

# Ordinary Council Meeting

Minutes | 27<sup>th</sup> May 2021

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## Disclaimer

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# CONTENTS

## Agenda Item

Page

Agenda Item	Page
ITEM 1	OPENING & ANNOUNCEMENTS.....3
ITEM 2	ATTENDANCE AND APOLOGIES .....3
ITEM 3	PUBLIC QUESTION TIME.....3
ITEM 4	DEPUTATIONS / PRESENTATIONS / SUBMISSIONS / PETITIONS..... 4
ITEM 5	APPLICATIONS FOR LEAVE OF ABSENCE..... 4
5.1	Application for Leave of Absence – Cr Peter Smith ..... 4
ITEM 6	DECLARATIONS OF INTEREST ..... 4
ITEM 7	CONFIRMATION OF MINUTES AND BUSINESS ARISING ..... 4
7.1	Confirmation of Minutes: Ordinary Council Meeting – 29 <sup>th</sup> April 2021 ..... 4
7.2	Business Arising..... 4
ITEM 8	MATTERS FOR CONSIDERATION – BUILDING AND TOWN PLANNING .....5
8.1	Quairading Agricultural Society Permanent Structure Proposal.....5
ITEM 9	MATTERS FOR CONSIDERATION – FINANCE & AUDIT .....8
9.1	Accounts for Payment – April 2021 .....8
9.2	Financial Information–Statements of Income and Expenditure for the Period Ending – 30 <sup>th</sup> April 2021 10
ITEM 10	MATTERS FOR CONSIDERATION – GOVERNANCE & ADMINISTRATION.....12
10.1	Proposed Rectification of Boundaries of Reserve 14171 –Pikaring West Nature Reserve .....12
10.2	CEO Recruitment and Selection Advisory Panel..... 17
10.3	Department of Transport – new Draft Agreements for the Provision of Licensing Services and Non-Road Law Functions..... 23
10.4	Council Member, Committee Member and Candidate Code of Conduct Complaint Form ..... 26
10.5	Template Noongar Heritage Agreement for Local Government Aboriginal and the Cultural Heritage Bill (Draft) 2020 ..... 29
10.6	Quairading Rainmakers - "El Toro" Plinth and Location..... 33
ITEM 11	MATTERS FOR CONSIDERATION – HEALTH AND BUILDING ..... 36
ITEM 12	MATTERS FOR CONSIDERATION – WORKS .....37
ITEM 13	URGENT COUNCILLORS' BUSINESS ..... 38
ITEM 14	CONFIDENTIAL BUSINESS – AS PER LOCAL GOVERNMENT ACT S5.23 (2) ..... 38
ITEM 15	NEXT MEETING DATE..... 38
ITEM 16	CLOSURE ..... 38

## SHIRE OF QUAIRADING

The Ordinary Council Minutes of Meeting held on Thursday 27<sup>th</sup> May 2021 commencing at 2.01 pm

### ITEM 1 OPENING & ANNOUNCEMENTS

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The Shire President opened the Meeting at 2.01 pm.

"Before we start our Meeting, I would like to acknowledge that we are meeting on Noongar / Ballardong land and we pay respect to the original custodians...past, present and future and welcome you all here today for this Meeting".

Councillors are advised that an Invitation has been extended to Digby Nupen, John Simpson, Trevor and Jacque Sandercock of Farmarama, to join us for Afternoon Tea.

Council Afternoon Tea will coincide with the Cancer Council's 'Biggest Morning Tea' fundraiser to assist the Cancer Council in raising much needed funds that go towards vital cancer research, support services and prevention programs. Councillors are reminded to offer donation.

### ITEM 2 ATTENDANCE AND APOLOGIES

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#### Councillors

Cr WMF Davies	Shire President
Cr JN Haythornthwaite	Deputy Shire President
Cr BR Cowcill	
Cr JW Haythornthwaite	
Cr JR Hippisley	
Cr B McGuinness	
Cr PD Smith	
Cr TJ Stacey	

#### Council Officers

Mr GA Fardon	Chief Executive Officer
Mr N Gilfellow	Executive Manager of Corporate Services
Mr A Rourke	Executive Manager of Works & Services
Mr RM Bleakley	IPR & Strategic Projects Officer
Mrs A Strauss	Executive Officer

#### Observers/Visitor

Nil.

#### Apologies

Nil.

#### Leave of Absence Previously Granted

Nil.

### ITEM 3 PUBLIC QUESTION TIME

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Nil - No Members of the Public in attendance and no Written Questions submitted.

## ITEM 4 DEPUTATIONS / PRESENTATIONS / SUBMISSIONS / PETITIONS

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Nil.

## ITEM 5 APPLICATIONS FOR LEAVE OF ABSENCE

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### 5.1 Application for Leave of Absence – Cr Peter Smith

A written Application for Leave of Absence has been received from Cr Smith for the Ordinary Council Meeting to be held on the 24<sup>th</sup> June 2021.

**RESOLUTION: 170-20/21**

**MOVED Cr Hippisley SECONDED Cr Stacey**

That Cr Smith be granted Leave of Absence from Council for the 24<sup>th</sup> June 2021 Ordinary Council Meeting.

**CARRIED 8/0**

## ITEM 6 DECLARATIONS OF INTEREST

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Cr Peter Smith - Declared an Impartiality Interest with Item 8.1 Quairading Agricultural Society Permanent Structure Proposal – Executive Member of proponent organisation. President of the Quairading Agricultural Society.

## ITEM 7 CONFIRMATION OF MINUTES AND BUSINESS ARISING

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### 7.1 Confirmation of Minutes: Ordinary Council Meeting – 29<sup>th</sup> April 2021

**RESOLUTION: 171-20/21**

**MOVED Cr Jo Haythornthwaite SECONDED Cr Cowcill**

That the Minutes of the Ordinary Meeting of Council held on the 29<sup>th</sup> April 2021 be confirmed as a true and accurate.

**CARRIED 8/0**

### 7.2 Business Arising

Nil.

## ITEM 8 MATTERS FOR CONSIDERATION – BUILDING AND TOWN PLANNING

### 8.1 Quairading Agricultural Society Permanent Structure Proposal

<b>Meeting Date</b>	27 <sup>th</sup> May 2021
<b>Responsible Officer</b>	CEO Graeme Fardon
<b>Reporting Officer</b>	CEO Graeme Fardon
<b>Attachments</b>	(i) Quairading Agricultural Society Proposal (ii) Locality Plan and Proposed Structure (Photograph) (iii) Drawings
<b>Owner/Applicant</b>	Mrs Jo Hayes – Treasurer Quairading Agricultural Society CEO – Nil.
<b>Disclosure of Interest</b>	Cr Peter Smith - Declared an Impartiality Interest with Item 8.1 Quairading Agricultural Society Permanent Structure Proposal – Executive Member of proponent organisation. President of the Quairading Agricultural Society.

### OFFICER RECOMMENDATION

#### RESOLUTION: 172-20/21

#### MOVED Cr Hippisley SECONDED Cr Cowcill

That Council approve the installation of the "Bird's Post and Truss Structure" on Reserve 15546 subject to the following: -

1. The Structure to be issued with a Certificate of Design Compliance by a Private Certifier
2. Building Licence be issued by the Shire of Quairading
3. The Structure to be located on the North East section of the caravan Park Overflow Area, in accordance with the Proposed Location Plan and to the satisfaction of the CEO.
4. That the Quairading Agricultural Society be fully responsible for the Purchase and Installation Costs and all Certification
5. That the Quairading Agricultural Society be responsible for Insurance Cover and all future maintenance of the Structure.

**CARRIED 8/0**

### IN BRIEF

- The Quairading Agricultural Society received Federal Government Department of Agriculture Regional Agricultural Show Development Grants Program Fund of \$81,710 for the following projects:-
  - laying recycled asphalt in and around the Ag Shed
  - purchasing two Australian Light Towers
  - purchasing two Felton Select Grandstand tiered seating units
  - purchasing 24 folding tables
  - ordering a purpose built, tandem axle mobile cool room

- provision of shelter kits.
- The Agricultural Society have a budget of \$22,500 for Shelters and have proposed a Bird's Post & Truss structure of 24 metres long x 10 metres wide x 5 metres high be purchased and installed. It would have a permanent fabric roof cover and one end and one side screens that could be attached as required.
- The Shelter would be used for Exhibits and Displays and replaces an assortment of temporary / portable shelters and marquees used for the annual Agricultural Show.
- Purchase of the Structure and Installation to be fully funded by the Agricultural Society
- Ongoing Insurance of the Structure to be the responsibility of the Agricultural Society.

## **MATTER FOR CONSIDERATION**

Installation of Permanent Structure on the Showgrounds / North East of Caravan Park Overflow Area.

