

COUNCIL MEETING

AGENDA

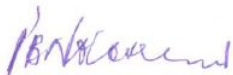


For the Ordinary Meeting of Council to be held on

20 July 2016

Dear Council Member,

The next Ordinary Meeting of the Shire of Cranbrook will be held on Wednesday 20 July 2016 at the Cranbrook Council Chambers commencing at 3.00pm.



Peter Northover
Chief Executive Officer

DISCLAIMER

This agenda has yet to be dealt with by the Council. The recommendations shown at the foot of each item have yet to be considered by the Council and are not to be interpreted as being the position of the Council. The minutes of the meeting held to discuss this agenda should be read to ascertain the decision of the Council.

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CONTENTS

1.	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	4
2.	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)	4
3.	ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION	4
4.	PUBLIC QUESTION TIME	4
4.1	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
4.2	PUBLIC QUESTION TIME	5
5.	PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS.....	5
6.	APPLICATIONS FOR LEAVE OF ABSENCE	5
7.	DISCLOSURE OF INTEREST	5
8.	MATTERS FOR WHICH MEETING MAY BE CLOSED.....	5
9.	CONFIRMATION OF MINUTES OF PREVIOUS MEETING	5
9.1	ORDINARY MEETING – 15 JUNE 2016	5
10.	REPORTS OF OFFICERS	6
10.1	FINANCE & ADMINISTRATION.....	6
10.1.1	LIST OF PAYMENTS	6
10.1.2	MONTHLY FINANCIAL STATEMENTS	8
10.1.3	2016/2017 FEES AND CHARGES	10
10.1.4	2016/2017 PROPERTY RATES	12
10.1.5	2016/2017 BUDGET ADOPTION	15
10.1.6	SALE OF LAND – NON-PAYMENT OF RATES – LOT 46 (106) SHEPHERD ROAD, FRANKLAND RIVER	17
10.1.7	SALE OF LAND – NON-PAYMENT OF RATES – LOTS 3049 & 4024 BOYUP BROOK/CRANBROOK ROAD, CRANBROOK.....	20
10.2	GOVERNANCE & EXECUTIVE SERVICES	24
10.2.1	PLANNING APPLICATION - PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE – RESERVE 36129, LOT 73 HERBERT STREET, FRANKLAND RIVER.....	24
10.2.2	RESERVES 37371 and 40225 MANAGEMENT.....	29
10.2.3	INTEGRATED PLANNING & REPORTING	32
10.3	WORKS.....	34
10.4	ECONOMIC & COMMUNITY	34
11.	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	34
12.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY A DECISION OF THE MEETING	34
13.	MATTERS BEHIND CLOSED DOORS	35
13.1	LOT 7 ON PLAN 33631 (25) GRANTHAM STREET, CRANBROOK – OFFER TO PURCHASE	35
13.2	LOT 5 (NO 24) NUNIJUP ROAD TENTERDEN.....	35
14.	CLOSURE OF MEETING	37

AGENDA

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President, Cr Cunningham will declare the meeting open at pm. The Shire President will alert the meeting to the procedures for emergencies including evacuation, designated exits and muster points.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

ATTENDANCE

President	Cr JT (Twynam) Cunningham
Deputy President	Cr CY (Colin) Egerton-Warburton
Councillors	Cr P (Peter) Denton
	Cr PM (Peter) Beech
	Cr DJ (David) Adams
	Cr TC (Tom) Standish
	Cr HC (Helen) Parsons

Chief Executive Officer	Mr PB (Peter) Northover
Manager of Finance & Administration	Mrs PA (Trish) Standish
Manager of Economic & Community Development	Ms CM (Cas) Hughes
Manager of Works	Mr JE (Jeff) Alderton

Members of the Public

LEAVE OF ABSENCE

Councillor	Cr ER (Ruth) Bigwood
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APOLOGIES

Councillor	Cr PL (Phil) Horrocks
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3. ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Item 4.2 from 15 June 2016 Council Meeting - Mr Norm Lewis – 107 Climie Street Cranbrook - A187 – Rabbit Problem; CP137 Cranbrook Public Toilets; RO005 Climie Street Cranbrook, Signage Requesting Truck Drivers to Reduce the Use of Exhaust Brakes

The Chief Executive Officer sent Mr Lewis an email stating the following information:

A187 – Rabbit Problem – The Manager of Works has found out that we are allowed to bait for rabbits using a product called ‘Pindone’. There is a process to follow, which includes advertising and placing the bait in strategic locations. It is a slow killer and can harm native fauna so we need to be careful where we place it. The Manager of Works is currently looking into this further.

CP137 – Cranbrook Public Toilets – In terms of the disabled parking – we will seal the parking area in front of the public toilets when we seal the patch on Glover Street for the aged care units. This will be later in the year as the aged care development nears completion.

RO005 – Climie Street Cranbrook Signage Requesting Truck Drivers to Reduce the Use of Exhaust Brakes – The Manager of Works is still looking into the exhaust brake issue. As far as the speed limit through town is concerned, this matter will be taken up through the Roadwise Committee and a further formal approach to Main Roads will be made following the meeting on 5 September, 2016.

4.2 PUBLIC QUESTION TIME

5. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

There will be a presentation from Justin Bellanger CEO, Southcoast NRM

6. APPLICATIONS FOR LEAVE OF ABSENCE

7. DISCLOSURE OF INTEREST

8. MATTERS FOR WHICH MEETING MAY BE CLOSED

The meeting will be closed to discuss items 13.1 and 13.2.

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

9.1 ORDINARY MEETING – 15 JUNE 2016

That the minutes from the ordinary meeting of Council held on 15 June 2016, be confirmed as a true and correct record.

10. REPORTS OF OFFICERS

10.1 FINANCE & ADMINISTRATION

10.1.1 SUBJECT

LIST OF PAYMENTS

RESPONSIBLE OFFICER:	Trish Standish Manager of Finance and Administration
REPORT AUTHOR:	Jessica Standish Finance Officer
FILE REFERENCE:	FM2
APPLICANT:	N/A
DATE OF REPORT:	8 July 2016
ATTACHMENTS:	List of Payments – 8 June 2016 to 8 July 2016

Purpose

The purpose of this report is to advise the Council of payments made during the period 8 June 2016 to 8 July 2016.

Background

Nil

Officers Comment

Nil

Statutory Environment

Local Government (Financial Management) Regulation 13 states:

13. List of accounts

(1) If the local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the Chief Executive Officer is to be prepared each month showing for each account paid since the last such list was prepared:

- (a) the payee's name;
- (b) the amount of the payment;
- (c) the date of the payment; and
- (d) sufficient information to identify the transaction.

