 amended by No. 49 of 2004 s. 27; No. 17 of 2009 s. 10.]

Land Administration Act 1997

18. Various transactions relating to Crown land to be approved by Minister

- (1) A person must not without authorisation under subsection (7) assign, sell, transfer or otherwise deal with interests in Crown land or create or grant an interest in Crown land.
- (2) A person must not without authorisation under subsection (7) —
 - (a) grant a lease or licence under this Act, or a licence under the *Local Government Act 1995*, in respect of Crown land in a managed reserve; or
 - (b) being the holder of such a lease or licence, grant a sublease or sublicense in respect of the whole or any part of that Crown land.
- (3) A person must not without authorisation under subsection (7) mortgage a lease of Crown land.
- (4) A lessee of Crown land must not without authorisation under subsection (7) sell, transfer or otherwise dispose of the lease in whole or in part.
- (5) The Minister may, before giving approval under this section, in writing require —
 - (a) an applicant for that approval to furnish the Minister with such information concerning the transaction for which that approval is sought as the Minister specifies in that requirement; and

- (b) information furnished in compliance with a requirement under paragraph (a) to be verified by statutory declaration.
- (6) An act done in contravention of subsection (1), (2), (3) or (4) is void.
- (7) A person or lessee may make a transaction under subsection (1), (2), (3) or (4) —
 - (a) with the prior approval in writing of the Minister; or
 - (b) if the transaction is made in circumstances, and in accordance with any condition, prescribed for the purposes of this paragraph.
- (8) This section does not apply to a transaction relating to an interest in Crown land if —
 - (a) that land is set aside under, dedicated or vested for the purposes of an Act other than this Act, and the transaction is authorised under that Act;
 - (b) that interest may be created, granted, transferred or otherwise dealt with under an Act other than —
 - (i) this Act; or
 - (ii) a prescribed Act;
 - (c) an agreement, ratified or approved by another Act, has the effect that consent to the transaction was not required under section 143 of the repealed Act; or
 - (d) the transaction is a lease, sublease or licence and the approval of the Minister is not required under section 46(3b).

[Section 18 amended by No. 59 of 2000 s. 8(1)-(5) ⁵.]

Local Government (Functions and General) Regulations 1996

30. Dispositions of property to which section 3.58 of the Act does not apply

- (2) A disposition of land is an exempt disposition if —
 - (a) the land is disposed of to an owner of adjoining land (in this paragraph called ***the transferee***) and —
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
 - (b) the land is disposed of to a body, whether incorporated or not —
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

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.

FINANCIAL/BUDGET IMPLCATIONS:

Lease preparation fees approximately \$1000.

Lease income of \$1,742.30 per annum inclusive of GST. Rent review on the basis of the CPI on each anniversary of the Commencement Date during the Term, unless the Lessor in its sole discretion elects to waive its right of rent review in respect of any particular rent review date.

WORKFORCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

VOTING REQUIREMENT:

Simple Majority

OFFICER RECOMMENDATION:

That Council;

1. Acknowledge that the disposition is an exempt disposition in accordance with Local Government (Functions and General) Regulations Section 30 (2)(b)(i).
2. Authorise the Shire President and Chief Executive Officer to execute the lease agreement for the Bremer Bay Community Resource Centre Inc for Lot 649 on Deposited Plan 189638 and being the whole of Land comprised in Certificate of Title Volume LR3010 Folio 86 for;
 - a lease term of 5 years commencing 1 April 2021 and expiring on 31 March 2026

MOTION: OCM210211

MOVED: Cr Dawson

SECONDED: Cr Iffla

That Council:

1. Acknowledge that the disposition is an exempt disposition in accordance with *Local Government (Functions and General) Regulations 1996* Section 30 (2)(b)(i).
2. Authorise the Shire President and Chief Executive Officer to execute the lease agreement for the Bremer Bay Community Resource Centre Inc for Lot 649 on Deposited Plan 189638 and being the whole of Land comprised in Certificate of Title Volume LR3010 Folio 86 for;
 - a lease term of 5 years commencing 1 April 2021 and expiring on 31 March 2026

CARRIED: 6/0

9.4.2 LRCI PROGRAM – PHASE 2

Location/Address:	Shire of Jerramungup
Name of Applicant:	Shire of Jerramungup
File Reference:	
Author:	Charmaine Solomon, Deputy Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	10 February 2021
Attachments:	Nil
Authority/Discretion:	Executive

SUMMARY:

The Local Roads Community Infrastructure (LRCI) Program was announced on 22 May 2020. On 6 October 2020, as part of the 2020-2021 Budget, the Government announced a further \$1 billion to extend the LRCI Program.

The LRCI Program supports local councils to create jobs by delivering priority local road and community infrastructure projects across Australia.

Shire staff are seeking Councils endorsement of the proposed projects to be submitted.

BACKGROUND:

Phase 2 of the LRCI Program will run from 14 December 2020 to 30 June 2022. Project construction can commence once work schedules are approved by the Department with projects required to be physically completed by 31 December 2021.

The LRCI Program assists a community-led recovery from COVID-19 by supporting local jobs, firms and procurement. The Shire can select a broad range of projects to fund so that communities can continue to be provided with the infrastructure they require.

The Shire of Jerramungup Phase 2 allocation is \$321,185.

Eligible grant activities under the Program include;

Local Roads Projects

Eligible Local Road Projects are projects that involve the construction or maintenance of roads managed by local governments. Local Governments are encouraged to consider works that support improved road safety outcomes. This could include projects involving any of the following associated with a road:

- Traffic signs;
- Traffic control equipment;
- Street lighting equipment;
- A bridge or tunnel;
- A facility off the road used by heavy vehicles in connection with travel on the road (for example, a rest area or weigh station);
- Facilities off the road that support the visitor economy; and
- Road and sidewalk maintenance, where additional to normal capital works schedules

Community Infrastructure Projects

Eligible Community Infrastructure Projects are projects that involve the construction, maintenance and/or improvements to council-owned assets (including natural assets) that are generally accessible to the public.

‘Generally accessible to the public’ means that the project, or the amenity provided by the project, is generally accessible to the public at large. Some areas are clearly publicly accessible as they are areas that are open to all members of the public such as parks, playgrounds, footpaths and roads.

All projects whether carried out on council owned land, or another type of public land, must deliver benefits to the community, such as improved accessibility, visual amenity, and/or safety. Examples of eligible works include:

- Closed Circuit TV (CCTV);
- Bicycle and walking paths;
- Painting or improvements to community facilities;
- Repairing and replacing fencing;
- Improved accessibility of community facilities and areas;
- Landscaping improvements, such as tree planting and beautification of roundabouts;
- Picnic shelters or barbeque facilities at community parks;
- Community/public art associated with an Eligible project;
- Playgrounds and skateparks (including all ability playgrounds);
- Noise and vibration mitigation measures; and
- Off-road car parks (such as those at sporting grounds or parks).

Other Public Land

Projects that involve the construction, maintenance and/or improvements to state and territory and crown owned land/assets and Commonwealth owned land/assets, can also be eligible projects where the Council can confirm that they have the authority of the land or asset owner to undertake the project at the nominated site(s) and the sites are accessible to the public (including natural assets).

CONSULTATION:

Elected Members

Executive Staff

Local Roads and Community Infrastructure Grant Guidelines

COMMENT:

The Shire of Jerramungup submitted a grant under the Recreational Boating Facilities Scheme: Round 25 to replace the Boat Ramp and Jetty at Fisheries Beach which is at the end of its useful life. The total construction cost of the project is \$858,709. On the 22 December 2020 the Shire was advised that a grant of \$644,032 had been approved for the project. The Shires contribution to the project is \$214,677.

