



ORDINARY MEETING OF COUNCIL

REVISED AGENDA

Revised Items:

1. Item 14.04.21.03 Brookton Caravan Park Fees and Charges and Booking System
2. Item 15.04.21.02 Adoption of Council Member, Committee Member, and Candidates Code of Code and Chief Executive Officer (CEO) Standards

15 APRIL 2021



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NOTICE OF MEETING

15 APRIL 2021

**14 White Street
Brookton, WA 6306**

Dear Councillor, Resident or Ratepayer,

Notice is hereby given that the Ordinary Meeting of the Brookton Shire Council will be held on Thursday 15 April 2021 in the Council Chambers at the Shire Administration Centre commencing at 6.00 pm.

The business to be transacted is shown in the Agenda.

Ian D'Arcy
CHIEF EXECUTIVE OFFICER
9 April 2021

DISCLAIMER

The recommendations contained in the Agenda are subject to confirmation by Council. The Shire of Brookton warns that anyone who has any application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Brookton for any act, omission or statement or intimation occurring during a Council meeting.

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1.04.21 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

On behalf of Council I would like to acknowledge that this meeting is being held on the traditional lands of the Nyoongar People and pay respect to all Elders, past, present and emerging. I wish to acknowledge and respect local people's continuing culture and the contribution they make to Country and it's life.

2.04.21 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

3.04.21 USE OF COMMON SEAL – MARCH 2021

The Table below details the Use of Common Seal under delegated authority for the month of March 2021.

Use of Common Seal Register		
File Ref:	Purpose	Date Granted
Nil.		

4.04.21 DELEGATED AUTHORITY – ACTIONS PERFORMED – MARCH 2021

The Table below details the actions of Council performed under delegated authority for the month March 2021.

Shire of Brookton, Delegation Register, 1.46 Building Matters – Permits, Certificates & Orders

BUILDING			
Application No.	Lot & Street	Type of Building Work	Date Granted
18.20-21	Lot 166 Gaynor Street	Dwelling & Septic	22 Mar 2021
19.20-21	Lot 21 Williams Street	Carport	29 Mar 2021
20.20-21	Lot 800 Corberding Road	Shed	24 Mar 2021

Shire of Brookton, Delegation Register, 1.41 Specific Provisions under the Town Planning Scheme No. 4.

PLANNING				
File Ref	Application Ref	Subject Land (incl. Scheme No.)	Purpose	Date Granted
Nil.				

5.04.21 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Ms. Rosalie Pech Eva

Question 1:

Are Councillors aware that there are local businesses emerging from the Covid-19 emergency period still reliant on Jobkeeper support from the Federal Government, which ceases at the end of this month, and as yet have been unable to recoup the substantial losses experienced during that period?

Response to Question 1

Yes, though the Shire does not have intimate knowledge of individual businesses and their specific economic circumstances.

Question 2:

Can you please advise the ways and the extent to which the Covid-19 stimulus activities benefited local businesses and the local economy, other than providing ongoing employment for Shire staff, and business opportunities for companies from outside the Shire and Region?

Response to Question 2

The Shire Council in its response to the COVID-19 pandemic over the past 12 months has instigated the following:

- *Brought forward a range of initiatives in April 2020 to support the local and regional economies, including:*
 - *Area Promotion – production of A3 tear off tourist maps and installation of new Shire boundary signage.*
 - *Happy Valley – install new standpipe back up power generation and automated water dispensing system adjacent to the Brookton Sewerage Ponds.*
 - *Pump (BMX) Track – Loop track earthworks, professional compliance inspection and signage.*
 - *Plant Replacement – 4 x light vehicles and motor grader.*
 - *Administration Office / Chambers – Improvements including external entry and patio cover to Council Chambers and installation 4 x split system reverse cycle air conditioners to administration offices.*
 - *Shire Works Depot – Various improvements including re-roofing of buildings, new diesel fuel tank and dispensing system, new signage storage rack, improved shed lighting, additional sea container storage.*
 - *Memorial Hall – Re-roofing over entry/foyer and ablution areas.*
- *Applied a \$0 increase to rates, and fees and charges for the 2020-21 financial year, as well as enhanced Council Policy 2.21 Financial Hardship, to minimise the financial impact on local ratepayers, including local businesses.*
- *Continued operational procurement of goods and services from local and regional suppliers, including but not limited to:*
 - *Brookton IGA*
 - *Brookton Post Office*
 - *Brookton Deli*
 - *Brookton Newsagency*
 - *Brookton Rural Traders*
 - *Amazing 50s Catering*
 - *Bedford Arms Hotel*
 - *Brookton Tyres and Signs*
 - *Brookton CRC*
 - *Rushton and Co. Agricultural Equipment*
 - *Coote Motors*
 - *Bendigo Bank*
 - *Brookton Meats*
 - *Stumpy's BP*
 - *J-MAC Pingelly*
 - *Australia Post - Brookton*
 - *Eagle Eye Engineering*
 - *Brookton Auto Electrical*
 - *Brookton Roadhouse*

- *Natalie Davy Photography*
- *McPest Pest Control*
- *The Vines Medical Practice*
- *Brookton Medical*
- *Brookton Plumbing*
- *Jes-ky Building Co.*
- *St John Ambulance - Brookton*
- *Peter Wright Agricultural*
- *Brookton 24/7 Towing and Freight*
- *Narrogin Crash Repairs*
- *Darry's Plumbing - Northam*
- *K & L Paving and Landscaping*
- *Northam Mitsubishi*
- *AFGRI Equipment – Pingelly*
- *MJ & KP Davis*
- *Ridge Studios*
- *Teede Auto Electrics*
- *Thrifty Link Hardware – Beverley*
- *Great Southern Waste Disposal - Narrogin*
- *Great Southern Fuel Supplies - Narrogin*
- *Ian Hastings Mechanics - Pingelly*
- *Nichols Bus - Narrogin*
- *Tianco Transport*
- *Brookton Community Resource Centre*
- *Brian Williams*
- *Allington Agri*
- *Marcini Farms*
- *Miaringing Estate*
- *Narrogin Motors*
- *Pingelly Garage*
- *Narrogin Carpets and Curtains*
- *Dawsons Concrete and Reinforcing – Beverley*
- *Sought quotes from suppliers (including local and regional businesses) for the supply of goods and services in accordance with statutory procurement requirements. This even included a request for quote received from ORA for architectural services to perform concept design works for the Community Hall.*

Question 3:

What was the value of the stimulus to the local economy from the Shire undertaking these activities?

Response to Question 3

The Shire has received a total of \$970,865 in Commonwealth Government grant funding over the past 12 months, loosely deemed COVID-19 stimulus funding. These funds together with Council monies (provided for in the 2020-21 Budget) is supporting:

- *Memorial Park improvements - includes installation of new additional gas BBQ, erection of a community gazebo, disability access to both, and further landscaping.*

- Local Road upgrades – includes bitumen sealing of Youraling Road and Bodey Street within the Brookton Townsite, emergency gates and cul-de-sac heads to Sewell and Lefroy Streets, safety improvements to Withall Street, Brookton Highway and Corberding Road.
- Brookton Aquatic Centre improvements - includes mobile tiered seating (also available to be used at special events), roofing installed over changerooms, new shade structures, power upgrade and hot water to showers.
- Brookton Caravan Park improvements – includes installation of 4 x prefabricated short stay chalet units, camper's kitchen, new ATU effluent disposal system, gas BBQ, new fencing and lawn areas, and better definition of caravan bays.
- Local Community Group facilities – includes the fabrication and erection of 2 x shed style buildings purposely designed to serve the needs of local community groups.
- Nature Playground development - includes fencing, bridge crossing, landscaping and lawn, and installation of some playground equipment.
- Shire Administration Building and Meeting Chamber improvements - includes upgrade to front reception for security and minimisation of disease transmittal, dedicated disability access to the Council Chambers, internal painting.
- Brookton Cemetery improvements – includes installation of a public toilet facility.
- Shire Works Depot improvements – includes concrete to existing buildings, new transportable office unit, fencing re-alignment and additional sea container storage.

These works have been offered through formal quotation processes where local businesses may quote for the supply of goods and services supported by a 'Buy Local' advantage of 10% to a value of \$10,000, offered under Council's Procurement Policy 2.36 (available for viewing on the Shire's Website). However, much of the larger capital works do not qualify for the 'Buy Local' benefit due to the value of goods and services exceeding the \$10,000 threshold.

Furthermore, it has been experienced that many local and regional businesses have not sought to quote on the more significant capital works, possibly due to the nature of the works and/or the timeframes required for the works to be completed under the conditions of the grant funding.

In response to your question on value, the Shire is confident the abovementioned COVID-19 stimulus works will realise significant social and/or economic benefit (value) at the local level.

Question 4:

What measures does the Shire of Brookton intend in future to implement which will stimulate our local economy following the end of the Covid-19 emergency period?

Response to Question 4

The Shire intends to proceed with a 'business as usual' approach. It is expected this will involve continued delivery of municipal services to the Brookton Community, inclusive of procuring goods and services in accordance with responsible financial management and statutory compliance with the Local Government Act, 1995 and subsidiary legislation.

Question 5:

Has the Shire of Brookton considered (per Q3 February) implementing a more locally-focussed purchasing program, which gives weight to the value that local knowledge and experience, local product and service support, and local capability-building has on the local economy? If not, why not?

Response to Question 5

It is viewed that Council Policy 2.36 clearly recognises and values local knowledge, experience and support where it adequately aligns to the Shire's charter in achieving value for money for the Brookton Ratepayers.

6.04.21 PUBLIC QUESTION TIME

7.04.21 APPLICATIONS FOR LEAVE OF ABSENCE

8.04.21 PETITIONS/DEPUTATIONS/PRESENTATIONS

9.04.21 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

9.04.21.01 ORDINARY MEETING OF COUNCIL – 18 MARCH 2021

That the minutes of the Ordinary meeting of Council held in the Shire of Brookton Council Chambers, on 18 March 2021, be confirmed as a true and correct record of the proceedings.

9.04.21.02 SPECIAL MEETING OF COUNCIL – 25 MARCH 2021

That the minutes of the Special meeting of Council held in the Shire of Brookton Council Meeting Room, on 25th March 2021, be confirmed as a true and correct record of the proceedings.

9.04.21.03 BUSHFIRE ADVISORY COMMITTEE – 16 MARCH 2021

That the minutes of the Bushfire Advisory Committee meeting held in the Shire of Brookton Council Chambers, on 16 March 2021, be received by Council.

9.04.21.04 ANNUAL ELECTORS MEETING – 25 MARCH 2021

That the minutes of the Annual Electors meeting held in the Shire of Brookton Council Chambers, on 25th March 2021, be received by Council.

10.04.21 ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

Members and Officers to declare Financial, Proximity or Impartiality Interests & submit forms to the Chief Executive Officer at the commencement of the meeting and also prior to the item.

Disclosure of Financial & Proximity Interests

- a. Members must disclose the nature of their interest in matters to be considered at the meeting. (Sections 5.60B and 5.65 of the *Local Government Act 1995*).
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the *Local Government Act 1995*).

Disclosure of Interest Affecting Impartiality

- a. Members and staff must disclose their interest in matters to be considered at the meeting in respect of which the member or employee has given or will give advice.

12.04.21 TECHNICAL & DEVELOPMENT SERVICES REPORTS

12.04.21.01 DRAFT BROOKTON RAILWAY STATION CONCEPT DESIGN AND COSTING ARCHITECTURAL CONSULTANTS BRIEF – APRIL 2021

File No:	ADM0150
Date of Meeting:	15 April 2021
Location/Address:	Portion of Crown Reserves 10325 (Lot 143) and 14197 (Lot 306) Robinson Road, Brookton
Name of Applicant:	Shire of Brookton
Name of Owner:	Public Transport Authority (PTA)
Author/s:	Ian D'Arcy – Chief Executive Officer
Authorising Officer:	As above
Declaration of Interest:	The author has no specific interest in this matter
Voting Requirements:	Simple Majority – Recommendation 1 Absolute Majority – Recommendation 2
Previous Report:	18 February 2021

Summary of Item:

This report relates to endorsement of a draft Brookton Railway Station Concept Design and Costing Architectural Consultants Brief – April 2021 (Project Brief) that details:

1. The scope of architectural services for three conceptual designs with associated costings for the Brookton Railway Station building.
2. A public consultation process to obtain the views of local residents on the respective design options.

It is intended the concept designs, costings and community feedback will be used to inform Council in determining the future of the Railway Station building.

Description of Proposal:

This Project Brief mirrors the Community Hall process where it:

1. Calls for three design options (as summarised below) with estimated costs for each design.
 - **Option 1 – Restoration – Existing Building** – Involves restoring the existing Railway Station building on a historical basis, with removal of some internal walls, (where possible) to improve functionality, and usability of existing floor area.
 - **Option 2 – New Construction – Replica Building** – Involves demolition and construction of a new replica Railway Station building, (new for old) based on the same external presentation (materials and colours), yet, remodeled internally to achieve better functionality, and usability.
 - **Option 3 – New Construction – Replacement Building** – Involves demolition, and construction of an alternate building, that represents the existing Railway Station building - ie large open functional gazebo structure, with a consistent roof line and multi-use open/semi enclosable floor area.
2. A minimum six (6) week consultation process to ensure an appropriate level of engagement is entertained with the local community.

A copy of the draft Project Brief is presented as **Attachment 12.04.21.01A** to this report.

Background:

The Brookton Railway Reserve is Crown Land vested in the WA Public Transport Authority (PTA). A portion of this land leased to the Shire of Brookton for community benefit, as illustrated in **Figure 1** below:

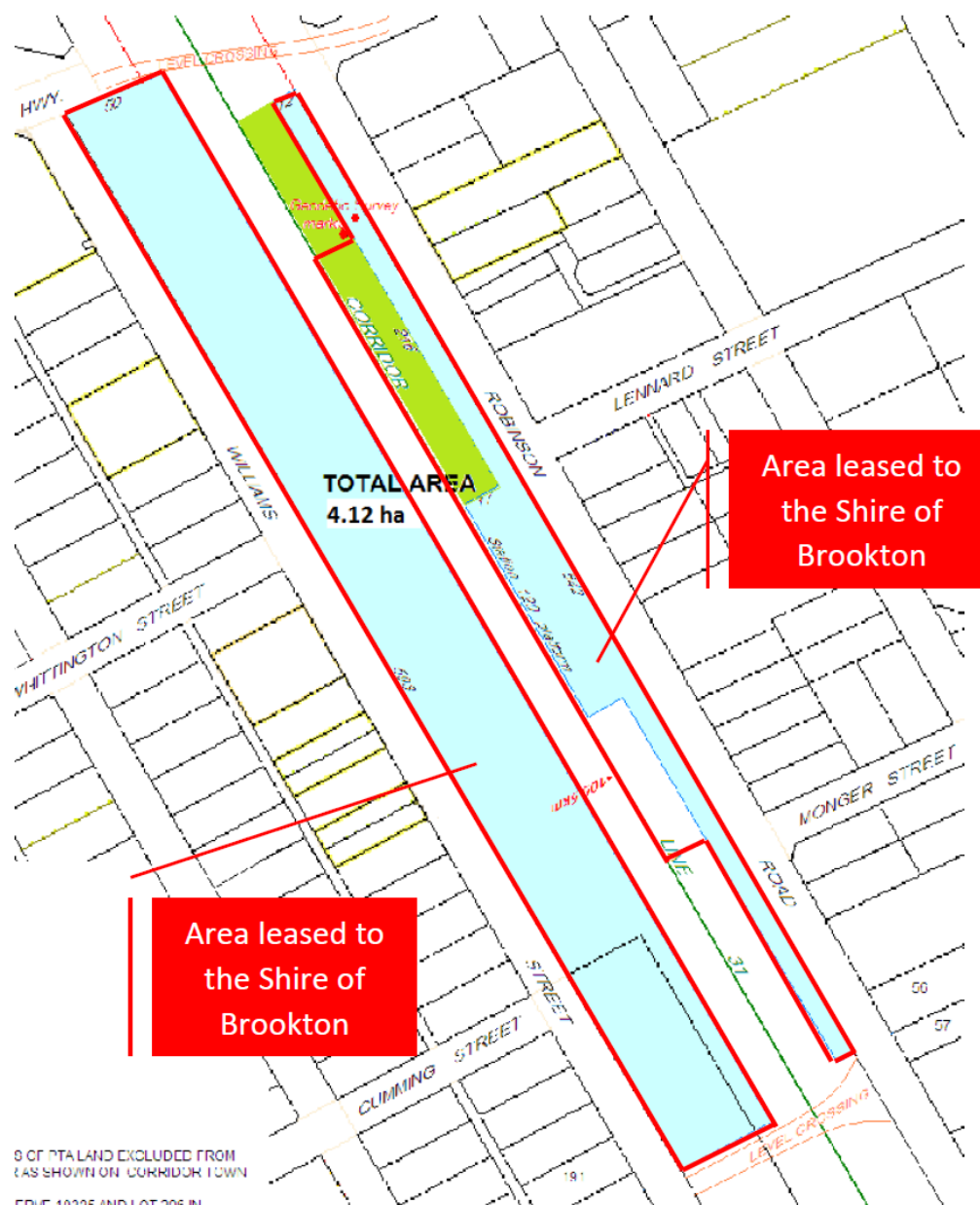


Figure 1 – Existing Railway Reserve Lease Area – Shire of Brookton

Of particular interest to the local community is the 96-year-old Railway Station building, and platform that represents a significant part of Brookton's history, and forms a prominent part of the town centre, and Robinson Road streetscape.

Since September 2019, a temporary barrier fence has been in place around the building to deny public access in the interest public safety, given its poor structural condition. During this time liaison has also occurred with the PTA, regarding the condition of the building, and the future land tenure, with agreement reached between the PTA, and Council to request a new Crown Reserve be created in favour of the Shire, being the designated custodian, as opposed to the PTA. This has seen a formal motion passed by Council at its February 2021 Ordinary meeting, seeking consent from the Minister for Land's Shire of Brookton, Ordinary Meeting of Council, 15 April 2021 Agenda

for creation of the new Reserve.

Although this process may extend beyond 12 months, the intent of this Project Brief is to progress the planning around the future of the Railway Station building, given its prominence and need for rejuvenation or replacement.

Accordingly, the Council is being requested to review, amend if required, and endorse the Project Brief together with allocating sufficient funds to progress the proposed architectural design works, and costings, in anticipation the land tenure will transfer to the Shire in the near future.

Consultation:

Since 2019, there has been considerable discussion with Councillors regarding the condition, and future tenure of the Railway Station building. This has seen input, and information being provided by Shire staff, the PTA, and its property agents, a consulting engineer, and LGIS legal representatives (the Shire's insurer).

Statutory Environment:

To progress this proposal, the Council, in accordance with Section 6.8(1)(b) of the *Local Government Act, 1995*, will need to draw funds from its Railway Station Financial Reserve, through an absolute majority vote.

Relevant Plans and Policy:

Should Council endorse the draft Project Brief, a Request for Quotation (RFQ) process will immediately be commenced by the Shire Administration, in accordance with Council Policy 2.36 – Procurement. The public consultation will also be performed referenced to Policy 2.41 – Community Engagement.

Financial Implications:

There are no specific funds allocated in the current 2020-21 Budget to address future development of the Railway Station building. This was due to a lack of clarity at the time the current Budget was set, regarding future tenure of the Railway Reserve and buildings.

However, with agreement now reached on tenure, it is timely that Council progress direction on the Railway Station building, through this process with an amount of up to \$35,000 being drawn from the Railway Station Financial Reserve, that has a current balance of \$286,000.

Risk Assessment:

Although there is no significant risk in relation to an 'options'-based approach, the overall risk till remains 'High' and 'Severe' due to:

1. The third-party liability imposed on the Shire under the current 'Licence to Occupy' agreement.
2. A very dilapidated Railway Station building that presents a public safety risk, and also, detracts from the Robinson Road streetscape, due to the temporary barrier fence currently in place.
3. A need for further works to be performed within the 'Licence to Occupy' area, to address liability concerns in relation to the active train line adjacent.

Consequence	Insignificant	Minor	Moderate	Major	Extreme
Likelihood					
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

Community & Strategic Objectives:

This proposal relates to the Brookton 20, specifically aspirations:

- 14 – History, Heritage, Recreation and Culture
- 18 – Town Precinct
- 19 – Buildings

It also aligns to the delivery of core business and services detailed in the Shire of Brookton Corporate Compendium – 2020, duly appended to the Next Generation BROOKTON Corporate Business Plan <2024 with reference to:

Function 9 Asset Management

Action 9.6 – Review Asset Management Plan – Brookton Railway Station and Surrounds

Comment:

As with the Community Hall, it is reasonable and appropriate for Council to obtain independent expert advice, and assistance, together with resident's views, in determining the future of the Brookton Railway Station building.

OFFICER RECOMMENDATION 1

That Council Endorses the draft Brookton Railway Station Concept Design and Costing Architectural Consultants Brief – April 2021 as presented in Attachment 12.04.21.01A to this report.

(Simple majority vote required)

OFFICER RECOMMENDATION 2

That Council allocates, in accordance with, Section 6.8 (1)(b) of the Local Government Act, 1995 an amount of up to \$35,000 to be taken for the Brookton Railway Financial Reserve to cover all relevant costs associated Brookton Railway Station Concept Design and Costing Architectural Consultants Brief – April 2021.

(Absolute majority vote required)

Attachments

**12.04.21.01A – Brookton Railway Station Concept Design and Costing – Architectural Consultants Brief
April 2021**



Brookton Railway Station Concept Design and Costing Architectural Consultants Brief – April 2021

1.0 PURPOSE

The purpose of this brief is to outline the scope of works for conceptual design, and costing, options for the Brookton Railway Station, and attract quotations from suitably qualified, and experienced architectural consultancies to:

- a) Progress conceptual design and costing works for the Brookton Railway Station building premised on the following Options.
- b) Facilitate a public consultation process to attract input and solicit the views of community members on the respective Options.
 - *Option 1 – Restoration – Existing Building*
 - *Option 2 – New Construction – Replica Building*
 - *Option 3 – New Construction – Replacement Building*

2.0 BACKGROUND

Brookton like many other towns in the Wheatbelt Region is founded on agricultural production, with rail transport being an integral part of the community's history. The Railway Station in particular, while a standard design for its era, very much forms the centre piece to the Brookton Town Centre with a visual prominence as part of the Robinson Road streetscape.

As present, the Railway Station building is located within a portion of Crown Reserve 10325 that falls to the care and control of the Public Transport Authority (PTA) under a Management Order granted by the Minister for Lands.

The PTA since 1988 has entertained a rolling 10 year 'Licence to Occupy' agreement with the Shire to allow the subject land and Railway Station Buildings to be used to the benefit of the Brookton community.

In recognition of the Railway Station building age at 96 years and its poor condition the Shire Council, cognisant on the need to preserve the building's history and streetscape presence, commissioned an Engineer to perform a structural assessment of the building in September 2019. The Engineer's assessment stated in part:

"Comprehensive assessment of the entire Railway Station building was not completed, therefore the structural integrity of every structural post and other structural components are unknown. Without a more comprehensive assessment the entire building should be closed and cordoned off denying public access."

This statement prompted the Council to immediately erect a safety barrier/fence around the Station building in the interest of public safety, and in acknowledgement of the Shire's (and PTA's) duty of care. The safety barrier is presently in place.

