



## ORDINARY MEETING OF COUNCIL

### MINUTES

20 AUGUST 2020

These minutes were confirmed by Council as a true and correct record of proceedings by the Ordinary Council Meeting held on 17/9/20

Presiding Member

Date: 17 September 2020

#### Disclaimer

The purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.

Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

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**Shire of Brookton**  
**Ordinary Meeting of Council held 20 August 2020**  
**Commenced at 6.00 pm**

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### 1.08.20 USE OF COMMON SEAL – JULY 2020

The Table below details the Use of Common Seal under delegated authority for the month of July 2020.

Use of Common Seal Register		
File Ref:	Purpose	Date Granted
A578	Amended Lease Agreement – BCI Old Country Club & Bowling Green	30 July 2020
A578	Amended Lease Agreement – BCI Community Garden & Men's Shed	30 July 2020

### 2.08.20 DELEGATED AUTHORITY – ACTIONS PERFORMED – JULY 2020

The Table below details the actions of Council performed under delegated authority for the month July 2020.

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

BUILDING			
Application No.	Lot & Street	Type of Building Work	Date Granted
17-19.20	119 Woods Loop, Jelcobine	Shed	20 July 2020
18-19.20	439 Mills Road, Brookton	Dwelling	29 July 2020
20-19.20	57 Brookton Highway, Brookton	Re Roof	2 July 2020
01-20.21	439 Mills Road, Brookton	Septic	8 July 2020
02-20.21	275 Boyagarra Road, Brookton	Re Roof	14 July 2020

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
P313	P2020-006	Lot 52 & 53 Richardson St, Brookton	Industrial Shed	17 July 2020

### 3.08.20 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding member declared the meeting open at 6.00pm and thanked all in attendance.

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.

### 4.08.20 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

#### Elected Members (Voting)

Cr KL Crute	(Shire President)
Cr NC Walker	(Deputy Shire President)
CR CE Hartl	
Cr RT Fancote	
Cr TD Lilly	
Cr BK Watts	
Cr MG Macnab	

#### Staff (Non-Voting)

Ian D'Arcy	Chief Executive Officer
Amy Eva	Manager Corporate and Community
Mikel Haramboure	Manager Infrastructure and Emergency

Danni Chard  
Kylie Freeman

Executive Governance Officer  
Administration and Records Officer

Apologies

Nil.

Leave of absence

Nil.

Members of the Public

Jasmin Locke *entered the meeting at 6.02pm*

<b>5.08.20</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b>
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<b>5.08.20.01</b>	<b>Ms. Kerry Toop</b>
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Question 1: What did that background information consist of?

Response: The Reserve Management Plan is a product of 2.5 years of collation of information with the community through the Shire's Integrated Planning and Reporting (IPR) framework, including the Next Generation Brookton Stakeholder Feedback and Strategic Community Plan 2020>, Next Generation Corporate Business Plan ,2021 and multiple meetings with businesses and various community and advisory groups of Council.

Question 2: What statistical information did you collect or review in order to determine that there is a need to provide additional short term worker's accommodation?

Response: Specific statistical information has not been collected. The need as mentioned in response to question 1 has been identified through the Shire's IPR process.

Question 3: Did you seek input from those providers to determine if their occupancy rates were above a particular threshold? If not, why not?

Response: The Shire did not seek advice from the existing accommodation providers. The chalets are self-contained cabins typically associated with a caravan park. It is not clear why the Shire would need to rely on the occupancy rates of bed and breakfast style hotel accommodation providers when it is a different form of short stay accommodation that does not necessarily suit travellers and workers seeking self-contained accommodation that offers a private kitchen and ablution facilities.

Question 4: How did you determine that the current providers are not meeting the short term needs of workers and that there is a REAL need to provide additional accommodation?

Response: The Shire has discussed need and capacity of short stay accommodation with executives of corporate businesses represented on the Council's Advisory Groups. These businesses have highlighted short stay and permanent quality accommodation as an inhibitor for their businesses.

Question 5: How many caravanners stay in town longer than 24 hrs?

Response: Most caravanners stay 1 night, although the Shire does receive caravan clubs stopping 2 – 3 nights and occasionally a visitor stopping in excess of 1 week.

Question 6: Brookton's population as per the last ABS Census was 756 - 38 submissions equates to a 5% return even if you discount those persons under the age of 19 the return is still only 8%. Could the limited number of responses indicate that many residents did not know about the plan or the Shire's intentions and that perhaps the Shire's communication strategy did not work sufficiently well to properly inform the community?

Response: The community response on the draft Reserve Management Plan yielded 42 submissions in total, with one submitter requesting anonymity and three others being withdrawn. In comparison the public response on the proposed sale of Lot 511 (being the Kalkarni Aged Care Residential Facility and Saddleback Medical Centre) returned 63 submissions over an 8 week period consultation period that also included a public meeting. Therefore, the number of submissions lodged is arguably a reasonable response.

Question 7: What data do you have in relation to tourism within the town?

Response: The Shire does not have any tourism data applicable to the Brookton townsite other than paid bookings at the Caravan Park.

<b>5.08.20.02 Mr. Jamie Banks</b>
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Question 1: What research has been conducted to understand the implication that building Chalets at the caravan park will have on existing accommodation providers who are invested Shire of Brookton rate payers?

Response: No research has been done as the Chalets are self-contained accommodation that forms part of the built form for a Caravan Park. Typically, these cabins with exclusive kitchen and ablution facilities affords a different type of short stay accommodation to bed and breakfast hotel accommodation.

Question 2: Does the Shire understand that there are currently 28 accommodation rooms available in Brookton any given night which are a long way from full capacity and need to be utilised and supported.

Response: The Shire acknowledges there is existing bed and breakfast style accommodation available in Brookton but does not monitor occupancy rates of local privately owned accommodation businesses.

Question 3: Why is accommodation being built to satisfy a pressure that has been put on the shire by larger business in town to accommodate for their short-term peak seasonal work?

Response: The Shire has not been pressured by larger businesses in Brookton to accommodate short-term peak seasonal workforce.

The Shire has entertained discussions with corporate businesses through the Council's Integrated Planning and Reporting framework, with these businesses expressing the need for self-contained short stay and permanent housing accommodation in Brookton. Local Government, consistent with other tiers of Government, has sought to respond to this need

in interest of fostering economic development and growth with the view to achieving 'flow on' benefits for the local community such as local job creation, increased local expenditure, and improved student enrolments.

**Question 4:** How did you determine that the current providers are not meeting the short-term needs of workers and that there is a REAL need to provide additional accommodation?

**Response:** Accommodation needs has been raised through the Shire's Integrated Planning and Reporting (IPR) consultation process in 2017, and through direct discussions with Corporate Businesses over the past two years.

**Question 5:** If the intention is to build the chalets for the purpose of increasing tourism into Brookton, what reasoning has been put into by the Shire of Brookton to support the fact that the accommodation will also be used by seasonal workers which may have a detrimental effect on tourists choosing to utilise the chalets? For example, the Shire of Cranbrook caravan park is invested into by CBH and have ongoing social issues. Who will be responsible for managing seasonal workers whilst they are using the chalets and at what cost will this be to ratepayers?

**Response:** If chalets are constructed reciprocal use by seasonal workers and tourists will involve a set of rules or a code of conduct applied to those people who occupy this accommodation, with enforcement exercised should use of the chalets result in unacceptable conduct, mis-use and/or disturbance adversely affecting others. The Shire Administration will be responsible for the management, maintenance and cleaning through its existing staff, acknowledging stage 1 consists of 4 accommodation units.

**Question 6:** What research and/or business plan has been done to justify the financial investment into the building of the chalets?

**Response:** A detailed business plan for the 4 chalet units has not been prepared. Rather discussion has occurred over 2.5 years on the need and capacity of short stay accommodation with executives of corporate businesses represented on the Council's Advisory Groups. These businesses have highlighted short stay and permanent quality accommodation as a major inhibitor for their businesses. As reported in the Council Meeting Agenda the intent is to fund construction and installation of the chalets through external grant funding. These buildings would be light weight and constructed of durable materials to reduce maintenance. Recurrent operational and maintenance costs would be offset by financial, economic, and social return to the local community.

**Question 7:** Have you projected if the chalets will return a profit or will rate payers be left to have the burden of the financial costs of the chalets, eg. maintenance, lack of bookings, cleaning costs, caretaker, loan repayments (if any)?

**Response:** The primary objective is to deliver a service in response to market need for self-contained accommodation on a cost neutral basis or better. The Shire is not seeking to compete with existing local businesses, but rather address a need for this form of accommodation as has been expressed to Council through its IPR framework. For local governments the measures of benefit is not just financial return, but broader economic and social well-being for the community.

**Question 8:** Can the reserve plan be amended to forgo the chalet development and instead invest in improving the caravan park immensely with such facilities as a better laundry mat, rec room and campers kitchen, grassed camping areas, communal areas for guests to enjoy together?

**Response:** Yes, the Reserve Management Plan is a flexible document that can be amended by the Council at its discretion provided the proposed use and development accords with the defined purpose of the Crown Reserve. The Council may also upgrade the Caravan Park with or without chalets at its discretion.

<b>5.08.20.03 Mrs. Lynne Bassett</b>
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**Question 1:** How much money has been spent on repairs and maintenance to the Brookton Memorial Hall in the past 5 years and what maintenance/repairs were carried out?

**Response:** *The total expended on the Memorial Hall over the past 5 years amounts to \$44,234. A spreadsheet detailing expenditure from 2010 to 2020 is appended as Attachment 5.08.20.03A.*

**Question 2:** How much money has been spent of repairs and maintenance to the Old Railway Station building in the past 5 years and what maintenance/repairs were carried out?

**Response:** *The total expended on the Railway Station over the past 5 years amounts to \$33,361. A spreadsheet detailing expenditure from 2007 to 2020 is appended Attachment 5.08.20.03B.*

**Attachments provided under separate cover**

Attachment 5.08.20.03A – Memorial Hall Expenditure

Attachment 5.08.20.03B – Railway Station Expenditure



**6.08.20 PUBLIC QUESTION TIME**

Nil.

**7.08.20 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

**8.08.20 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil.

**9.08.20 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**9.08.20.01 ORDINARY MEETING OF COUNCIL – 16 JULY 2020**

**OCM 08.20-01**

**COUNCIL RESOLUTION**

**MOVED Cr Fancote      SECONDED Cr Lilly**

*That the minutes of the Ordinary Meeting of Council held in the Shire of Brookton Council Chambers, on 16 July 2020, be confirmed as a true and correct record of the proceedings.*

**CARRIED BY SIMPLE MAJORITY VOTE 7/0**

**9.08.20.02 AUDIT AND RISK COMMITTEE – 28 JULY 2020**

**OCM 08.20-02**

**COUNCIL RESOLUTION**

**MOVED Cr Walker      SECONDED Cr Macnab**

*That the minutes of the Audit and Risk Committee meeting held in the Shire of Brookton Council Chambers, on 28 July 2020, be received by Council.*

**CARRIED BY SIMPLE MAJORITY VOTE 7/0**

**10.08.20 ANNOUNCEMENTYS BY THE PRESIDING MEMBER WITHOUT DISCUSSION**

Nil.

***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.

**Financial, Proximity and Impartiality Interests**

Item no.	Members/Officers	Type of Interest	Nature of Interest
12.08.20.01	Cr Hartl	Financial	Wife is the applicant - also part owner of the business the subject of the application.
12.08.20.01	Cr Crute	Impartial	Regularly purchases goods from applicant.
12.08.20.03	Cr Crute	Financial	An employee of Tianco P/L being the proponent.
14.08.20.03	Cr Macnab	Impartial	Treasurer of the Aldersyde Agricultural Hall.
14.08.20.05	Cr Lilly	Financial	BCI President, BCI Committee and Founder of the group.

## 12.08.20 TECHNICAL & DEVELOPMENT SERVICES REPORTS

Cr Hartl declared a financial interest in item 12.08.20.01 and left the room at 6.03pm. Cr Crute declared an impartial interest to item 12.08.20.01 and remained in the room.

### 12.08.20.01 AGRICULTURE INTENSIVE USE – LOT 23 (HN 922) HILLCROFT ROAD, JELCOBINE

<b>File No:</b>	A2596
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	Lot 23 Hillcroft Road Jelcobine
<b>Name of Applicant:</b>	CE and CA Hartl – Jelcobine Farms
<b>Name of Owner:</b>	B and J Wain
<b>Author/s:</b>	Ian D’Arcy – Chief Executive Officer
<b>Authorising Officer:</b>	As above
<b>Declaration of Interest:</b>	The author does not have an interest in this proposal
<b>Voting Requirements:</b>	Simple Majority
<b>Previous Report:</b>	N/A

#### Summary of Item:

#### Summary of Item:

The Shire is in receipt of a planning application seeking retrospective approval for an Agricultural Intensive (Horticulture) pursuit already been established on Lot 23 Hillcroft Road, Jelcobine. Accordingly, the Council may:

- Exercise a level of enforcement under the Planning and Development Act, 2005; and/or
- Proceed to assess and determine the application on merit against the planning framework as a retrospective planning approval.

The Officer Recommendation promotes Council proceed to determine the application on planning merit.

#### Description of Proposal:

This proposal involves the planting of 5 areas of mixed market garden produce. **Figure 1** shows the location of the subject property, while **Figure 2** below illustrates the area of planting on the 160-acre property.

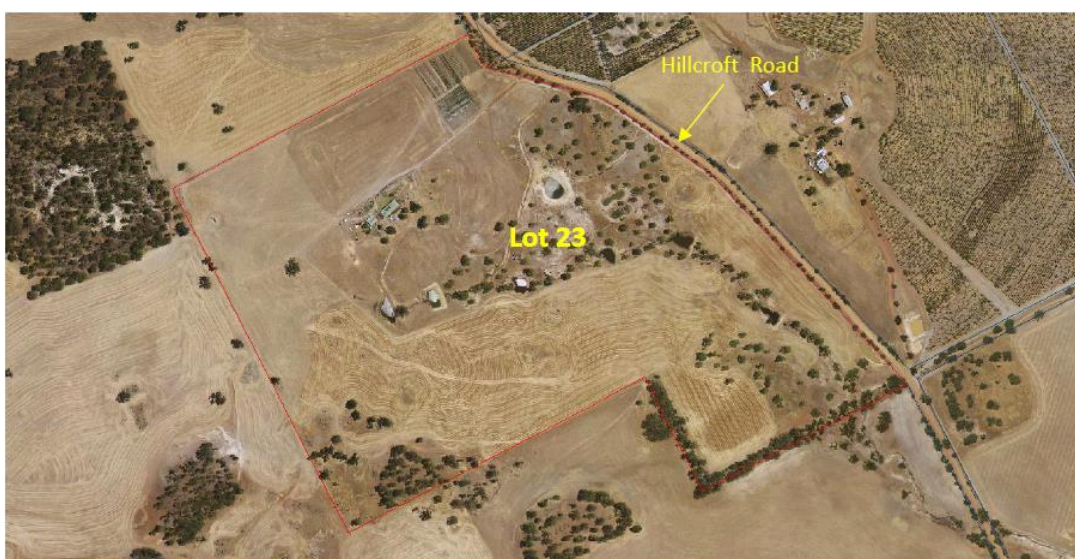


Figure 1 – Location Plan



Figure 2 – Illustration of Horticulture Area

The application promotes the present operations involves:

- The growing of flowers and vegetables with the production variable and changeable based on the growing seasons.
- The markets supplied includes wholesale to retail outlets, farmers markets and home delivery.
- The production covers 7 days per week between the hours of 6.00am to 6.00pm.
- Access to the property is off Hillcroft Road as shown in Figure 2 above.

A full copy of the planning application is presented as **Attachment 12.08.20.01A** for Council's information.

#### Background:

On assessment, Lot 23 was created from a subdivision/amalgamation process in the year 2000 and has typically been used for broad-acre farming with exception of the current horticultural planting area. The site characteristics particular to this application includes:

Site Assessment	
Existing Use and Development	<i>The existing horticultural planting is located in the northern corner of the property, with the balance of the property used traditionally grazing and rotational cropping. Additionally, a dwelling and farm sheds are located centrally. A main water supply dam is also central on the property and to the south of the horticultural area – see Figures 1 and 2.</i>
Existing Services	<i>There are no utility services in close proximity to the horticultural area.</i>
Vehicular Access	<i>Vehicle access is taken from Hillcroft Road with established farm tracks to the existing planted areas. Hillcroft Road is constructed to a formed gravel</i>

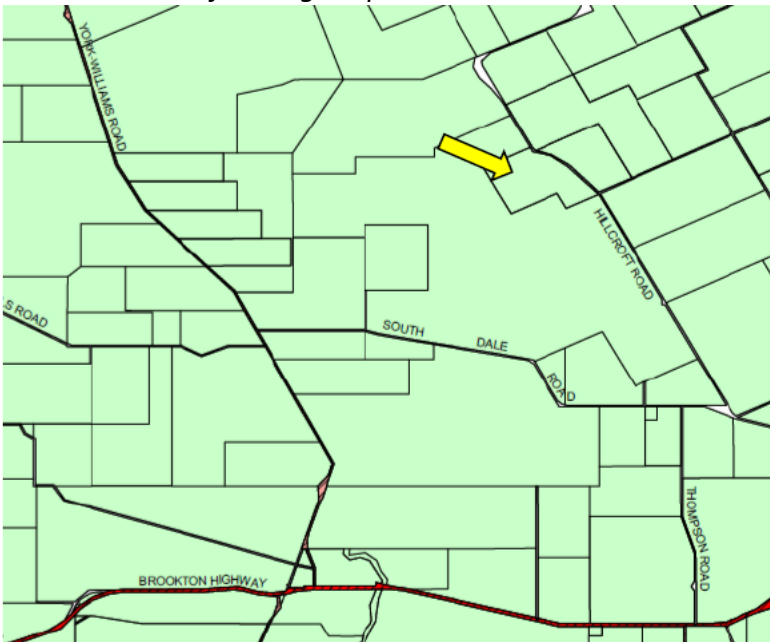
	<i>standard. It is noted the road formation does not sit within the road reserve adjacent to the existing horticulture area.</i>
Topography	<i>The property presents a broad level of undulation elevated at the house site with slight fall toward and across the planted horticulture area toward Hillcroft Road.</i>
Vegetation	<i>There is scant remnant vegetation evident.</i>
Soil Type/s	<i>Predominantly duplex pale /gravel loam.</i>
Surrounding Land-use	<i>The land adjoining on all boundaries is mainly agriculture based used for cropping/grazing with the exception of Lot 24 to the east that consists of a commercial plantation. The closest residence is on Lot 24 some 560 metres away.</i>
Existing Boundary Setbacks	<i>The existing horticulture area achieved the following setback distances from property boundaries:</i> <ul style="list-style-type: none"> <li>• Front - 9 metres</li> <li>• Side - 6 metres</li> </ul>
Bushfire Attack Level (BAL) Assessment	<i>A BAL assessment is not applicable to this application.</i>

#### **Consultation:**

Public consultation has not been entertained in relation to this proposal as the horticultural activity is already established.

#### **Statutory Environment:**

The following table provides a summary of statutory requirements in relation to this proposal:

<b>Shire of Brookton Local Planning Scheme (LPS) No.4</b> (Statutory instrument)	
Current Zoning	<p><i>Rural Zone – See extract of Zoning Map below.</i></p>  <p><i>Figure 3 – Extract of Zoning - Map 1 illustration the subject property is zoned 'Rural'.</i></p>
Permissibility (Table 1 – Zoning Table )	<i>Table 1 – Zoning Table of LPS 4 identifies the planting of trees under the definition of Agriculture - Intensive is an 'D', which can be determined at the discretion of Council and by the CEO under delegated authority.</i>
Definitions	<i>The draft LPS 4 stipulates under the Interpretations Section the following definition:</i>



	<p><b><i>“agriculture - intensive means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of the following –</i></b></p> <ul style="list-style-type: none"> <li><i>a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;</i></li> <li><i>b) the establishment and operation of plant or fruit nurseries;</i></li> <li><i>c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);</i></li> <li><i>d) aquaculture.”</i></li> </ul>
Objectives - 16.2.4 Rural Zone	<p><i>The LPS 4 stipulates the objectives of the Rural Zone are:</i></p> <ul style="list-style-type: none"> <li><i>• To provide for the maintenance or enhancement of specific local rural character.</i></li> <li><i>• To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.</i></li> <li><i>• To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.</i></li> <li><i>• To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.</i></li> <li><i>• To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.</i></li> </ul>
Development Standards	<p><i>LPS No.4 specifies the minimum setback distances for the Rural zone as:</i></p> <ul style="list-style-type: none"> <li><i>• Front - 35 metres</i></li> <li><i>• Rear - 10 metres</i></li> </ul>
Relaxation of Development Standards	<p><i>The Council may relax the prescribe development standards in accordance with provision 34(2) and (3) of LPS No.4:</i></p> <ul style="list-style-type: none"> <li><i>a) The local government may approve an application for a development approval that does not comply with a general development standard or requirement.</i></li> <li><i>b) An approval under subclause 2) may be unconditional or subject to any conditions the local government considers appropriate.</i></li> </ul>

<b>Planning and Development Act 2005</b> (Statutory instrument)	
Section 214(3) – Illegal development, responsible authority’s powers.	<p><i>This section empowers the Council to perform enforcement action where a development has been undertaken in contravention of a planning scheme and <u>may</u> give a written direction to the owner or any other person who undertook the development –</i></p> <ul style="list-style-type: none"> <li><i>a) To remove, pull down, take up, or alter the development; and</i></li> <li><i>b) To restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.</i></li> </ul>

<b>Planning and Development (Local Planning Scheme) Regulations 2015</b> <i>(Statutory instrument)</i>	
Schedule 2, Part 9; Clause 68(2)	<i>This clause empowers Council to determine Development Applications under the planning legislation having regard to the zoning and other Scheme provisions pertinent to the application under consideration, notwithstanding the matter of non-compliance.</i>
Schedule 2, Part 9, Clause 76 (1) and (2)	<i>This part of the Planning Regulations affords the applicant the right to apply to the State Administration Tribunal (SAT) for a review of the Council's decision in relation to the decision on the proposed use and or development of the land.</i>

<b>Shire of Brookton and Beverley Local Planning Strategy – April 2014</b> <i>(Strategic document)</i>	
10.2 General Agriculture Land Use (Page 51)	<p><i>Section 10.1 of the Shire of Brookton Local Planning Strategy states the Council will:</i></p> <ol style="list-style-type: none"> <li><i>1. Support initiatives to enhance the productivity of agricultural areas through:</i> <ul style="list-style-type: none"> <li><i>- Working to ensure that sufficient water supplies are made available to agriculture.</i></li> <li><i>- Minimising the impact of agricultural practices and extraction or use of natural resources on the environment;</i></li> <li><i>- Encouraging the establishment of value adding industries in appropriate locations to maximise economic advantages to the district.</i></li> </ul> </li> </ol> <p><i>Further, Section 10.2 stipulated that Council should take into account the following in considering development proposals:</i></p> <ol style="list-style-type: none"> <li><i>a) Discourage land uses unrelated to agriculture from locating on agricultural land (unless the proponent suitably demonstrates there are exceptional circumstances to the satisfaction of Council);</i></li> <li><i>b) Other elements of the Strategy including protecting environmental assets, servicing and landscape impact;</i></li> <li><i>c) Provide adequate separation distance between potential conflicting land uses. The proposed development or use should contain all potentially conflicting effects within the property on which it is located;</i></li> <li><i>d) Buffer distances to enable agricultural uses to continue to operate without undue restrictions. The buffers to agricultural land are accommodated within the site subject to the proposal and not within adjoining land;</i></li> <li><i>e) How the proposal will not detrimentally impact on existing agricultural operations and outline how the proposal will contribute to sustainable agricultural production in the area;</i></li> <li><i>f) Discourage development that may result in land and environmental degradation.</i></li> </ol>

#### **Relevant Plans and Policy:**

There is no specific plan or policy that relates to Agriculture – Intensive pursuits.

#### **Financial Implications:**

Specifically, the Council:

- Benefits from receiving the planning application fee of \$149 to assist in offsetting the processing

time.

- Could incur legal costs if enforcement action was initiated as opposed to issuing retrospective planning approval, with such expense unknown at this stage.

#### Risk Assessment:

The risk in relation to approving the existing horticultural use with reduced boundary setback is assessed as 'Low'.

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 proposal 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, application for the existing horticulture use aligns to:

*Function 2 – Land Use Planning*

*Action 2.3 – Process Development Applications*

#### Comment

The existing horticultural use generally accords to the standards prescribed in LPS No.4 other than the prescribed minimum boundary setbacks. In context the scale of the horticulture planting at a maximum of 5 acres is relatively small, with negligible impact on the surrounding land uses. Usually conflict in land use of this nature generally arises for excessive use of chemical sprays, often from broad-acre cropping affecting intensive agriculture activities.

However, this does not appear to be a concern notwithstanding the reduced setback distances from the front and side boundaries. Furthermore, the existing planting is reasonably well screened from Hillcroft Road with remnant vegetation present within the unconstructed portion of the Road Reserve serving as a buffer.



## **OFFICER'S RECOMMENDATION**

That Council grant retrospective planning approval for an Agriculture – Intensive (Horticultural flowers and vegetable production) on Lot 23 Hillcroft Road, Jelcobine pursuant to Schedule 2 Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015, subject to the following:

### **Conditions**

1. The existing horticultural activity is to accord to the existing 5 acre planting area with a minimum setback distance of 6.0 metres from in the side boundary and 9.0 metres from the front boundary in the northern portion of the property as shown on the attached aerial site plan that forms part of this approval, unless otherwise approved by Council.
2. The sale of produce from the property shall be limited to wholesale and retail home delivery only, unless otherwise approved by Council.

### **Advice Notes**

The following advice notes are offered in addition to the notes provided in Form 4 of Clause 86 of the Deemed Provisions on the approval granted in condition(s) above:

- a. This approval does not confer approval under other relevant legislation. It is the responsibility of the Applicant to determine any necessary approvals required and obtain such approvals.
- b. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the approved use/development.
- c. Should the applicant be aggrieved by the conditions of this planning approval, a right of appeal exists to the State Administrative Tribunal (SAT) subject to Part 14 of the Planning and Development Act 2005. Appeals must be lodged to SAT within 28 days. Further information can be obtained from the SAT website – [www.sat.justice.wa.gov.au](http://www.sat.justice.wa.gov.au).

(Simple majority vote required)

**OCM 08.20-03**

### **COUNCIL RESOLUTION**

**MOVED Cr Fancote      SECONDED Cr Lilly**

***That Council grant retrospective planning approval for an Agriculture – Intensive (Horticultural flowers and vegetable production) on Lot 23 Hillcroft Road, Jelcobine pursuant to Schedule 2 Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015, subject to the following:***

### **Conditions**

1. ***The existing horticultural activity is to accord to the existing 5 acre planting area with a minimum setback distance of 6.0 metres from in the side boundary and 9.0 metres from the front boundary in the northern portion of the property as shown on the attached aerial site plan that forms part of this approval, unless otherwise approved by Council.***
2. ***The sale of produce from the property shall be limited to wholesale and retail home delivery only,***

*unless otherwise approved by Council.*

### **Advice Notes**

*The following advice notes are offered in addition to the notes provided in Form 4 of Clause 86 of the Deemed Provisions on the approval granted in condition(s) above:*

- a. This approval does not confer approval under other relevant legislation. It is the responsibility of the Applicant to determine any necessary approvals required and obtain such approvals.*
- b. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the approved use/development.*
- c. Should the applicant be aggrieved by the conditions of this planning approval, a right of appeal exists to the State Administrative Tribunal (SAT) subject to Part 14 of the Planning and Development Act 2005. Appeals must be lodged to SAT within 28 days. Further information can be obtained from the SAT website – [www.sat.justice.wa.gov.au](http://www.sat.justice.wa.gov.au).*

**CARRIED BY SIMPLE MAJORITY VOTE 6/0**

### **Attachments**

Attachment 12.08.20.01A

Jelcobine Farms

### Land Use Application

Application is for sustainable growing of fresh flower and Vegetable production.  
The scale of the operation is changeable with the season. At present we expect to have 3 -5 acres of the 160 acre property under production

Sales of the products is direct to Wholesalers, Farmers Markets and Home Delivery

Hours of operation 6am - 6pm for production areas.

Location of the operation as per area marked on the map

Access is via current driveway and parking is not applicable.

LAND DESCRIPTION	ON	CERTIFICATE OF TITLE	FIELD BOOK	DIA 99308 
AVON LOC 5903 & PT AVON LOC 5409	PLAN DIAGRAM C.S. 10822, 16297 INDEX JOURNALING (20), N.W. PUBLIC	VOLUME 930 1234	PK 10 58 712	
				TOTAL AREA 104,514 ha

LOCAL AUTHORITY: SHIRE OF BROOKTON. LIMITED IN DEPTH TO 809.6 METRES.  
LOCALITY: BROOKTON

COMPILED FROM C.S. DIAGRAMS 10822, 16297  
AND C.S. PLAN 7445.

<b>P.H. &amp; K.E. GOW</b> LICENSED SURVEYOR P.O. Box 580, Narrogin W.A. 8312 Ph/Fax (08) 9881 5140 File No 3019/99 Dia Ref 1728 JOB 20118 SURVEYOR'S CERTIFICATE - Compiled I, PETER GOW, hereby certify that this compiled plan - (a) is a correct and accurate representation of the survey(s) of the subject land and (b) is in accordance with the relevant law in relation to which it is lodged. <i>Peter Gow</i> 27/4/99 Date Licensed Surveyor	APPROVED BY WESTERN AUSTRALIA PLANNING COMMISSION FILE 111755 <i>Egon Jones</i> FOR CHAIRMAN DATE 11/1/2000 EARLY ISSUE NO LODGED DATE 29.11.99 FEE PAID \$252 ASSESS NO 255720 F.S.C.	SCALE 1:7500 ALL DISTANCES ARE IN METRES 0 100 200 300 400 IN ORDER FOR DEALINGS SUBJECT TO APPROVED 13/9/97 INSPECTOR OF PLANS & SURVEYS DATE	DOLA DEPARTMENT OF LAND ADMINISTRATION OFFICE OF TITLES DIAGRAM <b>99308</b>
	ENLARGEMENT (A) NOT TO SCALE		

Cr Hartl returned to the meeting at 6.04pm.

## **12.08.20.02 DRAFT RESERVE 43158 MANAGEMENT PLAN**

<b>File No:</b>	ADM 0704
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	Crown Reserve 43158 (Lot 510) Brookton Highway Brookton
<b>Name of Applicant:</b>	N/A
<b>Name of Owner:</b>	Shire of Brookton
<b>Author/s:</b>	Ian D'Arcy – Chief Executive Officer
<b>Authorising Officer:</b>	As above
<b>Declaration of Interest:</b>	The author has no interest in this item.
<b>Voting Requirements:</b>	Simple majority
<b>Previous Report:</b>	26 May 2020 and 16 July 2020

### **Summary of Item:**

This item relates to a draft Reserve Management Plan for the land bounded by White Street, Whittington Street, Bodey Street and Brookton Highway, public submissions received on the draft Plan, and the subsequent decision of Council at its 16<sup>th</sup> July 2020 Ordinary Meeting to not support adoption of the Plan with or without modification upon consideration of the public submissions.

This matter is being presented back to Council for reconsideration at the request of the Shire President following a public meeting on the 29<sup>th</sup> July 2020 that included detailed explanation and justification on formulating of the draft Plan together with questions and statements by members of the community.

### **Proposal:**

In summary the purpose of draft Reserve Management Plan was to:

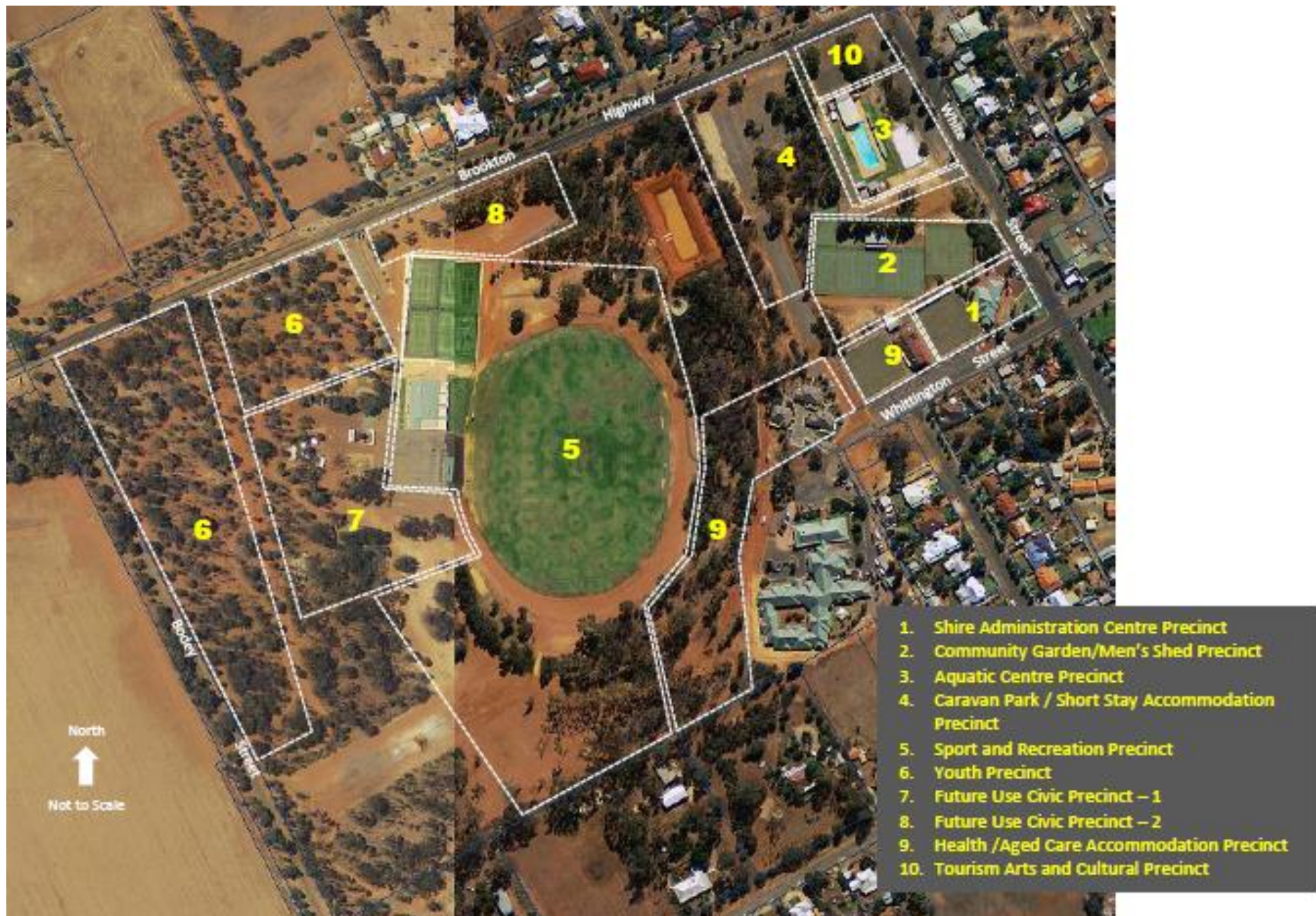
1. Instil a vision for Reserve 43158 centred on:
  - a) Managing the respective uses, facilities and activities within the Reserve; and
  - b) Ensuring the provision of facilities accord with affordability and sustainability principles within the scope and capacity of the Shire over the long term.
2. Provide a strategic framework to guide the future planning, development and management of identified precincts over a projected 10-year period.

### **Background:**

Through the Council's Integrated Planning and Reporting (IPR) framework and associated 'Innovations Pathway', a number of proposals had been put forward over the past 2.5 years prompting a need for strategic planning to be prepared that provides guidance on current and future use holistically for Crown Reserve 43158.

Subsequently a draft Management Plan advocating a coordinated and planned approach to existing and future use of the Reserve had been prepared promoting the creation of 10 precincts listed and illustrated in **Figure 1** below:





**Figure 1 – Precinct Plan**

The intent of this Plan was not to map in detail the proposed development within each precinct, but rather understand the purpose and footprint spatially with general guidance for current and future use/development. This position is clearly articulated by the purpose of the Plan, which states the document is to afford a strategic guide with clear intent to:

- Support various opportunities for a wide range of users and visitors.
- Identify appropriate tenure where considered, manageable and sustainable.
- Enhance future access, circulation and permeability within the Reserve.
- Outline aged, tourist and workers' accommodation options and location for development.
- Instil social compatibility, synergy and equity in assignment of various precincts.
- Identify areas for environmental conservation and enhancement.
- Facilitate effective implementation.

In balancing the above considerations, the Management Plan also sought to account for compatibility of land use, access to services, consideration of public safety and risk, and social equity.

The Council then considered the public submissions received at its Ordinary Council Meeting on 16<sup>th</sup> July 2020 following an array of questions from members of the Community. This resulted in the following motion of Council extracted from the meeting minutes:

#### OCM 07.20-05

#### COUNCIL MOTION

MOVED Cr Crute

SECONDED Cr Walker

*That Council:*

1. *Receives and acknowledges the public submissions as provided on Attachment 13.7.20.01A to this report.*
2. *Adopts draft Reserve 43158 Management Plan with the removal of any reference to the Multi-use Function Centre/Hall until the Council has consulted on the status of the Memorial Hall with the community.*

#### AMENDMENT TO MOTION

MOVED Cr Hartl

SECONDED Cr Fancote

2. *Adopts draft Reserve 43158 Management Plan with the removal of any reference to:*
  - a) *The Multi-use Function Centre/Hall until the Council has consulted on the status of the Memorial Hall with the community, and*
  - b) *The chalet units.*

LOST 4/3

*The substantive motion was put to the vote by the Presiding Member.*

LOST 2/5

Following a public meeting on the Management Plan the Shire President has since requested, as per the email below, that the matter of draft Reserve Management Plan for Crown Reserve 43158 be placed on the August 2020 Council Meeting Agenda. This request has received written endorsement from two



other Elected Members as required by Regulation 10(1a) of the Local Government (Administration) Regulations, 1996.

