



SHIRE OF JERRAMUNGUP

ORDINARY COUNCIL MEETING

**Held at the Council Chambers
Jerramungup
Wednesday, 25 May 2022**

MINUTES

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Shire of Jerramungup
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Ordinary Meeting of Council
Wednesday 25 May 2022

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

STAFF:

Charmaine Solomon	Deputy Chief Executive Officer
Noel Myers	Manager of Development
Rachel Smith	Executive Assistant
Gordon Capelli	Works Supervisor

VISITORS:

Nil

GALLERY:

Nil

2.2 APOLOGIES

Cr Neil Foreman, Councillor
Martin Cuthbert, Chief Executive Officer

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

Nil

2.5.2 DECLARATIONS OF PROXIMITY INTERESTS

Nil

2.5.3 DECLARATIONS OF IMPARTIALITY INTERESTS

Nil

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

Ordinary Council Meeting held 27 April 2022.

That the Minutes of the Ordinary Council Meeting of the Shire of Jerramungup held in the Emergency Services Shed, Bremer Bay on 27 April 2022 be CONFIRMED

Audit Committee Meeting held 23 March 2022.

That the Minutes of the Audit Committee Meeting of the Shire of Jerramungup held in the Council Chambers, Jerramungup on 23 March 2022 be CONFIRMED

MOTION: OCM220501**MOVED: Cr Parsons****SECONDED: Cr Leenhouders****That the Minutes of the Ordinary Council Meeting of the Shire of Jerramungup held in the Emergency Services Shed, Bremer Bay on 27 April 2022 be CONFIRMED****CARRIED: 6/0****MOTION: OCM220502****MOVED: Cr Dawson****SECONDED: Cr Price****That the Minutes of the Audit Committee Meeting of the Shire of Jerramungup held in the Council Chambers, Jerramungup on 23 March 2022 be CONFIRMED****CARRIED: 6/0****BFAC Meeting****Bush Fire Advisory Committee Meeting (BFAC) Meeting held 26 April 2022****That Council RECEIVE the Minutes of the BFAC meeting.****MOTION: OCM220503****MOVED: Cr Leenhouders****SECONDED: Cr Lester****That Council RECEIVE the Minutes of the BFAC meeting.****CARRIED: 6/0****8.0 RECOMMENDATIONS AND REPORTS OF COMMITTEES**

Nil

9.0 REPORTS

9.1 TECHNICAL SERVICES

Nil

9.2 CORPORATE SERVICES**9.2.1 ACCOUNTS FOR PAYMENT – APRIL 2022**

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	N/A
Author:	Sarah Van Elden, Accounts Officer
Responsible Officer:	Charmaine Solomon, Deputy Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	3 May 2022
Attachments:	a) List of Accounts Paid to 30 April 2022 b) Credit Card Statement 28 March 2022 – 26 April 2022
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 April 2022.

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 2021-22 Annual Budget as adopted by Council at its meeting held 28 July 2021 (Minute No. OCM210706 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 April 2022. Lists detailing the payments made are appended as an attachment.

FUND	VOUCHERS	AMOUNTS
Municipal Account		
Last Cheque Used	28177	
EFT Payments	19433 – 19528	\$1,226,687.60
Direct Deposits		\$53,024.18
Municipal Account Total		\$1,279,711.78
Trust Account		
Trust Account Total		\$0.00
Grand Total		\$1,279,711.78

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 2021 – 2031; Implement systems and processes that meet our legal and audit obligations.

FINANCIAL IMPLICATIONS:

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

WORKFORCE IMPLICATIONS:

There are no workforce implications for Council.

POLICY IMPLICATIONS:

Finance Policy FP5 – Transaction Cards

Finance Policy FP6 – Procurement of Goods and Services

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 30 April 2022 as detailed in Attachment 9.2.1(a).
- b) The Credit Card Statement 28 March 2022 – 26 April 2022 as detailed in attachment 9.2.1(b).

MOTION: OCM220504**MOVED: Cr Price****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 30 April 2022 as detailed in Attachment 9.2.1(a).
- b) The Credit Card Statement 28 March 2022 – 26 April 2022 as detailed in attachment 9.2.1(b).