With this acknowledged, the PTA has recently agreed to relinquish its interest in the surplus Railway Station Building and surrounds, allowing for a change in land tenure through the creation of a new Crown Reserve vested in the Shire of Brookton. This request has recently been lodged with the Department of Lands in February 2021.

To provide further context regarding the Brookton Railway Station an aerial photo illustrating the location of the building is presented in Figure 1.

Figure 1 – Location Plan (NTS)



Figure 2 below is a listing of the Railway Station building and surrounds extracted from the Shire of Brookton Municipal Heritage Inventory 2015.

Figure 2 – Extract Place No.16 – Shire of Brookton Municipal Inventory



Place No: 16

Place No: 10

NAME OF PLACE		BROOKTON RAILWAY STATION GROUP		
Other names				
Address		Robinson Road		
Suburb/Town		BROOKTON		
Railway Reserve 10325	Lot 143	Plan/Diagram	C.T. Vol Fol	
CONSTRUCTION DATE		1924		
Original Use		Railway station		
Present Use				
Other Use				
CONSTRUCTION MATERIALS:				
Walls		Timber framed	Weatherboards	
Roof		Hipped	Marseille clay tiles	
Other				
ARCHITECTURAL STYLE:		Interwar period standard railway design		
DESCRIPTION: Railway station, goods shed, loading ramp, and various sites (migrants' barrack site, railway barracks site, water tank sites, CBH bin, sugar gum trees etc) The station building, a single storey building, is located central on the bitumen platform. It is predominately rectangular in form and comprises two separate buildings under the main roof, with an open (roofed) area in between.				
CONDITION	Good Poor			
INTEGRITY	High degree			
AUTHENTICITY	High degree			

STATEMENT OF SIGNIFICANCE (per Conservation Plan)

Brookton Railway Station comprising the platform, railway station building, goods shed, loading platform and crane, has cultural heritage significance for the following reasons:

- The development and demise Brookton Railway Station reflects the development of the town of Brookton and the railway system;
- it demonstrates functions and a way of life no longer practiced;
- it is highly valued by the Brookton community as an identifiable built representation of the significant railway presence in the town.
- Each place within the group is valued for its individual aesthetic characteristics, and together they form a significant group;
- it is a representative example of a larger Type 2 station building reserved for junction stations, that was one of two new designs developed by the Railways Department in the 1920s for country stations; and
- it is a landmark in the town and makes a significant contribution to the townscape and character of Brookton and to the local and the wider community's sense of place.

MANAGEMENT RECOMMENDATION

Grade B: Shire of Brookton 'Heritage List.' TPS: Development Application. Retain and conserve.

HISTORICAL NOTES (per Conservation Plan)

A railway station was in Brookton as early as c.1900 but by the early 1920s, pressure was on to upgrade and extend the facilities and a new brick railway station was called for. The railway turntable was a critical element of the junction function of Brookton Railway Station.

In 1924, this station was built further south in the railway reserve than the original station. The railway station was closed in 1984, and the Brookton community took responsibility in 1988. Various functions have taken place since that time, none requiring any change to the fabric of the place. Brookton Railway Station provides a focus in the main street, as a community function and tourism venue.

LISTINGS

State Heritage Office Database Nos.
 8833 Railway station, goods shed & loading ramp
 8848 Site of migrants' barracks
 8847 Site of railway barracks
 8825 Site of railway turntable
 8851 Site of CBH bin
 23842 Site of water tank
 23843 Site of water tank
 8831 Sugar Gum Trees

Shire of Brookton: 1996 Municipal Inventory Cat 2 TPS 1998

SUPPORTING INFORMATION/BIBLIOGRAPHY	DOCUMENT TYPE
Conservation Plan by L Gray for PTA 2004	

3.0 KEY CONSIDERATIONS

A brief description of the Options and key considerations are listed below:

- **Option 1 – Restoration – Existing Building** – Involves restoring the existing Railway Station building on a historical basis with removal of some internal walls (where possible) to improve functionality and usability of existing floor area.

Key Consideration(s)

- *Reference to 2019 Engineering reports (structural integrity and rectification works - foundations, asbestos, white ant/dry rot, brittle/warped materials.*
- *Further analysis of foundations and existing materials.*
- *Incorporation of Brookton Railway Station storyline.*

- **Option 2 – New Construction – Replica Building** – Involves demolition and construction of a new replica Railway Station building (new for old) based on the same external presentation (materials and colours) yet remodeled internally to achieve better functionality and usability.

Key Consideration(s)

- *Demolition of existing building.*
- *External design to replicate previous building.*
- *Analysis and rectification of foundations.*
- *Use of light weight and durable construction materials.*
- *Internal floor area configured to for long term multiple use.*
- *Disability access.*
- *Incorporation of Brookton Railway Station storyline.*

- **Option 3 - New Construction - Replacement Building** – Involves demolition and construction of an alternate building that represents the existing Railway Station building - ie large open functional gazebo structure with a consistent roof line and multi-use open/semi enclosable floor area.

Key Consideration(s)

- Demolition of existing building.
- New structure modelled on existing roof line.
- Minimum internal floor area of 200 m² – usable.
- Disability access.
- Configured/fit-out for multi-use - lighting/audio.
- Incorporation of Brookton Railway Station storyline.

4.0 METHODOLOGY AND DELIVERABLES

The following outlines a suggested methodology and expected deliverables for the preparation of the respective design options, as prescribed in Section 4.0 above:

4.1 Inception Meeting and Site Inspection

This involves a meeting and site inspection with Shire representatives to confirm the project scope and expected milestones and outputs.

4.2 Literature Review

This includes collation and review of existing plans and documentation pertinent to structural integrity and heritage value of existing Railway Station building.

4.3 Concept Plans

The successful candidate is to prepare conceptual sketch plans in colour for Options 1, 2 and 3 suitable for reproduction to an A3 scale by the Shire, together with estimated costings by a qualified quantity surveyor, for materials, and construction works, to arrive at an overall cost for each Option. These plans will be used to inform the public through the consultation process. As a minimum the plans are to consist of:

- 1 x Site Plan illustrating building, location and placement on the site in relation to the surrounding environs prepared to a scale of 1:200.
- 1 x Floor Plan prepared to a scale of 1:100 with specified room dimensions and outdoor areas.
- 2 x 3D External Elevation Plans offering different perspectives of each optional concept design from the front and side elevations.
- 1 x 3D Internal Elevation Plan offering a perspective for each optional concept.

The provision of estimate costs for each Option is to be provided based on the following breakdown to arrive at a final total:

- Statutory approvals.
- Engineering and architectural working drawings.
- Demolition and disposal works (where applicable).
- Foundation and drainage works.
- Building works (restoration and new).
- Construction contingency.

4.4 Community Consultation

The successful candidate must be available to attend 2 x public meetings, on the same day

(morning and evening), to present, impartially on the merits, and understanding of the indicative projected costs for each option.

4.5 Compilation of Key Findings

Upon completion of the consultation, the successful candidate is to review the public submissions received by the Shire, and provide advice on validity, and possible suggested changes, to concept designs, in consideration of community feedback assessed as valid.

4.6 Presentation of Final Plans and Costings

To conclude the process, the Architect is to finalise the preferred concept design as selected by Council, inclusive of any agreed modifications, with revised costings that will allow for the Council to move to a tender, and construction phase.

5.0 ADMINISTRATION

Unless otherwise agreed, the following shall apply:

5.1 Project Management

Regular liaison with the Shire Administration through the Executive Governance Officer.

5.2 Timeframe

The following is a projected timeframe for this project from the inception meeting date:

- Week 1 – Conduct inception meeting with Shire to discuss/clarify Design Options, methodology and expected outputs.
- Week 5 – Present draft concept plans and costings for each option to Shire for endorsement by Council to proceed to public consultation.
- Week 7 – Commence community consultation (min. 6 weeks).
- Week 14 – Commence review and schedule public submissions and form recommended changes for Council's consideration.
- Week 18 - Finalise changes/costings to selected Design Option and submit to the Shire.

Note: Submissions must acknowledge the abovementioned timeframe.

5.3 Selection Criteria and Weighting

All submissions will be evaluated against the following qualitative selection criteria:

Qualitative Selection Criteria	Weighting
Understanding – Clear appreciation of Project Brief illustrated throughout.	10%
Relevant Experience – Demonstrated experience in performing similar - must include minimum of three (3) other clients as business referees.	20%
Methodology and Timeframe – Acceptance of the methodology and timeframes.	20%
Price – Total price for consultation, literature review, drafting and art works, and disbursement costs – see Section 6.4.	50%

Note: Submissions must include a statement of declaration in relation to:

- *Any real or perceived conflict of interest and/or bias in relation to this project.*
- *Acceptance of intellectual property rights – see Section 5.6 of this Brief.*

5.4 Pricing

The pricing for preparing the various options shall be inclusive of:

- Good and Services Tax (GST).
- All disbursement costs accounting for travel and meal expenses, telephone, copying and other administration costs.

Of note, the Shire, at its cost will:

- Conduct all mail out, and public surveys (including electronic and hard copy media), and field direct enquiries from the community, as required.
- Cover all costs associated with copying, and mail out of material, and printing of documents pertinent to this project.
- Receive and schedule the submissions for review by the Architect.

5.5 Payment

Payment for this project is to be based on the following schedule:

Payment	Milestone	Percentage
1	Inception Meeting	20%
2	Preparation, submission and acceptance of draft plans for respective options	65%
3	Review of submissions and finalisation of plans and documents following community consultation	15%

5.6 Intellectual Property Rights

The Intellectual property rights to all original material, plans, or documents produced under this project, shall remain the property of the Shire of Brookton.

Such plans shall not be marked copyright, to preclude the Shire from using the concept plans, and associated costings, in progressing to construction, as a separate process, that may involve another architectural company / business.

5.7 Literature

The literature review should include, but not be limited to the following documents:

- RC Consulting Engineers - Brookton Railway Station Building – Structural Report (Ref No.: 269) - Structural Assessment of Timber Posts – August 2019
- RC Consulting Engineers - Brookton Railway Station Building – Addendum Letter (Ref No.: 269) – Structural Report Clarification – August 2019

12.04.21.02 BROOKTON RAILWAY RESERVE IMPROVEMENTS

File No:	ADM0150
Date of Meeting:	15 April 2021
Location/Address:	Portion of Crown Reserves 10325 (Lot 143) and 14197 (Lot 306) Robinson Road, Brookton
Name of Applicant:	Shire of Brookton
Name of Owner:	Public Transport Authority (PTA)
Author/s:	Ian D'Arcy – Chief Executive Officer
Authorising Officer:	As above
Declaration of Interest:	The author has no specific interest in this matter
Voting Requirements:	Simple Majority – Recommendation 1
Previous Report:	18 February 2021

Summary of Item:

This report relates to improvements for a portion of Railway Reserve land, presently under lease to the Shire. The improvements include fencing, lighting, and signage, proposed to be installed as part of Council honoring its obligations, under the current Licence agreement for the Railway Reserve, and meeting its duty of care to the broader community.

Description of Proposal:

This proposal relates to erection of a barrier fence parallel with the existing rail line, solar lighting within the north-west portion of the Reserve, and warning signage erected along, and on, both sides of the rail that aims to:

- Satisfy the current safety issue with the existing operational railway line.
- Address condition 10 of the current 'Licence to Occupy' agreement between the Shire of Brookton and the Public Transport Authority (PTA).
- Assist in addressing the Council's duty of care and public liability in relation to the Railway Reserve that forms part of the Brookton town centre.

Figures 1, 2, 3 and 4 seek to illustrate the proposed styles of fencing, lighting and signage that are recommended for installation. The diagram presented as **Figure 5** also provides an indicative understanding of the proposed placement of this infrastructure.



Figure 1 – Standard Ring Lock Fencing



Figure 2 – PVC or Timber Post and Rail Fencing



Figure 3 – Indicative over-head solar lighting



Figure 4 – Standard No Crossing Sign



Figure 5 – Indicative location of fencing and lighting

Background:

Under the Council's current 'Licence to Occupy' agreement with the PTA for public use of the Railway Reserve, in the Additional Terms of the document it specifically states:

1 Lights

The Licensee is to ensure that there is not at any time any light (white or coloured) on the Licensed Area in a position where it can affect any person on a train or other railway vehicle.

10 Fences

If required by the PTA, the Licensee is to erect and maintain fences on the Licensed Area to the satisfaction of the PTA.

A physical barrier is to be erected (and maintained) along the trackside boundary of the Licensed area (ie from Level Xing to Level Xing) by the Shire of Brookton (at its cost) to make any members of the Public using the area aware that they are close to an operating railway line and direct the Members of the Public to use the Existing Pedestrian Crossing

In relation to No.10, the PTA's property manager has advised via email, that a suitable barrier fence needs to be erected by the Shire to satisfy the conditions of the licence. This was conveyed in an email on 20th August 2018, where the following query was raised, and responded to:

Query:

The Council holds the view that this should be the PTA's responsibility, as this would be required from a public liability perspective given the operational nature of the railway line, irrespective of the Shire accepting the licence or not.

Response:

PTA is particularly adamant that a Trackside Fence is required to be erected and maintained by the Licensee at Brookton to prevent members of the Public crossing the track. It is a condition of several similar leased properties that a trackside fence be erected and maintained by the Licensee. An example is the Northam Race Course where a condition of the lease was that the NRC was required to erect a trackside fence along the length of its car park and create a pedestrian foot maize to allow its patrons access to and egress from the race course.

Additionally, following consultation with, and a risk assessment of, the Railway Reserve, and associated infrastructure by LGIS representatives, being the Shire's insurers (see **Attachment 12.04.21.02A**), it has been suggested, and accepted the above-mentioned measures are reasonable, and affordable in the interest of public safety and the Shire's duty of care. Accordingly, an allocation of funds has been set aside in the current budget to progress these works, although before proceeding to expend the funds the following was/is sort:

1. A resolution on the long-term land tenure of the Railway Reserve with the PTA.
2. Acceptance by Council as to the style of fencing, lighting and signage proposed to be installed.

Consultation:

Consultation on this matter has been entertained with Council through numerous Corporate Briefing Forums (CBF), and budget workshops.

Statutory Environment:

Upon acceptance by Council on selected materials the 'Licence to Occupy' Agreement stipulates

following requirements under the General Terms.

8.3 Alterations to the Licensed Area

The Licensee must not make any alteration or addition to the Licensed Area unless the PTA consents.

8.5 Building work

In carrying out its obligations to maintain the Licensed Area in good condition and to redecorate and if making any alterations or additions to the Licensed Area the Licensee must:

- (1) before carrying out any building work, obtain the PTA's approval to the plans and specifications for the work;
- (2) (if the PTA consents) comply with any conditions of consent and also comply with the requirements of any Authority and all laws and standards which apply to the work at the time the work is carried out; and
- (3) carry out the work in a safe and proper manner.

Therefore, before proceeding with the works, an email detailing the respective improvements to the Reserve will be forwarded to the PTA seeking the required consent to commence the works.

Relevant Plans and Policy:

In proceeding with the required works the purchase of goods and services will be conducted in accordance with Council Policy 2.36 – Procurement.

Financial Implications:

Presently the 2020-21 budget has an allocation of \$35,000 (excl. GST). Based on research, the following estimated costs, inclusive of materials, freight, and installation costs (excl. GST) will be incurred:

• Standard ring-lock fencing – 445 metres	\$ 6,000
• White PVC or timber post and rail fencing – 150 metres	\$12,500
• Solar lights x 6	\$ 9,000
• 'No Crossing' signs x 10	<u>\$ 700</u>
Total	<u>\$28,200</u>

Should Council decide to change the style or type of fencing or lights the costs may vary.

Further, Council needs to be cognisant that some, (or all), of the funding may need to carry-over to the 2021-22 budget, depending on the time taken to secure consent from the PTA, procure materials, and secure the services of respective trades.

Risk Assessment:

As previously reported the risk is assessed as 'High' and 'Severe' – refer to risk matrix table below. This is due to the third-party liability imposed on the Shire under the current 'Licence to Occupy' agreement and the need for Council to demonstrate clear intent to mitigate its own risk - refer to LGIS Risk Assessment Report provided as **Attachment 12.04.21.02A**.

Consequence	Insignificant	Minor	Moderate	Major	Extreme
Likelihood					
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

Community & Strategic Objectives:

This proposal relates to the Brookton 20, specifically aspirations:

- 14 – History, Heritage, Recreation and Culture
- 18 – Town Precinct

It also aligns to the delivery of core business and services detailed in the Shire of Brookton Corporate Compendium – 2020, duly appended to the Next Generation BROOKTON Corporate Business Plan <2024 with reference to:

Function 9 Asset Management

Action 9.6 – Review Asset Management Plan – Brookton Railway Station and Surrounds

Comment:

In relation to the selected styles and materials, consideration has been given to the follow qualities collectively:

- Effectiveness - The selected fencing, lighting, and signage should be sufficient to satisfy the requirements of public safety, and compliance, being the primary motives for these works being performed.
- Aesthetics - The ring-lock fencing, and to a lesser degree, the solar lighting, has been chosen as both should present as low key, and unobtrusive, to blend with the natural setting of the Railway Reserve. Conversely, the white post and rail fence is selected for its prominence, to compliment the Railway Station building, and platform, without the need for high recurrent maintenance.
- Durability – The materials selected are considered reasonably durable, with a fair tolerance to the elements, and vandalism.
- Affordability – The fencing styles, solar lighting, and signage, are within the assigned budget allocation, and should not be too expensive to repair or replace (should the need arise), or operate in the case of the lights.

In relation to placement, **Figure 5** is an approximate guide, with the main emphasis being on the Shire of Brookton, Ordinary Meeting of Council, 15 April 2021 Agenda

northern, and central portions of the lease area, where the Community is encouraged to enjoy the ambience of the Railway Station, and Brookton's agricultural history.

OFFICER RECOMMENDATION

That Council in relation to the improvements for the Brookton Railway Reserve (Portion of Crown Reserves 10325 (Lot 143) and 14197 (Lot 306) Robinson Road Brookton):

- 1. Endorses the selection of materials for fencing, lighting and signage as illustrated in Figures 1 – 5 of this report.***
- 2. Acknowledges the requirement for Public Transport Authority consent, before proceeding with the required improvements.***
- 3. Accepts the carry-over of funding to the draft 2021-22 budget should this be required following consent being granted by the Public Transport Authority.***

(Simple majority vote required)

Attachment

12.04.21.02A – LGIS Risk Assessment Report



20 April 2020

Ian D'Arcy
CEO
Shire of Brookton

(By email only)

LGIS Risk Management
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Level 3, 170 Railway Pde
West Leederville WA 6007
ALL MAIL TO:
PO Box 1003, West Perth WA 6872
Direct +61 8 9483 8887
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Email paul.mcbride@lgiswa.com.au

Dear Ian,

Summary Risk Advice: Brookton Railway Station & Reserve

A. Background

I refer to your recent correspondence requesting liability risk advice in respect to the Brookton Railway Station and surrounds (the Licenced Area Reserve Site) in the Shire of Brookton. Specifically you asked us to provide comment as to the potential liability risk arising out of the Shire's control and management of the Station, pursuant to a Licence to Occupy Agreement (the Agreement) between the Shire and the Public Transport Authority.

You require the advice in order to determine the most appropriate response to addressing concerns that the condition of the Station and the Licenced Area - located in the Rail Reserve at Brookton (plan number as L3542-2 Rev B) - may present a public safety risk, and consequently a liability risk to the Shire.

To inform our advice we:

- made certain assumptions;
- attended the site, making physical observations, on 26 March 2020; and
- reviewed the licence agreements, identifying observations relevant to risk.

B. Assumptions

- We understand that there is no systematic approach to maintenance of the site. However, a pest-control contractor occasionally inspects the building.
- There have been no improvements to the buildings since execution of the Agreement.
- The Shire has installed temporary supports (Acro props) to certain external areas of the building in order to mitigate the potential danger of structural collapse. We assume this is consistent with the engineer's report.
- Community groups previously occupied the station building, using it for arts and crafts and as a parenting room among other things. However, although secured, the building is now vacant.
- Site signage indicates that PTA funded a heritage platform upgrade.
- Passenger rail services no longer operate through the station, CBH utilise the railway line year round, with approximately 2 to 3 trains running daily during peak seasonal periods.
- There are **two** other buildings on the opposite side of the railway line, a storage shed and a telecommunications shed. There are some other assets within the licenced area.

C. Site observations

The Railway Station building (Robinson Street Reserve)

We were able to make the following observations:

- A temporary fence secures the building.
- Access is via a padlocked opening.
- The electrical supply to the building is disconnected; as a result, smoke alarms are also disconnected.
- There is locked access to the various rooms of the building.
- The building exterior and paint condition appear reasonable.
- The interior of the building is in poor condition, with various forms of structural damage, including rotting or termite damage to elements of the timber construction.
- It is also obvious that some external structural elements are rotting and unstable including roofing supports (temporary props shore-up some).
- Timber supports and foundations (sub-surface) are deteriorating.
- The external elements of the building include:
 - trip and slip hazards on the passenger rail platform due to deteriorating bitumen surface and level difference from one surface to another;
 - damaged/deteriorating components of timber fence (picket fence);
 - gaps in picket fence (due to installation of temporary fencing);
 - damaged stormwater drainage (some downpipes appear to be damaged, diverted away or disconnected from subsurface drainage connections); and,

We have no information on the condition of the subsurface drainage components.

Other buildings (Great Southern Hwy Reserve)

Storage shed

The shed is timber construction with steel cladding. The roof appears to be sagging in the centre and some of the upright supports are slipping from the foundations. The building is not accessible and the contents (if any) are unknown.

Telecommunications shed

The shed structure is steel framed with galvanised steel cladding. The damaged glass pane and bent steel grill of the single widow provides an opening to the shed's interior. A padlock secures the single door. A phone, electrical switchboard and a vacuum cleaner are visible from the window.

Extent of public information

To make members of the public aware that they are close to an operating railway line and direct them to use the existing pedestrian crossing, the following observations are relevant:

- The Robinson Street reserve contains a number of sealed roadside car parks to the north of and behind the Railway Station building. Between the car parks and the railway line is a mix of: timber picket fence; spaced horizontal timber post and rail barriers; spaced vertical timber barriers (bollards); and sections with no barriers.
- The area between the public toilet and the railway line, and the remainder of the Robinson Street reserve south of this up to the level crossing, does not contain barriers.
- The Great Southern Hwy reserve contains a number of unsealed car parks; one of these car parks serves as a tourist information bay (northern end). Some of the car parks contain spaced horizontal timber post and rail barriers, assumed to restrict vehicle access to the rail line area. Otherwise, there are no barriers within the reserve in the other sections between the level crossings. A sealed light vehicle parking area opposite Whittington St does not contain barriers and therefore allows access to the 'other buildings' and the railway line in the licenced area.
- There are two dedicated pedestrian crossings between the level crossings. Based on the plan within the Licence, it is uncertain if the full extent of the pedestrian crossings, in particular the northern crossing, falls within the licenced area.
 - The northern crossing only contains barriers on the chicanes abutting the railway line.
 - The crossing closer to the Railway station building also has barriers on the chicanes abutting the railway line. There are also barriers either side of its connecting path from the Great Southern Hwy. This path terminates close to the Brookton Club Hotel (licensed venue).
 - At both crossings, danger signage warning of trains and instructing cyclists to dismount are located on each entry point to the chicanes. There is no other signage in the licenced area directing pedestrians to either of the crossings.
- What appears to be a tourist walk trail runs parallel to the rail line on the Great Southern Hwy reserve. This trail connects to multiple displays of agricultural machinery, some of which are positioned around 10m from the railway line. Each item contains an interpretive plaque with the Shire's name. Tables and seating are also located along this trail. It is obvious the Shire is inviting the public into the area alongside the railway.
- Up to 10m back from the rail line there is a relatively clear line of sight offered along the rail corridor where trains could be both seen and heard for some distance. However, it would not be farfetched to imagine a vulnerable person (e.g. a child) escaping supervision and ending up on the rail line. Again, there is no barrier between the walk trail and the rail line.