**Ian D'Arcy**


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**From:** Shire President  
**Sent:** Thursday, 30 July 2020 12:43 PM  
**To:** Ian D'Arcy  
**Subject:** August Council Meeting

Hi Ian,

Could you please place the Reserve 43158 Management Plan back on the Agenda for August's council meeting, with the view that I will be asking Council to rescind the motion from July's meeting.

Thanks

  
Kind regards,  
Katrina Crute



Shire President  
Shire President  
t: (08) 9642 1106 | m: 0439 373 282  
e: sp@brookton.wa.gov.au | w: www.brookton.wa.gov.au  
a: 14 White St, Brookton WA 6306  
p: PO Box 42, Brookton WA 6306

I CR CHRIS HARTL SUPPORT  
THIS REQUEST TO RESCIND THE MOTION  
ON THE RESERVE MANAGEMENT PLAN  
43158

A handwritten signature in blue ink, appearing to read "Chris Hartl".

A handwritten signature in blue ink, appearing to read "W...".

**Consultation:**

A reasonable level of engagement and consultation has been entertained in the development of the draft Management Plan that includes:

- Initial input into review and formulation of the Brookton Strategic Community Plan <2027.
- Subsequent input from multiple Community Groups and Council Advisory Groups over an 18 month period.
- Public consultation from 26<sup>th</sup> May to the 25<sup>th</sup> June yielding 38 submissions presented in the Compilation of Submissions.
- A public meeting convened on 29<sup>th</sup> July 2020 to explain the draft Plan and respond to public questions.

**Statutory Environment:***Land Administration Act, 1997*

Preparation of the Reserve Management Plan is performed under Section 49(1) of the *Land Administration Act, 1997*.

*Local Government Act, 1995*

Council may revoke or change a decision made at a previous meeting pursuant to Section 5.25(1)(e) of the *Local Government Act, 1995* and Regulation 10 of the Local Government (Administration) Regulations, 1996 which requires an absolute majority vote of Council.

A copy of Regulation 10 is detailed below:

*10. Revoking or changing decisions (Act s. 5.25(1)(e))*

- (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —*
  - (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or*
  - (b) in any other case, by at least  $\frac{1}{3}$  of the number of offices (whether vacant or not) of members of the council or committee,*  
*inclusive of the mover.*
- (1a) Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least  $\frac{1}{3}$  of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*
- (2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —*
  - (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or*
  - (b) in any other case, by an absolute majority.*
- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.*

**Relevant Plans and Policy:**

There are no current Plans and/or Policies specific to this matter.

**Financial Implications:**

There is no financial implication for Council in relation to the preparation and adoption of the draft Reserve Management Plan at this stage.

However, the Council needs to be mindful the draft Plan does pre-empt future investment within the Reserve based on more detailed precinct plans some of which have been assessed and determination by Council. This includes the Community Garden Concept Plan submitted by Brookton Community Inc. and the Brookton Noongar Youth Group for the BMX (Pump) track. The draft 2020-21 budget has an indicative allocation for both Precincts as well as allocation of funding for the Aquatic Centre and Caravan Park with most of the works funded from Commonwealth Government grants.



**Risk Assessment:**

While there is no statutory or financial risk associated with the draft Management Plan, and no compulsion for Council to implement all of the Plan within the 10 year timeframe, there is a 'Medium' risk of fostering community expectation in adopting this Plan. In this context, Council does need to be mindful that some effort should be made to progress the Plan within affordable measures, once adopted.

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

**Community & Strategic Objectives:**

This policy 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 Reserve Management Plan in a strategic sense aligns to:

*Business Function 23 – Facilities Management*

**Comment:**

With reference to the public submissions received from members of the community, these were provided in the Compilation of Submissions to the previous officer report presented to Council at its July 2020 Ordinary Meeting. While the submissions are not attached to this report the summary of the points raised in the submissions considered pertinent to the draft Management Plan and the officer's comment in relation to the specific land use precincts taking in consideration the submissions received is reiterated below.

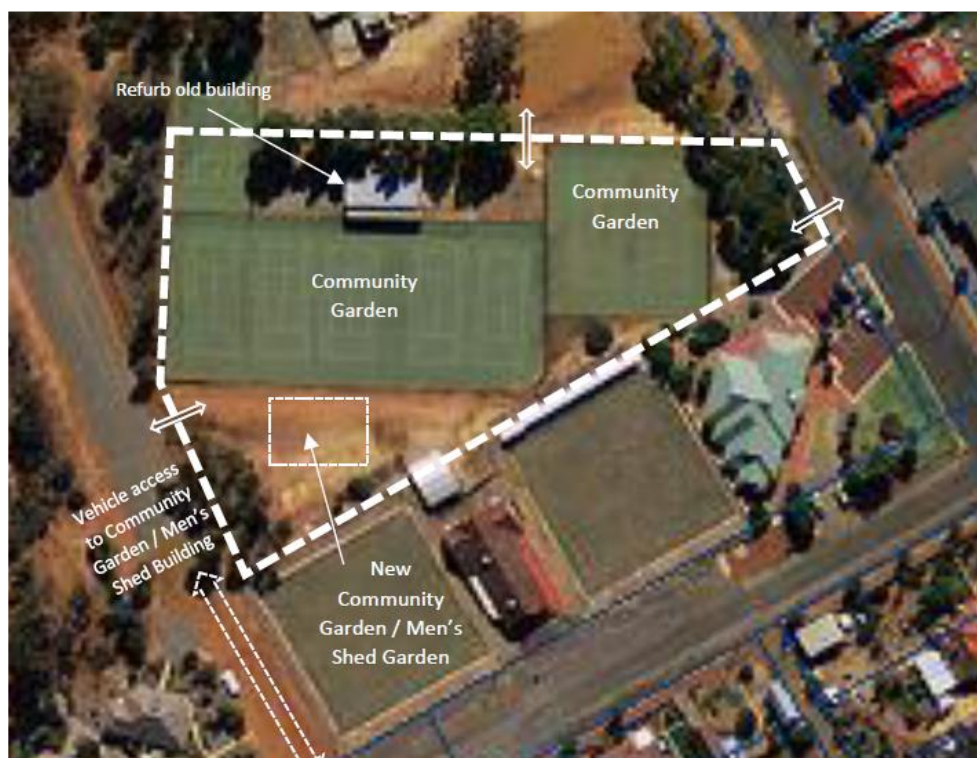
## 1. Shire Administration Centre Precinct



**Figure 2** – Shire Administration Centre – Precinct 1

Comment Received (in summary)	Officer Response
<p>a) It is suggesting future expansion of the Shire Administration Centre should occur to the northern side of the existing building fronting White Street.</p> <p>b) Why is it necessary to refurbish the Administration Centre?</p> <p>c) Why do we need both entries to require disability access?</p> <p>d) Why does the Administration Centre need an area for future expansion?</p>	<p>a) While the comment of expanding the Administration Centre to the north appears reasonable, the Council has already leased this area to Brookton Community Inc. for the proposed community garden.</p> <p>b) Most of the refurbishment works have been completed to ensure better use the existing building floor area, establish a separate public entry to the Council Chambers to achieve a compliant level of disability access and security, and introduce improved technology for more efficiency. The remaining works will be completed in early 2020-21 financial year with ongoing maintenance to the building performed over time.</p> <p>c) In line with contemporary standards for disability access and inclusion independent access the Council Chambers is appropriate and warranted.</p> <p>d) The allocation of land for expansion of the Shire Administration Centre is indicative to merely set direction as to where extension could strategically occur in long term. A lack of land provision would be short sighted with know what the future may hold.</p>

## 2. Community Garden/Men's Shed Precinct



**Figure 3** – Community Garden/Men's Shed – Precinct 2

Comment Received (in summary)	Officer Response
<p>a) It would appear the proposed scale of the Community Garden is excessive, has not been appropriately considered as this location has soil deficiency and drainage issues, and likely to be a failure as people often lose interest in these types of projects leaving the ratepayers have to cover the cost.</p>	<p>a) Detail on how the Community Garden will be established and function primarily rests with the Community Garden Group. The Council is not intimately involved in the design and function. The Community Garden Group through an application to Council has already outlined their respective approach is based on:</p> <ul style="list-style-type: none"> <li>- Raised garden beds with imported soils.</li> <li>- Onsite water catchment and possible use of Happy Valley water.</li> <li>- Use of subsoil trickle irrigation systems.</li> <li>- Re-use of the old Tennis Clubhouse building, existing court surfaces and fencing.</li> </ul> <p>Further information on the detail should be obtained by contacting a Community Garden Committee Member.</p>
<p>b) It is unclear as to why the Council is constructing a new Community Garden/Men's Shed building when there are enough assets for the Shire to maintain, which has poorly been</p>	<p>b) The view taken in discussing the needs for the Community Garden and preparing this draft Management Plan was that a purpose building is needed for both groups that reflects a shed structure. It needs to be acknowledged the Community Garden Group will require a secure building for storage of materials (ie soil enhancing products) and equipment (garden tools, wheelbarrows, reticulation fittings, hoses, garden pots etc.), while the Men's Shed typically require a suitable workshop area with equipment (ie hand electrical tools, lathes, welders and the like)</p>

done in the past.	<p>and the ability to store materials (timber, steel, paints, etc). It is also understood that additional building structures will be required in time such as garden sheds to support the activities of these two groups.</p> <p>While there is considerable criticism over the lack of attentiveness to maintaining the Shire's existing buildings (refer to comment under the subheading Other in this section of the report), some under-utilised, the selection of a barn style shed being provided by the Shire is based on:</p> <ul style="list-style-type: none"> <li>- The qualities of practicability, affordability, maintenance, and durability using low cost light frame construction.</li> <li>- Ease to internally configure and reconfigure the layout using non-load bearing walls.</li> <li>- This style being more aesthetic to a standard shed with capacity for mezzanine storage.</li> <li>- Long term adaptability for use of the building for other purposes if required.</li> <li>- Ease to dismantle and relocate if desired.</li> </ul>
c) With poor membership numbers of both groups, why would Council be entertaining a new building?	c) It is viewed a purpose-built facility may assist in attracting membership. It is acknowledged that both groups have low membership numbers at present, however hoped appropriate facilities and the co-location will bolster membership to deliver a beneficial facility that has proven successful in other communities.
d) It is possible for the Community Garden to be established on the Railway Reserve as a more prominent location opposed to the current site.	d) The notion of the Railway Reserve accommodating a community garden does have some merit, although it is understood the Community Garden Group selected the current Precinct site due to the existing infrastructure (ie <i>former</i> tennis courts as a hard/level surface, existing fencing for security, existing <i>former</i> clubhouse building for re-use, available connection to reticulated power).
e) The proposed Men's Shed should be located in the General Industrial area.	e) Although the Men's Shed would be a reasonable fit in the industrial area, the intent is to achieve co-location with the Community Garden Group where support can be provided by each group on a reciprocal basis.



### 3. Aquatic Centre Precinct



**Figure 4 – Aquatic Centre - Precinct 3**

Comment Received (in summary)	Officer Response
<p>a) This proposal limits the area for redevelopment and expansion in the Aquatic Centre in future, including limited parking for future swimming carnivals.</p> <p>b) There is a need for refurbishment of the Aquatic Centre with possible improvements including roof over changerooms, hot water showers, water park for young children that cannot swim, or at least provide new shade shelters, a water slide, refurbish the plant room, tiered seating, splash pad as some ideas.</p>	<p>a) The Aquatic Centre Precinct has been left at its current footprint less the northern parking area due to the limited use of this facility. Following review of the admission statistics and discussion with Shire staff, this facility does not warrant significant expansion, however, it does require upgrade and enhancement. Approximately 15 vehicles at most, occupies the carpark during swimming carnivals. Notwithstanding, some reciprocal parking to the south is now suggested as an amendment to the draft Reserve Management Plan – see <b>Figure 6</b>.</p> <p>b) The suggested improvements offered across various submissions to enhance the swimming pool environment are worthy of consideration by Council as part of a separate Aquatic Centre review and Precinct plan that would fall under this over-arching Management Plan for Reserve 42158.</p>

<p>c) It is promoted the Gymnasium should be relocated to the Aquatic Centre Precinct as this will value add, improve management, and could also see a hydrotherapy pool in the future. This will also free up space at the WB Eva Pavilion for improved change room facilities, creche and playgroup.</p> <p>d) The outdoor board games should be located in the Main Street to be accessible to everyone and attract people to the Town Centre.</p>	<p>c) Relocation of the Brookton Gymnasium to this Precinct as suggested in a couple of submissions is also a worthy of consideration. It is accepted this initiative will assist in promoting use of the swimming pool and achieving improved management for the Gym. Further, it is acknowledged this proposal will free up more space at the WB Eva pavilion for use by other community groups and better support multiple sports being played simultaneously.</p> <p>d) Suggestion of having outdoor board games in the town centre has some merit but presents some challenge regarding management and security of the equipment. If not securely fenced the equipment will need to be set up and pack up on a daily basis.</p>
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#### 4. Caravan Park / Short Stay Accommodation Precinct



**Figure 5 – Caravan Park / Short Stay Accommodation - Precinct 4**

<b>Comment Received (in summary)</b>	<b>Officer Response</b>
<p>a) There is a lack of rationale for why this facility is being relocated at all.</p>	<p>a) The draft Management Plan has strategically positioned the new caravan park to be:</p> <ul style="list-style-type: none"> <li>- Within proximity to the Shire Administration Office and adjacent to a future tourism, arts and cultural building for management for convenience purposes, particularly given the new caravan park is to serve tourism and seasonal workforce demand, and the adjacent building could provide basic onsite management and information for this and other facilities/services.</li> </ul>

<p>b) Incorporating chalet accommodation in competition to existing accommodation businesses – ratepayers funds should not be used for this purpose.</p>	<ul style="list-style-type: none"> <li>- In between the aquatic centre and other recreation facilities, and adjacent to the proposed community garden and within an easy walk to the town centre.</li> <li>- Within ease of access to the reticulated services, specifically sewerage, should there be proven demand for expansion into Stage 2 and 3.</li> </ul> <p>b) The provision of chalet accommodation has arisen through:</p> <ul style="list-style-type: none"> <li>- Consultation over the past 18 months with Balco, CBH, Baptistcare, and UWA as corporate businesses that have significant investment in or near Brookton. These businesses assist in underpinning the economic fabric of Brookton and are vitally important to the future sustainability of Shire given they are major employers. With these corporate businesses heavily invested in their own operations and infrastructure they have sought co-operation from the Shire to provide an appropriate standard permanent and self-contained seasonal accommodation paid for on a commercial basis (rent) to assist in attracting, retaining, and housing staff. With Council's assistance this will allow these businesses to expand their respective interests of operation that in turn will generate future employment resulting in flow on benefits.</li> </ul> <p>Accordingly, the construction of chalets units as part of the caravan park constitutes a collaborative approach to achieving this outcome with the view to strengthening the Shire's economic viability, whilst providing a financial return to the ratepayers on its investment. It should be noted that these businesses have expressed the view through the Council's Business Enterprise Advisory Reference Group (BEAR) that use of hotel accommodation for their workforce needs is generally not desired, although there are occasions when hotel accommodation is used in the absence of any alternative.</p> <ul style="list-style-type: none"> <li>- A desire to provide a broader range of short-stay accommodation that appeals to and encourages the travelling public to stop and enjoy Brookton and surrounds. This form of accommodation is</li> </ul>
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	<p>different from the hotel / bed and breakfast style accommodation and offers greater choice for the travelling public. This does not preclude the provision of this form of accommodation by private businesses in the future and will meet the need at present. Concern is raised that some travellers by-pass Brookton as there is no self-contained accommodation available. It is understood the existing hotels mainly provide upstairs serviced accommodation with shared ablutions. This does not entirely meet the needs of the travelling public, where some elderly, physical disabled, travelling with a pet, and young families will avoid stopping overnight in Brookton if this is not adequate accommodation to meet their needs.</p> <p>Furthermore, many local governments own and/or operate their own caravan parks with self-contained accommodation throughout Western Australia and across Australia. Often this occurs where there is also privately owned and operated hotel, motel and/or bed and breakfast accommodation. Examples of this includes the Shires of Beverley, Boddington, Broomehill- Tambellup, Busselton, Dandaragan, Kondinin, Kulin, Manjimup, Margaret River and Narrogin just to name just a few.</p> <p>If the Council holds a consistent view as implied in some submissions that basically:</p> <ul style="list-style-type: none"> <li>i. it has a conflict of interest in constructing Chalets using rate payer's funds,</li> <li>ii. needs to maintain separation between business and Local Government, and</li> <li>iii. not involve itself in any form of an existing or possible future commercial activity,</li> </ul> <p>then the Council should arguably divest its involvement in other activities of a commercial nature. This could include the caravan park, renting of worker's, social and aged person's housing (ILUs), leasing of commercial property, developing and/or selling residential lots, operating a gym and even a swimming pool as these can be construed as commercial that could generate a conflict of interest with the private sector, either now or in the future.</p> <p>For the most part Local Governments in regional areas are compelled to involve themselves in</p>
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<p>c) The new facility as proposed should be retained in its current position or sited elsewhere within the Brookton townsite.</p> <p>d) This Precinct is subject to water inundation as is the adjacent <i>former</i> tennis courts.</p>	<p>providing services in the absence of the private sector doing so to provide/support social and economic need. In this instance the proposed chalet units (four initially) is no different from the caravan bays currently provided by the Shire. Presently there is no provider of self-contained accommodation in Brookton, yet there is an immediate need to assist local business with this form of accommodation and enhance Brookton as a desired stop-over destination.</p> <p>c) Opinion expressed that a new Caravan Park should be sited where the Shire Works Depot is currently located is reasonable, although Council in entertaining this proposal would need to adequately address:</p> <ul style="list-style-type: none"> <li>- Extension of current land tenure. Some of the Depot land is not formally vested with the Shire.</li> <li>- Change to the zoning and reserve designation/purpose for this land.</li> <li>- Removal of existing buildings and some infrastructure.</li> <li>- Site analysis in relation to possible contamination and if necessary remedial works.</li> <li>- Construction of a new Depot at reasonable cost.</li> </ul> <p>This could prove costly for rate payers and would require a minimum two to three years to allow for planning, site preparation and construction to achieve the desired outcome of a new caravan park.</p> <p>As to retaining the existing Caravan Park in the current location with a possible upgrade, this is also possible, although the existing location does present some challenges in relation to management and servicing, as prescribed in comment a) above.</p> <p>However, Council can amend the draft Plan with the view to retaining the Caravan Park bays in the current location with enhancement of facilities, and site the new chalet accommodation in this Precinct with a redesign of layout. This will alleviate many of the concerns raised yet still address in part the servicing and management requirements.</p> <p>d) The advice on historic water drainage and inundation affecting this and the old tennis courts site is noted. It is proposed caravan park will predominantly consist of new prefabricated transportable buildings inclusive of engineered footings and connection to shallow</p>
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g) The existing Caravan Park location is popular with individual visitors and caravan clubs who enjoy the ambience of the area and pleasant stroll to town.

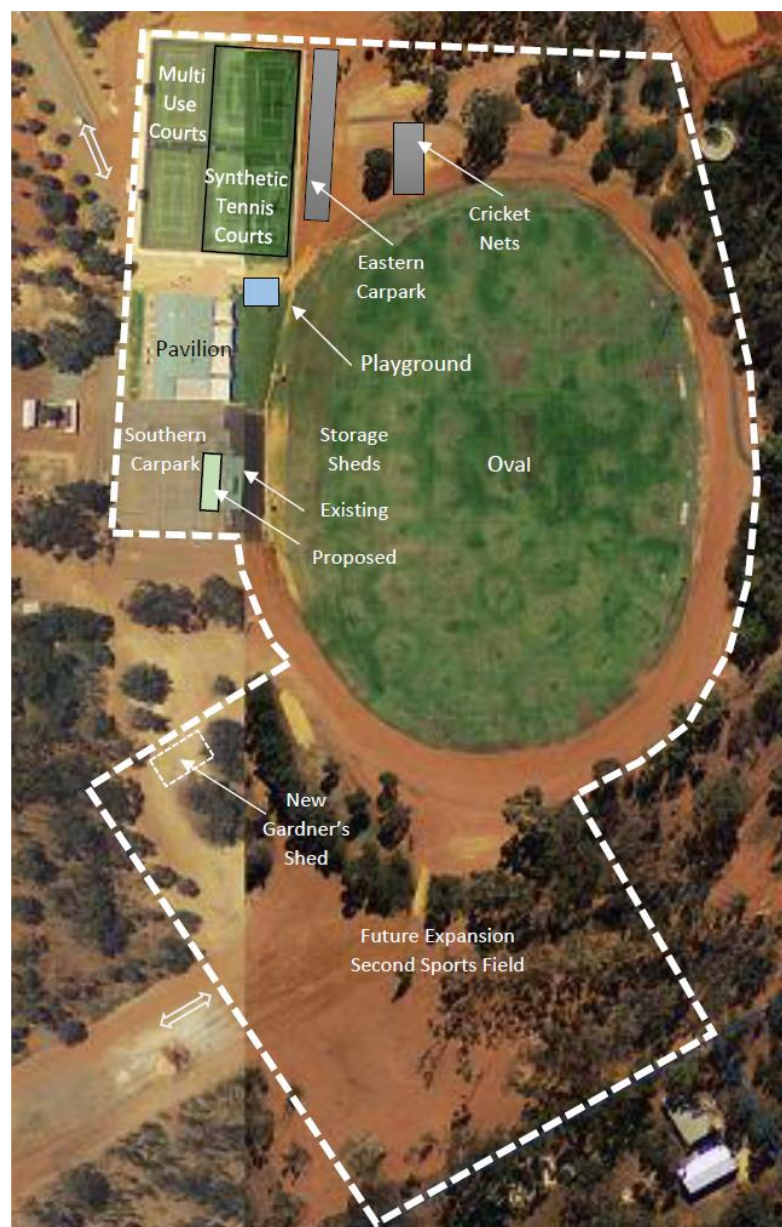


**Figure 6 – Reciprocal Parking Area**

Conversely, the separation of the Chalet accommodation from the caravan bays as per comment c) above or sitting the chalets at the caravan park to ensure additional area is available to the parking of large vehicles.

g) The comments on popularity of the current caravan park location are acknowledged. The Plan does seek to retain the existing Caravan Park for use by Caravan Clubs and overflow accommodation for large events.

## 5. Sport and Recreation Precinct



**Figure 7 – Sport and Recreation Precinct 5**

Comment Received (in summary)	Officer Response
<p>a) The existing WB Eva Pavilion should be extended, including additional changeroom facilities and provision of a creche, so that multiple sports and activities can be entertained simultaneously.</p> <p>b) There should be provision of a dedicated facility for Playgroup and early learning.</p>	<p>a) Suggestion of extending the WB Eva Pavilion to incorporating additional change rooms and setting aside a room for a creche is supported.</p> <p>b) The proposal to relocate the Brookton Gymnasium to the Aquatic Centre has merit and is worthy of consideration, with the existing gym area being set aside for use by playgroup/early learning and creche or additional change rooms that will require further investigation.</p>



c) Why is a second sports field required?	c) The identification of a second sports field is indicative to merely set direction as to where extension of outdoor sports could occur in the future.
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## 6. Youth Precinct



**Figure 8 – Youth Precinct 6**

<b>Comment Received (in summary)</b>	<b>Officer Response</b>
a) The newly established BMX track presents as a 'rubbish tip' on the entry to the Brookton townsite, and should be sited in the General Industry area.	<p>a) Suggestion the BMX track is visually a 'rubbish tip' is subjective. Notwithstanding, visual presentation on the entrance to Brookton can be enhanced through additional landscape screening implemented along Highway.</p> <p>As to suggestion the BMX facility should be sited in the General Industry area, this would present grave safety concerns in the mixing children on push bikes with heavy commercial vehicles involved in general industry activities.</p>
b) A dedicated youth building is not	b) Comment a dedicated youth building is not warranted

<p>warranted given the current population of Brookton. It will add to crowding of existing recreation facilities and be an additional maintenance burden for ratepayers.</p> <p>c) The Youth Precinct appears to be positioned on a location that is 'out of sight, out of mind' that may well lead to anti-social behaviour, is beyond walking distance to the town centre, and is not inclusive with other facilities such as the Brookton Aquatic Centre .</p> <p>d) The Council should be incorporating a 'All Ages Playground' into the Reserve Management Plan.</p> <p>e) The introduction of a small skate park will value add to the facilities for youth and relocation of the proposed nature playground at the Future Civic Precinct – 2 allow for the BMX track to be expanded and</p>	<p>is contrary to discussions with both the Brookton Noongar Youth Group and Brookton Bandicoot Girl Guides. The organisers of both groups have indicated support for a dedicate building due to their struggles to secure permanent suitable premises.</p> <p>Suggestion of over-crowding with construction of barn-style shed building as proposed is not accepted. The nature of construction is low cost, low maintenance, and adaptable (for other uses) to be placed in a location that does not interfere with other uses of the Reserve.</p> <p>c) Placement of the Youth Precinct is premised on this land being appropriately zoned as 'Recreation', the location being adjacent to existing sporting facilities (multi-use courts, oval, cricket nets) and infrastructure, and the nominated area presenting other opportunities, such as a natural setting and established shade trees. The nominated area also offers cleared areas (ie existing fire breaks as the BMX track) and frequent attendance by other users enhancing surveillance.</p> <p>Suggestion this Precinct will encourage anti-social behaviour is opposed. Rather, the offering of more facilities/activities for youth should assist in curbing disruptive behaviour.</p> <p>Also, the claim that the Youth Precinct needs to be easy walking distance of the town centre, and inclusive with the Brookton Aquatic Centre is questioned as to relevance.</p> <p>d) The current Stage 1 works of the BMX tracks has been implemented on a limited budget of less than \$10,000. The construction of an 'All Ages Playground' is a substantially larger and more encompassing investment. The Shire of Katanning's website states their 'All Ages Playground' cost \$5m.</p> <p>While this type of facility may prove popular, it is not recommended the Council invest in an 'All Ages Playground' due to other public asset priorities.</p> <p>e) This suggestion of a future skate park is supported and should be identified within this precinct to further enhance the opportunities for youth in Brookton. This could be located adjacent to the Nature Playground.</p>
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visually more prominent form the Highway.	The comment of moving the nature playground at the Future Civic Precinct – 2 does provide vision from the Highway but is devoid of a natural setting and shade. For this reason, preference should be given to retaining the nature playground in its nominated location.
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## 7. Future Use Civic Precinct – 1



**Figure 9** – Future Use Civic Precinct 8 – 1

<b>Comment Received (in summary)</b>	<b>Officer Response</b>
a) Object to construction of a Multi-use Hall to replace the existing Memorial Hall given the heritage significance of this building and the Shire cannot properly maintain its existing buildings let alone more new buildings.	<p>a) The Multi-use Hall was identified through Council's Integrated Planning and Reporting Framework and preparation of the Strategic Community Plan before being included in Council's Corporate Business Plan. This proposed new building is earmarked as a possible replacement of the Memorial Hall should this be supported by the broader community and Council. This Plan merely indicates a proposed location and suggestion of the building function, if endorsed for constructed at some stage in the future.</p> <p>The intent, as has been discussed with Council, is to cost the refurbishment of the existing Memorial Hall</p>

	<p>as well as a concept plan of a new Multi-use Hall to be presented to the community for comment. The same process will also apply to the Railway Station building in due course acknowledging this building is not owned by the Shire.</p>
<p>b) Oppose construction of a separate building when the existing WB Eva building can be extended.</p>	<p>b) It is understood the Pavilion was designed for active sports, with other passive/social uses accommodated in Memorial Hall.</p> <p>Based on the need to one day replace the Memorial Hall the draft Plan advocates construction of a new building for activities other than active sports. Placement of this building is for reciprocal use of existing car park (former netball courts) allowing the Pavilion and new building to be used independently or in concert depending on the activities at the time.</p>
<p>c) Council needs to be aware of the old palm tree situated south of the existing Caravan Park, which was the house site of the Collards, who owned and operated the <i>former</i> Brookton Brickworks nearby.</p>	<p>c) This information is noted and appreciated as there is only reference to the <i>former</i> Brookton Brickworks on the Shire Municipal Inventory but no specific detail nor reference of this tree.</p>



## 8. Future Use Civic Precinct – 2



**Figure 10** – Future Use Civic precinct 8 – 2

<b>Comment Received</b> (in summary)	<b>Officer Response</b>
a) This area should be set aside for large shows and events.	a) Noted.
b) It is suggested the nature playground be located in this Precinct for greater visibility from the Highway leaving the nominated location for expansion of the BMX track.	b) The intent with the nature playground is to place it in a natural setting amongst the trees for ambience and to utilise existing shade.

## 9. Health /Aged Care Accommodation Precinct



**Figure 11 – Health /Aged Care Accommodation Precinct 9**

Comment Received (summary of)	Officer Response
<p>a) Why is the Shire entertaining expansion of Kalkarni when it no longer owns this facility?</p> <p>b) The existing location is not within easy walking distance from the town</p>	<p>a) Precinct 9 is about opportunity Residential Aged Care to be expanded supported by respite accommodation, some ILU's and other allied health services to maintain economic viability, and hopefully evolve the concept of a 'wellness hub' for the betterment of the Region. If delivered, this will deliver significant health and aged care benefit, as well as generate local employment and training. The Shire's role is not to be the developer or operator but identify the land for this purpose that would then need to be acquired from the State Government.</p> <p>b) Contrary to the expressed view Precinct 9 is not within easy walking distance of the town</p>

<p>centre/local shopping, inhibited by William Street and an active railway line</p> <ul style="list-style-type: none"> <li>- consideration should be given to locating aged person accommodation with proximity to the town centre.</li> </ul>	<p>centre/local shopping, the distance measured is approximately 410 metres. This generally aligns to the distance of 400 metres used as a <u>guide</u> prescribed by the Western Australian Planning Commission 'Liveable Neighbourhoods' urban planning policy.</p> <p>Also, it needs to be recognised:</p> <ul style="list-style-type: none"> <li>- The Precinct is an expansion of existing aged persons accommodation.</li> <li>- William Street and the railway line are existing constraints that should not inhibit this important accommodation and service provision for the betterment of the broader Wheatbelt Community into the future.</li> <li>- The Shire Local Planning Scheme provides for the development of Aged Person's Accommodation in Residential and Commercial zones in Brookton at a generous housing density to encourage this form of development, subject to adequate effluent disposal arrangements. This means this form of accommodation can be built on both sides of Brookton Highway and William Street in the future.</li> </ul>
<p>c) Reserve 43158 should not be used for expansion of Kalkarni when it could be sited on private land to the south.</p>	<p>c) There is opportunity for the operator to expand into privately owned land to the south in accordance with the Local Planning Scheme provisions as mentioned in comment b) above.</p> <p>The identification of Precinct 9 is about opportunity to enhance the existing development based on:</p> <ul style="list-style-type: none"> <li>- An existing outlook through the trees to the oval and pavilion. This is an active community space where aged care residents can enjoy the amenity as a spectator and experience the vibrancy and social interaction of activities such as football, cricket and the Old Time Motor Show (OTMS).</li> <li>- some of the proposed expansion area being infill to existing Aged Care Facility and Independent Living Units with opportunity to enjoy proximity to the proposed Community Garden and Men's Shed spaces and other civic and health services such as the Shire Administration Centre, Brookton Public Library, Senior Citizen's Hall and medical facilities.</li> </ul>

<p>d) The proposed expansion will impact the Curlew birds that breed in this locality where the remnant vegetation on the Reserve must be retained.</p> <p>e) The proposed expansion of the Health/Aged Precinct will interfere with large shows/events such as the Old Time Motor Show (OTMS).</p> <p>f) The former Bowling Club should be retained, refurbished as a Senior Citizen's Centre, and continue to be owned by the Shire as a community asset.</p>	<p>Importantly, it should be noted Precinct 9 aligns to concerns raised through the sale of Lot 511 (Saddleback/Kalkarni facilities) that aged care accommodation and medical/health services will be lost to Brookton and surrounding areas. To the contrary, the identification of this portion or Reserve 43158 is a pro-active step forward to facilitating and assisting in growing age care accommodation and health support in the form of a wellness hub for the betterment of the region. Also, to be noted that an expansion (including subdivision and development) will involve the aged care provider having to fund the costs land acquisition and construction, as well as purchase the existing ILUs.</p> <p>d) It is acknowledged the natural environment and wildlife are extremely important. Certainly, the identification of Precinct 9 is not about seeing the Curlew birds impacted. For the most part the subject area has a reasonable level of cleared undergrowth where sensitive development could occur accepting the birds need to be accommodated and some trees will need to be removed.</p> <p>Of note, dense remnant vegetation to the west and north of Precinct 9 is to be retained and the Curlew birds appear to be relatively adaptable and accommodating to activity, with events such as outdoor sports, motocross and the OTMS not significantly impacting their presence.</p> <p>e) Respectfully, based on the 2018 OTMS event, it is unlikely expansion of age care accommodation and health services within proposed Precinct 9 will adversely affect future events on the Reserve. As mentioned, the land area within Precinct 9 will afford greater integration between the aged care and vibrancy of the events and sport activities.</p> <p>f) Retention of former Bowling Club is noted.</p>
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g) Does the community want the independent units to be sold off to the aged care provider which looks like what is being proposed?	g) The identification is to set aside and land and 3 Mokine Independent Living Units (ILUs) to be sold to facilitate expansion of the existing Aged Care Accommodation. Arguably the proceeds from this sale would in turn be used for the development of more ILU's in another part of town as promoted in other submissions.
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#### 10. Tourism Arts and Cultural Precinct



**Figure 12 – Tourism, Arts and Cultural Precinct 10**

<b>Comment Received</b> (summary of)	<b>Officer Response</b>
a) The Council should focus on maintaining and enhancing its existing buildings to accommodate the various community groups that have been referenced as potential co-occupants.	a) Presently the Shire Administration is reviewing its Asset Management to capture current condition of roads, buildings, other structures with the intent of establishing a long-term maintenance and replacement regime based on condition, financial capacity, practicality, and importance. With this acknowledged, occasionally buildings through poor condition and/or unsuitability become redundant. This can include being too small or large, or having poor location and/or amenity. Similarly, external funding is often not available to Local Government

	<p>for restoration and/or refurbishment of old buildings unless the building is State Heritage Listed, and funding for new builds is often oriented to support co-location of community groups. Notably, this appears to be the situation with the Brookton Bowling Club that has moved twice and now occupies a facility on a co-located basis with the Brookton Golf Club.</p> <p>On this basis the draft Management Plan advocates the possibility of new Tourism, Arts and Cultural building premised on the respective community groups have some common interest, and having expressed 'in principle' to the Shire the possibility of relocating with a willingness to co-locate. This does not commit any of respective groups or the Shire Council but does flag a potential location and understanding of arrangement based on synergy from a strategic planning perspective.</p>
<p>b) The relocation of the Community Resource Centre (CRC), Arts and Crafts and Historical Society will have an adverse effect on vibrancy of the Town Centre/Main Street.</p>	<p>b) As mentioned, there is no compulsion or obligation for a community group to relocate, particularly those groups presently located in Robinson Street. Each group may choose to do so in the interest of their own needs.</p> <p>However, concern is raised that Community/ Not for Profit groups are viewed by some as vital to underpinning the economic prosperity of the Town Centre. To the contrary, the relocation of a community group can result in commercial space being made available for another retail business to be established, be it relocation of an existing business or establishment of a new business in Brookton.</p>
<p>c) The occupation of this Precinct will reduce much needed car parking for the Aquatic Centre.</p>	<p>c) The intent is to share the Aquatic Centre carpark and adjacent on street parking on a reciprocal basis with the Tourism, Arts and Cultural Precinct. At present, most of the sealed car parking area around the Aquatic Centre is not utilised at all, and in rationalising the car parking area the Shire's maintenance costs will ultimately be reduced and the existing car park fronting White Street can be formalised together with on street parking. Furthermore, additional parking can also be provided adjacent to the Community Garden - refer to Precinct 4, Officer Comment f), and <b>Figure 6</b> of this report.</p>
<p>d) The information provided suggests the Council has gone far beyond the visioning and strategic</p>	<p>d) Suggestion this Precinct has extended beyond a strategic/visionary document is incorrect.</p>



<p>planning for this Precinct without the community, respective groups/stakeholders, such as the Brookton Museum and Historical Society have not been consulted.</p>	<p>The information offered is:</p> <ul style="list-style-type: none"> <li>- Indicative to provide understanding of the intent and guidance on the possibility of a co-located/multi-purpose facility.</li> <li>- Consistent with the information provided for other Precincts that fall under the responsibility of the Council in the draft Plan, including the Caravan Park/Short Stay Accommodation Precinct, Youth Precinct, and Shire Administration Precinct.</li> </ul> <p>Furthermore, consultation has been entertained with the respective nominated groups on the possible construction of a Tourism, Arts and Cultural building in the future.</p>
<p>e) Adding a new cultural centre in front of the Aquatic Centre will detract for the view of the pool and be extremely close to the Highway.</p>	<p>e) The aesthetic presentation of the Aquatic Centre is subjective and construction of a new iconic building to the front of the Aquatic Centre may (but again subjective) improve the presentation and add visual value to the streetscape.</p>
<p>f) Concerned the area is too small for requirements of the proposed users, with a possible alternative location being part of Precinct 4 where the Caravan Park is proposed.</p>	<p>f) The concern and suggestion are noted and accepted. The future building design will need to 'fit' the land parcel accounting for functionality and occupant's needs. Expanding the development area and removing or reducing the caravan bays has merit.</p>

### Conclusion:

In consideration of the above comments the Officer recommendation has remained unchanged with the following amendments in red text being considered in relation to the draft Reserve 43158 Management Plan, again reiterating:

- This Plan may be reviewed/amended at any time by Council.
- Council is not committed to deliver any of the prescribed works identified in this Plan.
- The Management Plan is to be read in conjunction with each Precinct Plan that affords more detail and is required to be endorsed by Council.