Policy Applicable – Implications

Council Policy 4.8 – 'Purchasing', states that:

"The Chief Executive Officer is delegated authority to make payments from the Municipal Fund or the Trust Fund. Each payment from the Municipal Fund or the Trust Fund is to be noted on a list compiled for each month showing:

- a) The payee's name*
- b) The amount of the payment*
- c) The date of the payment*
- d) Sufficient information to identify the transaction.*

The list referred to above is to be presented to the Council at each ordinary meeting of the Council and is to be recorded in the minutes of the meeting at which it is presented.

It is considered appropriate to delegate this authority to the Chief Executive Officer as the payment of accounts is the final process after debts have been incurred through other processes and systems in place."

Financial Implications

There are no financial implications for this report.

Risk Implications

The risks associated with matters in this report are:

- Misconduct;
- Errors, Omissions and Delays;
- Failure of IT and or Communication Systems and Infrastructure;
- Failure to fulfil statutory, regulatory or compliance requirements;
- Inadequate document management processes; and
- Inadequate supplier / contract management.

The impact of the risk is Financial, Non-Compliance and Reputational

The consequences of these risks are considered to be Major

The likelihood is rare

Hence the **risk rating** for this item is Moderate

Risk mitigation includes the Council having strong financial policies and procedures in place and the requirement to report to the Council on a monthly basis.

Strategic Community Plan Reference

The 2013-2023 Shire of Cranbrook, Strategic Community Plan states that:

Aspiration 5.0: by 2023 the Shire of Cranbrook will demonstrate, Strong Governance, Leadership and Organisational Growth

Objective: 5.4 Demonstrate Sound Financial Planning and Management

Strategy: 5.4.2 Responsible and Accountable Financial Management

Consultation

Consultation was not required for this report.

VROC Implications

There are no strategic VROC implications from this report.

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION

That the payment of accounts totalling \$682,694.55 as per the attachment be noted:

- **Electronic Funds Transfers EFT 6773 to EFT 6877 - \$538,332.12;**
- **Municipal Fund Cheque No's 11884 – 11897 - \$25,546.47;**
- **Internal Account Transfers (Payroll) - \$97,153.08;**
- **Direct Debit - \$21,662.88.**

10.1.2 SUBJECT	MONTHLY FINANCIAL STATEMENTS
RESPONSIBLE OFFICER:	Trish Standish Manager of Finance and Administration
REPORT AUTHOR:	Jessica Standish Finance Officer
FILE REFERENCE:	FM12
APPLICANT:	N/A
DATE OF REPORT:	12 July 2016
ATTACHMENTS:	Financial Statements June 2016

Purpose

The purpose of this report is to present the financial position of the Shire of Cranbrook as at 30 June 2016.

Background

The Local Government (Financial Management) Regulations 1996 require the preparation of monthly financial statements and presentation of these statements to the Council.

Officers Comment

It is important to note that these financial statements **do not** represent final 2015/2016 financial year figures. They have not been audited and as they were prepared shortly after June 30, there may be some June 30 financial transactions still to be entered.

The June financial statements report on 12 months, or 100% of the financial year. It is worthy to note:

- The 'Municipal Fund Summary' on page 2 shows that we have raised 93% of our expected operating income;
- The 'Municipal Fund Summary' on page 2 shows that we have spent 118% of the budgeted operating expenditure for the year;
- The 'Municipal Fund Summary' on page 4 shows a net current assets position of (\$833,374) (deficit), which is made up of cash on hand of (\$560,000) and (\$260,000) creditors; and
- The 'Variance Report' on page 9 and 10 defines the major variances between budget and actual figures as required by the regulations.

Statutory Environment

The Local Government (Financial Management) Regulations 1996 define the requirements for monthly financial reporting (Regulation 34).

Policy Applicable – Implications

Council Policy 4.1 Defining Material Variances, states that:

When dividing the actual figures with the annual budget figure, a variance of plus or minus 10% of the percentage of the year elapsed will be reported. In addition, a variance must be greater than \$1,000 to be reported.

Financial Implications

Whilst the financial statements report on the current position of the Council, the adoption of the recommendation below does not have a financial impact.

Risk Implications

The risks associated with matters in this report are:

- Misconduct;
- Errors, Omissions and Delays;
- Failure of IT and or Communication Systems and Infrastructure;
- Failure to fulfil statutory, regulatory or compliance requirements;
- Inadequate document management processes; and
- Inadequate supplier / contract management.

The impact of the risk is Financial, Non-Compliance and Reputational

The consequences of these risks are considered to be Major

The likelihood is Rare

Hence the **risk rating** for this item is Moderate

Risk mitigation includes the Council having strong financial policies and procedures in place and the requirement to report to the Council on a monthly basis.

Strategic Community Plan Reference

The 2013 -2023 Shire of Cranbrook, Strategic Community Plan states that:

Aspiration 5.0: By 2023 the Shire of Cranbrook will demonstrate, Strong Governance, Leadership and Organisational Growth

Objective: 5.4 Demonstrate Sound Financial Planning and Management

Strategy: 5.4.2 Responsible and Accountable Financial Management

Consultation

Consultation was not required for this report.

VROC Implications

There are no strategic VROC implications from this report.

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION

That the attached financial statements for the period ending 30 June 2016 be noted.

10.1.3 SUBJECT

2016/2017 FEES AND CHARGES

RESPONSIBLE OFFICER:	Trish Standish Manager of Finance and Administration
REPORT AUTHOR:	Jessica Standish Finance Officer
FILE REFERENCE:	FM11
APPLICANT:	N/A
DATE OF REPORT:	12 July 2016
ATTACHMENTS:	2016/2017 List of Fees & Charges (part of the Budget document)

Purpose

The purpose of this report is to adopt the list of fees and charges for the 2016/2017 financial year.

Background

The Council is required to adopt a list of fees and charges annually.

Officers Comment

The draft list of fees and charges has undergone extensive scrutiny to ensure all fees and charges that are currently being imposed are listed.

Statutory Environment

Section 6.15 to 6.19 of the Local Government Act (1995) legislates the imposition of fees and charges for a local government. Section 6.19 of this Act requires a local government to advertise the imposition of fees and charges that are not included in the annual budget.

Policy Applicable – Implications

Council Policy 4.1 Fees and Charges - Application relates to this report.

Financial Implications

The list of fees and charges, when adopted, sets the level of many revenue items contained within the budget. Significant consideration needs to be given when setting each fee and charge and the effect that it will have on the usage of that facility and the total revenue level obtained.

Risk Implications

The risks associated with matters in this report are:

- Errors, Omissions and Delays
- Failure to fulfil statutory, regulatory or compliance requirements
- Providing inaccurate advice/information
- Ineffective management of facilities / venues / events

The impacts of the risks are Financial, Non-Compliance, Reputational, and Property

The consequence of these risks is considered to be Minor

The likelihood is Possible

Hence the **risk rating** for this item is Moderate

Risk mitigation includes formal process for hiring Council facilities and equipment.

Strategic Community Plan Reference

There is no reference to this report in the Council's Strategic Community Plan.

Consultation

Consultation for this report included the Executive Management Team.