- On the Robinson Rd reserve and in the area immediately alongside the Railway Station building is Pioneer Park. The park contains grassed areas, picnic shelters and a pond. Railway access from this area is largely restricted by the timber picket fence; however, there are still unfenced areas beyond the picket fence and up to the pedestrian crossing.

D. Observations relevant to the Licence Agreement

As you will remember, we previously addressed the substance of the Licence to Occupy during our presentation to Council in February 2020. Among other things, we discussed the licence agreement and in particular, what it means for the Shire, in terms of obligations to the PTA and any contingent risk to the Shire as the Licensee.

With the licence agreement in mind, we decided to make some additional site observations relating to clause 9 of the 'Schedule' to the licence agreement and the 'Additional Terms' therein.

They are as follows:

1. Lights

Whilst the site was observed in daylight, there did not appear to be any lighting installed in such a fashion that would affect any person on a train or other railway vehicle.

2. Plants and trees

There are mature trees along the length of the railway, with some branches protruding over or near to the rail line (e.g. near the pedestrian crossing on the northern end of the Great Southern Hwy reserve).

There were no light towers observed in this area, however we saw pedestrian lights mounted on poles near the pedestrian crossing close to the Railway Station building. These lights pointed to the ground.

3. Licensee's property and the PTA's property

Notwithstanding the findings of the engineer's report, there is evidence of lack of maintenance to the Railway Station building. Other buildings are intact but showing signs of damage, deterioration and lack of general upkeep.

There are items of loose building materials/fencing and signage stored around the other buildings. These materials could potentially make their way onto the tracks.

4. Stock

Other than a section of picket fencing in the immediate area of the Railway Station building, it is possible for animals to penetrate the fencing. The Shire needs to consider how best to prevent animals straying onto or through the licenced area. We assume that there is no transfer or loading of livestock within the leased area.

5. No building, stacking or obstruction of views

We are not aware of any improvements in the way of construction (e.g. buildings or structures) by the Shire to the leased area. We did not observe any such items that created an obstruction to the view of any person driving a train or other railway vehicle.

6. Drainage system

The Great Southern Hwy reserve is largely cleared ground. There are sub surface concrete drains located within this cleared area. These drains do not appear to be obstructed (e.g. by debris).

As previously mentioned, there is some damage to stormwater drainage at the Railway Station and one section, at the northern trackside-end, has been diverted onto the passenger platform. It is possible the stormwater could be directed onto the tracks in a heavy downpour. However there is no evidence of such water damage or scouring to the track area in front of the passenger platform.

7. Firebreaks

Vegetation is well clear of the railway line and buildings.

8. Telephone pole

Telephone poles along the Great Southern Hwy reserve are intact; however, these poles do not contain linking cable/wires. We assume aerial services are no longer in operation.

9. Telecommunications cable

We assume any telecommunication cable is subterranean. The exact location of the cable is unknown, however we assume the most likely location is near the telecommunications shed. There is no sign of ground disturbance in this area. Markers/signs in the vicinity are damaged, faded and illegible.

10. Fences

We are uncertain if there are any requirements imposed on the Shire in relation to the erection of fences. Apart from the temporary fence enclosing the Railway Station Building, there is only a timber picket fence in the immediate area of the passenger platform and the station. Some sections of this fence are in need of repair.

Other relevant items appearing in the 'Additional Terms' of the expired Licence (grounding agreement)

11. Machinery

- Agricultural equipment - appeared in reasonable condition for what seems to be heritage-style farm equipment exposed to the elements. Whilst the equipment did not appear capable of movement, some of items could present hazards if climbed on by children.
- Crane/winch – alongside the storage shed: appeared relatively free of hazards and incapable of movement.
- Water pump/standpipe and tank – alongside Railway Station building: appeared in good condition.

12. Buffer rail

- This is similar to the requirement for 'Fencing' (physical barrier) under the 'Additional Terms of the Licence to Occupy', however it is specific to preventing 'vehicles' going onto the railway line. We are uncertain if the PTA required the Shire to install the buffer rail, in any event the previously mentioned observations regarding the presence of a 'physical barrier' are also relevant in this case.

E. Liability Risk

We would emphasise at this point that this advice **should not** be construed as legal advice; but rather risk advice focussed on those liability risks relevant to the Shire's management and control of the Reserve.

In practical terms, the most likely liability risk would result from a claim in personal injury based on negligence alleged against the Shire. For example, a claim that alleges a breach of duty of care on the part of the Shire for failing to, or inadequately protecting entrants and visitors to the site against a risk of foreseeable injury.

F. Determining the Liability Risk

In order to determine the Shire's liability risk in respect to the reserve and buildings we must first consider whether, and to whom, the Shire owes a duty of care. In this context, we can limit the discussion to those using the reserve for leisure, people visiting the rail station for historical interest and those accessing or passing by the buildings and sheds for other reasons.

Of course, in terms of the Shire's deliberations, this necessarily involves consideration of liability, reputational, financial and governance matters. As to this, in order to properly assess the liability risk, we need outline the framework within which liability is determined in WA, and apply this to a hypothetical situation involving a personal injury action against the Shire by a person injured whilst at the railway station or on the reserve.

The Shire's duty of care arises from the common law and specific legislation, but will often depend on individual circumstances, such as any agreements the Shire has in place (the Licence Agreement). The critical aspect being the relationship between the Shire and the individuals to whom it allegedly owes a duty of care (e.g. visitors).

Section 5B of the Civil Liability Act 2002 (CLA) outlines the General Principles applicable to duty of care. I have taken the liberty of applying these principles to the Shire in a local government context, they are:

- a. the **foreseeability of the risk** (i.e. risks that a reasonable local government would have foreseen given the condition of the buildings and surrounds);
- b. whether the risks were **not insignificant**, (i.e. type of injury sustained) and
- c. in the circumstances, whether a reasonable local government in the Shire's position would have **taken reasonable precautions** to prevent or mitigate the risks once they are known.

A further issue for consideration relevant to the taking of reasonable precautions is:

1. the **probability of harm** occurring if action was not taken;
2. the **seriousness of the harm** (in this case seriousness of an injury sustained as a result of the condition of the site);
3. the **burden of taking precautions** to avoid or mitigate the risk of personal injury;
4. the **social utility** of the activity that underpins the risk (in this case the importance of providing a site for the community and visitors to enjoy and for wider economic and cultural benefit to the Shire and its community).

This part of CLA essentially sets down a formula and methodology for assessing liability risk and should help inform the Shire's decision-making. However, there are other important considerations relevant to the current situation, which should help the Shire's deliberations when it comes to weighing up the best approach to ensuring a safe environment at the Brookton Railway station and the surrounding reserve.

Section 5W of the CLA deals with public bodies, such as local governments, and addresses duty of care and breach of duty of care.

It provides:

- (a) the functions required to be exercised by the Shire are **limited by the financial and other resources** that are reasonably available to the Shire for the purpose of exercising its functions;
- (b) the general **allocation of those resources** by the Shire is not open to challenge (this means that how the Shire chooses to spend its money, e.g. whether or not to commit resources to the railway station and wider reserve, is not open to challenge as a way of demonstrating liability);
- (c) the functions required to be exercised by the Shire are to be determined by reference to the **broad range of its activities** (and not merely by reference to the management, control and decisions in respect to land and reserves within the Shire);
- (d) the Shire decision-makers may rely on evidence of their **compliance with the general procedures and applicable standards** for the exercise of their functions as evidence of the proper exercise of their functions in regard to management and control of injury risk at the station and reserve.

We agree that it is important that the Shire have a clear understanding of the potential risks as part of its overall decision-making in respect to management of the railway station and reserve. Among other things, this of course would include taking cognisance of the observations outlined in our report, the advice contained in engineer's report and, where relevant, the agreements in place with PTA. **Basing decisions on the best available expert advice relevant to the condition of the site as a whole is crucial to minimising the Shire's liability risk exposure.**

However, the more relevant exercise for the Shire to undertake is to consider the various remediation options for the buildings and reserves and weigh each against the liability framework outlined above.

In practical terms, this means that the Shire's approach to each observation identified in this report requires assessment against the following factors:

1. the Shire's options are restricted by its financial capacity – that is, its financial capacity to mitigate the risk of personal injury to all visitors at the site;
2. how the Shire chooses to allocate its limited finances at a macro level is not open to challenge (from a liability risk perspective);
3. the Shire has many and a broad range of competing priorities; and,
4. it can rely on its compliance with recognised standards and generally accepted approaches to risks at similar heritage buildings and reserves as evidence of the proper exercise of its function in the prudent discharge of its role as a responsible local government. In other words if the buildings, sheds, and the entire licenced

area comply with recognised standards, adopt the recommendations in the engineer's report and also comply with the licence obligations, then each of these are likely to help minimise the Shire's liability risk (both public liability and contractual liability). We acknowledge that heritage buildings are not subject to conventional building standards, however where people access those buildings they would expect to do so safely.

G. Conclusion

Many local governments face similar issues in respect to heritage buildings and reserves that they manage and control. They typically attract many visitors from far-and-wide, offering important economic and cultural benefits to the local community.

It is not the role of the Shire to eliminate all risk of personal injury to visitors. That said, as licensee, the Shire is obliged to ensure that the site is fit for purpose and where visitors access the site they would expect to be able to do so without suffering a foreseeable risk injury. Based on our site observation of 26 March 2020, our view is that it is reasonably foreseeable that a person may sustain an injury and consequently make a claim against the Shire because of the condition of the site

The Shire would have recourse to the provisions of the CLA (outlined above) as a way of defending any claim. However, it is impossible to say with certainty whether a court would find in the Shire's favour, especially if a potential claimant demonstrates that the condition, and the Shire's approach to management and control of the site, contributed to the risk of the injury suffered.

There are of course other risk considerations, including reputational and wider financial implications relevant to the management and control of the site. Compliance with the terms of the licence agreement is crucial as a matter of good governance and as a way to minimise liability risk.

Should you require further information regarding this risk advice, please do not hesitate to contact me.

We look forward to presenting to Council on 30 April 2020.

Yours sincerely,

Paul McBride
Principal Risk Consultant - Legal

Ian Proudfoot
Senior Risk Consultant - Liability

13.04.21 COMMUNITY SERVICES REPORTS

Nil.

14.04.21 CORPORATE SERVICES REPORT

14.04.21.01 LIST OF ACCOUNTS FOR PAYMENT

File No:	N/A
Date of Meeting:	15 April 2021
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	Charlotte Cooke – Finance Administration Officer
Authorising Officer:	Kellie Bartley – Manager Corporate and Community
Declaration of Interest:	The author has no financial interest in this matter.
Voting Requirements:	Simple Majority
Previous Report:	18th March 2021

Summary of Item:

The purpose of this report is to present to Council the list of accounts paid, for the month ending 31 March 2021, as required under the *Local Government (Financial Management) Regulations 1996*.

Description of Proposal:

To approve the accounts for payment.

Background:

In accordance with *Local Government (Financial Management) Regulations 1996 Clause 13 (1)* schedules of all payments made through Council's bank accounts are presented to Council for inspection.

Consultation:

There are no community engagement implications that have been identified as a result of this report or recommendation.

Statutory Environment:

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* states:

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.

Relevant Plans and Policy:

The Chief Executive Officer, under relevant delegation, is authorized to arrange purchase of specific items in the budget, which do not require calling tenders, providing that it is within the approved and adopted budget.

Financial Implications:

There are no financial implications that have been identified as a result of this report or recommendation.

Risk Assessment:

The risk in relation to this matter is assessed as 'Medium' on the basis that if Council does not accept the payments. The risk identified would be failure to fulfil statutory regulations or compliance requirements. Shire Officer's provide a full detailed listing of payments made in a timely manner.

Consequence Likelihood	Insignificant	Minor	Moderate	Major	Extreme
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

Community & Strategic Objectives:

This item relates to delivery of core business and services detailed in the Shire of Brookton Corporate Compendium – October 2020, duly appended to the Next Generation BROOKTON Corporate Business Plan <2021.

Specifically, the contract services support the following Business Unit and Functions:

18. Financial Control

18.2 Conduct external/internal audits and reporting

18.5 Process rates, other revenues, timely payments

Comment

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 is to be provide to Council, where such delegation is made.

The payment schedule is provided to Councilors' separately and not published on the Shire of Brookton website to mitigate against the potential of fraudulent activity that can arise from this practice. Members of the public can obtain the schedule from the Shire of Brookton Administration Office.

The following table summaries the payments for the period by payment type, with full details of the accounts paid contained within Attachment 14.04.21.01A.

Payments up to 31 March 2021

Payment Type	Account Type	Amount (\$)
Automatic Payment Deductions (Direct Debits)	Municipal	\$153,037.02
Cheque Payments (cheque numbers issued) #18506 & 18507	Municipal	\$9,758.50
EFT Payments #11949 to #12031	Municipal	\$295,214.47
Sub Total	Municipal	\$458,009.99
EFT Payments – Nil issued	Trust	\$0.00
Sub Total	Trust	\$0.00
EFT Payments #12032 to #12035	Bond	\$810.00
Sub Total	Bond	\$810.00
Totals		\$458,819.99

Contained within Attachment 14.04.21.01A is a detailed transaction listing of credit care expenditure paid for the period ended 31 March 2021. This amount is included within the total payments, listed above.

OFFICER RECOMMENDATION

That Council accepts the list of accounts, totalling \$458,819.99 paid under delegated authority in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996* for the period ended 31 March 2021, as contained within Attachment 14.04.21.01A.

Attachments

Attachment 14.04.21.01A – List of accounts for March 2021

Members of the public can obtain a copy of the List of Accounts by contacting the Shire Administration Office.

14.04.21.02 STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDED 31 MARCH 2021

File No:	N/A
Date of Meeting:	15 April 2021
Location/Address:	N/A
Name of Applicant:	Shire of Brookton
Name of Owner:	Shire of Brookton
Author/s:	Kelly D'Arcy – Senior Finance Officer
Authorising Officer:	Kellie Bartley – Manager Corporate & Community
Declaration of Interest:	The authors have no financial interest in this matter
Voting Requirements:	Simple Majority
Previous Report:	There is no previous meeting reference

Summary of Item:

The Statement of Financial Activity for period ending 31 March 2021 together with associated commentaries are present for Council's consideration.

Description of Proposal:

That Council receives the Statement of Financial Activity for the period ended 31 March 2021, as presented.

Background:

In accordance with regulation 34 of the *Local Government (Financial Management) Regulations 1996*, the Shire is to prepare a monthly Statement of Financial Activity for approval by Council. December and January's reports are presented in February as Council does not meet in January.

Consultation:

Reporting officers receive monthly updates to track expenditure and income.

Statutory Environment:

Section 6.4 of the *Local Government Act 1995* requires a Local Government to prepare an annual financial statement for the preceding year and other financial reports as they prescribed.

Regulation 34(1) of the *Local Government (Financial Management) Regulations 1996* as amended requires the Local Government to prepare monthly financial statements and report on actual performance against what was set out in the annual budget.

Relevant Plans and Policy:

There is no Council Policy relevant to this item.

Financial Implications:

The Budget is regularly monitored on at least a monthly basis, by the Chief Executive Officer, the Manager Corporate & Community and the Senior Finance Officer. Responsible Officers are also required to review their particular line items for anomalies each month, with a major review required by law, between 1 January and 31 March of each year pursuant to the *Local Government (Financial Management) Regulations 1996* (Regulation 33A).

Any material variances that have an impact on the outcome of the budgeted closing surplus position are detailed in the Monthly Financial Report contained within **Attachment 14.04.21.02A**.

Risk Assessment:

The risk in relation to this matter is assessed as 'Low' on the basis that if Council does not receive the Monthly Financial Reports for the month reported leading to the Shire not meeting legislative
Shire of Brookton, Ordinary Meeting of Council, 15 April 2021 Agenda

requirements on financial reporting. The risk identified would be failure to fulfil statutory regulations or compliance requirements.

Consequence	Insignificant	Minor	Moderate	Major	Extreme
Likelihood					
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

Community & Strategic Objectives:

Responsible financial management is critical to deliver on the Strategic Community Plan.

The Corporate Business Plan determines the local government's resource allocations which form the construction of the Annual Budget. The financial statements thus measure performance against the Corporate Business Plan by providing comparatives against the Annual Budget.

This item relates to delivery of core business and services detailed in the Shire of Brookton Corporate Compendium – May 2018, duly appended to the Next Generation BROOKTON Corporate Business Plan <2021.

Specifically, the contract services support the following Business Unit and Functions:

19. *Financial Control*
 - 18.2 *Conduct external/internal audits and reporting*
 - 18.4 *Review/Manage financial investments*
 - 18.5 *Process rates, other revenues, timely payments*

Comment

The Monthly Financial Reports has been prepared in accordance with statutory requirements.

OFFICER RECOMMENDATION

That Council receives the Monthly Statements of Financial Activity for the 31 March 2021, in accordance with Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1995 as presented in Attachment 12.04.21.02A.

(Simple majority vote)

Attachments

Attachment 14.04.21.02A – Statement of Financial Activity

Shire of Brookton
MONTHLY FINANCIAL REPORT
For the Period Ended 31 March 2021

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Shire of Brookton
STATEMENT OF FINANCIAL ACTIVITY
(Statutory Reporting Program)
For the Period Ended 31 March 2021

	Note	Adopted Annual Budget	Current Budget	YTD Budget (a)	This Month	YTD Actual (b)	Var. \$ (b)-(a) (c)	Var. % (b)-(a)/(b) 9	Var.
Operating Revenues									
Governance		\$ 43,050	47,050	\$ 19,446	1,240	\$ 22,711	\$ 3,265	% 16.79%	
General Purpose Funding		1,196,476	2,148,191	1,025,671	173,917	1,010,828	(14,843)	(1.45%)	
Law, Order and Public Safety		288,876	289,876	197,900	23,177	210,077	12,177	6.15%	
Health		300	300	225	0	205	(20)	(9.09%)	
Education and Welfare		68,982	68,982	51,732	5,449	49,975	(1,757)	(3.40%)	
Housing		87,278	87,278	65,448	7,417	71,035	5,587	8.54%	
Community Amenities		423,838	413,070	406,751	2,515	387,945	(18,806)	(4.62%)	
Recreation and Culture		39,131	63,349	53,399	4,233	53,695	296	0.55%	
Transport		684,343	684,343	530,131	100	224,709	(305,422)	(57.61%)	▼
Economic Services		53,150	53,150	39,852	10,179	45,822	5,970	14.98%	
Other Property and Services		45,700	45,700	34,263	6,186	40,720	6,457	18.85%	
Total (Excluding Rates)		2,931,124	3,901,289	2,424,818	234,412	2,117,722	(307,096)	(12.66%)	
Operating Expense									
Governance		(534,766)	(538,766)	(397,051)	(23,148)	(341,768)	55,283	13.92%	▲
General Purpose Funding		(347,370)	(236,417)	(157,978)	(12,735)	(136,306)	21,672	13.72%	▲
Law, Order and Public Safety		(508,549)	(508,149)	(272,533)	(26,743)	(255,558)	16,975	6.23%	
Health		(22,031)	(22,031)	(16,628)	(2,444)	(14,369)	2,259	13.58%	
Education and Welfare		(169,146)	(171,446)	(120,142)	(8,384)	(105,958)	14,184	11.81%	▲
Housing		(198,455)	(197,861)	(147,622)	(10,943)	(115,870)	31,752	21.51%	▲
Community Amenities		(558,565)	(556,660)	(429,192)	(27,646)	(339,623)	89,569	20.87%	▲
Recreation and Culture		(914,001)	(973,526)	(724,760)	(65,904)	(658,159)	66,601	9.19%	
Transport		(2,975,508)	(3,016,508)	(2,388,714)	(283,468)	(2,530,947)	(142,233)	(5.95%)	
Economic Services		(183,296)	(183,296)	(128,107)	(16,619)	(118,041)	10,066	7.86%	
Other Property and Services		(476,035)	(476,035)	(390,107)	(13,596)	(366,215)	23,892	6.12%	
Total		(6,887,722)	(6,880,695)	(5,172,834)	(491,630)	(4,982,816)	190,018	3.67%	
Funding Balance Adjustment									
Add back Depreciation		2,781,490	2,781,490	2,086,118		2,299,475	213,357	10.23%	
Adjust (Profit)/Loss on Asset Disposal	6	91,789	91,789	91,789		113,755	21,966	23.93%	▲
Net Operating (Ex. Rates)		(1,083,319)	(106,127)	(570,110)		(451,864)	118,245	(20.74%)	
Capital Revenues									
Proceeds from Disposal of Assets	6	145,000	145,000	133,000		133,000	0	0.00%	
Proceeds from New Debentures	5	0		0		0	0	0.00%	
Self-Supporting Loan Principal		22,801	22,801	(11,400)		11,206	22,606	(198.30%)	
Transfer from Reserves	5	3,887,306	3,887,306	2,915,480		3,386,306	470,827	16.15%	▲
Total		4,055,107	4,055,107	3,037,080		3,530,512	493,433		
Capital Expenses									
Land and Buildings	6	(226,000)	(844,540)	(243,540)		(224,601)	18,939	7.78%	
Plant and Equipment	6	(559,500)	(565,500)	(552,497)		(558,759)	(6,262)	(1.13%)	
Furniture and Equipment	6	(12,000)	(12,000)	(12,000)		0	12,000	100.00%	▲
Infrastructure Assets - Roads & Bridges	6	(1,123,247)	(1,334,247)	(1,123,247)		(757,925)	365,322	32.52%	▲
Infrastructure Assets - Sewerage	6	(373,000)	(1,023,000)	(723,000)		(32,095)	690,905	95.56%	▲
Repayment of Debentures	7	(125,429)	(125,429)	(85,676)		(84,998)	678	0.79%	
Principal elements of finance lease payments	7	(1,372)	(1,372)	0		0			
Transfer to Reserves	5	(3,287,089)	(3,287,089)	(2,465,317)		(3,184,974)	(719,657)	(29.19%)	▼
Total		(5,707,637)	(7,193,177)	(5,205,277)		(4,843,352)	361,925	(6.95%)	
Net Capital		(1,652,530)	(3,138,070)	(2,168,197)		(1,312,840)	855,357	(39.45%)	
Total Net Operating + Capital		(2,735,849)	(3,244,197)	(2,738,307)		(1,764,704)	973,603	35.55%	
Rate Revenue		2,323,265	2,324,415	2,324,812		2,326,201	1,389	0.06%	
Opening Funding Surplus(Deficit)		412,583	412,583	412,583		412,583	0	0.00%	
Closing Funding Surplus(Deficit)	3	0	(507,199)	(912)		974,080	974,992		

Shire of Brookton
STATEMENT OF FINANCIAL ACTIVITY
Program by Nature and Type
For the Period Ended 31 March 2021

NOTE	2020/21 Adopted Budget	2020/21 Current Budget	2020/21 YTD Budget	2020/21 YTD Actual	Variance YTD Budget vs YTD Actual
	\$	\$	\$	\$	\$
REVENUES FROM ORDINARY ACTIVITIES					
Rates	2,323,415	2,324,565	2,324,812	2,326,201	1,389
Operating Grants, Subsidies and Contributions	1,167,520	2,142,003	1,120,089	482,520	(637,569)
Fees and Charges	682,928	677,610	606,923	593,554	(13,369)
Interest Earnings	130,111	130,111	106,177	128,268	22,091
Other Revenue	197,836	197,836	61,749	84,072	22,323
	4,501,810	5,472,125	4,219,750	3,614,615	(605,135)
EXPENSES FROM ORDINARY ACTIVITIES					
Employee Costs	(1,911,012)	(1,856,516)	(1,280,432)	(1,310,869)	(30,437)
Materials and Contracts	(1,531,907)	(1,642,105)	(1,267,217)	(941,390)	325,828
Utilities	(177,631)	(176,473)	(125,405)	(109,436)	15,969
Depreciation	(2,781,490)	(2,781,490)	(2,156,011)	(2,299,475)	(143,464)
Interest Expenses	(76,411)	(76,411)	(45,825)	(33,129)	12,696
Insurance	(193,031)	(193,031)	(193,013)	(174,637)	18,376
Other Expenditure	(112,453)	(1,500)	(1,001)	(126)	875
	(6,783,935)	(6,727,526)	(5,068,904)	(4,869,061)	199,843
	(2,282,125)	(1,255,401)	(849,154)	(1,254,446)	(405,292)
Non-Operating Grants, Subsidies & Contributions	740,579	740,579	520,880	829,309	308,429
Profit on Asset Disposals	12,000	12,000	9,000	-	(9,000)
Loss on Asset Disposals	(103,789)	(103,789)	(103,789)	(113,755)	(9,966)
NET RESULT	(1,633,335)	(606,611)	(423,063)	(538,892)	(115,829)

Note 1: MAJOR VARIANCES

Comments/Reason for Variance

OPERATING REVENUE (EXCLUDING RATES)

4 Governance

Within variance threshold of \$10,000 or 10%

3 General Purpose Funding

Within variance threshold of \$10,000 or 10%

5 Law, Order and Public Safety

Within variance threshold of \$10,000 or 10%

7 Health

Within variance threshold of \$10,000 or 10%

8 Education and Welfare

Within variance threshold of \$10,000 or 10%

9 Housing

Within variance threshold of \$10,000 or 10%

10 Community Amenities

Within variance threshold of \$10,000 or 10%

11 Recreation and Culture

Within variance threshold of \$10,000 or 10%

12 Transport

Monies not yet claimed from Road to Recovery funding. Will correct over time as road works are completed and funds claimed.