### Amendments:

#### 1. Shire Administration Centre Precinct

No Change.

Proposed Development	<ul style="list-style-type: none"> <li>• Refurbish Council Chambers and Administration Office – Chambers entry, security, external lighting, painting, floor coverings.</li> <li>• Directional signage to public Administration Centre and Council Chambers.</li> <li>• Disability access – compliant for both entries.</li> </ul>
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#### 2. Community Garden/Men's Shed Precinct

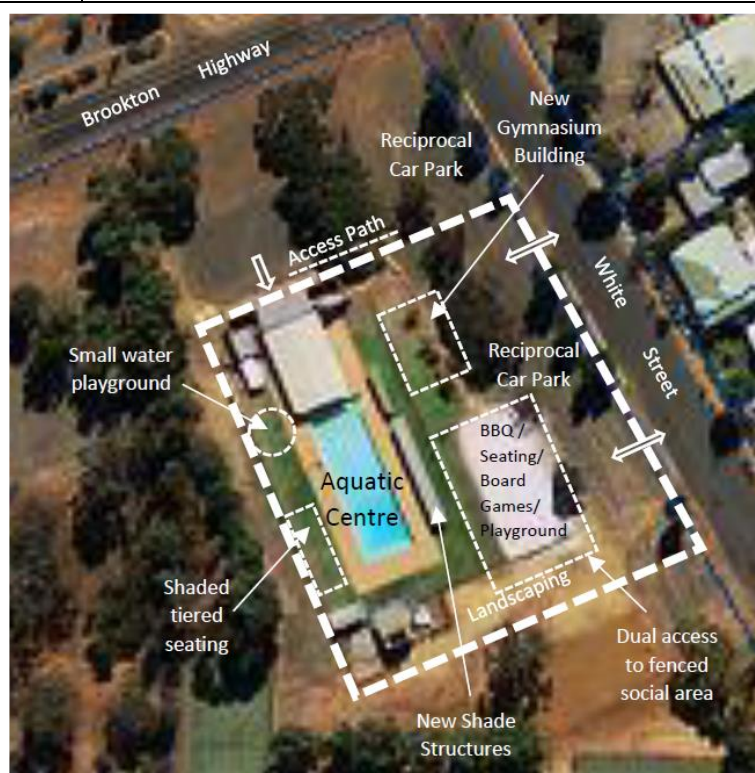
No change.

Proposed Development	<p><u>Stage 1</u></p> <ul style="list-style-type: none"> <li>Existing former clubhouse building – to be gutted - by Shire.</li> <li>New Community Shed - by Shire.</li> </ul> <p><u>Stage 2</u></p> <ul style="list-style-type: none"> <li>Refurbishment of <i>fmr.</i> clubhouse building - by Community Group.</li> <li>Fit-out of new Community Shed - shared use - by Community Groups - grants funding obtained where possible.</li> </ul>
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### 3. Aquatic Centre Precinct

Amend this Precinct as illustrated below:

Proposed Development	<ul style="list-style-type: none"> <li>Orientate entry with new temporary path and signage.</li> <li>Upgrade eastern carparking area and pedestrian access.</li> <li>Upgrade ablution / changerooms - painting, roofing, <b>hot water showers</b>.</li> <li>Convert volleyball area - new seating, shade and BBQ replacement, small playground, outdoor board game area with dual access.</li> <li><b>Incorporate a new building to accommodate the gymnasium to be relocated from the WB Eva Pavilion.</b></li> <li><b>Introduce new shade shelters, water slide, refurbish the plant room, tiered seating, and possible splash pad, small water park.</b></li> </ul>
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**Figure 13 – Aquatic Centre Precinct – Revised**

#### 4. Future Use Civic Precinct – 1 Caravan Park / Short Stay Accommodation Precinct

Amend this Precinct to:

- Change title.
- Adjust boundary and area.
- Remove reference to short stay accommodation in Proposed Development as illustrated below.

Proposed Development	<ul style="list-style-type: none"> <li>• To be determined</li> </ul> <p><u>Stage 1</u></p> <ul style="list-style-type: none"> <li>• <del>4 x short stay holiday chalet units.</del></li> <li>• <del>10 x serviced caravan bays with concrete slabs.</del></li> <li>• <del>1 x ablution building – small laundry, male/female toilets, showers.</del></li> <li>• <del>4 x unpowered camp sites – parkland clearing, fill and lawn.</del></li> <li>• <del>1 x sullage dump point.</del></li> <li>• <del>Connection of services – reticulated power, water, sewerage.</del></li> <li>• <del>Fencing and landscaping buffer along Highway.</del></li> <li>• <del>Construct new access road – gravel standard.</del></li> <li>• <del>6 x additional chalet sites connected to services – preparation for Stage 2 – if within budget.</del></li> </ul> <p><u>Stage 2</u></p> <ul style="list-style-type: none"> <li>• <del>Up to 6 x short stay chalet units.</del></li> <li>• <del>Connection of services – reticulated power, water, sewerage.</del></li> <li>• <del>Associated landscaping.</del></li> <li>• <del>Bitumen seal pavement of new access road.</del></li> </ul> <p><u>Stage 3</u></p> <ul style="list-style-type: none"> <li>• <del>Additional chalet units and caravan bays as required – to be determined.</del></li> </ul>
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Figure 14 – Future Use Civic Precinct - Revised

#### 5. Sport and Recreation Precinct

Amend this Precinct to:

- Adjust the boundary and area.
- Incorporate reference to multi-use hall and improvements to the WB Eva Pavilion in Proposed Development as illustrated below.

Proposed Development	<ul style="list-style-type: none"> <li>• 4 x Additional Storage Units – same as existing – by Shire.</li> <li>• Line marking of eastern and southern parking areas – by Shire.</li> <li>• New Gardner’s Shed – by Shire.</li> <li>• Multi-use hall with commercial kitchen and shaded alfresco - use for staged events, receptions, conventions, public meetings, assemblies, and other community gatherings, performing arts and movies, private functions and funerals – by Shire.</li> <li>• Extension of car parking area – bitumen, pave and line mark standard – by Shire.</li> <li>• Relocate gymnasium to Aquatic Centre and re-assign space.</li> <li>• Incorporate improvements to the WB Eva – includes female changerooms, creche, playgroup/early learning dedicated space.</li> </ul>
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Figure 15 – Sport and Recreation Precinct - Revised



## 6. Youth Precinct

Amend this Precinct to

- Incorporate small skate park in Proposed Development as illustrated below.

Proposed Development	<p><u>Stage 1</u></p> <ul style="list-style-type: none"> <li>• New pump/loop (BMX) track - constructed by Shire.</li> </ul> <p><u>Stage 2</u></p> <ul style="list-style-type: none"> <li>• Partial fencing along Bodey Street – by Shire.</li> <li>• <b>Landscape screening along Brookton Highway and the northern end of Bodey Street – by Shire.</b></li> <li>• Improvements to pump/loop track surrounds (parkland clearing, seating, drainage swale bridge, etc) – by Shire.</li> <li>• New Youth Building - constructed by Shire.</li> <li>• Fit out of building/immediate surrounds performed by Community Groups – grants funding obtained where possible.</li> </ul> <p><u>Stage 3</u></p> <ul style="list-style-type: none"> <li>• New nature playground - constructed by Shire - grants funding obtained where possible.</li> <li>• <b>Small skate park – constructed by Shire - Shire - grants funding obtained where possible</b></li> </ul>
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Figure 16 – Youth Precinct - Revised

7. ~~Caravan Park and Short Stay Accommodation Future Use Civic Precinct – 1~~

Amend this Precinct to:

- Change title.
- Include upgrade of existing Caravan Park incorporating short stay chalet accommodation for tourist and seasonal worker's accommodation.
- Adjust the boundary placing the future Multi Use Building into Precinct 5.

Proposed Development	<ul style="list-style-type: none"> <li><del>• Multi-use hall with commercial kitchen and shaded alfresco – use for staged events, receptions, conventions, public meetings, assemblies, and other community gatherings, performing arts and movies, private functions and funerals – by Shire.</del></li> <li><del>• Extension of car parking area – bitumen pave and line mark standard – by Shire.</del></li> </ul> <p><u>Stage 1</u></p> <ul style="list-style-type: none"> <li>• 2 x short stay holiday chalet units – disable access.</li> <li>• Connection of services - reticulated power, water, sewerage.</li> <li>• Construct new access road to chalet units – gravel standard.</li> <li>• Provision of a camp kitchen, electric BBQ and communal seating area</li> <li>• Upgrade of ablution and washing facilities.</li> <li>• Improved signage and landscaping.</li> </ul> <p><u>Stage 2</u></p> <ul style="list-style-type: none"> <li>• Up to 6 x short stay chalet units.</li> <li>• Connection of services - reticulated power, water, sewerage.</li> <li>• Associated landscaping.</li> <li>• Bitumen seal pavement of new access roads.</li> </ul>
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Figure 17 – Caravan Park and Short Stay Accommodation Precinct - Revised



8. Future Use Civic Precinct – 2

No change.

Proposed Development	<ul style="list-style-type: none"> <li>To be determined.</li> </ul>
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9. Health /Aged Care Accommodation Precinct

Amend this Precinct to:

- Adjust the boundary and reduce area to preserve remnant vegetation and breeding area of Curlew bird colony
- Include Shire to retain ownership of the proposed Senior Citizen Hall in Proposed Development as illustrated below.

Proposed Development	<ul style="list-style-type: none"> <li>Refurbishment of <i>Fmr.</i> bowling club house to Senior Citizen Hall – <b>ownership to be retained by Shire.</b></li> <li>New additional Independent Living Units on eastern portion of Precinct.</li> <li>Extension to Kalkarni Residential Aged Care facility on north-western portion of Precinct.</li> </ul>
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Figure 18 – Health and Aged Care Precinct - Revised

## 10. Tourism Arts and Cultural Precinct

Amend this Precinct to:

- Adjust the boundary and increase area fronting Brookton Highway.

<p><b>Proposed Development</b></p>	<ul style="list-style-type: none"> <li>• New purpose-built facility – by Shire - incorporates: <ul style="list-style-type: none"> <li>▪ public entry doors x 2.</li> <li>▪ communal reception/shop front and CRC office.</li> <li>▪ designated arts/crafts rooms x 2.</li> <li>▪ community meeting rooms x 1.</li> <li>▪ large Heritage display rooms, work room and designated storage area.</li> <li>▪ limited external heritage display.</li> <li>▪ amenity rooms - kitchen/general store/cleaner's room.</li> <li>▪ public ablutions - disability standard.</li> <li>▪ designated access to Aquatic Centre facility.</li> <li>▪ external tourist signage and wall mural.</li> <li>▪ demountable internal walls for future reconfiguration.</li> </ul> </li> <li>• Carparking – reciprocal with Aquatic Centre.</li> <li>• Landscape garden along Brookton Highway.</li> </ul>
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**Figure 19** – Tourism, Arts and Cultural Precinct 10 - Revised



## Other

Other amendments recommended include:

- a) Installation of a plaque (or similar) at the palm tree south of the exiting Caravan Park to recognise its historic importance in relation to the former owners of the Brookton Brickworks.
- b) Improved signage throughout the reserve underpinned by the theme “*Shire of Brookton – Growing the Future*”.
- c) A refresh of the main ‘Stan Wall’ entry to the sports ground and caravan park.
- d) Further investigation on the Curlew birds to better understanding their nature and breeding habits/requirements.

Council should note the number of proposed chalets for Stage 1 of the Caravan Park upgrade (Precinct 7) has been reduced from 4 to 2. This is due to concerns raised by the community together with the Shires of Pingelly and Beverley’s intention to incorporate chalet accommodation in their respective caravan parks.

Therefore, given the above the Officer Recommendation remains as previously presented. However, with this acknowledged the motion considered by Council at its July 2020 Ordinary Meeting varied from the Officer Recommendation as it sought to remove reference to the Multi-use Function Centre/Hall to allay concern over the future of the existing Memorial Hall that is to be the subject of a separate community consultation process. Subsequently, this motion was defeated together with an Amendment to the motion to remove reference to chalet accommodation. Through the revocation process, if successful, will reset back to the Officer Recommendation on adoption of the draft Reserve Management Plan with amendments as detailed in the report. From this point the Councillors may proceed to further debate and possibly support the Officer Recommendation or conversely move an alternative motion for debate and determination by Council.

Importantly, Council is reminded it does need to follow legislative process in seeking to rescind its previous decision on this matter.

### **MOTION 1**

That Council pursuant to Reg.10(1)(b) of the Local Government (Administration) Regulations, 1996 agrees to consider a rescission of its previous motion made on 16 July 2020 (Ref: OMC 07-20.05) in relation to the draft Reserve 43158 Management Plan.

*(by at least  $\frac{1}{3}$  of the number of offices (whether vacant or not) of members of the council, inclusive of the mover.)*

### **MOTION 2**

That Council pursuant to Reg.10(2) of the Local Government (Administration) Regulations, 1996 rescinds the following motion made at its 16<sup>th</sup> July 2020 Ordinary Meeting (Ref: OMC 07-20.05):

*OCM 07.20-05*

*COUNCIL MOTION*

*MOVED Cr Crute      SECONDED Cr Walker*

*That Council:*

*1. Receives and acknowledges the public submissions as provided on Attachment 13.7.20.01A to Shire of Brookton Ordinary Meeting of Council – 20 August 2020 – Minutes*

*this report.*

2. *Adopts draft Reserve 43158 Management Plan with the removal of any reference to the Multi-use Function Centre/Hall until the Council has consulted on the status of the Memorial Hall with the community.*

*Lost 2/5*

(Absolute Majority Vote required)

**OFFICER RECOMMENDATION**

That Council:

1. Receives and acknowledges the public submissions as provided in Attachment 13.7.20.01A to the report presented to Council on 16<sup>th</sup> July 2020 concerning the draft Reserve 43158 Management Plan.
2. Adopts pursuant to Section 49 of the Land Administration Act 1997 the draft Reserve 43158 Management Plan with the recommended changes, as detailed in the Conclusion Section this Report.

(Simple Majority Vote required)

**OCM 08.20-05**

**COUNCIL RESOLUTION**

**MOVED Cr Walker                      SECONDED Cr Hartl**

***That Council pursuant to Reg.10(1)(b) of the Local Government (Administration) Regulations, 1996 agrees to consider a rescission of its previous motion made on 16 July 2020 (Ref: OCM 07-20.05) in relation to the draft Reserve 43158 Management Plan.***

*(by at least  $\frac{1}{3}$  of the number of offices (whether vacant or not) of members of the council, inclusive of the mover.)*

**CARRIED 7/0**

**OCM 08.20-05**

**COUNCIL RESOLUTION**

**MOVED Cr Walker                      SECONDED Cr Hartl**

***That Council pursuant to Reg.10(2) of the Local Government (Administration) Regulations, 1996 rescinds the following motion made at its 16<sup>th</sup> July 2020 Ordinary Meeting (Ref: OMC 07-20.05):***

**OCM 07.20-05**

**COUNCIL MOTION**

**MOVED Cr Crute                      SECONDED Cr Walker**

That Council:

1. *Receives and acknowledges the public submissions as provided on Attachment 13.7.20.01A to this report.*

2. *Adopts draft Reserve 43158 Management Plan with the removal of any reference to the Multi-use Function Centre/Hall until the Council has consulted on the status of the Memorial Hall with the community.*

*Lost 2/5*

**CARRIED BY ABSOLUTE MAJORITY VOTE 7/0**

Note to Minute – The above motion reinstates the Agenda Item and Officer Recommendation as previously presented at the July 2020 Ordinary Council Meeting for discussion and consideration by Council.

**OCM 08.20-06**

**COUNCIL RESOLUTION**

**MOVED Cr Crute      SECONDED Cr Walker**

***That Council:***

1. ***Receives and acknowledges the public submissions as provided in Attachment 12.08.20.02A to the report presented to Council on 16<sup>th</sup> July 2020 concerning the draft Reserve 43158 Management Plan.***
2. ***Adopts pursuant to Section 49 of the Land Administration Act 1997 the draft Reserve 43158 Management Plan with the recommended changes, as detailed in the Conclusion Section this Report and with the removal of any reference to the Multi-use Function Centre/Hall from the plan until the Council has consulted on the status of the Memorial Hall with the community.***

**FORESHADOWED MOTION**

**MOVED Cr Macnab      SECONDED Cr**

***That Council review and determine each precinct of the Draft Reserve 43158 Management Plan individually.***

The substantive motion was then put to the vote.

**CARRIED BY SIMPLE MAJORITY VOTE 5/2**

***Voted for:*** Cr Crute, Cr Walker, Cr Lilly, Cr Fancote, Cr Hartl

***Voted Against:*** Cr Macnab, Cr Watts

Note to minute – The Council motion was moved to reinstate the Reserve Management Plan in recognition of broad sentiment expressed at the public meeting convened on 29 July 2020 supported by letters received from members of the community, whilst recognising identification of a multi-use hall building on the Plan had generated some concern the future of the Memorial Hall building had been determined without adequate public consultation.



**Attachments provided under separate cover**

12.08.20.01A – Public Submissions received

12.08.20.01B – Draft Reserve 43158 Management Plan

Cr Crute (Shire President) declared a financial interest in item 12.08.20.03 and left the room at 6.20pm.  
Cr Walker (Deputy Shire President) took the chair to preside over the meeting.

<b>12.08.20.03 EXISTING EXTRACTIVE INDUSTRY LICENCE/APPROVAL – REQUEST FOR REVIEW OF CONDITIONS</b>
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<b>File No:</b>	A0894
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	Lot 814 Brookton-Corrigin Road Brookton
<b>Name of Applicant:</b>	Timm Lange - Tianco Pty Ltd
<b>Name of Owner:</b>	As above
<b>Author/s:</b>	Ian D'Arcy – Chief Executive Officer
<b>Authorising Officer:</b>	As above
<b>Declaration of Interest:</b>	The author has no interest in this matter
<b>Voting Requirements:</b>	Simple majority
<b>Previous Report:</b>	OCM 16 January 2003 Item 239/03; OCM 16 October 2003 Item 388/03; OCM 20 August 2009 Item 10.08.09.08; OCM 17 September 2009 Item 10.09.09.02; Special Meeting of Council 20 October 2009 Item 10S.10.09.01, OCM 18 February 2010 Item 10.02.10.06

#### Summary of Item:

This item involves a full review of conditions imposed on an Extractive Industry Licence for sand and gravel extraction on Lot 814 Brookton-Corrigin Road, Brookton.

The review reflects a protracted history of duplicated approval and renewals issued by the Shire over the past 17 years without any documented incident or substantiated complaint on the Shire's records against the operations. Therefore, upon assessment it would appear some of the conditions warrant removal or amendment in consideration of the scale to the existing land use and operations.

#### Description of Proposal:

The existing Extractive Industry use is located to the east of the Brookton townsite and in the south-east portion of Lot 814, as illustrated in **Figures 1 and 2** below. **Figures 3, 4 and 5** offer photographic understanding of the current extraction activity of sand and gravel from the site.

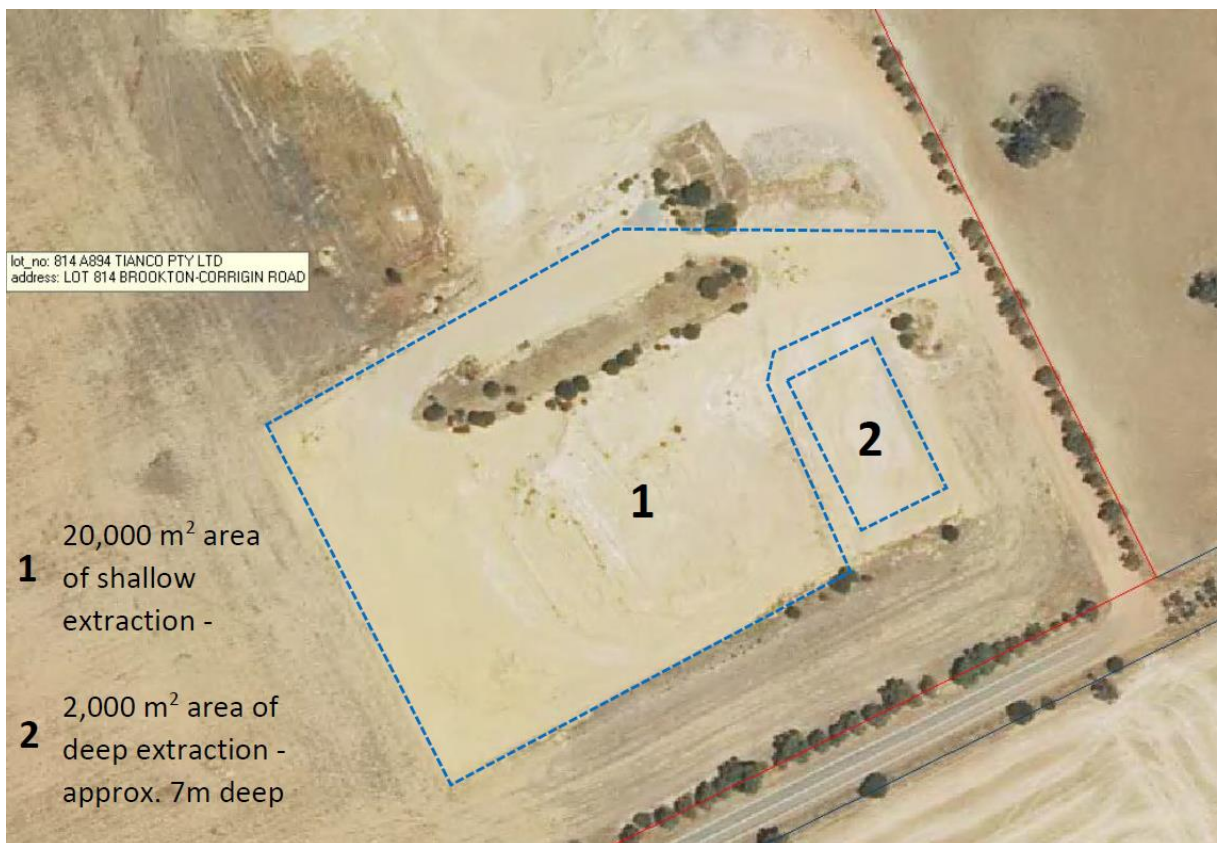


**Figure 1 – Location Plan**





**Figure 2 – Site Plan**



**Figure 3 – Extraction Areas**





**Figure 4 – Deep Sand Extraction**



**Figure 5 – Shallow Gravel Extraction**

#### **Background:**

The Shire is in receipt of correspondence dated 21<sup>st</sup> July and 28<sup>th</sup> July 2020 from Mr Timm Lange of Tianco Pty Ltd seeking a full review of conditions imposed on an Extractive Industry Licence for the extraction of sand and gravel on Lot 814 Brookton-Corrigin Road, Brookton.

A copy of this correspondence is presented as **Attachment 12.08.20.03A** and **Attachment 12.08.20.03B** to this report.

Planning and Local Law approval was initially granted in 2003 for a period of 5 years following a protracted application process and strong objection from neighbouring landowners. Subsequently, further application was pursued in 2009 and eventually granted in February 2010 with some

amendment imposed to the conditions of approval due to a mediated State Administrative Tribunal Hearing. A copy of the Council motion from the February 2010 meeting minutes accepting the recommended conditions is provided below:

### ***Council Resolution***

***10.02.10.06***

#### ***Moved Cr Wilkinson Seconded Cr Walker***

***That Council modify the Planning Approval granted on 20 October 2009 for the extraction of sand and gravel at Location 5336 Brookton Highway, Brookton, by replacing the conditions and advice notes with the following conditions and advice notes:***

#### **Conditions:**

- 1. This Planning Approval being valid for a period of twenty (20) years only, from the date of this approval, at which time a new Approval must have been granted or the land rehabilitated in accordance with the submitted rehabilitation strategy. The applicant is to submit a report on the operation of the approved development within five (5) years of the date of this approval and within every five year period thereafter. Provided Conditions 14 to 22 (Performance Based Conditions) are complied with to the satisfaction of the Shire, Council shall confirm continuing approval. Should Conditions 14 to 22 not be complied with to the satisfaction of the Shire, Council may refuse continuing approval and/or vary the conditions of approval as it sees fit. Should the resource be exhausted by completion of the approved area to the maximum depth allowable prior to this date, this approval will be deemed to expire on this earlier date (see Advice Notes 1 and 2);***

#### **Non Performance Based Conditions**

- 2. No more than 3.5 hectares of the extraction area, as depicted on the approved plan, are to be opened at any one time. Subject to a written request from the applicant, Council may vary the area of extraction through a resolution by a simple majority at an Ordinary Meeting of Council. Rehabilitation in accordance with the approved rehabilitation methodology must occur as soon as practical;***
- 3. Survey pegs being placed on site prior to commencement of operations in order to clearly delineate the boundaries of the excavation area in accordance with the approved plans. Excavation outside of the delineated area is prohibited under this approval;***
- 4. All sand stockpiles greater than 1.0m in height to be located on the pit floor and hardstand area only;***
- 5. Stormwater is not to be released directly into any drainage lines;***
- 6. Extraction is to be limited to a depth of eight (8) metres without the prior approval of Council and is to be in accordance with the Excavation Management provisions included in the approved Excavation and Environmental Management Plan endorsed by the Shire Planner;***
- 7. A minimum vertical separation is to be maintained between the highest known groundwater level and the base of the excavation in accordance with Department of Environment and Conservation requirements;***
- 8. The storage of chemicals, fuels, oils, etc on site are to be in accordance with the Department of Environment Water Quality Protection Note – Toxic and hazardous substances – storage and use;***
- 9. Any mechanical servicing and equipment wash-down performed on site to be in accordance with the relevant Water Quality Protection Notes;***
- 10. The production of a contingency plan to address chemical spills to the satisfaction of the Shire of Brookton (see Advice Note 6);***
- 11. Fencing, steel gates and warning signs shall be installed and maintained until the cessation of all excavation and the completion of the rehabilitation of the land to the satisfaction of Council;***



12. *Extraction of sand and gravel is to comply at all times with the Excavation and Environmental Management Plan approved by Council and endorsed by Council's Shire Planner;*
13. *Prior to the excavation of sand or gravel, the driveway and access is to be constructed to the satisfaction of the Shire (see Advice Note 7).*

#### Performance Based Conditions

14. *Any area of extraction outside the area(s) approved under Condition 2 shall be rehabilitated by rectification of landform and planting of vegetation in accordance with the approved rehabilitation methodology within a timeframe specified by Council (see Advice Note 5);*
15. *Screening of sand on the pit floor and hardstand area only, between the hours of 6.00am to 5.00pm Monday to Saturday excluding public holidays, is allowable under this approval. Should the pit floor exceed 1 hectare in area, screening of sand shall be on the pit floor only;*
16. *The existing hardstand area is not to be used for stockpiling of sand in piles greater than 3.0m in height and is to be screened using landscaping. A landscaping plan is to be submitted and approved prior to stockpiling of sand (see Advice Note 4);*
17. *Dust suppression at the extraction site and on access roads and hardstands to be employed as required at all times during excavation and carting operations to the satisfaction of the Shire;*
18. *Hours of site work operation (extraction and screening) will be 6.00 to 17.00 Monday to Saturday inclusive, excluding Public Holidays. One (1) transport vehicle and one (1) loading vehicle may be operated outside of hours of site work operation, but no later than 16.00 hrs on Sundays and Public Holidays. Variation to the hours of operation may be granted through a written request from the applicant and the prior written approval of Council;*
19. *Noise emissions to comply at all times with the relevant requirements of the Environmental Protection (Noise) Regulations 1997;*
20. *Revegetation for wind and water management to be undertaken to the specifications and satisfaction of Council's Natural Resource Management Officer through the submission and approval of an appropriate landscape plan (see Advice Note 4);*
21. *The three (3) metre high screening bund formed from overburden and any temporary piles of soil not being extracted are to have vegetation to the north face, as appropriate to the season, to the satisfaction of Council's Natural Resource Management Officer;*
22. *Landscaping the subject of Conditions 16 and 20 is to be maintained, with the vegetation being watered and fertilised as appropriate to ensure survival and quick growth rate.*

#### Advice Notes:

- a. *In relation to Condition 1, Council advises that it is currently reviewing its Town Planning Scheme No.3 and will identify the most appropriate long-term planning direction for this locality through assessment and consultation with residents, land owners and the general community. Should a new Town Planning Scheme preclude extractive industry for continuing on the site, Council reserves the right not to approve any expansion of the extractive industry over and above what is currently approved;*
- b. *With regard to the applicant's report as required in Condition 1, the report is to contain a brief statement of compliance with each of the Performance Based Conditions (Conditions 14 to 22) and if relevant a summary of operations on the site;*
- c. *The Department of Environment and Conservation advises that permission is required from its Northam office prior to extraction of surface water from a watercourse or wetland for purposes other than for the watering of stock or domestic use. Water used for dust suppression requires such permission;*
- d. *With regard to Conditions 16 and 20 the landscape plan is to include the location and species of plantings, details of mulch and reticulation and a timeframe for planting;*

- e. *With regard to Condition 14, the applicant is advised the acceptable timeframe is at the end of the winter following the cessation of excavation. Any variation to the timeframe must be agreed to and approved by the Shire in writing;*
- f. *With regard to Condition 10 the applicant is advised comment will be sought from the Department of Environment and Conservation, Northam;*
- g. *With regard to Condition 13 the applicant is advised the advice of Main Roads WA will be sought in relation to the construction of the access and driveway.*

**CARRIED 4 - 1**

This motion was subsequently converted by Council to an Extractive Industry licence in October 2010. Below is the Council motion from this meeting.

***Amended Council Resolution***

***10.10.10.08***

***Moved Cr Evans Seconded Cr Mills***

***That Council issue an Extractive Industry Licence to Tianco Pty Ltd to operate an extractive industry at Avon Location 5336 Brookton Highway, Brookton, subject to the following conditions and advice note:***

**Conditions:**

1. *The Extractive Industry Licence is valid for either a period of twenty (20) years from the date of issue or when a new Extractive Industry Local Law is enacted, whichever come first. Should the licence expire due to a new Extractive Industry Local Law being enacted, the new licence will be considered a renewal of the existing licence under the new local law and will be valid for a period of twenty years from the date of issue of the original licence. Should the licence expire and a new licence not be applied for and granted, the land must be rehabilitated in accordance with the submitted rehabilitation strategy.*
2. *The applicant must comply with the Shire of Brookton Local Government Model Bylaws Relating To Extractive Industry No. 9 or its successor at all times.*
3. *This licence is specific to the applicant and approved property and cannot be transferred or assigned to any other person or place.*
4. *Excavation shall be carried out only in accordance with the terms of the application as approved herein and the approved Excavation, Environmental and Landscape Management Plan, prepared by the applicant and endorsed by Council's Shire Planner.*
5. *A bond of \$1,000 shall be lodged with the Shire to ensure the following matters are satisfactorily addressed. The bond will be returned with any accrued interest when all excavation has permanently ceased and the site has been rehabilitated to the satisfaction of the local government. Should the licensee not comply with the following, Council may rectify the matter and deduct the cost of such action from the bond.*

***Matters to be addressed are:***

- a) *The applicant is to drain the excavation and is responsible for any water drained;*
- b) *The excavation shall not be used for the tipping of any offensive rubbish;*

***(a) Irrespective of the manner of its ceasing, on the cessation of any excavation work the licensee is to ensure that:***

- a. *The excavation is filled or rehabilitated in accordance with the submitted plan;*

- b. Any remaining face in the excavation is left safe with all loose material removed;*
- c. If Council considers retaining walls are required, they are to be constructed in a manner agreed to between the licensee and Council; and*
- d. Where retaining walls are not required the sides are battered to a sufficient slope to prevent subsidence and the floor is graded to an even surface.*

*(b) Adequate gates and fencing are installed and maintained.*

- 6. An annual fee of \$20 shall be paid on or before the 21 October each year until the licence expires. Should the fee not be paid and the licence expires, a new licence must be applied for and granted.*
- 7. No excavation shall occur in the boundary setback area. The setback areas are:*
  - Boundary to adjoining property, 20 metres;*
  - Boundary to any road, 40 metres*
- 8. The licensee shall not remove any natural tree or scrub in the road boundary setback area.*
- 9. A boundary tree screening plan shall be submitted, approved and implemented, prior to excavation, unless it is contained in the Landscape Management Plan.*
- 10. Blasting is prohibited on the site.*
- 11. The height of the excavation face shall be determined and approved by the Shire for each excavation pit. Should the Shire determine that the height of a face is unsafe at any time, the Shire will direct the licensee to stop excavation until such time as the face is deemed by the Shire to be safe.*

**Advice Notes:**

- 1. Nothing in the licence or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.*

**CARRIED 4 - 1**

While there is considerable correspondence on the Shire's files, the most recent approval is a renewal of the Extractive Industry licence in 2016 that reflects conditions presented to Council as part of a planning approval in 2010. Accordingly, the focus of this report is on assessment of the 2016 conditions provided in the Extractive Industry Licence below.

LICENSE No.: L0001  
DOC ID:  
ENQUIRIES/CONTACT STEFAN DE BEER  
9642 1106  
[planner@brookton.wa.gov.au](mailto:planner@brookton.wa.gov.au)

Tianco Pty Ltd  
PO Box 180  
Brookton  
WA 6306



ABN 74 164 408 055

14 White Street Brookton  
Western Australia 6306

Phone: (08) 9642 1106

Facsimile: (08) 9642 1173

Email: [mail@brookton.wa.gov.au](mailto:mail@brookton.wa.gov.au)

Dear Timm

**EXTRACTIVE INDUSTRY LICENSE ANNUAL RENEWAL – LOT 814  
BROOKTON-CORRIGIN ROAD, BROOKTON WA 6306**

I am pleased to advise that your application for an Extractive Industry License annual renewal has been processed and approved. The attached License details a number of conditions which must be met in the course of carrying out the extraction for which the approval has been granted.

License conditions have been imposed by Council under the Shire of Brookton's Extractive Industries Local Law 2011 and relate specifically to the attached approved License. Failure to comply with any License condition constitutes an offence for which prosecution may be instituted under Section 3.10 of the Local Government Act 1995.

Should you have any enquiries relating to this licence renewal, please contact Stefan de Beer on 9642 1106 or [planner@brookton.wa.gov.au](mailto:planner@brookton.wa.gov.au).

Yours sincerely

Stefan de Beer  
Shire Planner

12 August 2016

LOCAL GOVERNMENT ACT 1995

SHIRE OF BROOKTON

EXTRACTIVE INDUSTRIES LOCAL LAW 2011

**EXTRACTIVE INDUSTRY LICENSE ANNUAL RENEWAL**

**A License is hereby renewed to continue extraction as detailed below:**

**APPLICANT**

Name: Timm Lange	
Address: PO Box 180 Brookton WA 6306	
Telephone: 9642 1555	Mob: 0429 600 292
Email: timm@tianco.com.au	

**OWNER**

Name: Tianco Pty Ltd	
Address: PO Box 180 Brookton WA 6306	
Telephone: 9642 1555	Mob: 0429 600 292
Email: timm@tianco.com.au	

**ADDRESS OF EXCAVATION SITE**

Lot or Location No: Lot 814 Brookton Highway (Previously Loc 5336 Brookton-Corrigin Road)		
Street No:		
Street Name: Brookton-Corrigin Road		
Locality: Brookton		
Plan or Diagram No:	Volume: 1857	Folio: 96

**LICENSE**

Material to be extracted: Sand & Gravel
Date of License issue: 21 October 2010
Date of License expiry: 21 October 2030, renewal on or before 21 October annually
License No.: L0001



**This License is issued subject to compliance with the Shire of Brookton EXTRACTIVE INDUSTRIES LOCAL LAW 2011 and the following conditions and advice notes:**

**Conditions:**

1. The Extractive Industry Licence is valid for either a period of twenty (20) years from the date of issue or when a new Extractive Industry Local Law is enacted, whichever come first. Should the licence expire due to a new Extractive Industry Local Law being enacted, the new licence will be considered a renewal of the existing licence under the new local law and will be valid for a period of twenty years from the date of issue of the original licence. Should the licence expire and a new licence not be applied for and granted, the land must be rehabilitated in accordance with the submitted rehabilitation strategy.
2. The applicant must comply with the Shire of Brookton Extractive Industries Local Law 2011 or its successor at all times.
3. This licence is specific to the applicant and approved property and cannot be transferred or assigned to any other person or place.
4. Excavation shall be carried out only in accordance with the terms of the application as approved herein and the approved Excavation, Environmental and Landscape Management Plan, prepared by the applicant and endorsed by the local government.
5. A bond of \$1,000 shall be lodged with the Shire to ensure the following matters are satisfactorily addressed. The bond will be returned with any accrued interest when all excavation has permanently ceased and the site has been rehabilitated to the satisfaction of the local government. Should the licensee not comply with the following, Council may rectify the matter and deduct the cost of such action from the bond. Matters to be addressed are:
  - The applicant is to drain the excavation and is responsible for any water drained;
  - The excavation shall not be used for the tipping of any offensive rubbish;
  - Irrespective of the manner of its ceasing, on the cessation of any excavation work the licensee is to ensure that:
    - a. The excavation is filled or rehabilitated in accordance with the submitted plan;
    - b. Any remaining face in the excavation is left safe with all loose material removed;
    - c. If Council considers retaining walls are required, they are to be constructed in a manner agreed to between the licensee and Council; and

- d. Where retaining walls are not required the sides are battered to a sufficient slope to prevent subsidence and the floor is graded to an even surface.
- Adequate gates and fencing are installed and maintained.
6. An annual fee shall be paid on or before the 21 October each year until the licence expires. Should the fee not be paid and the licence expires, a new licence must be applied for and granted.
7. No excavation shall occur in the boundary setback area. The setback areas are:
  - Boundary to adjoining property, 20 metres;
  - Boundary to any road, 40 metres
8. The licensee shall not remove any natural tree or scrub in the road boundary setback area.
9. A boundary tree screening plan shall be submitted, approved and implemented, prior to excavation, unless it is contained in the Landscape Management Plan.
10. Blasting is prohibited on the site.
11. The height of the excavation face shall be determined and approved by the Shire for each excavation pit. Should the Shire determine that the height of a face is unsafe at any time, the Shire will direct the licensee to stop excavation until such time as the face is deemed by the Shire to be safe.