The Shire had not budgeted for this project in 2020-2021 as the urgency to replace the boat ramp had not been identified until the Shire engaged a coastal engineer in August 2020 to undertake an onsite assessment. The visual inspection of the remedial works undertaken by Contractors had failed due to the demonstrated advanced deterioration that has impacted the integrity of the structure.

The construction of new boat ramps and jetty will improve operational safety for our all recreational boating enthusiasts. The Department of Transport has management responsibility for water-based infrastructure at Fisheries Beach. The beach and land infrastructure including the boat launching ramps are under the jurisdiction of the Shire of Jerramungup. Staff would like to propose that a project nomination be submitted for \$214,677 to go towards the construction of the new boat ramp and jetty under the LRCI Phase 2 Program.

The remaining funding is proposed to go towards a range of projects including;

Project ID	Project Name	Infrastructure Type	LRCI Program – Phase 2
1	Construction of Boat ramp & jetty	Community Infrastructure	\$214,677
2	Supply and erect safety fencing – Bremer Bay Skate Park & Roe Park, Jerramungup	Community Infrastructure	\$30,000
3	Replacement and installation of new Basketball Backboards, net and pole at Roe Park, Jerramungup and Pelican Park, Bremer Bay	Community Infrastructure	\$8,000
4	Installation of dump point, Jerramungup	Community Infrastructure	\$21,000
5	Replacement of playground equipment; Pelican Park, Bremer Bay, Roe Park, Jerramungup and Bremer Bay Skate Park	Community Infrastructure	\$22,508
6	Engage Painter – Mural Kokoda Opshop wall	Community Infrastructure	\$25,000

The budget estimates are provisional.

STATUTORY ENVIRONMENT:

There is no specific legislation applicable to this report.

Applying for this funding will require Council to enter into a grant agreement with the Commonwealth. This will be a standard form Commonwealth grant agreement. Funds will not be payable until the signed agreement is executed.

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.

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial implications for this report. The projects identified will be fully funded under the LRCI Program – Phase 2 allocation. It is anticipated that the projects listed will be undertaken this financial year except the construction of boat ramp and jetty as the project timeline indicates this project will be completed December 2021. The additional funding and projects will be factored into the 2020-21 budget review process.

WORKFORCE IMPLICATIONS:

Policies provide direction for all Shire of Jerramungup employees.

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 **ENDORSES** the priority projects totalling \$321,185 for funding under the Local Roads Community Infrastructure Program – Phase 2 allocation;

- **Construction of Boat ramp & jetty - \$214,677**
- **Supply and erect safety fencing – Bremer Bay Skate Park & Roe Park, Jerramungup -\$30,000**
- **Replacement and installation of new Basketball Backboards, net and pole at Roe Park, Jerramungup and Pelican Park, Bremer Bay - \$8,000**
- **Installation of dump point, Jerramungup - \$21,000**
- **Replacement of playground equipment; Pelican Park, Bremer Bay, Roe Park, Jerramungup and Bremer Bay Skate Park - \$22,508**
- **Engage Painter – Mural Kokoda Opshop wall - \$25,000**

MOTION: OCM210212**MOVED: Cr Leenhouders****SECONDED: Cr Dawson**

That Council **ENDORSES** the priority projects totalling \$321,185 for funding under the Local Roads Community Infrastructure Program – Phase 2 allocation;

- **Construction of Boat Ramp and Jetty – \$214,677;**
- **Supply and erect safety fencing – Bremer Bay Skate Park and Roe Park, Jerramungup - \$30,000;**
- **Replacement and installation of new Basketball Backboards, net and pole at Roe Park, Jerramungup and Pelican Park, Bremer Bay – \$8,000;**
- **Installation of dump point, Jerramungup – \$21,000;**
- **Replacement of playground equipment; Pelican Park, Bremer Bay, Roe Park, Jerramungup and Bremer Bay Skate Park – \$22,508; and**
- **Engage Painter – Mural Kokoda Opshop wall – \$25,000.**

CARRIED: 6/0

9.4.3 LOCAL GOVERNMENT CHILD SAFETY OFFICERS AND PROPOSED REPORTABLE CONDUCT SCHEME

Location/Address:	N/A
Name of Applicant:	Department of Local Government, Sport and Cultural Industries (DLGSC)
File Reference:	
Author:	Martin Cuthbert, Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	8 January 2021
Attachments:	<ol style="list-style-type: none"> 1. Discussion Paper 2. Reportable Conduct Scheme Green Bill 3. Reportable Conduct Scheme Information Sheet 4. National Principles for Child Safety Organisations 2019
Authority/Discretion:	Executive

SUMMARY:

The Department of Local Government, Sport and Cultural Industries (DLGSC) on behalf of the Western Australian Government (State Government) is implementing reforms from the recommendations of the Royal Commission into Institutional responses to Child Sexual Abuse (the Royal Commission).

The Royal Commission was established to investigate systemic failures by institutions in relation to allegations and incidents of child sexual abuse. The Royal Commission found that across many decades, many of society's institutions failed to protect children.

In response to the Royal Commission, the State Government is:

- developing a system of independent oversight to improve child safety in organisations;
- developing a State policy position on the Royal Commission's recommendation 6.12 specifying that local governments should designate child safety officers from within existing staff profiles. The DLGSC is seeking the Council's response to that suggestion.

BACKGROUND:

The Royal Commission's final report contained 409 recommendations directed towards the development of effective government regulation, improvement in institutional governance and increased community awareness of child sexual abuse in institutions.

The development of an independent oversight system comprises the following four areas:

- organisations to report certain types of misconduct by their employees (including contractors and volunteers) involving children (known as reportable conduct) to an independent oversight body;
- organisations engaged in child related work to comply with child safe standards (known as the National Principles for Child Safe Organisations) and their compliance be monitored by an independent oversight body;
- out-of-home care providers be accredited by an independent oversight body;
- youth detention environment to comply with the National Principles and their compliance be monitored by an independent oversight body.

Ombudsman WA has drafted the Parliamentary Commissioners Amendment (Reportable Conduct) Bill 2020 (Attachment 2).

The Bill obliges heads of organisations, including local governments, to notify an independent body of misconduct involving children, known as reportable conduct, by their employees, volunteers and contractors. Consultation on the draft legislation closes 31 January 2021.

The Royal Commission recommended 10 child safe standards to improve child safe cultures and practices across all sectors providing services to children and young people. The standards have since been

incorporated into the National Principles for Child Safe Organisations which were endorsed by the Council of Australian Governments in February 2019. The National Principles guide organisations to create child safe cultures and practices (Appendix 4). The Department of the Premier and Cabinet (DPC) is leading community consultation about how the legal compliance with the National Principles should be implemented. Organisations undertaking child-related work, such as local governments, are encouraged to provide comment by completing an online survey before 26 February 2021.

Royal Commission Recommendation 6.12 states that local governments should designate child safety officer positions from within existing staff profiles. The Department of Communities and DLGSC have drafted a discussion paper for the WA Local Government sector to better understand and respond to this recommendation (Attachment 1).

The State Government is seeking a formal response to the discussion paper, preferably through the relevant council, from local governments by 2 April 2021. Responses will inform the development of the State Government's policy position.

The State Government acknowledges that local governments will have differing levels of understanding of the Royal Commission and child safeguarding reforms.

Further information relating to the Independent Oversight System including how to provide a response is available on wa.gov.au.

CONSULTATION:

The State Government is seeking to consult with local governments. No consultation has taken place with external agencies, service groups or the community on this matter, nor is it deemed required, given it is response to the State Government about a local government position.