13 Economic Services

Within variance threshold of \$10,000 or 10%

14 Other Property and Services

Within variance threshold of \$10,000 or 10%

OPERATING EXPENSES

4 Governance

Under spend in salaries and wages. Less than anticipated expenditure on general operations

3 General Purpose Funding

Less expenditure than anticipated in the ABC allocations due to underspend in operations

5 Law, Order and Public Safety

Within variance threshold of \$10,000 or 10%

7 Health

Within variance threshold of \$10,000 or 10%

8 Education and Welfare

Timing issue, will correct over time.

9 Housing

Timing issue, will correct over time.

10 Community Amenities

Timing issue, will correct over time.

11 Recreation and Culture

Within variance threshold of \$10,000 or 10%

12 Transport

Within variance threshold of \$10,000 or 10%

13 Economic Services

Timing issue, will correct over time.

14 Other Property and Services

Within variance threshold of \$10,000 or 10%

CAPITAL REVENUE

Proceeds from Disposal of Assets

Within variance threshold of \$10,000 or 10%

Self-Supporting Loan Principal

Within variance threshold of \$10,000 or 10%

Transfer from Reserves

Timing issue, will correct over time. Transfers are only carried out when capital projects fully expended.

CAPITAL EXPENSES

Land and Buildings

Works commenced, variance is a timing issue and will correct over time

Plant and Equipment

Within variance threshold of \$10,000 or 10%

Furniture and Equipment

Within variance threshold of \$10,000 or 10%

Infrastructure Assets - Roads & Bridges

Works commenced, variance is a timing issue and will correct over time

Infrastructure Assets - Sewerage

Works commenced, variance is a timing issue and will correct over time

Repayment of Debentures

Within variance threshold of \$10,000 or 10%

Note 1: MAJOR VARIANCES

Comments/Reason for Variance

OPERATING REVENUE (EXCLUDING RATES)

4 Governance

Transfer to Reserves

Timing issue, will correct over time.

OTHER ITEMS

Rate Revenue

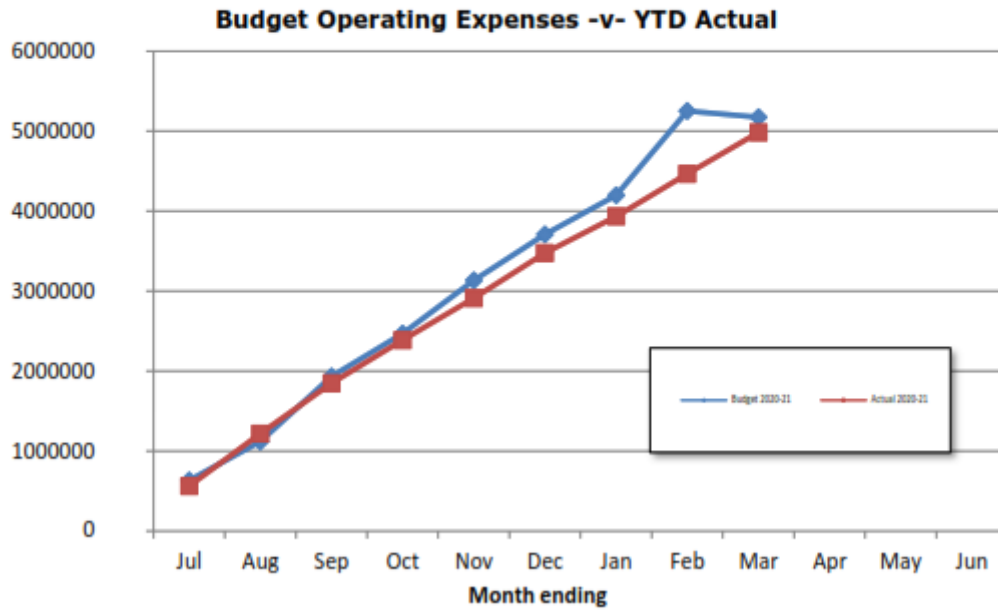
Will adjust as payments are made.

Closing Funding Surplus (Deficit)

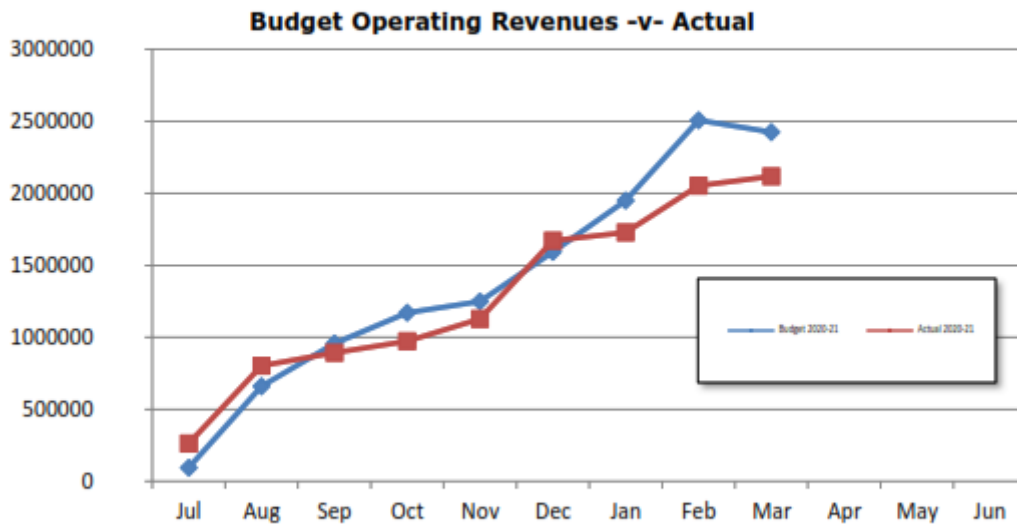
Will adjust as income and expenditure occur over the year

Shire of Brookton
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 31 March 2021

Note 2 - Graphical Representation - Source Statement of Financial Activity



Comments/Notes - Operating Expenses

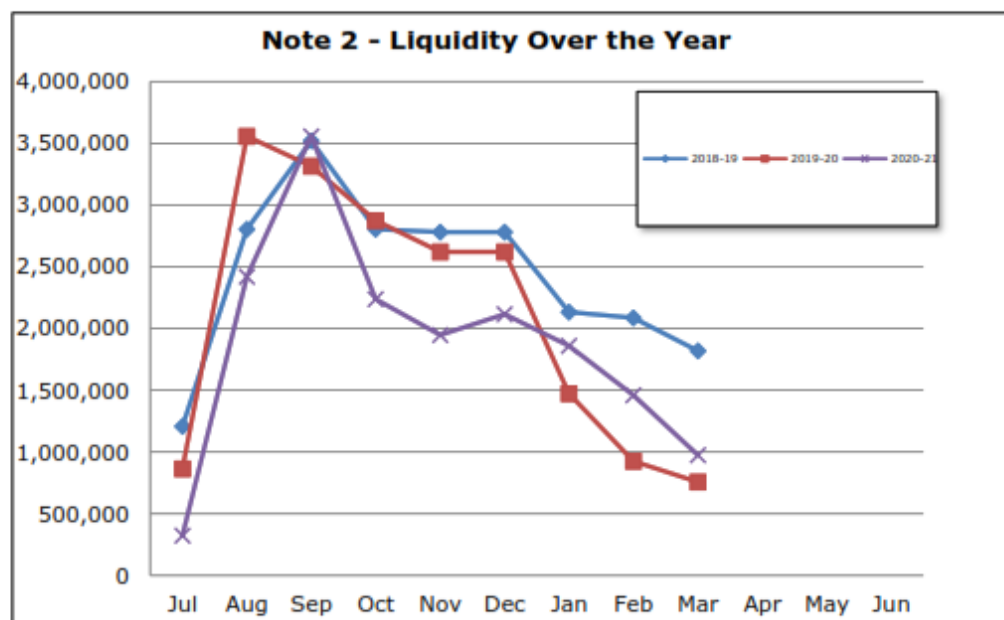


Comments/Notes - Operating Revenues

Shire of Brookton
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 31 March 2021

Note 3: NET CURRENT FUNDING POSITION

Positive=Surplus (Negative=Deficit)				
2020-21				
Note	This Period	Same Period	Same Period	Surplus C/F 1
	\$	2019/20	2018/19	July 2020
	\$	\$	\$	\$
Current Assets	Mar 2021	Mar 2020	Mar 2019	
Cash Unrestricted	1,180,616	534,025	1,909,191	810,922
Cash Restricted	11,931,919	12,510,259	5,025,777	12,133,251
Receivables	288,683	1,053,097	4,146,092	125,586
Non-Cash provision movement	0	0	0	0
Inventories	28,145	27,930	25,673	16,298
	13,429,363	14,125,311	11,106,733	13,086,057
Less: Current Liabilities				
Payables and Provisions	(523,364)	(858,483)	(4,262,341)	(540,223)
	(523,364)	(858,483)	(4,262,341)	(540,223)
Less: Cash Restricted	(11,931,919)	(12,510,259)	(5,025,777)	(12,133,251)
Net Current Funding Position	974,080	756,569	1,818,615	412,583



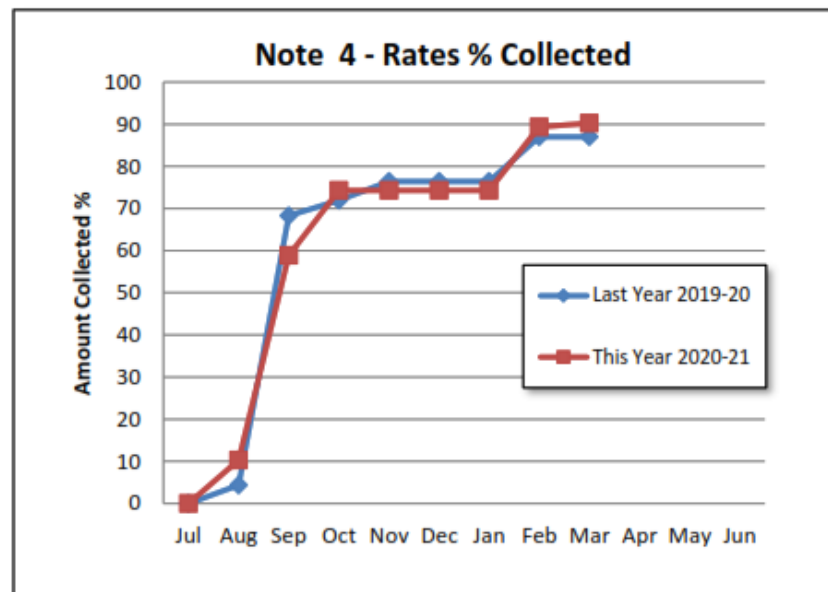
Comments - Net Current Funding Position

Shire of Brookton
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 31 March 2021

Note 4: RECEIVABLES

Receivables - Rates, Sewerage and Rubbish

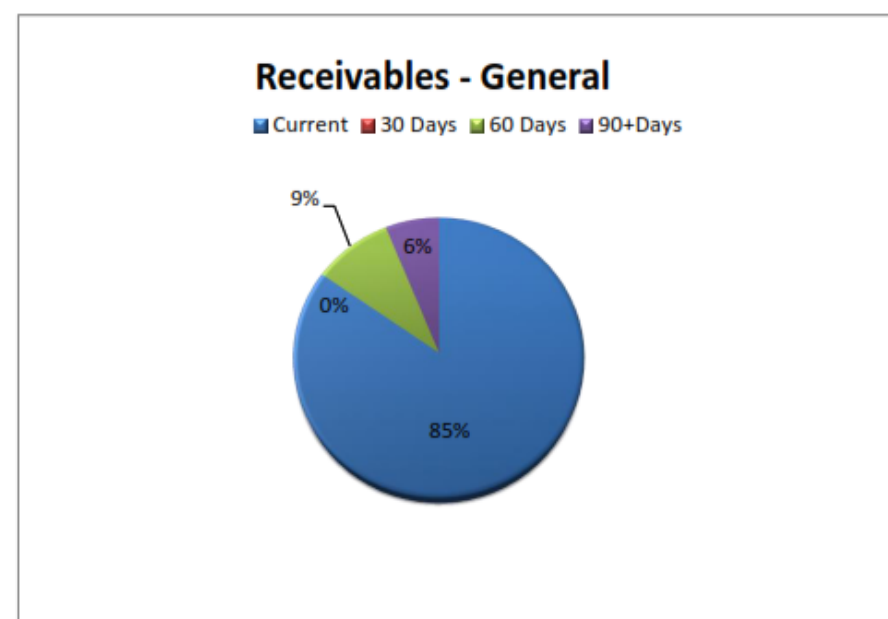
	Current 2020-21	Previous Year 2019-20
	\$	\$
Opening Arrears Previous Years	234,381	86,273
Rates, Sewerage & Rubbish Levied this year	2,699,645	2,663,163
<u>Less</u> Collections to date	(2,647,977)	(2,391,894)
Equals Current Outstanding	286,049	357,542
Net Rates Collectable	286,049	357,542
% Collected	90.25%	87.00%



Comments/Notes - Receivables Rates, Sewerage and Rubbish

Receivables - General	Current	30 Days	60 Days	90+Days
	\$	\$	\$	\$
	11,121	0	1,200	809
Total Outstanding				13,130

Amounts shown above include GST (where applicable)



Comments/Notes - Receivables General

Shire of Brookton
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 31 March 2021

Note 5: Cash Backed Reserves

Name	Opening Balance	Budget Interest Earned	Actual Interest Earned	Adopted Budget Transfers In (+)	Current Budget Transfers In (+)	Actual Transfers In (+)	Adopted Budget Transfers Out (-)	Current Budget Transfers Out (-)	Actual Transfers Out (-)	Adopted Budget Closing Balance	Actual YTD Closing Balance
	\$	\$	\$	\$		\$	\$		\$	\$	\$
Leave Reserve	138,778	1,407	107	30,000		0		0	0	170,185	138,885
Plant and Vehicle Reserve and Community Bus Reserve	751,938	8,033	439	0		0	(414,500)		(280,500)	345,471	471,877
Land & Housing Development Reserve/Independent Living Units	1,391,205	14,201	1,074	0		0	0		0	1,405,406	1,392,279
Furniture and Equipment Reserve	21,194	369	16	0		0	0	0	0	21,563	21,210
Municipal Buildings & Facilities Reserve	330,737	3,800	265	269,000		300,000	(37,000)		0	566,537	631,002
Townscape and Footpath Reserve	125,068	1,277	97	0		0			0	126,345	125,165
Sewerage Scheme Reserve	410,425	4,394	317	35,000		0	(15,000)		0	434,819	410,742
Road and Bridge Infrastructure Reserve	327,787	6,408	253	0		0	(200,000)		0	134,195	328,040
Health & Wellbeing reserve	553,863	6,675	428	0		0	0	0	0	560,538	554,291
Sport & Recreation Reserve	31,625	323	24	0		0			0	31,948	31,649
Rehabilitation & Refuse Reserve	169,841	1,733	131	41,000		0			0	212,574	169,972
Caravan Park Reserve	153,899	1,571	125	200,000		200,000			0	355,470	354,024
Brookton Heritage/Museum Reserve	47,148	481	36	0		0			0	47,629	47,184
Kweda Hall Reserve	18,026	184	14	0		0			0	18,210	18,040
Aldersyde Hall Reserve	25,806	0	0			0	(25,806)		(25,806)	0	(0)
Railway Station Reserve	129,940	1,326	107	200,000		200,000	(35,000)		0	296,266	330,047
Madison Square Units Reserve	30,653	313	24	0		0			0	30,966	30,677
Cemetery Reserve	43,863	448	34	0		0	(25,000)		0	19,311	43,897
Water Harvesting Reserve	48,116	491	40	80,000		80,000	(55,000)		0	73,607	128,156
Developer Contribution	2,740	28	2			0			0	2,768	2,742
Cash Contingency Reserve	140,336	1,433	108	0		0			0	141,769	140,444
Brookton Aquatic Reserve	156,130	1,594	130	300,000		300,000			0	457,724	456,260
Future Fund Reserve	7,084,132	75,600	89,592	0		0	(3,080,000)		(3,080,000)	4,079,732	4,093,724
Innovations Fund Reserve	0	0	11,611	2,000,000		2,000,000			0	2,000,000	2,011,611
	12,133,250	132,089	104,974.16	3,155,000	0	3,080,000	(3,887,306)	0	(3,386,306)	11,533,033	11,931,918

Shire of Brookton
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 31 March 2021

Note 6: CAPITAL DISPOSALS AND ACQUISITIONS

Original Budgeted Profit(Loss) of Asset Disposal			Disposals	Actual Profit(Loss) of Asset Disposal			
Net Book Value	Proceeds	Profit (Loss)		Net Book Value		Proceeds	Profit (Loss)
222,543	133,000	(89,543)	PG7 Volvo Grader	\$ 222,543		\$ 133,000	\$ (89,543)
0	10,000	10,000	Side Winder Reel Mower				0
0	2,000	2,000	Single Cab Ute				0
14,246	0	(14,246)	Acer Server 2007				0
		0					0
		0					0
236,789	145,000	(91,789)		222,543		133,000	(89,543)

Comments - Capital Disposal

Summary Acquisitions				
	Budget	Current Budget	Actual	Variance
Property, Plant & Equipment	\$		\$	\$
Land and Buildings	226,000	844,540	224,601	619,939
Plant & Equipment	559,500	565,500	558,759	6,741
Furniture & Equipment	12,000	12,000	0	12,000
Infrastructure				
Roadworks & Bridge Works & Footpaths	1,123,247	1,334,247	757,925	576,322
Footpath Construction - Richardson Street	0	0	0	0
Sewerage & Drainage	373,000	1,023,000	32,095	990,905
Totals	2,293,747	3,779,287	1,573,380	2,205,907

Shire of Brookton
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 31 March 2021

Note 7: INFORMATION ON BORROWINGS

					Principal 1-Jul-20 \$	New Loans \$	Principal Repayments		Principal Outstanding		Interest Repayments	
Particulars	Loan Purpose	Due Date	Term (yrs)	Rate (%)			Actual \$	Budget \$	Actual \$	Budget \$	Actual \$	Budget \$
Self Supporting Loans												
*Loan 82 Country Club	Extension and Refurbishment of the Club House	15/11/2027	20	6.95	215,828	-	11,206	22,801	204,622	201,217	6,355	14,611
Education & Welfare												
Loan 80 Kalkarni Residency	Kalkarni Residence	1/02/2026	25	5.63	63,602	-	9,185	9,185	54,417	60,149	2,195	3,453
Housing												
Loan 80 Staff Housing	Staff Housing	1/02/2026	25	5.63	104,944	-	15,156	15,156	89,788	99,246	3,621	5,698
Community Amenities												
Loan 80 Sewerage	Sewerage Extension	1/02/2026	25	5.63	44,521	-	6,430	6,430	38,091	42,104	1,536	2,417
Transport												
Loan 80 Grader	New Grader	1/02/2026	25	5.63	104,944	-	15,156	15,156	89,788	99,246	3,621	5,698
Recreation and Culture												
Loan 81 Sport & Recreation	Recreation Plan	1/11/2027	20	6.95	536,706	-	27,866	56,701	508,840	492,286	15,801	44,420
					1,070,545	-	84,998	125,429	985,547	994,248	33,129	76,297

(*) Self supporting loan financed by payments from third parties.
All other loan repayments were financed by general purpose revenue.