## **BACKGROUND**

On the 27<sup>th</sup> April 2021, the Shire received a proposal from the Quairading Agricultural Society to install a permanent Bird's Post and Truss 10m x 24m x 5m structure at the north eastern end of the caravan overflow area. The Structure would have a permanent roof cover and one end, and one side that could be attached as required.

The Greater Sports Ground and the Showgrounds are located on Reserve No. 15546 which is vested in Council for the purpose of "Recreation & Showgrounds". Council has sole Management of the Reserve.

The Agricultural Society propose that the structure be located to the East of the Lighting Tower and West of the Bridge over the stormwater drain and abutting the Main Entry Road.

It is not envisaged that the Structure will cause any interference to the capacity or operation of the Caravan Overflow Area.

The Society has undertaken to obtain necessary local government permits and ensure Insurance Cover of the structure.

Council should also clarify that ongoing responsibility for Maintenance of the Structure should remain with the Society.

"The Society also understands that planning is ongoing for possible changes to the nearby recreation precinct and would be receptive to possible relocation of the structure in the future if required."

The Manufacturer will be required to supply Structural Engineering plans for both the Certification and the Building Permit.

Being on Shire land a Certificate of Design Compliance needs to be issued by a Private Building Surveyor first before a Building Licence can be issued.

A similar "Bird's Structure" has previously been Certified and erected within the Region.

## **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Land Administration Act 1997*

## **POLICY IMPLICATIONS**

N/A.

## **FINANCIAL IMPLICATIONS**

Nil - to Council. The Agricultural Society have Grant Funding for the purchase and installation of the Shelter Structure. Ongoing Insurance and Maintenance Costs to be borne by the Society.

## STRATEGIC IMPLICATIONS – Strategic Community Plan 2017 - 2027

### Social Objective: Active, healthy, safe and inclusive community

ITEM	OUTCOMES AND STRATEGIES
S1	Active community
S1.1	Provide facilities and support participation in sport and recreational activities, facilities and clubs
S1.2	Promote increased participation in the social and cultural life of the community

### Built Environment Objective: Planning and infrastructure to meet the needs of the community

ITEM	OUTCOMES AND STRATEGIES
B2	Enhanced and Sustainably Managed Assets and Infrastructure
B2.2	Ensure the provision of community facilities and other built assets takes into account the needs of the community

### Governance Objective: Strong governance and community engagement

ITEM	OUTCOMES AND STRATEGIES
G3	Community Engagement
G3.1	Provide appealing opportunities for the community to participate in decisions that affect them
G3.2	Collaborate with the community to achieve desired outcomes

## COMMUNITY CONSULTATION

No Community consultation was in relation to this report.

### RISK ASSESSMENT – Risk Management Policy and Risk Management Governance Framework Applicable.

Financial - Risk Matrix Rating is assessed as Low. Full cost of Structure to be borne by the Agricultural Society from the Federal Government Grant. Ongoing Costs to be borne by the Agricultural Society.

Health – Risk Matrix Rating is assessed as Low

Reputation – Risk Matrix Rating is assessed as Low. Council provided the Agricultural Society with a Letter of Support to accompany its Grant Application to the Federal Government's Regional Agricultural Show Development Grants Program Fund. Shelters / Shelter Structure is part of the Approved Projects.

Operation – Risk Matrix Rating is assessed as Low. Project not being undertaken by Council. Issuing of Building Permit is part of Council's normal operations.

Natural Environment – Risk Matrix Rating is assessed as Low.

## COMMENT

On Show Day the shelter would be used for stall holders and exhibitors or live entertainment and demonstrations. When the area is being used as a caravan overflow space by clubs or groups it would provide the perfect meeting space. Its proximity to power is also beneficial.

## ITEM 9 MATTERS FOR CONSIDERATION – FINANCE & AUDIT

### 9.1 Accounts for Payment – April 2021

<b>Meeting Date</b>	27 <sup>th</sup> May 2021
<b>Responsible Officer</b>	CEO Graeme Fardon
<b>Reporting Officer</b>	EMCS Nathan Gilfellow
<b>Attachments</b>	(i) April 2021 Payment List (ii) Transport Takings (iii) Credit Card Statement
<b>Owner/Applicant</b>	N/A
<b>Disclosure of Interest</b>	Nil

### OFFICER RECOMMENDATION

#### RESOLUTION: 173-20/21

#### MOVED Cr McGuinness SECONDED Cr Stacey

That Council note the following:

1. That Schedule of Accounts for April 2021 covering Municipal Vouchers 23820 to 23832, EFT 9166 to EFT 9280 \$701,427.60 be received and
2. That Police Licensing payments for the month of April 2021 totalling \$30,286.80 be received (Attachment ii); and
3. That fund transfers to Corporate Credit Card for April 2021 balance totalling \$0.00 be received (Attachment iii); and
4. That Net Payroll payments for the month April 2021 totalling \$114,420.17; and
5. That the Lease payment for the month of April 2021 on the CESM Vehicle totalling \$3,097.16.

**CARRIED 8/0**

### IN BRIEF

Payments are per attached schedules 9.11/2/3

### MATTER FOR CONSIDERATION

Note the Accounts paid during April 2021.

### BACKGROUND

Accounts paid are required to be submitted each month.

### STATUTORY ENVIRONMENT

*Local Government (Financial Management) Regulations 1996 (Reg 13 (1))* requires that where the Chief Executive Officer has delegated power to make payments from the Municipal or Trust funds a list of accounts paid is to be prepared each month.

### POLICY IMPLICATIONS

Nil.



## FINANCIAL IMPLICATIONS

Payment from Council's Municipal Fund. Expenditure as per delegated authority and included in the adopted 2020/2021 Budget.

Payments made for the 2020/21 Year in the Payments List have been included in Council's Budget in accordance with section 6.8 of the Local Government Act 1995.

## STRATEGIC IMPLICATIONS – Strategic Community Plan 2017 - 2027

### Governance Objective: Strong governance and community engagement

ITEM	OUTCOMES AND STRATEGIES
G1	Robust Integrated Planning and Reporting (IPR)
G1.1	Continual improvement in IPR, transparency and accountability

## COMMUNITY CONSULTATION

Nil

## RISK ASSESSMENT – Risk Management Policy and Risk Management Governance Framework Applicable.

Financial - Risk Matrix Rating considered Low – Given Purchasing / Procedures followed, together with Management Separation of acceptance of duties and Processes in place.

Health – Risk Matrix Rating considered Low.

Reputation – Risk Matrix Rating considered Low – Creditors reviewed weekly and paid in accordance to agreed terms.

Operation – Risk Matrix Rating considered Low.

Natural Environment – Risk Matrix Rating considered Low.

## 9.2 Financial Information–Statements of Income and Expenditure for the Period Ending – 30<sup>th</sup> April 2021

<b>Meeting Date</b>	27 <sup>th</sup> May 2021
<b>Responsible Officer</b>	CEO Graeme Fardon
<b>Reporting Officer</b>	EMCS Nathan Gilfellow
<b>Attachments</b>	(i) Financial Statements for April 2021
<b>Owner/Applicant</b>	Shire of Quairading
<b>Disclosure of Interest</b>	Nil

### OFFICER RECOMMENDATION

#### RESOLUTION: 174-20/21

#### MOVED Cr Hippisley SECONDED Cr Jo Haythornthwaite

That Council receive the Monthly Financial Statements for the period ending 30<sup>th</sup> April 2021.

**CARRIED 8/0**

### IN BRIEF

- Monthly Financial Statements for the period ending 30<sup>th</sup> April 2021 attached.
- Monthly Financial Statements have been updated based on the Moore Australia's Monthly Statements Model.
- The Monthly Financial Statements report include the Fund Balances Report and the Variance Report.

### MATTER FOR CONSIDERATION

To receive the monthly Financial Report and Statements.

### BACKGROUND

Council resolved in October 2000 (Minute Number 071-00/01) to receive Financial Statements in the required statutory format. The current template is based on the Moore Australia (formerly Moore Stephens) Monthly Budget Template.

### STATUTORY ENVIRONMENT

Amendments to the regulations, gazetted on the 30<sup>th</sup> April 2005 and effective from the 1<sup>st</sup> July 2005, have repealed the existing regulations (34 and 35) relating to monthly and quarterly / triannual financial reports.

They were substituted in accordance with Regulation 34. This regulation only requires Local Governments to report on a monthly basis, although it is much more prescriptive as to what is required and its intention is to establish a minimum standard across the industry.

The regulation requires the local government to prepare each month a statement of financial activity as per attachment. This statement is intended to report on the sources and application of funds highlighting variances to budget for the month in question.

### POLICY IMPLICATIONS

Nil

## FINANCIAL IMPLICATIONS

The Model Monthly Financial Statements cost \$430 (2018/19) and will be an ongoing annual expense if the latest model is needed. Staff time is used to update and customise the template for Council preferences.