COMMENT:

Critically, the Royal Commission cited the fundamental role local governments play in assisting and resourcing communities across Australia, particularly in regional and remote areas, where access to resources and services is often more limited than for their urban counterparts.

The Royal Commission highlighted the important roles local governments play in communities that impact on the safety of children including:

- providing services to children, for example libraries, swimming pools and childcare;
- providing spaces for community activities, for example halls, theatres and sports grounds;
- funding or contracting services;
- facilitating community education or outreach programs;
- regulating planning and development approvals, infrastructure and property services; and
- water and food inspection.

The active role local governments take in community development and community safety, particularly roles that impact on child safety, was recognised as an opportunity to integrate their direct responsibilities to children with their wider role within the community.

The Commission adds *“Local governments are recognised as well placed to support smaller organisations within their communities to implement the National Principles and create child safe environments”*.

Through this consultation process the State Government has two key aims:

- to develop a better understanding of the current role of local governments in promoting child safety and how the outcomes of this work are reported internally, to executive and to council; and
- to use this understanding of current work promoting child safety to inform development of an approach to meet recommendation 6.12 of the Royal Commission in implementing the child safety officer role.

The State Government notes:

“As part of the response to this consultation process it would be useful for local governments to consider how to engage their local communities in relation to this issue. This active engagement can ensure that the community’s expectations and the local government’s outcomes and investment in child safety are well understood.

Local governments undertaking the required periodical review of their Integrated Planning and Reporting, may choose to include discussions on child safety as part of the engagement with the local community.”

Recommendation 6.12 of the Royal Commission recommended that, with support from governments at the national, state and territory levels, local governments should designate child safety officer positions from existing staff profiles to carry out the following functions:

- a) developing child safe messages in local government venues, grounds and facilities;
- b) assisting local institutions to access online child safe resources;
- c) providing child safety information and support to local institutions on a need’s basis; and
- d) supporting local institutions to work collaboratively with key services to ensure child safe approaches are culturally safe, disability aware and appropriate for children from diverse backgrounds.

The following is extracted from the Royal Commission’s findings:

“Child safety officers are intended to promote child safety within the organisation and support smaller community-based organisations providing services to children to create child safe environments. The role would be expected to support local staff and volunteers to build existing capacity around child safety within their organisations by providing information and assistance.

The Royal Commission’s view was that a child safety officer proximate to services and local industries would be especially important in regional and remote areas, given these communities are known to routinely miss out on resources and access to services that are available in urban centres. In regional and remote communities, child safety officers could be a conduit for information.

The Royal Commission’s view was that child safety officers should work closely with the independent state oversight body responsible for monitoring and enforcing the National Principles, as they would be well placed to support smaller organisations to understand how they can be child safe.

The intent of the Royal Commission is for local governments to identify where they already have existing staff who could fulfil a role of promoting child safety within the organisation and supporting smaller local organisations to develop capacity in this area. Local governments could create new positions to facilitate implementation of this role where desired and resourcing allows. Volume 6 and Volume 14 of the Royal Commission’s Final Report provide this recommendation in detail.

Acknowledging the existing investment local governments make to promoting community safety, including child safety, the Royal Commission stated that local governments do not need to provide additional financial investment into implementing a child safety officer role and suggest that existing community safety positions within local governments could be expanded to align existing responsibility to strengthen child safety.

The following portfolios may have existing roles that could be considered for alignment with child safety responsibilities and it is recognised that significant work is already occurring in these areas within some local governments to promote child safety, as recommended by the Royal Commission:

- *Community safety;*
- *Community and club development;*
- *Governance and risk;*
- *Communications; and*
- *Disability Access and Inclusion.*

It is also recognised that not all local governments have existing community safety positions or have limited capacity to expand the functions of these roles to include child safety. In fulfilling the functions of the child safety officer role, it is recognised that local government staff will need access to appropriate training. Where local governments have limited resources to create child safety officer positions the Royal Commission suggested that state and territory governments may be able to provide assistance.

3.1 Functions of the child safety officer

The four key functions of child safety officers, recommended by the Royal Commission, are outlined below with suggestions as to how each function may look in practice. It is noted that some of these examples may represent work already occurring in many local governments.

a) Developing child safe messages in local government venues, grounds and facilities

Developing child safe messages in local government venues, grounds and facilities promotes the knowledge and understanding of child safety by community members. Public messaging promotes the rights of children to feel safe as well as increasing the understanding of child safety by staff, volunteers and community members and acting as a deterrent for those who may intend to cause harm to children.

To implement this function would include:

- Working with key stakeholders including CCYP and the Working with Children Screening Unit to ensure that nationally consistent child safe messages are identified for use in local governments' venues, grounds and facilities.*
- Working with internal communication teams to print posters/signs outlining nationally consistent child safe messages for their various venues, grounds and facilities.*

b) Assisting local institutions to access online child safe resources

Institutions in local communities such as sole traders (i.e. music teachers, tennis coaches), private and community organisations (i.e. arts, cultural, community, sport and recreation groups, clubs and associations) may require assistance to access online child safe resources.

To implement this function would include:

- Facilitating the inclusion of information about child safety on their local government website including links to online child safe resource created by CCYP and the National Office of Child Safety. This would be in line with the current practice of many local governments in providing information and a link to Kidsport on their websites.*
- Signposting local government staff and local organisations to CCYP, the National Office of Child Safety, and other relevant resources on the local government's website.*

Other local government resources may also assist in facilitating this function. Community Resource Centres and libraries provide physical access to computers and the internet, and library staff could provide support to access suitable online child safe resources. Community, Club Development and Community Safety Officers may signpost to online resources within newsletters.

c) Provide child safety information and support to local institutions on a need's basis

Child safety officers are expected to provide general advice around promoting child safety and the implementation of the National Principles within organisations. For some local governments this may include hosting workshops/seminars with external providers.

It is expected that child safety officers would be supported by relevant agencies, such as CCYP, the National Office of Child Safety, or in the case of child protection concerns, the Western Australia Police Force or Department of Communities in meeting this function.

While it is not the intention of the Royal Commission for local government child safety officers to be a direct point of contact for community members or staff seeking advice on child protection matters, it would be important for anyone in this role to have appropriate knowledge and understanding of child abuse and neglect, as well as local child safeguarding procedures, in order to provide appropriate information, guidance and signposting. It is important for the local government to consider what support mechanisms are in place, to ensure the wellbeing of child safety officers when dealing with these matters and what specific areas of training would be required to build upon existing skills and knowledge of staff.

d) Support local institutions to work collaboratively with key services to ensure child safe approaches are culturally safe, disability aware and appropriate for children from diverse backgrounds

Communities within local government areas differ based on social demographics. The needs of supporting children from diverse backgrounds will differ based on the local population.

To implement this function would include:

- o Identifying needs within the local community and key services providing support in meeting these needs.*
- o Working collaboratively with local government staff, responsible for supporting disability inclusion and access and promoting the needs of Aboriginal and culturally diverse children, to provide advice and support to local organisations on implementing child safe approaches that are accessible and inclusive for children with diverse needs.*
- o Linking local institutions with key services, including disability advocacy services, Aboriginal family support services or professional interpreters”.*

Responses to the DLGSC consultation are due to the Department of Communities by close of business on Friday, 2 April 2021.

The National Principles for Child Safe Organisations are:

1. Child safety and wellbeing is embedded in organisational leadership, governance and culture.
2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved in promoting child safety and wellbeing.
4. Equity is upheld and diverse needs respected in policy and practice.
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes to respond to complaints and concerns are child focused.
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Implementation of the national child safe principles is regularly reviewed and improved.
10. Policies and procedures document how the organisation is safe for children and young people.