Shire of Brookton
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 31 March 2021

Note 8: CASH AND INVESTMENTS

	Interest Rate	Unrestricted \$	Restricted \$	Trust \$	Investments \$	Total Amount \$	Institution	Maturity Date
(a) Cash Deposits								
Municipal Cash at Bank - Operating Account	0.00%	30,010				30,010	Bendigo	
Municipal Cash at Bank - Cash Management Account	0.15%	1,142,777				1,142,777	Bendigo	
Bond Fund	0.00%	7,830				7,830	Bendigo	
Trust Cash at Bank	0.00%			20,540		20,540	Bendigo	
(b) Term Deposits								
Savings Account	0.15%		4,746,584			4,746,584	Bendigo	
Reserves	0.75%		7,185,335			7,185,335	Bendigo	20/03/2021
(c) Investments								
Bendigo Bank Shares					10,000	10,000	Bendigo	
Total		1,180,616	11,931,919	20,540	10,000	13,143,075		

Shire of Brookton
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 31 March 2021

Note 9: BUDGET AMENDMENTS

Amendments to original budget since budget adoption. Surplus/(Deficit)

GL Account Code	Description	Council Resolution	Classification	No Change - (Non Cash Items) Adjust.	Increase in Available Cash	Decrease in Available Cash	Amended Budget Running Balance
				\$	\$	\$	\$
	Adopted Budget Net Asset Surplus 30 June 2020		Opening Surplus(Deficit)				412,583
E116510	MSCGCAP - Community Garden/Mens shed building	OCM 08.20-13	Capital Expenses			110,000	302,583
E116510	YSHEDCAP - youth/Girl Guides building	OCM 08.20-13	Capital Expenses			100,000	202,583
E132512	Caravan Park Upgrade	OCM 08.20-13	Capital Expenses			335,000	(132,417)
I032060	Drought Communities Grant funding	OCM 08.20-13	Capital Revenue		500,000		367,583
OL01841	Trans to Muni from Caravan Park Reserve	OCM 08.20-13	Capital Revenue		35,000		402,583
OL01661	trans to Muni from Municipal Buildings Reserve	OCM 08.20-13	Capital Revenue		10,000		412,583
E121565	YOURSFC - Yourling Rd extend bitumen seal 520 metre	OCM 08.20-14	Capital Expenses			85,000	327,583
E121565	SEWSFC - Sewel st road closure improvements	OCM 08.20-14	Capital Expenses			17,000	310,583
E121565	OTHERSFC - Corberding Rd, Withall St & Brookton Hwy intersection improvements	OCM 08.20-14	Capital Expenses			22,000	288,583
E142519	Shire Depot Improvements	OCM 08.20-14	Capital Expenses			131,540	157,043
I032070	Local Roads & Community Infrastrucutre Program funding	OCM 08.20-14	Capital Revenue		255,540		412,583
OL01951	Aquatic Centre Reserve	OCM 10.20-07	Capital Revenue		10,000		422,583
E112020	POOLGO - Aquatic Centre Equipment & Materials	OCM 10.20-07	Operating Expenses			10,000	412,583
OL01961	Cash Contingency Reserve	OCM 10.20-07	Capital Revenue		10,000		422,583
E101020	TIPOP - Landfill cover Material	OCM 10.20-07	Operating Expenses			10,000	412,583
OL01961	Cash Contingency Reserve	OCM 10.20-07	Capital Revenue		6,400		418,983
E111000	MHALLOP - Architectural Services	OCM 10.20-07	Operating Expenses			6,400	412,583
OL01701	Roads & Bridges Infrastructure Reserve	OCM 10.20-07	Capital Revenue		41,000		453,583
E122030	BRDGOP - Urgent repairs Bridge 3154A & 3158A	OCM 10.20-07	Operating Expenses			41,000	412,583
OL01961	Cash Contingency Reserve	OCM 10.20-07	Capital Revenue		4,407		416,990
E105030	Aplication Fee - Amend Happy Valey Water Licence	OCM 10.20-07	Operating Expenses			4,407	412,583
E142519	Shire Depot Improvements disallowed	OCM 11.20-03	Capital Revenue		131,540		544,123
E121565	BODESFC - 6.0m seal - 500 m Bodey Street	OCM 11.20-03	Capital Expenses			87,000	457,123
E116510	NATPLACAP - Youth Preceinct Enhancements	OCM 11.20-03	Capital Expenses			44,540	412,583
E142519	Shire Deopot Improvements	OCM 11.20-03	Capital Expenses			131,000	281,583
OL02661	Transfer from Muniapal Building Reserve	OCM 11.20-03	Capital Revenue		131,000		412,583
E132512	Caravan Park Improvements	OCM 11.20-03	Capital Expenses			180,000	232,583
E112510	POOLCAP - aquatic Centre improvements	OCM 11.20-03	Capital Expenses			10,000	222,583
E113020	RESEOP - Beautification Works Reserve 43158	OCM 11.20-03	Operating Expenses			5,325	217,258
I032070	Local Roads & Community Infrastrucutre Program funding	OCM 11.20-03	Capital Revenue		195,325		412,583
E113030	COUNOP - Upqrade electrical wiring for evac centre	OCM 11.20-03	Operating Expenses			3,500	409,083

OL01961	Transfer from Cash Contingency Reserve	OCM 11.20-03	Capital Revenue	3,500		412,583
E112480	POOLOP - Various maintenance items at	OCM 11.20-03	Operating Expenses		7,500	405,083
OL01951	Transfer from Aquatic Centre Reserve	OCM 11.20-03	Capital Revenue	7,500		412,583
E043020	Bond Administration Refunds increase budget	OCM 02.21-15	Operating Expenses		4,000	408,583
I043010	Bond Administration increase budget	OCM 02.21-15	Operating Revenue	4,000		412,583
E132512	Stage 1 Caravan Park Upgrade	OCM 02.21-15	Capital Expenses		35,000	377,583
OL01841	Transfer from Caravan Park Reserve	OCM 02.21-15	Capital Revenue	35,000		412,583
E104030	Reduction of Budget due to decrease in expenditure	OCM 02.21-15	Operating Expenses	13,800		426,383
I104010	Reduction of Budget due COVID19 legislation changes	OCM 02.21-15	Operating Revenue		10,768	415,615
E114020	Amlib annual licence not included in adopted budget	OCM 02.21-15	Operating Expenses		1,700	413,915
E116020	AUSTDAY - Grant funded event	OCM 02.21-15	Operating Expenses		20,000	393,915
E116020	BIKEGO - grant funded event	OCM 02.21-15	Operating Expenses		800	393,115
I116020	Australia Day Grant funds & Bike event grant funding	OCM 02.21-15	Operating Revenue	20,799		413,914
I031015	Increase in intrim rates being processed	OCM 02.21-15	Operating Revenue	850		414,764
I052010	increase in budget increase in animal fines	OCM 02.21-15	Operating Revenue	1,000		415,764
I111011	Greater than anticipated used of hall	OCM 02.21-15	Operating Revenue	600		416,364
E115040	Gran funding expenditure	OCM 02.21-15	Operating Expenses		3,000	413,364
I115020	Grant funding for Christmas party - Bendigo Bank	OCM 02.21-15	Operating Revenue	2,819		416,183
E087020	SENIOP - Increase budget greater electricity usage	OCM 02.21-15	Operating Expenses		2,300	413,883
E112480	POOLOP - Various maintenance items at	OCM 02.21-15	Operating Expenses		1,300	412,583
E143530	LIGHTV - increase for tow behind vehicle	OCM 02.21-15	Capital Expenses		8,000	404,583
OL01621	Transfer from Plant and Vehicle reserve	OCM 02.21-15	Capital Revenue	8,000		412,583
E105510	CEMABLU - increase budget for grave shoring equipment	OCM 02.21-15	Capital Expenses		14,000	398,583
OL01901	Transfer from Cemetery Reserve	OCM 02.21-15	Capital Revenue	14,000		412,583
Closing Funding Surplus (Deficit)				0	1,442,080	412,583

Classifications Pick List

Operating Revenue
 Operating Expenses
 Capital Revenue
 Capital Expenses
 Budget Review
 Opening Surplus(Deficit)
 Non Cash Item

Shire of Brookton
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 31 March 2021

Note 10: TRUST FUND

Funds held at balance date over which the Shire has no control and which are not included in this statement are as follows:

Description	Opening Balance For the Period 1 July 2019	Amount Received	Amount Paid	Closing Balance For the Period Ended 31 March 2021
	\$	\$	\$	\$
Housing Bonds	0	0	0	0
Other Bonds	6,140	0	(140)	6,000
Rates Incentive Prize	0	0	0	0
Staff AFL Tipping	0	0	0	0
Les McMullen Sporting Grants	0	0	0	0
Gnulla Child Care Facility	0	0	0	0
Wildflower Show Funds	0	0	0	0
Kalkarni Resident's Accounts	0	0	0	0
Public Open Space Contributions	13,820	0	0	13,820
Developer Road Contributions	0.00	0	0	0.00
Unclaimed Money	830	0	(110)	720
	20,790	0	(250)	20,540

1. Public Open Space Contribution:

T148 - Paul Webb \$13,820

Contribution to be retained in Trust as required under the Planning and Development Act 2005.

2. Other Bonds

Council resolved at the February 2021 OCM to refund the trust

Shire of Brookton
STATEMENT OF FINANCIAL ACTIVITY
Sewerage Programm by Nature and Type
For the Period Ended 31 March 2021

Note 11 Sewerage Operating Statement

NOTE	2020/21 Adopted Budget \$	2020/21 YTD Budget \$	2020/21 YTD Actual \$	Variance YTD Budget vs YTD Actual \$
REVENUES FROM ORDINARY ACTIVITIES				
Sewerage Connection Fees and Charges	650	650	1,416	766
Annual Sewerage Rates	203,265	203,265	194,636	(8,629)
	203,915	203,915	196,052	(7,863)
EXPENSES FROM ORDINARY ACTIVITIES				
Employee Costs	(16,350)	(12,263)	(1,507)	10,756
Materials and Contracts	(86,110)	(64,583)	(65,418)	(835)
Utilities	(5,600)	(4,200)	(1,517)	2,683
Depreciation	(42,067)	(31,550)	(32,068)	(517)
Interest Expenses	(2,723)	(2,042)	(1,536)	506
Insurance	(268)	(201)	(237)	(36)
General Operating Expenses	(13,907)	(10,430)	(1,511)	8,919
Allocation of Adminstration Expense	(45,800)	(34,350)	(29,102)	5,248
	(212,825)	(159,619)	(132,896)	26,723
	(8,910)	44,296	63,157	18,861
Add Back Depreciation	42,067	31,550	32,068	517
Non-Operating Grants, Subsidies & Contributions	-	-	-	-
Profit on Asset Disposals	-	-	-	-
Loss on Asset Disposals	-	-	-	-
Transfer to Sewerage and Drainage Reserve	(35,000)	(26,250)	-	(26,250)
Transfer from Sewerage and Drainage Reserve	15,000	15,000	-	15,000
NET RESULT	13,157	64,597	95,225	8,128
Capital Loan Repayments			(6,430)	

Shire of Brookton
STATEMENT OF FINANCIAL ACTIVITY
WB Eva Pavilion by Nature and Type
For the Period Ended 31 March 2021

Note 12 WB Eva Pavilion Operating Statement

NOTE	2020/21 Adopted Budget \$	2020/21 YTD Budget \$	2020/21 YTD Actual \$	Variance YTD Budget vs YTD Actual \$
REVENUES FROM ORDINARY ACTIVITIES				
Hire Fees - WB Eva Pavilion	2,980	2,235	3,418	1,183
Sporting Club Fees	5,500	4,125	2,725	(1,400)
Gymnasium Income	7,500	5,625	4,378	(1,247)
	15,980	11,985	10,521	(1,464)
EXPENSES FROM ORDINARY ACTIVITIES				
Employee Costs	-	-	-	-
Materials and Contracts	-	-	-	-
Utilities	-	-	-	-
Interest Expenses	(40,047)	(30,035)	(15,801)	14,235
Insurance	-	-	-	-
General Operating Expenses	-	-	-	-
Gymnasium Operating	(8,977)	(6,348)	(3,991)	2,357
	(40,047)	(30,035)	(19,791)	14,235
	(24,067)	(18,050)	(9,270)	12,771
NET RESULT	(24,067)	(18,050)	(9,270)	12,771

Capital Loan Repayments (27,866)

Shire of Brookton
STATEMENT OF FINANCIAL ACTIVITY
Brookton Caravan Park and Brookton Aquatic Centre
For the Period Ended 31 March 2021

	Note	Adopted Annual Budget 2019/20	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a) 9	Var. % (b)-(a)/(b) 9
Note 13 (a): Brookton Caravan Park						
Operating Revenue		\$	\$	\$	\$	%
Caravan Park Fees		33,000	24,750	29,819	5,069	20.48%
Total Revenue		33,000	24,750	29,819	5,069	20.48%
Operating Expenses						
Brookton Caravan Park	CARAOP MARKOP	(22,888)	(17,166)	(29,835)	(12,669)	73.81%
Brookton Caravan Park		(8,000)	(6,000)	(444)		
Caravan Park Depreciation		(1,037)	(778)	(779)	(1)	0.16%
Caravan Park Abc Administration Expenses		(27,480)	(20,610)	(17,461)	3,149	(15.28%)
Total		(59,405)	(44,554)	(48,520)	(9,522)	(21.37%)
Operating Surplus (Deficit)		(26,405)	(19,804)	(18,701)	(4,453)	-22%
Excluding Non Cash Adjustments						
Add back Depreciation		1,037	778	779	1	0.16%
Net Operating Surplus (Deficit)		(25,368)	(19,026)	(17,922)	(4,452)	23.40%
Note 13 (b): Brookton Aquatic Centre						
Operating Revenue						
POOL FEES & CHARGES		14,500	10,875	12,914	2,039	18.75%
POOL GRANTS & SUBSIDIES		0	0	0	0	0.00%
Total Revenue		14,500	10,875	12,914	2,039	18.75%
Operating Expenses						
POOL EMPLOYEE COSTS		(48,057)	(36,043)	(32,573)	3,470	0.00%
POOL GENERAL OPERATING EXPENSES		(25,500)	(26,625)	(31,867)	(5,242)	19.69%
POOL BUILDING MAINTENANCE		(16,998)	(19,349)	(13,038)	6,311	(32.62%)
POOL DEPRECIATION		(11,854)	(8,891)	(8,946)	(56)	0.62%
POOL ABC ADMINISTRATION EXPENSES		(27,480)	(20,610)	(17,461)	3,149	(15.28%)
Total		(129,889)	(111,517)	(103,885)	7,632	6.84%
Operating Surplus (Deficit)		(115,389)	(100,642)	(90,971)	9,671	9.61%
Excluding Non Cash Adjustments						
Add back Depreciation		11,854	8,891	8,946	56	0.62%
Net Operating Surplus (Deficit)		(103,535)	(91,751)	(82,025)	9,726	10.60%

Shire of Brookton
STATEMENT OF FINANCIAL ACTIVITY
Road Program
For the Period Ended 31 March 2021

Note 14

Description	Adopted Annual Budget	Amended Budget	YTD Actual	% Completed	Federal Funding		State Funding				Own Source Funding		
					R2R	Other	RRG	RRG Carryover	Direct Grant	FAGS	Reserve	Contributions	Muni
Town Street Maintenance	\$ 188,102	\$ 188,102	\$ 93,838	50%	\$	\$	\$	\$	\$	\$	\$	\$	\$ 188,102
Rural Road Maintenance	379,536	379,536	333,048	88%					84,910				294,626
Bridge Maintenance	63,016	104,016	47,514	46%									104,016
R2R Work Schedule													
Brookton - Kweda Road	218,633	218,633	83,196	38%	218,633								0
Other Construction													
Brookton-Kweda Road	162,080	162,080	153,976	95%							100,000		62,080
York-Williams Road	45,420	45,420	35,116	77%									45,420
Bartram Road	148,575	148,575	5,094	3%							50,000		98,575
Dale Kokeby Road	148,575	148,575	4,220	3%							50,000		98,575
Install & upgrade Headwalls to Culverts	24,964	24,964	5,888	24%									24,964
RRG Approved Projects													
Brookton-Kweda Road	324,150	324,150	285,570	88%			324,150						0
York-Williams Road	50,850	50,850	44,862	88%			50,850						
	1,753,901	1,794,901	1,092,321	62%	218,633	0	375,000	0	84,910	0	200,000	0	916,358

Shire of Brookton
STATEMENT OF FINANCIAL ACTIVITY
Capital Works Program
For the Period Ended 31 March 2021

Note 15

Description	Adopted Annual Budget	Amended Budget	YTD Actual	% Completed	Capital Funding					
					Muni	Grants	Reserves	Sale of Assets	Loan	Total Funding
	\$	\$	\$		\$	\$	\$	\$		\$
Chambers & Reception Area Upgrade	30,000	30,000	0	0%	30,000					30,000
Robinson Road - StreetBins	10,000	10,000	0	0%	10,000					10,000
Effluent Dosing Building/Shed	15,000	15,000	0	0%			15,000			15,000
Ablution Facility at Cemetery	25,000	39,000	0	0%			39,000			39,000
Railway Station Fencing and Lighting	35,000	35,000	0	0%			35,000			35,000
Youth Precinct - Fencing & Nature Play Area	50,000	94,540	4,863	5%	13,000		37,000			50,000
Aquatic Centre Improvements (new roof to Ablution)	24,000	34,000	25,227	74%	34,000					34,000
Memorial Park Gazebo and Disable access	22,000	22,000	0	0%	22,000					22,000
Caravan Park Upgrade Stage 1	0	550,000	191,205	35%		550,000				550,000
Display Cabinet & Memorabilia Board	12,000	12,000	0	0%	12,000					12,000
John Deere 670GP Grader per RFQ05/2020	413,500	413,500	413,500	100%			280,500	133,000		413,500
Side Winder Reel Mower	52,000	52,000	45,290	87%			42,000	10,000		52,000
Single Cab Ute	10,000	16,000	13,726	86%			8,000	2,000		10,000
Dual Cab Ute - BRMPO & CESM	84,000	84,000	86,243	103%			84,000			84,000
Brookton-Kweda Road	324,150	324,150	285,570	88%		324,150				324,150
York-Williams Road	50,850	50,850	44,862	88%		50,850				50,850
Brookton-Kweda Road	218,633	218,633	83,196	38%		218,633				218,633
Brookton-Kweda Road	162,080	162,080	153,976	95%	100,873		61,207			162,080
York-Williams Road	45,420	45,420	35,116	77%	28,268		17,152			45,420
Bartram Road	148,575	148,575	5,094	3%	92,468		56,107			148,575
Dale Kokeby Road	148,575	148,575	4,220	3%	92,468		56,107			148,575
Youraling Rd extend Seal	0	85,000	63,538	75%		85,000				85,000
Bodey St extend Seal	0	87,000	74,226	85%		87,000				87,000
Crm Whithall, Corberding & Brookton Hwy	0	22,000	2,047	9%			22,000			22,000
Install & upgrade Headwalls to Culverts	24,964	24,964	5,888	24%	15,537		9,427			24,964
Happy Valley Bore Field	55,000	55,000	17,660	32%			55,000			55,000
Upgrade Inflow Meter with Electromagnetic Metre	18,000	668,000	14,435	2%	18,000					18,000
Upgrade- Refurb/Refining Pipe Network	300,000	300,000	0	0%					300,000	300,000
	2,278,747	3,747,287	1,569,881		468,614	1,315,633	817,500	145,000	300,000	3,046,747

14.04.21.03 BROOKTON CARAVAN PARK – FEES AND CHARGES AND BOOKING SYSTEM

File No:	PRO002/A2685
Date of Meeting:	15 April 2021
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	Danni Chard – Executive Governance Officer Kellie Bartley – Manager Corporate & Community
Authorising Officer:	Ian D’Arcy – Chief Executive Officer
Declaration of Interest:	The authors and authorising officer have no interest in this item
Voting Requirements:	Absolute Majority
Previous Report:	N/A

Summary of Item:

This report relates to the adoption of new fees and charges and an online booking system for bookings for the Brookton Caravan Park cabins and caravan/camping sites.

Description of Proposal:

The new fees and charges will be aligned with the strategic direction under the Shire of Brookton’s 2020/21 Fees and Charges. The Caravan Park booking system will allow for easy online payment and bookings at the ease of the customer.

Background:

For the most part of the past three years, Council has focused on ideas emerging from the community prompting the need for a Reserve Management Plan over Crown Reserve 43158 to be prepared, with an alignment to a clear vision for the Reserve and a strategic framework to guide future planning, development and management based on defined land use precincts.

As the opportunity arose for the Shire to be in receipt of the “*Drought Communities Program Funding*” Grant totalling \$500,000 and with the Caravan Park Concept Plan being adopted by Council in October 2020, outlining the location of Stage 1 of the Chalet units, the Shire called for quotes, appointed the successful builder, and issued a purchase order for the construction of the 2 Chalet units to commence.

The first two new chalet units for hire arrived at the Brookton Caravan Park on 6 April 2021 and should be available for hire by end of May 2021. The second two chalets should be in place and functional by the end of July 2021. Fees cannot be imposed until Council has approved the fees and charges by an absolute majority vote and a public notice being advertising for a period of 21 days in the Brookton Telegraph.

To ensure that the fees and charges are in place, it is advised that the fees and charges be adopted prior to the completion of the chalets. The following assessment of surrounding local governments have adopted the current fees and charges for their individual caravan parks that have chalet accommodation available for hire:

Town	Accommodation Type	Charge
Shire of Narrogin	Accommodation Unit per night (2 people)	\$ 120.00
	Accommodation Unit per night - Additional Persons	\$ 20.00
	Accommodation Unit per night (2 Pax) 2-6 nights	\$ 110.00
	Accommodation unit per night 2-6 nights additional person	\$ 20.00
	Accommodation unit per week (2 pax) full week 7 -14 nights	\$ 660.00
	Accommodation unit per night - full week additional person	\$ 20.00
	Accommodation unit per week (2 pax) longer than 2 weeks	\$ 600.00
	Accommodation unit per week (2 pax) long than 2 weeks vacate clean	\$ 250.00
	<i>for stays longer than a full week a 10% deposit is required. Cancellation of these bookings less than 24 hours prior to stay will forfeited the deposit</i>	
Northam Caravan Park	Delux Cabin (queen bed) - includes linen per night	\$ 130.00
	Small Cabin (queen bed) - includes linen per night	\$ 90.00
	Family Cabin (queen bed + bunks) - includes linen per night	\$ 115.00
	Large Queen Bed Cabin (queen bed) - includes linen per night	\$ 130.00
	Large Twin Share Cabin (2 x king single beds) - includes linen per night	\$ 115.00
Shire of Beverley Caravan Park	One Bedroom Unit (king bed)	\$ 120.00
	Two Bedroom Unit (king bed + 2 king singles)	\$ 140.00
	Extra Persons (double fold out couch) per person per night	\$ 15.00
	Additional cleaning Fee	\$ 50.00
	One bedroom unit (Linen) per 7 days (changed every 7 days)	\$ 700.00
	Two bedroom unit (Linen) per 7 days (changed every 7 days)	\$ 840.00

On further investigation and to maintain the support of local short stay accommodation businesses, the room rates were compared with the hotel accommodation houses. Their current room rates are detailed below.

Town	Accommodation Type	Charge
Bedford Arms Hotel	Twin Room (2 Single Beds) - Located upstairs per night	\$ 120.00
	Double Rooms (1 King Bed) - 1 located downstairs & 4 upstairs per night	\$ 120.00
	Double Room (Queen Bed) - located downstairs per night	\$ 120.00
	Triple Room (3 single beds) - located downstairs per night (1 occupant)	\$ 90.00
	Triple Room (3 single beds) - located downstairs per night (2 occupant)	\$ 120.00
	Triple Room (3 single beds) - located downstairs per night (3 occupant)	\$ 155.00
	Triple Family Room (1 King bed & 1 Single Bed) - located downstairs per night	\$ 155.00
	Quad Family Room (1 king bed & 2 single beds) located upstairs per night	\$ 165.00
The Brookton	King Room (1 king bed) per night	\$ 110.00
	Twin Room (2 singles) per night	\$ 90.00
	Family Room (King + Long Single) per night (1-2 guests)	\$ 110.00
	Family Room (King + Long Single) per night (3 guests)	\$ 130.00

In determining the amount of a fee or charge for a service or for a service for goods a local government is required to take into consideration:

- The cost to the local government for providing the service; and
- The importance of the service or goods to the community; and
- The price at which the service or goods could be provided by an alternative provider.