## STRATEGIC IMPLICATIONS – Strategic Community Plan 2017 - 2027

### Governance Objective: Strong governance and community engagement

ITEM	OUTCOMES AND STRATEGIES
G1	Robust Integrated Planning and Reporting (IPR)
G1.1	Continual improvement in IPR, transparency and accountability

## COMMUNITY CONSULTATION

Nil

## RISK ASSESSMENT – Risk Management Policy and Risk Management Governance Framework Applicable.

Financial - Risk Matrix Rating considered Low – Comprehensive Monthly Financial Reports in accordance with the Local Government's Financial Regulation 34.

Health – Risk Matrix Rating considered Low.

Reputation – Risk Matrix Rating considered Low. Risk Mitigated through compliance with legislation and sound financial management policies and processes in place.

Operation – Risk Matrix Rating considered Low – Level verified through Council Financial Audits.

Natural Environment – Risk Matrix Rating considered Low.

## COMMENT

The Monthly Financial Statements have been updated based on the current Moore Australia Monthly Reporting Template. They now also include the Fund Balances Report and the Variation Report, which were previously separate items.

The Model Template has been updated to include profit and loss statements for the Caravan Park. The Statements can continue to be updated and customised to include relevant information for Council and Staff and to work with improved Management Accounting practices.

## ITEM 10 MATTERS FOR CONSIDERATION – GOVERNANCE & ADMINISTRATION

### 10.1 Proposed Rectification of Boundaries of Reserve 14171 –Pikaring West Nature Reserve

<b>Meeting Date</b>	27 <sup>th</sup> May 2021
<b>Responsible Officer</b>	CEO Graeme Fardon
<b>Reporting Officer</b>	CEO Graeme Fardon
<b>Attachments</b>	(i) Letter from Shire of Quairading supporting proposal 2012 (ii) Inquiry Map - Option 1 (Land Exchange) (iii) Inquiry Map - Option 2 (Purchase only) (iv) Inquiry Map - Option 3 (re-fence)
<b>Owner/Applicant</b>	Department of Planning, Lands and Heritage
<b>Disclosure of Interest</b>	CEO - Nil

#### OFFICER RECOMMENDATION

##### RESOLUTION: 175-20/21

##### MOVED Cr Hippisley SECONDED Cr Smith

That Council: -

- Note the Advice from the Department of Planning, Lands and Heritage on its intention to adjust the Boundaries of Reserve 14171 – Pikaring West Nature Reserve and to include it with A Class Reserve 23141.
- Reaffirm its support from March 2012 for the proposed amalgamation of the 2 Conservation Reserves as proposed by the Department of Biodiversity, Conservation and Attractions (DBCA)
- Notes the DPLH are negotiating with the Owners of Location 25371 on the adjustment of the Western boundary of Reserve 14171 which, depending on the outcome, may result in a joint proposal with the Shire of Bruce Rock to the Local Government Advisory Board to adjust the Shire Boundary with the Shire of Bruce Rock.
- Notes that the constructed Old Beverley East Road is within Reserve 14171 and declares that the section of the Old Beverley East Road (shaded in Blue in the DPLH Plan dated 3/3/2021) as a Road under Section 56 of the Land Administration Act 1997
- Pursuant to Section 56(4) of the Land Administration Act 1997 Council indemnify the State of WA and the Minister for Lands for any claims of compensation as result of the Road Dedication.

**CARRIED 8/0**

#### IN BRIEF

- Reserve 14171 lies both in the Shire of Bruce Rock and the Shire of Quairading.
- The Department of Biodiversity, Conservation and Attractions proposes to amalgamate Reserve 14171 (in both the Shires of Bruce Rock and Quairading) with A Class Reserve 23141 (fully in the Shire of Quairading).
- Council previously supported the two Reserves being amalgamated.

- In the process of the amalgamation, DBCA and DPLH wish to correct historic incursions into Reserve 14171, being Cropping from the adjoining Location 25371 to the West and the constructed Old Beverley East Road in the Northern section of the Reserve.
- The Shire Boundary with the Shire of Bruce Rock will be impacted by the adjustments to Reserve 14171 and potentially the removal of Old Beverley East Road Reserve from the Conservation Reserve.
- DPLH is liaising with the adjoining landowner who holds land in both Shires.
- Both Councils to dedicate the land on which Old Beverley East Road sits as a Road under the Land Administration Act.
- Subject to the outcome of the Department's negotiations with the adjoining landowner, an adjustment to the Shire Boundary will be required.

### **MATTER FOR CONSIDERATION**

Proposal to amalgamate Reserve 14171 into A Class Reserve 23141 (in the Shire of Quairading).

Correction of Reserve Boundary.

Dedication of Land as "Road".

### **BACKGROUND**

The Department of Planning, Lands & Heritage (DPLH) recently contacted the Shire advising that it is currently considering a proposal from the Department of Biodiversity, Conservation and Attractions (DBCA) for the rectification of the boundaries of the Water and Rivers Commission Surplus Reserve 14171 which is located within the Shires of Quairading and Bruce Rock.

It is eventually proposed to add Reserve 14171 into the 'A Class' Reserve 23141, known as Pikaring West Nature Reserve, located to the north of Reserve 14171.

Reserve 23141 is located entirely within the Shire of Quairading and is managed by the Conservation Commission of Western Australia for the purpose of 'Conservation of Flora and Fauna'.

Council at its March 2012 Ordinary Council Meeting resolved as follows: -

*Council advise the Department of Environment and Conservation that Council has no objections to Reserve No 14171 (40.5 hectares in Area) being incorporated into the existing Pikaring West Nature Reserve (Reserve No 23141).*

DPLH advise "that before progressing with the 'A Class' amendment it is first proposed to resolve issues with the Reserve boundary, including the dedication of a constructed road and the rectification of lot boundaries with the adjoining freehold lots being Lot 25371 on Deposited Plan 164836 and Lot 23845 on Deposited Plan 151246.

At this stage, the Department is considering three options to rectify the freehold boundary with Reserve 14171:

*Option 1 – Entering into a Land Exchange Agreement with the Landowner of Lots 25371 and 23845.*

- Approximately 1.7435ha will be excised from Reserve 14171 and added into Lot 25371 on Deposited Plan 164836 pursuant to section 87 of the *Land Administration Act 1997* (LAA).
- Approximately 4.5910ha will be excised from Lot 23845 on Deposited Plan 151246 and back to the State pursuant to section 152 of the *Planning and Development Act 2005* (P&D Act). This land will be added into Reserve 14171.
- The Land Exchange option will require a Form 1A Freehold Subdivision process.

*Option 2 – The Landowner of Lot 25371 purchasing portion of Reserve 14171.*

- Approximately 1.7435ha will be excised from Reserve 14171 and added into Lot 25371 on Deposited Plan 164836 pursuant to section 87 of the LAA.
- This option will not require a Form 1A Freehold Subdivision process.

*Option 3 – The Landowner of Lot 25371 re-fences Lot 25371 to the correct lot boundary*

- No actions will be involved other than those involving purely crown land.

Further advice will be provided to the Shire when DPLH has more clarity on how it is decided to proceed."

In addition to the above issue, DBCA has proposed to dedicate the constructed road located in the north of Reserve 14171, which is partially located within the Shire of Quairading and partially in the Shire of Bruce Rock. The portion within the Shire of Quairading is shown in blue on the attached Inquiry Maps.

The road will be dedicated under section 56 of the LAA, meaning that both Local Governments will be required to meet the requirements of section 56 of the LAA. This includes:

1. A Council Resolution where Council resolves to dedicate the road under section 56 of the LAA.
2. A statement of indemnifying the State of WA and the Minister for Lands under section 56(4) of the LAA for any claims of compensation as result of the Road Dedication.

"As well as providing undertaking the required sections under section 56 of the LAA (assuming the Shire wishes to proceed with road dedication), it would be greatly appreciated if the Shire could advise whether they have any further comments on the proposed changes to Reserve 14171 and the surrounding lot boundaries."

DPLH notes that Council previously advised DBCA (then DEC) in 2012, that Council supported the proposal to transfer the management of Reserve 14171 (see attachment), however the Department considers this consent out of date and it also it does not appear that the road dedication was addressed in 2012.

## **STATUTORY ENVIRONMENT**

### *Local Government Act 1995*

Schedule 2.1 – Provisions about creating, changing the boundaries of, and abolishing districts

### *Land Administration Act 1997*

#### 56. Dedication of land as road

(1) If in the district of a local government –

- (a) land is reserved or acquired for use by the public, or is used by the public, as a road under the care, control and management of the local government; or
- (b) in the case of land comprising a private road constructed and maintained to the satisfaction of the local government –
  - (i) the holder of the freehold in that land applies to the local government, requesting it to do so; or
  - (ii) those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;

or

- (c) land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years,

and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.