STATUTORY ENVIRONMENT:

There are no current relevant statutory implications. The proposal includes new legislation that will mandate the role of anyone involved in provision of children’s facilities or services to ensure that the relevant employee reports potential misconduct and the relevant organisation via its Principal Officer (or Chief Executive Officer) has appropriate mechanisms in place to encourage and receive reporting.

The requirement for every local government in Australia to mandate a Child Safety Officer, either as a new position dedicated to the role, or an existing employee with designated responsibility, is a suggested approach (by the Royal Commission and State Government) to meet the principles espoused by the Commonwealth via the Royal Commission.

Whilst hard to argue against the principle, there are two salient points – resources and funding to make it effective. Otherwise, in the opinion of the Administration, it is purely an example of cost shifting by the State and Commonwealth Governments, without any productive means to make it actionable at the local level. It runs the risk of being seen purely as a thought bubble and tokenism.

One cant simply give someone a title, in for example, an existing community development type role, without appropriate skillsets or training, and expect them to act as and be a 'Child Safety Officer'. It would be in name only and therefore in the opinion of the Administration, an attempt at cost shifting and a tokenistic approach.

What is the role of the State Government here with its various officers throughout the Regions and State in the Department of Child Protection's role?

Surely a hub and spoke model with centralised officers in the Perth Metropolitan Region and community based officers at existing or expanded regional branches such as Narrogin, Albany, Bunbury, is more practical and realistic, given the relative size of most local governments in WA that cannot afford or justify a standalone officer (or title of a position in name only) in such a role?

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.

2.5.3 – Participate in governance and staff development projects to build local capacity and expertise.

FINANCIAL/BUDGET IMPLICATIONS:

The requirement to put in place appropriate mechanisms is largely administrative and of no direct financial outlay. The requirement or expectation to appoint (and implement) State and Commonwealth principles associated with Child Safety Officers at every local government in Australia however, will come at a cost, either by reducing services in another area or adding cost to rates, without appropriate financial and administrative resources from the government agencies already entrusted with this role.

The State Government Agency in WA entrusted with Child Welfare, is primarily the Department of Child Protection (and Police Department). Effectively the State is asking that local governments be 'an extension' or arm of this agency, without offering any promise of resources or financial assistance. Is this an acknowledgement of the failure of the current State Government Agency or inadequate funding for that Agency by the State?

The risk, over time, if not initially, is that this burden will grow and expectation of service delivery will grow, such that it will be seen as part of the 'business' of local government, without appropriate resources.

WORKFORCE IMPLICATIONS:

If local governments are forced to designate the role to a new or existing officer it will come at either a direct financial cost or a reduction in services to another area by that officer.

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 Local Government Child Safety Officers and the proposed Reportable Conduct Scheme, Council:

1. Respond to the Department of Local Government, Sport and Cultural Industries' Discussion Paper, in accordance with the comments contained within the Officers' Report and rejecting the notion that local governments in WA should appoint Child Safety Officers, either to an existing position, or as a role or additional employee, as this role is best delivered by an adequately administered and funded State Government Agency, such as the existing Department of Child Protection, with appropriate trained, skilled and supported officers at regional centres throughout WA, and not through a tokenistic and cost-shifting approach as outlined by the Department of Local Government Sport and Cultural Industries.
2. Endorse the principles outlined in the National Principles for Child Safe Organisations.
3. Endorse the principles of local governments being able to support and promote messages about child safety in its venues, facilities and services it provides to children.
4. Endorse the principles of the draft bill and request the Chief Executive Officer to ensure that the Shire and its employees comply with any requirements of the Shire, or its employees, in implementing any Child Safety Reportable Conduct Scheme, should such laws be enacted.

MOTION: OCM210213

MOVED: Cr Leenhouders

SECONDED: Cr Dawson

That with respect to Local Government Child Safety Officers and the proposed Reportable Conduct Scheme, Council:

1. Respond to the Department of Local Government, Sport and Cultural Industries' Discussion Paper, in accordance with the comments contained within the Officers' Report and rejecting the notion that local governments in WA should appoint Child Safety Officers, either to an existing position, or as a role or additional employee, as this role is best delivered by an adequately administered and funded State Government Agency, such as the existing Department of Child Protection, with appropriate trained, skilled and supported officers at regional centres throughout WA, and not through a tokenistic and cost-shifting approach as outlined by the Department of Local Government Sport and Cultural Industries.
2. Endorse the principles outlined in the National Principles for Child Safe Organisations.
3. Endorse the principles of local governments being able to support and promote messages about child safety in its venues, facilities and services it provides to children.
4. Endorse the principles of the draft bill and request the Chief Executive Officer to ensure that the Shire and its employees comply with any requirements of the Shire, or its employees, in implementing any Child Safety Reportable Conduct Scheme, should such laws be enacted.

CARRIED: 6/0

9.4.4 CODE OF CONDUCT FOR COUNCIL MEMBERS, COMMITTEE MEMBERS AND CANDIDATES

Location/Address:	N/A
Name of Applicant:	Department of Local Government, Sport and Cultural Industries (DLGSC)
File Reference:	
Author:	Martin Cuthbert, Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	15 February 2021
Attachments:	<ol style="list-style-type: none"> 1. Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates 2. Draft – Shire of Jerramungup Code of Conduct for Council Members, Committee Members and Candidates 3. Complaint about alleged Breach Draft Template
Authority/Discretion:	Legislative

SUMMARY:

The government has enacted new legislation requiring all local governments to adopt a new Code of Conduct for Council Members, Committee Members and Candidates for a local government election, and to deal with ancillary matters.

BACKGROUND:

The following regulations took effect on 3 February 2021, implementing the remaining parts of the *Local Government Legislation Amendment Act 2019*:

- *Local Government (Administration) Amendment Regulations 2021;*
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021;*
- *Local Government (Model Code of Conduct) Regulations 2021.*

In regard to the *Local Government (Model Code of Conduct) Regulations 2021*, local governments are required to adopt a Code of Conduct for Council Members, Committee Members and Candidates within three (3) months of the Regulations taking effect.

To account for any breaches occurring on and from the first day that the Regulations take effect, local governments must authorise at least one person to receive complaints. This has to be done by the 24 February 2021.

CONSULTATION:

Nil

COMMENT:

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates, which is an attachment to this item. It is expected that a Model Code will be developed in coming months to meet the three (3) month deadline and its adoption will be the subject of a separate consideration/approval by Council.

In the interim, the Model Code of Conduct has been recommended and appears to be satisfactory. The Chief Executive Officer has proposed replacing the word 'work' in clause 5 of the Model, with 'working' due to Elected Members and Committee Member not considered to be 'workers' or at 'work' from an employer/employee perspective.

The guidelines indicate that local governments must authorise at least one person to receive complaints regarding members and candidates. The Regulations state that the local government must, in writing,

authorise one or more persons to receive complaints and withdrawals of complaints, but they do not specify who that person(s) will be. The Complaints Officer could be:

- President,
- Deputy President (especially for complaints about the President),
- Chief Executive Officer, or
- External Consultant

The DLGSC has also produced a template complaints form as the Regulations state that complaints are to be made in writing in a form approved by the Local Government. The DLGSC template form is another attachment to this item (Attachment 3).

While there is a requirement to appoint a Complaints Office by the 24 February 2021 under the amended Regulations, for clarity, it is noted that there is still a requirement for a local governments to have a Complaints Officer (section 5.120 of the *Local Government Act 1995*). This role is to process allegations of 'Rules of Conduct' breaches, and these alleged breaches are still to be referred to the Local Government Standards Panel (refer Division 4 of the Model Code of Conduct). The position of Chief Executive Officer is currently designated as that officer.