**Advice Notes:**

1. Nothing in the licence or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.

**Footnote**

The Licensee is advised that this License does not remove or override any requirement to comply with all conditions of Planning Approval and any state or federal government written law or regulation.

Shire Planner: \_\_\_\_\_

Date: 12 August 2016

**Consultation:**

Consultation has not been entertained in relation to this request.

**Statutory Environment:**

This matter is covered under the following legislation:

- Shire of Brookton Extractive Industry Local Law, 2011

The current approval/renewal was last issued in 2016 under this legislation. Importantly this legislation is subsidiary to State legislation that may apply to this matter.

Further, it should be noted a separate Agenda Item at this ordinary meeting promotes Council's endorsement to review its Local Laws, with a recommendation by the Audit and Risk Committee to repeal the existing Extractive Industry Local Law 2011 to remove current duplication of approval which is deemed unnecessary and bureaucratic.

- Planning and Development Act, 2005

This legislation is the principal head on power upon which an Extractive Industry is approved. This is acknowledged in the Western Australian Planning Commission's State Planning Policy (SPP) 2.4 – Basic Raw Materials (BRM) where it states in part:

*"BRM are essential for the construction of buildings, roads, other infrastructure and also for agricultural production. In Western Australia BRM on freehold land are recognised as an extractive industry under the Planning and Development Act 2005. On freehold land local governments and the WAPC both issue planning approvals in collaboration. Extraction of BRM on Crown land is regulated under the Mining Act 1978 and requires a granted mining tenement. Planning advice is commonly sought from the WAPC."*

- Planning and Development (local Planning Schemes) Regulations 2015

Subsidiary to the *Planning and Development Act 2005* is the *Planning and Development (local Planning Schemes) Regulations 2015* and *Shire of Brookton Local Planning Scheme No.4* that prescribes the process and level of permissibility in relation to the grant of planning approval. Importantly, Part 9 of these Regulations details the statutory procedure for the processing of a development application (including an Extractive Industry) with the outcome being an approval (with or without conditions) or refusal by Council, or a Development Assessment Panel depending on the scale and cost of the proposed development.

Within Part 9, Regulation 77 states:

*77. Amending or cancelling development approval*

- (1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —*
  - (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;*
  - (b) to amend or delete any condition to which the approval is subject;*

- (c) *to amend an aspect of the development approved which, if amended, would not substantially change the development approved;*
  - (d) *to cancel the approval.*
- (2) *An application under subclause (1) —*
  - (a) *is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and*
  - (b) *may be made during or after the period within which the development approved must be substantially commenced.*
- (3) *Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.*
- (4) *The local government may determine an application made under subclause (1) by —*
  - (a) *approving the application without conditions; or*
  - (b) *approving the application with conditions; or*
  - (c) *refusing the application.*

- *Shire of Brookton Local Planning Scheme No.4*

The Local Planning Scheme defines an 'Extractive Industry' use as follows:

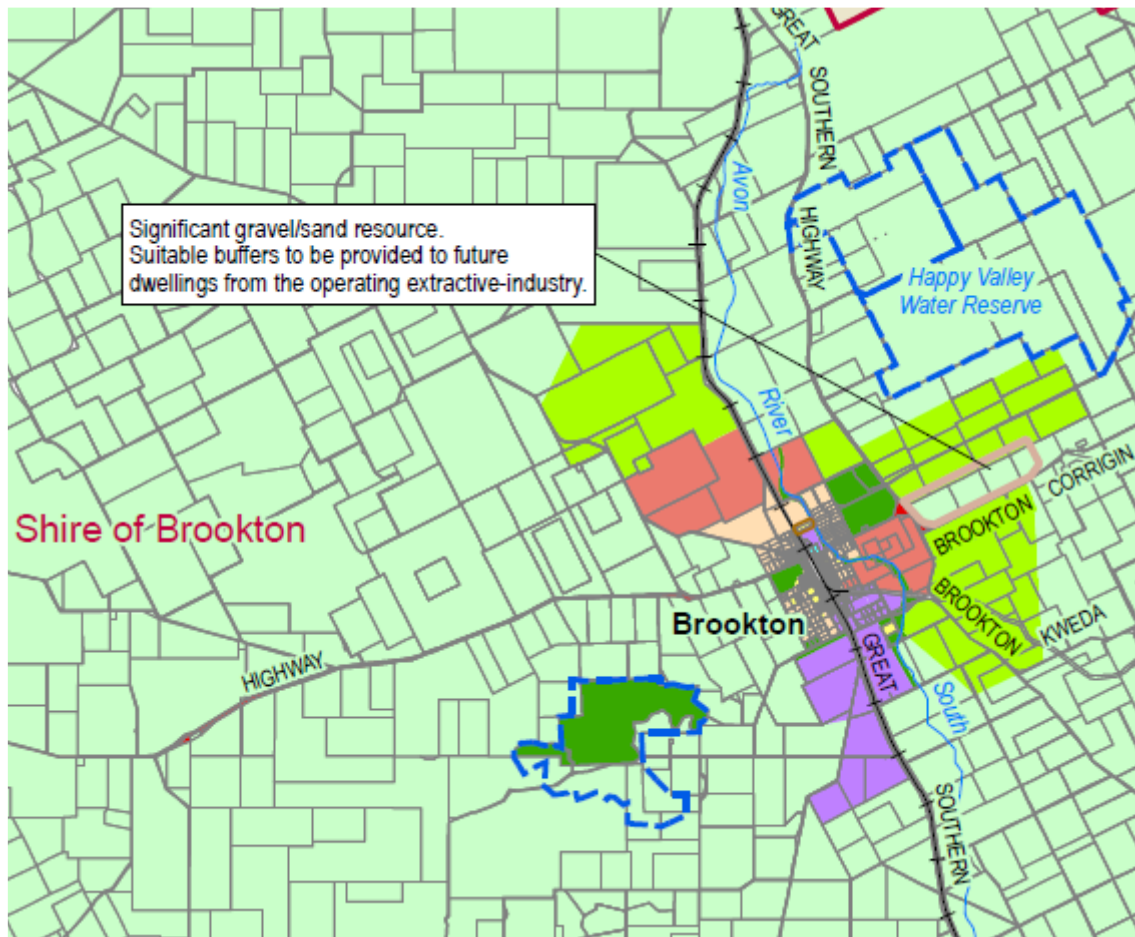
***industry - extractive*** means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes -

- (a) *the processing of raw materials including crushing, screening, washing, blending or grading;*
- (b) *activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.*

Furthermore, the Table 3 - Zoning Table identifies the permissibility of an 'industry – extract' use in the Rural zone to be determined at the discretion of Council.

- *Shires of Brookton and Beverley Local Planning Strategy 2014*

The Council's Local Planning Strategy also affords an acknowledgement the subject property falling within a 'Precinct with Potential for Gravel/Sand Extraction as depicted in the extract plan below.



#### Relevant Plans and Policy:

There is no relevant plan or policy that relates to this request.

#### Financial Implications:

There are no financial implications in relation to this matter.

#### Risk Assessment:

It has been assessed there is a 'Low' risk associated with reviewing the conditions of approval for the existing Extractive Industry use.

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 – May 2018, duly appended to the Next Generation BROOKTON Corporate Business Plan <2021.

Specifically, this matter aligns with:

*Function 2 – Land Use Planning*

*Action 2.3 – Process development applications*

### Comment:

#### General

As a general comment, from review of the Shire records and inspection of the site and operations, it does appear past processes and dealings in processing the application for planning approval and the extractive industry licence has been excessive in consideration the scale of this development. The initial conditions of approval appear to be more aligned to a large-scale extraction as opposed to the modest volume of material removed from this site over the past 17 years. Fortunately the initial condition have been reduced over time to be more reasonable and to this end favourable consideration to resetting the conditions is sought that more accurately reflects the nature of the use and scale of this activity.

#### Extractive Industry Licence plus Planning Approval

As already mentioned, the Extractive Industry Local Law creates unnecessary duplication of the approval process that can also lead to confusion, frustration, time delay and additional costs for the proponent. In light of this it is suggested Council not renew the Extractive Industry Licence for Lot 814, but rather amend the existing Planning Approval of February 2010, with modification of the conditions of approval to be commensurate with the scale of the extractive activity on this property.

#### Extractive Industry Licence Conditions

While the proponent has requested a full review of the conditions of approval in the first letter provided at **Attachment 12.08.20.03A** it is noted both letters prompt particular reconsideration by Council of specific conditions. Accordingly, this commentary for the most part offers a response to those matters raised in each of the letters:

Condition 1 – The proponent is requesting the timeframe of approval be removed. Presently this condition prescribes 20 years or which 10 is remaining. In acknowledged there is still considerable time on the current approval period, it is also accepted the existing extractive activity has been in operation without apparent incident or impact on the amenity of the area for the past 17 years. Therefore, it is considered reasonable this condition/timeframe be removed to reduce

beau-acratic and administrative burden of re-approval that no longer appears to be warranted. Should the applicant not adhere to some or all conditions enforcement action can be taken through the statutory planning framework or other legislation under the Council's jurisdiction.

Condition 2 - This condition relates to compliance with the Shire of Brookton Extractive Industry Local Law 2011 which should be removed if Council is supportive of defaulting to the Planning Approval as recommended.

Condition 4 – The wording of this condition defaults to the approved Excavation, Environmental and Landscape Management Plan. As stated in the second letter from the proponent there is a level of ambiguity regarding the finished floor level at 8.0 metres below the natural ground where request for clarification is being sought on the depth of extraction and requirement of recontouring once the extraction of material is exhausted.

From the officer perspective the extraction activity is about the taking of a finite resource for useful purposes in consideration safety, environmental and visual impacts. In light of this, further extraction below 8.0 metres should be based on the proponent adequately demonstrating:

- a) A minimum separation distance of 2.0 metres above the ground water table as required by the Department of Water and Environment (DWER); and
- b) The sand pit walls being battered to an appropriate incline based on geotechnical assessment/data and engineering design in accordance with Mines Department specifications.

As for rehabilitation, it is suggested the extraction pit once exhausted should as a minimum be filled to the prescribed maximum depth of 8.0 meters with the access ramp preserved, pit floor levelled to the prescribed depth and face and side walls sufficiently battered and vegetated for stabilisation purposes.

Condition 6 - This condition relates to annual renewal of the Extractive Industry Licence and should be removed.

Condition 9 - This condition relates to landscape screening already established and therefore can be removed.

All other conditions should remain unchanged with exception of being re-numbered due to removal of some condition and advocated above.

#### **OFFICER RECOMMENDATION**

That Council in relation to the request to review conditions of approval for the renewed Extractive Industry Licence for Lot 814 Brookton Corrigin Road Brookton:

- A. Inform Tianco Pty Ltd it no longer supports the renewal of an Extractive Industry Licence L0001 under the Shire of Brookton Extractive Industry Local Law 2011, the subject of repeal, and defaults to the Planning Approval for the Extractive Industry use granted in February 2010.

- B. Defaults to the Planning Approval for the Extractive Industry use granted in February 2010 and subsequently amended in October 2010, and in accordance with Regulation 77, Part 9 of the Planning and Development (Local Planning Schemes) Regulations 2015 consents to further modification of the conditions of approval and advice to now read:

Conditions

1. This approval is specific to the applicant and approved property and cannot be transferred or assigned to any other person or place without the prior approval of the Local Government.
2. Excavation shall be carried out only in accordance with the terms of the application as approved herein and the approved Excavation, Environmental and Landscape Management Plan, prepared by the applicant and endorsed by the local government with this plan being amended to incorporate the following provisions:
  - (a) Extraction below 8.0 metres from natural ground level is permitted based on the proponent adequately demonstrating to the Local Government that:
    - i) A minimum separation distance of 2.0 metres above the ground water table as required by the Department of Water and Environment (DWER) can be achieved and maintained.
    - ii) The sand pit walls being battered to an appropriate incline based on geotechnical assessment/data and engineering design in accordance with Department of Mines, Industry Regulation and Safety specifications.
  - (b) The extraction pit once exhausted shall as a minimum be filled to the prescribed maximum depth of 8.0 meters with the access ramp preserved, pit floor levelled to the prescribed depth and face and side walls sufficiently battered and vegetated for stabilisation purposes.
3. A bond of \$1,000 shall be lodged with the Shire to ensure the following matters are satisfactorily addressed. The bond will be returned with any accrued interest when all excavation has permanently ceased and the site has been rehabilitated to the satisfaction of the Local Government. Should the licensee not comply with the following, Council may rectify the matter and deduct the cost of such action from the bond. Matters to be addressed are:
  - (a) The applicant is to drain the excavation and is responsible for any water drained.
  - (b) The excavation shall not be used for the tipping of any offensive rubbish.
  - (c) Irrespective of the manner of its ceasing, on the cessation of any excavation work the licensee is to ensure that:
    - i) The excavation is filled or rehabilitated in accordance with the submitted plan.
    - ii) Any remaining face in the excavation is left safe with all loose material removed.
    - iii) If Council considers retaining walls are required, they are to be constructed in a manner agreed to between the licensee and Council.
    - iv) Where retaining walls are not required the sides are battered to a sufficient slope to prevent subsidence and the floor is graded to an even surface.

- (d) Adequate gates and fencing are installed and maintained.
- 4. No excavation shall occur in the boundary setback area. The setback areas are:
  - (a) Boundary to adjoining property, 20 metres.
  - (b) Boundary to any road, 40 metres.
- 5. The licensee shall not remove any natural tree or scrub in the road boundary setback area.
- 6. A boundary tree screening plan shall be submitted, approved, and implemented, prior to excavation, unless it is contained in the Landscape Management Plan.
- 7. Blasting is prohibited on the site.
- 8. The height of the excavation face shall be determined and approved by the Shire for each excavation pit. Should the Shire determine that the height of a face is unsafe at any time, the Shire will direct the licensee to stop excavation until such time as the face is deemed by the Shire to be safe.

#### Advice Notes

The following advice notes are offered in addition to the notes provided in Form 4 of Clause 86 of the Deemed Provisions on the approval granted in condition(s) above:

- a. This approval does not confer approval under other relevant legislation. It is the responsibility of the Applicant to determine any necessary approvals or licences required and obtain such approvals prior to the commencement of use.
- b. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the use.
- c. With reference to Condition 2 of this revised approval the proponent is to liaise with the Department of Mines, Industry Regulation and Safety on the standard of works to be performed and the Department of Water and Environmental Regulation on establishing/monitoring the ground water level.
- d. Should the applicant be aggrieved by the conditions of this planning approval, a right of appeal exists to the State Administrative Tribunal (SAT) subject to Part 14 of the Planning and Development Act 2005. Appeals must be lodged to SAT within 28 days. Further information can be obtained from the SAT website – [www.sat.justice.wa.gov.au](http://www.sat.justice.wa.gov.au).

(Simple majority vote required)

***That Council in relation to the request to review conditions of approval for the renewed Extractive Industry Licence for Lot 814 Brookton Corrigin Road Brookton:***

- A. Inform Tianco Pty Ltd it no longer supports the renewal of an Extractive Industry Licence L0001 under the Shire of Brookton Extractive Industry Local Law 2011, the subject of repeal, and defaults to the Planning Approval for the Extractive Industry use granted in February 2010.***
- B. Defaults to the Planning Approval for the Extractive Industry use granted in February 2010 and subsequently amended in October 2010, and in accordance with Regulation 77, Part 9 of the Planning and Development (Local Planning Schemes) Regulations 2015 consents to further modification of the conditions of approval and advice to now read:***

**Conditions**

- 1. This approval is specific to the applicant and approved property and cannot be transferred or assigned to any other person or place without the prior approval of the Local Government.***
- 2. Excavation shall be carried out only in accordance with the terms of the application as approved herein and the approved Excavation, Environmental and Landscape Management Plan, prepared by the applicant and endorsed by the local government with this plan being amended to incorporate the following provisions:***
  - (a) Extraction below 8.0 metres from natural ground level is permitted based on the proponent adequately demonstrating to the Local Government that:***
    - i) A minimum separation distance of 2.0 metres above the ground water table as required by the Department of Water and Environment (DWER) can be achieved and maintained.***
    - ii) The sand pit walls being battered to an appropriate incline based on geotechnical assessment/data and engineering design in accordance with Department of Mines, Industry Regulation and Safety specifications.***
  - (b) The extraction pit once exhausted shall as a minimum be filled to the prescribed maximum depth of 8.0 meters with the access ramp preserved, pit floor levelled to the prescribed depth and face and side walls sufficiently battered and vegetated for stabilisation purposes.***
- 3. A bond of \$1,000 shall be lodged with the Shire to ensure the following matters are satisfactorily addressed. The bond will be returned with any accrued interest when all excavation has permanently ceased, and the site has been rehabilitated to the satisfaction of the Local Government. Should the licensee not comply with the following, Council may rectify the matter and deduct the cost of such action from the bond. Matters to be addressed are:***
  - (a) The applicant is to drain the excavation and is responsible for any water drained.***



***(b) The excavation shall not be used for the tipping of any offensive rubbish.***

***(c) Irrespective of the manner of its ceasing, on the cessation of any excavation work the licensee is to ensure that:***

***i) The excavation is filled or rehabilitated in accordance with the submitted plan.***

***ii) Any remaining face in the excavation is left safe with all loose material removed.***

***iii) If Council considers retaining walls are required, they are to be constructed in a manner agreed to between the licensee and Council.***

***iv) Where retaining walls are not required the sides are battered to a sufficient slope to prevent subsidence and the floor is graded to an even surface.***

***(d) Adequate gates and fencing are installed and maintained.***

***4. No excavation shall occur in the boundary setback area. The setback areas are:***

***(a) Boundary to adjoining property, 20 metres.***

***(b) Boundary to any road, 40 metres.***

***5. The licensee shall not remove any natural tree or scrub in the road boundary setback area.***

***6. A boundary tree screening plan shall be submitted, approved, and implemented, prior to excavation, unless it is contained in the Landscape Management Plan.***

***7. Blasting is prohibited on the site.***

***8. The height of the excavation face shall be determined and approved by the Shire for each excavation pit. Should the Shire determine that the height of a face is unsafe at any time, the Shire will direct the licensee to stop excavation until such time as the face is deemed by the Shire to be safe.***

#### **Advice Notes**

***The following advice notes are offered in addition to the notes provided in Form 4 of Clause 86 of the Deemed Provisions on the approval granted in condition(s) above:***

***a. This approval does not confer approval under other relevant legislation. It is the responsibility of the Applicant to determine any necessary approvals or licences required and obtain such approvals prior to the commencement of use.***

***b. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the use.***

***c. With reference to Condition 2 of this revised approval the proponent is to liaise with the Department of Mines, Industry Regulation and Safety on the standard of works to be performed and the Department of Water and Environmental Regulation on establishing/monitoring the ground water level.***

***d. Should the applicant be aggrieved by the conditions of this planning approval, a right of appeal exists to the State Administrative Tribunal (SAT) subject to Part 14 of the***

*Planning and Development Act 2005. Appeals must be lodged to SAT within 28 days. Further information can be obtained from the SAT website – [www.sat.justice.wa.gov.au](http://www.sat.justice.wa.gov.au).*

**CARRIED BY SIMPLE MAJORITY VOTE 6/0**

**Attachments**

Attachment 12.08.20.03A

Attachment 12.08.20.03B



21st July 2020

Shire of Brookton  
Att: Ian D'arcy  
PO Box 42  
BROOKTON WA 6306

Dear Ian,

**Ref: Extractive Industry Licence – Avon Location No. 5336 Brookton Highway, Brookton**

With respect of the above Extractive Industry Approval & Licence we would like to request a full review of all the Conditions that have been placed on our operation by the Shire of Brookton.

In particular:

Condition 1. The Extractive Industry Licence is valid for either a period of twenty (20) years from the date of issue or when a new Extractive Industry Local Law is enacted, whichever comes first, to be altered to read The Extractive Industry Licence is valid until the resource for which approval was granted has been exhausted.

Condition 4. Our Excavation, Environmental and Landscape Management Plan sets out a maximum depth of excavation of 8mtrs (this was in our plan after consultation with the Shire of Brookton, and resulting advice that said we couldn't go any deeper than 8mtrs), we would like to alter this to allow us to go to the maximum depth of the resource, whatever that may be.

We do have approval for the extraction under the Department of Mines, Industry Regulations and Safety and must meet their stringent safety and operational requirements for an Open Quarry Mine.

Should you wish to discuss our request, I can be reached on 0429 600 292.

Regards,

A handwritten signature in black ink, appearing to read "T. J. Lange", written in a cursive style.

Timm Lange  
**Director**  
**Tianco Pty Ltd**



28<sup>th</sup> July 2020

Shire of Brookton  
Att: Ian D'arcy  
PO Box 42  
BROOKTON WA 6306

Dear Ian

**Ref: Extractive Industry Licence – Avon Location No. 5336 Brookton Highway, Brookton**

I refer to our letter of 21<sup>st</sup> July 2020 concerning our request to review condition 4 of the Extractive Industry Approval and Licence.

To be clear on this:

- (a) Condition 4 of the Extractive Industry Licence renewal of 2011 states:  
“Excavation shall be carried out only in accordance with the terms of the application as approved herein and the approved Excavation, Environmental and Landscape Management Plan, prepared by the applicant and endorsed by the local government.”
- (b) Condition 6 of the varied Planning approval dated 22 February 2010 states:  
“Extraction is to be limited to a depth of eight (8) metres without the prior approval of Council and is to be in accordance with the Excavation Management provisions included in the approved Excavation and Environmental Management Plan endorsed by the Shire Planner;”

The Plan referred to at Condition 4 of the Extractive Industry Licence refers to the Landform Excavation, Environmental and Landscape Management Plan lodged at the time and in effect requires the land to be rehabilitated in accordance with section 7.3, in particular the heading “Landform Reconstruction and Preparation” where at point 1 it says:

“The final landform will be formed to a gently sloping floor to the south some 6-8 metres below existing ground level.”

and further at section 4.5 “Final Contours” which reads:

“At this stage the most appropriate final land surface is a gently sloping north facing slope matching the surrounding Landform, but at a slightly lower level. The final slopes will be formed at approximately 1:3 to 1:4 vertical to horizontal.”

What we are seeking is clarification that the finished level is to be eight (8) metres below the current site level and that there is nothing in this that prevents the extraction of material below eight (8) metres so long as the additional void is filled by non-minable material from elsewhere

on site, so that the end result is that the whole of the land is returned to a level eight (8) metres below its current level.

In the various discussions I have had with yourselves, this has always been the Shire's interpretation of the licence and approval, however I would appreciate confirmation of this, that the reference to excavation being limited to a depth of eight (8) metres without the prior approval of Council is that excavation be such that a finished level of eight (8) metres is achieved in accordance with the Plan and subject always to safety requirements.

Yours faithfully

A handwritten signature in black ink, appearing to read 'T. J. Lange'.

Timm Lange  
*Director*  
**Tianco Pty Ltd**  
0429 600 292

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Cr Crute (Shire President) returned to the meeting at 6.21pm, Cr Walker vacated the chair and Cr Crute resumed the chair.

## **13.08.20 COMMUNITY SERVICES REPORTS**

Nil.

## **14.08.20 CORPORATE SERVICES REPORTS**

### **14.08.20.01 LIST OF ACCOUNTS FOR PAYMENT – JULY 2020**

<b>File No:</b>	N/A
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	N/A
<b>Name of Owner:</b>	N/A
<b>Author/s:</b>	Lois Salkilld – Finance Officer
<b>Authorising Officer:</b>	Amy Eva - Manager Corporate and Community
<b>Declaration of Interest:</b>	The author has no financial interest in this matter.
<b>Voting Requirements:</b>	Simple Majority
<b>Previous Report:</b>	16 <sup>th</sup> July, 2020

#### **Summary of Item:**

The list of accounts for payment to 31<sup>st</sup> July 2020 are presented to Council for inspection.

#### **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. Please refer to the separate attachment.

#### **Consultation:**

N/A

#### **Statutory Environment:**

Local Government (Financial Management) Regulations 1996; Clause 13 – List of Accounts.

#### **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 relevant to this report.

#### **Risk Assessment:**

No risks identified as this is an operational reporting requirement.

## Community & Strategic Objectives:

This activity is contained in the Corporate Compendium.

### Comment

Totals of all payments from each of Councils bank accounts are listed below. 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.

To 31<sup>st</sup> July 2020

### **Municipal Account**

Cheque	\$ Nil
Direct Debits	\$ 129,035.44
EFT	\$ 453,816.78

**Trust Account** \$ Nil

**Bond Account** \$ 1,150.00

### **OFFICER'S RECOMMENDATION**

That with respect to the list of accounts for payment, Council: Note the payments authorised under delegated authority and detailed below and in the List of Accounts 31<sup>st</sup> July 2020

Municipal Account

Direct Debits	\$ 129,035.44
EFT	\$ 453,816.78

Bond Account \$ 1,150.00

(Simple Majority Vote required)

**OCM 08.20-08**

### **COUNCIL RESOLUTION**

**MOVED Cr Hartl      SECONDED Cr Watts**

***That with respect to the list of accounts for payment, Council: Note the payments authorised under delegated authority and detailed below and in the List of Accounts 31<sup>st</sup> July 2020***

Municipal Account

Direct Debits	\$ 129,035.44
EFT	\$ 453,816.78

**Bond Account** \$ 1,150.00

**CARRIED BY SIMPLE MAJORITY VOTE 7/0**

## **Attachment**

Attachment 14.08.20.01A

Members of the public can obtain the schedule from the Shire of Brookton Administration Office.

**14.08.20.02 REQUEST FOR FEE WAIVER – BULLDUSTNBACK – CHARITY EVENT**

<b>File No:</b>	ADM 0658
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	WB Eva Pavilion
<b>Name of Applicant:</b>	Kim Mills on behalf of BulldustNback
<b>Name of Owner:</b>	Shire of Brookton
<b>Author/s:</b>	Amy Eva – Manager Corporate and Community
<b>Authorising Officer:</b>	Ian D’Arcy – Chief Executive Officer
<b>Declaration of Interest:</b>	The author has no interest in this item
<b>Voting Requirements:</b>	Absolute Majority
<b>Previous Report:</b>	N/A

**Summary of Item:**

Council is in receipt of a request from Mr Kim Mills, local community member and participant in BulldustNback, to reduce the fee of hire to nil for the WB Eva Pavilion for a fundraising event called BulldustNback.

The BulldustNback Trail is a not-for-profit, four-day motoring adventure that leads drivers in wacky and wonderful old cars through WA’s outback, raising money for local children’s cancer and youth mental health charities from the 3<sup>rd</sup> to 6<sup>th</sup> September 2020.

The Rotary Club of Mill Point is hosting this one of a kind adventure driving through WA, starting in Araluen, and finishing in a Mystery location. The aim of the event is to raise as much money for charities with all costs paid by participants.

Mr Mills would like Council to reduce the hire fee noting that this is a fundraising event, for a not for profit organisation where every cent goes to children’s cancer and mental health charities. Mr Mills is will pay the bond of \$500.00.

**Description of Proposal:**

As above.

**Background:**

The is limited background to this event and associated request as it is a ‘one-off’.

Notwithstanding, the BulldustNback website provides a flyer that outlines the event. This flyer is provided at **Attachment 14.08.20.01A** for the Council’s information.

**Consultation:**

There has been no consultation to date on this matter.

**Statutory Environment:**

Section 6.12 (1)(b) of the *Local Government Act 1995* grants authority to Council to waive or grant concessions in relation to hire fees.

**Relevant Plans and Policy:**

There are no relevant plans or policy applicable to this matter.

**Financial Implications:**

Under the Council’s Schedule of Fees and Charges, the following applies:

*Shire of Brookton Ordinary Meeting of Council – 20 August 2020 – Minutes*

Facility Hire (Commercial flat rate per day)	=	\$ 320.00
Bond (refundable bond that is held in bond)	=	\$ 500.00
		-----
		\$ 720.00

As mentioned, Mr Mills has requested that this hire fee be reduced to nil meaning the cost to the Shire would be \$320.00 if Council supports this request, which fundamentally would be considered the Shire's contribution to the event.

It should be noted that the fee discount (if entertained) is at the Council's discretion.

#### **Risk Assessment:**

There is no perceived risk to the Shire.

#### **Community & Strategic Objectives:**

This request 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, request aligns to:

*Function 8 Emergency Management*  
*Action 8.7 Support Bushfire Volunteer Brigades/Volunteer Emergency Services*

#### **Comment**

In consideration this event is for a very worthy cause it is recommended that Council reduce the fee to nil for the BulldustNback fundraising event to be held on Sunday 6<sup>th</sup> September 2020 to ensure the fundraising is not reduced by \$320.00.

The event is open to all members of the community to attend and is an interesting visual opportunity that should be of interest to the community overall.

#### **OFFICER'S RECOMMENDATION**

That Council pursuant to Section 6.12 (1)(b) of the Local Government Act, 1995 reduce the fee for the WB Eva Pavilion to the BulldustNback of \$320.00 to \$Nil for the event scheduled for Sunday 6th September 2020.

(Absolute Majority required)

**OCM 08.20-09**

#### **COUNCIL RESOLUTION**

***MOVED Cr Lilly      SECONDED Cr Hartl***

***That Council pursuant to Section 6.12 (1)(b) of the Local Government Act, 1995 reduce the fee for the WB Eva Pavilion to the BulldustNback of \$320.00 to \$Nil for the event scheduled for Sunday 6th September 2020.***

***CARRIED BY ABSOLUTE MAJORITY VOTE 7/0***



## **Attachments**

14.08.20.01A – Flyer

14.08.20.01B – Letter of request



# BULLDUST ~~IN~~ BACK

3-6 SEPTEMBER 2020

## DRIVING FOR CHANGE

Four-day motoring event that raises money for children's cancer and youth mental health





# OUR PURPOSE

BulldustNBack is a four-day motoring event through WA's Outback that raises critical funds for local children's cancer and youth mental health initiatives. Drivers in wacky and wonderful old vehicles that pre-date the 2000s are led on a one-of-a-kind adventure through the outback, navigating winding bush tracks and challenging roads known only to locals. It is an event that is full of fun and mystery, with plenty of surprises and mischief along the way.

BulldustNBack was created to achieve three key goals:

## **DRIVE FOR CHANGE**

to raise money for deserving local charities doing important work for young West Australians.

## **EXPLORE WA**

to celebrate the diverse and expansive natural beauty of our state.

## **TO PUT THE FUN IN FUNDRAISING**

to reward people for their selfless acts when supporting the community.



# 2020 BULLDUSTNBACK TRIAL

The 2020 BulldustNBack Trial runs from 3-6 September and drivers will head south on an exciting route that has been perfected by our volunteers. They will raise money for Kids Cancer Support Group and zero2hero.



# OUR WHY



BulldustNBack was started by Rotary Club of Mill Point (RCMP) in 2019, held in honour of late member and respected businessman Jon Lawrance. BulldustNBack is held to raise money for two important causes close to Jon's heart: children's cancer and youth mental health.

## WHY CHILDREN'S CANCER?

Jon passed away in 2018 from cancer of the bile duct and while undergoing chemotherapy at Sir Charles Gairdner Hospital, he was heartbroken to witness children experiencing the same pain he was. Jon never understood why kids so young were inflicted with so much trauma and suffering and was determined to help them, despite going through his own struggles.

Australian figures estimate that:

750

**CHILDREN BETWEEN 0-14 YEARS OF AGE ARE DIAGNOSED WITH CANCER EVERY YEAR IN AUSTRALIA**

101

**CHILDREN UNDER THE AGE OF 14 DIE FROM CANCER EVERY YEAR IN AUSTRALIA**

## WHY YOUTH MENTAL HEALTH?

Jon was diagnosed with depression at the age of 18 and was advised to 'get over it', like so many Australians are told. When his children were also diagnosed with depression, it became his mission to empower young people to manage their mental health appropriately.



**75% OF MENTAL ILLNESS IS DEVELOPED BEFORE ONE REACHES 25 YEARS OF AGE**



# 2020 BENEFICIARIES



zero2hero®

## KIDS CANCER SUPPORT GROUP (KCSG)

Run by volunteers, most of whom are parents of children that have, had or passed away from cancer, KCSG understands the need for practical aid as families navigate the traumatic cancer journey. KCSG acknowledges the amazing work of cancer research charities, but understands that many of the children who already have cancer are beyond help from research and instead, need real care right now. KCSG provides services such as financial aid, emotional care and fun activities including on-ward toy deliveries, safe playgroups and visits from Santa Claus.



## ZERO2HERO

zero2hero vision is simple yet extraordinary: to achieve a world where every young person is educated and empowered to manage their own mental health and be mental health heroes in their community. Some innovative zero2hero programs you may be familiar with include Camp Hero, cape2cape and Tough Stuff. zero2hero strives to equip young West Australians with the knowledge and tools required to be mental health advocates, uncovering the heroes of tomorrow and inspiring the change from within.



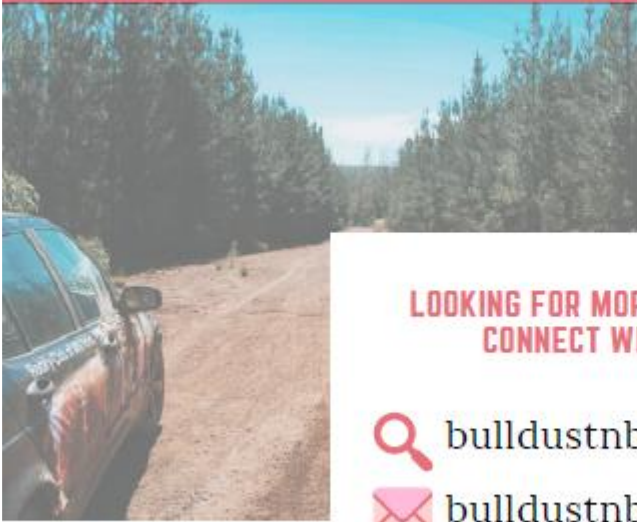
03

BULLDUSTNBACK | MEDIA KIT 2020



“THERE IS NOTHING LIKE BULLDUSTNBACK. I FEEL SO LUCKY TO BE A PART OF THIS EVENT, HAVING THE OPPORTUNITY TO EXPLORE UNIQUE PARTS OF OUR STATE ALL WHILE RAISING MONEY FOR YOUNG WEST AUSTRALIANS!”

- Grace Jones, BulldustNBack volunteer



LOOKING FOR MORE INFORMATION?  
CONNECT WITH US HERE:



[bulldustnback.com.au](http://bulldustnback.com.au)



[bulldustnback@gmail.com](mailto:bulldustnback@gmail.com)



@bulldustnback

**BULLDUSTNBACK**



Kim Mills  
3051 Brookton Woods Rd  
Brookton 6206  
27/7/2020

On Sunday the 6<sup>th</sup> of September the "Rotary club of Mill Point" are coming to Brookton as the final leg of a 4 day car rally. called Bulldust N. Back.

They have hired the W.B. Eva pavilion for a luncheon supplied by Brookton C.W.A.

A wind up & presentation with a bring your own drinks from 12-3pm.

The rally is for "Kids Cancer & Mental Health" all profits go to this charity.

We would like to ask that the rental fee be for a not for profit group be considered.

Yours Sincerely.

J. Min

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## LETTER OF AUTHORITY TO FUNDRAISE

On behalf of Rotary Club of Mill Point Inc. (Registered Charity License CC20642) we confirm the below mentioned person has been granted authorisation to raise funds on behalf of our charity event BulldustNBack 2020, commencing 01/07/2020 and concluding 15/09/2020.

### Kim Mills Registered Car "Travelling Bilbys"

BuldustNBack 2020 is a four-day charity motoring event run by Rotary Club of Mill Point, from 3<sup>rd</sup> September 2020 to 6<sup>th</sup> September 2020 raising critical funds for children's cancer and youth mental health charities based in WA. Beneficiaries for 2020 are Kids Cancer and Mental Health.

As a not-for-profit, every cent raised goes directly to local charities.

Should you have any queries about fundraising activities for BulldustNBack, please do not hesitate to get in touch with me. Thank you for your support.

  
Kind Regards,  
Mark Horwood  
Rotary Club of Mill Point / BulldustNBack Course Coordinator  
0893687511

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## HOW TO DONATE

- **MyCause**
  - o [www.mycase.com.au/events/buldustnback2020](http://www.mycase.com.au/events/buldustnback2020)
  - o Please note MyCause charge a 6% fee
- **Paypal**
  - o [www.buldustnback.com.au/donate](http://www.buldustnback.com.au/donate)
  - o Please note Paypal charge a 2% fee
- **Bank transfer**
  - o Account Name: Rotary Club of Mill Point
  - o BSB: 306-095 Account Number: 418-3768
  - o Description: fundraisers car number & your surname  
E.g. Description: Car#Smith
- **Cash donation**
  - o Cash donations can be given to the authorised person listed
  - o A tax receipt will be provided upon donation
- **Tax receipt**
  - o Tax receipts can also be requested by providing your contact details to the authorised person listed, who will arrange Rotary Club of Mill Point Inc. to forward to you.