VROC Implications

There are no VROC implications for this report.

Voting Requirements

Absolute Majority

OFFICERS RECOMMENDATION

That the list of fees and charges contained within the 2016/2017 budget be adopted.

10.1.4 SUBJECT	2016/2017 PROPERTY RATES
RESPONSIBLE OFFICER:	Trish Standish Manager of Finance and Administration
REPORT AUTHOR:	Jessica Standish Finance Officer
FILE REFERENCE:	FM6
APPLICANT:	N/A
DATE OF REPORT:	12 July 2016
ATTACHMENTS:	Nil

Purpose

The purpose of this report is to set the property rates and associated conditions for the 2016/2017 financial year.

Background

Nil

Officers Comment

Level of Rates

Following the guidance of Council from the draft budget workshop, a rate increase of 3.0% for both UV (Rural) properties and GRV (townsite) properties has been factored into the budget. The minimum rate has also been increased by 3.0%, to \$567.00.

Discount

Section 6.12 (1)(a) permits a local government to grant a discount or incentive for the early payment of money which is owed to the Council. At the 19 June 2013 meeting of Council it was resolved:

“That:

- 1. The Council no longer offer any discount for the early payment of rates; and**
- 2. The amount that would have been offered as discount be transferred to a new reserve account titled ‘Rate Discount Reserve’ to be used for assisting to fund improvements to existing and new community facilities.”**

Incentive

The Council has previously offered incentive prizes to encourage the early payment of rates. Only ratepayers who have paid their rates in full and by 5 September 2016 will be entered into the draw. For the 2016/2017 year, the following prizes are on offer:

- 1st** Refund of property rates up to the value of \$1,000;
- 2nd** 4 tickets to the Saturday 26 November 2016 *Stuart Skelton Sings Wagner* concert valued at \$364.00. Donated by WA Symphony Orchestra;
- 3rd** A \$200 cheque from Great Southern Community Financial Services, Tambellup Cranbrook Community Bank;
- 4th** Picnic Set and Rug valued at \$85.00. Donated by Act Belong Commit.

Instalments

It is recommended to the Council that it continue to offer the following three payment options as in previous years.

1. To pay the total rates and charges included on the rate notice in full by the 35th day after the date of issue of the rates notice; or
2. To pay by two equal instalments. The first instalment will be due on the 35th day after the date of issue of the rates notice and the second instalment four calendar months after this date.
3. To pay by four equal instalments. The first instalment will be due on the 35th day after the date of issue of the rates notice and the remainder at two calendar month intervals after this date.

Instalment Fee

It is recommended that an instalment fee of \$5.00 be charged for each instalment reminder issued after the first instalment. This is the same as that charged in 2015/2016.

Interest on Instalments

It is recommended that the maximum interest rate of 5.5% per annum be applied to instalment payments. Again, this is consistent with the previous year's charge and statutory requirements.

Late Payment Penalty Interest

It is recommended that the Council adopt a late payment penalty interest of 11% per annum. It is proposed that the late payment penalty interest will apply to rates that remain unpaid where no election was made to pay the rate by instalments and on overdue instalment payments where an election was made to pay by instalments. Again, this is consistent with the previous year's charge and statutory requirements.

Statutory Environment

Section 6.25 to 6.82 of the Local Government Act 1995 and Sections 52 to 78 of the Local Government (Financial Management) Regulations relate to property rating requirements and procedures.

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

The property rates proposed have been established on the basis of delivering a balanced budget.

Risk Implications

The risks associated with matters in this report are:

- Errors, Omissions and Delays
- Failure to fulfil statutory, regulatory or compliance requirements
- Providing inaccurate advice/information

The impacts of these risks are Financial and Non-Compliance

The consequences of these risks are considered to be Major

The likelihood is Possible

Hence the **risk rating** for this item is High

Risk mitigation includes the adoption of property rates consistent with legislation and that the rates are set consistent with the requirements of the budget and delivery of the Strategic

Community Plan. Mitigation also includes a rigorous process to follow up on outstanding rates and the use of third party collection agencies where required.

Strategic Community Plan Reference

The 2013-2023 Shire of Cranbrook, Strategic Community Plan states that:

Aspiration 5.0: By 2023 the Shire of Cranbrook will demonstrate, Strong Governance, Leadership and Organisational Growth

Objective: 5.4 Demonstrate Sound financial planning and management

Strategy: 5.4.2 Responsible and accountable financial management

Consultation

Consultation for this report included the Council and Executive Management Team.

VROC Implications

There are no strategic VROC implications from this report

Voting Requirements

Absolute Majority

OFFICERS RECOMMENDATION

That:

1. Interest on the rate instalment option be set at 5.5% and an administration charge of \$5.00 per instalment (excluding the first instalment) be raised;
2. Late payment penalty interest on overdue rates be set at 11%. This penalty interest charge to apply to all overdue property rates and rubbish collection charges;
3. A prize draw be conducted as an incentive for the prompt payment of property rate accounts, with prizes consisting of various prizes as donated;
4. The Council provide first prize of a refund of property rates up to the value of \$1000 for the incentive prize scheme; and
5. That the rate in the dollar and minimum rate for property rates be as follows:

	Cents in the \$	Minimum Rate
Gross Rental Value	11.0587	\$567.00
Unimproved Value	0.9148	\$567.00

10.1.5 SUBJECT

2016/2017 BUDGET ADOPTION

RESPONSIBLE OFFICER:	Trish Standish Manager of Finance and Administration
REPORT AUTHOR:	Jessica Standish Finance Officer
FILE REFERENCE:	FM6
APPLICANT:	N/A
DATE OF REPORT:	12 July 2016
ATTACHMENTS:	2016/2017 Draft Annual Budget (separate attachment)

Purpose

The purpose of this report is to adopt the 2016/2017 Annual Budget.

Background

The Local Government Act, 1995, requires each Local Government to prepare a budget each financial year. The form, manner and content of the budget are prescribed in the Act and the Financial Management Regulations. Council must adopt its budget by an Absolute Majority no later than 31st August in the budget year unless the Minister for Local Government has granted an extension.

The Council has been working on the components of the 2016/2017 Annual Budget for a number of months now, including the consideration of fees and charges and property rating details. The Council workshop held in May and June has enabled a detailed analysis of the draft budget by staff and elected members.

The previous items in this agenda have dealt with the major items in the budget and have been adopted individually as required by the Local Government Act. These included the List of Fees & Charges and Property Rates.

Officers Comment

Council has met previously in workshop forums to consider a draft budget, which has formed the basis of the final document. The draft annual budget for 2016/2017 has been prepared in accordance with the Local Government Act 1995 and is attached for consideration and final adoption.

Council has been consulted during budget workshops to assess the priorities of proposed capital works, road construction, plant replacement, abnormal operating items, reserve transfers and rate increase levels.

Statutory Environment

Section 6.2 of the Local Government Act (1995) requires a local government to prepare and adopt (by absolute majority) an annual budget prior to 31 August in each year.