In time, with the development of templates by industry or the Western Australian Local Government Association (WALGA), local governments can determine the most appropriate and effective process for dealing with complaints under Division 3 of the Code of Conduct and how they are prioritised and managed. Having such processes at the moment is not required by the law and nor considered critical.

STATUTORY ENVIRONMENT:

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- *Local Government Act 1995*
- *Local Government (Administration) Amendment Regulations 2021*
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021*
- *Local Government (Model Code of Conduct) Regulations 2021.*

Resources and further reading for local governments include:

<https://www.dlgsc.wa.gov.au/local-government/strengthening-local-government/public-consultations/local-government-act-review/priority-reforms/model-code-of-conduct>

https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/model-code-of-conduct-guidelines.pdf?sfvrsn=b507b9c3_0

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.

2.5.3 – Participate in governance and staff development projects to build local capacity and expertise.

FINANCIAL/BUDGET IMPLICATIONS:

There are no known meaningful financial implications relative to this matter in excess of officer time and minor administrative costs.

WORKFORCE IMPLICATIONS:

There are no workforce implications for this report.

POLICY IMPLICATIONS:

The Council's existing Code of Conduct must be repealed, as the Act and Regulations now stipulates there are to be at least two separate Codes, one for Council Members, Committee Members and Candidates, and another for local government employees.

VOTING REQUIREMENT:

Absolute Majority required for adoption of the Code of Conduct.

OFFICER RECOMMENDATION:

That with respect to the new Model Code of Conduct for Council Members, Committee Members and Candidates for a local government election, Council;

1. Repeal the existing Code of Conduct for Council Members, Committee Members and Employees;
2. Note that pursuant to section 5.51A of the *Local Government Act 1995*, the Chief Executive Officer will be preparing an interim Code of Conduct for all employees of the Shire, including the Chief Executive Officer, based on the repealed version, prior to any model being available from WALGA.
3. Pursuant to section 5.104 of the *Local Government Act 1995*, adopt the new Code of Conduct for Council Members, Committee Members and Candidates for local government elections for Jerramungup, listed as Attachment 2 and request the Chief Executive Officer to ensure all Elected Members and Committee Members are aware of its content;
4. Pursuant to the *Local Government (Model Code of Conduct) Regulations 2021*;
 - a) Clause 11 (2), adopt the form for lodging complaints, listed as Attachment 3;
 - b) Clause 11 (3), authorise the following persons to receive Division 3 complaints and withdrawals of same, relating to about Council Members, Committee Members and Candidates:
 - i. Complaints about Council Members or candidates for elections that become Council Members, excluding those made by the Shire President – the Shire President;
 - ii. Complaints made by the Shire President excluding those made by the Deputy Shire President – the Deputy Shire President;
 - iii. Complaints about the Shire President – the Deputy Shire President; and
 - iv. Complaints about the Deputy Shire President made by the Shire President – a committee comprising the remaining Council Members.
5. Pursuant to sections 5.551A (3) and 5.104 (7) of the *Local Government Act 1995*, request the Chief Executive Officer to ensure that both of the updated/adopted Codes of Conduct are published on the Shire's official website, as soon as practicable.

Cr Price left the meeting at 3.19pm.

MOTION: OCM210214

MOVED: Cr Iffla

SECONDED: Cr Parsons

That with respect to the new Model Code of Conduct for Council Members, Committee Members and Candidates for a local government election, Council;

- 1. Repeal the existing Code of Conduct for Council Members, Committee Members and Employees;**
- 2. Note that pursuant to section 5.51A of the *Local Government Act 1995*, the Chief Executive Officer will be preparing an interim Code of Conduct for all employees of the Shire, including the Chief Executive Officer, based on the repealed version, prior to any model being available from WALGA.**
- 3. Pursuant to section 5.104 of the *Local Government Act 1995*, adopt the new Code of Conduct for Council Members, Committee Members and Candidates for local government elections for Jerramungup, listed as Attachment 2 and request the Chief Executive Officer to ensure all Elected Members and Committee Members are aware of its content;**
- 4. Pursuant to the *Local Government (Model Code of Conduct) Regulations 2021*;**
 - a) Clause 11 (2), adopt the form for lodging complaints, listed as Attachment 3;**
 - b) Clause 11 (3), authorise the following persons to receive Division 3 complaints and withdrawals of same, relating to about Council Members, Committee Members and Candidates:**
 - i. Complaints about Council Members or candidates for elections that become Council Members, excluding those made by the Shire President – the Shire President;**
 - ii. Complaints made by the Shire President excluding those made by the Deputy Shire President – the Deputy Shire President;**
 - iii. Complaints about the Shire President – the Deputy Shire President; and**
 - iv. Complaints about the Deputy Shire President made by the Shire President – a committee comprising the remaining Council Members.**
- 5. Pursuant to sections 5.551A (3) and 5.104 (7) of the *Local Government Act 1995*, request the Chief Executive Officer to ensure that both of the updated/adopted Codes of Conduct are published on the Shire’s official website, as soon as practicable.**

CARRIED BY AN ABSOLUTE MAJORITY: 5/0

9.4.5 2021 LOCAL GOVERNMENT ELECTIONS – WAEC POSTAL VOTING

Location/Address:	N/A
Name of Applicant:	Shire of Jerramungup
File Reference:	GV.EL.2
Author:	Charmaine Solomon, Deputy Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	2 February 2021
Attachments:	Correspondence from Western Australian Electoral Commission
Authority/Discretion:	Executive

SUMMARY:

The purpose of this report is to seek Council's endorsement for the Western Australian Electoral Commission (WAEC) to conduct as a postal election, the 2021 local government ordinary elections and any other election or poll that may be required for the Shire of Jerramungup up to but not including the 2021 ordinary election.

BACKGROUND:

The next local government elections will take place on Saturday, 16 October 2021. As part of Council's planning for the election Council must consider the method of conducting the election and the appointment of a returning officer, if other than the Chief Executive Officer.

Council has supported local government elections being conducted by postal vote and managed by the WAEC since 2009, and the Electoral Commission is currently seeking an indication from the Shire of Jerramungup as to its intentions for the October 2021 elections. This is primarily for the Commission's own internal planning but will also assist Council staff in preparing future budgets.

In accordance with the *Local Government Act 1995*, Council can opt to conduct a local government election either as an in person election or a postal election. Current legislation dictates that if a Council decides to conduct a postal election, the WAEC must conduct the election, with the cost of the election to be recouped by the WAEC on the basis of full cost recovery.

Local government elections occur on the third Saturday in October every two years. Councillors each serve four year terms. The Shire of Jerramungup has three Councillors whose term expires in 2021.

A summary of each voting method is listed below:

Attendance Voting:

- Voters are required to attend a polling place within the municipality on election day.
- Consistent with State and Federal election voting methods.
- Usually lower voter participation rate compared to postal voting.
- Incorrectly enrolled voters are more effectively managed.
- Cost to conduct an attendance election is higher than a postal ballot.

Postal Voting:

- No need for voters to attend a polling place on election day.
- Provides more time for completing the ballot paper.
- Better enables aged, infirm and disabled voters to participate in the election.
- Higher voter participation rate compared with attendance voting.
- More difficult to manage incorrectly enrolled voters.
- Cost to run a postal election is less than an attendance election.
- Generally, postal voting has resulted in lower levels of informal votes than attendance voting.