Cr Macnab declared an impartial interest in item 14.08.20.03 and remained in the meeting.

#### **14.08.20.03 ADOPTION OF 2020/2021 BUDGET**

<b>File No:</b>	N/A
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	Shire of Brookton
<b>Name of Owner:</b>	N/A
<b>Author/s:</b>	Kelly D’Arcy – Senior Finance Officer Amy Eva – Manager Corporate and Community
<b>Authorising Officer:</b>	Ian D’Arcy – Chief Executive Officer
<b>Declaration of Interest:</b>	Both authors have an interest in this matter as employees with one being a ratepayer.
<b>Voting Requirements:</b>	Absolute Majority
<b>Previous Report:</b>	N/A

#### **Summary of Item:**

This report outlines:

- a) The annual 2020-2021 budget process with intended adoption, including setting of the rates, fees and charges for the financial year and other consequential matters arising from the Budget.
- b) Amendment to the Shire’s Organisational Structure with a number of services being returned ‘in-house’ from current contractual service delivery to improve management and optimise operational performance and financial prudence.

#### **Description of Proposal:**

Council is requested to adopt the Annual Budget for the 2020-2021 financial year, together with supporting schedules, rates setting, fees and charges, reserve funds, elected members fees and other consequential matters arising from the budget papers.

In accordance with Section 6.2 of the *Local Government Act 1995*, Council is required to prepare and adopt, in the manner and form prescribed, an annual budget no later than 31 August each year.

The 2020-2021 annual budget has been prepared to include information required by the *Local Government Act 1995*, *Local Government (Financial Management) Regulations 1996* and Australian Accounting Standards.

Additionally, the draft Budget is modelled on a shift to the Organisational Structure to return delivery of services through more direct ‘in-house’ employment, including:

- Swimming Pool Management
- Building Surveying Services
- Cleaning Services
- Traineeships
- Bushfire Management positions mostly funded by the State Government.

A copy of the revised Organisational Structure is provided at **Attachment 14.08.20.03B**.

**Background:**

The budget for the 2020-2021 year continues to support service delivery for the Shire but also allows the Shire to plan, consolidate and implement several key matters. Ordinarily, the 2020-2021 Budget is an output of the integrated planning and reporting framework (IPRF) which supports the development of the four-year Corporate Business Plan (CBP). In a 'normal' planning cycle, the Shire's focus would be on the long-term integration and delivery of the community visions and priorities as identified in the Strategic Community Plan and Innovations Pathways.

Due to the impact of COVID-19 the normal IPRF process has been altered to enable a focus on a one-year relief and recovery budget, whilst considering the impact on the Long-Term Financial Plan (LTFP). Hence this year's budget has become a driver for the LTFP rather than a result of the LTFP.

The budget has been prepared in accordance with the presentations made to and feedback received from Elected Members at a workshop held on Tuesday 21<sup>st</sup> July 2020.

The Annual Budget document is in the Statutory Budget format with all the relevant disclosures to facilitate financial accountability to the community.

The draft 2020-2021 Budget has been prepared with an emphasis in the coming year on a continuation of service delivery for the community, as well as providing consistent and clear, transparent outcomes for the residents. The 2020-2021 Budget funds a range of community services including community safety, recreation, maintenance of community facilities, parks, gardens, playgrounds, infrastructure, waste and recycling collections, building, and planning services. In addition, the capital works program provides for discussion and improvements of community's current infrastructure and investment in community facilities.

Community relief, recovery initiatives and capital works projects are a key focus of Shire of Brookton's Budget for 2020-2021.

The main features of 2020-2021 budget include:

- No increase in the Shire's total rates revenue fees and charges from the previous financial year.
- An increase in the Council's Community Chest Grants Fund up from \$20,000 to \$40,000.
- Community Emergency Services Manager (CESM) Role, 60:40% split with DFES, Shire of Brookton, Corrigin, and Pingelly, and a Bushfire Risk Planning Co-ordinator (BRPC) position that is fully funded by the State Government.

The Capital Works program for the 2020-2021 year has been reviewed with key capital works projects including:

- Road Construction total of \$1,123,247 funded from grants, reserves, and Council funds with a strong focus on upgrade of the Brookton-Kweda Road.
- Plant and Equipment total of \$475,500, with the significant item the John Deere 670GP Grader.
- Recreation and Culture total of \$143,000, with expenditure on a Youth Precinct, fencing and nature playground and Aquatic Centre improvements.
- Community Amenities total of \$423,000, with a significant upgrade, refurbishing/relining of sewerage pipe network.

Additional Capital Works for the 2020-2021 year is anticipated through the Infrastructure and Drought Grant Funding from the Commonwealth Government being approved amounting to \$755,540.



- Youth Precinct and Community Garden/Men's Shed buildings.
- Bitumen sealing 520 metres of Youraling Road.
- Caravan Park Upgrade, inclusive of 2 chalet accommodation units.
- Depot Upgrade with a range of building improvements, re-fencing and additional storage.

The allocation for these works is presented in separate agenda items as amendments to the presented 2020-2021 Budget once the grant funding has been approved.

As to the Long-Term Financial Plan (LTFP) this document needs to be reviewed as the proposed rate increase of 7% is unrealistic and has not been applied since 2015/16 financial year.

The 2020-2021 Budget does recognise the importance for continued progress with the Shire Asset Management Plan and Long-Term Financial Plan (LTFP), with these plans being reviewed and completed in the 2020-2021 year.

It should also be noted broad community consultation on the Memorial Hall and Railway Station buildings will be performed during the 2020-2021 year with the funds for this work being drawn from the Financial Reserve.

The Shire Administration has reviewed all Financial Reserves with:

- The Capital Investment Reserve name changed to the 'Future Fund Reserve'. This Reserve was initially established as a holding fund for the moneys realised from the sale of Baptistcare and is now being converted to become an allocation of \$4m for future community benefit.
- A new Reserve 'Innovations Fund' being setup to support and complement the Shire's Integrated Planning and Reporting Framework that consists of the Community Strategic Community Plan and Council's Corporate Business Plan, inclusive of the Innovations Pathways and various other integrated plans for the Shire. It is envisaged the funding will notionally be used to investigate, seed or leverage funding for initiatives and projects endorsed by Council, and subsequently listed in the Shires Corporate Business Plan. The allocation to this fund is \$2m.

Finally, in reviewing the Reserve Balance, the administration requests the Elected members to endorse a one-off donation to the Aldersyde Hall Incorporated the current Aldersyde Reserve balance of \$25,806.

Overall, the budget for the 2020-2021 financial year is reasonable and still provides for the essential services as required by a Local Government.

In the 2020-2021 financial year the Shire is required to review the Strategic Community Plan and the Corporate Business plan. The review is part of the mandatory reporting framework as required by the State Government. However, the review should provide the Council with a better understanding of the community aspirations and views and will be able to plan for the next two to four years.

#### **Consultation:**

Consultation has taken place with all relevant staff members and Elected Members have been part of a budget and finance workshop session, as well as discussion on amending the Organisational Structure.

The key strategic proprieties of the Shire of Brookton have been developed in consultation with the community through the Council's Integrated Planning and Reporting process, including the Innovations Pathway and associated Advisory Groups.

**Statutory Environment:**

All local governments are required to adopt an annual budget in accordance with Part 6, Division 2, of the *Local Government Act, 1995* (The Act), Part 3 of the Local Government (Financial Management) Regulations 1996, Australian Accounting Standards (AASB) and the Australian Accounting Standards Board Interpretations (AASBI). In relation to budgeting, section 6.2 (1) of the Act states:

*During the period from 1 June in a financial year to 31 August in the next financial year, or such extended time as the Minister allows, each local government is to prepare and adopt (absolute majority required), in the form and manner prescribed, a budget for its municipal fund for the financial years ending on the 30 June next following that 31 August.*

The Department of Local Government has prepared the WA Local Government Accounting Manual. Part 4 of the manual covers the Budget process. Additionally, the *Local Government Act, 1995* (the Act) Divisions 5 and 6 refer to the setting of budgets and raising of rates and charges. Further, the Local Government (Financial Management) Regulations 1996 details the form and content of the budget.

The 2020-2021 budget as presented meets these statutory requirements. Section 6.2(2) of the Act provides that in preparing the annual budget, a local government is to have regard to the contents of the plan for the future.

However, a Ministerial order in May 2020 modified this section so that in preparing the budget for 2020-2021 a local government can have regard to the consequences of the COVID-19 pandemic rather than the plan for the future, although this can still be considered by the local government.

**Relevant Plans and Policy:**

Council Policy 4.1 - Significant Accounting Policies states that *“Where practical the Budget should be completed and adopted prior to 31 July and, if not practical, by 31 August in accordance with the provisions of the Local Government Act 1995”*.

Furthermore, Policy 2.19 Policy details the type and purpose of Council’s cashed back Financial Reserves, which will also require amendment following adoption of the 2020-2021 Budget.

As to relevant plans the following have also been taken into consideration when preparing the budget:

- Strategic Community Plan
- Corporate Business Plan
- Long Term Financial Plan
- Asset Management Plan

However, both the Long Term Financial Plan and Asset Management Plan have sparingly been referenced as they are presently being reviewed with minimal relevance afforded to content of the 2020-2021 Budget.

**Financial Implications:**

The financial implications are detailed in the 2020-2021 Annual Budget, presented as a separate **Attachment 14.08.20.03A** to this report.

**Risk Assessment:**

The risk of not adopting the 2020-2021 Annual Budget by the 31<sup>st</sup> August 2020 will mean the Shire is non-compliant and therefore in breach of the Act and the Australian Accounting Standards. Accordingly, the risk is assessed as ‘High’.

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:

The Annual Budget process is contained within the “Corporate Compendium”.

### Comment

Consistent with the various budget discussions held with Council, the draft 2020-2021 Budget promotes a number of initiatives embedded in the Officer Recommendation below, including:

- The annual rates being set to predominantly achieve the same level of income as the previous 2019-2020 financial year due to the COVID-19 pandemic.
- The annual fees and charges also being set with no financial increase from the previous financial year.
- The re-allocation of \$7.08m of funds raised through the sale of the Kalkarni Residential Aged Care facility and Saddleback Medical Centre to dedicated Financial Reserves to support the Brookton Community moving forward.
- The one-off grant of \$25,000 to the Aldersyde Hall Committee for upgrade of the Hall building upon their successful incorporation and subsequent acquisition of the property from the State Government.
- An amendment to the Organisational Structure to increase ‘in-house’ employment as opposed to contractual delivery of services.

In consideration of these and other matters it is recommended that the Council, in accordance with the provisions of section 6.2 of the *Local Government Act 1995* and Part 3 of the *Local Government (Financial Management) Regulations 1996*, adopt the 2020-2021 Budget as presented in separate attachments to this report.

## **OFFICER RECOMMENDATION 1**

That Council:

1. **Budget**

In accordance with the provisions of Section 6.2 of the Local Government Act, 1995 and Part 3 of the Local Government (Financial Management) Regulations adopts the 2020-2021 Annual Budget (ending 30 June 2021) for Shire of Brookton provided as Attachment 14.08.20.03A under separate cover to this report.

2. **General Rate**

In accordance with Section 6.33 of the Local Government Act, 1995 imposes a rate in the dollar for the areas of the Shire valued on Gross Rental Values of 9.1453 cents in the dollar (\$1.00) and Unimproved Values of 1.0062 cents in the dollar (\$1.00) to achieve parity with the 2019-2020 financial return.

3. **General Minimum Rate**

In accordance with Section 6.35(1) of the Local Government Act 1995 sets a general minimum rate of \$809.00 for the 2020-2021 financial year for Gross Rental Value properties and a general minimum rate of \$1385.00 for the 2020-2021 financial year for Unimproved Value properties.

4. **Due Dates for Payment of Rates**

In accordance with section 6.45 of the Local Government Act 1995 and Regulations 64 (2) of the Local Government (Financial Management) Regulations 1996, sets the following due dates for the payment of rates in full and the payment of rates by instalments (either four instalments or two instalments):

**Option one – Full Payment**

- One Payment                      01 October 2020

**Option two – Two Payments**

- 1st Instalment                      01 October 2020
- 2nd Instalment                      08 February 2020

**Option three – Four Payments**

- 1st Instalment                      01 October 2020
- 2nd Instalment                      04 December 2020
- 3rd Instalment                      08 February 2021
- 4th Instalment                      14 April 2021

Special Payment Arrangements can be made with the Shire for those ratepayers who may be unable to pay in full or according to the instalment plans offered. An administration fee of \$30.00 is applied on each special payment arrangement. Penalty interest of 11% per annum, from and including the 36<sup>th</sup> day from the issue of the rates notices, is applied to the outstanding balance until the account is paid in full.

Further, in accordance with the provisions of section 6.49 of the Local Government Act 1995, the Council authorises the CEO to enter into special payment arrangements with ratepayers for the payment of general rates, emergency services levy, sewerage charges and rubbish charges during the 2020-2021 financial year.

The Shire offers advance payments as a further alternative option for the payment of rates whereby, following the payment of the 2020-2021 rates and charges, a ratepayer can, if they elect to do so, commence paying the 2021-2022 rates in advance weekly, fortnightly or monthly payments with no fees charged or interest paid for any payments received by the Shire prior to the due date of the full payment of the 2021-2022 rates and charges.

5. Interest on Rate Instalments

In accordance with section 6.45 of the Local Government Act 1995 and Regulation 68 of the Local Government (Financial Management) Regulations 1996, adopts an interest rate of 5.5% where the owner has elected to pay rates through an instalment option.

6. Administration Charge on Instalments

In accordance with section 6.45 of the Local Government Act 1995 and Regulation 67 of the Local Government (Financial Management) Regulations 1996, adopts an instalment administration charge where the owner has elected to pay rates through an instalment option of \$10.00 for each instalment after the initial instalment is paid.

7. Interest on Overdue Rates

In accordance with section 6.51 of the Local Government Act 1995 and Regulation 70 of the Local Government (Financial Management) Regulations 1996, adopts an interest rate of 11% for rates and costs of proceedings to recover such charges that remain unpaid after becoming due and payable.

8. Rate Concessions

Provides the following concession in relation to the adopted 2020-2021 Annual budget for rates:

- A rate concession is granted to property owners where a contiguous property crosses the Shire boundary resulting in a portion of that property being assessed at a calculated rate. The concession will be calculated by deducting the amount that would otherwise be payable on the relevant property if it were continuously rated by the relevant neighbouring Local Government from the amount that has been assessed and or paid in the current financial year with Council.

9. Emergency Services Levy Interest charge

In accordance with the provisions of Section 36S of the Fire and Emergency Services Act 1998, imposes interest in all current and arrears amounts of emergency services levy at the rate of 11% per annum calculated on a simple interest basis on amounts which remain unpaid after 35 days from the issue date of the original rate notice, or the due date of an instalment and continues until the arrears is fully paid. Excluded are instalment current amounts not yet due under the two or four payment instalment options, registered pensioner portions and current government pensioner rebate amounts. Interest is calculated daily on the outstanding balance and is debited to the account monthly in arrears.

10. Refuse Site Charges

In accordance with sections 6.32, 6.34 and 6.35 of the Local Government Act, 1995 imposes the following General and Minimum rates in relation to refuse charges:

- Refuse Site Rate – Unimproved Values - 0.0001 cents in the dollar – Minimum rate = \$59.00
- Refuse Site Rate – Gross Rental Values - 0.0002 cents in the dollar – Minimum rate = \$59.00



11. Rubbish Charges

In accordance with section 6.16 and 6.17 of the Local Government Act, 1995 imposes the following fees and charges in relation to domestic and commercial rubbish collection:

- Residential – once per week single 240L bin pick up including fortnightly recycling = \$346.00 per annum
- Commercial – once per week single 240l bin pick up = \$346.00 per annum
- Each additional bin pick up once per week = \$346.00 per annum

12. Councillor Remuneration

In accordance Section 5.98 of the Local Government (Administration) Regulations 1996 and Determination of the Salaries and Allowances Tribunal 08 April 2020 – Section 6.2: Table 4 sets the following 'per meeting' attendance payments and annual allowances:

- Councillor Meeting Fees \$ 200.00
- Committee Meeting Fees \$ 100.00
- Presidents Meeting Fees \$ 400.00
- Presidents Allowance \$1,500.00 pa
- Deputy President Allowance \$ 375.00 pa
- Working/Advisory Groups \$ 100.00
- Regional Road Group \$ 150.00
- WALGA Zone \$ 150.00
- External Committees - \$50 per meeting (Travel only from within the Shire boundary the meeting at the rate determined by the Salaries and Allowances Tribunal) – 0.78 cents km.

13. Sewerage Charges

In accordance with the Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911, Sections 40 and 41, adopts the following sewerage charges to be imposed on all properties in the Brookton Town Site that are capable of being connected to the Brookton sewerage scheme:

- Sewerage residential – 6.0438 cents in the dollar, minimum \$504.00 per property
- Sewerage Commercial – 11.2653 cents in the dollar, minimum \$1037.00 per property
- Sewerage Vacant - \$333.00 per property
- Sewerage Non-rateable (Category 2) = \$1604.00 (minimum) per property
- Sewerage Non-rateable (Category 4) = \$551.00 (minimum) per property
- Sewerage Non-rateable (Category 5) = \$816.00 (minimum) per property
- Sewerage Non-rateable (Category 6) = \$1208.00 (minimum) per property

14. Schedule of Fees and Charges

In accordance with section 6.16 and 6.17 of the Local Government Act 1995 imposes the Shire of Brookton Schedule of Fees and Charges for the 2020-2021 financial year based on parity with the previous financial year.

15. Adoption of Material Variance Level for Reporting

Adopts the value of +/- \$10,000 or 10% whichever is the greater as the minimum amount for reporting material variances for the 2020-2021 financial year.

## 16. Financial Reserves

In accordance with the provisions of Section 6.11 of the Local Government Act, 1995 endorses the following changes to its Financial Reserves with subsequent amendment also applied to Policy 2.19 – Financial Reserves:

- Change of 'Capital Investment Reserve' to 'Future Fund Reserve' with the purpose being:

"Reserve funds are to be preserved in perpetuity or invested in an entity that affords a reasonably assured financial return for the Local Government, with any interest earned compounding and being re-invested or being used for community benefit. The fund may be managed by trustees appointed by Council."

- Add 'Innovations Reserve' with the purpose being:

"Reserve funds are to be used as investigative, seed or leverage funding for initiatives and projects endorsed by Council, and subsequently listed in the Shire's Corporate Business Plan."

- Close/Remove the financial 'Aldersyde Hall Reserve' with the remaining funds of \$25,806 being paid as a 'one off' donation to the Aldersyde Hall Committee Inc. for the expressed purpose of being used as contribution funding to upgrade of the Aldersyde Hall building and associated infrastructure, with evidence of expenditure to be presented to the Shire Administration within 12 months from the date of payment for auditing purposes.

(Absolute majority vote required)

### **OFFICER RECOMMENDATION 2**

That Council endorse the Shire of Brookton Organisational Structure August 2020, presented as Attachment 14.08.20.03B to this report.

(Absolute majority vote required)

**COUNCIL RESOLUTION**

**MOVED Cr Hartl      SECONDED Cr Lilly**

**That Council:**

**1. Budget**

*In accordance with the provisions of Section 6.2 of the Local Government Act, 1995 and Part 3 of the Local Government (Financial Management) Regulations adopts the 2020-2021 Annual Budget (ending 30 June 2021) for Shire of Brookton provided as Attachment 14.08.20.03A under separate cover to this report.*

**2. General Rate**

*In accordance with Section 6.33 of the Local Government Act, 1995 imposes a rate in the dollar for the areas of the Shire valued on Gross Rental Values of 9.1453 cents in the dollar (\$1.00) and Unimproved Values of 1.0062 cents in the dollar (\$1.00) to achieve parity with the 2019-2020 financial return.*

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*In accordance with Section 6.35(1) of the Local Government Act 1995 sets a general minimum rate of \$809.00 for the 2020-2021 financial year for Gross Rental Value properties and a general minimum rate of \$1385.00 for the 2020-2021 financial year for Unimproved Value properties.*

**4. Due Dates for Payment of Rates**

*In accordance with section 6.45 of the Local Government Act 1995 and Regulations 64 (2) of the Local Government (Financial Management) Regulations 1996, sets the following due dates for the payment of rates in full and the payment of rates by instalments (either four instalments or two instalments):*

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- **3rd Instalment                      08 February 2021**
- **4th Instalment                      14 April 2021**

*Special Payment Arrangements can be made with the Shire for those ratepayers who may be unable to pay in full or according to the instalment plans offered. An administration fee of \$30.00 is applied on each special payment arrangement. Penalty interest of 11% per annum, from and including the 36<sup>th</sup> day from the issue of the rates notices, is applied to the outstanding balance until the account is paid in full.*

*Further, in accordance with the provisions of section 6.49 of the Local Government Act 1995, the Council authorises the CEO to enter into special payment arrangements with ratepayers for the*

*payment of general rates, emergency services levy, sewerage charges and rubbish charges during the 2020-2021 financial year.*

*The Shire offers advance payments as a further alternative option for the payment of rates whereby, following the payment of the 2020-2021 rates and charges, a ratepayer can, if they elect to do so, commence paying the 2021-2022 rates in advance weekly, fortnightly or monthly payments with no fees charged or interest paid for any payments received by the Shire prior to the due date of the full payment of the 2021-2022 rates and charges.*

**5. Interest on Rate Instalments**

*In accordance with section 6.45 of the Local Government Act 1995 and Regulation 68 of the Local Government (Financial Management) Regulations 1996, adopts an interest rate of 5.5% where the owner has elected to pay rates through an instalment option.*

**6. Administration Charge on Instalments**

*In accordance with section 6.45 of the Local Government Act 1995 and Regulation 67 of the Local Government (Financial Management) Regulations 1996, adopts an instalment administration charge where the owner has elected to pay rates through an instalment option of \$10.00 for each instalment after the initial instalment is paid.*

**7. Interest on Overdue Rates**

*In accordance with section 6.51 of the Local Government Act 1995 and Regulation 70 of the Local Government (Financial Management) Regulations 1996, adopts an interest rate of 11% for rates and costs of proceedings to recover such charges that remain unpaid after becoming due and payable.*

**8. Rate Concessions**

*Provides the following concession in relation to the adopted 2020-2021 Annual budget for rates:*

- A rate concession is granted to property owners where a contiguous property crosses the Shire boundary resulting in a portion of that property being assessed at a calculated rate. The concession will be calculated by deducting the amount that would otherwise be payable on the relevant property if it were continuously rated by the relevant neighbouring Local Government from the amount that has been assessed and or paid in the current financial year with Council.*

**9. Emergency Services Levy Interest charge**

*In accordance with the provisions of Section 36S of the Fire and Emergency Services Act 1998, imposes interest in all current and arrears amounts of emergency services levy at the rate of 11% per annum calculated on a simple interest basis on amounts which remain unpaid after 35 days from the issue date of the original rate notice, or the due date of an instalment and continues until the arrears is fully paid. Excluded are instalment current amounts not yet due under the two or four payment instalment options, registered pensioner portions and current government pensioner rebate amounts. Interest is calculated daily on the outstanding balance and is debited to the account monthly in arrears.*

**10. Refuse Site Charges**

*In accordance with sections 6.32, 6.34 and 6.35 of the Local Government Act, 1995 imposes the following General and Minimum rates in relation to refuse charges:*

- *Refuse Site Rate – Unimproved Values - 0.0001 cents in the dollar – Minimum rate = \$59.00*
- *Refuse Site Rate – Gross Rental Values - 0.0002 cents in the dollar – Minimum rate = \$59.00*

**11. Rubbish Charges**

*In accordance with section 6.16 and 6.17 of the Local Government Act, 1995 imposes the following fees and charges in relation to domestic and commercial rubbish collection:*

- *Residential – once per week single 240L bin pick up including fortnightly recycling = \$346.00 per annum*
- *Commercial – once per week single 240l bin pick up = \$346.00 per annum*
- *Each additional bin pick up once per week = \$346.00 per annum*

**12. Councillor Remuneration**

*In accordance Section 5.98 of the Local Government (Administration) Regulations 1996 and Determination of the Salaries and Allowances Tribunal 08 April 2020 – Section 6.2: Table 4 sets the following ‘per meeting’ attendance payments and annual allowances:*

- *Councillor Meeting Fees \$ 200.00*
- *Committee Meeting Fees \$ 100.00*
- *Presidents Meeting Fees \$ 400.00*
- *Presidents Allowance \$1,500.00 pa*
- *Deputy President Allowance \$ 375.00 pa*
- *Working/Advisory Groups \$ 100.00*
- *Regional Road Group \$ 150.00*
- *WALGA Zone \$ 150.00*
- *External Committees - \$50 per meeting (Travel only from within the Shire boundary the meeting at the rate determined by the Salaries and Allowances Tribunal) – 0.78 cents km.*

**13. Sewerage Charges**

*In accordance with the Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911, Sections 40 and 41, adopts the following sewerage charges to be imposed on all properties in the Brookton Town Site that are capable of being connected to the Brookton sewerage scheme:*

- *Sewerage residential – 6.0438 cents in the dollar, minimum \$504.00 per property*
- *Sewerage Commercial – 11.2653 cents in the dollar, minimum \$1037.00 per property*
- *Sewerage Vacant - \$333.00 per property*
- *Sewerage Non-rateable (Category 2) = \$1604.00 (minimum) per property*
- *Sewerage Non-rateable (Category 4) = \$551.00 (minimum) per property*
- *Sewerage Non-rateable (Category 5) = \$816.00 (minimum) per property*
- *Sewerage Non-rateable (Category 6) = \$1208.00 (minimum) per property*

**14. Schedule of Fees and Charges**

*In accordance with section 6.16 and 6.17 of the Local Government Act 1995 imposes the Shire of Brookton Schedule of Fees and Charges for the 2020-2021 financial year based on parity with the previous financial year.*

**15. Adoption of Material Variance Level for Reporting**



*Adopts the value of +/- \$10,000 or 10% whichever is the greater as the minimum amount for reporting material variances for the 2020-2021 financial year.*

**16. Financial Reserves**

*In accordance with the provisions of Section 6.11 of the Local Government Act, 1995 endorses the following changes to its Financial Reserves with subsequent amendment also applied to Policy 2.19 – Financial Reserves:*

- *Change of 'Capital Investment Reserve' to 'Future Fund Reserve' with the purpose being:*

*"Reserve funds are to be preserved in perpetuity or invested in an entity that affords a reasonably assured financial return for the Local Government, with any interest earned compounding and being re-invested or being used for community benefit. The fund may be managed by trustees appointed by Council."*

- *Add 'Innovations Reserve' with the purpose being:*

*"Reserve funds are to be used as investigative, seed or leverage funding for initiatives and projects endorsed by Council, and subsequently listed in the Shire's Corporate Business Plan."*

- *Close/Remove the financial 'Aldersyde Hall Reserve' with the remaining funds of \$25,806 being paid as a 'one off' donation to the Aldersyde Hall Committee Inc. for the expressed purpose of being used as contribution funding to upgrade of the Aldersyde Hall building and associated infrastructure, with evidence of expenditure to be presented to the Shire Administration within 12 months from the date of payment for auditing purposes.*

**CARRIED BY ABSOLUTE MAJORITY VOTE 7/0**

**OCM 08.20-11**

**COUNCIL RESOLUTION**

**MOVED Cr Watts**

**SECONDED Cr Hartl**

*That Council endorse the Shire of Brookton Organisational Structure August 2020, presented as Attachment 14.08.20.03B to this report.*

**CARRIED BY ABSOLUTE MAJORITY VOTE 7/0**

**Attachments**

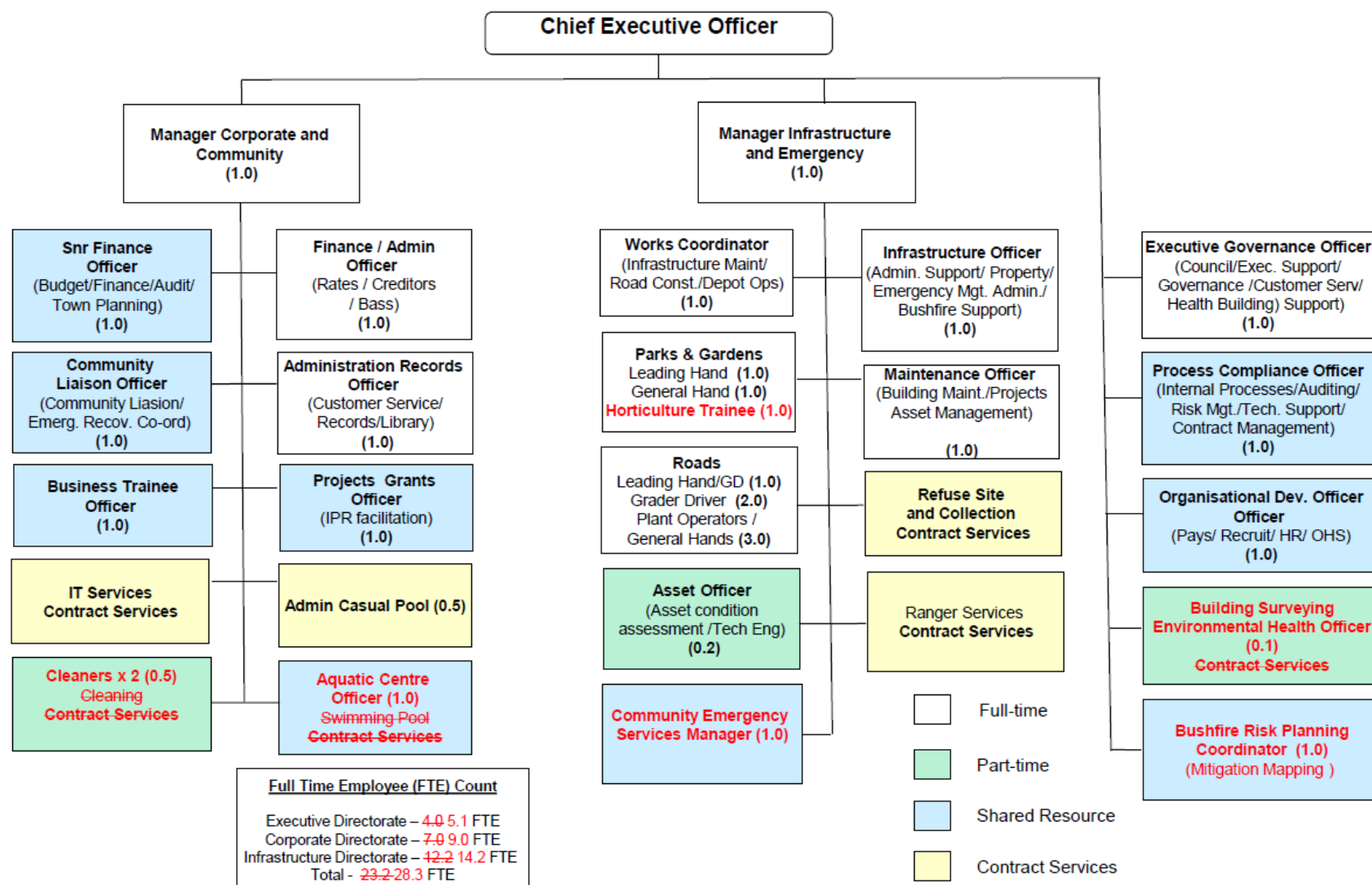
**14.08.20.03A** Budget – (provided under separate cover)

**14.08.20.03B** Organisational Structure – August 2020.

**14.08.20.03C** 2020/2021 Fees and Charges – (provided under separate cover)

# Organisational Structure

(August 2020)



#### 14.08.20.04 RATES EXEMPTION APPLICATION – SOUTHERN ABORIGINAL CORPORATION

<b>File No:</b>	A466 / A465
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	Lot 105 44 Williams Street, Brookton Lot 126 41 Richardson Street
<b>Name of Applicant:</b>	Southern Aboriginal Corporation
<b>Name of Owner:</b>	Southern Aboriginal Corporation
<b>Author/s:</b>	Ian D'Arcy – Chief Executive Officer
<b>Authorising Officer:</b>	As above
<b>Declaration of Interest:</b>	The author has no interest in this matter
<b>Voting Requirements:</b>	Absolute majority
<b>Previous Report:</b>	There is no previous meeting reference

#### Summary of Item:

Council is in receipt two applications from the Southern Aboriginal Corporation seeking rates exemptions for their properties located at 44 Williams Street (A466), Brookton and 41 Richardson Street (A465), Brookton.

#### Description of Proposal:

This proposal involves a request for the properties being Lot 105 (Hn 44) Williams Street, Brookton and Lot 126 (Hn 41) Richardson Street, Brookton be exempt for a period of 3 years from rates commencing 1<sup>st</sup> July 2020.

#### Background:

The Southern Aboriginal Corporation is a charitable organisation, incorporated as a not-for-profit Aboriginal Corporation under the Commonwealth *Aboriginal and Torres Strait Islander Act, 2006* 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.

Both properties the subject of this application are used by the Southern Aboriginal Corporation for the purposes of providing affordable housing for aboriginal families in need. House number 44 currently has an aboriginal family residing in the property as tenants together with grandchildren in the family's care, while House No 41 is presently vacant due to extensive repairs being undertaken. Once the repairs are completed this property will provide housing for aboriginal people.

With rates exemptions being a significant cause for concern for local governments caused by ambiguity over who is eligible for rates exemptions, the State government is presently considering changes in its current review of the *Local Government Act 1995* to address this issue. This matter is further exemplified by the lack of definition of a charity through common law.

In the case of a charitable land use application as this is, law firm Civic Legal through WALGA has stated that Section 6.26(2)(g) of the *Local Government Act, 1995* does not establish an '*as of right*' entitlement to a rate exemption on the basis of a claimant organisation's structure, purpose, objectives of the apparent land use.

The High Court of Australia has found that for an institution to be charitable it must be:

- (a) Within the spirit and intendment of the Preamble of Statute; and
- (b) For the public benefit

The Western Australian case law (arising from both the Courts and the State Administrative Tribunal) summarise that for a purpose to be charitable premised on the High Court's ruling there must be a public benefit, being a benefit directed to the general community or to a sufficient section of the community to amount to the public.

In considering whether to grant the exemption, it has been suggested by Civic Legal that Council need to consider the activity that is taking place on the land and not the status of the applicant. The fact that Southern Aboriginal Corporation is a recognized 'not for profit' organisation that is conducting an activity on the land should not be the singular determining factor in granting a rate exemption. Legislation states that it is the 'land use' that qualifies eligibility.

Furthermore, properties exempt from Local Government rates are not exempt from payment of the Emergency Services Levy (ESL).

**Consultation:**

There has been minimal consultation on this matter.

**Statutory Environment:**

Exemption on payment of rates is considered pursuant to Section 6.26(2) (G) 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 —*
  - (g) land used exclusively for charitable purposes;*
- (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.*

**Relevant Plans and Policy:**

There is no relevant plan or policy that relates to this request.

**Financial Implications:**

The application if supported will result in a rate revenue loss for the current year (2020/21) based on 2019/20 Rates figures:

A465 – Rates \$1160.62, Refuse Site Levy \$59.00 = \$1219.62

A466 – Rates \$1023.46, Refuse Site Levy \$59.00, Sewerage Levy \$609.70 = \$1692.16

This amounts to a total of \$2,911.78.

**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. This is discussed further in the Comment Section of the report.

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 – May 2018, 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 Southern Aboriginal Corporation does assist local Aboriginal individuals and families through the acquisition and maintenance of low-cost housing 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. While the Southern Aboriginal Corporation is clearly registered as a 'not for profit' charitable organisation, the rental income from the subject houses and first glance largely suggests the activity does not deliver broad community benefit. With this said, the exemption of rates is understood to well tested in various jurisdictions where, if challenged, a court or tribunal could overturn a decision to refuse a charitable rate exemption based on community benefit and precedent.

Such precedent appears to be evident where:

- In December 2013 the Supreme Court ruled in favour of the Community Housing Coalition WA, granting a rate exemption in relation to aboriginal housing in Western Australia, where again it is understood the Court determined the advancement of Aboriginal people was a charitable purpose and the activities conducted on the land were therefore exclusively charitable.
- Other Local Governments, including the Cities of Albany and Bunbury, and Shires of Narrogin and



Boddington have all granted a rate exemption to the Southern Aboriginal Corporation premised on the same request and supporting information.

Furthermore, Council could also incur legal costs well exceeding the value of the rates received should the matter be challenged.

**OFFICER RECOMMENDATION**

That Council in relation to the application from Southern Aboriginal Corporation grant pursuant to Section 6.26(g) of the Local Government Act, 1995 a rate exemption applicable to the 2020-21 financial year for the following properties accepting the Corporation is a registered charity:

- Lot 105 (Hn 44) Williams Street, Brookton
- Lot 126 (Hn 41) Richardson Street, Brookton

**OCM 08.20-12**

**COUNCIL RESOLUTION**

**MOVED Cr Fancote      SECONDED Cr Lilly**

***That Council in relation to the application from Southern Aboriginal Corporation grant pursuant to Section 6.26(g) of the Local Government Act, 1995 a rate exemption applicable to the 2020-21 financial year for the following properties accepting the Corporation is a registered charity:***

- ***Lot 105 (Hn 44) Williams Street, Brookton***
- ***Lot 126 (Hn 41) Richardson Street, Brookton***

**CARRIED BY ABSOLUTE MAJORITY VOTE 5/2**

**Attachments**

Attachment 14.08.20.04A - Exemption request letter

Attachment 14.08.20.04B - ATO Endorsement as an income tax exempt charitable entity

Attachment 14.08.20.04C - ATO Endorsement as a deductible gift recipient

Attachment 14.08.20.04D - Application form for Lot 105 William Street Brookton

Attachment 14.08.20.04E - Application form for Lot 126 Richardson Street Brookton



The Rates Officer  
Shire of Brookton  
14 White Street  
Brookton 6306

Dear Sir/Madam

Request for Reduction in Annual Property Rates for Town of Brookton

As the Property Management Officer for the Southern Aboriginal Corporation, I wish to request that the property rates for the community housing properties within the city of Brookton owned by the Southern Aboriginal Corporation be waived.