CARRIED: 6/0

9.2.2 MONTHLY FINANCIAL REPORT – APRIL 2022

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	N/A
Author:	Tamara Pike, Senior Finance Officer
Responsible Officer:	Charmaine Solomon, Deputy Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	17 May 2022
Attachments:	a) Monthly Financial Report for the period ending 30 April 2022
Authority/Discretion:	Information

SUMMARY:

For Council to note the statement of financial activity for the period ended 30 April 2022 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 30 April 2022.

BACKGROUND:

At its meeting held 28 July 2021 (Minute No. OCM210706 refers), Council adopted the annual budget for the 2021-22 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 April 2022 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 28 July 2021, Council adopted (Minute No. OCM210706 Officer Recommendation 4 refers) the following material variance reporting threshold for the 2021-22 financial year:

Officer Recommendation 4: That Council ADOPT a material variance level of 10% with a minimum \$10,000.00 variance for the 2021/2022 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 2021 – 2031;

Implement systems and processes that meet our legal and audit obligations.

FINANCIAL IMPLICATIONS:

Expenditure for the period ending 30 April 2022 has been incurred in accordance with the 2021-22 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:

AP3 – Regional Price Preference

FP1 – Accounting for 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 30 April 2022 in accordance with section 6.4 of the *Local Government Act 1995*.

MOTION: OCM220505**MOVED: Cr Parsons****SECONDED: Cr Price**

That Council RECEIVES the Monthly Financial Report incorporating the Statement of Financial Activity for the period ending 30 April 2022 in accordance with section 6.4 of the *Local Government Act 1995*.

CARRIED: 6/0

9.3 DEVELOPMENT SERVICES

Nil

9.4 EXECUTIVE SERVICES

9.4.1 INFORMATION BULLETIN MAY 2022

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	N/A
Author:	Rachel Smith, Executive Assistant
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	18 May 2022
Attachments:	a) April/May 2022 Information Bulletin
Authority/Discretion:	Information

SUMMARY:

To advise Council on the information items for April/May 2022 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 months of April/May 2022.

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 2021 – 2031;
Provide informed and transparent decision making that meets our legal obligations and the needs of our diverse community

Implement systems and processes that meet our legal and audit obligations.

FINANCIAL IMPLICATIONS:

There are no financial implications for this report.

WORKFORCE IMPLICATIONS:

There are no workforce implications for this report.

POLICY IMPLICATIONS:

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

VOTING REQUIREMENT:

Simple Majority

OFFICER RECOMMENDATION:

That Council RECEIVE the Information Bulletin including the actions performed under delegated authority for the month of April/May 2022.

MOTION: OCM220506**MOVED: Cr Leenhouders****SECONDED: Cr Dawson**

That Council RECEIVE the Information Bulletin including the actions performed under delegated authority for the month of April/May 2022.

CARRIED: 6/0

9.4.2 RENEWAL OF LEASE – WESTERN POWER STORAGE YARD

Location/Address:	Reserve 37080 being Lot 289 on Deposited Plan 184269, 9 Newton Street Jerramungup
Name of Applicant:	Electricity Networks Corporation (T/As Western Power)
File Reference:	CP.US.26
Author:	Rachel Smith, Executive Assistant
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	11 May 2022
Attachments:	a) Draft Lease – Western Power Storage Yard (with tracked changes) b) CONFIDENTIAL – Valuation Report – 9 Newton Street, Jerramungup
Authority/Discretion:	Executive

SUMMARY:

Electricity Networks Corporation (Trading as Western Power) has requested a renewal of the lease for the pole storage yard located on Reserve 37080, Lot 289 No 9 Newton Street, Jerramungup.

A draft lease has been prepared for Council consideration for a further five year term with the option of a further term to be renegotiated but at the sole discretion and with prior approval from the Lessor.

The recommendation is that the renewal of lease be accepted and that the Shire President and Chief Executive Officer be authorised to execute the documentation.

BACKGROUND:

Western Power (Electricity Networks Corporation) has been occupying an area approximately 3,150m² in the Shire Depot at Lot 289, 9 Newton Street Jerramungup to use as a pole storage facility for the past 5 years. As the Shire of Jerramungup is the 'Lessor', Council approval is required to renew the lease.

The lease between the Shire of Jerramungup and Western Power (Electricity Networks Corporation) expired 1 March 2022 and a further term option of 5 years is proposed.