Many local government authorities in Western Australia are moving away from in person voting to postal voting for the local elections for a variety of reasons. These include the costs, access and transparency.

While there is little in the way of specific direction on this aspect of electoral administration, international best-practice literature consistently refers to the need for parties and candidates not to interfere with election processes. The handbook of electoral standards of the International Institute for Democracy and Electoral Assistance (International IDEA), while concentrating on polling day behaviour, also refers to the need for parties not to ‘handle any official election material’. The emphasis is on parties observing rather than being involved in the conduct of an election.

It is also widely accepted that, to ensure free and fair elections and to maintain transparency, electoral management bodies should be independent, both of the government of the day and of any political partisan connections. This is also true of local government where the election process must be seen as a transparent process.

Prior to the 2009 election, the Shire conducted its elections in house by attendance voting. This meant that a number of Shire staff were involved in the election process. In order to have a transparent process, the option of the WAEC continuing to conduct the election would remove any possibility of staff being “involved” in the actual process and that the CEO and staff would remain at arm’s length from potentially contentious aspects of the electoral process.

CONSULTATION:

Efficiencies of costs, reduced impost on staff, accessibility for electors and transparency, with staff being kept at arm’s length from the election process, were provided as reasons for the majority of these local government authorities continuing with the WAEC conducting the election for both postal and in person methods.

COMMENT:

Council has received written advice from the Electoral Commissioner agreeing to be responsible for the conduct of the 2021 local government ordinary election, as a voting in person election, at an estimated cost of \$14,000 (inc GST).

Local government elections can be either a postal election, which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day, or a voting in person election.

The Electoral Commissioner is responsible for conducting postal elections in Western Australia and conducts voting in person elections on request under extenuating circumstances. By making the Electoral Commissioner responsible for these elections, the local governments concerned ensure that elections are conducted independently and with impartiality.

The WAEC has provided the Shire with an estimate to conduct a voting in person election for the 2021 election with the estimated cost being \$14,000 (inc GST). This is based on an election being required to fill three vacancies, a total of approximately 850 electors and the count being conducted at the premises of the Shire of Jerramungup.

This estimate includes the following:

- appointment of a Returning Officer
- Statutory advertising
- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns
- A proportion of the total cost of West Australian Electoral Commission staff time and corporate overheads.

Costs not incorporated in this estimate include:

- non-statutory advertising (ie additional advertisements in community newspapers and promotional advertising)
- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns.

Having regard to the matters outlined above, there are two options available to Council as to how they wish to run the 2021 elections;

1. Postal election—run by the Electoral Commissioner.
2. Voting in person—run by the local government.

It is recommended that Option 1 be adopted, given;

Advantages for Electors:

- Convenience of casting a vote in their own homes – particularly for disabled and aged voters and those without access to transport.
- Provision of candidate profiles to each elector to assist in their decision-making.
- Time to contact candidates and make an informed decision.
- Reduced costs in time and travel in casting a vote.

Advantages for Candidates:

- Availability of an experienced Returning Officer “at arms length” from local government business.
- Detailed candidates’ guides prepared by the Electoral Commission.
- An opportunity to reach all eligible electors at no cost through the candidate profile.
- Confidence that the election is being run by the State’s independent Electoral Commission.
- Elected candidates have an increased support base.

Advantages for the Local Government:

- All eligible electors are given information about the election.
- Electors can vote more easily as there are virtually no barriers to voting.
- Elections are seen to be conducted by the impartial Western Australian Electoral Commission.
- The workload for the CEO is reduced in an area that is not core business.
- The vast majority of elector and candidate enquiries are received and resolved by either the Returning Officer or the Electoral Commissioner.
- Statutory requirements are fulfilled.
- A full election report (including statistics) is prepared by the Electoral Commission for presentation to Council.
- Materials and equipment used in the processes meet contemporary electoral standards.
- Economies of scale can reduce some of the costs.
- Elected Councillors have a high level of support from the local community due to the broader turnout at postal elections.

There is a possibility that an election would not be required, in the event that only four nominations are received for the four vacancies.

STATUTORY ENVIRONMENT:

The principal legislation covering local government elections is:

Part 4 of the *Local Government Act 1995*;

The *Local Government (Elections) Regulations 1997*; and

The *Local Government (Constitution) Regulations 1998*.

4.20. CEO to be returning officer unless other arrangements made

- (1) *Subject to this section the CEO is the returning officer of a local government for each election.*
- (2) *A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint* a person other than the CEO to be the returning officer of the local government for— (a) an election; or (b) all elections held while the appointment of the person subsists.*

* *Absolute majority required.*

- (3) *An appointment under subsection (2)— (a) is to specify the term of the person’s appointment; and (b) has no effect if it is made after the 80th day before an election day.*
- (4) *A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.*

** Absolute majority required.*

- (5) *A declaration under subsection (4) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.*
- (6) *A declaration made under subsection (4) on or before the 80th day before election day cannot be rescinded after that 80th day.*

4.61. Choice of methods of conducting election

- (1) *The election can be conducted as a —*

postal election *which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or*

voting in person election *which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.*

- (2) *The local government may decide* to conduct the election as a postal election.*

** Absolute majority required.*

- (3) *A decision under subsection (2) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.*
- (4) *A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.*
- (5) *A decision made under subsection (2) on or before the 80th day before election day cannot be rescinded after that 80th day.*
- (6) *For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.*
- (7) *Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.*

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:

2.5.1 – Maintain a high standard of community consultation and engagement.

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

FINANCIAL IMPLICATIONS:

The WAEC conduct elections on behalf of local governments on a full cost recovery basis. The Shire has received an estimate from WAEC to conduct the 2021 election of \$14,000 inc GST for a postal election. This may vary depending on a number of factors including the cost of materials or number of replies received.

Not included in the estimate are non-statutory advertising and any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns.

Funding for the election will be included in the 2021/2022 draft budget whether conducted in house by staff or the WAEC.

Financial implications to be considered should Council otherwise opt to conduct an in house, in person election include:

- production and printing of all election related material
- advertising, both statutory and any other local and promotional advertising
- staffing, including engagement of a Returning Officer (generally the Chief Executive Officer) and staff for the conduct of early voting, at any polling booths on polling day and additional staff required to count the votes at the close of the poll.

It is considered that the printing and production costs for all election related material would be at least that incurred by the WAEC given the economies of scale that WAEC can achieve by running more than 80 elections at once.

Consideration would also need to be given to the resourcing implications for both the CEO and the administration staff with the additional workload and the necessary training to undertake the responsibility of managing the election in house.

If candidates are elected unopposed there will still be a cost to Council, however costs incurred will be significantly less than conducting a full election process.

WORKFORCE IMPLICATIONS:

There are no additional workforce implications for this report if Council resolves to engage the WAEC to conduct the election. Alternatively, if Council preferred the elections to be conducted in-house additional staff resources and training would be required to manage the election process.

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, BY AN ABSOLUTE MAJORITY:

1. **DECLARE, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2021 Shire of Jerramungup ordinary elections together with any other elections or polls which may be required; and**
2. **DECIDE, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.**

MOTION: OCM210215

MOVED: Cr Leenhouders

SECONDED: Cr Iffla

That Council, BY AN ABSOLUTE MAJORITY:

- 1. DECLARE, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2021 Shire of Jerramungup ordinary elections together with any other elections or polls which may be required; and**
- 2. DECIDE, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election.**

CARRIED BY AN ABSOLUTE MAJORITY: 5/0

Cr Price returned to the meeting at 3.23pm.