The Southern Aboriginal Corporation is a charitable organisation, incorporated as a not-for-profit Aboriginal Corporation under the Commonwealth Aboriginal and Torres Strait Islander Act 2006 (please see attached a Certificate of Incorporation and Rule Book of the Corporation) whose objectives are:

3.1 To act as a resource agency for Aboriginal organisations, groups, enterprises and individuals in the region, and in particular to provide as requested: (a) representation to Government and other organisations; (b) support for representation made by others; (c) advice and assistance (d) reviews of functions and operations; and (e) management and financial service.

3.2 To provide social, cultural, economic, political, educational and recreational services to Aboriginal organisations, groups, enterprise and individuals in the regions when those services are not provided by other bodies.

3.3 To provide Aboriginal people in the region with direct relief from poverty, sickness, suffering, destitution, misfortune, distress and helplessness.

3.4 To give effect to the principles of self management and self determination for Aboriginal people by; (a) establishing, owning, investing in, sponsoring, maintaining, managing, leasing and otherwise

fostering business enterprises and commercial ventures of any lawful kind; and (b) promoting, supporting and sponsoring the endeavours of Aboriginal organisation, groups, enterprises and individuals in the region towards social, cultural and economic development

3.5 To promote, support, sponsor, engage in facilitate the creation of opportunities for Aboriginal people education, training, employment and private enterprise.

3.6 To promote, support, sponsor, engage in and facilitate the provision to Aboriginal people of health, housing and other services.

3.7 To acquire, hold and manage land, buildings, fixtures, chattels and other property for the benefit of Aboriginal people in the region.

3.8 To help and encourage Aboriginal people in the region, to maintain, restore, revitalise and renew their traditional language and culture.

3.9 To help build trust and friendship between Aboriginal people and the Non-Aboriginal community.

3.10 To join with other Aboriginal associations in undertaking projects of mutual benefit.

3.11 To receive and spend grants of money from Government of the Commonwealth or State or from other sources.

It is our understanding that under Section 6.26 (rateable land) of the Local Government Act 1995, land used exclusively for charitable purposes is exempt from property rates.

The residential properties (please see attached list) are leased by the Southern Aboriginal Corporation to Aboriginal Tenants in the Brookton area. Prospective tenants must meet set criteria, including the following criterion which establishes need (section 2.1.2 of the Southern Aboriginal Corporation Housing Policy and Procedure Manual)

Gross household income not exceeding the limits set out in Table 1A and 1B of Appendix A- Community Housing; Income and Assets Limits Policy. Refer to the Appendix for further information regarding SACH's obligations as a Preferred Provider of Community Housing.

The Southern Aboriginal Corporation is a registered Community Housing organisation and manages it's housing program in accordance with the national standards that apply to registered not-for-profit community housing organisations.

The Community Housing Coalition WA have published in December 2013 a review (Community Housing Providers and Local Government Rates). This review notes that in Western Australia: in relation to indigenous housing, the Supreme Court has granted a rates exemption because:

- (a) The advancement of Aboriginal people was a charitable purpose;
- (b) The activities conducted upon the land were exclusively charitable.

In this particular case, the land was used by an Aboriginal Corporation to provide low cost rental housing for economically disadvantaged Indigenous people. The proceeds were used by the Corporation to pay bills, cover office costs and generally further the objects of the organisation, but not in order to generate profit. A number of not for profit projects were also undertaken on the land, which aimed to improve living conditions, keep people occupied, discourage excessive alcohol drinking, create self respect and (theoretically) create income to further the Corporations objects.

This ruling coincides with our purpose as a community Housing organisation, our not for profit status and the objectives of our Corporation.

Our properties are well maintained and our tenants are a credit to their neighborhoods. Tenancies tend to be stable and often continue for many years. We believe that our program supports a positive image of Aboriginal people within the Town of Brookton.

Government has progressively reduced funding support for Aboriginal housing organisations. From July 2014 we no longer receive funding support to assist us in providing affordable community housing to Aboriginal people. This places great financial pressure on our organisation to continue to provide quality, affordable housing to our tenants.

We therefore request that approval be granted for the waiver of Property Rates for the Southern Aboriginal Corporation properties attached with the town of Brookton allowed for under the Local Government Act 1995.

Yours sincerely  
SOUTHERN ABORIGINAL CORPORATION

Noeleen Drummond  
Property Management Officer  
6 February 2020



Australian Taxation Office

Date of Issue  
8 June 2000

## Endorsement as an income tax exempt charitable entity

Endorsement as an income tax exempt charitable entity under Subdivision 50-B of the *Income Tax Assessment Act 1997* is provided as detailed below.

Name	SOUTHERN ABORIGINAL CORP
Australian Business Number	94 436 195 200
Endorsement date of effect	1 July 2000
Item(s) in Subdivision 50-5 of the <i>Income Tax Assessment Act 1997</i>	Item 1.1 - charitable institution

You are required to notify the Commissioner of Taxation should you cease to be entitled to endorsement as an income tax exempt charitable entity. This is a requirement of section 50-145 of the *Income Tax Assessment Act 1997*.

A handwritten signature in black ink, reading 'Michael Carmody'.

Michael Carmody  
Commissioner of Taxation and  
Registrar of the Australian Business Register





Australian Taxation Office

Date of Issue  
8 June 2000**Endorsement as a deductible gift recipient**

Endorsement as a deductible gift recipient under Subdivision 30-BA of the *Income Tax Assessment Act 1997* is provided as detailed below.

Name	<b>SOUTHERN ABORIGINAL CORP</b>
Australian Business Number	<b>94 436 195 200</b>
Endorsement date of effect	<b>1 July 2000</b>
Provision for gift deductibility	<b>item 1 of the table in section 30-15 of the <i>Income Tax Assessment Act 1997</i></b>
Item(s) in Subdivision 30-B of the <i>Income Tax Assessment Act 1997</i>	<b>4.1.1 public benevolent institution</b>

The fact that you have been endorsed, together with the date or period of effect, is entered in the public register maintained by the Australian Business Registrar.

Endorsement imposes certain obligations on the endorsed entity. The obligations include the maintenance of a gift fund, advising the ATO when entitlement to endorsement ceases, and inclusion of certain details on receipts. Each of these is explained in the ATO publication *Giftpack*. These obligations are imposed by sections 30-125, 30-160 and 30-228 of the *Income Tax Assessment Act 1997*.

Michael Carmody  
Commissioner of Taxation and  
Registrar of the Australian Business Register

**Privacy**

The personal information collected on this form will only be used by the Shire of Brookton for the sole purpose of providing requested and related services. Information will be stored securely by us and will not be disclosed to any third parties without your express written consent.

Shire of Brookton  
PO Box 42  
BROOKTON WA 6306

**ABN****Phone:****Fax:****Email :****Website :**

This application form is to be used by organisations seeking exemption from rates, pursuant to the provisions of Section 6.26 of the Local Government Act 1995. In doing so you are objecting to the rate book under Section 6.76 of the Local Government Act 1995. The application for exemption will be checked based on the information you have provided, and you will be advised of the outcome in due course. Please attach any additional documents requested, as failure to do so may result in the application being refused.

Please note that where exemption from rates is approved, the property will still be subject to the Emergency Services Levy and any other service fees or charges, if applicable, such as rubbish collection charges. All properties granted exemption from rates are subject to periodic reviews to ensure continued approval.

**Instructions:** Please print clearly in the spaces provided.

**1. PROPERTY ADDRESS DETAILS****Street address**

41 RICHARDSON STREET

**Suburb**

BROOKTON

**Rates Assessment Number (if known)**

A 465

**2. WHAT IS THE CURRENT USE OF THE PROPERTY? Please provide full details:**

PROPERTY IS CURRENTLY VACANT AND HAS BEEN VACANT FOR A LONG PERIOD OF TIME DUE TO COST OF REPAIRS TO BE DONE. WHEN REPAIRED IT WILL ACCOMMODATE AN ABORIGINAL FAMILY IN NEED.

**3. PROPERTY OWNER DETAILS**

<b>Organisation:</b>	SOUTHERN ABORIGINAL CORPORATION		
<b>Property Owner:</b> If different to above			
<b>Postal Address:</b>	PO BOX 5277 ALBANY		
<b>Telephone:</b>	98 427777	<b>Postcode:</b>	6332
<b>Mobile:</b>	0498 665 713	<b>Facsimile:</b>	98 417022
<b>E-mail:</b>	noeleen@sacorp.com.au		

**4. APPLICANT DETAILS**

<b>Contact Person:</b>	NOELEEN DRUMMOND		
<b>Position Title:</b>	PROPERTY MANAGEMENT OFFICER		
<b>Postal Address:</b>	PO BOX 5277		
<b>Telephone:</b>	98 427777	<b>Postcode:</b>	6332
<b>Mobile:</b>	0498 665 713	<b>Facsimile:</b>	98 417022
<b>E-mail:</b>	noeleen@sacorp.com.au		

**5. ORGANISATION INFORMATION****Is/does the organisation:**

An incorporated body as per the Associations Incorporations Act 2015?

Yes ☒ No ☐

If yes, provide a Certificate of Incorporation

Provide an extract of the relevant certificate from the ACNC.

Yes ☒ No ☐

Have a tax exemption from the Australian Tax Office (ATO)?  
If yes, provide a certificate of tax exemption from the ATO

Yes ☒ No ☐

Leasing the property? N/A  
If yes, provide a copy of the lease and confirm if the lessee is responsible for payment of the rates

Yes ☐ No ☒

Have planning approval for the land use of the property? N/A  
A site inspection may be required before the application is processed

Yes ☐ No ☒

## 6. DOCUMENTATION REQUIREMENTS

Please provide a copy of (in addition to those specified in Section 4):

- ☒ Organisation's Constitution
- ☒ Written statement outlining the nature of the Organisation's operations.

It should include the following details:

- Confirm the grounds upon which an objection is being made to the rate record under Section 6.76 of the Local Government Act 1995
- Confirm the grounds upon which the exemption application applies under Section 6.26 of the Local Government Act 1995
- Use and occupancy of the land, inclusive of date of commencement
- Type of service provided (e.g. food, accommodation etc)
- Frequency of service provision (e.g. full-time, daily, weekly etc)
- Whether payment is received for the service
- If there is commercial activity conducted on the land, provide details of the activity and if revenue is raised, where it is disbursed

- ☐ A plan of the property, showing all buildings and outbuildings *N/A*
- OR**
- ☐ A floor plan of the leased property area, if only part of the property is the subject of this application
- ☒ A Copy of the current years audited financial statements for the Organisation  
(If this exemption applies to only a portion of land owned by this Organisation, provide the relevant statements for the land this application applies to.)

## 7. AUTHORISATION

By signing this application, I hereby certify that the information provided is true and correct to the best of my knowledge.

<b>Name:</b>	NOREEN DRUMMOND		
<b>Position:</b>	PROPERTY MANAGEMENT OFFICER		
<b>Organisation:</b>	SOUTHERN ABORIGINAL CORPORATION		
<b>Signature of Applicant:</b>	<i>N. Drummond</i>	<b>Date:</b>	6/2/20

**Privacy**

The personal information collected on this form will only be used by the Shire of Brookton for the sole purpose of providing requested and related services. Information will be stored securely by us and will not be disclosed to any third parties without your express written consent.

Shire of Brookton  
PO Box 42  
BROOKTON WA 6306

**ABN**

**Phone:**

**Fax:**

**Email :**

**Website :**

This application form is to be used by organisations seeking exemption from rates, pursuant to the provisions of Section 6.26 of the Local Government Act 1995. In doing so you are objecting to the rate book under Section 6.76 of the Local Government Act 1995. The application for exemption will be checked based on the information you have provided, and you will be advised of the outcome in due course. Please attach any additional documents requested, as failure to do so may result in the application being refused.

Please note that where exemption from rates is approved, the property will still be subject to the Emergency Services Levy and any other service fees or charges, if applicable, such as rubbish collection charges. All properties granted exemption from rates are subject to periodic reviews to ensure continued approval.

Instructions: Please print clearly in the spaces provided.

**1. PROPERTY ADDRESS DETAILS**

Street address

44 WILLIAMS STREET

Suburb

BROOKTON

Rates Assessment Number (if known)

A 466

**2. WHAT IS THE CURRENT USE OF THE PROPERTY? Please provide full details:**

PROPERTY IS BEING USED AS A HOME FOR AN ABORIGINAL FAMILY. CURRENT TENANT LOOKS AFTER HER GRANDCHILDREN IN THE HOME AS WELL.



## 3. PROPERTY OWNER DETAILS

Organisation:	SOUTHERN ABORIGINAL CORPORATION		
Property Owner: if different to above			
Postal Address:	PO Box 5277 ALBANY		
Telephone:	98 427777	Postcode:	6332
Mobile:	0498 665 713	Facsimile:	98 417022
E-mail:	noeleen@sacorp.com.au		

## 4. APPLICANT DETAILS

Contact Person:	NOELEEN DRUMMOND		
Position Title:	PROPERTY MANAGEMENT OFFICER		
Postal Address:	PO Box 5277		
Telephone:	98 427777	Postcode:	6332
Mobile:	0498 665 713	Facsimile:	98 417022
E-mail:	noeleen@sacorp.com.au		

## 5. ORGANISATION INFORMATION

Is/does the organisation:

An incorporated body as per the Associations Incorporations Act 2015?

Yes ☒ No ☐

If yes, provide a Certificate of Incorporation

Provide an extract of the relevant certificate from the ACNC.

Yes ☒ No ☐Have a tax exemption from the Australian Tax Office (ATO)?  
If yes, provide a certificate of tax exemption from the ATOYes ☒ No ☐

Leasing the property?

N/A

If yes, provide a copy of the lease and confirm if the lessee is responsible for payment of the rates

Yes ☐ No ☒Have planning approval for the land use of the property?  
A site inspection may be required before the application is processed

N/A

Yes ☐ No ☒

## 6. DOCUMENTATION REQUIREMENTS

Please provide a copy of (in addition to those specified in Section 4):

- ☒ Organisation's Constitution
- ☒ Written statement outlining the nature of the Organisation's operations.

It should include the following details:

- Confirm the grounds upon which an objection is being made to the rate record under Section 6.76 of the Local Government Act 1995
- Confirm the grounds upon which the exemption application applies under Section 6.26 of the Local Government Act 1995
- Use and occupancy of the land, inclusive of date of commencement
- Type of service provided (e.g. food, accommodation etc)
- Frequency of service provision (e.g. full-time, daily, weekly etc)
- Whether payment is received for the service
- If there is commercial activity conducted on the land, provide details of the activity and if revenue is raised, where it is disbursed

☐ A plan of the property, showing all buildings and outbuildings *N/A*

OR

☐ A floor plan of the leased property area, if only part of the property is the subject of this application

☒ A Copy of the current years audited financial statements for the Organisation  
(If this exemption applies to only a portion of land owned by this Organisation, provide the relevant statements for the land this application applies to.)

## 7. AUTHORISATION

By signing this application, I hereby certify that the information provided is true and correct to the best of my knowledge.

Name:	NOELEN DRUMMOND		
Position:	PROPERTY MANAGEMENT OFFICER		
Organisation:	SOUTHERN ABORIGINAL CORPORATION		
Signature of Applicant:	<i>N Drummond</i>	Date:	6/2/20

Cr Lilly declared a financial interest in item 14.08.20.05 and left the meeting at 6.34pm.

#### **14.08.20.05 DROUGHT COMMUNITIES PROGRAM FUNDING APPLICATION**

<b>File No:</b>	ADM 0708
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	N/A
<b>Name of Owner:</b>	N/A
<b>Author/s:</b>	Ian D'Arcy – Chief Executive Officer
<b>Authorising Officer:</b>	As above
<b>Declaration of Interest:</b>	The authors have no interests in this item
<b>Voting Requirements:</b>	Absolute majority
<b>Previous Report:</b>	16 July 2020

#### **Summary of Item:**

This item is for Council to determine the allocation of \$500,000 of grant funding from the Commonwealth Government's Drought Communities Grant Program, which was laid on the table at the 16<sup>th</sup> July 2020 Ordinary Meeting of Council with no defined timeline for the matter to be presented back to Council. Notwithstanding, given a request of the draft Reserve 43158 Management Plan to be placed back on this Council Meeting Agenda, this item is also being re-presented for Council's further consideration.

Following a public meeting on the draft Management Plan, and given recent advertising of a Master Plan for upgrading the Shire of Pingelly's existing Caravan Park with incorporation of chalet units, this grant funding allocation has been amended to reflect:

- a) A new Community Garden/Men's Shed;
- b) A Youth/Girl Guides Shed;
- c) Stage 1 upgrade of the existing Brookton Caravan Park incorporating two chalet units.

Further detail on these proposals is provided in the body of this report.

#### **Description of Proposal:**

As reflected above there are now three distinct projects identified for allocation of the Drought Communities Grant Program, being a new co-located Men's Shed/Community Garden building to support their respective activities, a similar building for shared use for the Noongar Youth Group/Bandicoot Girl Guides and a new caravan park with Stage 1 involving an upgrade of the ablution facility, a new campers kitchen, and two new chalet units.

The following **Figures 1** and **2** extracted from the draft Reserve Management Plan for Crown Reserve 43158 provides an indicative understanding of both buildings.



**Figure 1 – Indicative design of Community Garden/Men's Shed Building**



**Figure 2 – Indicative design of Youth Group/Girl Guides Shed Building**



**Figure 3 – Indicative design of a Chalet Building**

### Background:

The Australian Government announced a commitment to provide funding for Local Governments under the Drought Communities Program on January 28<sup>th</sup>, 2020 with the Shire of Brookton being nominated as *Shire of Brookton Ordinary Meeting of Council – 20 August 2020 – Minutes*

one of the successful recipients.

One of the criteria of the Drought Funding is that those Local Governments with a population of less than 1,000 residents, such as Brookton, may qualify for a \$500,000 grant, while those with over 1,000 residents could receive up to \$1,000,000 in Commonwealth Funding providing projects meet the balance of selection criteria for funding. With this in mind, initial discussion with Councillors yielded two projects worthy of progressing as identified in the Council's Integrated Planning and Reporting (IPR) process based on \$450,000 allocated toward new Caravan Park chalet units, and \$50,000 toward construction of a co-located Community Garden/Men's Shed.

Subsequently, following advertising of the draft Reserve Management Plan for Crown Reserve 43158 and a public meeting on understanding the purpose and content of the Plan together with the Shire of Pingelly and Shire of Beverley now proposing to upgrade their Caravan Parks incorporating 5 chalet units each, it is promoted this Council only build two chalets to address immediate need to short stay self-contained accommodation in Brookton.

Accordingly, this report now seeks Council's formal endorsement of the proposed allocation (or an alternative) to allow lodgment of the Commonwealth Drought Funding Grant application that must be expended and acquitted by the 30<sup>th</sup> June 2021.

**Consultation:**

The Brookton Next Generation commenced as an innovation process to bring about change for Brookton in line with community expectations. The program sought to give the Brookton community a foundation to voice their opinions or put innovative ideas to Council through the Book of Ideas. The Book of Ideas applications then being addressed within the IPR Structure via advisory group meetings appointed with a combination of Councillors, Shire Staff and Community Members.

The proposed Brookton Community Garden/Men's Shed, Brookton Noongar Youth/Girl Guides and new Brookton Caravan Park chalet units have been fostered through the Council's Innovations Pathway to be identified on the draft Brookton Reserve 43158 Management Plan. Much discussion has been had on these projects by members of the community through a formal public submission process on the draft Management Plan and subsequent public meeting convened on the 29<sup>th</sup> July 2020.

**Statutory Environment:**

If the officer recommendation is supported the funding application will be lodged and if approved the allocation will formally be addressed as an amendment to the 2020-21 budget in accordance with Section 6.2 (1) of the *Local Government Act, 1995*.

Further, construction of the Caravan Park Chalets may need to be progressed through a public tender process in accordance with Section 3.57 of the *Local Government Act, 1995* and Regulation 11 of the Local Government (Functions and General) Regulations, 1996 should the total cost exceed \$250,000 (excl GST).

Additionally, to progress development of these projects the Council may delegate authority to the CEO pursuant to Section 5.42 of the *Local Government Act, 1995*.

**Relevant Plans and Policy:**

The projects align to the draft Reserve 43158 Management Plan with the provision of chalet accommodation also aligned to the Council's Corporate Business Plan <2021.



### Financial Implications:

Regarding the proposed Chalets, some submissions have questioned the Shire for its lack of diligence in preparing a business plan to substantiate the need and financial return from form of investment. Conversely, the response to these public questions has been:

- a) The chalets are self-contained cabins typically associated with a caravan park. It is not clear why the Shire would need to rely on the occupancy rates of bed and breakfast style hotel accommodation providers when it is a different form of short stay accommodation that does not necessarily suit travellers and workers seeking self-contained cabin accommodation that offers a private kitchen and ablution facilities.*
- b) The Shire has entertained discussions with corporate and other businesses through the Council's Integrated Planning and Reporting framework, with these businesses expressing the need for self-contained short stay and permanent housing accommodation in Brookton. Local Government, consistent with other tiers of Government, has sought to respond to this need in the interest of fostering economic development and growth with the view to achieving 'flow on' benefits for the local community such as local job creation, increased local expenditure, and improved student enrolments.*
- c) The primary objective is to deliver a service in response to market need for self-contained accommodation on a cost neutral basis or better. The Shire is not seeking to compete with existing local businesses, but rather address a need for this form of accommodation as has been expressed to Council through its IPR framework. For local governments the measures of benefits are not just financial return, but broader economic and social well-being for the community.*

Furthermore, Regulation 9 of the Local Government (Function and General) Regulations, 1996 states that a business plan is not required for a trading undertaking (ie chalets) where the cost is the lesser of —

- (i) \$2, 000 000; or
- (ii) 10% of the lowest operating expenditure realised and projected across three financial years.

To this end the Shire's expenditure has or is projected to be:

Year	Expenditure (rounded)	10% of Shire Expenditure
2018-19	\$ 9.8m	\$ 980,000
2019-20	\$ 9.0m	\$ 900,000
2020-21	\$ 6.8m	\$ 680,000*

\* No longer includes Residential Aged Care costs

Based on the above figures the cost of establishing chalet units will not exceed the stated threshold and therefore does not require a business plan for this development. Additionally, the proposed chalets are to be funded through this Commonwealth Government grant of \$500,000 meaning there will be minimal impact on the Shire's own finances resources, excluding re-current operational and maintenance costs incurred annually that should mostly be offset by rental returns.

The placement of 2 x Chalet Units at the existing Caravan Park together with construction of a Campers Kitchen facility is projected to be:

Caravan Park Chalet Buildings (Stage 1)

Description of Works	Drought Funding Grant	Shire of Brookton Contribution	Total
Building Approval, Soil condition analysis and site works x 2 sites	\$ 5,000		\$ 5,000
2 Bed chalet units x 2 (disable configured delivered/installed on site)	\$ 240,000		\$ 240,000
Chalet furnishings/fit out x 2		\$ 15,000	\$ 15,000
Utility connections x 2 sites (incl. retic power, water, sewerage)	\$ 10,000		\$ 10,000
Camper's Kitchen (including fit-out)	\$ 25,000		\$ 25,000
Paving, landscaping, bin storage, etc.	\$ 5,000		\$ 5,000
Ablution refurbishment	\$ 15,000		\$ 15,000
Concrete Pads to min. 4 caravan sites and improved signage		\$ 10,000	\$ 10,000
Project contingency		\$ 10,000	\$ 5,000
<b>Overall Total</b>	<b>\$ 300,000</b>	<b>\$ 35,000</b>	<b>\$ 335,000</b>

The Shire contribution is in the order of \$35,000 that would be drawn from Brookton Caravan Park Reserve, with \$10,000 being a contingency that may not be required. Presently Brookton Caravan Park Reserve has a balance of \$154,000 (*rounded*).

Co-located Community Garden/Men's Shed and Youth/Girl Guides Buildings

Description of Works	Drought Funding Grant	Shire of Brookton Contribution	Total
2 x Site works	\$ 5,000		\$ 5,000
2 x Shed building (incl. delivery, erection, concrete floor)	\$ 150,000		\$ 150,000
2 x Utility connections (incl. retic power, water, sewerage)	\$ 15,000		\$ 15,000
Basic Shed fit out (incl. kitchens, ablutions)	\$ 25,000		\$ 25,000
2 x concrete aprons	\$ 5,000		\$ 5,000
Project contingency		\$ 10,000	\$ 10,000
<b>Overall Total</b>	<b>\$ 200,000</b>	<b>\$ 10,000</b>	<b>\$ 210,000</b>

The Council's contribution for these two buildings is \$10,000 from the Municipal Building Reserve that also constitutes a contingency and therefore may not be required. This Reserve has a closing balance for the 2019-20 financial year of \$329,433.45 and is also proposed to be topped up by a further \$300,000 in 2020-21 budget with these funds coming from re-allocation of the Kalkarni funding.

**Risk Assessment:**

Risks associated with the allocation of funds is considered Low. While there may be some differing views

on the proposed expenditure, predominantly the feedback has been positive, notwithstanding some opposition from two local accommodation providers. As presented in other reports, the placement of chalets in Brookton will provide self-contained accommodation that is not currently available and will assist in offering a choice of accommodation for travelers and seasonal workers that will yield economic benefit for small businesses in the area.

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:

1. The BROOKTON Strategic Community Plan <2027 and aligns to the following objectives of the BROOKTON 20:
  3. Social Innovation
  4. Jobs and Volunteering
  8. Visitation and Transient Population
  9. Community Engagement
  14. History, Heritage, Recreation and Culture
  16. Community Activity and Visitor Eventing
2. The 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 application for a funding aligns to:

*Function 3 Integrated Planning and Reporting*

*Action 3.7 – Progress/project manage CBP ‘proponent’ listed projects*

*Function 24 Community Support*

*Action 24.6 – Support seniors, youth, culture, sport / recreation group activities*

## **Comment**

As the respective projects have been identified through Council's IPR processes, promoted with the community through advertising and consultation of the draft Reserve 43158 Management Plan, and accord to the set criteria detailed in the Drought Funding Grant program, it is recommended the Council proceed with lodgment of an application that aligns to this report.

## **OFFICER RECOMMENDATION**

That Council endorses:

1. Lodgment of the Drought Communities Grant Application premised on the following allocation of funds:
  - a) Community Garden / Men's Shed                      \$ 100,000
  - b) Youth / Girl Guides Shed                                \$ 100,000
  - c) Caravan Park Upgraded – Stage 1                      \$ 300,000
2. Pursuant to Section 6.2 (1) of the Local Government Act, 1995 the allocation of the following contribution funding to be included with recommendation 1 above as an amendment to the 2020-21 draft Budget should the Drought Communities grant funding be approved:
  - a) Community Garden / Men's Shed                      \$ 10,000 (Municipal Building & Facility Reserve)
  - b) Caravan Park Upgrade – Stage 1                      \$ 35,000 (Brookton Caravan Park Reserve)
3. To call for quotations or if required tendering of works pursuant to Section 3.57 of the Local Government Act, 1995 and Regulation 11 of the Local Government (Functions and General) Regulations, 1996 as per Council's Procurement Policy 2.36 to construct/perform the following works once the Drought Communities Grant Application has been approved and associated documentation executed:
  - a) Construction (to BCA standards, engineering plans and specifications, and uniformity in design characteristics), transportation and installation of 2 x prefabricated transportable chalet units in the following configurations to be sited at the Brookton Caravan Park:
    - i. 2 x 2 bedroom/1 bathroom chalet units with laundry facilities and small covered verandah/patio to disability access standards;
  - b) Fabrication and erection (to BCA standards, engineering plans and specifications) of:
    - i. 1 x 12m long x 9m wide colourbond clad 'Barn' style shed with concrete floor and aprons, inclusive of meeting room with kitchenette and unisex ablution (toilet, shower, wash basin) at the designated 'Community Garden lease area';
    - ii. 1 x 12m long x 9m wide colourbond clad 'Barn' style shed, inclusive of meeting room with kitchenette and unisex ablution (toilet, shower, wash basin) at the designated 'Youth Precinct';
    - iii. 1 x 6m long x 4.5m wide partly open colourbond camper's kitchen structure with concrete floor at the Brookton Caravan Park.

Note: Dimensions are indicative and subject to variation at the discretion of the CEO.

c) Upgrade, installation and connection of services in accordance with site layout plans and statutory requirements to:

- i. 2 x Chalet unit sites (retic power, water, effluent disposal);
- ii. 2 x shed sites (retic power, retic water, effluent disposal);
- iii. 1 x Camper's Kitchen.

d) Upgrade of caravan park infrastructure setting, including:

- i. Refurbishment of existing ablution facilities;
- ii. Installation of concrete pads and markers to existing caravan bays;
- iii. Establish landscaping and improved signage, including communal lawn area and additional shade trees.

4. The following evaluation criteria and weighting being applied for the call for tender submissions or quotes for the construction of 2 x chalet accommodation units at the Brookton Caravan Park:

Qualitative Criteria		Weighting
A	Relevant experience, resource capacity, reputation	10%
B	Understanding of specification	5%
C	Build and delivery timeframe (6 months)	10%
D	Price (construction, delivery, installation)	75%

5. Delegation to the CEO in accordance with Section 5.42 of the Local Government Act, 1995 for the following works to be performed by the Shire within the scope of funding and under the direction of the CEO (or his delegate):

- i. Preparation of detail site plans to scale and in conformity to legislative requirements
- ii. Preparation of project specifications
- iii. Obtain statutory approvals including Bushfire Attack Level and Building Permits where required
- iv. Project management and oversight
- v. Construction of road and pedestrian access and site works where applicable
- vi. Landscape planting, reticulation, paving where applicable
- vii. Signage
- viii. Building colour schemes and furnishings in natural colours
- ix. Other minor works particularly in relation to Caravan Park improvements such as signage etc.

(Absolute majority vote required)



**COUNCIL RESOLUTION**

**MOVED Cr Crute      SECONDED Cr Hartl**

***That Council endorses:***

- 1. Lodgment of the Drought Communities Grant Application premised on the following allocation of funds:**

- a) Community Garden / Men's Shed      \$ 100,000**
- b) Youth / Girl Guides Shed              \$ 100,000**
- c) Caravan Park Upgraded – Stage 1      \$ 300,000**

- 2. Pursuant to Section 6.2 (1) of the Local Government Act, 1995 the allocation of the following contribution funding to be included with recommendation 1 above as an amendment to the 2020-21 draft Budget should the Drought Communities grant funding be approved:**

- a) Community Garden / Men's Shed      \$ 10,000 (Municipal Building & Facility Reserve)**
- b) Caravan Park Upgrade – Stage 1      \$ 35,000 (Brookton Caravan Park Reserve)**

- 3. To call for quotations or if required tendering of works pursuant to Section 3.57 of the Local Government Act, 1995 and Regulation 11 of the Local Government (Functions and General) Regulations, 1996 as per Council's Procurement Policy 2.36 to construct/perform the following works once the Drought Communities Grant Application has been approved and associated documentation executed:**

- a) Construction (to BCA standards, engineering plans and specifications, and uniformity in design characteristics), transportation and installation of 2 x prefabricated transportable chalet units in the following configurations to be sited at the Brookton Caravan Park:**
  - i. 2 x 2 bedroom/1 bathroom chalet units with laundry facilities and small covered verandah/patio to disability access standards;**
- b) Fabrication and erection (to BCA standards, engineering plans and specifications) of:**
  - i. 1 x 12m long x 9m wide colourbond clad 'Barn' style shed with concrete floor and aprons, inclusive of meeting room with kitchenette and unisex ablution (toilet, shower, wash basin) at the designated 'Community Garden lease area';**
  - ii. 1 x 12m long x 9m wide colourbond clad 'Barn' style shed, inclusive of meeting room with kitchenette and unisex ablution (toilet, shower, wash basin) at the designated 'Youth Precinct';**
  - iii. 1 x 6m long x 4.5m wide partly open colourbond camper's kitchen structure with concrete floor at the Brookton Caravan Park.**

***Note: Dimensions are indicative and subject to variation at the discretion of the CEO.***

**c) Upgrade, installation and connection of services in accordance with site layout plans and statutory requirements to:**

- i. 2 x Chalet unit sites (retic power, water, effluent disposal);**
- ii. 2 x shed sites (retic power, retic water, effluent disposal);**
- iii. 1 x Camper's Kitchen.**

**d) Upgrade of caravan park infrastructure setting, including:**

- i. Refurbishment of existing ablution facilities;**
- ii. Installation of concrete pads and markers to existing caravan bays;**
- iii. Establish landscaping and improved signage, including communal lawn area and additional shade trees.**

**4. The following evaluation criteria and weighting being applied for the call for tender submissions or quotes for the construction of 2 x chalet accommodation units at the Brookton Caravan Park:**

<b>Qualitative Criteria</b>		<b>Weighting</b>
<b>A</b>	<b>Relevant experience, resource capacity, reputation</b>	<b>10%</b>
<b>B</b>	<b>Understanding of specification</b>	<b>5%</b>
<b>C</b>	<b>Build and delivery timeframe (6 months)</b>	<b>10%</b>
<b>D</b>	<b>Price (construction, delivery, installation)</b>	<b>75%</b>

**5. Delegation to the CEO in accordance with Section 5.42 of the Local Government Act, 1995 for the following works to be performed by the Shire within the scope of funding and under the direction of the CEO (or his delegate):**

- i. Preparation of detail site plans to scale and in conformity to legislative requirements**
- ii. Preparation of project specifications**
- iii. Obtain statutory approvals including Bushfire Attack Level and Building Permits where required**
- iv. Project management and oversight**
- v. Construction of road and pedestrian access and site works where applicable**
- vi. Landscape planting, reticulation, paving where applicable**
- vii. Signage**
- viii. Building colour schemes and furnishings in natural colours**
- ix. Other minor works particularly in relation to Caravan Park improvements such as signage etc.**

**CARRIED BY ABSOLUTE MAJORITY VOTE 6/0**

Cr Lilly returned to the meeting at 6.35pm.

<b>14.08.20.06 LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM FUNDING – BUDGET AMENDMENT</b>
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<b>File No:</b>	ADM 0709
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	N/A
<b>Name of Owner:</b>	N/A
<b>Author/s:</b>	Ian D’Arcy – Chief Executive Officer
<b>Authorising Officer:</b>	As above
<b>Declaration of Interest:</b>	The author has no interests in this item
<b>Voting Requirements:</b>	Absolute majority
<b>Previous Report:</b>	N/A

**Summary of Item:**

This item is for Council to determine the allocation of grant funding from the Commonwealth Government’s Local Roads and Community Infrastructure Program as an amendment to the 2020-21 Financial budget.

A list of works is detailed in the body of this report for the consideration and endorsement.

**Description of Proposal:**

The intent of this proposal is to allocation the funds to the following works:

- a) Bitumen sealing of Yourling Road for a length of 520 meters.
- b) Works complimentary to the formal closure of part of Sewell Street.
- c) Traffic management improvements to the intersection of Corderding Road, Whthall Street and Brookton Highway intersection.
- d) A range of improvements to the Shire Depot.

**Background:**

In response to the COVID-19 pandemic and the need to provide stimulus to the Australian economy, the Commonwealth Government has moved to offer grant funding to all Local Governments around Australia under the Local Roads and Community Infrastructure Program (see letter provided in **Attachment 14.08.20.06A** the funding offered to the Shire of Brookton amounting to \$255,540.

The grant funding criteria allows for these funds to be expended on additional capital works to what is usually budgeted for, and can include:

- Traffic signs and control equipment.
- Street lighting equipment.
- Bridge repairs.
- Rest/tourist information bays.
- Road work and car park upgrades.
- Extension to footpath network.
- Bicycle and walk paths.
- Painting and other improvements to community facilities.

- Repairs or replacement of fencing.
- Landscaping improvements.
- Upgrade of community parklands, playgrounds and skate parks.

Additionally, this funding is required to be expended and acquitted by the 30<sup>th</sup> June 2021.

#### Consultation:

Discussion has been entertained on this matter through the Council's July 2020 Corporate Briefing Forum so that an expression of interest (EOI) could be lodged with the Commonwealth Government by the due date of 31<sup>st</sup> July 2020 to qualify for this funding.

#### Statutory Environment:

If the officer recommendation is supported the funding application will be lodged and once approved the allocation will formally constitute an amendment to the 2020-21 budget in accordance with Section 6.2 (1) of the *Local Government Act, 1995*.

#### Relevant Plans and Policy:

There are no strategic plans or local policies applicable to this matter.

#### Financial Implications:

The following indicative allocations for works are proposed to be funded by this grant if approved and constitute an amendment to the 2020-21 budget:

Schedule	Cost Centre	Description	Amount
12	YOURSFC	Yourling Road – extend bitumen seal 520 metres.	\$ 85,000
12	SEWELSFC	Sewel Street Road Closure Improvements.	\$ 17,000
12	OTHERSFC	Corberding Road, Withall Street and Brookton Highway intersection and traffic management improvements.	\$ 22,000
14	E142519	Shire Depot Improvements (concrete floors to sheds, wash down facility, new site office and lunchroom, new fencing, sea container storage).	\$131,540
<b>Total</b>			<b>\$255,540</b>

#### Risk Assessment:

Risks associated with the allocation of funds is considered Low. Should this grant funding not be granted the Council may consider funding some of the prescribed works from Reserves for this financial year or defer to future budgets.