- (2) If a local government resolves to make a request under subsection (1), it must –
  - (a) in accordance with the regulations prepare and deliver the request to the Minister; and
  - (b) provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.
- (3) On receiving a request delivered to him or her under subsection (2), the Minister must consider the request and may then –
  - (a) subject to subsection (5), by order grant the request; or
  - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or
  - (c) refuse the request.
- (4) On the Minister granting a request under subsection (3), the relevant local government is liable to indemnify the Minister against any claim for compensation (not being a claim for compensation in respect of land referred to in subsection (6)) in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request.
- (5) To be dedicated under subsection (3)(a), land must immediately before the time of dedication be –
  - (a) unallocated Crown land or, in the case of a private road, alienated land; and
  - (b) designated in the relevant plan of survey, sketch plan or document as having the purpose of a road.
- (6) If land referred to in subsection (1)(b) or (c) is dedicated under subsection (3)(a), a person with an interest in that land (including a person who has the benefit of an easement created under section 167A of the TLA) is not entitled to compensation because of that dedication.

## POLICY IMPLICATIONS

There are no policy implications with this report.

## FINANCIAL IMPLICATIONS

No Financial implication for the Road Dedication process however there may be minor expenses for the drafting of Boundary adjustment plans. This can be accommodated on a shared basis with the Shire of Bruce Rock.

## STRATEGIC IMPLICATIONS – Strategic Community Plan 2017 - 2027

### Governance Objective: Strong governance and community engagement

ITEM	OUTCOMES AND STRATEGIES
G1	Robust Integrated Planning and Reporting (IPR)
G1.1	Continual improvement in IPR, transparency and accountability

### Natural Environment Objective: To preserve and sustain our natural environment

ITEM	OUTCOMES AND STRATEGIES
NE2	Protected and valued natural areas
NE2.1	Manage regulation of vegetation clearing
NE2.2	Ensure nature reserves and reserves are well managed to meet the needs of the community to enjoy natural areas

### Governance Objective: Strong governance and community engagement

ITEM	OUTCOMES AND STRATEGIES
G2	Strengthened Advocacy and Partnerships
G2.1	Partnerships with and advocacy to Federal and State Government to strengthen service provision within the Shire
G2.3	Regional and sub-regional partnerships to achieve better outcomes for the community

### COMMUNITY CONSULTATION

No Community consultation was required or undertaken in relation to this report.

DPLH are liaising with the relevant landholder and the Shire of Bruce Rock.

CEO has corresponded with the CEO of the Shire of Bruce Rock on the issue to ensure a uniform approach is being taken by both local governments.

### RISK ASSESSMENT – Risk Management Policy and Risk Management Governance Framework Applicable.

Financial - Risk Matrix Rating is assessed as Low

Health – Risk Matrix Rating is assessed as Low

Reputation – Risk Matrix Rating is assessed as Low. State Government Departments have approached Council on the amendment to Reserve No 14171 and for the Reserve to be incorporated into A Class Reserve 23141. Correction of a historical situation where Old Beverley East Road is constructed within Reserve 14171 in both Shires.

Operation – Risk Matrix Rating is assessed as Low. The proposal and any future Shire Boundary adjustment will be administered within Council's current structure and resources.

Natural Environment – Risk Matrix Rating is assessed as Low. The proposal from DBCA to combine the two Reserves into one A Class Reserve will strengthen the Conversation Value of the Reserves. Road dedication will not impact any further on the Reserves.

### COMMENT

Larger versions of the Plans will be displayed at the meeting.



## 10.2 CEO Recruitment and Selection Advisory Panel

<b>Meeting Date</b>	27 <sup>th</sup> May 2021
<b>Responsible Officer</b>	CEO Graeme Fardon
<b>Reporting Officer</b>	CEO Graeme Fardon
<b>Attachments</b>	(i) CEO Recruitment Schedule (ii) CEO Recruitment and Selection Advisory Panel Terms of Reference (iii) Draft Chief Executive Officer Position Description (iv) CEO Survey Report - Shire of Quairading – Under separate cover
<b>Owner/Applicant</b>	CEO & Shire President
<b>Disclosure of Interest</b>	CEO – Nil.

### OFFICER RECOMMENDATION

#### RESOLUTION: 176-20/21

#### MOVED Cr Stacey SECONDED Cr Cowcill

That Council: -

1. Endorse the proposed timelines for the CEO's recruitment process;
2. Appoint the Shire President Cr Wayne Davies, Deputy Shire President Cr Jo Haythornthwaite, Cr Brett McGuinness and Cr Peter Smith to the CEO Recruitment Selection Advisory Panel, the Presiding Member being the Shire President;
3. Appoint Mrs Lyn Baker to the selection panel as the independent person, pursuant to Schedule 2 clause 8(3)(b) of the *Local Government (Administration) Regulations 1996*.
4. Adopt the Terms of Reference for a CEO Recruitment and Selection Advisory Panel as attached
5. Approve the attached Position Description for the position of Chief Executive Officer, pursuant to Pursuant to Schedule 2 clause 5(2) of the *Local Government (Administration) Regulations Act 1996*. \*

#### AMENDMENT MOVED Cr Smith SECONDED Cr Hippisley

6. That a Community Member be invited to participate in the CEO Recruitment and Selection Advisory Panel.

**AMENDMENT LOST 2/6**

**THE SUBSTANTIVE MOTION WAS PUT**

**CARRIED BY ABSOLUTE MAJORITY 5/3**

The CEO advised that an Absolute Majority decision would be required for point 5\*.

#### Council Discussion

Cr Smith proposed an amendment to the Officer's Recommendation for the inclusion of a Community Member to participate in the CEO Recruitment and Selection Advisory Panel.

#### IN BRIEF

- Council at its Ordinary Council Meeting held on 25<sup>th</sup> March 2021, resolved to initiate the recruitment process to appoint a new Chief Executive Officer and appointed HR Consultant, Beilby Downing Teal to provide Recruitment Services.

- Councillors were invited to nominate themselves for consideration for the Recruitment and Selection Panel. The Shire President and 3 Councillors nominated themselves for the Panel.
- It is recommended that the Panel consist of the Shire President plus 3 Councillors and 1 Independent Person with the Shire President to act as Presiding Member.
- Councillors offered suggested names of Persons for the Independent Person to sit on the Panel.
- Mrs Lyn Baker, ex Shire President and Shire Freeman of the Shire of Corrigin was determined by consensus as a suitable Independent Person with local government CEO recruitment experience and also a past Chair of the Wheatbelt South Regional Road Group, recent Board member of Rural Health West and current Board Member of Wheatbelt RDA.
- Mrs Baker has indicated her willingness to be considered for the appointment to the CEO Recruitment and Selection Panel.
- Draft Terms of Reference for the Recruitment and Selection Panel have been developed for Council's Consideration.
- Council is to consider and approve the Position Description for the CEO's Position before the Position can be advertised.
- Draft Position Description has been developed following consultation by the Recruitment Consultant with all Councillors and the 3 Executive Managers (see Attachment iii).
- CEO's Position Description to include Total Rewards Package that complies within Band 4 of the Salaries & Allowances Tribunal Determination.

#### **MATTER FOR CONSIDERATION**

- Endorsement of the Proposed Timelines for the Recruitment & Selection Process.
- Establishment of a CEO Recruitment and Selection Advisory Panel
- Appointment of the Panel Members
- Adoption of the Terms of Reference for the Recruitment and Selection Advisory Panel
- Council is to consider and approve the Position Description and Selection Criteria for the CEO's Position before the Position can be advertised.

#### **BACKGROUND**

At the March 2021 Ordinary Council Meeting, the resignation of CEO Graeme Fardon was accepted by Council, and resolved to initiate the recruitment process to appoint a new Chief Executive Officer and appointed HR Consultant, Beilby Downing Teal to provide Recruitment Services.

*RESOLUTION: 147-20/21, That Council:*

1. *Acknowledge the written Notice of Resignation as provided to the Shire President on 1<sup>st</sup> March 2021 from Mr Graeme Fardon, Chief Executive Officer, with a final working day being 17<sup>th</sup> December 2021;*
2. *Accept the proposal from HR Consultant, Beilby Downing Teal to provide professional recruitment services for the recruitment of a new Chief Executive Officer for the amount for \$12,400.*
3. *Increase the 2020/2021 Budget for Governance Other Expenditure (GL 0372) by \$4000 to \$36,000.*
4. *Provide for the balance of the Estimated Recruitment Cost of \$18,400 in the 2021/2022 Draft Budget.*
5. *The Shire President and the CEO be delegated Authority to act on behalf of Council in the liaison with the HR Consultant.*

On Thursday 29<sup>th</sup> April 2021, Beilby Downing Teal Consultant Ms Emily Bulloch invited Councillors and Senior Staff to complete a 10-minute survey as part of development of the position description for the recruitment process.