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

The adopted budget of the Council sets the financial direction for the proceeding financial year.

Risk Implications

The risks associated with matters in this report are:

- Business and Community Disruption
- Errors, Omissions and Delays
- Failure to fulfil statutory, regulatory or compliance requirements
- Providing inaccurate advice/information

The impacts of these risks are Financial, Service Interruption, Non-Compliance, and Reputational.

The consequences of these risks are considered to be Major.

The likelihood is Unlikely

Hence the **risk rating** for this item is Moderate

Risk mitigation includes the adoption of the budget by 31 August each year and a structured approach to the delivery of the programmes and projects identified and approved in the budget. Mitigation also includes sound supervision of the various projects by members of the Executive Management Team and the staff under their direct control.

Strategic Community Plan Reference

This annual budget reflects the fourth year of the programs and projects identified in the 2013 – 2017 Corporate Business Plan which in turn reflects the aspirations contained within 2013 – 2023 Strategic Community Plan. Programs and projects are reviewed annually and are delivered inside of budgetary requirements.

The 2013-2023 Shire of Cranbrook, Strategic Community Plan states that:

Aspiration 5.0: By 2023 the Shire of Cranbrook will demonstrate, Strong Governance, Leadership and Organisational Growth

Objective: 5.4 Demonstrate Sound financial planning and management

Strategy: 5.4.2 Responsible and accountable financial management

Consultation

Consultation for this report included the Council, Executive Management Team and Council staff.

VROC Implications

There are a number of specific items contained within the budget document that relate directly to the VROC. These are clearly identified within the document.

Voting Requirements

Absolute Majority

OFFICERS RECOMMENDATION

That the attached 2016/2017 Annual Budget be adopted.

10.1.6 SUBJECT	SALE OF LAND – NON-PAYMENT OF RATES – LOT 46 (106) SHEPHERD ROAD, FRANKLAND RIVER
RESPONSIBLE OFFICER:	Trish Standish Manager of Finance and Administration
REPORT AUTHOR:	Jessica Standish Finance Officer
FILE REFERENCE:	A1185
APPLICANT:	N/A
DATE OF REPORT:	12 July 2016
ATTACHMENTS:	1. Title Search 2. CS Legal Report 3. Map

Purpose

The purpose of this report is to consider the sale of Lot 46, 106 Shepherd Road Frankland River due to non-payment of rates in excess of three years.

Background

The owner of Lot 46, 106 Shepherd Road Frankland River, Peter John Heaton has failed to pay rates for a period of at least three years and endeavours to recover the outstanding money have proved unsuccessful.

Officers Comment

Under the Local Government Act (1995) Council is able to sell the land to recover the outstanding rates, see statutory environment below. The procedure for the sale of land is a lengthy one, however the end result will be that the debt and costs outstanding to Council may be recovered, as well as the land in question being potentially owned by a ratepayer that will make annual rate payments to Council.

The Shire's debt collection agency issued a letter of demand on 5 November 2013 to which there was no response. Proceedings commenced against the Owner in the Magistrates Court of Western Australia on 25 November 2013 and default judgment was entered by the Court on 17 March 2014.

Legal advice has been sought to ensure that staff have done everything in their power to locate the owner of this property, as per the requirements of the Local Government Act. The advice reads in part:

"The Shire is entitled to sell the Property under the provisions of the Local Government Act 1995 (WA) ("LGA") if rates charges have been outstanding for a period exceeding three years."

Statutory Environment

Sections 6.63 to 6.75 of the Local Government Act (1995) and regulations 72 to 78 of the Financial Management Regulations govern the actions to be taken against landowners of rateable land to which rates have remained unpaid for more than three (3) years.

6.64. Actions to be taken:

1. If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and –
 - a. from time to time lease the land;
 - b. sell the land;
 - c. cause the land to be transferred to the Crown; or
 - d. cause the land to be transferred to itself.

2. On taking possession of any land under this section, the local government is to give to the owner of the land such notification, as is prescribed and then to affix on a conspicuous part of the land a notice on the form or substantially in the form prescribed.

6.68. Exercise of power to sell land

1. Subject to subsection (2), a local government is not to exercise its power under section 6.64(1)(b) (in this Subdivision and Schedule 6.3 referred to as the "power of sale") in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.
2. A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land.

State-wide public notice of sale of land for non-payment of rates or service charges is to be given and sale must be in the way of a public auction as prescribed in form 5 of the Local Government (Financial Management) Regulations 1996 [reg. 75].

Policy Applicable – Implications

Council Policy 4.5, Rates and Sundry Debtors Charges – Write Offs, Recovery Process, states that: *The Chief Executive Officer is authorised to take, any further action deemed necessary subsequent to the Local Court Summons depending on the circumstances of each particular claim.*

Financial Implications

At present the total amount outstanding (including rates and other charges) for Lot 46, 106 Shepherd Road Frankland River is \$21,460.68. Whilst it is possible that Council may not be able to recover all of this by selling the land, the debt will no longer accrue. Also, Council will have a more realistic balance sheet with these debts no longer being included as a current asset.

There will also be legal fees, selling costs, auction fees and settlement costs incurred.

Risk Implications

The risks associated with matters in this report are:

- Errors, Omissions and Delays;
- Failure to fulfil statutory, regulatory or compliance requirements;
- Providing inaccurate advice/information; and
- Inadequate document management processes.

The impact of the risk is Financial, Non-Compliance and Reputational

The consequences of these risks are considered to be Moderate

The likelihood is Unlikely

Hence the **risk rating** for this item is Moderate

Risk mitigation includes the engagement of a legal firm to undertake the sale of property process and ensuring that they adhere to the strict guidelines provided by the Department of Local Government.

Strategic Community Plan Reference

The 2013-2023 Shire of Cranbrook, Strategic Community Plan states that:

Aspiration 5.0: By 2023 the Shire of Cranbrook will demonstrate, Strong Governance, Leadership and Organisational Growth

Objective: 5.4 Demonstrate Sound Financial Planning and Management

Strategy: 5.4.2 Responsible and accountable financial management

Consultation

Consultation with CS Legal has been undertaken and their report is attached.