9.4.6 MODEL STANDARDS FOR CEO RECRUITMENT, PERFORMANCE AND TERMINATION

Location/Address:	N/A
Name of Applicant:	Department of Local Government, Sport and Cultural Industries (DLGSC)
File Reference:	
Author:	Martin Cuthbert, Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	The Author declares both an Impartiality and Financial Interest that requires disclosure as the officer is potentially impacted by adoption or variation of the standards
Date of Report:	16 February 2021
Attachments:	<ol style="list-style-type: none"> Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination <i>Local Government (Administration) Amendment Regulations 2021 – Explanatory Notes</i>
Authority/Discretion:	Legislative

SUMMARY:

The government has enacted new legislation requiring all local governments to adopt mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers.

The *Local Government (Administration) Amendment Regulations 2021* (CEO Standards Regulations) bring into effect section 22 of the Amendment Act.

The Model CEO Standards provide a framework for local governments to select a CEO, review their performance and terminate their contract of employment early, in accordance with the principles of merit, probity, fairness, equity and transparency.

BACKGROUND:

The following regulations took effect on 3 February 2021, implementing the remaining parts of the *Local Government Legislation Amendment Act 2019*:

- *Local Government (Administration) Amendment Regulations 2021*;
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021*; and
- *Local Government (Model Code of Conduct) Regulations 2021*.

Key features of the regulations relating to recruitment, selection, performance review and early termination of local government Chief Executive Officers include the requirements to:

- establish a selection panel comprised of council members and at least one independent person to conduct the recruitment and selection process for the position of CEO;
- establish a performance review process by agreement between the local government and the CEO; and
- conduct a recruitment and selection process where an incumbent CEO has held the position for a period of ten or more consecutive years on expiry of the CEO's contract.

In addition, requirements for advertising vacant CEO positions have been updated to align with amendments to state-wide public notice provisions.

Local governments will be required to prepare and adopt the Model Standards within three months of these regulations coming into effect (by 3 May 2021). Until such time as a local government adopts the Model Standards (with or without minor permitted variations), the regulations apply.

Local governments that have a CEO recruitment process currently underway, or are about to commence a CEO recruitment process, are encouraged to contact the department to discuss compliance with the new Standards.

CONSULTATION:

Nil

COMMENT:

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced Guidelines on the Standards, which is Attachment 1 to this item.

If the local government doesn't adopt the model standards, they are taken to be the Shire's Standards.

The Chief Executive Officer is of the opinion that they are satisfactory to be adopted without modification, (provided at Attachment 3), however the Council is at liberty to adjust them, as long as they are not inconsistent with the default standards in the regulations.

There is a requirement to adopt a set of Standards by 3 May 2021.

The current Chief Executive Officer's contract expires until 15 April 2021 and Council has endorsed a further 3 year contract to expire 2024. Under this new legislative change, it would only be renewable for up to one more 4 year term, if both parties are agreeable, before the Council is legally bound to advertise the position in accordance with the adopted standards of the day.

In the opinion of the author, the current process for review of the current Chief Executive Officer's performance is consistent with the model requirements.

In the opinion of the author, the proposed process for early termination of a Chief Executive Officer's contract of employment appears fair and reasonable.

STATUTORY ENVIRONMENT:

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- *Local Government Act 1995, Section 5.39B;*
- *Local Government (Administration) Amendment Regulations 2021; and*
- *Local Government (Administration) Regulations 1996.*

5.39B, States:

"Adoption of model standards

(1) In this section —

model standards means the model standards prescribed under section 5.39A(1).

(2) Within 3 months after the day on which regulations prescribing the model standards come into operation, a local government must prepare and adopt standards to be observed by the local government that incorporate the model standards.*

** Absolute majority required.*

(3) Within 3 months after the day on which regulations amending the model standards come into operation, the local government must amend the adopted standards to incorporate the amendments made to the model standards.*

** Absolute majority required.*

(4) A local government may include in the adopted standards provisions that are in addition to the model standards, but any additional provisions are of no effect to the extent that they are inconsistent with the model standards.

- (5) *The model standards are taken to be a local government’s adopted standards until the local government adopts standards under this section.*
- (6) *The CEO must publish an up-to-date version of the adopted standards on the local government’s official website.*
- (7) *Regulations may provide for –*
- (a) the monitoring of compliance with adopted standards; and*
 - (b) the way in which contraventions of adopted standards are to be dealt with”.*

Resources and further reading for local governments include:

Attachment 1 https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/ceo-standards-and-guidelines.pdf?sfvrsn=706437d2_0

Attachment 2 https://www.dlgsc.wa.gov.au/docs/default-source/local-government/local-government-act-review/ceo-model-standards-explanatory-notes.pdf?sfvrsn=f0e031d0_3

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.

2.5.3 – Participate in governance and staff development projects to build local capacity and expertise.

FINANCIAL/BUDGET IMPLICATIONS:

The adoption of the model standard – which is required by law, with only minor variations permitted, and only to the extent that it is not inconsistent, will, in all probability, add to the cost of recruitment of a Chief Executive Officer. This by virtue of the additional administrative requirements of a consultant, if a consultant is utilised, as well as the need for an external person (in addition to the consultant) to be on the recruitment panel – which may require remuneration. Typically, prior to these legislative changes, the recruitment of a Chief Executive Officer, for a band 4 local government, and utilising a consultant (who must be licensed) costs anywhere from \$5,000 to \$20,000, plus advertising.

It is not known what additional cost might be incurred with the adoption of the ‘minimum’ standard, however it conceivably will certainly add administrative time, due to the additional legislated components and recording requirements.

One might argue that ‘gone are the days’ that a local government can recruit, or certainly terminate, a Chief Executive Officer without a consultant, with these new regulatory measures.

It will almost certainly add time, as any variations (no matter how seemingly insignificant or minor) to the proposed contract to be offered, have to be previously permitted/agreed by resolution of the Council.

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 required for adoption of the Standards.

OFFICER RECOMMENDATION:

That with respect to the new mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers, Council, BY AN ABSOLUTE MAJORITY;

1. Pursuant to section 5.39B (2) of the *Local Government Act 1995*, adopt the new Model Standards for Chief Executive Officer Recruitment, Performance and Termination as detailed in Attachment 3;
2. Pursuant to section 5.39B (6) of the *Local Government Act 1995*, request the Chief Executive Officer to ensure that the adopted Standards are published on the Shire's official website, as soon as practicable.

MOTION: OCM210216**MOVED: Cr Iffla****SECONDED: Cr Dawson**

That with respect to the new mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers, Council, BY AN ABSOLUTE MAJORITY;

1. Pursuant to section 5.39B (2) of the *Local Government Act 1995*, adopt the new Model Standards for Chief Executive Officer Recruitment, Performance and Termination as detailed in Attachment 3;
2. Pursuant to section 5.39B (6) of the *Local Government Act 1995*, request the Chief Executive Officer to ensure that the adopted Standards are published on the Shire's official website, as soon as practicable.

CARRIED BY AN ABSOLUTE MAJORITY: 6/0

9.4.7 INFORMATION BULLETIN DECEMBER 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:	24 February 2021
Attachments:	1. December 2020 Information Bulletin
Authority/Discretion:	Information

SUMMARY:

To advise Council on the information items for December 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 December 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/BUDGET 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 December 2020.

MOTION: OCM210217**MOVED: Cr Iffla****SECONDED: Cr Leenhouders****That Council RECEIVE the Information Bulletin including the actions performed under delegated authority for the month of December 2020****CARRIED: 6/0**

9.4.8 INFORMATION BULLETIN JANUARY 2021

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:	24 February 2021
Attachments:	2. January 2021 Information Bulletin
Authority/Discretion:	Information

SUMMARY:

To advise Council on the information items for January 2021 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 January 2021.