Council at its April 2021 Information Session was briefed on the Recruitment Process and Councillors were invited to put their names forward for consideration for the Recruitment & Selection Panel.

The Shire President and 3 Councillors submitted their interest in sitting on the Panel.

Names were also submitted by Councillors of persons to be considered for the Independent Person's position on the Panel, which is required by law.

In conjunction and agreement with the Shire President, Mrs Lyn Baker the immediate ex-Shire President of the Shire of Corrigin and now Shire Freeman of Corrigin was determined as a preferred Independent Person.

Mrs Baker was approached by the CEO on 12<sup>th</sup> May 2021 inviting her to consider putting her name forward for Council's consideration. Mrs Baker has accepted the invitation and is willing to sit on the Panel if appointed by Council.

Mrs Baker has extensive Local Government and Regional Board level experience and will bring this experience and skills to the Recruitment Process. Mrs Baker has overseen the recruitment of 2 CEO's for the Shire of Corrigin in her time as the Shire President.

The draft Terms of Reference for the Recruitment and Selection Panel have been prepared and are submitted for Council's Adoption. The Panel does not have delegated authority from Council and therefore is only able to make Recommendations to Council on the Selection and Recruitment of the CEO.

The Council is required to be satisfied with the provisions of the Position Description and the broad Terms of Employment before proceeding to advertise the position.

Council is advised that the Employment Contract negotiated with the successful Applicant must be within Band 4 of the Salaries & Allowances Tribunal.

To facilitate this, a Draft Position Description has been prepared by the CEO in consultation with the Shire President and the Recruitment Consultant. The Draft has been prepared taking into account feedback from Councillors and Executive Management Team members to the Recruitment Consultant.

A Schedule of proposed Timetable for the Recruitment & Selection Process has been prepared for Council's information and endorsement - Attachment (i)

## **STATUTORY ENVIRONMENT**

*Local Government (Administration) Regulations 1996 as Amended*

### **Part 4 – Local government employees**

*[Heading inserted: Gazette 26 Aug 2011 p. 3482.]*

#### **18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))**

- (1) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government must give Statewide public notice of the position unless it is proposed that the position be filled by –
  - (a) a person who is, and will continue to be, employed by another local government and who will fill the position on a contract or contracts for a total period not exceeding 5 years; or
  - (b) a person who will be acting in the position for a term not exceeding one year.

- (2) The Statewide public notice must contain –
- (a) the details of the remuneration and benefits offered; and
  - (b) details of the place where applications for the position are to be submitted; and
  - (c) the date and time for the closing of applications for the position; and
  - (d) the duration of the proposed contract; and
  - (da) a website address where the job description form for the position can be accessed; and
  - (e) contact details for a person who can provide further information about the position; and
  - (f) any other information that the local government considers is relevant.

*[Regulation 18A inserted: Gazette 31 Mar 2005 p. 1037-8; amended: Gazette 19 Aug 2005 p. 3872; 3 May 2011 p. 1594; SL 2021/14 r. 4.]*

**18F. Remuneration and benefits of CEO to be as advertised**

The remuneration and other benefits paid to a CEO on the appointment of the CEO are not to differ from the remuneration and benefits advertised for the position under section 5.36(4).

*[Regulation 18F inserted: Gazette 31 Mar 2005 p. 1039.]*

**18FA. Model standards for CEO recruitment, performance and termination (Act s. 5.39A(1))**

Schedule 2 sets out model standards for local governments in relation to the following –

- (a) the recruitment of CEOs;
- (b) the review of the performance of CEOs;
- (c) the termination of the employment of CEOs.

*Local Government (Administration) Amendment Regulations 2021 – Schedule 2*

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

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

**8. Establishment of selection panel for employment of CEO**

- 1) In this clause –

*independent person* means a person other than any of the following –

- (a) a council member;
  - (b) an employee of the local government;
  - (c) a human resources consultant engaged by the local government.
- 2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
  - 3) The selection panel must comprise –

- (a) council members (the number of which must be determined by the local government); and
- (b) at least 1 independent person.

## POLICY IMPLICATIONS

STD.1 CEO Standards for CEO Recruitment, Performance and Termination.

## FINANCIAL IMPLICATIONS

2020/2021 – Council has amended the Current Budget to provide for the commencement of the Recruitment Process with the payment of the 1<sup>st</sup> Progress Payment to the Recruitment Consultant. Final Costs in 2020/2021 incurred will be dependent upon the timing of the Statutory and Discretionary Advertising which is scheduled to be undertaken in June 2021.

2021/2022 – A provision of \$18,400 has been provided in the 2021/2022 Draft Budget for the balance of the projected Recruitment Costs.

## STRATEGIC IMPLICATIONS – Strategic Community Plan 2017 - 2027

### Governance Objective: Strong governance and community engagement

ITEM	OUTCOMES AND STRATEGIES
G1.1	Continual improvement in IPR, transparency and accountability
G4	Sound Organisation
G4.3	Ensure optimum organisational capacity and efficiency

## CONSULTATION

Senior Consultant Emily Bulloch - Beilby Downing Teal.

## RISK ASSESSMENT – Risk Management Policy and Risk Management Governance Framework Applicable.

Financial - Risk Matrix Rating is assessed as Low

Health – Risk Matrix Rating is assessed as Low

Reputation – Risk Matrix Rating is assessed as Low. Greater Risk can be mitigated with compliance with the Local Government Act and Regulations and for Council to undertake a thorough and transparent Recruitment and Selection Process.

Operation – Risk Matrix Rating is assessed as Low

Natural Environment – Risk Matrix Rating is assessed as Low.

## COMMENT

The Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination outlines recommended practice for local governments when recruiting and selecting a Chief Executive Officer.

The minimum standard is considered to have been met if:

- a) The council has identified and agreed to the qualifications and selection criteria necessary to effectively undertake the role and duties of the CEO within that particular local government context.
- b) The council has approved, by absolute majority, the Job Description Form (JDF) which clearly outlines the qualifications, selection criteria and responsibilities of the position. The JDF is made available to all applicants.

- c) The local government has established a selection panel to conduct the recruitment and selection process. The panel must include at least one independent person who is not a current elected member, human resources consultant, or staff member of the local government.
- d) The local government attracts applicants through a transparent, open and competitive process (this is not necessary for vacancies of less than one year). The local government must advertise a vacancy for the position of CEO in the manner prescribed.
- e) The local government has assessed the knowledge, experience, qualifications and skills of all applicants against the selection criteria.
- f) The local government has verified the recommended applicant's work history, qualifications, referees and claims made in their job application.
- g) The appointment is merit-based, with the successful applicant assessed as clearly demonstrating how their knowledge, skills and experience meet the selection criteria.
- h) The appointment is made impartially and free from nepotism, bias or unlawful discrimination.
- i) The council has endorsed by absolute majority the final appointment.
- j) The council has approved the employment contract by absolute majority.
- k) The local government re-advertises the CEO position and undertakes a recruitment and selection process after each instance where a person has occupied the position for ten (10) consecutive years.

In keeping with these standards, the *Local Government Act 1995* and associated Regulations, Council is required to make three decisions by absolute majority. These decisions are:

- a) Approve the Job Description Form (JDF) which is to include qualifications, selection criteria and responsibilities of the position.
- b) The final appointment.
- c) The employment contract.

The *Local Government (Administration) Regulations 1996* also requires the inclusion of at least one independent person on the selection panel.

### 10.3 Department of Transport – new Draft Agreements for the Provision of Licensing Services and Non-Road Law Functions

<b>Meeting Date</b>	27 <sup>th</sup> May 2021
<b>Responsible Officer</b>	CEO Graeme Fardon
<b>Reporting Officer</b>	CEO Graeme Fardon
<b>Attachments</b>	The below attachments under separate cover: - (i) Draft Agreement for the provision of Licensing Services (ii) Draft Agreement for the Provision of Non-Road Law Functions (iii) Schedule of Rates 1 <sup>st</sup> July 2020 (iv) Summary of key Changes in the new Agreements
<b>Owner/Applicant</b>	CEO, Department of Transport
<b>Disclosure of Interest</b>	CEO - Nil

#### OFFICER RECOMMENDATION

##### RESOLUTION: 177-20/21

##### MOVED Cr McGuinness SECONDED C Jo Haythornthwaite

1. That Council support in-principle the proposed Draft Agreements with the Department of Transport for the Provision of Licensing Services and Non-Road Law Functions for the 5 Year Term expiring 30<sup>th</sup> June 2026.
2. That the Shire President and the CEO be authorised to Sign and Witness the Affixing of the Council Seal to the Final Licensing Agency Agreements, once prepared by the Department of Transport.