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 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 application for a funding aligns to:

- Function 9     Asset Management*
  - Action 9.8 – Review Asset Management Plan – Shire Works Depot*
  - Action 9.15 - Review Asset Management Plan – Townsite Road Networks Condition Assessment and Capital Works Program*
- Function 10   Works Program*
  - Action 10.1 – implement annual road works program*
- Function 11   Building Maintenance*
  - Action 11.1 – implement annual building maintenance program*

### Comment

Consistent with the Drought Funding Grant program, it is recommended the Council proceed with lodgment with an application under the Commonwealth Government's Local Roads and Community Infrastructure Program funding as aligned to this report and endorse the receipt of funding as an amendment to the 2020-21 budget.

### **OFFICER RECOMMENDATION**

That Council pursuant to Section 6.2 (1) of the Local Government Act, 1995 endorses allocation of the following grant funding as an amendment to the 2020-21 draft Budget should the Commonwealth Government's Local Roads and Community Infrastructure Program funding be approved:

Schedule	Cost Centre	Description	Amount
12	YOURSFC	Yourling Road – extend bitumen seal 520 metres.	\$ 85,000
12	SEWELSFC	Sewel Street Road Closure Improvements.	\$ 17,000
12	OTHERSFC	Corberding Road, Withall Street and Brookton Highway intersection and traffic management improvements.	\$ 22,000
14	E142519	Shire Depot Improvements (concrete floors to sheds, wash down facility, new site office and lunchroom, new fencing, sea container storage).	\$131,540
Total			\$255,540

(Absolute majority vote required)



**COUNCIL RESOLUTION****MOVED Cr Fancote      SECONDED Cr Watts**

*That Council pursuant to Section 6.2 (1) of the Local Government Act, 1995 endorses allocation of the following grant funding as an amendment to the 2020-21 draft Budget should the Commonwealth Government's Local Roads and Community Infrastructure Program funding be approved:*

<b>Schedule</b>	<b>Cost Centre</b>	<b>Description</b>	<b>Amount</b>
<b>12</b>	<b>YOURSFC</b>	<i>Yourling Road – extend bitumen seal 520 metres.</i>	<b>\$ 85,000</b>
<b>12</b>	<b>SEWELSFC</b>	<i>Sewel Street Road Closure Improvements.</i>	<b>\$ 17,000</b>
<b>12</b>	<b>OTHERSFC</b>	<i>Corberding Road, Withall Street and Brookton Highway intersection and traffic management improvements.</i>	<b>\$ 22,000</b>
<b>14</b>	<b>E142519</b>	<i>Shire Depot Improvements (concrete floors to sheds, wash down facility, new site office and lunchroom, new fencing, sea container storage).</i>	<b>\$131,540</b>
<b>Total</b>			<b>\$255,540</b>

**CARRIED BY ABSOLUTE MAJORITY VOTE 7/0**

**Attachment**

Attachment 14.08.20.06A



**THE HON MICHAEL MCCORMACK MP**  
Deputy Prime Minister  
Minister for Infrastructure, Transport and  
Regional Development

**THE HON MARK COULTON MP**  
Minister for Regional Health, Regional  
Communications and Local Government

Ref: MS20-000934

Cr Katrina Crute  
Shire of Brookton  
PO Box 42  
BROOKTON WA 6306

Dear Shire President

**Letter of Offer – Local Roads and Community Infrastructure Program**

We are writing to offer you, Shire of Brookton ABN 74 164 408 055, an Australian Government Grant under the Local Roads and Community Infrastructure (LRCI) Program.

The offer is for a grant of \$255,450 total, excluding GST, (the 'Grant') to undertake the Grant Activity as set out in the attached Grant Agreement.

The LRCI Program aims to assist a community-led recovery from COVID-19 by supporting local jobs, firms, and procurement. It is expected councils, where possible, will use local businesses and workforces to deliver projects under the LRCI Program to ensure stimulus funding flows into local communities. Program guidelines are included with this letter and can also be accessed through the Department's website at [www.investment.infrastructure.gov.au/lrci](http://www.investment.infrastructure.gov.au/lrci).

To accept this offer in relation to the Grant, please sign the attached Grant Agreement and send or email a scanned copy to [IIP@infrastructure.gov.au](mailto:IIP@infrastructure.gov.au) by 31 July 2020, otherwise this offer will lapse. A legally binding agreement will be created once the Grant Agreement has also been signed by the Commonwealth, represented by the Department of Infrastructure, Transport, Regional Development and Communications ABN 86 267 354 017.

In agreeing to and signing the Grant Agreement, you confirm that you have read and understood the Program Guidelines and Grant Agreement.

Yours sincerely

**MICHAEL MCCORMACK**

**MARK COULTON**

Enc

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The Hon Michael McCormack MP  
Parliament House Canberra | (02) 6277 7520 | [minister.mccormack@infrastructure.gov.au](mailto:minister.mccormack@infrastructure.gov.au)  
Suite 2, 11-15 Fitzmaurice Street, Wagga Wagga NSW 2650 | [michael.mccormack.mp@aph.gov.au](mailto:michael.mccormack.mp@aph.gov.au)

#### 14.08.20.07 LOCAL GOVERNMENT HOUSE TRUST – DEED OF VARIATION

<b>File No:</b>	ADM0208
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	Western Australian Local Government Association (WALGA)
<b>Name of Owner:</b>	All WA Local Governments
<b>Author/s:</b>	Ian D’Arcy – Chief Executive Officer
<b>Authorising Officer:</b>	As above
<b>Declaration of Interest:</b>	The author has no interest in this matter
<b>Voting Requirements:</b>	Simple majority
<b>Previous Report:</b>	N/A

#### **Summary of Item:**

This item seeks Council’s consent to a variation of the deed of agreement for the Local Government House Trust under the Management of the Western Australian Local Government Association (WALGA).

#### **Description of Proposal:**

As above.

#### **Background:**

The Shire is in receipt of email correspondence from WALGA Chief Executive Officer seeking Council’s consent by formal resolution to vary the Trust Deed for the Local Government House Trust (“The Trust”).

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

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

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

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

#### **Background on the Local Government House Trust**

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

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

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

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

### **Trust Deed Variation**

Trust Deed amendments set out in the Deed of Variation are based on legal advice and are intended to assist the Trust's income tax exempt status by strengthening the position that the Trust is a State / Territory Body (STB). Legal advice identified that the Trustee's ability to retire and appoint a new Trustee might affect the Trust's classification as a State or Territory Body (STB). This view, while based upon highly technical grounds, is a risk nonetheless.

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

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

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

1. Variation 2.1 amends clause 22.1 to point to additional clause:  
22.1 Any Trustee of the Trust may retire as Trustee of the Trust **Subject to clause 22.3**, the right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.
2. Variation 2.2 inserts two new clauses:  
**22.3 The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.**

#### **22.4 The Beneficiaries may at any time by Special Resolution:**

- (a) remove a Trustee from the office as Trustee of the Trust; and
- (b) appoint such new or additional Trustee.

3. Variation 2.3 insert a new clause 13A  
**13A Delegation to the Board of Management**  
Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.

### **Consultation:**

There has not been any consultation on this matter.

**Statutory Environment:**

Broadly the matter is covered under the following legislation:

- *Local Government Act 1995*
- *Income Tax Assessment Act 1936*

**Relevant Plans and Policy:**

There is no relevant plan or policy that relates to this request.

**Financial Implications:**

There are no financial implications in relation to this matter.

**Risk Assessment:**

There is minimal risk associated with the proposed variations as the Trustees and Board members are predominantly one and the same, being Local Government representatives.

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 – May 2018, duly appended to the Next Generation BROOKTON Corporate Business Plan <2021.

Specifically, application for a rate exemption aligns to:

*Function 1 – Governance*

*Action 1.13 – Support regional relations*

**Comment:**

The first two amendments outlined above remove powers granted to the Trustee in the 2002 Deed Variation resulting from the merger to a single Association representing WA Local Governments. These amendments which previously facilitated the transfer of trusteeship to the then new Western Australian

Local Government Association are removed, but with the clarification that any appointment must be with the consent of the beneficiaries.

The final amendment intends to confirm that power rests with the Board of Management. As the Board of Management comprises Local Governments, this satisfies the requirements of a STB for tax purposes. This amendment reflects the actual operation of the Trustee in implementing the decisions of the Board of Management whilst retaining sufficient operational discretion to place and renew investments and pay suppliers.

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

### **OFFICER RECOMMENDATION**

That Council in relation to the Local Government House Trust – Deed of Variation:

1. Endorse the variations to the Trust Deed for the Local Government House Trust (The Trust) as detailed in Attachment 14.08.20.07A to this report
2. Inform the Local Government House Trust's Board of Management on Council position on this matter.

(Simple majority vote required)

### **OCM 08.20-15**

#### **COUNCIL RESOLUTION**

**MOVED Cr Walker                      SECONDED Cr Lilly**

***That Council in relation to the Local Government House Trust – Deed of Variation:***

- 1. Endorse the variations to the Trust Deed for the Local Government House Trust (The Trust) as detailed in Attachment 14.08.20.07A to this report***
- 2. Inform the Local Government House Trust's Board of Management on Council position on this matter.***

***CARRIED BY SIMPLE MAJORITY VOTE 7/0***

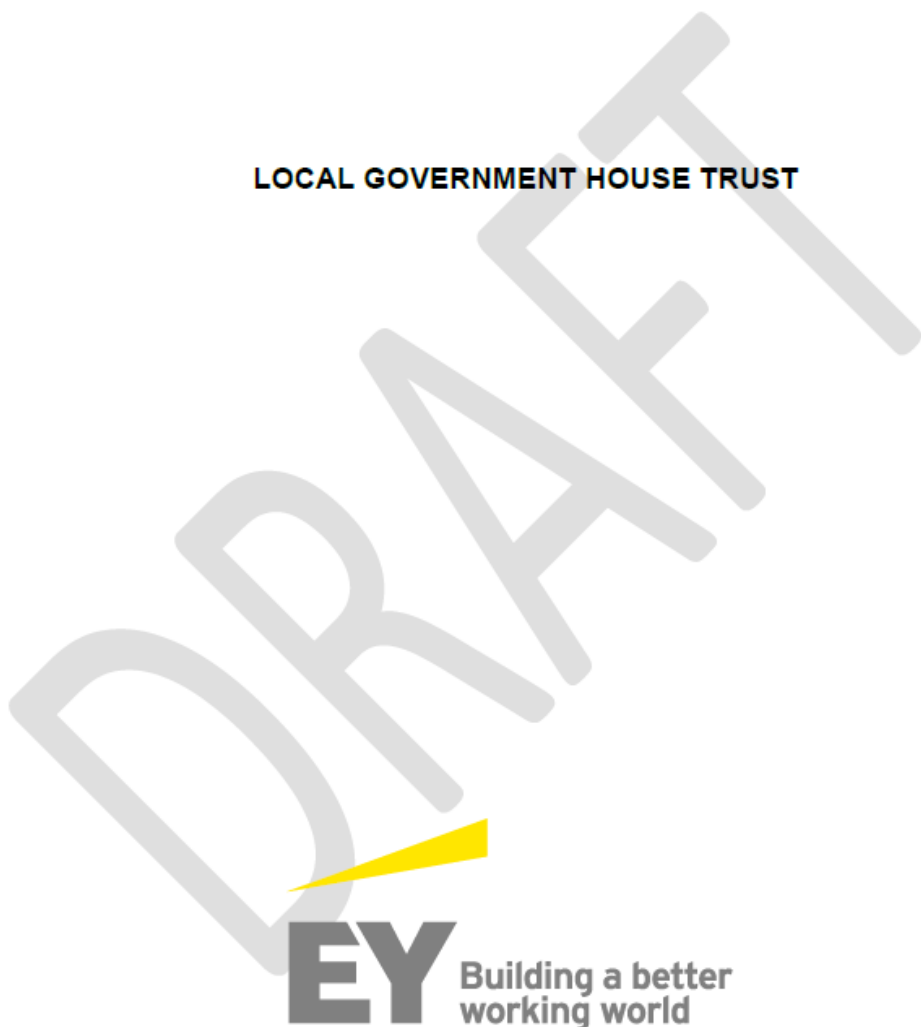
### **Attachment**

**Attachment 14.08.20.07A – Deed of Variation – Local Government House Trust**



**DEED OF VARIATION**

**LOCAL GOVERNMENT HOUSE TRUST**



LAW

PERTH

11 Mounts Bay Road, Perth WA 6000

Telephone (08) 9429 2222 Facsimile: (08) 9429 2434

[eylawperth@au.ey.com](mailto:eylawperth@au.ey.com) [www.ey.com](http://www.ey.com)

Our Ref: 4WAL / 2004 7043

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THIS DEED dated the

day of

2019

BY

**WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION** of Level 1, 170 Railway Parade, West Leederville in the State of Western Australia (the 'Trustee')

**RECITALS**

- A. By Deed of Trust undated but stamped 12 February 1980 ('Original Trust Deed') made between CHARLES WILSON TUCKEY, LYAL GORDON RICHARDSON, GORDON LAWRENCE KILPATRICK, HARRY STICKLAND and MAXWELL RAY FINLAYSON (the 'Original Trustees') and THE LOCAL GOVERNMENT ASSOCIATION OF WESTERN AUSTRALIA and the COUNTRY SHIRE COUNCILS ASSOCIATION (the 'Retired Trustees') the Original Trustees declared that they would hold the property therein referred to as the Headquarters and the monies therein referred to as the Trust Fund upon trust for the beneficiaries specified in the second schedule to the Original Deed upon the terms and conditions therein contained (the 'Original Trust').
- B. By Deed dated 2 October 1981 made between the Original Trustees and the Retired Trustees the Original Trustees retired and appointed the Retired Trustees as the trustees of the Original Trust in their place.
- C. By Deed dated 4 May 1994 (the 'New Deed') the Retired Trustees (in the New Deed referred to as THE LOCAL GOVERNMENT ASSOCIATION OF WESTERN AUSTRALIA (INC) and THE COUNTRY SHIRE COUNCILS' ASSOCIATION OF WESTERN AUSTRALIA (INC)) agreed that the proceeds from the sale of the Headquarters and the Trust Fund and the income thereof should be from 17 February 1993 held upon the terms and conditions set out in the New Deed (the 'Trust').
- D. By Deed of Variation dated 5 June 2002 the Retired Trustees varied the New Deed (collectively, the 'Trust Deed') to provide for a new Clause 22 which provides that any trustee of the Trust may retire as trustee of the Trust and appoint a new trustee to act as trustee of the Trust and that notwithstanding that the original number of trustees of the Trust was five where a corporation or incorporated association is appointed as trustee of the Trust then it shall not be obligatory to appoint more than one new trustee.
- E. By Deed dated 6 June 2002 made between the Retired Trustees and the Trustee, the Retired Trustees retired and appointed the Trustee as the trustee of the Trust.
- F. Clause 21.1 of the Trust Deed provides that the Trustees may at any time and from time to time (with the consent of not less than 75% of the Beneficiaries) by deed revoke add to or vary the trusts of the Trust Deed or declare (inter alia) any new or other powers, authorities or discretions concerning the management, control or investment of the Trust Fund upon the terms contained therein.
- G. The Trustee wishes to add to and vary the Trust Deed and declare (inter alia) new or other powers, authorities and discretions concerning the management, control or investment of the Trust Fund in accordance with the terms of this Deed.
- H. More than 75% of the Beneficiaries have consented in writing to the variations to the New Deed and the records relating to this consent will be placed with the original of this Deed.

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## **NOW THIS DEED WITNESSES**

### **1. DEFINITIONS AND INTERPRETATION**

In this Deed, unless the context otherwise requires:

- 1.1 a word importing the singular includes the plural and vice versa, and a word of any gender includes other genders;
- 1.2 another grammatical form of a defined word or expression has a corresponding meaning;
- 1.3 a reference to a clause, paragraph, recital, schedule or annexure is to a clause, paragraph or recital of, or schedule or annexure to, this Deed, and a reference to this Deed includes any schedule or annexure;
- 1.4 a reference to a document or instrument includes the document or instrument as varied, novated, altered, supplemented or replaced from time to time;
- 1.5 a reference to a person includes a natural person, the estate of an individual, a partnership, body corporate, the trustee of a trust (in the trustee's capacity as trustee of the trust), association, governmental or local authority or agency or other entity;
- 1.6 a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- 1.7 the meaning of general words is not limited by specific examples introduced by 'including, for example' or similar expressions;
- 1.8 Recitals A to H inclusive form part of and are included in this Deed;
- 1.9 headings are for ease of reference and do not affect interpretation;
- 1.10 'Deed' means this deed;
- 1.11 unless specified otherwise, terms which are defined in the Trust Deed and used in this Deed bear the same meanings in this Deed which are ascribed to them in the Trust Deed; and
- 1.12 in the event of any inconsistency between the provisions of the Trust Deed and the provisions of this Deed, the provisions of this Deed will prevail.

### **2. OPERATIVE PART**

The Trustee in exercise of the power given to the Trustee by clause 21.1 of the Trust Deed and with the consent of more than 75% of the Beneficiaries hereby adds to and varies the Trust Deed and declares (inter alia) the following new or other powers authorities and discretions concerning the management, control or investment of the Trust Fund as follows:

- 2.1 delete the word "The" appearing after the words "Any trustee of the Trust may retire as trustee of the Trust." in the existing clause 22.1 and replace it with the words "Subject to clause 22.3, the";

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2.2 insert after clause 22.2 the following:

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

22.4 The Beneficiaries may at any time by Special Resolution:

- (a) remove a Trustee from the office as trustee of the Trust; and
- (b) appoint such new or additional Trustee.

For the purposes of this clause 22.4, “Special Resolution” means a resolution passed or decision made by not less than 75% of the Beneficiaries.”

2.3 insert a new clause 13A as follows:

“13A **DELEGATION TO THE BOARD OF MANAGEMENT**

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

3. **SEVERABILITY**

3.1 If any provision of this Deed is found by a competent authority (including without limitation a Court) to be void or unenforceable, then such finding shall not affect the other provisions of this Deed.

3.2 If making a subsequent amendment to this Deed avoids any invalidity or unenforceability of any provision of this Deed, the parties may elect to make that amendment, which shall be deemed for all purposes to be effective immediately prior to the occurrence of that invalidity or unenforceability.

4. **FURTHER ASSURANCES**

All parties shall make, execute and do all acts, deeds, documents and things and sign all documents which may reasonably be required to give full effect to this Deed, and the Trustee shall bear the costs of observing, performing and complying with this clause.

5. **COSTS**

The Trustee shall bear and pay the costs of and incidental to the preparation, execution and stamping of this Deed.

6. **RATIFICATION AND CONFIRMATION**

In all other respects the terms of the Trust Deed are hereby ratified and confirmed.

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7. **PROPER LAW**

This Deed shall be governed by the laws of the State of Western Australia and the parties submit to the jurisdiction of the Courts of the State of Western Australia.

**EXECUTED** as a Deed

THE COMMON SEAL of WESTERN )  
AUSTRALIAN LOCAL GOVERNMENT )  
ASSOCIATION is hereunto affixed in the )  
presence of: )

\_\_\_\_\_  
Signature of President

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Name of President

\_\_\_\_\_  
Name of Chief Executive Officer

**15.08.20 GOVERNANCE****15.08.20.01 LOCAL EMERGENCY MANAGEMENT ARRANGEMENTS - ADOPTION**

<b>File No:</b>	ADM 0158
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	Shire of Brookton
<b>Name of Owner:</b>	Shire of Brookton
<b>Author/s:</b>	Amy Eva - Manager Corporate and Community
<b>Authorising Officer:</b>	Ian D'Arcy – Chief Executive Officer
<b>Declaration of Interest:</b>	The author has no financial interest in this matter
<b>Voting Requirements:</b>	Simple majority
<b>Previous Report:</b>	N/A

**Summary of Item:**

For Council to endorse the updated Shire of Brookton Local Emergency Management Arrangements (LEMA) and Local Recovery Plan (LRP) as endorsed by the Shire of Brookton Local Emergency Management Committee (LEMC) on 23 June 2020.

**Description of Proposal:**

As above.

**Background:**

Local Governments are compelled under the *Emergency Management Act 2005*, to have in place and maintain Local Emergency Management Arrangements (LEMA) in preparedness for an array of emergencies, including but not limited to major event such as bushfires, floods, earthquakes, storms, explosions, toxic spillages and fumes, and pandemics to name a few. Effective local government emergency management arrangements enhance the community's resilience and preparedness for such occurrences through strategies that apply prevention/mitigation, preparedness, response, and recovery measures.

In addition to ensuring that an effective LEMA is in place, each Local Government is required to establish and maintain a Local Emergency Management Committee (LEMC). The LEMC is to provide advice and guidance to each Local Government relating to the development, maintenance and testing of their LEMA. The LEMA basically entails collection of all the emergency management documentation, systems, processes, agreements, and memorandums of understanding which affect the local government district.

To this end, the Council through its LEMC is required to formally review their LEMA every 5 years or at any other time it is deemed necessary. The approval process requires Council to endorse the LEMA and then have the arrangements "noted" by both the District Emergency Management Committee (DEMC) and the State Emergency Management Committee (SEMC).

In this regard the initial review and update process on the existing LEMA was sanctioned by Council in 2012 and structured on guidelines provided by the State Emergency Management Committee (SEMC) at that time. A subsequent full review was then commenced in 2019 that has delivered a final version in 2020 with the support from Adam Smith - District Emergency Management Advisor from the Great Southern Region of the Department of Emergency and Fire Services. The result is a new LEMA assessed



as compliant, effective, and contemporary based on best practice principles that accords with SEMC LEMA Guidelines and Model document.

The new updated LEMA comprises of five parts. Parts one to four primarily contain the Shire of Brookton's overarching strategic and policy arrangements. Part five comprises of exercising and reviewing with six annexures. The annexures are the modular component as each are stand-alone plans and/or documents and are subject to either quarterly or annual review and update given the evolving nature of Emergency Management as a Local Government responsibility.

A copy of the new LEMA documents provided as **Attachment 15.08.20.01A**.

#### **Consultation:**

The LEMA was developed through consultation with members of the LEMC and Adam Smith, District Emergency Management Advisor, Great Southern Region.

#### **Statutory Environment:**

As mentioned, a compliant, effective, and contemporary LEMA is a requirement under Section 36 of the *Emergency Management Act 2005*, State Emergency Management policies, guidelines and plans.

#### **Relevant Plans and Policy:**

This matter falls under the Shire of Brookton Corporate Compendium and aligns to Council Policy 2.8 - Risk Management.

#### **Financial Implications:**

No financial implications are applicable.

#### **Risk Assessment:**

It is assessed that there is a High risk associated should the LEMA not be endorsed as State Legislation and Emergency Plans are required for each Local Government and the projected frequency and intensity of events the failure to have compliant and current LEMAs could prove problematic.

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:**

The proposal relates to the Shire of Brookton Corporate Compendium – May 2018.

Specifically, the proposal relates to:

**Function 8 Emergency Management**

*Action 8.2 - Review Local Emergency Management Plan / Arrangements*

*Action 8.4 - Review Emergency recovery Plan*

Additionally, this proposal generally aligns with the Shire of Brookton Strategic Community Plan >2027.

**Comment**

It is imperative the Shire of Brookton's LEMA and LRP are both maintained to compliant and contemporary standard to provide guidance to the Community in ensuring a pro-active approach is achieved in dealing with a major emergency. It is viewed the current 2020 LEMAs align to the current standards.

**OFFICER RECOMMENDATION**

That Council in accordance with Section 36 of the Emergency Management Act, 2005:

1. Adopts the Shire of Brookton Local Emergency Management Arrangements (LEMA) and Local Recovery Plan (LRP), as detailed in Attachment 15.08.20.01A and 15.08.20.01B to this report.
2. Refers the adopted Shire of Brookton LEMA and LRP to the District and State Emergency Management Committees to be "noted" as per the Western Australian State Guidelines.

(Simple Majority Vote required)

**OCM 08.20-16****COUNCIL RESOLUTION**

**MOVED Cr Lilly      SECONDED Cr Hartl**

***That Council in accordance with Section 36 of the Emergency Management Act, 2005:***

- 1. Adopts the Shire of Brookton Local Emergency Management Arrangements (LEMA) and Local Recovery Plan (LRP), as detailed in Attachment 15.08.20.01A and 15.08.20.01B to this report.***
- 2. Refers the adopted Shire of Brookton LEMA and LRP to the District and State Emergency Management Committees to be "noted" as per the Western Australian State Guidelines.***

***CARRIED BY SIMPLE MAJORITY VOTE 7/0***

**Attachments provided under separate cover**

**Attachment 15.08.20.01A**



**THE HON MICHAEL MCCORMACK MP**  
Deputy Prime Minister  
Minister for Infrastructure, Transport and  
Regional Development

**THE HON MARK COULTON MP**  
Minister for Regional Health, Regional  
Communications and Local Government

Ref: MS20-000934

Cr Katrina Crute  
Shire of Brookton  
PO Box 42  
BROOKTON WA 6306

Dear Shire President

**Letter of Offer – Local Roads and Community Infrastructure Program**

We are writing to offer you, Shire of Brookton ABN 74 164 408 055, an Australian Government Grant under the Local Roads and Community Infrastructure (LRCI) Program.

The offer is for a grant of \$255,450 total, excluding GST, (the 'Grant') to undertake the Grant Activity as set out in the attached Grant Agreement.

The LRCI Program aims to assist a community-led recovery from COVID-19 by supporting local jobs, firms, and procurement. It is expected councils, where possible, will use local businesses and workforces to deliver projects under the LRCI Program to ensure stimulus funding flows into local communities. Program guidelines are included with this letter and can also be accessed through the Department's website at [www.investment.infrastructure.gov.au/lrci](http://www.investment.infrastructure.gov.au/lrci).

To accept this offer in relation to the Grant, please sign the attached Grant Agreement and send or email a scanned copy to [IIP@infrastructure.gov.au](mailto:IIP@infrastructure.gov.au) by 31 July 2020, otherwise this offer will lapse. A legally binding agreement will be created once the Grant Agreement has also been signed by the Commonwealth, represented by the Department of Infrastructure, Transport, Regional Development and Communications ABN 86 267 354 017.

In agreeing to and signing the Grant Agreement, you confirm that you have read and understood the Program Guidelines and Grant Agreement.

Yours sincerely

**MICHAEL MCCORMACK**

**MARK COULTON**

Enc

---

The Hon Michael McCormack MP  
Parliament House Canberra | (02) 6277 7520 | [minister.mccormack@infrastructure.gov.au](mailto:minister.mccormack@infrastructure.gov.au)  
Suite 2, 11-15 Fitzmaurice Street, Wagga Wagga NSW 2650 | [michael.mccormack.mp@aph.gov.au](mailto:michael.mccormack.mp@aph.gov.au)

## 15.08.20.02 AMENDMENT COUNCIL POLICY 1.18 – APPOINTMENT OF ACTING CEO

<b>File No:</b>	ADM 0660
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	N/A
<b>Name of Owner:</b>	N/A
<b>Author/s:</b>	Danni Chard – Executive Governance Officer
<b>Authorising Officer:</b>	Ian D’Arcy – Chief Executive Officer
<b>Declaration of Interest:</b>	The author does not have a specific interest in this item The authorising Officer has an interest in this item.
<b>Voting Requirements:</b>	Absolute Majority
<b>Previous Report:</b>	N/A

### Summary of Item:

This item seeks Council’s endorsement to amending Council Policy 1.18 – Appointment of Acting Chief Executive Officer (CEO) with the both the Manager Corporate and Community and Manager Infrastructure and Emergency being promoted to act in the CEO position during period of the CEO’s leave.

### Description of Proposal:

As above.

### Background:

The objective of this policy is to appoint either the Manager of Corporate and Community (MCC) or the Manager of Infrastructure and Emergency (MIE) to act in the role of the Chief Executive Officer (CEO) for periods of leave or vacation of the position for up to two (2) weeks.

The intent is to allow the incumbent employees in both positions to receive experience and broaden their knowledge of the operation of the organisation through alternating in the CEO position.

A copy of Policy 1.18 – Appointment of Acting Chief Executive Officer (CEO) with amendments highlighted in red text is presented as **Attachment 15.08.20.02A**.

### Consultation:

Consultation has occurred with the Chief Executive Officer.

### Statutory Environment:

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*.

The appointment of the Chief Executive Officer fall under Section 5.36(2) of the *Local Government Act, 1995*.

### Relevant Plans and Policy:

There are no other existing plans or policies that apply to this matter.

### Financial Implications:

There will be a minor financial impact when either Manager is acting in the CEO position as they will receive the same rate of salary (cash component) as the CEO, but will not be entitled to specific

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allowances and benefits afforded in the CEO's employment contract.

This additional cost is incorporated in the Salary and Wages allocation of the annual Budget.

**Risk Assessment:**

On assessment the risk is assessed as 'Low' on the basis the policy only supports appointment in acting capacity for a limited period of up to 2 weeks.

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:**

The suggested policy update aligns to the following:

- ✓ The 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, this policy amendments align to:

1. Governance
  - 1.1 Review policy manual

**Comment:**

The suggested amendments to this policy, while minor, is to afford autonomy and continuance to the Shire of Brookton should the CEO be away from the office for a period of 3 days up to 2 weeks.

**OFFICER'S RECOMMENDATION 1**

That Council pursuant to Section 2.7(2)(b) of the Local Government Act 1995 amends Policy 1.18 – Appointment of Acting CEO as shown in Attachment 15.08.20.02A.

(Absolute majority vote)

**OCM 08.20-17**

**COUNCIL RESOLUTION**

**MOVED Cr Fancote      SECONDED Cr Lilly**

*That Council pursuant to Section 2.7(2)(b) of the Local Government Act 1995 amends Policy 1.18 – Appointment of Acting CEO as shown in Attachment 15.08.20.02A.*

**CARRIED BY ABSOLUTE MAJORITY VOTE 7/0**

**Attachment**

15.08.20.02A – Policy 1.18 – Appointment of Acting CEO





## 1.18 APPOINTMENT OF ACTING CEO

Directorate:	Executive			
Statutory Environment:	Local Government Act 1995, section 5.36 (2)			
Council Adoption:	Date:	Nov 2016	Resolution #:	13.11.16.04
Last Amended:	Date:	August 2020	Resolution #:	
Review Date:	June 2021			

## Objective:

The objective of this policy is to appoint **either** the Manager Corporate and Community **Services** (MCC) **or** the Manager of Infrastructure and Emergency (MIE) to act in the role of the Chief Executive Officer (CEO) for periods of leave or vacation of the position for up to **two (2) five-(5)** weeks only.

## Definitions:

Leave means annual leave, sick leave, long service or personal leave.

Manager Corporate and Community **Services** means the incumbent employee being:

- ~~Ms Vicki Morris~~
- Mrs Amy Eva

Manager Infrastructure and Emergency means the incumbent employee being:

- Mr Mikel Haramboure

## Policy:

- The written consent (where practical) must be obtained from the Shire President (or MCC **or** MIE) in the absence of the President) prior to taking of annual leave by the CEO in line with this Policy.
- Unless otherwise determined by a formal resolution of Council to appoint another person in an "Acting" capacity to the CEO position, the MCC is appointment pursuant to Clause 5.39 (1a) of the *Local Government Act 2005* to the roll of the CEO for any period up to **two (2) five-(5)** weeks when the CEO is on leave or the CEO position has been vacated.
- In any event, for periods in excess of **two (2) five-(5)** weeks a separate report on each occasion is to be presented to Council for a formal resolution to extend the appointment of the MCC **or** the MIE or appoint another person to act in the CEO position. However, such a period is not to exceed twelve (12) months.
- The MCC **or** the MIE is not required to act in the position of the CEO during periods when the CEO is away from the office on Local Government business, or for short periods of leave (up to 3 working days) when the CEO is contactable. Should the CEO not be contacted the MCC **or** the MIE shall automatically assume the responsibility and authority of the CEO.
- The Acting CEO will receive the same rate of salary (cash component) as the CEO whilst acting in the role but is not entitled to specific allowances and benefits as detailed in the CEO's employment contract.

**Explanation:**

**This Policy:**

- Has been prepared on the need to fill the position of CEO for short periods in line with statutory requirements, and in an efficient manner to ensure the fluent operations of the organisation when, or if, the CEO needs, or seeks, to exercise a leave entitlement at short notice.
- Is subject to review every two (2) years or at the time of change of the MCC or MIE position.
- Does not bind Council from appointment another person to Act in the CEO position at any time.
- Requires an absolute majority vote of Council in accordance Clause 5.36(2) of the *Local Government Act 2005*.

### 15.08.20.03 DRAFT POLICY 1.24 – ATTENDANCE AT EVENTS (COUNCIL MEMBERS AND CEO)

<b>File No:</b>	ADM 0660
<b>Date of Meeting:</b>	20 August 2020
<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	N/A
<b>Name of Owner:</b>	N/A
<b>Author/s:</b>	Ian D’Arcy – Chief Executive Officer
<b>Authorising Officer:</b>	As above
<b>Declaration of Interest:</b>	The author has a specific interest in this item.
<b>Voting Requirements:</b>	Absolute majority
<b>Previous Report:</b>	N/A

#### Summary of Item:

This item presents to Council a draft ‘Policy 1.24 – Attendance of Events’ applicable to Elected Members and the CEO in relation to the receipt gifts under the provisions of the *Local Government Act, 1995*.

A copy of the draft Policy is presented as **Attachment 15.08.20.03A** to this report.

#### Description of Proposal:

As above.

#### Background:

Pursuant to Section 5.90A of the *Local Government Act, 1995* all local governments are required to adopt an “Attendance at Events” policy as part of the Local Government’s Gifts Framework. This is to ensure transparency and accountability in decision-making which can be, or perceived to be, influenced through financial and personal relationships resulting in the receipt of gifts contrary to the provisions of the Local Government legislation.

For the most part the draft Policy prescribes the parameters upon which Events, including community and sporting events, conferences and other functions, may be attended in an official and unofficial capacity without specific declaration.

#### Consultation:

There has not been any consultation in relation to this matter.

#### Statutory Environment:

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*.

Furthermore, Section 590A of the *Local Government Act, 1995* prescribes the requirement, nature and broad content of this Policy, as outlined below:

#### 5.90A. Policy for attendance at events

(1) In this section —

**event** includes the following —

- (a) a concert;
- (b) a conference;

- (c) a function;
  - (d) a sporting event;
  - (e) an occasion of a kind prescribed for the purposes of this definition.
- (2) A local government must prepare and adopt\* a policy that deals with matters relating to the attendance of council members and the CEO at events, including —
- (a) the provision of tickets to events; and
  - (b) payments in respect of attendance; and
  - (c) approval of attendance by the local government and criteria for approval; and
  - (d) any prescribed matter.

\* Absolute majority required.

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

\* Absolute majority required.

- (4) 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.
- (5) The CEO must publish an up-to-date version of the policy on the local government's official website.

#### Relevant Plans and Policy:

There are no other existing plans or policies that apply to this matter.

#### Financial Implications:

There is no specific financial implication in relation to adoption of this draft Policy.

#### Risk Assessment:

On assessment the risk is assessed as 'High' premised on this policy being requirement under legislation and the acceptance of gifts being sensitive issue from both a public and legal perspective.

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:**

The draft Policy aligns to the 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, this draft policy accords with:

Function 1. Governance

1.1 Review policy manual

**Comment:**

Importantly the Council is obliged to have, and adhere to, a 'Attendance at Events' policy to instill and maintain confidence with the local Community regarding the conduct of Elected Members and CEO.

**OFFICER'S RECOMMENDATION**

That Council pursuant to Section 2.7(2)(b) and Section 590A of the *Local Government Act, 1995* adopt 'Policy 1.24 – Attendance at Events (Council Members and CEO)' as presented in Attachment 15.08.20.03A to this report.

(Absolute majority vote)

**OCM 08.20-18**

**COUNCIL RESOLUTION**

**MOVED Cr Hartl      SECONDED Cr Lilly**

***That Council pursuant to Section 2.7(2)(b) and Section 590A of the Local Government Act, 1995 adopt 'Policy 1.24 – Attendance at Events (Council Members and CEO)' as presented in Attachment 15.08.20.03A to this report.***

***CARRIED BY ABSOLUTE MAJORITY VOTE 7/0***

**Attachment**

15.08.20.03A – Policy 1.24 – Attendance at Events (Council Members and CEO)

**1.24 ATTENDANCE AT EVENTS (COUNCIL MEMBERS AND CEO)**

<b>Directorate:</b>	Executive			
<b>Statutory Environment:</b>	Sections 5.87A, 5.87B and 5.90A of <i>Local Government Act, 1995</i>			
<b>Council Adoption:</b>	<b>Date:</b>		<b>Resolution #:</b>	
<b>Last Amended:</b>	<b>Date:</b>		<b>Resolution #:</b>	
<b>Review Date:</b>	June 2021			

**Objective:**

This Policy accords with Section 5.90A of the *Local Government Act, 1995* that requires all local governments adopt an “Attendance at Events” policy as part of the Local Government’s Gifts Framework. This is to ensure transparency and accountability in decision-making which can be or perceived to be influenced through financial and personal relationships resulting in the receipt of gift(s).

Accordingly, the objective of this policy is to provide a framework to enable Council Members, the CEO or in some instances other senior employees to attend Events or functions (ticketed or otherwise) as representatives of Council without restricting their participation in the Council decision making process. This Policy does not provide guidance on the acceptance of a tangible gift or travel contribution.