CONSULTATION:

Electricity Networks Corporation T/As Western Power

Opteon Solutions

COMMENT:

Western Power has requested a renewal of the lease for an additional five year period. The costs of the lease preparation have been met by Western Power however as per clause 6.2 (g) The parties will bear the Experts costs equally between them. Therefore the cost of the valuation from Opteon Solutions has been split equally between the Shire and Western Power. This clause been amended in the proposed lease renewal so the Shire is not responsible for the any of the cost of the valuation.

STATUTORY ENVIRONMENT:

As Western Power is a Western Australian State Government owned corporation with the purpose of connecting people with electricity in a way that is safe, reliable and affordable, the provisions relating to the disposal of property are not applicable.

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.

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 sublicence 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).

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;*

or

(c) the land is disposed of to —

- (i) the Crown in right of the State or the Commonwealth; or*
- (ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or*
- iii) another local government or a regional local government;*

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2021 – 2031; Work with the business community to attract investment, create jobs and support small business growth. Deliver sustainable long-term planning for the built environment that meets the needs of the community.

FINANCIAL/BUDGET IMPLICATIONS:

The annual rent for the lease on the pole storage yard is \$8,750 exclusive of GST payable monthly in advance. This is reviewed annually at each anniversary of the commencement date and increased by CPI, except for every 5th anniversary which shall be based on market rent.

All costs in preparing the lease are borne by the Lessee. The market valuation fee is split equally between both parties being \$742.50 incl GST each.

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;

1. Acknowledge that the disposition is an exempt disposition in accordance with *Local Government (Functions and General) Regulations 1996* Section 30 (2)(a)(ii).
2. APPROVE the Renewal of Lease for Reserve 37080, 9 Newton Street Jerramungup for a lease term of 5 years commencing 1 March 2022 and expiring on 28 February 2027
3. DELEGATES authority to the Shire President and Chief Executive Officer to finalise the preparation, execution and affixing of the Common Seal of the Shire of Jerramungup to execute the lease agreement for Electricity Networks Corporation Trading as Western Power for Reserve 37080 being Lot 289 on Deposited Plan 184269 being the whole of the land comprised in Certificate of Title Volume LR3042 Folio 287.

MOTION: OCM220507**MOVED: Cr Dawson****SECONDED: Cr Price****That Council;**

- 1. Acknowledge that the disposition is an exempt disposition in accordance with *Local Government (Functions and General) Regulations 1996* Section 30 (2)(a)(ii).**
- 2. APPROVE the Renewal of Lease for Reserve 37080, 9 Newton Street Jerramungup for a lease term of 5 years commencing 1 March 2022 and expiring on 28 February 2027**
- 3. DELEGATES authority to the Shire President and Chief Executive Officer to finalise the preparation, execution and affixing of the Common Seal of the Shire of Jerramungup to execute the lease agreement for Electricity Networks Corporation Trading as Western Power for Reserve 37080 being Lot 289 on Deposited Plan 184269 being the whole of the land comprised in Certificate of Title Volume LR3042 Folio 287.**

CARRIED: 6/0

9.4.3 PROPOSED SUBLEASE – BREMER BAY SPORTSCLUB AND BREMER BAY MENS SHED

Location/Address:	Portion Reserve 511 being Lot 3000 on Deposited Plan 46739, 142 Frantom Way, Bremer Bay
Name of Applicant:	Bremer Bay Men's Shed
File Reference:	ED.PR.11
Author:	Noel Myers, Manager of Development
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	16 May 2022
Attachments:	a) Location Plans
Authority/Discretion:	Executive

SUMMARY:

The Bremer Bay Men's Shed Group is seeking to enter into a sub-lease with the Bremer Bay Sports Club to facilitate the construction of a Men's Shed.

The recommendation is that the Council supports the proposal and consents to the preparation of a sub-lease and that the Shire President and Chief Executive Officer be authorised to execute the documentation.

BACKGROUND:

The Bremer Bay Men's Shed group formed approximately 12 months ago and since that time have been investigating various locations and options within the Bremer Bay townsite to secure a parcel of land on which they may construct a Men's Shed.