**CARRIED 8/0**

#### IN BRIEF

- Current Licensing Agreements have been extended to 30<sup>th</sup> June 2021 to enable the Department of Transport (DOT) to finalise a review of the existing Agreement documents and Commission Rates paid to Agents.
- Road Transactions relate to Motor Vehicle Registrations and Drivers Licences.
- Non Road Transactions include Boat Registration renewals, Off Road Vehicle Registrations and Proof of Age Card transactions.
- Council Staff attended to 2032 In-Person licensing transactions in 2019/2020 and 1523 transaction have taken place this Financial Year to date.
- Decreasing In-Person transactions due to COVID Restrictions and also trend towards online transactions which is promoted by DOT.
- Many Customers attending the Administration Centre for Licensing also conduct other Council business on the same visit.
- Licensing Services still deemed as an essential government service to the Community.
- Commissions for each transaction have increased in the average range of 13-16% per transaction.

- Council's consideration for the proposed Agreements be submitted to the Department of Transport by COB 31<sup>st</sup> May 2021.

## **MATTER FOR CONSIDERATION**

The proposed Draft Agreements with the Department of Transport for the Provision of Licensing Services and Non-Road Law Function.

## **BACKGROUND**

Council at its February 2018 Ordinary Council Meeting resolved as follows: -

*RESOLUTION: 135-17/18*

*That the Strategic Planning Committee recommends to Council: -*

1. *That Council support the Entering into the following Agreements with the Department of Transport for a Period of Three (3) Years expiring 31<sup>st</sup> December 2020: -*
  - *Agreement for the Provision of Licensing Services in the Shire of Quairading*
  - *Agreement for the Provision of Non Road Law Functions in the Shire of Quairading*
2. *That the Shire President and the CEO be authorised to Sign and Witness the Affixing of the Council Seal to the Agreement.*

The Department of Transport(DoT) CEO offered to extend the Agreement for a further term of six (6) months, commencing 1<sup>st</sup> January 2021 and expiring COB 30<sup>th</sup> June 2021 to allow adequate time for the Department of Transport to finalise a review of the existing Agreement document and Commission Rates paid to Agents.

Draft versions of the two Agreement documents are provided for Council's consideration. The proposed term of the Agreement is five (5) years commencing from 1<sup>st</sup> July 2021.

The Department has reviewed the Schedule of Rates for commissions that will be paid for transactions under the new Agreement. The terms of the Agreement have also been updated to better reflect the current requirements.

Included, is a copy of the Schedule of Rates as at 1<sup>st</sup> July 2020 for comparison and a document summarising the key changes in the new Agreements.

## **STATUTORY ENVIRONMENT**

*Road Traffic (Administration) Act 2008 – Motor Vehicle and Drivers Licenses*

*Road Traffic Act 1974*

## **POLICY IMPLICATIONS**

N/A

## **FINANCIAL IMPLICATIONS**

Budgeted Expenditure of Administration Allocated for providing the Licensing Service (GL 3922) is \$55,690 in the 20/21 Financial Year. Other Traffic Control Expenses (GL3912) is budgeted at \$3000 for this Financial Year.

Council receives Commission Income of \$20,000 per Year to offset some of the Administrative Costs. Commission is based on the type / level of In-Person transaction being undertaken. More complex transactions do attract a higher Commission, however do take considerably more time for Council Staff to process.



The Provision of the Licensing Service Agency by Council reflects a Shortfall / Cost of \$38,690 in 2020/2021, with the Shortfall borne by Council's General Revenue and this Shortfall incorporated into Council's Budget and ongoing Operational Forecasting.

This extent of the Shortfall has been historically proven and has been accepted by Council as a cost of maintaining the Licensing Service physically within the District.

There is a Risk that Commission income could further reduce over the life of the Agreement, if more people conduct their Licensing transactions online in lieu of "In Person" at the Shire Administration Centre.

On the reverse side, Administration Staff will be spending less time attending to Licensing transactions.

There is increasing difficulty of having an adequate number of Council Staff trained in Licensing, which requires their completion of a 5 Day Course in Perth. Currently 3 Staff are trained and accredited for Licensing Services, however the TSO is only utilised for Cover for Staff Leave and Lunchbreaks.

### **STRATEGIC IMPLICATIONS – Strategic Community Plan 2017 - 2027**

#### **Governance Objective: Strong governance and community engagement**

<b>ITEM</b>	<b>OUTCOMES AND STRATEGIES</b>
G1.1	Continual improvement in IPR, transparency and accountability
G2	Strengthened Advocacy and Partnerships
G2.1	Partnerships with and advocacy to Federal and State Government to strengthen service provision within the Shire

### **COMMUNITY CONSULTATION**

No Community consultation was undertaken in relation to the preparation of this report.

### **RISK ASSESSMENT – Risk Management Policy and Risk Management Governance Framework Applicable.**

Financial - Risk Matrix Rating is assessed as Low. Council budgets each year for

Health – Risk Matrix Rating is assessed as Low

Reputation – Risk Matrix Rating is assessed as Low. It is considered a Risk that if the Agreement was not entered into by Council, that many in the Community would have a significant reduction in the access to Licensing Services and that it would necessitate persons wishing to undertake "In Person" transactions to travel to neighbouring Towns to that Licensing Agency. Risk of those persons also shopping or undertaking other business while they are attending to their licensing business in another Town.

Operation – Risk Matrix Rating is assessed as Low. Licensing Agency work is incorporated into the current Organisational Structure and Operational budget. There is increasing difficulty to have adequate staff trained up and proficient in the Licensing system to provide cover for frontline staff when they are on Leave and RDO's. Council Staff are required to undertake 5 days of training in Perth before being approved and granted access by DOT.

Natural Environment – Risk Matrix Rating is assessed as Low.

### **COMMENT**

CEO considers that Licensing still remains a beneficial Government Service for the Community to access in Quairading.

## 10.4 Council Member, Committee Member and Candidate Code of Conduct Complaint Form

<b>Meeting Date</b>	27 <sup>th</sup> May 2021
<b>Responsible Officer</b>	CEO Graeme Fardon
<b>Reporting Officer</b>	CEO Graeme Fardon
<b>Attachments</b>	(i) Previously Adopted – Complaint About Alleged Breach Form (February 2021, 123-20/21) (ii) Complaint About Alleged Behaviour Breach Form
<b>Owner/Applicant</b>	Shire of Quairading
<b>Disclosure of Interest</b>	CEO - Nil

### OFFICER RECOMMENDATION

#### RESOLUTION: 178-20/21

#### MOVED Cr McGuinness SECONDED Cr Cowcill

That Council adopt the form set out at Attachment (ii) as the Shire's Model Code of Conduct Complaint About Alleged Behaviour Breach form under Regulation 11 of the *Local Government (Model Code of Conduct) Regulations 2021* to REPLACE the complaint form previously adopted by Council (123-20/21).

**CARRIED 8/0**

### IN BRIEF

- In accordance with the new legislation, Council adopted a Complaint About Alleged Behaviour Breach Form at the February 2021 OCM.
- This Report Form was based on the initial Guidelines provided by the Department of Local Government, Sport & Cultural Industries.
- WALGA has recently produced and circulated a template for the Complaint Form.
- Considered advantageous to adopt a new Complaint Report Form based on the WALGA template.

### MATTER FOR CONSIDERATION

Council to consider adopting a new Council Members, Committee Members and Candidate Code of Conduct Complaint About alleged Behaviour Breach Form that aligns with the WALGA template form.

### BACKGROUND

Council at its Meeting on the 25<sup>th</sup> February 2021 authorised the Chief Executive Officer to be the Shire's Complaints Officer and adopted a complaint form for the lodgement of complaints under Division 3 of the Model Code as set out in Attachment (i).

*RESOLUTION: 123-20/21, That Council:*

1. Authorise the Chief Executive Officer to be the Shire's Complaints Officer in accordance with cl. 11(3) of the *Local Government (Model Code of Conduct) Regulations 2021*.
2. Delegates the power of appointment of additional complaints officer(s) to the Chief Executive Officer in accordance with the *Local Government (Model Code of Conduct) Regulations 2021*.

3. Approves the attached Complaint About Alleged Breach Form in accordance with cl. 11(2)(a) of the Local Government (Model Code of Conduct) Regulations 2021.

Subsequent to Council's adoption of the complaint form, the Western Australian Local Government Association (WALGA) has developed guidelines and a template Behavioural Complaint Form for use by the local government sector.

After the CEO's and Executive Officer's review of the WALGA template form, it is recommended that Council adopt a new Complaints Form that aligns with the WALGA template form as set out in Attachment (ii).