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 —

- d) how the person exercised the power or discharged the duty; and*
- e) when the person exercised the power or discharged the duty; and*
- f) 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/BUDGET 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 January 2021.

MOTION: OCM210218**MOVED: Cr Parsons****SECONDED: Cr Iffla**

That Council, RECEIVE the Information Bulletin including the actions performed under delegated authority for the month of January 2021.

CARRIED: 6/0

MOTION: OCM210219**MOVED: Cr Iffla****SECONDED: Cr Dawson****That Council close the meeting to the public.****CARRIED: 6/0****10.0 MATTERS FOR WHICH THE MEETING MAY BE CLOSED****(CONFIDENTIAL MATTERS)****10.1 CONFIDENTIAL – APPOINTMENT OF PREFERRED CANDIDATE – MANAGER OF WORKS****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:** 18 February 2021**Attachments:** Confidential – Contract to be provided under separate cover**Authority/Discretion:** Executive**OFFICER RECOMMENDATION:**

That Council **ENDORSE** the Chief Executive Officer's appointment of the preferred applicant to the position of Manager of Works with the Shire of Jerramungup in accordance with the attached contract of employment.

MOTION: OCM210220**MOVED: Cr Parsons****SECONDED: Cr Price**

That Council ENDORSE the Chief Executive Officer's appointment of the preferred applicant to the position of Manager of Works with the Shire of Jerramungup in accordance with the attached contract of employment.

CARRIED: 6/0

The Shire's Project Manager, Rowan Gilbert from H&H Architect joined the meeting via teleconference to address any queries relating to Item 10.2 Tender Consideration, Jerramungup Swimming Pool at 3.27pm.

10.2 CONFIDENTIAL – TENDER CONSIDERATION, JERRAMUNGUP SWIMMING POOL

Location/Address:	Lot 500 (#2) Lancaster Road, Jerramungup WA 6337
Name of Applicant:	Shire of Jerramungup
File Reference:	A10281
Author:	Charmaine Solomon, Deputy Chief Executive Officer & Janna Cheshire, Project Officer/Building Surveyor
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	19 February 2021
Attachments:	<p>Confidential attachment - Main Works Assessment Matrix- Jerramungup Swimming Pool</p> <p>Confidential attachment – Tender submission received</p> <ol style="list-style-type: none"> 1. Paragon Pools WA 2. Wauters 3. Pindan 4. Cooper & Oxley 5. M/Construction
Authority/Discretion:	Executive

OFFICER RECOMMENDATION:

That Council:

1. Award Tender RFT 01/21 to M/Constructions for the demolition of all existing infrastructure and the construction of one new main pool, one baby/toddler pool, one new pump shed, male/female/unisex accessible change rooms, one first aid room and one storage room plus associated infrastructure at the Jerramungup District High School, 2 Lancaster Road in Jerramungup for the sum included in the attachment as the most advantageous tender, in accordance with the specifications, terms and conditions specified in the tender documentation;
2. Authorise the CEO to liaise with the successful tenderers to achieve design outcomes and cost savings;
3. Authorises the CEO, in accordance with section 9.49A(4) of the *Local Government Act 1995*, to execute the contract for Tender RFT 01/21 to M/Constructions for the demolition of all existing infrastructure and the construction of one new main pool, one baby/toddler pool, one new pump shed, male/female/unisex accessible change rooms, one first aid room and one storage room plus associated infrastructure at the Jerramungup District High School, 2 Lancaster Road in Jerramungup, in accordance with the specifications, terms and conditions specified in the tender documentation once the above matters are addressed;
4. In the event that the preferred contractor is unavailable to perform the works when required, authorise the CEO to accept the next best available offer from the tenders.

The Shire's Project Manager, Rowan Gilbert from H&H Architect left the meeting via teleconference at 3.38pm.

MOTION: OCM210221**MOVED: Cr Dawson****SECONDED: Cr Leenhouders****That Council:**

- 1. Award Tender RFT 01/21 to M/Constructions for the demolition of all existing infrastructure and the construction of one new main pool, one baby/toddler pool, one new pump shed, male/female/unisex accessible change rooms, one first aid room and one storage room plus associated infrastructure at the Jerramungup District High School, 2 Lancaster Road in Jerramungup for the sum included in the attachment as the most advantageous tender, in accordance with the specifications, terms and conditions specified in the tender documentation;**
- 2. Authorise the CEO to liaise with the successful tenderers to achieve design outcomes and cost savings;**
- 3. Authorises the CEO, in accordance with section 9.49A(4) of the *Local Government Act 1995*, to execute the contract for Tender RFT 01/21 to M/Constructions for the demolition of all existing infrastructure and the construction of one new main pool, one baby/toddler pool, one new pump shed, male/female/unisex accessible change rooms, one first aid room and one storage room plus associated infrastructure at the Jerramungup District High School, 2 Lancaster Road in Jerramungup, in accordance with the specifications, terms and conditions specified in the tender documentation once the above matters are addressed;**
- 4. In the event that the preferred contractor is unavailable to perform the works when required, authorise the CEO to accept the next best available offer from the tenders.**

CARRIED: 6/0**MOTION: OCM210222****MOVED: Cr Leenhouders****SECONDED: Cr Iffla****That Council open the meeting to the public.****CARRIED: 6/0**

Janna Cheshire left the meeting at 3.43pm and did not return.

11.0 COUNCILLOR REPORTS

Cr Parsons

Attended Australia Day Breakfast

Attended Great Southern Regional Road Group meeting

Attended Annual Electors Meeting

Attended Special Meeting of Council

Cr Price

Attended Australia Day Breakfast

Attended Annual Electors Meeting

Attended Special Meeting of Council

Attended a WALGA Zone meeting

Cr Iffla

Attended Australia Day Breakfast

Attended BBCDC meeting

Attended Annual Electors Meeting

Attended Special Meeting of Council

Attended Strategic Plan Review Workshop Session with Meeting with Juliet Grist from the South Coast Alliance Inc

Attended meeting with Bruce Manning, GSDC

Cr Dawson

Attended Australia Day Breakfast

Attended Annual Electors Meeting

Attended Special Meeting of Council

Attended Strategic Plan Review Workshop Session with Meeting with Juliet Grist from the South Coast Alliance Inc

Cr Leenhouders

Attended Australia Day Breakfast

Attended Annual Electors Meeting

Attended Special Meeting of Council

Attended Strategic Plan Review Workshop Session with Meeting with Juliet Grist from the South Coast Alliance Inc

Attended South Coast Alliance Inc meeting

Cr Lester

Attended Australia Day Breakfast

Attended Annual Electors Meeting

Attended BBCDC meeting

Attended VMR presentation ceremony

Attended Opening of the new student accommodation in Albany

Attended Farewell for Bruce Manning

Attended Special Meeting of Council

Attended Strategic Plan Review Workshop Session with Meeting with Juliet Grist from the South Coast Alliance Inc

Attended South Coast Alliance Inc meeting

Attended Manager of Works interviews

12.0 NEW BUSINESS OF AN URGENT NATURE

Nil

13.0 CLOSURE

13.1 DATE OF NEXT MEETING

The next ordinary meeting of Council will be held Wednesday, 24 March 2021, commencing at 2.00pm, in the Council Chambers, 8 Vasey Street, Jerramungup.

13.2 CLOSURE OF MEETING

The Presiding Member closed the meeting at 4.01pm

<p>These minutes were confirmed at a meeting held</p> <p>.....</p> <p>Signed:</p> <p>Presiding Person at the meeting at which these minutes were confirmed</p> <p>Date:</p>