VROC Implications

There are no strategic VROC implications from this report

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION

That:

- 1. The Shire notes that the rates it has imposed on the property identified as Lot 46 on Strata Plan 33176 being the whole of the land comprised in certificate of title Volume 2111 Folio 546 and more commonly known as 106 Shepherd Road, Frankland River ("the Property") have been unpaid for at least three years;**
- 2. The Shire has undertaken a search of the title records maintained by Landgate with respect to the Property. A copy of this title search dated 12 July 2016 is annexed to this report at attachment 1;**
- 3. Under section 6.56 of the Local Government Act, the Shire has attempted to recover the outstanding money by authorising CS Legal to commence proceedings against the Owner in the Magistrates Court of Western Australia on 25 November 2013. Default judgement was entered by the Court on 17 March 2014, however no payments were ever received as a result of this judgement;**
- 4. If the Property does not sell at auction or by private treaty within one (1) year of the auction, the Shire may transfer the Property to the Shire or to the State of Western Australia; and**
- 6. Council therefore resolves to exercise its power of sale pursuant to sections 6.68(2)(b) and Part 6 Subdivision 6 of the Local Government Act in relation to the Property in order to recover the outstanding rates owing in respect to the Property.**

10.1.7 SUBJECT	SALE OF LAND – NON-PAYMENT OF RATES – LOTS 3049 & 4024 BOYUP BROOK/CRANBROOK ROAD, CRANBROOK
RESPONSIBLE OFFICER:	Trish Standish Manager of Finance and Administration
REPORT AUTHOR:	Jessica Standish Finance Officer
FILE REFERENCE:	A1258
APPLICANT:	N/A
DATE OF REPORT:	12 July 2016
ATTACHMENTS:	1. Title Search 2. CS Legal Report 3. Aerial Map

Purpose

The purpose of this report is to consider the sale of Lots 3049 and 4024 Boyup Brook/Cranbrook Road Cranbrook, due to non-payment of rates in excess of three years.

Background

The owner of Lots 3049 and 4024 Boyup Brook/Cranbrook Road Cranbrook, Marjorie Jean Armstrong has failed to pay rates for a period of at least three years and endeavours to recover the outstanding money have proved unsuccessful.

Officers Comment

Under the Local Government Act (1995) Council is able to sell the land to recover the outstanding rates, see statutory environment below. The procedure for the sale of land is a lengthy one, however the end result will be that the debt and costs outstanding to Council may be recovered, as well as the land in question being potentially owned by a ratepayer that will make annual rate payments to Council.

The Shire's debt collection agency commenced proceedings against the Owner in the Magistrates Court of Western Australia on 11 December 2012 and default judgment was entered by the Court on 25 July 2013. The Shire has attempted to enforce the judgment by way of a Means Inquiry Summons issued 9 August 2013 and a Property (Seizure and Sale) order from 17 March 2014 which continued to March 2016.

Legal advice has been sought to ensure that staff have done everything in their power to locate the owner of this property, as per the requirements of the Local Government Act. The advice reads in part:

"The Shire is entitled to sell the Property under the provisions of the Local Government Act 1995 (WA) ("LGA") if rates charges have been outstanding for a period exceeding three years."

Statutory Environment

Sections 6.63 to 6.75 of the Local Government Act (1995) and regulations 72 to 78 of the Financial Management Regulations govern the actions to be taken against landowners of rateable land to which rates have remained unpaid for more than three (3) years.

6.64. Actions to be taken

1. If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and –
 - a. from time to time lease the land;
 - b. sell the land;
 - c. cause the land to be transferred to the Crown; or
 - d. cause the land to be transferred to itself.

2. On taking possession of any land under this section, the local government is to give to the owner of the land such notification, as is prescribed and then to affix on a conspicuous part of the land a notice on the form or substantially in the form prescribed.

6.68. Exercise of power to sell land

1. Subject to subsection (2), a local government is not to exercise its power under section 6.64(1)(b) (in this Subdivision and Schedule 6.3 referred to as the "power of sale") in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.

2. A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land.

State-wide public notice of sale of land for non-payment of rates or service charges is to be given and sale must be in the way of a public auction as prescribed in form 5 of the Local Government (Financial Management) Regulations 1996 [reg. 75].

Policy Applicable – Implications

Council Policy 4.5, Rates and Sundry Debtors Charges – Write Offs, Recovery Process, states that: *The Chief Executive Officer is authorised to take, any further action deemed necessary subsequent to the Local Court Summons depending on the circumstances of each particular claim.*

Financial Implications

At present the total amount outstanding (including rates and other charges) for Lots 3049 and 4024 Boyup Brook/Cranbrook Road Cranbrook is \$15,774.89. Whilst it is possible that Council may not be able to recover all of this by selling the land, the debt will no longer accrue. Also, Council will have a more realistic balance sheet with these debts no longer being included as a current asset.

There will also be legal fees, selling costs, auction fees and settlement costs incurred.

Risk Implications

The risks associated with matters in this report are:

- Errors, Omissions and Delays;
- Failure to fulfil statutory, regulatory or compliance requirements;
- Providing inaccurate advice/information; and
- Inadequate document management processes.

The impact of the risk is Financial, Non-Compliance and Reputational

The consequences of these risks are considered to be Moderate

The likelihood is Unlikely

Hence the **risk rating** for this item is Moderate

Risk mitigation includes the engagement of a legal firm to undertake the sale of property process and ensuring that they adhere to the strict guidelines provided by the Department of Local Government.

Strategic Community Plan Reference

The 2013-2023 Shire of Cranbrook, Strategic Community Plan states that:

Aspiration 5.0: By 2023 the Shire of Cranbrook will demonstrate, Strong Governance, Leadership and Organisational Growth

Objective: 5.4 Demonstrate Sound Financial Planning and Management

Strategy: 5.4.2 Responsible and accountable financial management

Consultation

Consultation with CS Legal has been undertaken and their report is attached.

VROC Implications

There are no strategic VROC implications from this report

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION

That:

1. The Shire notes that the rates it has imposed on the property identified as Lots 3049 and 4024 on Plans 141523 and 145984 respectively, being the whole of the land comprised in certificate of titles Volume 2157 and 1316, Folio 19 and 36, Boyup Brook/Cranbrook Road Cranbrook ("the Property") have been unpaid for at least three years;
2. The Shire has undertaken a search of the title records maintained by Landgate with respect to the Property. A copy of this title search dated 12 July 2016 is annexed to this report at attachment 1;
3. Under section 6.56 of the Local Government Act, the Shire has attempted to recover the outstanding money by authorising CS Legal to commence proceedings against the Owner in the Magistrates Court of Western Australia on 11 December 2012. Default judgement was entered by the Court on 25 July 2013, however no payments were ever received as a result of this judgement;
4. The Shire has made the following attempts at enforcing the judgement debt under the Civil Proceedings Act 2004 (WA):
 - (a) Means Inquiry Summons issued on 9 August 2013; and

- (b) Property (Seizure and Sale) Order from 17 March 2014 which was extended and continued until around March 2016.**
- 5. If the Property does not sell at auction or by private treaty within one (1) year of the auction, the Shire may transfer the Property to the Shire or to the State of Western Australia; and**
 - 6. Council therefore resolves to exercise its power of sale pursuant to sections 6.68(2)(b) and Part 6 Subdivision 6 of the Local Government Act in relation to the Property in order to recover the outstanding rates owing in respect to the Property.**

10.2 GOVERNANCE & EXECUTIVE SERVICES

10.2.1 SUBJECT **PLANNING APPLICATION - PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE – RESERVE 36129, LOT 73 HERBERT STREET, FRANKLAND RIVER**