**Policy:****1. Application**

This policy mainly applies to Council Members and the CEO in respect of their acceptance of invitations to an Event (includes conferences, concerts, sporting events, functions and other hospitality occasions) offered at a discounted rate or free of charge as part of a sponsorship agreement or funded by the Shire of Brookton. An example of such an Event is the Old Time Motor Show.

The attendance, if not paid for by the Local Government, is considered a gift subject to the disclosure of interest provisions, unless the Event is detailed or is expressly approved under this policy.

Council Members and the CEO are not required to disclose interests in relation to gifts or invitations from the following entities:

- Western Australian Local Government Association (WALGA).
- Local Government Professionals Australia WA (LG Pro).
- Australian Local Government Association (ALGA).
- State Government Agencies.
- Other State, Territory and Commonwealth Departments.
- Another Local Government or Regional Local Government.

However, Council Members and the CEO are statutorily obligated to disclose receipt and acceptance of a gift or invitation in accordance with Section 5.87A and 5.87B of the *Local Government Act, 1995*.

**2. Consideration**

Whether a benefit such as an invitation to an event or hospitality given to a Council Member or the CEO is a gift for the purposes of the *Local Government Act, 1995* and Regulations. Key considerations are:

- a) Who is providing the invitation to the Event?



- b) The cost to attend the Event (or estimated value per invitation) and any other expenses such as travel and accommodation.
- c) The location of the Event in relation to the local government (within the district or out of the district).
- d) The role of the Council Member or CEO when attending the Event (participant, observer, presenter) and the value of their contribution. If the value of the contribution outweighs the value of the benefit it will not be a gift for the purposes of the legislation.
- e) The benefit of Council Member or CEO representation at the Event.
- f) The number of invitations / tickets received.
- g) Whether the Event is sponsored by the Local Government.
- h) Whether the Event is ultimately paid for by the Shire.

### 3. Attendance

- a) Unless stated in this policy, any invitation to an Event accepted by an Council Member or CEO without payment, where a member of the public is required to pay, will generally be classified as a gift to which the declaration of interest provisions apply.
- b) Where typically attendance by a Council Member or the CEO is in official capacity on behalf of the Local Government (including professional development) the Shire may pay the cost for attending the Event. The declaration of interest provisions would not apply in this instance.
- c) If the Shire does not pay for attendance at an Event, it is classified as a 'gift' unless a contribution by the Council Member or CEO, such as presenting a paper or speaking engagement, is reasonably considered to outweigh the value of registration or other benefit given.
- d) Typically attendance in an official capacity at an Event run by a local community group without paid entry is not classed as a 'gift' where the contribution by the Council Member or CEO is reasonably considered to outweigh the value of the hospitality of the event/function.
- e) Any Event:
  - i) Not noted as pre-approved in accordance with this policy, or any invitation received in a personal capacity, is not considered as an approved event.
  - ii) That is 'free' to the public, such as the annual Brookton Christmas Party, does not qualify for any action being required under this policy or Section 5.87A and 5.87B of the *Local Government Act, 1995*.
- f) If the Event is ticketed and the Council Member or CEO pays the full ticketed price and does not seek reimbursement, then no action is required.
- g) If the Event is ticketed and the Council Member or CEO pays a discounted rate or is provided with a free ticket, then the recipient must adhere to the gift and declaration of interest provisions.

### 4. Pre-Approved Events

The following Events are deemed pre-approved in line with the objective of this policy:

- a) Advocacy lobbying or Ministerial briefings.
- b) Awards functions specifically related to Local Government.
- c) Shire hosted ceremonies and functions.
- d) City-run tournaments or Events.
- e) Community cultural Events/festivals/art exhibitions.
- f) Events hosted by Clubs or Not for Profit Organisations within the Shire to which the Council Member or CEO are invited on official business.
- g) Events run by the local school.
- h) Free Shire facilitated Events.
- i) Industry/economic briefings specifically related to the function of government.
- j) Meetings of clubs or organisations within the Shire.
- k) Major professional bodies associated with government at a local, State and Federal level.
- l) Formal opening or launch of an Event or facility within the Shire.
- m) Where Shire President or CEO representation has been formally requested.

### 5. Approval Process

- a) All invitations to Events for a Council Member or CEO must be in writing and addressed to the Shire Administration.

- b) Invitations to Events valued at \$300 and over (or the cumulative value of \$300 and over within a 12 month period) are considered gifts under the *Local Government Act, 1995* and therefore must be disclosed. Declarations of interest are not required if the Event is listed in this policy as a pre-approved Event – see section 4 above.
- c) Invitation to Events that are not addressed to the Shire and are not listed as a Pre-Approved Event must be disclosed as a gift and filed under the declaration of interest provisions of the *Local Government Act, 1995*.
- d) Where an invitation or ticket to an Event is received that is not a Pre-Approved Event, approval to attend and accept may be requested in writing as follows:
  - i) for Council Member acceptance and attendance, approval by the CEO; and
  - ii) for CEO acceptance and attendance, approval by the Shire President.
 Requests for approval are to be forwarded to the Manager, Corporate and Community.
- e) Where a Council Member or CEO request has been approved and there is a fee associated with attending the Event, then the cost, excluding the attendance of a partner, is to be paid for by the Shire subject to budget considerations.

#### 6. Approval Considerations

In determining attendance of a non-Pre-Approved Event, consideration will be given to:

- a) The donor providing the invitation or ticket to the Event (for example, the donor is a person who is undertaking or seeking to undertake an activity involving a Council discretion).
- b) The location of the Event in relation to the Shire (whether within the district).
- c) Function of the Council Member or CEO in attending the Event (ie participant, observer, presenter) and the value of the contribution.
- d) Whether the Event is sponsored by the Shire.
- e) The corporate or community benefit to the Shire in the Council Member or CEO attending.
- f) Alignment to the Shire's Strategic Objectives.
- g) The number of Shire representatives already approved to attend.
- h) Any justification provided by the applicant when the Event is submitted for approval.

#### 7. Unfavourable Events

Events that will not be considered for approval are:

- a) Political party Events and fundraisers.
- b) Shire sponsored Events.
- c) Social Events.
- d) Entertainment Events with no link to the Shire.
- e) Events that primarily benefit Council Members in a personal capacity or in a role other than their role at the Shire.

#### 8. Reporting

The CEO is to report annually to Council on the approval and refusal of Council Member and CEO requests to attend Events that are not Pre-Approved in accordance with this policy.

**15.08.20.04 LOCAL LAW REVIEW 2020**

File No: ADM 0624  
Date of Meeting: 20 August 2020  
Location/Address: N/A  
Name of Applicant: Shire of Brookton  
Name of Owner: N/A  
Author/s: Sharyn Olsen – Process and Compliance Officer  
Ian D’Arcy – Chief Executive Officer  
Authorising Officer: Ian D’Arcy – Chief Executive Officer  
Declaration of Interest: The author does not have a specific interest in this item  
Voting Requirements: Simple Majority  
Previous Report: Nil

**Summary of Item:**

This item relates to the review of the Shire of Brookton’s Local Laws to ensure they are accurate, relevant, and applicable.

The table below outlines all current Local Laws for the Shire of Brookton and their respective review dates:

Current Local Law Register 2020					
Reference #	Local Law	Date Gazetted	Comments	Reviewed Date	Next Review Due
1	Local Government Property Amendment Local Law 2013	9/07/2013	Current	2015	2023
2	Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2012	31/05/2012	Current	2012	2020
3	Dogs Amendment Local Law 2012	6/03/2012	Current	2015	2023
4	Cemeteries Amendment Local Law 2012	6/03/2012	Current	2015	2023
5	Local Government Property Local Law 2012	6/03/2012	Consolidated in #1	2015	2023
6	Pest Plants Local Law 2012	6/03/2012	Current	2015	2023
7	Extractive Industries Local Law 2011	28/03/2011	Current	2015	2023
8	Brookton Public Cemetery	4/01/2002	Consolidated in #4	2015	2023
9	Dogs Local Law	6/11/2001	Consolidated in #3	2015	2023
10	Health Local Laws 2000	15/05/2001	Current	2016	2024
11	By-law relating to the establishment, maintenance and equipment of Bush Fire Brigades	4/06/1993	Current	2015	2023
12	Pest Plants	23/02/1990	To be repealed?	2012	2020
13	Pest Plants	2/07/1982	To be repealed?	2016	2024

As shown in the above table there are two Local Laws due for review in 2020:

- Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2012 (#2)
- Pest Plants (#12)

However, it is suggested a number of the Local Laws be reviewed over the coming 12 – 18 months, including the Council’s ‘Standing Orders and Meeting Protocol Local Law 2000’ which was not gazetted and has subsequently been adopted as a Policy of Council.

A copy of the existing Local Laws and Standing Orders Policy is provided as **Attachment 15.08.20.04A** under separate cover for reference purposes.

**Description of Proposal:**

As above

**Background:**

Section 3.16 of the *Local Government Act 1995* (the Act) provides direction for reviewing the currency and suitability of gazetted Local Laws and requires that all Local Laws be reviewed every eight years to determine their continued relevance, that is should they remain unchanged, be repealed or amended.

The eight-year period is taken to be from either when the Local Law commenced or when the last review was completed. When the outcome of the review finds it necessary to change an outdated aspect of the Local Law, or that the subsidiary legislation has become defunct or obsolete, the Local Government must then commence the process outlined in Section 3.12 of the Act to implement any changes or repeal the Local Law.

**Function of Current Laws****Local Government Property Local Law (#1 and #5)**

These Local Laws relate to use of property owned or managed by the Shire of Brookton and unvested facilities. They include procedures for making a determination regarding Local Government property, signage requirements, allowed activities, permit requirements and application process, Policy implications, behaviour on and interference with Local Government Property, objections, reviews, prohibitions, penalties, fee's, compliance and enforcement.

For the most part there is duplication between the two local laws and often they are not referred to or used, as matters of use are often covered land use zoning under the Shire's Town Planning Scheme, through a legal agreement such as a lease or licence, or through implied consent through payment of a fee or charge as adopted by Council. However, the Local Laws do play a role through enforcement of unauthorised use, vandalism, or general non-compliance, for example the riding of a trail bike on the Brookton Oval.

**Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2012 (#2)**

This Local Law relates to use and management of Thoroughfares and Public Places, including prohibitions, permits, permissions, obligations, signage, vehicle parking and access, animals, vegetation, fire hazard management, trading requirements and restrictions, outdoor eating facilities, notices, fee's, penalties and enforcement.

Again, this Local Law is often not used although there have been occasions when the parking of vehicles within a road reserve has been an issue requiring subtle enforcement action to be taken to remove the vehicle. In the past this has usually involved a letter threatening infringement (fine) under the provisions of the Local Law with reminder of possible prosecution should the Local Law not be adhered to and the matter of non-compliance escalate.

**Dogs Local Law (#3 and #9)**

Like most Local Governments the Shire has a Dog Local Law, in this case consolidated, to regulate the control and management of dogs, including impounding, requirements and limitations on the keeping of, approval of kennel establishments, exercising of dogs in public places, offences and enforcement.

This Local Law supports the Shire's contract Rangers in enforcing the behaviour and penalising those people who do not adhere to responsible dog ownership and handling. The Dog Local Law has also been

used to apply standards for the development of dog kennels and will form an integral part of new legislation in relation to Puppy Farming that will soon be imposed on Local Governments to administer and enforce.

#### Cemeteries Amendment Local Law (#4 and #8)

The Cemeteries Local Law is about regulated use and management of the Brookton Cemetery and includes powers and functions, application for Funerals, Funeral Director requirements, Funeral and Burial restrictions, requirements for Memorials and other works, offences and penalties.

This Local Law is also used on a regular basis by the Shire Administration to guide the processes in relation to the above.

#### Pest Plants Local Laws (#6, #12 and #13)

This Local Law relates to the management of Pest Plants within the district, including serving of notice to destroy, eradication or control of Caltrop, Afghan Thistle and Sorrell, penalties for failure to comply, recovery of expenses and Pest Plant Notice Form template.

The application of the Pest Plant Local Law has not been exercised in a regular manner, possibly due to there not being a big issue of pest weed infestation to warrant action being taken. Nevertheless, the Local Law does serve a purpose of necessary enforcement should this be required.

#### Extractive Industries Local Law (#7)

The Extractive Local Law regulates and manages the establishment and operations of Extractive Industries within the district, including Licensing requirements, applications, limitations, obligations, prohibitions, offences and penalties.

This is another Local Law that has not been extensively applied in the approval and regulation of extractive industries, and to a large degree applies a duplication or multi-layered approval process as an extractive industry use is also subject to statutory approval under the Shire of Brookton Local Planning Scheme No.4. This duplication of approval is viewed by many as just bureaucratic red tape that often leads to unnecessary cost and frustration.

#### Health Local Laws 2000 (#10)

This Local Law relates to the management and enforcement of health provisions including sanitation, housing, waste food, general refuse, nuisances, animals, pest control, infectious disease, lodging houses, offensive trades, offences, penalties, forms and fees.

Integral to the health and wellbeing of the local community and visitors, the Health Local Law is from time to time exercised by the Shire Administration in conjunction with the *Health Act 2016* and *Food Act 2008*.

#### By-law relating to the establishment, maintenance and equipment of Bush Fire Brigades (#11)

This Local Law involves the establishment of Brigades, Appointment, Powers and Duties of Officers, administration responsibilities and financial implications, Brigade enrolment and Register of Officers form templates.

As required under the *Bush Fires Act 1954*, the Council is compelled to have a Local Law to regulate the establishment and operations of local Brigades.

### **Other potential Local Laws – for consideration**

Many other Local Governments have a Local Law that addresses the following:

- Standing Orders Local Law – Provides statutory meeting protocols for Council and Committee meetings.
- Cats Local Law – Involves the regulation of registration keeping of cats as domestic pets.
- Fencing Local Law – Usual prescribes the standards of fences in different land use zones and compliments the *Dividing Fences Act, 1961*.
- Parking Local Law – Applies to regulating vehicle parking and service/loading zones with the ability to prescribe standards, charge, and apply limits and penalties.
- Fire Hazards and Precautions Local Law – This Local Law presents as another statutory instrument to enforce mandatory actions for fire prevention and enhancement of community safety.
- Vehicles – Off Road Areas Local Law – Mostly this Local Law is applied by Local Governments with coastline where off road vehicles are used in fragile and unstable dunes systems and important high conservation and biodiversity areas and affords regulation and control.
- Swimming Pools Local Law – This Local Law applies more stringent regulation and enforcement with penalties in relation to swimming pool safety that extends above the *Building Act 2011* and subsidiary legislation.

### **Consultation:**

This matter has been reviewed by the CEO, various Officers and now the Audit and Risk Committee to afford direction to Council on reviewing and amending its Local Laws.

### **Statutory Environment:**

Pursuant to Section 3.12 of the Act the following statutory procedure applies to amending, repealing or creating a new local law:

#### *3.12. Procedure for making local laws*

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) The local government is to —*
  - (a) give local public notice stating that —*
    - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*



- (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*

*and*

- (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
- (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*

*[(3a) deleted]*

- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*

*\* Absolute majority required.*

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
  - (a) *stating the title of the local law; and*
  - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - (c) *advising that the local law is published on the local government’s official website and that copies of the local law may be inspected at or obtained from the local government’s office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*  
***making*** *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

Accompanying, Regulation 3 of the Local Government (Functions and General) Regulations 1996 provides that:

*“for the purpose of section 3.12 of the Act, the person presiding at a Council meeting is to give notice of the purpose and effect of a local law by ensuring that;*

- a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and*
- b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.”*

**Relevant Plans and Policy:**

The Council has adopted its Standing Orders Local Law 2000 as a policy due to administrative oversight in this law not having been gazetted. Identification of this occurred in 2016 and since has been enacted in the same manner as a Local Law, although there is not the statutory enforcement under the policy framework. Accordingly, the Audit and Risk Committee and Council need to seriously entertain the merit of preparing a new Standing Orders Local Law.

**Financial Implications:**

It is estimated that this review process will cost approximately \$5,000 in Officer time and Advertising costs that has been allocated in the 2020-21 draft annual budget.

**Risk Assessment:**

The risk in relation to this matter is assessed as 'High' on the basis that the review is a legislated requirement and some of Local Laws are not contemporary or needed. Additionally, the Standing Orders Local Law as a policy is not ideal.

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 – May 2018, duly appended to the Next Generation BROOKTON Corporate Business Plan <2021.

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

1. Governance
  - 1.8 Review Local Laws

**Comment**

The purpose of this review is to update and modernise the Shire of Brookton Local Laws to ensure the provision of orderly governance within the district. Fundamentally, it is deemed good 'house-keeping' in ensuring relevant and currency of the local regulatory framework.

With this said, the Officer's view is the following should be considered by the Audit and Risk Committee for endorsement by Council:

<b>Local Law</b>	<b>Comment</b>	<b>Recommendation</b>
<b>Local Government Amendment Property Local Law 2013 (#1 and #5)</b>	Assessed as adequate for the purpose it serves and does not warrant further amendment, just consolidation being checked.	Include in review with #5 being repealed.
<b>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2012 (#2)</b>	This Local Law appears a little outdated and may require minor amendment with parking of commercial vehicles and trading in thoroughfares.	Include in review with possible amendment.
<b>Dogs Amendment Local Law 2012 (#3 and #9)</b>	It is suggested this Local Law be amended to finalise consolidation and take into consideration new legislation being introduced concerning puppy farming.	Include in the review with #9 being repealed.
<b>Cemeteries Amendment Local Law 2012 (#4 and #8)</b>	Assessed as adequate for the purpose it serves and does not warrant further amendment, just consolidation being checked.	Include in the review with #8 being repealed.
<b>Pest Plants Local Laws (#6, #12 and #13)</b>	Assessed as adequate for the purpose it serves and does not warrant further amendment, just repeal of version #12 and #13.	Include in the review with #12 and #13 being repealed.
<b>Extractive Industries Local Law (#7)</b>	Assessed as duplication with Local Planning Scheme No.4 – prepare Extractive Industry Local Planning Policy and repeal Local Law.	Include in the review for this Local Law to be repealed.
<b>Health Local Laws 2000 (#10)</b>	As a result of COVID-19 and the need to prepare Local Health Plan it is suggested this Local Law be included in review process to ensure the provisions are contemporary and relevant to meet current health requirements.	Include in the review with possible amendment.
<b>By-law relating to the establishment, maintenance and equipment of Bush Fire Brigades 1993 (#11)</b>	The date of gazettal and reference to 'Shire Clerk' for example suggests this Local Law is outdated. Incorporation of this Local Law in the review process will ensure it is contemporarily aligns to the current circumstance of Bush Fire in an age where Climate Change is occurring and local volunteer fire brigades need to be well resourced and supported in the performance of their functions.	Include in the review with possible amendment.
<b>Standing Orders Local Law</b>	As mention in the Risk Management section of this report, there is currently no legitimate Local Law for Council Meeting protocols. This is problematic as the meeting conduct and recording needs to reflect respectful and professional forums in the public interest. The lack of a statutory framework leaves the Council and Committee meetings exposed to denigration of a less than desirable standard.	Include in the review for introduction of a possible new Local Law.

It should be noted that Audit and Risk Committee did not seek to include any additional Local Laws or exclude some Local Laws at this stage but may do so through the review process.

## **AUDIT AND RISK COMMITTEE RECOMMENDATION**

That Council:

1. Pursuant to Section 3.12 of the Local Government Act, 1995 and Regulation 3 of the Local Government (Functions and General) Regulations, 1996 initiate a review of its Local Laws as detailed in the following Table 1 for the purpose of either amending, repealing or making a new local law:

Table 1

Local Law	Purpose	Effect	Action
Local Government Amendment Property Local Law 2013 (Consolidated)  And  Local Government Property Local Law 2012	Relates to use of property owned or managed by the Shire of Brookton and unvested facilities.	Procedures for making a determination regarding Local Government property, signage requirements, allowed activities, permit requirements and application process, Policy implications, behaviour on and interference with Local Government Property, objections, reviews, prohibitions, penalties, fee's, compliance and enforcement.	Amend
Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2012	Relates to use and management of Thoroughfares and Public Places	Prohibitions, permits, permissions, obligations, signage, vehicle parking and access, animals, vegetation, fire hazard management, trading requirements and restrictions, outdoor eating facilities, notices, fee's, penalties and enforcement.	Amend
Dogs Amendment Local Law 2012  And  Dogs Local Law 2001	Regulates the control and management of dogs.	Impounding, requirements and limitations on the keeping of, approval of kennel establishments, exercising of dogs in public places, offences and enforcement.	Amend
Cemeteries Amendment Local Law 2012  And  Brookton Public Cemetery 2002	Regulates use and management of the Brookton Cemetery.	Powers and functions, application for Funerals, Funeral Director requirements, Funeral and Burial restrictions, requirements for Memorials and other works, offences and penalties.	Amend   Repeal
Pest Plants Local Law 2012  And  Pest and Plants Local Law 1990  And	Relates to the management of Pest Plants within the district.	Serving of notice to destroy, eradication or control of Caltrop, Afghan Thistle and Sorrell, penalties for failure to comply, recovery of expenses and Pest Plant Notice Form template.	Amend   Repeal

Pest and Plants Local Law 1982			Repeal
Extractive Industries Local Law 2011	Regulates and manages the establishment and operations of Extractive Industries on private land within the district.	Licensing requirements, applications, limitations, obligations, prohibitions, offences and penalties.	Repeal
Health Local Laws 2000	Relates to the management and enforcement of public health provisions.	Sanitation, housing, waste food, general refuse, nuisances, animals, pest control, infectious disease, lodging houses, offensive trades, offences, penalties, forms and fees.	Amend
By-law relating to the establishment, maintenance and equipment of Bush Fire Brigades 1993.	Establishment of Brigades.	Appointment, powers and duties of officers, administration responsibilities and financial implications, Brigade enrolments and register of Officer form templates.	Amend
Standing Orders Local Law	Provide rules and guidelines for conduct of Council and Committee meetings, and meetings of electors.	Better decision-making by the Council and committees, orderly conduct of meetings dealing with Council business, better understanding of the process of conducting meetings and the more efficient and effective use of time at meetings.	New

2. Upon satisfactory drafting or redrafting of the Local Laws as prescribed in Table 1 to the satisfaction of the Audit and Risk Committee, proceed with the procedure for making Local Laws in accordance 3.12(3) of the Local Government Act, 1995.

(Simple majority vote)

#### **OCM 08.20-19**

#### **COUNCIL RESOLUTION**

**MOVED Cr Walker**

**SECONDED Cr Hartl**

**That Council:**

1. Pursuant to Section 3.12 of the Local Government Act, 1995 and Regulation 3 of the Local Government (Functions and General) Regulations, 1996 initiate a review of its Local Laws as detailed in the following Table 1 for the purpose of either amending, repealing or making a new local law:

**Table 1**

<b>Local Law</b>	<b>Purpose</b>	<b>Effect</b>	<b>Action</b>
<b>Local Government Amendment Property Local Law 2013 (Consolidated)</b>	<i>Relates to use of property owned or managed by the Shire of Brookton and unvested facilities.</i>	<i>Procedures for making a determination regarding Local Government property, signage requirements, allowed activities, permit requirements and</i>	<i>Amend</i>

<b>And</b> <b>Local Government</b> <b>Property Local Law 2012</b>		<i>application process, Policy implications, behaviour on and interference with Local Government Property, objections, reviews, prohibitions, penalties, fee's, compliance and enforcement.</i>	
<b>Activities on</b> <b>Thoroughfares and</b> <b>Trading in</b> <b>Thoroughfares and</b> <b>Public Places Local Law</b> <b>2012</b>	<i>Relates to use and management of Thoroughfares and Public Places</i>	<i>Prohibitions, permits, permissions, obligations, signage, vehicle parking and access, animals, vegetation, fire hazard management, trading requirements and restrictions, outdoor eating facilities, notices, fee's, penalties and enforcement.</i>	<i>Amend</i>
<b>Dogs Amendment Local</b> <b>Law 2012</b>  <b>And</b>  <b>Dogs Local Law 2001</b>	<i>Regulates the control and management of dogs.</i>	<i>Impounding, requirements and limitations on the keeping of, approval of kennel establishments, exercising of dogs in public places, offences and enforcement.</i>	<i>Amend</i>
<b>Cemeteries Amendment</b> <b>Local Law 2012</b>  <b>And</b>  <b>Brookton Public</b> <b>Cemetery 2002</b>	<i>Regulates use and management of the Brookton Cemetery.</i>	<i>Powers and functions, application for Funerals, Funeral Director requirements, Funeral and Burial restrictions, requirements for Memorials and other works, offences and penalties.</i>	<i>Amend</i>          <i>Repeal</i>
<b>Pest Plants Local Law</b> <b>2012</b>  <b>And</b>  <b>Pest and Plants Local</b> <b>Law 1990</b>   <b>And</b>  <b>Pest and Plants Local</b> <b>Law 1982</b>	<i>Relates to the management of Pest Plants within the district.</i>	<i>Serving of notice to destroy, eradication or control of Caltrop, Afghan Thistle and Sorrell, penalties for failure to comply, recovery of expenses and Pest Plant Notice Form template.</i>	<i>Amend</i>          <i>Repeal</i>          <i>Repeal</i>
<b>Extractive Industries</b> <b>Local Law 2011</b>	<i>Regulates and manages the establishment and operations of Extractive Industries on private land within the district.</i>	<i>Licensing requirements, applications, limitations, obligations, prohibitions, offences and penalties.</i>	<i>Repeal</i>
<b>Health Local Laws 2000</b>	<i>Relates to the management and enforcement of public health provisions.</i>	<i>Sanitation, housing, waste food, general refuse, nuisances, animals, pest control, infectious disease, lodging houses, offensive trades, offences, penalties, forms and fees.</i>	<i>Amend</i>



<b><i>By-law relating to the establishment, maintenance and equipment of Bush Fire Brigades 1993.</i></b>	<i>Establishment of Brigades.</i>	<i>Appointment, powers and duties of officers, administration responsibilities and financial implications, Brigade enrolments and register of Officer form templates.</i>	<i>Amend</i>
<b><i>Standing Orders Local Law</i></b>	<i>Provide rules and guidelines for conduct of Council and Committee meetings, and meetings of electors.</i>	<i>Better decision-making by the Council and committees, orderly conduct of meetings dealing with Council business, better understanding of the process of conducting meetings and the more efficient and effective use of time at meetings.</i>	<i>New</i>

- 2. Upon satisfactory drafting or redrafting of the Local Laws as prescribed in Table 1 to the satisfaction of the Audit and Risk Committee, proceed with the procedure for making Local Laws in accordance 3.12(3) of the Local Government Act, 1995.***

***CARRIED BY SIMPLE MAJORITY VOTE 7/0***

**Attachments – provided under separate cover**

Attachment 15.08.20.04A

<b>16.08.20</b>	<b>ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>
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<b>16.08.20.01</b>	<b>ELECTED MEMBER MOTION – RECORDING OF ORDINARY COUNCIL MEETINGS – CR WATTS</b>
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File No	ADM 0144
Date of Report	20 August 2020
Location/Address	N/A
Name of Applicant	N/A
Elected Member	Cr Barry Watts
Reporting Officer	Ian D’Arcy – Chief Executive Officer
Interest	The reporting officer has no interest in this matter.

**Background:**

This report relates to an Elected Member motion for Council to consider the electronic recording of Ordinary Council Meetings including the purchase and installation of equipment.

**Statutory Environment:**

The *Local Government Act, 1995* specifically states in relation to the recording of minutes:

*5.22. Minutes of council and committee meetings*

- (1) The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting’s proceedings.*
- (2) The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.*
- (3) The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.*

The Local Government (Administration) Regulations, 1996 then stipulates in relation to statutory recording of Council and Committee meetings:

*11. Minutes, content of (Act s. 5.25(1)(f))*

*The content of minutes of a meeting of a council or a committee is to include —*

- (a) the names of the members present at the meeting; and*
- (b) where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting; and*
- (c) details of each motion moved at the meeting, the mover and the outcome of the motion; and*
- (d) details of each decision made at the meeting; and*
- (da) written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration); and*

- (e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question; and*
- (f) in relation to each disclosure made under section 5.65 or 5.70 in relation to the meeting, where the extent of the interest has also been disclosed, the extent of the interest.*

Further, the 'Standing Orders and Meeting Protocol Local Government (Council Meetings) Policy' prescribes:

#### *6.16 Recording of proceedings*

- (1) A person is not to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.*
- (2) If the Council gives permission under subclause (1), the Presiding Member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.*

#### **Relevant Plans and Policy:**

As reflected above the 'Standing Orders and Meeting Protocol Local Government (Council Meetings) Policy' applies to this matter and will need to be amended should the Council support the Elected Member motion.

Such an amendment would likely constitute a third dot point inclusive of procedural use of recorded material consistent with other Local Government Authorities.

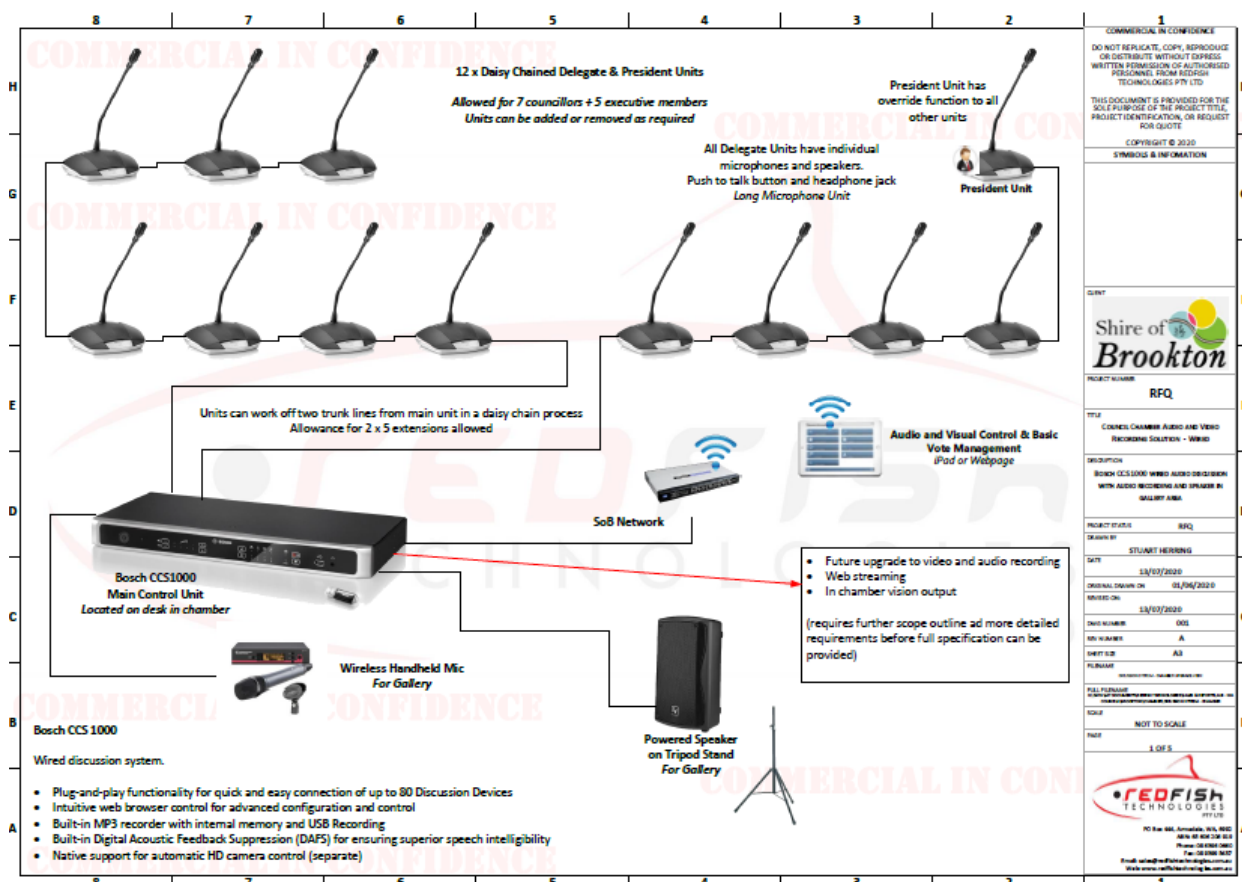
#### **Financial Implications:**

To accommodate the electronic recording of Council meetings the Council will need to commit \$20,000 in the municipal budget. This amount is based on a quote from Redfish technologies of \$18,740 with the balance to be used for additional electrical and website configuration works.

An illustration of the recording system is presented **Figure 1**.

Should Council support audio recording of meetings then the required funds can be drawn from the Furniture and Equipment Reserve that has a current balance of **\$21,194.45\***. This can be inserted as an additional line item when adopting the Council budget, or a separate motion to amend the financial budget once adopted.

**\*Note to minute: There has been a correction since the printing of the agenda regarding the Reserve Balance for the Furniture and Equipment Reserve from \$56,094 to \$21,194.45.**



## Risk Assessment:

It is assessed that there is a 'Low' risk with or without the electronic recording of Ordinary Council Meetings. This assessment is based on there being no statutory obligation for these meetings to be recorded, no documented evidence that many people in the local community will benefit from recording of Council meetings when these meetings are currently conducted at a reasonably accessible time of 6.00pm where most community members if interested in the Council's business can attend the meetings in person.

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 – May 2018, duly appended to the Next Generation BROOKTON Corporate Business Plan <2021.

Specifically, the Elected Member's motion aligns to:

*Function 1 – Governance*

*Action 1.4 – Convene Council meetings, prepare agendas, minutes*

**Elected Members Comment:*****Motion of Notice***

*I request Council amends –*

- a) The Shire of Brookton Standing Orders "S6.16 Recording of proceedings" to include the electronic audio recording of all future Ordinary Council Meetings of the Shire of Brookton; and*
- b) That the electronic recording of meetings be made available on the council's website along with the Agenda, Minutes of the Minute and Recorded proceedings.*

***Rationale***

- 1. This will ensure that fully accurate account of all comments, suggestions, statements both public and Council Member and debates and procedures are recorded in the event clarification is required and is in line with generally accepted principles of 'Open, Accountable and Transparent Governance procedures.*
- 2. This will enable members of the public who are unable to attend to be able to listen to proceedings at their leisure or for further clarification.*
- 3. This practice is not extraordinary, but a common practice in Local Government Authorities where audio visual recording does not occur.*

**Officer Comment**

While many mostly larger (ie Cities of Perth, South Perth, Belmont, Gosnells, Busselton, to name a few) Local Governments have moved to electronic recording of Council meetings, the comments offered on the Elected Member's Motion from an administration perspective in relation to the Shire of Brookton is:

1. The current process of taking minutes without electronic (that is audio or visual) recording of commentary should not be construed as a failure of the Council and Administration to be 'open, accountable and transparent' in its governance procedures. Importantly, Council currently accords to legislative requirements with the Shire's performance continually assessed through regulatory auditing and review processes.
2. Notwithstanding audio recording of Council meetings would be a convenience for some members of the community, what is central to the Elected Member Motion is whether the

Council views this initiative as 'value for money'. With the Ordinary Council Meeting time presently set at 6.00pm it is suggested that most people wanting to hear debate can attend meetings in person.

**ELECTED MEMBER MOTION**

I request Council amends:

- a) The Shire of Brookton Standing Orders "S6.16 Recording of proceedings" to include the electronic audio recording of all future Ordinary Council Meetings of the Shire of Brookton; and
- b) That the electronic recording of meetings be made available on the council's website along with the Agenda, Minutes of the Minute and Recorded proceedings.

(Simple Majority Vote required)

**OCM 08.20-20**

**COUNCIL RESOLUTION**

**MOVED Cr Watts**

**SECONDED Cr Lilly**

*I request Council amends:*

- a) The Shire of Brookton Standing Orders "S6.16 Recording of proceedings" to include the electronic audio recording of all future Ordinary Council Meetings of the Shire of Brookton; and*
- b) That the electronic recording of meetings be made available on the council's website along with the Agenda, Minutes of the minute and Recorded proceedings.*

**LOST 3/4**

Note to Minute: The Elected Member motion was not supported due to the financial outlay being unsubstantiated at this stage, with further discussion warranted at a Corporate Briefing Forum.



**17.08.20 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING****OCM 08.20-21****COUNCIL RESOLUTION****MOVED Cr Walker                      SECONDED Cr Fancote**

*That Council move to accept the new business presented by Cr Walker in relation to a pending application to the Community Chest Grant Funding from Brookton Community Inc (BCI) on behalf of the Brookton Community Garden Group.*

**CARRIED BY SIMPLE MAJORITY VOTE 7/0**

Note to Minute: Cr Walker's reason for consideration of this matter is to assist BCI and the Community Garden Group to move forward in obtaining much needed grant funding in accordance with Council Policy without further delay in waiting for Council meetings.

**17.08.20.01 DELEGATION TO THE CEO TO APPROVE COMMUNITY GRANT FUNDING APPLICATION****OCM 08.20-22****COUNCIL RESOLUTION****MOVED Cr Walker                      SECONDED Cr Fancote**

*That Council pursuant to Section 5.42(1) of the Local Government Act 1995, delegate authority to the Chief Executive Officer (CEO) to assess and determine a Community Chest grant application from the Brookton Community Garden (subgroup of the Brookton Community Incorporated) should an application be submitted to the Community Chest Fund that complies with the selection criteria of the of the Council Policy 2.34 – Community Funding and Donations Policy.*

**CARRIED BY ABSOLUTE MAJORITY VOTE 7/0**

**18.08.20 CONFIDENTIAL REPORTS****19.08.20 NEXT MEETING & CLOSURE**

The next Ordinary meeting of the Council will be held on Thursday 17<sup>th</sup> September 2020 commencing at 6.00 pm.

There being no further business the meeting was closed at 6.48pm.