By reviewing the local and regional fees and charges for tourist/short stay accommodation, the following new charges are being recommended for the Brookton Caravan Park, effective on the adoption of this

item.

Brookton Caravan Park	Accommodation Type	Charge
	2 Bedroom (sleeps 4) self-contained chalet unit (per night)	\$180.00
	2 Bedroom (sleeps 4) self-contained chalet unit (per week)	\$1,080.00
	2 Bedroom (sleeps 5) self-contained chalet unit (per night)	\$190.00
	2 Bedroom (sleeps 5) self-contained chalet unit (per week)	\$1090.00
	1 Bedroom (sleeps 2) self-contained chalet unit (per night)	\$130.00
	1 Bedroom (sleeps 2) self-contained chalet unit (per week)	\$780.00
	Replacement Key	\$30.00
Linen included		

The booking system will enable both Shire officers and members of the public to be able to book as required online and for a more suitable and competent way for clients/patrons to be able to book and pay online via a secure environment.

The Shire has obtained a quote from the current Information and Communication Technology (ICT) contract suppliers with the Shire's website for the online booking system to be installed

Consultation:

There has been no consultation with the local community. The relevant officers have reviewed the associated fees and charges for local and regional providers with the Chief Executive Officer.

Statutory Environment:

Section 6.16 of the *Local Government Act, 1995* requires:

6.16. Imposition of fees and charges

- (1) *A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.*

** Absolute majority required.*

- (2) *A fee or charge may be imposed for the following —*
- (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
 - (b) supplying a service or carrying out work at the request of a person;*
 - (c) subject to section 5.94, providing information from local government records;*
 - (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;*
 - (e) supplying goods;*
 - (f) such other service as may be prescribed.*

- (3) *Fees and charges are to be imposed when adopting the annual budget but may be —*
- (a) imposed* during a financial year; and*
 - (b) amended* from time to time during a financial year.*

** Absolute majority required.*

Relevant Plans and Policy:

There are currently no policies associated with this recommendation.

Financial Implications:

There is a positive financial implication for the Shire with the new fees and charges for the chalet units expected to yield additional revenue that should offset operational and long-term maintenance costs, while delivering a broader range of accommodation choice for visitors and seasonal workers. At this time an understood occupancy rate and financial term in monetary value is yet to be determined.

These new fees and charges will be added to the current 2020/21 fees and charges, and then carry over into the 2021/22 Schedule.

There is sufficient financial capacity in General Ledger E042020 of the current Budget for the purchase of the booking system at \$2,915 (incl. GST).

Risk Assessment:

The risk in relation to this matter is assessed as 'Medium' on the basis that if Council does not allow for the fees and charges to support the new chalets. The risk identified would be more that the Shire is non-compliant with the requirements to adopt fees and charges under legislation.

Consequence	Insignificant	Minor	Moderate	Major	Extreme
Likelihood					
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

Community & Strategic Objectives:

This item relates to the Shire of Brookton Next Generation BROOKTON Corporate Business Plan 2021>, Major project: Brookton Short-stay Accommodation.

This item relates to the BROOKTON20 as document in the Strategic Community Plan 2027> by supporting:

8. Visitation and Transient Population

BROOKTON has attracted a new-age transient workforce, transient visitors, mid-term population groups and short-term visitors.

Comment:

The adoption of an appropriate and commensurate fees and charges structure for hire of the Chalet units and the implementation of an on-line booking system is a logical step in enhancing the Shire's service delivery through upgrade of the Brookton Caravan Park.

Importantly, the Shire Administration is also reviewing the management arrangements and associated

procedures to ensure hirers are appropriately guided and supported during their stay in Brookton.

OFFICER RECOMMENDATION

That Council:

- 1. Pursuant to Section 6.16 of the Local Government Act, 1995, adopts the following fees and charges for the new chalet accommodation at the Brookton Caravan Park, effective 15 April 2021, as detailed below:***

Brookton Caravan Park	Accommodation Type	Charge (GST included)	G/L Account
	2 Bedroom (sleeps 4) self contained chalet unit (per night)	\$180.00	I132010.114
	2 Bedroom (sleeps 4) self contained chalet unit (per week)	\$1,080.00	I132010.114
	2 Bedroom (sleeps 5) self contained chalet unit (per night)	\$190.00	I132010.114
	2 Bedroom (sleeps 5) self contained chalet unit (per week)	\$1090.00	I132010.114
	1 Bedroom (sleeps 2) self contained chalet unit (per night)	\$130.00	I132010.114
	1 Bedroom (sleeps 2) self contained chalet unit (per week)	\$780.00	I132010.114
	Replacement Key	\$30.00	I132010.114
	<i>Linen included</i>		

- 2. Notes that pursuant to section 6.16 of the Local Government Act, 1995 local public notice will be given of the new fees and charges in the Brookton Telegraph and on the Shire Website and Facebook pages.***
- 3. Authorises the Chief Executive Officer to engage and implement the new online booking system utilising municipal funds from General Ledger E042020 totalling \$2915 (incl. GST).***

(Absolute Majority Vote required)

14.04.21.04 RATES EXEMPTION APPLICATION – COUNTRY WOMENS ASSOCIATION

File No:	A309
Date of Meeting:	15 April 2021
Location/Address:	Lot 2, 115 Robinson Road, Brookton
Name of Applicant:	CWA – Country Women’s Association
Name of Owner:	Country Women’s Association
Author/s:	Tricia Brown – Finance Administration Officer (Rates)
Authorising Officer:	Kellie Bartley – Manager Corporate and Community
Declaration of Interest:	The author has no interest in this matter
Voting Requirements:	Absolute majority

Summary of Item:

Council was presented with this item at the Ordinary Meeting of Council, held on 18 March 2021. Council requested that the item be deferred and to refer to the applicant seeking further clarification over with regards to the hire of facilities to private users.

An application has been received from Country Women’s Association (CWA) seeking a rates exemption under Section 6.26 (g) of the *Local Government Act 1995* for the property located at Lot 2 (115) Robinson Road, Brookton.

An internal assessment of the application indicates that they are eligible for a rate exemption.

This application is now referred to Council for re-consideration.

Description of Proposal:

This proposal involves a request for the property being Lot 2 (115) Robinson Street, Brookton, be exempt for a period of 3 years from rates commencing 1st July 2020.

Background:

The Country Women’s Association is a charitable organisation, incorporated as a not-for-profit body, and is claiming exemption under section 6.26(2) (G) of the *Local Government Act 1995* as the buildings and land are used exclusively for charitable purposes.

The property, the subject of this application is used by the Country Women’s Association for the purpose of providing services to improve the well-being of all people, especially those in country areas by promoting courtesy, co-operation, community effort, ethical standards and the wise use of resources.

The CWA aim to include all groups in town, provide support to people of all ages, provide and co-ordinate donations for various needs and provide support in times of emergencies amongst providing charitable support to various groups and individuals in need.

Correspondence was sent 24th March 2021, requesting that the CWA provide further information regarding the hire of facilities to private users. The following was response was received and is contained in **Attachment 14.04.21.04A**. The information received identifies the following:

- Room is rented by a chiropractor twice a month;
- Rooms are utilised by other organisations at least once a month;
- Hire rates are relatively low to help service the community;
- Identifies that they are not for profit with money that goes back into the community;
- Fundraising activities during COVID19 were shut down and therefore reduced opportunities to

fundraise;

- A refurbishment for the bathroom upgrade was achieved through FRRR grant funding; and
- Further fundraising was held to help with the Gidgegannup Fire Relief, raising \$2,000.

Under section 6.26 (2) (g) of the *Local Government Act 1995*, the Act is specific to the key considerations for exemptions. These are the following:

- The use of the land, not the purpose of the applicant.
- The use must come under the provisions of the *Charities Act 2013*.
- The land must be used exclusively for a charitable purpose.
- The land use must be for a public benefit, where the benefit is available to members of the public generally or a particular section of the public.

As the details provided identifies that the Brookton CWA rents rooms on a business nature to a private hirer, therefore is outside of the definition of “charitable” when dealing with rates and charges on rateable land within the district.

The original officer’s recommendation to Council at the March 2021 meeting was the following:

Original - OFFICER RECOMMENDATION

That Council in relation to the application received from Country Women’s Association, pursuant to Section 6.26 (2) (g) of the Local Government Act 1995, grant a rate exemption applicable to the 2020-21 financial year totalling \$809.00 and the rates raised for the 2021/22 for the property for Assessment Number A309 – Lot 2 (115) Robinson Street, Brookton.

At the Ordinary Meeting of Council, minute number OCM 03.21-11 held on the 18 March 2021, states:

OCM 03.21-11

COUNCIL RESOLUTION

MOVED Cr Crute

SECONDED Cr Watts

That Council defers Item 14.03.21.04, until the April Ordinary Meeting of Council, to allow the Chief Executive Officer to obtain further information from the applicant, regarding the hire of facilities to private users.

CARRIED BY SIMPLE MAJORITY VOTE 7/0

With the clarification received from the Brookton CWA, the information provided does not support the rates exemption under legislation. It is recommended that shire officers further communicate with the Brookton CWA to see if there is an opportunity to apply under Council Policy – 2.34 – Community Funding and Donations Policy.

Consultation:

Further consultation was held with the Brookton CWA in relation to this item on review of the item by Council at the March 2021 Ordinary Meeting of Council.

Statutory Environment:

This request aligns to Section 6.26 of the *Local Government Act 1995*, which states:

6.26. Rateable land

- (1) Except as provided in this section all land within a district is rateable land.*
- (2) The following land is not rateable land —*
 - (a) land which is the property of the Crown and —*
 - (i) is being used or held for a public purpose; or*
 - (ii) is unoccupied, except —*
 - (I) where any person is, under paragraph (e) of the definition of **owner** in section 1.4, the owner of the land other than by reason of that person being the holder of a prospecting licence held under the Mining Act 1978 in respect of land the area of which does not exceed 10 ha or a miscellaneous licence held under that Act; or*
 - (II) where and to the extent and manner in which a person mentioned in paragraph (f) of the definition of **owner** in section 1.4 occupies or makes use of the land; and*
 - (b) land in the district of a local government while it is owned by the local government and is used for the purposes of that local government other than for purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the local government; and*
 - (c) land in a district while it is owned by a regional local government and is used for the purposes of that regional local government other than for the purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the regional local government; and*
 - (d) land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood; and*
 - (e) land used exclusively by a religious body as a school for the religious instruction of children; and*
 - (f) land used exclusively as a non-government school within the meaning of the School Education Act 1999; and*
 - (g) land used exclusively for charitable purposes; and*
 - (h) land vested in trustees for agricultural or horticultural show purposes; and*
 - (i) land owned by Co-operative Bulk Handling Limited or leased from the Crown or a statutory authority (within the meaning of that term in the Financial Management Act 2006) by that co-operative and used solely for the storage of grain where that co-operative has agreed in writing to make a contribution to the local government; and*
 - (j) land which is exempt from rates under any other written law; and*
 - (k) land which is declared by the Minister to be exempt from rates.*
- (3) If Co-operative Bulk Handling Limited and the relevant local government cannot reach an agreement under subsection (2)(i) either that co-operative or the local government may refer the matter to the Minister for determination of the terms of the agreement and the decision of the Minister is final.*
- (4) The Minister may from time to time, under subsection (2)(k), declare that any land or part of any land is exempt from rates and by subsequent declaration cancel or vary the declaration.*
- (5) Notice of any declaration made under subsection (4) is to be published in the Gazette.*

- (6) *Land does not cease to be used exclusively for a purpose mentioned in subsection (2) merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.*

The provision to grant the rates waiver under section 6.12 of the *Local Government Act 1995*,

6.12. Power to defer, grant discounts, waive or write off debts

- (1) *Subject to subsection (2) and any other written law, a local government may —*
- (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) *waive or grant concessions in relation to any amount of money; or*
 - (c) *write off any amount of money,*
- which is owed to the local government.*

** Absolute majority required.*

- (2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*
- (3) *The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*
- (4) *Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.*

Furthermore, the *Charities Act 2013 (Federal Legislation)* provides:

Part 3—Definition of charitable purpose

Division 1—Definition of charitable purpose

12 Definition of charitable purpose

- (1) *In any Act:*

charitable purpose means any of the following:

- (a) *the purpose of advancing health;*
- (b) *the purpose of advancing education;*
- (c) *the purpose of advancing social or public welfare;*
- (d) *the purpose of advancing religion;*
- (e) *the purpose of advancing culture;*
- (f) *the purpose of promoting reconciliation, mutual respect and tolerance between groups of individuals that are in Australia;*
- (g) *the purpose of promoting or protecting human rights;*
- (h) *the purpose of advancing the security or safety of Australia or the Australian public;*
- (i) *the purpose of preventing or relieving the suffering of animals;*
- (j) *the purpose of advancing the natural environment;*
- (k) *any other purpose beneficial to the general public that may reasonably be regarded as analogous to, or within the spirit of, any of the purposes mentioned in paragraphs (a) to (j);*

Note: In the case of a purpose that was a charitable purpose before the commencement of this Act and to which the other paragraphs of this definition do not apply, see

item 7 of Schedule 2 to the Charities (Consequential Amendments and Transitional Provisions) Act 2013.

- (l) the purpose of promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a State, a Territory or another country, if:

 - (i) in the case of promoting a change—the change is in furtherance or in aid of one or more of the purposes mentioned in paragraphs (a) to (k); or*
 - (ii) in the case of opposing a change—the change is in opposition to, or in hindrance of, one or more of the purposes mentioned in those paragraphs.**
- (2) Paragraph (l) of the definition of **charitable purpose** in subsection (1) is the only paragraph of that definition that can apply to the purpose of promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a State, a Territory or another country.*
- (3) For the purposes of this section, it does not matter whether a purpose is directed to something in Australia or overseas.*

Relevant Plans and Policy:

The current Council Policy - 2.44 Rates Exemption for Charitable Purposes relates to this item.

Financial Implications:

The applied exemption will reduce rate revenue by \$809.00 for the 2020/2021 financial year. The CWA would still be required to pay the emergency services levy, associated rubbish, refuse and sewerage fees and charges. Provisions will be required to be made for any additional years that will be supported by this decision.

Risk Assessment:

Other than an impact on the Shire's finances, there is a perceived 'Medium' risk of precedent being set for the Local Government industry (including the Shire of Brookton), should this Council and other Councils support a rate exemption.

Consequence	Insignificant	Minor	Moderate	Major	Extreme
Likelihood					
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

Community & Strategic Objectives:

This proposal relates to delivery of core business and services detailed in the Shire of Brookton Corporate Compendium – October 2020, duly appended to the Next Generation BROOKTON Corporate Business Plan <2021.

Specifically, application for a rate exemption aligns to:

Function 18 – Financial Control

Action 18.5 – Process of rates, other revenues, timely payments

Comment:

Notably and admirably the Country Women's Association does assist local individuals and families through the support, welfare and provisions it provides to the community and meets all criteria as a charitable entity.

The consideration by Council needs to be whether there is sufficient benefit to the public at large, or at least a class or section of the public to warrant an exemption from paying rates for both residential properties.

OFFICER RECOMMENDATION

That Council in relation to the application received from Country Women's Association:

- 1. Declines the request for a rates exemption based on the information provided that the land is not used exclusively for charitable purposes as required under Section 6.26 (2) (g) of the Local Government Act, 1995.***
- 2. Requests the CEO and/or the Manager Corporate and Community entertain further discussions with CWA Committee members on financially assisting the organisation with reference to available funding through the Community Chest Fund.***

(Absolute majority vote required)

Attachments

Attachment 14.04.21.04A - Exemption request letter and supporting

From: [bktbonds](#)
Sent: Thursday, 8 April 2021 11:01 AM
To: Administration Officer <mail@brookton.wa.gov.au>
Subject: CWA Rates Exemption

Brookton CWA ,
PO Box 62,
Brookton 6306
8 April 2021

To whom it my concern,
I had a call this morning from Tricia from the Shire, regarding the CWA rates exemption .

We first applied for this exemption in December 2020 after collecting all the information the was required in the application.

We have made numerous attempts to find out what is happening to our application, and each time we are asked for more information.

Today Tricia asked for **more** information, as it has to go to another meeting . She said that a letter had been sent to the CWA on the 24 March which did not arrive , I have checked with all the people that collect the mail .

Tricia asked about the renting of the rooms. These are rented by the chiropractor twice a month which is a service to the community and probably once a month by other organisations Our hire rates are kept very low as we are a service to the community.

As we are a not for profit, all money goes back into the community around here or where it is needed in W.A.

Due to COVTD 19 last year our usual fund raising activities were shut down so we really do need this exemption to keep our very important community service going . It takes a lot of volunteer organising to keep our rooms maintained and to make them appealing so that they are used as a service to the community.

As you know we spent a lot of money on our bathroom upgrade last year so that it is inclusive of all people that use our rooms. Debby Spinks was great in helping us get a grant from FRRR. We still had to borrow more money to finish off the rooms, which needs to be paid back each year .

Recently we held a garage sale to raise money for the Gidgegannup Fire Relief and we raised \$2,000 all of which was given to the CWA branch at Gidgegannup . We delivered this cheque personally yesterday and as you can imagine they were very overwhelmed with the amount and the generosity of the Brookton community .
I do hope that this will be enough information for you so the our rate exemption can be finalised.

Kind Regards,
Carol Bond

15.04.21 GOVERNANCE

15.04.21.01 DRAFT POLICY 2.46 – RECOVERY OF RATES AND SERVICE CHARGES

File No:**Date of Meeting:** 15 April 2021**Location/Address:** N/A**Name of Applicant:** N/A**Name of Owner:** N/A**Author/s:** Tricia Brown – Finance Administration Officer (Rates)**Authorising Officer:** Kellie Bartley – Manager Corporate and Community**Declaration of Interest:** The author has no interest in this matter**Voting Requirements:** Simple majority**Summary of Item:**

The purpose of this report is for Council to endorse a new policy that guides the debt recovery for overdue rates and service charges. This policy is the guiding document that aligns with the legislative requirements for collection of rates and services charges for a local government and the legal provisions allowable under legislation.

The Draft 2.46 – Recovery of Rates and Service Charges Policy is contained in **Attachment 15.04.21.01A**.

Description of Proposal:

To set a policy position that will guide rate and service charges debt collection with the intent of a formal procedure.

Background:

Local Governments will from time to time face the situation where a person or company does not pay their rates or service charges for a number of years or within the allotted financial year.

When undertaking the annual rates and services charges certain legislative timeframes are set when adopting the annual budget. Providing a number of opportunities for ratepayers/companies to be able to make payment by a number of options (ie pay in full, 2 or 4 instalment options, payment plan or defer their rates and service charges) is defined in the *Rates and Charges (Rebates and Deferments) Act 1992*.

The intent of this policy outlines the provisions of the debt recovery process in a timely manner to which, gives the ratepayer, every opportunity to make payment of their rates and services charges. Local Governments may take action to lease or sell the land to recover rates and/or service charges outstanding or they may cause the land to be transferred to the Crown or to itself.

The policy provides for consideration of all avenues of inquiry and action. This includes where possible, consultation and negotiation for the debt recovery with the ratepayer or company, with the financial hardship of a ratepayer/company taken into consideration as per Council Policy – 2.21 – Financial Hardship.

With the above acknowledged, the provisions of the *Local Government Act 1995*, provides for local governments significant powers in relation to the collection of overdue rates. These powers include:

- Garnishing of rent from the lessee of a property (section 6.60);
- Recovering rates and service charges, as well as the costs of proceedings, in a court of competent jurisdiction (section 6.56);

- Taking possession of the land to which, the overdue rates apply, including the power to lease or sell the land (section 6.64);
- Lodging a caveat that precludes dealings in respect of land that it has an interest in (for example, selling or refinancing the property) until the overdue rates have been paid (section 6.64 (3)); and
- Writing off any amount of money owed (section 6.12 (1) (c)).

The Shire historically has a very good recovery of outstanding rates and charges however it does not currently have a formal policy on this matter. With increases in utility costs (e.g. water, gas, electricity) the community is facing, it is important the Shire applies a consistent approach to debt recovery through the formation of a designated policy. Such a policy will ensure the maximum amount of rateable income is recovered in any one year and enable the Shire's officers to utilise the relevant legislation and legal processes to recover outstanding rates and charges. In addition, this policy will provide a formal and consistent standard for the recovery of rates and charges, whilst recognising individual circumstances and cases of hardship.

Importantly, the new draft Policy 2.46 recognises that "Financial Hardship" does exist within our community and will require the Shire's Administration to consider these factors when administering and enforcing the Policy requirements and Guidelines.

For the Council's information there are several ratepayers who have defaulted in their rates and service charges payments and/or special payment arrangements. Should these rates remain unpaid, the Shire's Finance Rates Officer will be implementing recovery of the rates and service charges in accordance with the guidelines of this policy.

Consultation:

There is no requirement for community consultation however the draft policy has been internally reviewed by relevant officers.

Statutory Environment:

Council's role in determining, reviewing and amending Local Government's Policies is defined under Section 2.7 (2)(b) of the *Local Government Act, 1995*. Furthermore, the *Local Government Act*, states the following provisions in relation to this policy:

2.7. Role of council

- (1) *The council —*
 - (a) *governs the local government's affairs; and*
 - (b) *is responsible for the performance of the local government's functions.*
- (2) *Without limiting subsection (1), the council is to —*
 - (a) *oversee the allocation of the local government's finances and resources; and*
 - (b) *determine the local government's policies.*

[Section 2.7 amended: No. 17 of 2009 s. 4.]

6.12. Power to defer, grant discounts, waive or write off debts

- (1) *Subject to subsection (2) and any other written law, a local government may —*
 - (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) *wave or grant concessions in relation to any amount of money; or*
 - (c) *write off any amount of money,*

which is owed to the local government.

** Absolute majority required.*

- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
 - (3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.
 - (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.
- [Section 6.12 amended: No. 64 of 1998 s. 39.]

6.41. Service of rate notice

- (2) The rate notice is to be given —
 - (a) as soon as practicable after —
 - (i) the rate record of the land is completed; or
 - (ii) the rate record of the land is amended, if that amendment results in a change in the amount of rates or service charges payable on that land;
 - or
 - (b) where an election has been made under section 6.45 to pay rates or service charges by instalments, not less than 28 days before each instalment is due.

6.45. Options for payment of rates or service charges

- (3) A local government may impose an additional charge (including an amount by way of interest) where payment of a rate or service charge is made by instalments and that additional charge is, for the purpose of its recovery, taken to be a rate or service charge, as the case requires, that is due and payable.

6.51. Accrual of interest on overdue rates or service charges

- (1) A local government may at the time of imposing a rate or service charge resolve* to impose interest (at the rate set in its annual budget) on —
 - (a) a rate or service charge (or any instalment of a rate or service charge); and
 - (b) any costs of proceedings to recover any such charge,
 that remains unpaid after becoming due and payable.