- The Bremer Bay Sports Club Inc. at their Annual General Meeting held on 20 March 2022 passed a resolution to support the Men's Shed request to construct a Men's Shed on a portion of the 'Sports Club land';
- The Bremer Bay Sports Club currently hold a lease over a Portion of Reserve 511. The current lease commenced 15 April 2015 for a 21 year period expiring 14 April 2036;
- Clause 22 of the Lease makes provision for the Lessee to enter into Subleases subject to the approval of the Lessor (Shire of Jerramungup) and the Minister for Lands.

CONSULTATION:

Shire Administration Officers;

Bremer Bay Sports Club

COMMENT:

The establishment of a Men's Shed within Bremer Bay is regarded as being a positive outcome that will contribute to the liveability and wellbeing of the community.

The proposal to establish the shed at the Sports Club has been arrived at after a comprehensive review of alternative options and is considered to be well suited to the purpose.

The land is Reserved Recreation and Open Space under Town Planning Scheme No.2. The proposed use of the land is regarded as being consistent with the Reserve purpose insofar that the term Recreation covers both passive and active types of activities and the activities of a Men's Shed can reasonably be regarded as a recreational type of activity in that it is open to the community and does not have a commercial or exclusive focus.

The area identified for the proposed development lies between the tennis courts and the Sports Club building. The area is yet to be accurately defined but will be of sufficient area to accommodate the building of approximately 288m² and a curtilage large enough to accommodate associated infrastructure.

It is envisaged that the lease would be structured over a term to coincide with the expiry of the Sports Club Lease being 14 April 2036. It is not possible to grant a lease beyond that date and being a community purpose the rent would for a nominal (peppercorn) value only.

STATUTORY ENVIRONMENT:

As the Men's Shed is a not for profit, charitable, community based organisation, the provisions relating to the disposal of property are not applicable.

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.

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 sublicence 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).

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;

or

(c) *the land is disposed of to —*

(i) the Crown in right of the State or the Commonwealth; or

(ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or

iii) another local government or a regional local government;

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2021 – 2031; Work with the business community to attract investment, create jobs and support small business growth. Deliver sustainable long-term planning for the built environment that meets the needs of the community.

FINANCIAL/BUDGET IMPLICATIONS:

The Shire typically assumes costs associated with the preparation of leases for community groups. In this instance costs are estimated at \$2,500.

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;

1. **Acknowledge that the disposition is an exempt disposition in accordance with *Local Government (Functions and General) Regulations 1996* Section 30 (2)(a)(ii).**
2. **APPROVE the grant of a Sub-Lease between the Bremer Bay Sports Club and the Bremer Bay Men's Shed on a portion of Reserve No.511 Lot 3000 on DP46739 142 Frantom Way, Bremer Bay for a period to coincide with the expiry of the Sports Club lease being 14 April 2036 and that the Rent for the proposed Lease be for a nominal (peppercorn) amount;**
3. **DELEGATES authority to the Shire President and Chief Executive Officer to finalise the preparation, execution and affixing of the Common Seal of the Shire of Jerramungup to execute the lease agreement.**

MOTION: OCM220508**MOVED: Cr Dawson****SECONDED: Cr Price****That Council;**

- 1. Acknowledge that the disposition is an exempt disposition in accordance with *Local Government (Functions and General) Regulations 1996* Section 30 (2)(a)(ii).**
- 2. APPROVE the grant of a Sub-Lease between the Bremer Bay Sports Club and the Bremer Bay Men's Shed on a portion of Reserve No.511 Lot 3000 on DP46739 142 Frantom Way, Bremer Bay for a period to coincide with the expiry of the Sports Club lease being 14 April 2036 and that the Rent for the proposed Lease be for a nominal (peppercorn) amount;**
- 3. DELEGATES authority to the Shire President and Chief Executive Officer to finalise the preparation, execution and affixing of the Common Seal of the Shire of Jerramungup to execute the lease agreement.**

CARRIED: 6/0

9.4.4 DEED OF EXTENSION OF LEASE – JERRAMUNGUP PHARMACY

Location/Address:	Reserve 25164, Lot 24 (9) Memorial Road, Jerramungup
Name of Applicant:	ETA Pharmacies Group Pty Ltd
File Reference:	CP.US.52
Author:	Rachel Smith, Executive Assistant
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	17 May 2022
Attachments:	a) Deed of Extension of Lease – Jerramungup Pharmacy b) CONFIDENTIAL – Valuation Report, 9 Memorial Road, Jerramungup
Authority/Discretion:	Executive

SUMMARY:

This item addresses the Deed of Extension of Lease prepared between the Shire of Jerramungup, ETA Pharmacies Group Pty Ltd and Irek Paul Chrenowski with a recommendation that it be accepted and that the Shire President and Chief Executive Officer be authorised to execute the deed.