RESPONSIBLE OFFICER: Peter Northover
Chief Executive Officer

REPORT AUTHOR: Liz Bushby
Gray & Lewis Landuse Planners

FILE REFERENCE: R36129

APPLICANT: Aurecon Australia (for Ericsson)

DATE OF REPORT: 12 July 2016

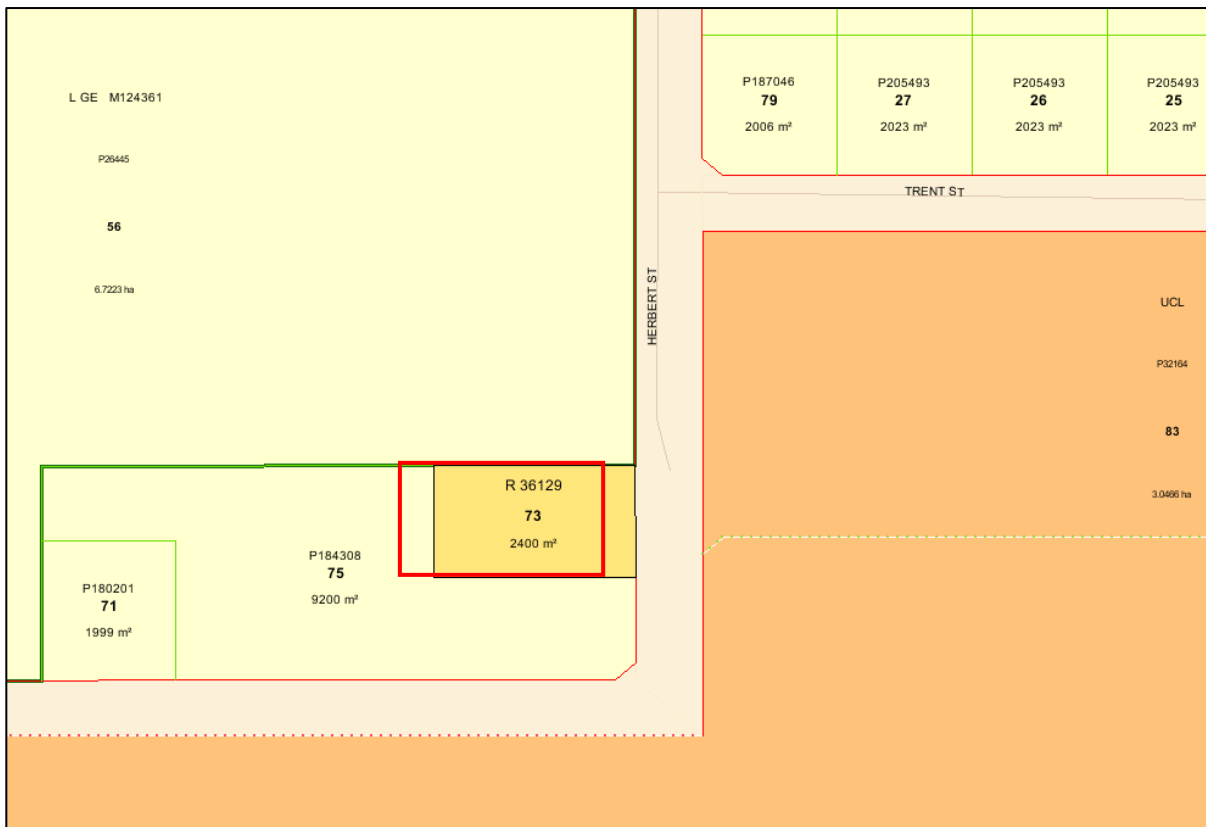
ATTACHMENTS: Nil

Purpose

The purpose of this report is to consider an application for telecommunications infrastructure on Reserve 36129, Lot 73 Herbert Street, Frankland River.

Background

The subject lot is located in the south west part of Frankland River townsite, and is a Local Scheme Reserve for ‘public purposes’ under the Shire of Cranbrook Local Planning Scheme No 4 (‘the Scheme’).



Lot 73 has an approximate area of 2400m² and is a reserve for the purpose of 'water supply'. There is an existing water tank on the lot.



Photograph of existing water tower on Lot 73
Source: Applicant report

Officers Comment

Description of Application

The application is for a 45 metre high monopole and ancillary components.

The applicant has advised as follows:

- The purpose is to establish the fixed wireless component of the National Broadband Network (NBN).
- A fixed wireless transmission site is required to provide wireless internet coverage to Frankland River. Lot 73 will be a terminal site with connectivity to the NBN facility in Tenterden East.
- Lot 73 has been identified as a suitable location and is under the care and control of the Water Corporation.
- The ancillary components include a parabolic antennae dish, 3 panel antennas, 3 remote radio units, and 2 outdoor cabinets within a chain link security compound.

Copies of the development plans are available to Councillors on request. A location plan is included overpage.



Source: Google Earth
Provided by applicant

Landuse classification and permissibility

When an application is lodged, part of the planning assessment involves examining the landuse definitions in the Scheme, and determining the 'best fit' landuse classification.

There is a specific landuse definition for 'telecommunications infrastructure' under the Shire of Cranbrook Town Planning No 4 ('the Scheme') and it is defined as '*means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in connection with, a telecommunications network*'.

Council has discretion to consider any landuse on a public purpose reserve under the Scheme, and simply has to 'have regard' for the ultimate intended purpose of the reserve.

The proposed telecommunications tower will not have any adverse impact on continued use of the reserve for 'water supply'. The Water Corporation has signed the application form.

Advertising

The application has been advertised for public comment and no submissions have been received. The Shire wrote to nearby and adjacent landowners.

Western Australian Planning Commission Statement of Planning Policy No 5.2 on 'Telecommunications Infrastructure'

The Western Australian Planning Commission (WAPC) has an adopted Statement of Planning Policy No 5.2 for Telecommunications Infrastructure ('SPP 5.2') (September 2015).

The WAPC Policy discusses issues such as the need to meet the communication needs of the community and minimising potential adverse visual impact.

The Policy includes a series of guiding principles for the location, siting, and design of telecommunications infrastructure.

The Policy states that *'telecommunications infrastructure should be sited and designed to minimise visual impact'*. In particular the Policy discusses impacts on significant viewing locations, prominent landscapes and vistas, and general views in the locality.

It is important to acknowledge the Policy references *'to minimise visual impact'* and that SPP2.5 does not require a tower to be invisible or have no visual impact.

From a practical perspective, height is an essential attribute of telecommunications infrastructure and is integral to the development being able to provide a service to the community.

Visual Impact and Amenity

The Western Australian Planning Commission (WAPC) *'Guidelines for the location, siting and design of telecommunications infrastructure'* complement SPP 5.2.