## STATUTORY ENVIRONMENT

*Local Government (Model Code of Conduct) Regulations 2021*

### 11. Complaint about alleged breach

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

## POLICY IMPLICATIONS

STD.1 Code of Conduct for Elected Members, Committee Members and Candidates.

## FINANCIAL IMPLICATIONS

Nil.

## STRATEGIC IMPLICATIONS – Strategic Community Plan 2017 - 2027

### Governance Objective: Strong governance and community engagement

ITEM	OUTCOMES AND STRATEGIES
G1	Robust Integrated Planning and Reporting (IPR)
G1.1	Continual improvement in IPR, transparency and accountability
G4	Sound Organisation
G4.3	Ensure optimum organisational capacity and efficiency

## COMMUNITY CONSULTATION

No consultation was required or undertaken in relation to this report.

## RISK ASSESSMENT – Risk Management Policy and Risk Management Governance Framework Applicable.

Financial - Risk Matrix Rating is assessed as Low.

Health – Risk Matrix Rating is assessed as Low.

Reputation – Risk Matrix Rating is assessed as Low. Legislative requirement and WALGA Template is considered an improvement on the Complaint Report Form previously adopted by Council.

Operation – Risk Matrix Rating is assessed as Low.

Natural Environment – Risk Matrix Rating is assessed as Low.

**COMMENT**

The WALGA template form is considered to be a best practice model and will facilitate the effective presentation of information necessary to assess a complaint by including the specific breaches that could relate to the complaint and identifying whether the person being complained about is a Council Member, committee member or candidate.

The notes section has been updated to provide information to the complainant relating to the Council adopted complaints procedure.

## 10.5 Template Noongar Heritage Agreement for Local Government Aboriginal and the Cultural Heritage Bill (Draft) 2020

<b>Meeting Date</b>	27 <sup>th</sup> May 2021
<b>Responsible Officer</b>	CEO Graeme Fardon
<b>Reporting Officer</b>	CEO Graeme Fardon
<b>Attachments</b>	(i) Land Equity Legal Presentation (ii) Map of South West Settlement Agreements (iii) Noongar Heritage Agreement for Local Government Key Terms Flow Chart
<b>Owner/Applicant</b>	Executive Officer Central Country Zone
<b>Disclosure of Interest</b>	CEO - Nil

### OFFICER RECOMMENDATION

#### RESOLUTION: 179-20/21

#### MOVED Cr Jo Haythornthwaite **SECONDED** Cr McGuinness

That Council support Items 1, 2 and 3 only of the Central Country Zone Motion being: -

That the Central Country Zone:

1. Notes the suggestion from guest speaker Marcus Holmes, Principal of lawyers Land Equity Legal, that local governments defer consideration of entry into a Local Government version of the Noongar Heritage Agreement until Noongar Regional Corporations have been established, the Federal joint committee on the Juukan Gorge inquiry has released its final report, and the State's proposed Aboriginal Cultural Heritage Bill has been enacted;
2. Recommends to its members that they ensure interim compliance with the Aboriginal Heritage Act 1972 and any applicable Aboriginal heritage risk management policies and procedures through the Department of Planning, Lands and Heritage and Department of Premier and Cabinet;
3. Seeks ongoing consultation with the State Government, WALGA and SWALSC about the management of, resourcing and implications for local government of the Noongar Native Title Settlement

**CARRIED 7/1**

### IN BRIEF

- Council to consider the Item and provide Direction to Council's Central Zone Voting Delegates.
- Aboriginal Cultural Heritage and future Land Management are undergoing major transformation due to the progress of the proposed new Aboriginal Cultural Heritage Bill and the Noongar Native Title Settlement over much of the Southwest Land Division.
- Quairading District is solely in the proposed Ballardong Corporation Area.
- Council already needs to comply with the provisions of Government Legislation and Policy in regard to future Works & Projects on land that may have Aboriginal cultural significance.
- Proposed Aboriginal Cultural Heritage Bill has not been passed by Parliament.

- The establishment of the 6 Noongar Corporations under the Noongar Native Title Agreement is an estimated 18 months away.
- Relevant legal counsel can be obtained on a fee for service basis at any time in the future, if the need arises.

### **MATTER FOR CONSIDERATION**

Foreshadowed Motion to the next Meeting of the Central Country Zone.

### **BACKGROUND**

At the Central Country Zone Meeting held on the 23<sup>rd</sup> April 2021, the recommendation shown below was considered by meeting delegates, following a presentation by Marcus Holmes from Land Equity Legal on the Template Noongar Heritage Agreement for Local Government and the Aboriginal and the Cultural Heritage Bill (Draft) 2020:

That the Central Country Zone:

1. Notes the suggestion from guest speaker Marcus Holmes, Principal of lawyers Land Equity Legal, that local governments defer consideration of entry into a Local Government version of the Noongar Heritage Agreement until Noongar Regional Corporations have been established, the Federal joint committee on the Juukan Gorge inquiry has released its final report, and the State's proposed Aboriginal Cultural Heritage Bill has been enacted;
2. Recommends to its members that they ensure interim compliance with the Aboriginal Heritage Act 1972 and any applicable Aboriginal heritage risk management policies and procedures through the Department of Planning, Lands and Heritage and Department of Premier and Cabinet;
3. Seeks ongoing consultation with the State Government, WALGA and SWALSC about the management of, resourcing and implications for local government of the Noongar Native Title Settlement; and
4. Endorses the offer of legal advice and assistance to the Zone and/or its members from Land Equity Legal regarding local government management of Aboriginal heritage and the Noongar Native Title Settlement, and instructs the Executive Officer to confer with Mr Marcus Holmes regarding terms of any engagement of Land Equity Legal's services by the Zone and/or members and to then update the Zone by email as to such terms so that the Zone and/or its members (singly or collectively) can decide if they wish to take up a retainer.

Following consideration of the above recommendation the meeting resolved as follows:

**RESOLUTION:**                      *Moved: Cr Mulrone*                      *Seconded: Cr Russell*

*That the Zone defer any decision on the recommendations relating to the Template Noongar Heritage Agreement for Local Government Aboriginal and the Cultural Heritage Bill (Draft) 2020 until the Zone meeting scheduled to be held Friday 25 June 2021 at which time the Executive Officer will have prepared a report for the Zone's consideration.*

**CARRIED**

The South West Native Title Settlement (Settlement) is the most comprehensive Native Title agreement negotiated in Australian history. It involves around 30,000 Noongar people and covers approximately 200,000 square kilometres of the South-West region. Whilst the effects of the Settlement, the enactment of new Aboriginal Heritage legislation and any recommendations arising from the Juukan Gorge inquiry won't be apparent for some time, Councils need to be aware of the issues and the potential each of these factors may have on both themselves and their communities.

The Zone Executive Officer, BHW Consulting has requested that Member Councils list the matter for consideration at their May 2021 Ordinary Council Meeting, for comments to be included in the next Zone Agenda for the meeting scheduled for Friday 25<sup>th</sup> June 2021 in Quairading.

All comments to be submitted to the Zone Executive Officer by COB Friday 28<sup>th</sup> May 2021.

Information on the Settlement can be found by following the link shown below:

<https://www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/south-west-native-title-settlement>

Attachments (i), (ii), (iii) are the documents used by Marcus Holmes in his Presentation to the Zone Meeting.

The Solicitor Mr Marcus Holmes of Land Equity Legal has extensive experience with Native Title law and also Land Use Agreements. Mr Holmes has recommended that Councils not enter into the "Noongar Heritage Agreement for Local Government" at this time.

## **STATUTORY ENVIRONMENT**

*Aboriginal Heritage Act 1972*

*Aboriginal Heritage Regulations 1974*

## **POLICY IMPLICATIONS**

N/A.

## **FINANCIAL IMPLICATIONS**

Nil at this time. Previous legal services to the Zone to prepare and negotiate (unsuccessfully) an Indigenous Land Use Agreement was funded by a Federal Grant. Supporting Items 1, 2 & 3 of the Motion do not result in any additional costs being incurred by the Zone or Member Councils as the Councils, Zone and WALGA all have a Watching Brief on these emerging issues.

The Zone may wish to consider budgeting for Legal Retention on this Matter in their future Budgets.

Council already needs to comply with the provisions of the Aboriginal Heritage Act & Regulations as part of normal Operational and Capital Budgets. Legal advice would need to be sought if circumstances warrant it.

## **STRATEGIC IMPLICATIONS – Strategic Community Plan 2017 - 2027**

### **Governance Objective: Strong governance and community engagement**

<b>ITEM</b>	<b>OUTCOMES AND STRATEGIES</b>
G1	Robust Integrated Planning and Reporting (IPR)
G1.1	Continual improvement in IPR, transparency and accountability
G2	Strengthened Advocacy and Partnerships
G2.1	Partnerships with and advocacy to Federal and State Government to strengthen service provision within the Shire
G2.3	Regional and sub-regional partnerships to achieve better outcomes for the community

## **COMMUNITY CONSULTATION**

No Community consultation was undertaken in relation to the preparation of this report.