* Absolute majority required.

6.56. Rates or service charges recoverable in court

- (1) If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.
 - (2) Rates or service charges due by the same person to the local government may be included in one writ, summons, or other process.
- [Section 6.56 amended: No. 84 of 2004 s. 80.]

6.60. Local government may require lessee to pay rent

- (1) In this section —
 - lease** includes an agreement whether made orally or in writing for the leasing or subleasing of land and includes a licence or arrangement for the use of land;
 - lessor** and **lessee** mean the parties to a lease and their respective successors in title.
- (2) If payment of a rate or service charge imposed in respect of any land is due and payable, notice may be given to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge.
- (3) The local government is to give to the lessor a copy of the notice with an endorsement that the original of it has been given to the lessee.

- (4) *The local government may recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with the notice.*
- (5) *Where an amount is paid under this section to the local government —*
 - (a) *the payment discharges the payer from any liability to any person to pay that amount as rent; and*
 - (b) *where as between a lessor and lessee the lessor is liable to pay the rate or service charge, the amount paid may be set off by the lessee against the rent payable to the lessor; and*
 - (c) *if the amount exceeds the rent due, or if there is no rent due, the amount may be set off by the lessee against accruing rent, or the balance recovered from the lessor in a court of competent jurisdiction.*
- (6) *To the extent that an agreement purports to preclude a lessee from setting off or recovering payments made to a local government under this section, the agreement is of no effect.*

6.64. Actions to be taken

- (1) *If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —*
 - (a) *from time to time lease the land; or*
 - (b) *sell the land; or*
 - (c) *cause the land to be transferred to the Crown; or*
 - (d) *cause the land to be transferred to itself.*
- (2) *On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.*
- (3) *Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.*

Furthermore, the provisions of the *Local Government (Financial Management) Regulations 1996*, states under regulations:

68. Maximum interest component prescribed (Act s. 6.45)

*The maximum rate of interest to be imposed under section 6.45(3) is prescribed as 5.5%.
[Regulation 68 amended: Gazette 18 Jun 1999 p. 2639; 20 Apr 2012 p. 1705; 29 Jun 2012 p. 2954.]*

70. Maximum rate of interest prescribed (Act s. 6.51)

*The maximum rate of interest to be imposed under section 6.51(1) is prescribed as 11%.
[Regulation 70 amended: Gazette 18 Jun 1999 p. 2640; 20 Apr 2012 p. 1705; 29 Jun 2012 p. 2954.]*

In addition to the *Local Government Act, 1995*, the *Rates and Charges (Rebates and Deferments) Act, 1992* also allows for provisions for interest to be dealt with under this legislation aligned to the ratepayer having held the eligibility criteria that applies to this form of concession.

Relevant Plans and Policy:

As referenced, draft Policy 2.46 aligns with the Policy 2.21 – Financial Hardship, which is required to work together.

Financial Implications:

There are no direct financial implications in relation to the 2020/21 budget applicable to this policy. However, actioning the policy may legal costs that partially can be accommodated through a legal expenses allocation in the current budget and are recoverable against the rating details for individual properties.

Risk Assessment:

There is a perceived 'Medium' risk of unrecoverable amounts of Rates and Service Charges and increased Legal Fee expenditure. As mentioned, the legal fees are recoverable through the debt collection process by the ratepayer, however Council will incur the cost initially.

Consequence	Insignificant	Minor	Moderate	Major	Extreme
Likelihood					
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

Community & Strategic Objectives:

This proposal relates to delivery of core business and services detailed in the Shire of Brookton Corporate Compendium – October 2020, duly appended to the Next Generation BROOKTON Corporate Business Plan <2021.

Specifically, Recovery of Rates and Service Charges aligns to:

Function 18 – Financial Control

Action 18.5 – Process of rates, other revenues, timely payments

Comment:

Draft policy 2.46 will formalise the current procedure and provide guidance in this area and make it clear how the Shire handles the payment options for rates and service charges and also how it will administer debt recovery, in an open and transparent manner.

OFFICER RECOMMENDATION

That Council pursuant to Section 2.7(2)(b) of the Local Government Act 1995 adopts draft Council Policy 2.46 – Recovery of Rates and Service Charges, as presented in Attachment 15.04.21.01A in this report.

(Simple majority vote required)

Attachment

15.04.21.02A – DRAFT Council Policy – 2.46 – Recovery of Rates and Service Charges

2.46 - RECOVERY OF RATES AND SERVICE CHARGES POLICY

Directorate:	Corporate			
Statutory Environment:	<i>Local Government Act 1995, sections 6.41 (2) 6.45 (3) 6.51 (1) 6.56, 6.60 & 6.64</i> <i>Rates & Charges (Rebates and Deferments) Act 1992</i> <i>Local Government (Financial Management) Regulations 1996, sections 68 & 70</i>			
Council Adoption:	Date:		Resolution #:	
Last Amended:	Date:		Resolution #:	
Review Date:	June 2022			

Objective:

To set clear guidelines and to establish a formal procedure for the collection of outstanding rates and service charges and the charging of interest in relation to these debts.

Principle:

To ensure the collection of rates and service charges is clear, transparent and consistent, with relevant consideration given to the impact on other ratepayers and the sustainability of the Shire's finances.

Scope

This policy is applicable to all ratepayers within the Shire of Brookton.

Policy Statement

Any rates and service charges due to the Shire of Brookton that remain outstanding, unless a formal Special Payment Arrangement has been entered into, shall be recovered in accordance with this policy and any such action shall comply with the relevant legislation and regulations.

Council will:

- Take all appropriate action to ensure the maximum amount of rateable income is received in any one financial year;
- Recover all outstanding rates and service charges, utilising the relevant legislation and legal processes in accordance with the *Local Government Act 1995*, and the policy guidelines;
- Have regard to individuals "Financial Hardship" relating to rates and service charges, when administering this Policy (refer Policy 2.21 Financial Hardship); and
- Consider all requests from person's experiencing difficulties with making payments of rates and service charges. Such persons will be required to apply to the Chief Executive Officer to enter into a Special Payment Arrangement, to warrant the Council's consideration and leniency.

1.0 Recovery of Rate Arrears:

Rate Notices are due for payment 35 days from the date of issue as per Section 6.56 of the *Local Government Act 1995*, whereby:

- a) Interest on overdue rates and charges shall be imposed at a rate as prescribed in Section 70 of the *Local Government (Financial Management) Regulations 1996* as per section 6.51 (1) of the *Local Government Act 1995*, calculated daily.

- b) Ratepayers may elect to pay their account in full or by 2 or 4 instalments and pay the first instalment amount as indicated on the rates notice by the due date. Of note:
- i) Interest shall be imposed on assessments opting for the instalment plan as prescribed in Section 68 of the *Local Government (Financial Management) Regulations 1996*.
 - ii) Notices for subsequent instalments will be issued not less than 28 days before each instalment is due as per Section 6.41 (2)(b) of the *Local Government Act 1995*
 - iii) Payment of a rate or service charge on any land may not be made by instalments if, at the date for payment on the first instalment, any part of a rate or service charge imposed on the land in a previous financial year (or interest accrued thereon at the date of issue of the rate notice) remains unpaid.
- c) Eligible persons registered to receive a pensioner or senior rebate under the *Rates and Charges (Rebates and Deferments) Act 1992* have until 30 June in that rating year to be eligible for the rebate of deferment of their rates and Emergency Services Levy (ESL) without incurring any late payment penalties. Of note:
- i) Those registered pensioners who are eligible to defer their rates and ESL amount are required to pay only the waste and service charges by 30 June and the rates and ESL balances will automatically be transferred into a deferred account during the end of year procedures
 - ii) Those registered pensioners/seniors who are eligible for the rebate are required to pay the rebated amount as specified on the rates notice by 30 June of that rating year for the claim to Office of State Revenue to be successful.

Note: The *Local Government (COVID-19 Response) Order 2020* is taken into account for the provisions of payment of rates and service charges.

RATES & SERVICE CHARGES

1.1 Debt Recovery Process

The following process is to be followed for the recovery of rates and service charges. Legal proceedings will continue until outstanding rates and service charges are paid in full or otherwise determined by the Chief Executive Officer and/or the Council;

1) Final Notice

- a) Where the rates remain outstanding fourteen (14) days after the due date shown on the Annual Rates Notice and the ratepayer has not elected to pay by the instalment option or enter into a Special Payment Arrangement, a Final Notice shall be issued requesting payment in full within (14) days.
- b) Eligible pensioners registered the *Rates and Charges (Rebates and Deferments Act) 1992* are exempt as they are entitled to pay by the 30th June under legislation.

2) Notice of Intention to Summons (Demand Letter)

- a) Rates remaining unpaid after the expiry date shown on the Final Notice will be examined for the purposes of issuing a Demand Letter (Notice of Intention to Summons)

- b) The Demand Letter is to be issued within sixty (60) days of the expiry date on the Final Notice and must specify that the ratepayer has fourteen (14) days to pay in full or alternatively enter into a Special Payment Arrangement with the Shire. Failure of refusal to enter into an agreed Special Payment Arrangement will result in referral to Council's debt collection agency.
- c) Where amounts remain outstanding, three attempts to contact the ratepayer will be made by telephone, mail and email (where provided).
- d) If payment has not been made the Rates Officer will issue a Notice of Intended Legal Action letter to the ratepayer, demanding payment within seven (7) days.
- e) For debts outstanding, the Shire shall refer the debt to a debt collection agency for collection of the outstanding balance.
- f) The Manager of Corporate and Community will approve the final list to be sent to the debt collection agency.
- g) The approved Debt Collection Agency shall issue a Letter of Demand, the letter shall advise of impending legal action for recovery of the unpaid amounts, allowing seven (7) days for payment.

3) General Procedure Claim

- a) If no response is received and no Special Payment Arrangement has been entered into following the Letter of Demand, the ratepayer is to be processed by Council's debt collection agency for the lodgement of a General Procedure Claim
- b) In accordance with Section 6.56 of the *Local Government Act 1995*, the cost associated with legal action, inclusive of the lodgement of the General Procedure Claim, are recoverable from the property owner/s and are to be debited to the rates account, exclusive of any company search fees.
- c) Ratepayers are required to liaise with the Council's debt collection agency for payment of the outstanding debt.
- d) When a ratepayer has elected to enter into a Special Payment Arrangement and has not made the specified payments for three (3) consecutive payments, a Default Letter will be issued for payment in full within fourteen (14) days. Rates remaining unpaid will be referred to council's debt collection agency to be issued with a General Procedure Claim.
- e) If the General Procedure Claim is paid in full before entering into Judgement, then a *Notice of Discontinuance (NOD)* may be requested by the ratepayer and granted at the discretion of the Manager of Corporate and Community, at the cost of the ratepayer.

4) Non-Service of General Procedure Claim

- a) When a General Procedure Claim is unable to be served, the bailiff or debt collection agency may be able to provide an alternative address. In the case of a rental property, the Managing Agent may be contacted to ascertain the ratepayers new address.
- b) If a new address is supplied for the owner/s of the property, the address will be recorded and a Rates Notice re-issued for payment within fourteen (14) days. If payment is not received, the General Procedure Claim will be re-issued to the new address.
- c) Where an owner resides in a property, which can not be accessed by the Bailiff, or the property is vacant, a "skip trace" will be completed by the debt collection agency to verify the residential address of the owner. If required, a substituted service claim can be filed at court to have the General Procedure Claim issued via post to the verified residential address of the owner.

5) Property Sale and Seizure Order

- a) Where a General Procedure Claim has been issued and served and the amount remains outstanding fourteen (14) days after the issue date of the Claim, legal proceedings will continue through the debt collection agency until payment of rates are received. This includes Judgement and Enforcement of the Claim. Enforcement of the claim may include a Property Seizure Order of goods and or land
- a) The Property Sale and Seizure Order is at first a Goods Order and if the Property Sale and Seizure is returned "Nulla Bona" (no goods), then a land warrant will be issued.
- b) If a Property Sale & Seizure Order against goods and or land is proposed to collect outstanding rates due on a property, the Council's prior approval shall be obtained before the Property Sale and Seizure Order is lodged

6) Seizure of Rent (Section 6.60)

In cases where the owner of a leased or rented property on which rates outstanding cannot be located, or refuses to settle rates owed, a Notice will be served on the lessee under the Provisions of the *Local Government Act 1995* – Section 6.60, requiring the lessee to pay the Shire of Brookton the rent due under the lease/tenancy agreement as it becomes due, until the amount in arrears has been fully paid.

7) Lodging a Caveat on the Title of Land

In accordance with section 6.64 (3) of the *Local Government Act 1995*, where payment of the rates or service charges is in arrears, the Shire can lodge a caveat, with this registered on the title for the land that has unpaid rates and service charges. The cost of the lodging a caveat can not be charged to the property. This option will be at the discretion of the Chief Executive Officer and/or Council.

8) Sale of Land (Section 6.64)

Where Rates and Service Charges are outstanding for a period of three (3) years or more, the Council may:

- a) From time to time lease the land;
- b) Sell the land;
- c) Have the land transferred to the Shire of Brookton;
- d) Have the land transferred to the Crown; or
- e) Sell the land as per the *Local Government Act 1995* – Section 6.64. Council approval will be obtained prior to the above course of action being undertaken.

The above action under Section 6.64 of the *Local Government Act 1995*, will be reported on a confidential basis to the Council, for approval.

1.2 Roles and Responsibilities

The Manager of Corporate and Community Services shall be responsible for referring matters to Council in regard to this policy. The Finance Administration Officer (Rates) shall be responsible for ensuring compliance and the daily operations of this policy.

15.04.21.02 ADOPTION OF COUNCIL MEMBER, COMMITTEE MEMBER AND CANDIDATES CODE OF CONDUCT AND CHIEF EXECUTIVE OFFICER (CEO) STANDARDS

File No:	N/A
Date of Meeting:	15 April 2021
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	Kellie Bartley – Manager Corporate and Community
Authorising Officer:	Ian D’Arcy – Chief Executive Officer
Declaration of Interest:	The author has no financial interest in this matter.
Voting Requirements:	Absolute Majority
Previous Report:	N/A

Summary of Item:

This report seeks to inform the Council on recent changes made to legislation and enact some of the mandatory changes in accordance with the guidelines provided by the State Government.

It is for Council to consider and adopt the proposed CEO Standards and Code of Conduct and repeal the Shire of Brookton’s Elected Members Code of Conduct - December 2019.

The Code of Conduct and CEO Standards (draft Policy 1.25) are referred to in **Attachments 15.04.21.02A and 15.04.21.02B**.

Description of Proposal:

Nil.

Background:

Following the gazettal of new Regulations on 2nd February 2021, and coming into effect on 3rd February 2021, the Department of Local Government, Sport and Cultural Industries (DLGSCII) has issued instructions to all local governments that the *Local Government (Model Code of Conduct) Regulations 2021* amendments (refer to **Attachment 15.04.21.02A**) must be implemented by 3 May 2021.

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

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

Therefore, Council is required to adopt a new Code of Conduct for Council members, Committee members and election candidates that is compliant with the mandatory Model Code of Conduct in the regulations.

The Employee code of conduct will be addressed independently at the May 2021 Ordinary Council Meeting

Model Standards – CEO Employment

The Model Standards for the recruitment, selection, performance review and termination of Local Government CEOs includes requirements to:

- Establish a selection panel comprised of Council Members and at least one independent person to conduct the recruitment and selection process (clause 8);
- Re-advertise the CEO position and conduct a recruitment and selection process where a current CEO has held the position for ten consecutive years or more on expiry of the CEO's contract (clause 13); and
- By agreement between the CEO and Council, establish a performance review process (clause 16).

Model Code - Council Members, Committee Members and Election Candidates

This Model Code repeals and replaces the Local Government (Rules of Conduct) Regulations, 2007 and provides:

- a set of overarching principles to guide behaviour of Council Members, Committee Members and Election Candidates;
- specifies the standards of behaviour which reflect the principles; and
- the rules of conduct that relate to the principles and behaviours.
- an understanding to what matters might constitute a breach and how such matters are to be investigated.

By the 3rd May 2021, Council must prepare and adopt a code of conduct that aligns to the new legislation. The Regulations state that amendments cannot be made to Division 2 (Principles) or Division 4 (Rules of Conduct) of the Model Code. However, if appropriate, additional behavioural requirements can be included in the new Code of Conduct provided such additions are consistent with the Model Code.

The following provides brief explanation of the recent legislative changes:

Local Government (Model Code of Conduct) Regulations 2021

The *Local Government (Model Code of Conduct) Regulations 2021* (Model Code Regulations) introduced a mandatory code of conduct for council members, committee members and candidates. The Model Code of Conduct Regulations repeals and replaces the *Local Government (Rules of Conduct) Regulations, 2007* and also replaces the previous statutory requirement to develop and implement an individual code of conduct for council members and committee members.

The Model Code Regulations are now in effect and Elected Members and Committee Members should familiarise themselves with the principles, behaviours and complaints required to be managed by Council and the rules of conduct, contraventions of which are considered by the independent Local Government Standards Panel (Standards Panel) where appropriate. Further information and guidelines are available on the DLGSCI website.

Elected Members must comply with the provisions of the Model Code Regulations in fulfilling their roles and responsibilities, as set out in the Act. The purpose of the Model Code is to guide the decisions, actions, and behaviours of members, both in Council and on Council committees, and of candidates running for election as a Council Member. One of the key changes to the Model Code Regulations is their application to individuals who have nominated as a candidate in a local government election, as they are also required to demonstrate professional and ethical behaviour during their election campaign.

Local governments are required to adopt a Code of Conduct that incorporates the Model Code Regulations within three months, in accordance with the new section 5.104 of the Act.

An overview of the Model Code Regulations and immediate actions for Council is set out below:

- **General Principles – Division 2:** The principles outline the overarching approach that members and candidates should demonstrate in their role as public representatives, or potential public representatives. Individuals should consider all behaviours in light of these principles, including any behaviour and conduct that is not covered specifically in Division 3 and 4. The principles are grouped into three key areas: personal integrity; relationships with others and accountability.
- **Behaviour – Division 3:** This section of the Model Code Regulations sets the standards of behaviour which reflects the general principles outlined in Division 2. It is the individual responsibility of members and candidates to demonstrate, promote and support professional and ethical behaviour as provided in the Model Code. The behaviours include personal integrity, relationships with others and conduct at council or committee members.
- **Rules of Conduct – Division 4:** Under section 5.105(1) of the Act, if a Council Member commits a minor breach, this is deemed a contravention of the Rule of Conduct. This also extends to an election candidate, however, will only come into force if the candidate is successful in being elected. For the most part, a minor breach is dealt with by the Standards Panel under section 5.110 of the Act, and can include misuse of local government resources, securing personal advantage or disadvantaging others, prohibition against involvement in administration, relationship with local government employees, disclosure of information, disclosure of interests and compliance.

Therefore, in part this report promotes Council adopt the new Code of Conduct (as contained in **Attachment XX**) that will enable the Council to meet its statutory requirements. Enhancements to the Code of Conduct may be considered by Council over time.

Local Government (Administration) Amendment Regulations 2021

The *Local Government Legislation Amendment Act 2019* includes a requirement for model standards covering the recruitment and selection, performance review and termination of employment of local government Chief Executive Officers (CEOs). These reforms are intended to ensure best practices and greater consistency in these processes across the local governments sector. Further information and guidelines on the Model CEO Standards are available on the DLGSCI website.

In summary, the CEO Standards amend the *Local Government (Administration) Regulations 1996* (Admin Regulations) to prescribe model standards under Section 2 of the Admin Regulations. Under section 5.39B(2) of the Act, the Council must adopt standards that incorporate the model standards within three months and until this time, the model standards are taken to be the adopted standards. Shire Officers are recommending that Council adopt the CEO Standards for Recruitment, Performance and Termination (as contained in **Attachment 15.04.21.02A**) as taken in the Admin Regulations. At a later time, Council may consider additional provisions that are consistent with the model standards. This is the same approach as recommended in the adoption of the Code of Conduct for Elected Members, Committee Members and Candidates.

An overview of the Model standards for CEO recruitment, performance and termination as set out in section 5.39A(1) of the Act and Schedule 2 of the regulations is presented below:

➤ **Recruitment and Selection**

The most notable change is the requirement for local government is to re-advertise the CEO position and undertake a recruitment and selection process after each instance where the person has occupied the position for ten consecutive years.

Division 2 sets out the process for establishing the selection criteria, position description and the

advertising process. The key change is that State-wide notice advertising the position must also include a website address where a position description for the position can be accessed. Local governments are also required to convene a selection panel to conduct the recruitment and selection process. The selection panel must consist of Elected Members and a new requirement under clause 8, Division 2, is that the selection panel must include one independent person who is not a current Elected Member, human resources person employed by the Local Government, or another employee of the local government. The DLGSCI has recommended that the independent person should have experience in the recruitment and selection of CEO's and/or senior executives.

It is the role of the selection panel to recommend one or more suitable applicants based on the selection criteria. The selection panel provides an advisory role with the ultimate decision-making authority remaining with Council. The DLGSCI has recommended that local governments develop a policy or terms of reference to facilitate this process that incorporates Division 2 of the Admin Regulations that includes:

- The primary functions of the panel;
- Roles and Responsibilities of panel members;
- Composition of the panel;
- Duration of term;
- Desirable criteria for appointment to the panel;
- A requirement that panel members sign a confidentially agreement and agree to the duties and responsibilities of their role; and
- Any other information the local government deems necessary for the panel to effectively carry out their role.

➤ **Performance**

The standards regarding the CEO performance review are based on the principles of fairness, integrity, and impartiality. Section 5.38 of the Act provides that, for a CEO who is employed for a term of more than one year, the performance of a CEO is to be reviewed formally at least once in every year of their employment. In addition to this minimum requirement, it is recommended that Council engage in regular discussions with the CEO regarding their performance against the performance criteria, including progress and ways that the CEO can be supported. Any changes to the CEO's performance agreement, such as changes to the performance criteria, should also be discussed and agreed to between Council and the CEO, as the matter arises. Council must ensure that the process for a performance review is appropriately documented.

With the introduction of a new CEO Standards, it is recommended that Council amend Council Policy 1.12 – CEO Performance and Salary Review to include the principles outlined in the Local Government (Administration) Regulations that requires the Council undertake the review and update the process to reflect how the process is currently carried out.

➤ **Termination**

The requirements of the CEO Standards regarding termination of employment are based on the principles of procedural fairness. Any decision to terminate a CEO's contract of employment must be compliant with the CEO Standards and consistent with employment and contract law.

The CEO Standards provide that before a decision is made to terminate the employment of a CEO, the Council must have conducted a CEO performance review within the preceding twelve months (in accordance with section 5.38 of the Act). As a part of that process, the performance review must have identified any relevant performance issues that needed to be addressed by the CEO, informed the CEO of the issues, and provided the CEO with a reasonable opportunity to address

those issues in accordance with a performance management plan.

➤ **Appointing of a Temporary CEO**

In accordance with Section 5.39C of the Act, Council is required to develop and implement a policy that outlines the arrangements to temporarily replace a CEO for any period less than twelve months, for example, when a CEO is on planned or unplanned leave. The policy must include the process for appointing an acting CEO.

As noted above, the CEO Standards and Code of Conduct must incorporate the terms of the Model Standards and Model Code (respectively) with only limited complimentary amendments permitted to each document.