The proposed tower will be located at the end of Herbert Street which has minimal passing traffic as it is not a through road. There is established vegetation to the east of Herbert Street which provides a visual buffer to the established residences along Trent Street to the north east.

The nearest dwelling is located to the west on Lot 75. There is some screening vegetation which separates the dwelling from Lot 73.

Statutory Environment

Shire of Cranbrook Town Planning Scheme No 4:

1. Under Clause 3.4.1 a person shall not use or commence or carry out development on a local reserve without first having obtained planning approval.
2. Under Clause 3.4.2 the local government is to have regard to the matters set out in Clause 10.2 and the ultimate intended purpose of for the reserve in determining an application for planning approval.
3. Under Clause 3.4.3 where the land is reserved for the purposes of a public authority the local government is to consult with that public authority before determining the application for planning approval.
4. Clause 10.2 sets out general matters to consider such as properly and orderly planning, state planning policies, the compatibility of a use or development with its setting, amenity of the locality, access and egress etc.

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

The Shire pays consultancy fees to Gray & Lewis for planning advice.

Risk Implications

The risk associated with matters in this report is providing inaccurate advice/information

The impact of the risk is Reputational

The consequences of these risks are considered to be Minor

The likelihood is Unlikely

Hence the **risk rating** for this item is Low

Risk mitigation includes utilising the services of a professional planner.

Strategic Community Plan Reference

The 2013-2023 Shire of Cranbrook, Strategic Community Plan states that:

Aspiration 2.0: By 2023 the Shire of Cranbrook will have an Innovative, Diverse, Prosperous and Growing Economy

Objective: 2.2 Support Economic Growth and Development

It should be noted that in a survey conducted by the WAPC on telecommunications infrastructure in October 2014 identified that *'themes emerging from general respondent comments overwhelmingly indicate the main area of concern is the poor quality of service in regional areas and the impacts this has on emergency response times and business viability'*.

Improved telecommunications infrastructure in Frankland River has potential for positive impacts to support local industries and businesses.

Consultation

Discussed in the body of this report.

VROC Implications

There are no strategic VROC implications from this report.

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION

That Council:

- 1. Approve the application lodged by Aurecon for 'telecommunications infrastructure' on Reserve 36129, Lot 73 Herbert Street, Frankland River subject to the following conditions:
 - (i) All development to be in accordance with the plans lodged as part of this application unless otherwise agreed to in writing by the Chief Executive Officer.**
 - (ii) If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval shall lapse and be of no further effect;****
- 2. Advise the applicant through footnotes that a planning consent is not an approval to commence any works. A building permit may also be required for construction works;**
- 3. Note that the application has been advertised for public comment and no submissions have been received; and**
- 4. Note that the Water Corporation has signed the planning application form.**

10.2.2 SUBJECT

RESERVES 37371 and 40225 - MANAGEMENT

RESPONSIBLE OFFICER: Cassandra Hughes
 Manager of Economic and Community Development

REPORT AUTHOR: Cassandra Hughes
 Manager of Economic and Community Development

FILE REFERENCE: R37371 and R40225

APPLICANT: Department of Parks and Wildlife

DATE OF REPORT: 13 July 2016

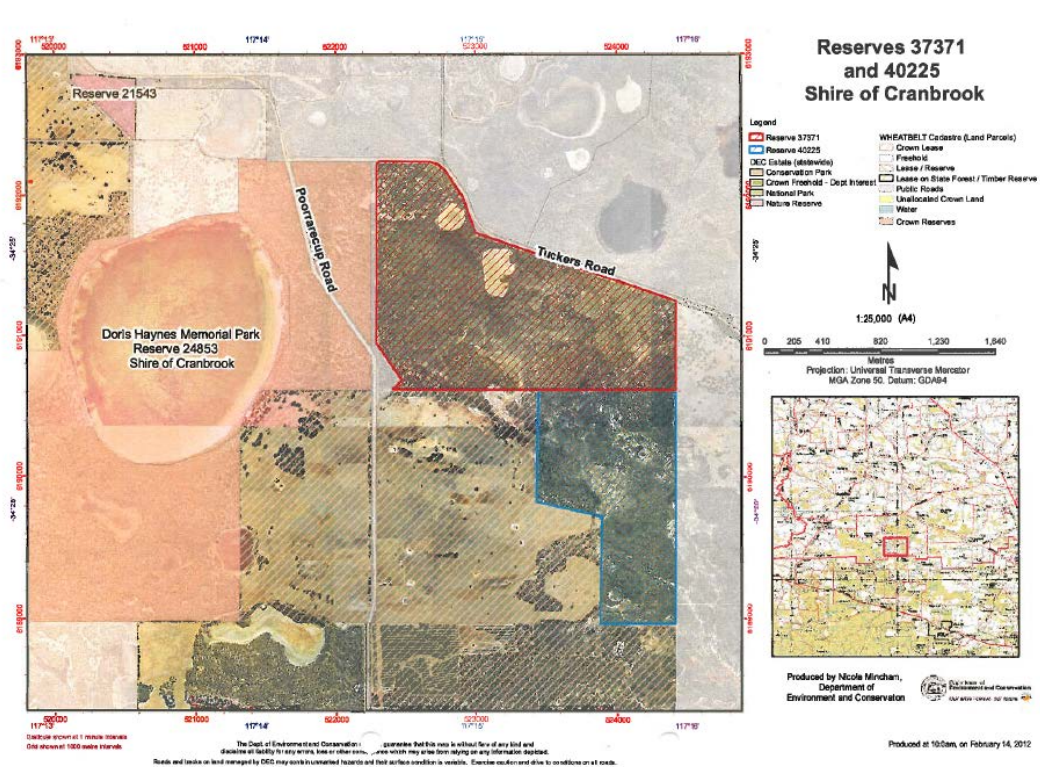
ATTACHMENTS: Nil

Purpose

The purpose of this report is to consider an enquiry by the Department of Parks and Wildlife with regard to the Shire of Cranbrook’s interest in taking over management of Reserves 37371 and 40225.

Background

The Chief Executive Officer (CEO) and Manager of Economic and Community Development (MECD) met with Mr Greg Durell from the Department of Parks and Wildlife (DPAW) earlier in 2016 to discuss a range of issues including the management of reserves 37371 and 40225. These reserves are currently vested in the Water Corporation. Subsequently the CEO has received emails from Mr Durell requesting that the Council consider its position on the Management of the stated reserves. As can be seen on the map below, Reserve 37371 is located off Tuckers Rd, and Reserve 40225 is located adjacent to that reserve, behind private property on Poorrarecup Road.



Officers Comment

The Department of Planning and Infrastructure have requested comment from the Department of Parks and Wildlife on the management of these reserves. This has come about as these reserves have previously been part of the Kent River Water Reserve/Recovery Catchment Special Control Area. With the release of the catchment area, the appropriate management of these reserves has been raised.

The Department of Parks and Wildlife have indicated their willingness to assume management of the reserves, and have proposed that a Management Order be issued for a purpose of Conservation of Flora and Fauna protection.