**RISK ASSESSMENT – Risk Management Policy and Risk Management Governance Framework Applicable.**

Financial - Risk Matrix Rating is assessed as Low. No financial exposure at this time.

Health – Risk Matrix Rating is assessed as Low

Reputation – Risk Matrix Rating is assessed as Low. Watching brief recommended to ensure that Council and Management are aware of the emerging issues of the Bill in State Parliament and the establishment of the Noongar Corporations.

Operation – Risk Matrix Rating is assessed as Low.

Natural Environment – Risk Matrix Rating is assessed as Low.

**COMMENT**

Nil



## 10.6 Quairading Rainmakers - "El Toro" Plinth and Location

<b>Meeting Date</b>	27 <sup>th</sup> May 2021
<b>Responsible Officer</b>	CEO Graeme Fardon
<b>Reporting Officer</b>	CEO Graeme Fardon
<b>Attachments</b>	(i) Quairading Rainmakers Correspondence
<b>Owner/Applicant</b>	Tarnya Fraser - Quairading Rainmakers Committee
<b>Disclosure of Interest</b>	CEO - Nil

### OFFICER RECOMMENDATION

#### RESOLUTION: 180-20/21

#### MOVED Cr Smith SECONDED Cr Stacey

That Council: -

1. Support the Quairading Rainmakers Inc. Proposal to relocate the "El Toro" Public Art to the Old Water Fountain site in the front of the Town Hall subject to approval by Main Roads WA.
2. Acknowledge that Quairading Rainmakers Inc. will be funding and arranging the construction of the limestone base by a Registered Builder, with the final design and structural details to the satisfaction of the CEO and Management.
3. Support the request for Council to arrange and fund the removal of the brickwork base of the old Water fountain in the 2021/2022 Budget.

**CARRIED 7/1**

### IN BRIEF

- "El Toro" has been in a Trial location in the front of the Hall since 2<sup>nd</sup> November 2018.
- Quairading Rainmakers have written to Council with the proposed final location for "El Toro".
- Community consultation has occurred to ascertain preferred location.
- Proposal is the relocate "El Toro" to the site of the "Old Water Fountain" which is more central to the Hall Façade.
- Preferred location is an estimated 5 metres Northwards from its Trial location.
- Quairading Rainmakers seeking Council assistance to remove the old brick work / planter box (Estimated Cost of \$1000 for a local Contractor).
- Quairading Rainmakers have committed to provide the materials and funding for the Building Contractor to construct the Plinth.
- Main Roads WA have previously approved the trial location for "El Toro" and approval will be sought for the minor variation to the permanent location.

### MATTER FOR CONSIDERATION

Permanent Location of "El Toro" Public Art and removal of the Old Water Fountain base.

## BACKGROUND

Council at its Ordinary Council Meeting held on 29<sup>th</sup> November 2018, resolved as follows: -

*RESOLUTION: 99-18/19*

*(ORIGINAL MOTION) MOVED Cr Brown SECONDED Cr Stacey*

*That Council: -*

1. *Receive the Quairading Rainmaker Inc. Submission; and*
2. *Support the funding commitment request of \$10,000 for the procurement of the Public Street Art, and that the funding be from identified savings in the March 2019 Budget Review Process.*

*AMENDMENT*

*MOVED Cr Smith SECONDED Cr McGuinness*

*Point 2 be amended as follows: -*

1. *Support the funding commitment request to a maximum of \$10,000 including the cost of the plinth and lighting.*
2. *That the amount be included in the 2019 / 20 Draft Budget deliberations and Budget*
3. *That the Rainmakers put their ongoing commitment to maintenance of the artwork in writing to the Shire*
4. *That the \$10,000.00 payment be subject to the successful grant application for the balance of the money required for the purchase.*

*AMENDMENT LOST 3/4*

*ORIGINAL MOTION WAS PUT*

*CARRIED 4/3*

The "El Toro" Art Piece was on display at the 2018 Quairading Agricultural Show and was on Loan from the Artist and placed on "temporary display" in front of the Quairading Town Hall since 2<sup>nd</sup> November 2018.

Council received approval from Main Roads for the placement of "El Toro" for the trial location and confirmation will be sought for approval of the new proposed location.

Both the current and proposed location for the Piece are on Lot 189 Jennaberring Road, which is owned Freehold by Council.

The Art Piece has subsequently been purchased by Community Donations and a Contribution of \$10,000 from Council. It is understood the full \$10,000 was used towards the purchase of the Art Piece.

Additional costs for the Plinth and any lighting were to be responsibility of Quairading Rainmaker's Inc.

Building advice has been received from Registered Builder Adam May on the difficulty of utilising the disused base of the Water Fountain, which in recent years has defaulted to a planter box.

Mr May's advice to the Group is that given the original brickwork was not designed or constructed to hold the Art Piece, it is recommended that the base be removed and a limestone plinth (with engineered footings) be constructed.

Rainmaker's request is seeking Council Approval of the final location of "El Toro" and also seeking financial & logistical assistance towards the removal of the existing brickwork.

## STATUTORY ENVIRONMENT

*Local Government Act 1995*

*Main Roads Act 1930*

*Main Roads (Control of Advertisements) Regulations 1996*

## POLICY IMPLICATIONS

N/A.

## FINANCIAL IMPLICATIONS

Request is seeking Council assistance to the value of \$1000 to remove the existing base of the old water fountain. This can be funded from the Parks & Gardens Maintenance Cost Allocation.

Ongoing maintenance of the Art piece (6 monthly treatment) has previously been committed and undertaken by Quairading Rainmakers Inc.

Rainmaker's Inc. will be gifting the Art Piece to Council to hold on behalf of the Community. Art Piece & Plinth to be incorporated into Council's Infrastructure Assets.

## STRATEGIC IMPLICATIONS – Strategic Community Plan 2017 - 2027

### Governance Objective: Strong governance and community engagement

ITEM	OUTCOMES AND STRATEGIES
G3	Community Engagement
G3.1	Provide appealing opportunities for the community to participate in decisions that affect them
G3.2	Collaborate with the community to achieve desired outcomes

## COMMUNITY CONSULTATION

Quairading Rainmakers invited all interested community members to a meeting on the 24<sup>th</sup> February, 2021 to discuss and agree on El Toro's final location and permanent plinth.

A number of Community Members and the CEO were in attendance with the strong consensus to relocate El Toro to a central position in the front of the Hall and if possible, utilise the Old Water Fountain Site.

## RISK ASSESSMENT – Risk Management Policy and Risk Management Governance Framework Applicable.

Financial - Risk Matrix Rating is assessed as Low. Minimal exposure as Council's contribution can be incorporated into Council's existing or forthcoming budget in Parks & Gardens Maintenance.

Health – Risk Matrix Rating is assessed as Low

Reputation – Risk Matrix Rating is assessed as Low. Council has been supportive through a cash contribution for the purchase of "El Toro" and have supported the trial location at the front of the Hall on Council owned land. Reputational risk would escalate if Council don't support either the proposed location and the request for minimal assistance with the Project.

Operation – Risk Matrix Rating is assessed as Low.

Natural Environment – Risk Matrix Rating is assessed as Low.

## COMMENT

The Administration has often observed many visitors to Town accessing the Main Street / Shopping Precinct and taking photos of "El Toro" in the front of the repainted Town Hall.

Proposed location supported by Council's Management Team.

## ITEM 11      MATTERS FOR CONSIDERATION – HEALTH AND BUILDING

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*No matters for consideration.*

## ITEM 12      MATTERS FOR CONSIDERATION – WORKS

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*No matters for consideration.*

ITEM 13 URGENT COUNCILLORS' BUSINESS

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Nil.

ITEM 14 CONFIDENTIAL BUSINESS – AS PER LOCAL GOVERNMENT ACT S5.23 (2)

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*No matters for consideration.*

ITEM 15 NEXT MEETING DATE

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The next Ordinary Meeting of Council is scheduled to take place on Thursday 24<sup>th</sup> June 2021, commencing at 2 pm in the Council Chambers, 10 Jennaberring Road, Quairading.

Cr Davies thanked Councillors and Staff for their attendance.

ITEM 16 CLOSURE

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There being no further business, the Chairman closed the Meeting at 2.47 pm.

I certify the Minutes of the Ordinary Meeting of Council held on 27<sup>th</sup> May 2021 were confirmed 24<sup>th</sup> June 2021 as recorded on Resolution No. \_\_\_\_\_

Confirmed.......... 24/06/21