Code of Conduct – Employees and Contractors

A new Employee and Contractor Code of Conduct is required to be developed in accordance with the Employee Code Regulations and approved and implemented by the CEO. The CEO is also bound by this new Employee and Contractor Code of Conduct, as well as additional provisions in the Local Government Act and associated Regulations. A new consistent Code based on the WALGA template will be presented for adoption in the coming month.

Consultation:

Consultation on the subject Regulations has been discussed with Elected Members at the February 2021 Council Briefing Forum. Throughout 2019 and 2020 Elected Members have been advised of the review of the Act through workshops and adopting feedback to the Department Local Government Sport and Cultural Industries (DLGSCI) on the new changes.

Statutory Environment:

The *Local Government Act, 1995* also stipulates under Sections 5.103, 5.104 and 5.105:

5.103. Model code of conduct for council members, committee members and candidates

- (1) Regulations must prescribe a model code of conduct for council members, committee members and candidates.
- (2) The model code of conduct must include —
 - (a) general principles to guide behaviour; and
 - (b) requirements relating to behaviour; and
 - (c) provisions specified to be rules of conduct.
- (3) The model code of conduct may include provisions about how the following are to be dealt with —
 - (a) alleged breaches of the requirements referred to in subsection (2)(b);
 - (b) alleged breaches of the rules of conduct by committee members.
- (4) The model code of conduct cannot include a rule of conduct if contravention of the rule would, in addition to being a minor breach under section 5.105(1)(a), also be a serious breach under section 5.105(3).
- (5) Regulations may amend the model code of conduct.

5.104. Adoption of model code of conduct

- (1) Within 3 months after the day on which regulations prescribing the model code come into operation, a local government must prepare and adopt* a code of conduct to be observed by council members, committee members and candidates that incorporates the model code.

* Absolute majority required.

- (2) Within 3 months after the day on which regulations amending the model code come into operation, the local government must amend* the adopted code of conduct to incorporate the amendments made to the model code.
* Absolute majority required.
- (3) A local government may include in the adopted code of conduct requirements in addition to the requirements referred to in section 5.103(2)(b), but any additional requirements —
 - (a) can only be expressed to apply to council members or committee members; and
 - (b) are of no effect to the extent that they are inconsistent with the model code.
- (4) A local government cannot include in the adopted code of conduct provisions in addition to the principles referred to in section 5.103(2)(a) or the rules of conduct.
- (5) The model code is taken to be a local government's adopted code of conduct until the local government adopts a code of conduct.
- (6) An alleged breach of a local government's adopted code of conduct by a candidate cannot be dealt with under this Division or the adopted code of conduct unless the candidate has been elected as a council member.
- (7) The CEO must publish an up-to-date version of a local government's adopted code of conduct on the local government's official website.

5.39A. Model standards for CEO recruitment, performance and termination

- (1) Regulations must prescribe model standards for local governments in relation to the following —
 - (a) the recruitment of CEOs;
 - (b) the review of the performance of CEOs;
 - (c) the termination of the employment of CEOs.
- (2) Regulations may amend the model standards.
[Section 5.39A inserted: No. 16 of 2019 s. 22.]

5.39B. 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.
 [Section 5.39B inserted: No. 16 of 2019 s. 22.]

5.39C. Policy for temporary employment or appointment of CEO

- (1) A local government must prepare and adopt* a policy that sets out the process to be followed by the local government in relation to the following —

- (a) the employment of a person in the position of CEO for a term not exceeding 1 year;
- (b) the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

* Absolute majority required.

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

* Absolute majority required.

- (3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (4) The CEO must publish an up-to-date version of the policy on the local government's official website.

[Section 5.39C inserted: No. 16 of 2019 s. 22.]

The Act also specifies Council's role in determining, reviewing, and amending Local Government's Policies is defined in Section 2.7(2)(b) of the *Local Government Act, 1995*.

Relevant Plans and Policy:

The following Council Policies will require minor amendments with reference to the new legislation and regulations. These are listed as follows:

- 1.4 – Induction – Elected Members
- 1.14 – Senior Employees
- 1.12 – CEO Performance and Salary Review
- 1.13 – Council Committees – Terms of Reference
- 1.14 – Social Media Policy
- 1.18 – Appointment of Acting CEO

Shire of Brookton Code of Conduct for Elected Members – December 2019 has already been repealed/replaced by the introduction of the new Regulations and Mode Code on the 3rd February 2021.

Financial Implications:

The Council expended approx. \$5,000 in the 2020/21 Annual Budget for expert Human Resources advice and guidance in relation to the CEO performance in February 2021.

Based on the new Regulations the Council will need to be mindful that future Annual Budgets may well need to have an allocation for assistance involving future CEO recruitment, performance reviews and termination, as well as possible support in relation to investigation of complaints regarding Elected Members, including aspiring election candidates.

Risk Assessment:

The Council is legally obliged to adhere to the new Regulations in relation to the new Codes. Therefore, there is a risk in relation to this matter assessed as 'LOW' on the basis that if Council does not implement the new rules in a timely manner. There is no reason for Council not to support this request. The DLGSCI have advised that local governments should implement immediate actions to ensure compliance with the Act and new regulations.

Consequence	Insignificant	Minor	Moderate	Major	Extreme
Likelihood					
Almost Certain	Medium	High	High	Severe	Severe
Likely	Low	Medium	High	High	Severe
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Low	Medium

Risk Rating	Action
LOW	Monitor for continuous improvement.
MEDIUM	Comply with risk reduction measures to keep risk as low as reasonably practical.
HIGH	Review risk reduction and take additional measures to ensure risk is as low as reasonably achievable.
SEVERE	Unacceptable. Risk reduction measures must be implemented before proceeding.

Community & Strategic Objectives:

This item relates to delivery of core business and services detailed in the Shire of Brookton Corporate Compendium – October 2020, duly appended to the Next Generation BROOKTON Corporate Business Plan <2021.

Specifically, the amended Policy supports the following Business Unit and Functions:

1. *Governance*
 - 1.1 *Full review policy manual*

Comment:

While the Council is requested to adopt the recommendations in this report to ensure compliance with the Act and new regulations, there remains issues and concerns with this legislation, as summarised below:

Elected Member Code of Conduct

The conduct of internal investigations in relation of Elected Member complaints, as required by these new Regulations, is considered problematic with:

1. An expected impost on most Local Governments that are not adequately trained nor resourced to conduct investigations and pass judgement in consideration of the principles of procedural fairness and natural justice.
2. An internal investigation having the potential to incite further conflict and possible retaliation that could generate a heightened level of disharmony and discord contrary of the primary objective of providing good governance for residents of the district.
3. An inconsistent approach to investigations under the Regulations being administered without appropriate guidelines and stated penalties for specific offences. It is viewed these should be developed by the LGSCI in consultation with WALGA to ensure consistency and fairness can be applied across the Local Government sector.

It should be noted these concerns have been flagged with the WALGA Central Country Zone for broader consideration by respective Local Governments in this Wheatbelt Region.

Permanent CEO Position - Recruitment, Performance Assessment, and Termination

The appointment of a suitably credentialled and experienced independent person to assist Council in the recruitment, performance assessment, and termination of a CEO comes with considered challenge in selecting the best person. Council needs to mindful the DLGSCI guidelines state:

“Examples of who the independent person could be include:

- former elected members or staff members of the local government;*
- former or current elected members (such as a Mayor or Shire President) or staff members of another local government;*
- a prominent or highly regarded member of the community; or*
- a person with experience in the recruitment of CEOs and senior executives.*

The panel are responsible for assessing applicants and making a recommendation to Council regarding the most suitable applicant or applicants. The essence of the role of an independent panel member is to bring an impartial perspective to the process and reduce any perception of bias or nepotism.”

This role should not be confused with the engagement of an Independent Human Resources Consultant, also required to be engaged to assist the Council (or recruitment panel) in facilitating the respective CEO process. In this regard the Department’s guidance note states:

“Independent human resources consultant

A local government should seek independent advice from a human resources consultant where the Council lacks the capacity or expertise to facilitate the recruitment and selection process (or any aspect of it). A member of the human resources team within a local government must not be involved in the recruitment of a new CEO.

The consultant should not be associated with the local government or any of its Council members. The consultant can be an independent human resources professional, recruitment consultant, or recruitment agency.

An independent human resources consultant can provide advice to the selection panel on how to conduct the recruitment process, or a local government may engage a consultant to support it in undertaking certain aspects of the recruitment process, such as one or more of the following:

- development or review of the JDF;*
- development of selection criteria;*
- development of assessment methods in relation to the selection criteria;*
- drafting of the advertisement;*
- executive search;*
- preliminary assessment of the applications;*
- shortlisting;*
- drafting questions for interview;*
- coordinating interviews;*
- preparing the selection summary assessment and recommendation;*
- arranging for an integrity check and/or police clearance; and*
- assisting the council in preparing the employment contract.*

The consultant is not to be directly involved in determining which applicant should be recommended for the position, their role is not one of decision-maker.”

Therefore, understanding the distinct difference of these positions in the recruitment, performance and termination of a CEO position is paramount, with the appointment of independent representation needing to be conducted with a high level of diligence, and without confusion over the respective functions of each role in assisting the Council to meet its statutory obligations.

Temporary/Acting CEO Appointment

It is important Council's Policy clearly details the criteria upon which another person/employee may be appointed to perform the CEO position on a casual basis. Council needs to be cognisant of the responsibilities for this position and needs to ensure (as the employer) the policy reflects that selected/appointed person can perform the role with a diverse level of knowledge and has sufficient experience required to maintain continued management and operations of the Local Government in the absence of a permanent CEO.

OFFICER RECOMMENDATION

That Council:

1. Pursuant to:

- a) Section 5.103(5) of the Local Government Act, 1995 revokes the Shire of Brookton Code of Conduct for Elected Members December 2019.***
- b) Section 5.104(1) of the Local Government Act, 1995 adopts the Model Code of Conduct for Elected Members, Committee Members, and Candidates as per Attachment 15.04.21.02A to this report.***
- c) Section 5.39B(2) of the Local Government Act, 1995 adopts the Model CEO Standards on Recruitment, Performance and Termination as Policy 1.25 presented as Attachment 15.04.21.02B to this report.***

2. Notes:

- a) the following list of Policies will need to be amended to align with the Local Government (Model Code of Conduct) Regulations 2021 (Model Code) and Local Government (Administration) Amendment Regulations 2021 (Model Standards) before being presented back to Council at the May 2021 Ordinary Council Meeting for adoption:***

1.4 – Induction – Elected Members

1.14 – Senior Employees

1.12 – CEO Performance and Salary Review

1.13 – Council Committees – Terms of Reference

1.14 – Social Media Policy

1.18 – Appointment of Acting CEO

- b) The Model CEO Standards on Recruitment, Performance and Termination and Code of Conduct for Elected Members, Committee Members and Candidates will be published on the Shire of Brookton website.***

(Absolute majority vote required)

Attachments

Attachment 15.04.21.02A – Code of Conduct for Elected Members, Committee Members, and Candidates
Attachment 15.04.21.02B – Draft Policy 1.25 – Model CEO Standards on Recruitment, Performance and Termination



Shire of Brookton Code of Conduct for Council Members, Committee Members and Candidates

Head of Power

This Code is adopted in accordance with section 5.104 of the *Local Government Act, 1995* and modelled on Local Government (Model Code of Conduct) Regulations, 2021.

Division 1 — Preliminary provisions

1. Citation

These is the Shire of Brookton Code of Conduct for Council Members, Committee Members and Candidates.

2. Terms used

(1) In this code —

Act means the *Local Government Act 1995*;

candidate means a candidate for election as a council member;

complaint means a complaint made under clause 11(1);

publish includes to publish on a social media platform.

(2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 — General principles

3. Overview of Division

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

4. Personal integrity

(1) A council member, committee member or candidate should —

- (a) act with reasonable care and diligence; and
- (b) act with honesty and integrity; and
- (c) act lawfully; and
- (d) identify and appropriately manage any conflict of interest; and
- (e) avoid damage to the reputation of the local government.

(2) A council member or committee member should —

- (a) act in accordance with the trust placed in council members and committee members; and
- (b) participate in decision making in an honest, fair, impartial and timely manner; and
- (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
- (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

5. Relationship with others

- (1) A council member, committee member or candidate should —
 - (a) treat others with respect, courtesy and fairness; and
 - (b) respect and value diversity in the community.
- (2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

6. Accountability

A council member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to, and represent, the community in the district.

Division 3 — Behaviour

7. Overview of Division

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

8. Personal integrity

- (1) A council member, committee member or candidate —
 - (a) must ensure that their use of social media and other forms of communication complies with this code; and
 - (b) must only publish material that is factually correct.
- (2) A council member or committee member —
 - (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
 - (b) must comply with all policies, procedures and resolutions of the local government.

9. Relationship with others

A council member, committee member or candidate —

- (a) must not bully or harass another person in any way; and
- (b) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and
- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.

10. Council or committee meetings

When attending a council or committee meeting, a council member, committee member or candidate —

- (a) must not act in an abusive or threatening manner towards another person; and
- (b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- (c) must not repeatedly disrupt the meeting; and

- (d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- (e) must comply with any direction given by the person presiding at the meeting; and
- (f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

11. Complaint about alleged breach

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
 - (a) in writing in the form approved by the local government; and
 - (b) to a person authorised under subclause (3); and
 - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

12. Dealing with complaint

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.
- (2) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (4) If the local government makes a finding that the alleged breach has occurred, the local government may —
 - (a) take no further action; or
 - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.
- (5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.
- (6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —
 - (a) engage in mediation;
 - (b) undertake counselling;
 - (c) undertake training;
 - (d) take other action the local government considers appropriate.
- (7) If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —
 - (a) its finding and the reasons for its finding; and
 - (b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

13. Dismissal of complaint

- (1) The local government must dismiss a complaint if it is satisfied that —
 - (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
 - (b) either —
 - (i) the behaviour was dealt with by the person presiding at the meeting; or
 - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.

- (2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

14. Withdrawal of complaint

- (1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.
- (2) The withdrawal of a complaint must be —
- (a) in writing; and
 - (b) given to a person authorised under clause 11(3).

15. Other provisions about complaints

- (1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.

Division 4 — Rules of conduct

Notes for this Division:

1. *Under section 5.105(1) of the Act a council member commits a minor breach if the council member contravenes a rule of conduct. This extends to the contravention of a rule of conduct that occurred when the council member was a candidate.*
2. *A minor breach is dealt with by a standards panel under section 5.110 of the Act.*

16. Overview of Division

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

17. Misuse of local government resources

- (1) In this clause —
- electoral purpose** means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*;
- resources** of a local government includes —
- (a) local government property; and
 - (b) services provided, or paid for, by a local government.
- (2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

18. Securing personal advantage or disadvantaging others

- (1) A council member must not make improper use of their office —
- (a) to gain, directly or indirectly, an advantage for the council member or any other person; or
 - (b) to cause detriment to the local government or any other person.
- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

19. Prohibition against involvement in administration

- (1) A council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.
- (2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

20. Relationship with local government employees

- (1) In this clause —
local government employee means a person —
 - (a) employed by a local government under section 5.36(1) of the Act; or
 - (b) engaged by a local government under a contract for services.
- (2) A council member or candidate must not —
 - (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or
 - (c) act in an abusive or threatening manner towards a local government employee.
- (3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
- (4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —
 - (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use an offensive or objectionable expression when referring to a local government employee.
- (5) Subclause (4)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

21. Disclosure of information

- (1) In this clause —
closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
confidential document means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;
document includes a part of a document;
non confidential document means a document that is not a confidential document.
- (2) A council member must not disclose information that the council member —
 - (a) derived from a confidential document; or
 - (b) acquired at a closed meeting other than information derived from a non confidential document.
- (3) Subclause (2) does not prevent a council member from disclosing information —
 - (a) at a closed meeting; or
 - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or
 - (e) to the Minister; or
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

22. Disclosure of interests

- (1) In this clause —
interest —

- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
 - (b) includes an interest arising from kinship, friendship or membership of an association.
- (2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —
 - (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —
 - (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —
 - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest if —
 - (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
 - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.

23. Compliance with plan requirement

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.

1.25 STANDARDS FOR CEO RECRUITMENT, PERFORMANCE AND TERMINATION

Directorate:	Executive			
Statutory Environment:	Local Government Act 1995 (as amended) Section 5.39B Local Government (Administration) Regulations 1996 Part 4 regulations 18A; 18B; 18E; 18F; 18FA; 18FB; 18FC. Local Government (Administration) Amendment Regulations 2021			
Council Adoption:	Date:		Resolution#:	
Last Amended:	Date:		Resolution #:	
Renew Date:	June 2021			

Division 1 — Preliminary provisions

1. Citation

These are the Shire of Brookton Standards for CEO Recruitment, Performance and Termination.

2. Terms used

(1) In these standards —

Act means the Local Government Act 1995;

additional performance criteria means performance criteria agreed by the local government and the CEO under clause 16(1)(b);

applicant means a person who submits an application to the local government for the position of CEO;

contract of employment means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO;

contractual performance criteria means the performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of the Act;

job description form means the job description form for the position of CEO approved by the local government under clause 5(2);

local government means the Shire of Brookton;

selection criteria means the selection criteria for the position of CEO determined by the local government under clause 5(1) and set out in the job description form;

selection panel means the selection panel established by the local government under clause 8 for the employment of a person in the position of CEO.

(2) Other terms used in these standards that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 — Standards for recruitment of CEOs

3. Overview of Division

This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.

4. Application of Division

(1) Except as provided in subclause (2), this Division applies to any recruitment and selection process carried out by the local government for the employment of a person in the position of CEO.

(2) This Division does not apply —

(a) if it is proposed that the position of CEO be filled by a person in a class prescribed for the purposes of section 5.36(5A) of the Act; or

(b) in relation to a renewal of the CEO's contract of employment, except in the circumstances referred to in clause 13(2).

5. Determination of selection criteria and approval of job description form

- (1) The local government must determine the selection criteria for the position of CEO, based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.
- (2) The local government must, by resolution of an absolute majority of the council, approve a job description form for the position of CEO which sets out —
 - (a) the duties and responsibilities of the position; and
 - (b) the selection criteria for the position determined in accordance with subclause (1).

6. Advertising requirements

- (1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and the *Local Government (Administration) Regulations 1996* regulation 18A.
- (2) If clause 13 applies, the local government must advertise the position of CEO in the manner referred to in the *Local Government (Administration) Regulations 1996* regulation 18A as if the position was vacant.

7. Job description form to be made available by local government

If a person requests the local government to provide to the person a copy of the job description form, the local government must —

- (a) inform the person of the website address referred to in the *Local Government (Administration) Regulations 1996* regulation 18A(2)(da); or
- (b) if the person advises the local government that the person is unable to access that website address —
 - (i) email a copy of the job description form to an email address provided by the person; or
 - (ii) mail a copy of the job description form to a postal address provided by the person.

8. Establishment of selection panel for employment of CEO

- (1) In this clause —
independent person means a person other than any of the following —
 - (a) a council member;
 - (b) an employee of the local government;
 - (c) a human resources consultant engaged by the local government.
- (2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
- (3) The selection panel must comprise —
 - (a) council members (the number of which must be determined by the local government); and
 - (b) at least 1 independent person.

9. Recommendation by selection panel

- (1) Each applicant's knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the selection panel.
- (2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —
 - (a) a summary of the selection panel's assessment of each applicant; and
 - (b) unless subclause (3) applies, the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.

- (3) If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —
 - (a) that a new recruitment and selection process for the position be carried out in accordance with these standards; and
 - (b) the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.
- (4) The selection panel must act under subclauses (1), (2) and (3) —
 - (a) in an impartial and transparent manner; and
 - (b) in accordance with the principles set out in section 5.40 of the Act.
- (5) The selection panel must not recommend an applicant to the local government under subclause (2)(b) unless the selection panel has —
 - (a) assessed the applicant as having demonstrated that the applicant's knowledge, experience, qualifications and skills meet the selection criteria; and
 - (b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and
 - (c) whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant's character, work history, skills, performance and any other claims made by the applicant.
- (6) The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

10. Application of cl. 5 where new process carried out

- (1) This clause applies if the local government accepts a recommendation by the selection panel under clause 9(3)(a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.
- (2) Unless the local government considers that changes should be made to the duties and responsibilities of the position or the selection criteria —
 - (a) clause 5 does not apply to the new recruitment and selection process; and
 - (b) the job description form previously approved by the local government under clause 5(2) is the job description form for the purposes of the new recruitment and selection process.

11. Offer of employment in position of CEO

Before making an applicant an offer of employment in the position of CEO, the local government must, by resolution of an absolute majority of the council, approve —

- (a) the making of the offer of employment to the applicant; and
- (b) the proposed terms of the contract of employment to be entered into by the local government and the applicant.

12. Variations to proposed terms of contract of employment

- (1) This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the local government a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the local government under clause 11(b).
- (2) Before entering into the negotiated contract with the applicant, the local government must, by resolution of an absolute majority of the council, approve the terms of the negotiated contract.

13. Recruitment to be undertaken on expiry of certain CEO contracts

- (1) In this clause —
commencement day means the day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.
- (2) This clause applies if —

- (a) upon the expiry of the contract of employment of the person (the incumbent CEO) who holds the position of CEO —
 - (i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and
 - (ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;
- and
- (b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.
- (3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.
- (4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be employed in the position of CEO.

14. Confidentiality of information

The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.

Division 3 — Standards for review of performance of CEOs

15. Overview of Division

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

16. Performance review process to be agreed between local government and CEO

- (1) The local government and the CEO must agree on —
 - (a) the process by which the CEO's performance will be reviewed; and
 - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.
- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

17. Carrying out a performance review

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
 - (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
 - (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

18. Endorsement of performance review by local government

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

19. CEO to be notified of results of performance review

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

Division 4 — Standards for termination of employment of CEOs

20. Overview of Division

This Division sets out standards to be observed by the local government in relation to the termination of the employment of CEOs.

21. General principles applying to any termination

- (1) The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.
- (2) The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —
 - (a) informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and
 - (b) notifying the CEO of any allegations against the CEO; and
 - (c) giving the CEO a reasonable opportunity to respond to the allegations; and
 - (d) genuinely considering any response given by the CEO in response to the allegations.

22. Additional principles applying to termination for performance related reasons

- (1) This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.
- (2) The local government must not terminate the CEO's employment unless the local government has —
 - (a) in the course of carrying out the review of the CEO's performance referred to in subclause (3) or any other review of the CEO's performance, identified any issues (the performance issues) related to the performance of the CEO; and
 - (b) informed the CEO of the performance issues; and
 - (c) given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and
 - (d) determined that the CEO has not remedied the performance issues to the satisfaction of the local government.
- (3) The local government must not terminate the CEO's employment unless the local government has, within the preceding 12 month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

23. Decision to terminate

Any decision by the local government to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

24. Notice of termination of employment

- (1) If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.
- (2) The notice must set out the local government's reasons for terminating the employment of the CEO.

16.04.21	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
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Nil.

17.04.21	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING
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18.04.21	CONFIDENTIAL REPORTS
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Nil.

19.04.21	NEXT MEETING & CLOSURE
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The next Ordinary meeting of the Council will be held on 20 May 2021 commencing at 6.00 pm.