The CEO and MECD have inspected these reserves and have discussed the issue with the Emergency Services and Recreation Officer. The Shire already manages a number of reserves which require man power and costs to maintain including firebreaks, weed control, mowing etc. Whilst this reserve does present some environmental value, it is thought that its management is best vested in the Department of Parks and Wildlife. This vesting does not reduce access or use of the reserve, and in fact the department have indicated a willingness to work with the Shire to consider any recreational uses of interest in the future.

Statutory Environment

There is no specific legislation applicable to this report.

Policy Applicable – Implications

Council Policy 10.0, Environmental Management, states that:

The Council “Support campaigns, groups, organisations whose values and commitment reflect that of the Shire in relation to maintain, protect, enhance and promote its environment and links with the broader environmental activity.”

Financial Implications

There are no financial implications for this report.

Risk Implications

The risks associated with matters in this report are;

- Inadequate Environmental Management
- Failure to fulfil statutory, regulatory or compliance requirements
- Providing inaccurate advice/information

The impact of the risk is Environment.

The consequences of these risks are considered to be Moderate.

The likelihood is Unlikely

Hence the **risk rating** for this item is Low

Risk mitigation includes investigation of the reserves and receipt of advice from the Department of Parks and Wildlife.

Strategic Community Plan Reference

The 2013-2023 Shire of Cranbrook, Strategic Community Plan states that:

Aspiration 3.0: By 2023 the Shire of Cranbrook will Maintain, Protect, Enhance and Promote its environment

Objective 3.2: Support the Community, Environmental Organisations, Groups and Individuals

Strategy 3.2.1: Facilitation and support for sustainable agriculture, bushland protection and landcare

Consultation

Consultation for this report included discussion with Mr Greg Durell, Acting Regional Manager Wheatbelt Region, Department of Parks and Wildlife.

VROC Implications

There are no strategic VROC implications from this report

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION

That the Council:

- 1. Supports the transfer of management of reserves 37371 and 40225 from the Water Corporation to the Department of Parks and Wildlife; and**
- 2. Supports the recommendation that the reserves become nature reserves, with a Management Order, changing the purpose from Water to Conservation of Flora and Fauna.**

10.2.3 SUBJECT

**INTEGRATED PLANNING & REPORTING
ANNUAL REPORT: JULY 2015 – JUNE 2016**

RESPONSIBLE OFFICER:	Peter Northover Chief Executive Officer
REPORT AUTHOR:	Peter Northover Chief Executive Officer
FILE REFERENCE:	AD3
APPLICANT:	N/A
DATE OF REPORT:	14 July 2016
ATTACHMENTS:	IPR Annual Report 2015 - 2016

Purpose

The purpose of this report is to consider and adopt the Integrated Planning and Reporting (IPR) Annual Report for the period 1 July 2015 to 30 June, 2016.

Background

As Council is aware, local governments were required to have developed and adopted a Strategic Community Plan and Corporate Business Plan by 30 June, 2013. These two plans constituted the new Plan for the Future under the Local Government Act 1995 from that date onwards.

The IPR Framework was introduced across the State to address identified long term sustainability issues. The Framework, together with associated guidelines and the IPR Advisory Standard, was developed to assist local governments develop their Strategic Community Plans, Corporate Business Plans and associated plans (Asset Management, Workforce and Long Term Financial Plans).

Although there is no statutory requirement to provide quarterly or annual reports to government, the adoption of a regular reporting regime is consistent with best practice within the IPR framework.

Officers Comment

In July 2015, Council adopted the Budget for 2015 – 2016 which detailed the expenditure required to deliver the strategies and actions of year three of the Corporate Business Plan.

The attached annual report provides a snapshot of the Shire's performance against each of the five community aspirations and associated strategic objectives identified within the Corporate Business Plan. The report lists those strategies and actions identified under each strategic objective and measures performance to date.

Statutory Environment

The Local Government Administration Regulations define the requirements of the Integrated Planning and Reporting Framework.

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

There are no financial implications for this report.

Risk Implications

There are no risk implications for this report.

Strategic Community Plan Reference

The 2013-2023 Shire of Cranbrook, Strategic Community Plan states that:

Aspiration 5.0: By 2023 the Shire of Cranbrook will demonstrate, Strong Governance, Leadership and Organisational Growth

Objective 5.3: Develop Strategic Plans and Projects

Strategy 5.3.2: Ensure delivery, monitoring, evaluation and reporting of strategic planning outcomes.

Consultation

This report was prepared in consultation with the Executive Management Team.

VROC Implications

There are no strategic VROC implications from this report

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION

That Council adopts the attached IPR Annual Report for the period 1 July 2015 to 30 June 2016.

10.3 WORKS

NIL

10.4 ECONOMIC & COMMUNITY

NIL

11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

NIL

12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY A DECISION OF THE MEETING

13. MATTERS BEHIND CLOSED DOORS

13.1 SUBJECT	LOT 7 ON PLAN 33631 (25) GRANTHAM STREET, CRANBROOK – OFFER TO PURCHASE
RESPONSIBLE OFFICER:	Trish Standish Manager of Finance and Administration
REPORT AUTHOR:	Trish Standish Manager of Finance and Administration
FILE REFERENCE:	CP110
APPLICANT:	Elders Real Estate
DATE OF REPORT:	11 July 2016
ATTACHMENTS:	Nil

13.2 SUBJECT	LOT 5 (NO 24) NUNIJUP ROAD TENTERDEN
RESPONSIBLE OFFICER:	Peter Northover Chief Executive Officer
REPORT AUTHOR:	Liz Bushby Gray & Lewis Landuse Planners
FILE REFERENCE:	A1372
APPLICANT:	Not applicable
DATE OF REPORT:	13 July 2016
ATTACHMENTS:	Information on Community Postal Agents

Statutory Environment

Section 5.23 of the Local Government Act 1995 allows the Council to close all or part of a Council Meeting to members of the public if the meeting or the part of the meeting deals with a range of issues, dealing with any of the following; (a) a matter affecting an employee or employees; (b) the personal affairs of any person; (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; (e) a matter that if disclosed, would reveal — (i) a trade secret; (ii) information that has a commercial value to a person; or (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; (f) a matter that if disclosed, could be reasonably expected to — (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; (ii) endanger the security of the local government’s property; or (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public

safety; (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and (h) such other matters as may be prescribed.

As such it is recommended that the meeting be closed to the public in order deal with these items.

A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION:

That the meeting be closed to members of the public in accordance with section 5.23 (c), (e)(iii) of the Local Government Act 1995, to discuss a contract entered into, or which may be entered into, by the local government, and information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government.

OFFICERS RECOMMENDATION:

That the meeting be re-opened to members of the public.

14. CLOSURE OF MEETING

There being no further business to discuss, the Shire President, Cr Cunningham will declare the meeting closed at pm.