BACKGROUND:

The lease between the Shire of Jerramungup, ETA Pharmacies Group Pty Ltd and Irek Paul Chrenowski expired on the 19 May 2022. A First Further Term of Three (3) years is being proposed as per the lease agreement commencing on 19 May 2022 and expiring on 18 May 2025. On the commencement of the Further Term a Market Review is required, this has been completed by Opteon Solutions.

CONSULTATION:

McLeod's Solicitors

ETA Pharmacies Group Pty Ltd, Irek Paul Chrenowski

Opteon Solutions

COMMENT:

The Deed of Extension is subject to the approval of the Minister for Lands which has been obtained on 16 May 2022. It is recommended that Council approve the Deed of Extension to ensure the community continue to have access to pharmaceutical services in Jerramungup.

The Deed of Extension is now submitted to Council for approval.

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.*

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).*

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 2021 – 2031;

Deliver programs and services that bring people together and support community health and wellbeing.

Maintain facilities that connect people and promote an active and healthy lifestyle.

Work with the business community to attract investment, create jobs and support small business growth.

FINANCIAL/BUDGET IMPLICATIONS:

All costs in preparing the Deed of Extension and market valuation are borne by the Lessee.

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;

1. Acknowledge that the disposition is an exempt disposition in accordance with *Local Government (Functions and General) Regulations 1996* Section 30 (2)(a)(ii);
2. APPROVE the Deed of Extension of Lease for Reserve 25164, Lot 24 (9) Memorial Road Jerramungup for a further term of three (3) years commencing 19 May 2022 and expiring on 18 May 2025;
3. DELEGATES authority to the Shire President and Chief Executive Officer to finalise the preparation, execution and affixing of the Common Seal of the Shire of Jerramungup to execute the Deed of Extension for ETA Pharmacies Group Pty Ltd and Irek Paul Chrenowski for Reserve 25164, Lot 24 (9) Memorial Road Jerramungup.

MOTION: OCM220509

MOVED: Cr Leenhouders

SECONDED: Cr Parsons

That Council;

1. Acknowledge that the disposition is an exempt disposition in accordance with *Local Government (Functions and General) Regulations 1996* Section 30 (2)(a)(ii);
2. APPROVE the Deed of Extension of Lease for Reserve 25164, Lot 24 (9) Memorial Road Jerramungup for a further term of three (3) years commencing 19 May 2022 and expiring on 18 May 2025;
3. DELEGATES authority to the Shire President and Chief Executive Officer to finalise the preparation, execution and affixing of the Common Seal of the Shire of Jerramungup to execute the Deed of Extension for ETA Pharmacies Group Pty Ltd and Irek Paul Chrenowski for Reserve 25164, Lot 24 (9) Memorial Road Jerramungup.

CARRIED: 6/0

10.0 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

(CONFIDENTIAL MATTERS)

Nil

11.0 COUNCILLOR REPORTS

Cr Rex Parsons

Attended Great Southern Regional Road Group meeting

Attended CEO Review Committee meeting

Cr Andrew Price

Attended CEO Review Committee meeting

Cr Robert Lester

Attended CEO Review Committee meeting

Cr Drew Dawson

Attended CEO Review Committee meeting

Cr Julie Leenhouders

Attended Audit Entrance meeting

Attended South Coast Alliance meeting

Attended CEO Review Committee meeting

Cr Joanne Iffla

Attended Audit Entrance meeting

Attended South Coast Alliance meeting

Attended CEO Review Committee meeting

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, 22 June 2022, commencing at 2.00pm, in the Council Chambers, Jerramungup.

13.2 CLOSURE OF MEETING

The Presiding Member closed the meeting at 2:33pm

These minutes were confirmed at a meeting held

.....

Signed:

Presiding Person at the meeting at which these minutes were confirmed

Date: