

# COUNCIL MEETING

## MINUTES



For the Ordinary Meeting of Council held on

**18 December 2017**

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# MINUTES

## 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President, Cr Egerton-Warburton declared the meeting open at 3.02pm. The Shire President alerted the meeting to the procedures for emergencies including evacuation, designated exits and muster points.

## 2. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

### 2.1 ATTENDANCE

President	Cr CY (Colin) Egerton-Warburton
Councillors	Cr DJ (David) Adams Cr PM (Peter) Beech Cr ER (Ruth) Bigwood Cr P (Peter) Denton Cr PW (Peter) Slater Cr DS (David) Carey Cr VN (Vanessa) Fiegert
Chief Executive Officer	Mr PB (Peter) Northover
Manager of Finance & Administration	Mrs PA (Trish) Standish
Manager of Works	Mr JE (Jeff) Alderton
Members of the Public	One

### 2.2 APOLOGIES

Nil

### 2.3 APPROVED LEAVE OF ABSENCE

Deputy President	Cr PL (Phil) Horrocks
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## 3. ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

The Shire President, Cr Egerton-Warburton announced that the following people who were either residents or past residents of the Shire had passed away since the last meeting:

Jan Waldron

A moments silence was observed as a mark of respect.

## 4. PUBLIC QUESTION TIME

### 4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

### 4.2 PUBLIC QUESTIONS

#### A1378 – Proposed Quarry – Mr Jamie Climie

Mr Climie stated that he owned the property adjoining the proposed quarry and wanted confirmation that his business, home and family would not be adversely affected by the

quarry. Mr Climie advised he had met with the quarry manager regarding his concerns but also wanted to ensure Council was aware of his concerns.

Mr Climie asked Council what conditions would be placed on Palmers and who would be responsible for monitoring them.

The Chief Executive Officer, Mr Peter Northover advised that there are numerous conditions included in the recommendation to Council that include the preparation of a revised management plan and compliance with relevant agency regulations. Mr Northover advised that the responsible agency is ultimately the Department of Mines, Industry Regulation and Safety (DMIRS).

The Chief Executive Officer, Mr Peter Northover advised that if there are concerns with the quarry's operations DMIRS has the ability to shut it down if they did not meet their compliance obligations, including any condition imposed by the Shire.

Cr P Beech asked Mr Climie if he could remember when the quarry was operational previously.

Mr Climie responded that he could not recall the quarry being operational however his parents could.

Cr D Adams asked Mr Climie who owned the shed that was on the boundary.

Mr Climie advised that he owned the land on both sides which included the shed. Mr Climie also advised there is a water tank 150m away from the quarry that needs to be protected, as we do not want the water contaminated.

The Chief Executive Officer, Mr Peter Northover advised that the revised management plan would include noise, dust and vibration monitoring by an external consultant.

## **5. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**

Nil

## **6. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

## **7. DISCLOSURE OF INTEREST**

### **Proximity Interest**

Cr P Beech

Item 10.2.3

Type: Proximity Interest pursuant to Section 5.60B Local Government Act 1995

Nature: Owner of neighbouring property.

## **8. MATTERS FOR WHICH MEETING MAY BE CLOSED**

Nil

**9. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**9.1 ORDINARY MEETING – 15 NOVEMBER 2017**

**Motion 01122017**

**Moved Cr Denton, seconded Cr Beech that the minutes from the ordinary meeting of Council held on 15 November 2017, be confirmed as a true and correct record.**

**Carried 8/0**

## 10. REPORTS OF OFFICERS

### 10.1 FINANCE & ADMINISTRATION

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#### 10.1.1 LIST OF PAYMENTS

<b>RESPONSIBLE OFFICER:</b>	Trish Standish – Manager of Finance and Administration
<b>REPORT AUTHOR:</b>	Jodi Vitler – Finance Admin Officer
<b>FILE REFERENCE:</b>	FM2
<b>APPLICANT:</b>	N/A
<b>DATE OF REPORT:</b>	11 December 2017
<b>ATTACHMENTS:</b>	List of Payments – 1 November 2017 to 30 November 2017

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#### **Purpose**

The purpose of this report is to advise the Council of payments made during the period 1 November 2017 to 30 November 2017.

#### **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
- 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 Low

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 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

*Objective 4: Leadership - Demonstrate strong governance, leadership and organisational growth*

Outcome 4.1: Excellence in governance, compliance, regulation and reporting

Strategy 4.1.1: Maintain a high level of corporate governance, responsibility and accountability

### **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/COUNCIL DECISION**

**Motion 02122017**

**Moved Cr Bigwood, seconded Cr Fiegert that the payment of accounts totalling \$475,984.42 as per the attachment be noted:**

- **Electronic Funds Transfers EFT8218 to EFT8318 - \$339,981.30;**
- **Municipal Fund Cheque No's 12054 – 12061 - \$11,236.67;**
- **Internal Account Transfers (Payroll) - \$103,631.33; and**
- **Direct Debit - \$21,135.12;**

**Carried 8/0**



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**10.1.2****MONTHLY FINANCIAL STATEMENTS**

<b>RESPONSIBLE OFFICER:</b>	Trish Standish – Manager of Finance and Administration
<b>REPORT AUTHOR:</b>	Trish Standish – Manager of Finance and Administration
<b>FILE REFERENCE:</b>	FM12
<b>APPLICANT:</b>	N/A
<b>DATE OF REPORT:</b>	12 December 2017
<b>ATTACHMENTS:</b>	Financial Statements November 2017

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**Purpose**

The purpose of this report is to present the financial position of the Shire of Cranbrook as at 30 November 2017.

**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**

The November financial statements report on 5 months, or 42% of the financial year. It is worthy to note:

- The 'Municipal Fund Summary' on page 2 shows that we have raised 74% of our expected operating income. This higher percentage is due to the fact that property rates are recognised as revenue when they are raised and not when they are paid;
- The 'Municipal Fund Summary' on page 2 shows that we have spent 43% of the budgeted operating expenditure for the year;
- The 'Municipal Fund Summary' on page 4 shows a net current assets position of \$2,581,616 (surplus), which is mainly made up of cash on hand and rate debtors; and
- The 'Variance Report' on page 9 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

- 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 Medium

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 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

*Objective 4: Leadership - Demonstrate strong governance, leadership and organisational growth*

Outcome 4.1: Excellence in governance, compliance, regulation and reporting

Strategy 4.1.1: Maintain a high level of corporate governance, responsibility and accountability

#### **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/COUNCIL DECISION**

**Motion 03122017**

**Moved Cr Adams, seconded Cr Slater that the attached financial statements for the period ending 30 November 2017 be noted.**

**Carried 8/0**

## 10.2 GOVERNANCE & EXECUTIVE SERVICES

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### 10.2.1 LOCAL GOVERNMENT ACT REVIEW

<b>RESPONSIBLE OFFICER:</b>	Peter Northover – Chief Executive Officer
<b>REPORT AUTHOR:</b>	Trish Standish – Manager of Finance and Administration
<b>FILE REFERENCE:</b>	GO11
<b>APPLICANT:</b>	N/A
<b>DATE OF REPORT:</b>	7 December 2017
<b>ATTACHMENTS:</b>	Department of Local Government, Sport and Cultural Industries Consultation Paper (previously supplied to Councillors)

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#### **Purpose**

The purpose of this report is for the Council to consider the issues it may wish to comment on in relation to the proposed review of the Local Government Act (1995).

#### **Background**

The current Local Government Act was legislated in 1995 and has had some modifications and additions since then. The McGowan Government is undertaking a review of the Local Government Act (1995) to modernise local governments and better position them to deliver services for the community.

The review will be undertaken in two phases. Phase One of the review considers the following matters:

- Meeting community expectations of standards and performance
- Transparency
- Making more information available online
- Red tape reduction

The Department of Local Government, Sport and Cultural Industries has released a consultation paper on Phase 1, which was supplied to all Councillors last month. A second consultation paper will be released for Phase Two during 2018.

#### **Officers Comment**

The consultation paper is in excess of 130 pages long and covers the following issues:

- Elected Member / Administration relationships;
- Elected Member training;
- Elected Member behaviour;
- Local Government Administration, including:
  - Recruitment and selection of local government Chief Executive Officers;
  - Acting Chief Executive Officers;
  - Performance review of local government Chief Executive Officers;
  - Extension or termination of the Chief Executive Officer contract immediately before or following an election; and
  - Public expectations of staff performance;
- Supporting local governments in challenging times;
- Making it easier to move between state and local government employment;
- Gifts;
- Access to information, including public notices and information available for public inspection;
- Available information, including expanding the information provided to the public;
- Reducing red tape, including defining red tape and potential red tape reductions; and

- Regional Subsidiaries.

Submissions close on 9 February 2018 and will require some time to complete as they need to be quite detailed.

### **Statutory Environment**

This report proposes to make a submission for changes to the Local Government Act (1995)

### **Policy Applicable – Implications**

There is no Council policy applicable to this report.

### **Financial Implications**

There are no financial implications for this report.

### **Risk Implications**

The risks associated with matters in this report are:

- Errors, Omissions and Delays
- Failure to fulfil Statutory, Regulatory or Compliance Requirements
- Inadequate Engagement Practices

The **impact** of the risk is Non-Compliance, Reputational

The **consequences** of these risks are considered to be Insignificant

The **likelihood** is Rare

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

Risk mitigation includes Council completing a submission.

### **Strategic Community Plan Reference**

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

*Objective 4: Leadership - Demonstrate strong governance, leadership and organisational growth*

Outcome 4.2: Demonstrate strong leadership and civic responsibility

Strategy 4.2.1: Provide leadership to the community, staff and wider region

### **Consultation**

The Chief Executive Officer and Manager of Finance and Administration attended a workshop facilitated by the Great Southern Zone of the Western Australian Local Government Association to discuss the review of the Local Government Act. The Manager of Finance and Administration also attended a Department of Local Government, Sport and Cultural Industries workshop to discuss this review.

### **VROC Implications**

There are no strategic VROC implications from this report

### **Voting Requirements**

Simple Majority

**OFFICERS RECOMMENDATION/COUNCIL DECISION**

**Motion 04122017**

**Moved Cr Denton, seconded Cr Slater that the Council considers the consultation paper prepared by the Department of Local Government, Sport and Cultural Industries on the review of the Local Government Act 1995 and provide comment to the CEO with regard to what submission, if any it would like to make.**

**Carried 8/0**

<b>10.2.2</b>	<b>FUTURE HOUSING COMMITMENT</b>
<b>RESPONSIBLE OFFICER:</b>	Peter Northover – Chief Executive Officer
<b>REPORT AUTHOR:</b>	Peter Northover – Chief Executive Officer
<b>FILE REFERENCE:</b>	CS211
<b>APPLICANT:</b>	N/A
<b>DATE OF REPORT:</b>	12 December 2017
<b>ATTACHMENTS:</b>	Nil

**Purpose**

The purpose of this report is to seek Council’s agreement to commit to a debt financing arrangement for future aged accommodation and staff housing in Cranbrook.

**Background**

As reported previously, the Shire was advised that it would receive funding in 2018 to allow for the construction of an additional five independent living units and two staff houses in Cranbrook. The funding had been approved by Cabinet through the Department of Regional Development’s Royalties for Regions program and in particular the ‘Growing our South Housing Initiative’ (GSHI) – which also aligned with the Federal Government’s aged care reforms and the State-wide Ageing in the Bush Report.

The announcement by the Member for Wagin in December 2016 indicated that program provision of \$18.6m (as requested in the business case), had been approved for the Great Southern Region, comprising \$11.5m of Royalties for Regions grant funding and \$7.1m of local government contributions – made up of both cash and in-kind contributions. The proposed regional development included 26 Independent Living Units (ILUs) for seniors and 22 Regional Employee housing units. Cranbrook was to receive funding for five ILUs and two staff houses at a total cost of \$2.7m. Towards this cost the Shire was expected to contribute an amount of \$1.04m in cash and in-kind support.

The following table provides a regional snapshot of the previously approved development.

<b>LGA/Town</b>	<b>Independent Seniors Housing</b>	<b>Regional Employee Housing</b>	<b>LGA Contribution</b>	<b>RfR funding</b>
Broomehill-Tambellup	2 x (2x1)	1 x (2x1) + 1 x(1x1)	\$577,042	\$929,958
Cranbrook	5 x (2x1)	2 x (4x2)	\$1,035,765	\$1,669,235
Gnowangerup	6 x (2x1)	1 x (3x1) + 1 x(2x1) +1 x(1x1)	\$1,314,139	\$2,117,861
Jerramungup (Jerramungup & Bremer Bay)	6 x (2x1)	2 x (4x2) + 2 x (2x2)	\$1,565,326	\$2,522,674
Katanning	5 x (2x1)	2 x (2x1) + 2 x (1x1)	\$1,348,600	\$2,173,400
Kent (Pingrup & Nyabing)	2 x (2x1)		\$269,950	\$435,050
Kojonup		3 x (4x2) + 3 x (2x1)	\$887,963	\$1,431,037
Ongerup		1 x (4x2)	\$135,549	\$218,451
			<b>\$7,134,333</b>	<b>\$11,497,667</b>
<b>Total</b>	<b>26</b>	<b>22</b>	<b>\$18,632,000</b>	

Coinciding with the funding announcement by the State Government, the Federal Minister for Regional Development, Senator Fiona Nash, announced the establishment of the Building Better Regions Fund (BBRF) – Infrastructure Projects Stream. The \$297.7m BBRF supported the Commonwealth Government’s commitment to build stronger regional communities, create jobs and drive economic growth.

The BBRF is intended to run over four years from 2016/17 to 2019/20 with a minimum grant amount of \$20,000 and a maximum grant amount of \$10m on offer. Any approved project must be completed by 31 December 2019.

When the fund was launched, the Great Southern Development Commission (GSDC) investigated whether the funding provided by the State of \$11.5m, together with local government contributions of \$7.1m, could be used as leverage funding in support of a grant application to the BBRF for an additional 27 housing units in the Great Southern Region. These 27 units comprise the balance of the region’s identified accommodation needs and included an additional four ILUs for Cranbrook. These new ILUs would replace (subject to Darwinia’s approval) the existing red brick units in Grenfell Street and would represent the completion of stage three of the approved aged care project in Cranbrook on lots 81 and 82 Grenfell Street.

The GSDC subsequently advised local governments throughout the Great Southern Region that leverage funding was possible and that it was likely that, if successful, the BBRF may be able to fund the balance of the region’s accommodation requirements at no or little additional cost to individual local governments.

An initial meeting of CEOs was convened at the GSDC in January to gauge support for an application being made to the BBRF and a further meeting was held on Thursday, 9 February, 2017. At this meeting, it was agreed that Mr Richard Ball from Keston Technologies in Albany would be engaged to develop a business case for grant funding for a total of 79 accommodation units, comprising the 48 units that were the subject of the December funding announcement, and a further 31 units identified as the regional shortfall. The application would seek the maximum grant funding available of \$10m, and the funding of \$11.5m announced in December would be used as the co-contribution towards the total project cost. At the time, all local governments throughout the Great Southern Region expressed a desire to proceed with a funding application, including the Shires of Plantagenet and Woodanilling who were not included in the December funding announcement.

By way of background, Mr Ball was engaged by the Southern Link VROC in 2013 to prepare the business case for the aged care development in Cranbrook and Kojonup and was also the author of the successful business case that resulted in the funding announcement in December 2016. Applications under the BBRF closed on 27 February, 2017.

As Council is aware, the Shire subsequently indicated that it had no desire to pursue funding for an additional four independent living units for seniors in Cranbrook under the BBRF programme because of internal funding constraints. The Shire remained committed however to the development of the additional accommodation units announced and approved under the Royalties for Regions programme in December 2016. This requirement was acknowledged and included as part of the BBRF application.

**Officers Comment**

The Business Case seeking funding of \$10m under BBRF grant programme was submitted to the Commonwealth in February 2017.

In August 2017, the Commonwealth announced that \$10m had been approved for the Great Southern Housing Initiative and that this funding was predicated on the State Government honouring its commitment under the Royalties for Regions programme.

Despite several approaches to the Department of Regional Development to secure a funding guarantee, the State Government announced as part of the May budget process that the commitment of \$11.5m made by the previous government could not be honoured because of the State's debt position and its budget repair process.

As a result, several meetings of regional CEOs have been held, following which the Commonwealth has recently advised that it:

- still supported the Great Southern Housing Initiative
- would allow an extension to the time frames for execution of the agreement to allow for other State Government funding options to be explored
- would be prepared to consider a reconfigured funding model if the full equity of \$10m could not be achieved.

Given the Commonwealth's preparedness to consider a revised funding model, it is now incumbent on all participating local authorities to determine their own financial commitment to the project to maximise the matching contribution by the Commonwealth.

As discussed at a previous Council briefing session, it would provide some clarity in future negotiations if the Council could agree on a level of debt funding that it would be prepared to carry to secure Commonwealth funding for this project. The final commitment by the Shire would depend on the funding mix in the revised BBRF proposal.

### **Statutory Environment**

Local Government Act 1995, Part 6 Financial Management, Division 5 Financing Local Government Activities.

#### **Section 6.20 – Power to borrow**

- (1) Subject to this Act, a local government may –
- (a) borrow or re-borrow money; or
  - (b) obtain credit; or
  - (c) arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit,

to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.

- (2) Where, in any financial year, a local government proposes to exercise a power under subsection (1) (**power to borrow**) and details of that proposal have not been included in the annual budget for that financial year –
- (a) unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and
  - (b) the resolution to exercise that power is to be by absolute majority.
- (3) Where a local government has exercised a power to borrow and –
- (a) it does not wish to proceed with the performance of the function or the exercise of the power for which the power to borrow was exercised; or
  - (b) after having completed the performance of the function or the exercise of the power for which the power to borrow was exercised, any part of the money



borrowed, credit obtained or financial accommodation arranged has not been expended or utilised,

the local government may resolve\* to expend the money or utilise the credit or financial accommodation for another purpose if one month's local public notice is given of the proposed change of purpose.

*\*Absolute majority required*

- (4) A local government is not required to give local public notice under subsection(3) –
  - (a) where the change of purpose has been disclosed in the annual budget of the local government for the relevant financial year; or
  - (b) in such other circumstances as are prescribed.
- (5) A change of purpose referred to in subsection (3) is to be disclosed in the annual financial report for the year in which the change occurs.

Local Government (Financial Management) Regulations 1996, Part 2 General Financial Management

**Regulation 20 – When local public notice not required for exercise of power to borrow (Act s6.20(2)(a))**

- (1) A local government is not required to give local public notice of a proposal to exercise a power to borrow when the power is to be exercised to re-finance a loan or to continue other financial accommodation (whether with the same or another bank or financial institution) except where the re-financing or continuation is a major variation
- (2) In this regulation –

**major variation** means a variation in the terms of a loan or other financial accommodation which is –

  - (a) a capitalisation of interest accruals; or
  - (b) an increase in the term of the loan or other financial accommodation;

**refinance** in relation to a loan or other financial accommodation (the **existing loan**), means to borrow an amount (the **new loan**) which is, at the date of the new loan –

  - (a) equal to the principal amount owing on the existing loan; or
  - (b) not more than \$5,000 more or less than the principal amount owing on the existing loan,

for the principal purpose of paying out the existing loan or preserving the credit originally provided by the existing loan.

**Policy Applicable – Implications**

Council Policy 4.2 Finance – Financial Strategy, states that:

The Shire of Cranbrook is committed to ensuring that:

- The overall financial capability of the Shire remains viable;
- That due diligence is applied when considering the necessity of all long-term borrowing; and
- That all municipal and reserve funds are invested securely with cash equivalent investments.

The policy also states that long term borrowing, amongst other things, should only be used to assist with the funding of major projects that have a useful life greater than 20 years (for example community facilities such as a sporting pavilion, employee housing).

### **Financial Implications**

There will be recurrent debt repayments associated with this report, the amount of which will be subject to the level of debt incurred as part of the Great Southern Housing Initiative project.

### **Budget**

The 2017/2018 adopted budget includes capital revenue and expenditure provision for both the five independent living units and the two staff houses. When the budget was prepared, it was anticipated that the Royalties for Regions funding announced by the previous State government for the seniors' and staff accommodation would be provided. In view of the recent State budget announcement, future provision for this capital works project will be made in the 2018/2019 budget.

### **Risk Implications**

The risks associated with matters in this report are:

- Business and Community Disruption
- Errors, Omissions and Delays
- Inadequate Document Management Processes
- Inadequate Engagement Practices
- Inadequate Asset Sustainability Practices
- Inadequate Project Management
- Ineffective Management of Facilities

The **impacts** of the risks are People, Financial, Service Interruption, Reputational, and Property

The **consequences** of these risks are considered to be Extreme

The **likelihood** is Unlikely

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

Risk mitigation includes securing debt funding at low interest rates and preparing a collective funding proposal to the Commonwealth in partnership with other Great Southern local authorities.

### **Strategic Community Plan Reference**

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

*Objective 1: Social – Be respected for its friendly, vibrant, connected and safe communities*

Outcome 1.1: An engaged, supporting and inclusive community

Strategy 1.1.2: Facilitate, encourage and support community groups, events and initiatives

Strategy 1.1.3: Provide, maintain and improve community facilities within available resources

Outcome 1.3: A healthy place to grow and age

Strategy 1.3.1: Facilitate community health and wellbeing and support provision of services to the community

*Objective 3: Environment - Enhance, maintain, protect and promote our built infrastructure and natural environment*

Outcome 3.2: A built infrastructure servicing the needs of the community

Strategy 3.2.1: Maintain and enhance our roads, built infrastructure, parks and reserves

*Objective 4: Leadership - Demonstrate strong governance, leadership and organisational growth*

Outcome 4.1: Excellence in governance, compliance, regulation and reporting

Strategy 4.1.1: Maintain a high level of corporate governance, responsibility and accountability

Outcome 4.2: Demonstrate strong leadership and civic responsibility

Strategy 4.2.1: Provide leadership to the community, staff and wider region

**Consultation**

Consultation for this report included discussions with members of the Executive Management Team, Councillors and Darwinia Cottages Cranbrook Committee Inc.

**VROC Implications**

VROC Vision: *To sustain a collaborative partnership that serves as an exemplar to other Local Government groupings.*

**Regional Community Development**

*Build capacity to enable communities to achieve.*

S2: Collaborate on common community development projects

**Voting Requirements**

Simple Majority

**OFFICERS RECOMMENDATION/COUNCIL DECISION**

**Motion 05122017**

**Moved Cr Adams, seconded Cr Bigwood that Council:**

- 1. Agrees to the Shire of Cranbrook being included in the Great Southern Housing Initiative funding mix for the construction of up to five (5) independent living units and two (2) staff houses;**
- 2. Provides in principle agreement for an amount up to \$600,000 to be included as a new loan in the 2018/2019 draft budget for the construction of up to five (5) independent living units and two (2) staff houses in Cranbrook; and**
- 3. Notes the Chief Executive Officer has approached Darwinia Cottages Cranbrook Committee Inc and a commitment to provide a contribution up to \$300,000 towards the construction of five (5) independent living units has been provided.**

**Carried 8/0**

**Proximity Interest**

Cr P Beech

Item 10.2.3

Type: Proximity Interest pursuant to Section 5.60B Local Government Act 1995

Nature: Owner of neighbouring property.

Cr Beech left the chambers at 3.29pm

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<b>10.2.3</b>	<b>PLANNING APPLICATION – PROPOSED DWELLING – STRATA LOT 39 GITTINSMILL CLOSE, FRANKLAND RIVER</b>
<b>RESPONSIBLE OFFICER:</b>	Peter Northover – Chief Executive Officer
<b>REPORT AUTHOR:</b>	Liz Bushby – Town Planning Innovations (TPI)
<b>FILE REFERENCE:</b>	A1178
<b>APPLICANT:</b>	Mr Matthew Chinery
<b>DATE OF REPORT:</b>	9 December 2017
<b>ATTACHMENTS:</b>	Basic Bushfire Attack Level Form

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**Purpose**

The purpose of this report is to consider a proposal to construct a dwelling (kit home) and water tank on Strata Lot 39 in Frankland River.

**Background**

**Zoning**

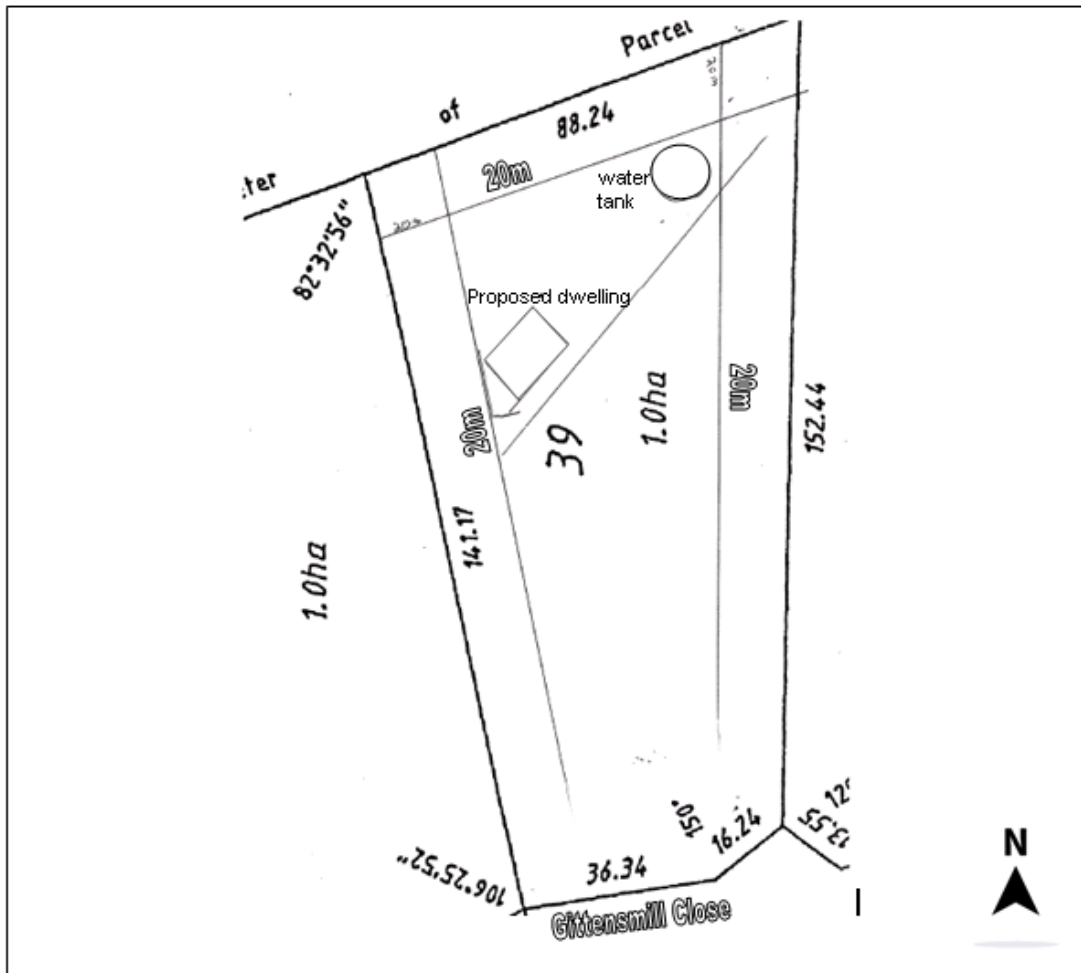
This lot forms part of 'Special Use Zone 4' and special conditions apply to all lots under Schedule 4 of the Shire of Cranbrook Town Planning Scheme No 4 ('the Scheme').

Under 'Schedule 4 – Special Use Zones', a number of specific conditions apply to the subject land such as minimum rainwater tank sizes, setbacks, prohibition of second hand or used materials etc

**Officers Comment**

The applicant proposes to construct a single dwelling on the strata lot. It will be setback over 20 metres from all strata lot boundaries – refer site plan overpage.

A 92,570 litre tank is also proposed.



Site plan

The applicant has advised the dwelling will be a steel framed kit home, and has provided supporting brochure information. The floor area is proposed to be 50m<sup>2</sup>.



The development complies with the general conditions under Schedule 4 of the Scheme as follows:

Relevant / applicable development conditions – Schedule 4 of the Scheme	Compliance
A grouped dwelling is not to be constructed unless a minimum of 92 kilolitre water storage tank and an approved method of effluent disposal has been incorporated into the plans of the grouped dwelling and approved by the local government.	The applicant proposes a water tank exceeding 92,000 kilolitres. A condition can be placed on the development requiring a water storage tank to be installed prior to occupation of the dwelling.
Reference is made to the Department of Agriculture Guidelines relating to water storage, tank size and area of roof catchments.	A footnote can be included on any planning approval to advise the applicant that the Department of Agriculture and Food WA (DAFWA) Farmnote 64/2004 includes information on tank size and maintenance.
A building envelope with an area not exceeding 20% of the area of the relevant strata lot to be defined in a position agreed to by the local government.	Complies. The building envelope does not exceed the permissible area.
All Building envelopes are to be setback a minimum of 20 metres from a strata lot boundary.	Complies.

It should be noted that under Schedule 4 of the Scheme, Council can require additional tree planting and boundary fencing as a condition of any planning approval. It is open to the Council to include additional conditions of planning consent, if deemed necessary, as long as they specifically relate to the development proposed.

**Relevant State Planning Policies and Guidelines –Bushfire Prone Areas**

The Western Australian Planning Commission released SPP3.7 and associated Guidelines for Planning in Bushfire Prone Areas (‘the Guidelines’) in December 2015. These documents (as amended) apply to all land identified as Bushfire Prone.

Bushfire prone areas are declared by the Commissioner of Fire and Emergency Services and can be viewed on the website of the Department of Fire and Emergency Services.

The eastern portion of Strata Lot 39 is within the declared bushfire prone area and the applicant has advised that the dwelling is proposed outside of the bushfire prone area (in the west part of the lot).

The Western Australian Planning Commission (WAPC) Planning Bulletin No 111/2016 provides guidance on this situation, and allows a landowner to prepare their own Basic Bushfire Attack Level (BAL) Assessment where the development footprint is wholly outside of the part of the lot that is designated as pink on the bushfire prone map.

The basic BAL is an easy to use form to be completed by the owner/developer – As attached.

A basic BAL assessment can only be completed by a landowner where the development is 100 metres from any bushfire prone vegetation on flat land or 110 metres on sloping land.

Based on aerial photography it appears that the dwelling is more than 100 metres to any bushfire prone vegetation, however the onus is on the landowner to undertake that assessment.



Approximate distances to vegetation. Aerial compiled by TPI / preliminary assessment

It is recommended that a condition be imposed to require lodgement of a basic BAL prior to the issue of a Building Permit. If the separation distance between the dwelling and any bushfire vegetation is less than 100 metres a BAL by a suitably qualified fire consultant would be required at Building Permit stage.

It should be noted that there are separate Guidelines for Plantation Fire Protection (Fire and Emergency Services Authority, 2011). As part of an existing Amendment 6 to the Scheme, the strata owners have advised that they plan to harvest the plantation trees in 2018/2019.

### **Statutory Environment**

Shire of Cranbrook Town Planning Scheme No 4 – special provisions apply under Schedule 4 of the Scheme as explained in the body of this report.

Planning and Development (Local Planning Schemes) Regulations 2015 – Regulation 60 of the ‘deemed provisions’ requires that a person must not commence or carry out works on, or use, land in the Scheme area unless the person has obtained the development approval of the local government or it is exempt from the requirement for planning.

Regulation 67 outlines ‘matters to be considered by Council’ including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, the compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

Under the ‘deemed provisions’ of the *Planning and Development (Local Planning Schemes) Regulations 2015* Council is to have ‘due regard’ to any state planning policy. This essentially means Council has an obligation to give proper, genuine and realistic consideration to the requirements of ‘State Planning Policy 3.7: Planning in Bushfire Prone Areas’ (SPP 3.7).

### **Policy Applicable – Implications**

There is no Council policy applicable to this report.

### **Financial Implications**

The Shire pays consultancy fees to Liz Bushby (Town Planning Innovations) for planning advice.

### **Risk Implications**

The risks associated with matters in this report are:

- Failure to fulfil Statutory, Regulatory or Compliance Requirements

The **impact** of the risk is Non-Compliance

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 seeking professional planning advice

### **Strategic Community Plan Reference**

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

*Objective 4: Leadership - Demonstrate strong governance, leadership and organisational growth*

Outcome 4.1: Excellence in governance, compliance, regulation and reporting

Strategy 4.1.1: Maintain a high level of corporate governance, responsibility and accountability

### **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:**

1. **The application lodged by Matthew Chinery for a dwelling and watertank on Strata Lot 39 on Strata Plan 33176 be approved by Council subject to the following conditions:**
  - a. **An informal carparking area with capacity to accommodate a minimum of 2 carparking bays is to be provided and maintained to a trafficable standard on site to the satisfaction of the Shire's Chief Executive Officer;**
  - b. **The plans lodged with this application shall form part of this planning approval. All development shall be in accordance with the approved plans unless otherwise approved in writing by the Chief Executive Officer;**
  - c. **Prior to the issue of a Building Permit, the owner to submit a Basic Bushfire Attack Level (BAL) Assessment Form that certifies the proposed dwelling is over 100 to 110 metres from any bushfire prone vegetation (depending on slope);**
  - d. **All stormwater from roofed and paved areas shall be collected and disposed of on-site and any associated drains and soak wells shall be maintained in a clean and clear condition. All drainage to be fully contained within the property boundaries with no water discharge into adjacent land or road reserve unless otherwise approved in writing by the Chief Executive Officer;**



- e. A driveway to be constructed and maintained at a trafficable standard at all times to service the proposed dwelling. The driveway to be installed within 6 months from occupation of the dwelling;
  - f. Water tank(s) with a minimum capacity of 92 kilolitres and approved on site effluent disposal must be installed and in operation prior to occupation of dwelling;
  - g. No second hand or used materials are to be used for construction of the dwelling; and
  - h. 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. Council advise the applicant by footnotes on the planning approval that:
- a. A planning consent is not an approval to commence any works. A separate building permit must be obtained for all works;
  - b. The Shire recommends that applicants obtain a copy of the Department of Agriculture and Food WA (DAFWA) Farmnote 64/2004 as it includes information on rainwater tank maintenance;
  - c. The applicant is advised that the maximum permissible building envelope for this strata lot is 2000m<sup>2</sup> (equating to 20% of the lot area) as detailed in Condition (3) (i) of Schedule 4 of the Shire of Cranbrook Town Planning Scheme No 4;
  - d. The applicant is advised that separate Shire approval is required for the installation of any toilets / effluent disposal systems. This planning consent is not an approval for any specific toilet system. The information lodged with the application on toilets does not form part of this approval; and
  - e. The applicant is advised that although the proposal indicates that that the dwelling falls outside of the declared bushfire prone area, the Western Australian Planning Commission Planning Bulletin 111/2016 requires owners to lodge their own Basic Bushfire Attack Level Assessment form certifying that dwellings comply with the BAL-Low classification. A WAPC Basic BAL form and fact sheet is attached for your convenience.  
If the separation distance between the dwelling and any bushfire vegetation is less than 100 /110 metres (depending on slope) a BAL by a suitably qualified fire consultant would be required at Building Permit stage. It is therefore recommended that you check the distance to vegetation on site.
3. Council request Shire Administration to attach a WAPC Basic BAL form and fact sheet to the planning approval.

#### **COUNCIL RESOLUTION**

Motion 06122017

Moved Cr Carey, seconded Cr Adams that:

1. The application lodged by Matthew Chinery for a dwelling and watertank on Strata Lot 39 on Strata Plan 33176 be approved by Council subject to the following conditions:
  - a. The plans lodged with this application shall form part of this planning approval. All development shall be in accordance with the approved plans unless otherwise approved in writing by the Chief Executive Officer;
  - b. Prior to the issue of a Building Permit, the owner to submit a Basic Bushfire Attack Level (BAL) Assessment Form that certifies the proposed dwelling is over 100 to 110 metres from any bushfire prone vegetation (depending on slope);
  - c. All stormwater from roofed and paved areas shall be collected and disposed of on-site and any associated drains and soak wells shall be maintained in a clean and clear condition. All drainage to be fully contained within the property boundaries with no water discharge into adjacent land or road reserve unless otherwise approved in writing by the Chief Executive Officer;
  - d. A driveway to be installed within 6 months from occupation of the dwelling;

- e. Water tank(s) with a minimum capacity of 92 kilolitres and approved on site effluent disposal must be installed and in operation prior to occupation of dwelling;
  - f. No second hand or used materials are to be used for construction of the dwelling; and
  - g. 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. Council advise the applicant by footnotes on the planning approval that:
- a. A planning consent is not an approval to commence any works. A separate building permit must be obtained for all works;
  - b. The Shire recommends that applicants obtain a copy of the Department of Agriculture and Food WA (DAFWA) Farmnote 64/2004 as it includes information on rainwater tank maintenance;
  - c. The applicant is advised that the maximum permissible building envelope for this strata lot is 2000m<sup>2</sup> (equating to 20% of the lot area) as detailed in Condition (3) (i) of Schedule 4 of the Shire of Cranbrook Town Planning Scheme No 4;
  - d. The applicant is advised that separate Shire approval is required for the installation of any toilets / effluent disposal systems. This planning consent is not an approval for any specific toilet system. The information lodged with the application on toilets does not form part of this approval; and
  - e. The applicant is advised that although the proposal indicates that that the dwelling falls outside of the declared bushfire prone area, the Western Australian Planning Commission Planning Bulletin 111/2016 requires owners to lodge their own Basic Bushfire Attack Level Assessment form certifying that dwellings comply with the BAL-Low classification. A WAPC Basic BAL form and fact sheet is attached for your convenience.  
If the separation distance between the dwelling and any bushfire vegetation is less than 100 /110 metres (depending on slope) a BAL by a suitably qualified fire consultant would be required at Building Permit stage. It is therefore recommended that you check the distance to vegetation on site.
3. Council request Shire Administration to attach a WAPC Basic BAL form and fact sheet to the planning approval.

Carried 7/0

Reason for Change

The Council felt that the car parking and driveway requirements were too onerous.

Cr Beech re-entered the chambers at 3.33pm

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<b>10.2.4</b>	<b>PLANNING APPLICATION – PROPOSED EXTRACTIVE INDUSTRY – LOT 8078 CLIMIE ROAD, CRANBROOK</b>
<b>RESPONSIBLE OFFICER:</b>	Peter Northover – Chief Executive Officer
<b>REPORT AUTHOR:</b>	Liz Bushby – Town Planning Innovations (TPI)
<b>FILE REFERENCE:</b>	A1378
<b>APPLICANT:</b>	Gordon Gibbon on behalf of Palmer Civil Construction
<b>DATE OF REPORT:</b>	8 December 2017
<b>ATTACHMENTS:</b>	<ol style="list-style-type: none"><li>1. Site Layout</li><li>2. Objection Letter – Mr Jamie Climie</li><li>3. Response to Objection Letter by Quarry Manager</li><li>4. CONFIDENTIAL ATTACHMENT – Dust Management Plan</li></ol>

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**Purpose**

The purpose of this report is for the Council to consider an application for an extractive industry on Lot 8078 Climie Road Cranbrook.

**Background**

The proponent has advised that the lot has historically been used as a quarry in the 1980’s however the use discontinued and the land was not rehabilitated.



Photograph supplied by applicant – existing un-rehabilitated quarry

Lot 8078 has an approximate area of 16.181 hectares, contains native vegetation and has a battleaxe leg driveway to Climie Road. The nearest intersection is Climie Road and Albany Highway – refer aerial below.



**Officers Comment**

***Description of Application***

The application has been lodged on behalf of Palmer Civil Construction who propose to re-open the old Cranbrook Quarry. There is a contract to purchase the lot subject to necessary approvals being obtained.

They propose to operate in daylight hours and anticipate that a functioning quarry will produce approximately 30,000 tonnes of aggregate per year, equating to 37.5 days of crushing. It is anticipated that 4 to 8 personnel will be employed.

The expected life of the quarry operations is 21 years from commencement date. The quarry will produce a range of products including rail ballast, road aggregates, concrete aggregates, fines products and armour rock.

Blasted stocks will be fed to the crusher via a 50 tonne excavator. Aggregates are loaded and stockpiled via a Caterpillar 988 wheel loader. Semi trucks will be loaded via a Caterpillar 966 wheel loader.

Further equipment that will be utilised on site include a service truck, water cart for dust suppression, jaw crusher, two cone crushers, two screens, bobcat, Caterpillar IT28 Integrated tool Carrier, WA500 wheel loader and a 40t articulated dump truck.

Dangerous goods are limited to the blasting campaigns and no explosives will be stored on site. The blast crew will transport the required explosives to site the day of blasting and any excess explosives will be returned to the point of origin directly after blasting.

The applicant has advised that blasting will be limited to 3 times per year as this will provide enough stone for more than a years production. Blasting will be approximately every 4 to 6 months and will be completed in a day. No explosives will be stored on site.

In support of the application the proponent has lodged a mining proposal document, project management plan, dust management plan, dieback management plan, mine closure plan, traffic management plan, a site layout plan and aerials.

The applicant has lodged videos of blasting examples which are available to Councillors on request.

***Zoning and Landuse Permissibility***

Lot 8078 is zoned 'Rural' under the Shire of Cranbrook Town Planning Scheme No 4 ('the Scheme').

As part of the assessment, Council has to determine the 'best fit' landuse classification.

TPI recommends that the landuse be considered as an 'extractive industry' which is defined in the Scheme as *'means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry – mining'*.

An 'extractive industry' is listed as a 'D' use in the Rural zone under 'Table 1 – Zoning Table' of the Scheme. This means that the use is not permitted unless Council has exercised its discretion by granting planning approval.

***EPA Guidelines / buffers to sensitive landuses***

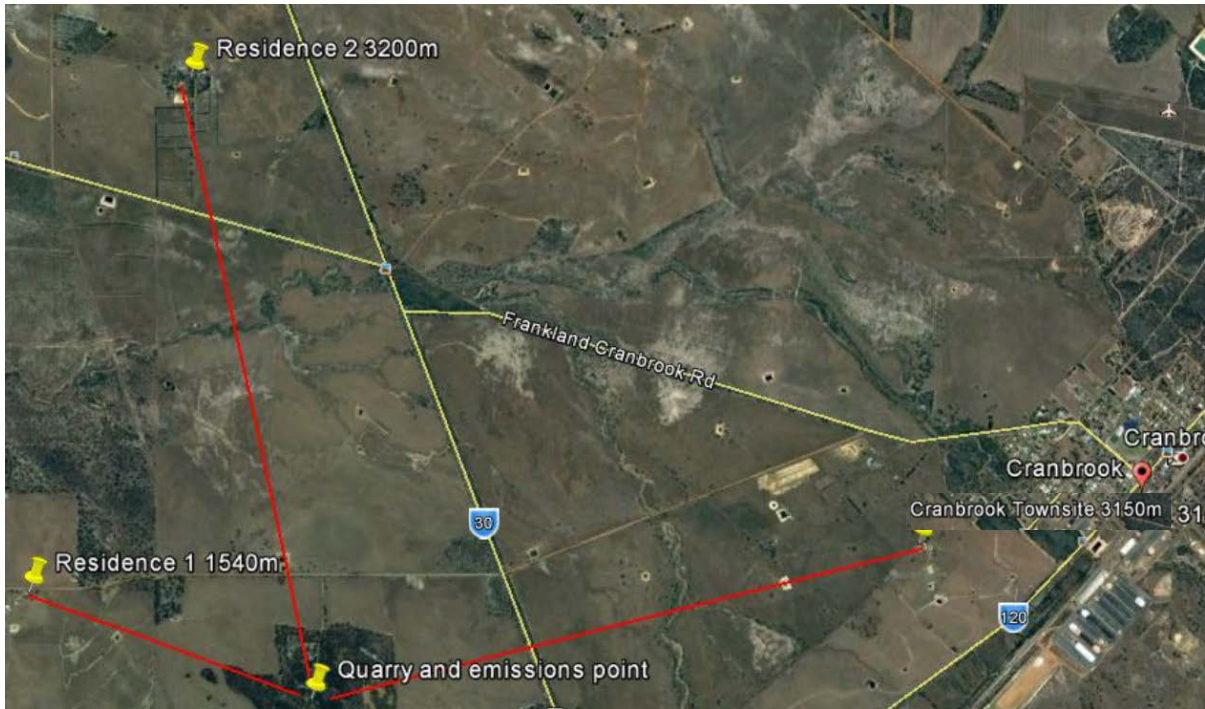
The Environmental Protection Authority (EPA) has developed a document called *'Guidance for the Assessment of Environmental Factors Western Australia - Separation Distances between Industrial and Sensitive Land Uses'*.

It specifically addresses generic separation distances between industrial and sensitive land uses to avoid conflicts between these land uses. It focuses on protecting sensitive land uses from unacceptable impacts on amenity that may result from industrial activities, emissions and infrastructure.

While not replacing the need for best practice approaches to emission management, the use of buffers is a useful tool in achieving an acceptable environmental outcome. It recognises that impacts are generally lessened with increased distances.

The guidelines recommend a buffer of 1000 metres for extractive industries (hard rock) that entail quarrying (including blasting), crushing and screening.

The applicant has lodged an aerial map demonstrating compliance with the recommended buffer.



### **Noise and dust**

The applicant advises that:

- Dust, fumes and noise from blasting will be controlled through the blasting practices outlined in the application.
- The Shire, police and adjacent landowners will be notified prior to blasting. Blast notification boards will be used on blasting days.
- Prior to blasting the proponent will consider matters such as wind direction and cloud cover.
- An external consultant will be used to establish a baseline for noise on commencement of operation.
- Currently the quarry holds water in its floor for about 5 months per year. Sumps will be established in the quarry floor and the water used in the crushing circuit.
- During winter months water from the bottom of the quarry will be used for dust mitigation.
- Water suppression will be included on the crushing circuit to control dust emissions into the environment and control personnel exposure to dust. Water suppression is a key element to running a profitable operation and minimising dust reduces downtime on the crushing circuit. Dust increases wear on moving parts and blocks air filters.
- Sprinklers will be used on stockpiles as required.
- Any dust will be controlled with water suppression. The majority of water is to be trucked in for the short term. At some stage in the future the proponent hopes to establish a water source on site.



*Photograph supplied by applicant of water truck*

In an email dated 7 December 2017 the applicant advised that additional noise mitigation will be achieved by:

- i. Stockpiling the topsoil on the west boundary to act as a deflector for noise. The stockpile will be in the direct line of sight between the operations and the closest residence
- ii. Seeding the stockpile with local native vegetation for visual amenity.

TPI does not anticipate that noise will be a major issue due to the distance to sensitive dwellings combined with the number of blasting activities per year, vegetation buffers and that all activities will be conducted in daylight hours.

Notwithstanding the above, the proponent has advised that noise monitoring by an external consultant will be conducted on commencement of operations. It is recommended that this be incorporated into a new 'Management Plan' with a requirement to lodge and report the results to the Shire.

Separate from planning legislation, there are noise levels that have to be met by the applicant to comply with the Environmental Protection (Noise) Regulations 1997.

The applicant has submitted a Dust Management Plan however it is broad and does not comprehensively explain the suppression measurements which are more clearly described in the separate 'Mining Proposal' document. A copy of the Dust Management Plan is included as a Confidential Attachment

It is recommended that a revised 'Management Plan' for noise, dust and vibration be required as a condition of any approval and include:

- i. Explanation of pre site examination for ideal weather conditions prior to blasting.
- ii. Dust suppression mechanisms to be clearly explained similar to methods described in the more detailed 'Mining Proposal' including use of sprinklers on stockpiles, retention of vegetation buffers, water suppression during crushing etc

- iii. Dust, noise and vibration monitoring by suitably qualified external consultants on commencement of operations and lodgement of a report of the results to the Shire within a definitive timeframe.
- iv. Noise monitoring by an external consultant on commencement of operations and lodgement of a report of the results to the Shire within a definitive timeframe.
- v. Prior written notification to the Shire and surrounding landowners prior to blasting.
- vi. A complaints management system should be in place and provide for corrective action if substantiated adverse impacts have occurred. All complaints should be logged and investigated with timely feedback provided to the complainant and Shire. Complaint forms should be kept and made available to relevant authorities and community members upon request.
- vii. Commitment to cease operations / blasting/ crushing where dust or noise cannot be adequately controlled due to factors such as lack of water , weather conditions etc
- viii. Recognition and commitment to comply with the Environmental Protection (Noise) Regulations 1997 (as mentioned in the 'Mining proposal' document.
- ix. Limitation of hours of operation.
- x. A dust management program should detail any ongoing monitoring and the format for reporting monitoring results.
- xi. Personnel responsible for dust/ noise / vibration management and monitoring at the site should be specified. This could be the site manager, site supervisor, environmental manager etc. Their roles, responsibilities and contact details should also be specified.
- xii. Incorporate the map showing surrounding landuse and location of sensitive receptors as an appendice.
- xiii. Include a map showing the seeded stockpile along the western boundary.

The proponent has described a number of sound mechanisms for noise and dust management in some of the documents lodged but this information has not been comprehensively captured in the Dust Management Plan.

The mechanisms and measures described in the 'Mining Proposal' can be incorporated into a revised Management Plan. It is considered important that any management plan be expanded to include a complaint procedure and personnel responsibilities.

### ***Clearing of vegetation***

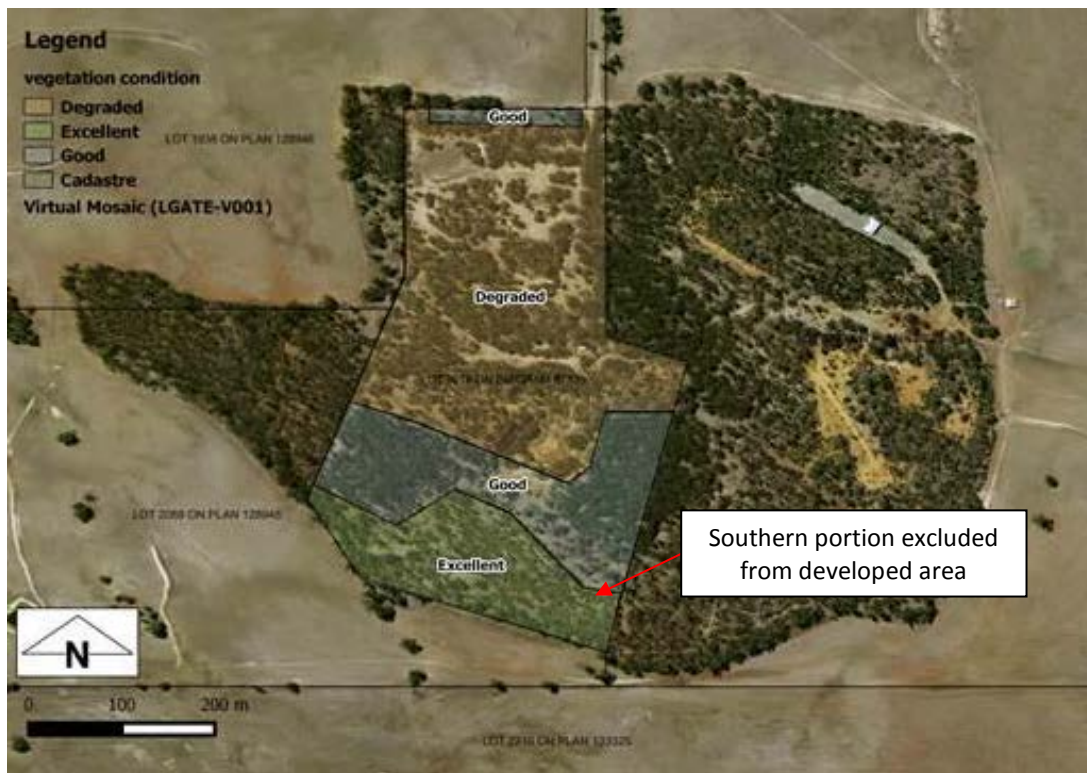
There is existing vegetation on site and the applicant will require a separate clearing permit from the Department of Water and Environmental Regulation (DWER).

DWER will not issue any clearing permit until such time as the Shire has issued planning approval for the development.

The applicant advises that DWER has inspected the lot and provided a map showing the Flora condition. The central portion of the lot has degraded vegetation however there is an area of vegetation in excellent condition in the south portion of the lot.

The applicant reduced the excavation area to remove the higher value vegetation from the proposal.





Approximately 6 hectares of vegetation in excellent condition will be retained in the southern part of Lot 8078.

A 25 metre strip of vegetation in good condition will be retained along the north boundary, and a 10 metre vegetation strip along the west boundary.

The top 500mm of topsoil in the cleared area of the site will be stockpiled for future use at rehabilitation stage.

Given the role of the DWER in the clearing permit process, the environmental responsibility of the Shire involves approving the Mine Closure Plan which outlines associated rehabilitation works.

**Traffic and vehicle movements**

Public roads will be used as a transport route to move the finished product from the quarry to stockyards.

The applicant has advised they anticipate the average truck movement to be 2.5 trucks per day over a 5 day week. They have indicated that truck movements will spasmodic as there may be 10 trucks for a few days then no trucks for 2 weeks.

The trucks will tow 2 trailers with a maximum load of 50 tonne combined. In the ‘Mining Proposal’ document the applicant has advised that *‘Palmer Earthworks are happy to maintain the gravel access road to Albany Highway.’*

**Contamination and water management**

Water run-off from the site poses a risk of erosion and contaminating waterways in the surrounding area. Management of water will include water catchment infrastructure, hydrocarbon management, effluent management, rehabilitation methods to control erosion and soil stability, daily site inspections & monthly rehabilitation inspections.

The application proposes that:

- (i) Mining will not advance past the existing quarry floor until the maximum groundwater level is determined. The current quarry level has not intercepted the water table at any time.
- (ii) Monitoring of groundwater through a piezometer hole will be undertaken to ascertain the maximum seasonal groundwater level.
- (iii) The design pit depth will be kept above the ground water level. There is no plan to intercept the water table as this adds mining cost (dewatering equipment & infrastructure, cost of drilling blasting increases, reduced efficiencies when processing wet rock).
- (iv) Controls such as storing bulk oil and fuel in self bunded areas will minimise the risk of any hydrocarbons entering the water. Any spills will be cleaned up and deposited in a large contaminated soil bin located on site.
- (v) All surface areas will be contoured to track water within the site, and all wash down water will drain directly into the quarry. All site water will be recycled into the crushing circuit to minimise dust emissions.
- (vi) Any servicing or fuelling of machinery will be a designated area.
- (vii) Mine dewatering will not be utilised due to the profile of excavations and water infrastructure designed to trap water within the quarry.

### **Statutory Environment**

#### **Policy Applicable – Implications**

Shire of Cranbrook Town Planning Scheme No 4 – explained in the body of this report.

Planning and Development (Local Planning Schemes) Regulations 2015 – The *Planning and Development (Local Planning Schemes) Regulations 2015* were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include ‘Deemed Provisions’ that automatically apply and override parts of the Shire of Cranbrook Town Planning Scheme No 4.

Regulation 67 outlines ‘matters to be considered by Council’ including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, the compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

#### **Policy Applicable – Implications**

There is no Council policy applicable to this report.

#### **Financial Implications**

The Shire pays consultancy fees to Liz Bushby (Town Planning Innovations) for planning advice.

#### **Risk Implications**

The risks associated with matters in this report are:

- Failure to fulfil Statutory, Regulatory or Compliance Requirements

The **impact** of the risk is Non-Compliance

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 seeking professional planning advice



The objectors main concerns and applicant response is summarised below:

<b>Summary of objection</b>	<b>Applicant Response</b>	<b>Officer comment</b>
Concern over road closures for blasting and impact on road	Blasting will be twice a year and road closures will be 15 minutes per blast.  Proponent will maintain road and in the longer term bituminise the road to Albany Highway (subject to separate Council approval).	Road closures will have minimal impact.  A condition is recommended for maintenance of the road.
Conflict between trucks and school bus	Average of 2.3 trucks per week. A stop sign will be installed at the quarry exit.	Truck movements are not excessive and normal road rules apply to drivers.
Concern over impact of blasting and potential damage	Blast vibration is easily calculated and is controlled with blast design. Company has public liability insurance.	Noted.
Dwellings located 1400 metres from quarry. Concern over dust, after hours noise and impact on water tanks.	Blasting and screening is 1500 metres from any dwelling. Blasting will not cause any aftershocks. The quarry will adhere to all legal requirements for noise, dust and blasting or risk losing its environmental licence which could cause shutting of operations.  Dust suppression will be extensive in summer with a reduction in winter. If dust suppression methods are inefficient due to weather then operations will be suspended until conditions improved.  The fine rocks produced by the crushing operation will be offered to local farmers for trial as organic fertiliser. Previous testing indicates high trace elements in granite fines.	Noted.  Quarry will only operate during the day. A condition has been recommended to Council to require a revised Management Plan.
Contamination and impact on sheep, crops and pasture.	The potential for contamination is limited to hydrocarbons including oil, diesel and dust. Hydrocarbons will be in self bunded areas and spills managed, cleaned up and placed in a designated contaminated soil bin.	Minimal risk of contamination however plans in place in the event of a spill.  A condition has been recommended to ensure self bunded area is installed.

Health concerns / toxicity	The quarry will not use any toxic chemicals. Due to the rock being barren in nature no acid mine soil, sulphates or other toxic naturally occurring elements are present.	Noted.
Environmental damage	No environmental damage will occur outside the quarry footprint and the site will be rehabilitated once mining ceases.	The quarry will need separate environmental licences.

In regards to environmental impact and emissions, it should be noted that certain industrial uses with the potential to cause emissions are known as ‘prescribed premises’ and trigger regulation.

The applicant has advised a separate ‘prescribed works’ licence is required under the Environmental Protection Act.

The Department of Environment and Regulation is responsible for regulating industrial emissions and discharges to the environment through the licensing process.

TPI recommends conditional support for the application. The issues raised in the objection are either addressed in the application or through the recommended conditions.

**VROC Implications**

There are no strategic VROC implications from this report

**Voting Requirements**

Simple Majority

**Motion 07122017**

**Moved Cr Denton, seconded Cr Beech that standing orders be suspended at 3.34pm in order to discuss this item in further detail.**

**Carried 8/0**

**Motion 08122017**

**Moved Cr Denton, seconded Cr Adams that standing orders be resumed at 3.54pm**

**Carried 8/0**

**OFFICERS RECOMMENDATION**

**That Council:**

- 1. Approve the application for an extractive industry on Lot 8078 Climie Road Cranbrook subject to the following conditions and footnotes:**
  - a. The extractive industry use shall be carried out and fully implemented in accordance with the documentation lodged as part of the application including the mining proposal, project management plan, explosives management plan, mine closure plan and dieback management plan.**
  - b. The layout of the site and the size, design and location of the proposed works shall accord with the endorsed plan(s) unless otherwise approved in writing by the Chief Executive Officer.**
  - c. Prior to commencement of operation, the proponent is to lodge a revised ‘Management Plan’ for dust, noise and vibration to be approved separately in**

writing by the Chief Executive Officer. The revised Management Plan shall include:

- i. Explanation of pre site examination for ideal weather conditions prior to blasting.
  - ii. Dust suppression mechanisms to be clearly explained similar to methods described in the more detailed 'Mining Proposal' including use of sprinklers on stockpiles, retention of vegetation buffers, water suppression during crushing etc
  - iii. Dust, noise and vibration monitoring by suitably qualified external consultants on commencement of operations and lodgement of a report of the results to the Shire within a definitive timeframe.
  - iv. Prior written notification to the Shire and surrounding landowners prior to blasting.
  - v. A complaints management system should be in place and provide for corrective action if substantiated adverse impacts have occurred. All complaints should be logged and investigated with timely feedback provided to the complainant and Shire. Complaint forms should be kept and made available to relevant authorities and community members upon request.
  - vi. Commitment to cease operations / blasting/ crushing where dust or noise cannot be adequately controlled due to factors such as lack of water , weather conditions etc
  - vii. Recognition and commitment to comply with the Environmental Protection (Noise) Regulations 1997 (as mentioned in the 'Mining proposal' document.
  - viii. Limitation of hours of operation (as stated in the application).
  - ix. A dust management program should detail any ongoing monitoring and the format for reporting monitoring results.
  - x. Personnel responsible for dust/ noise / vibration management and monitoring at the site should be specified. This could be the site manager, site supervisor, environmental manager etc. Their roles, responsibilities and contact details should also be specified.
  - xi. Incorporate the map showing surrounding landuse and location of sensitive receptors as an appendice.
  - xii. Include a map showing the seeded stockpile along the western boundary.
- d. The proponent to implement the measures and recommendations of a revised Management Plan approved by the Chief Executive Officer.
  - e. The proponent to undertake adequate precautions to protect the north 25 metre vegetation buffer, the west 10 metre vegetation buffer, and vegetation south of the quarry at all times, unless otherwise approved by Council.
  - f. The section of Climie Road used as the haul road is to be maintained to an appropriate standard and to the satisfaction of the local government during the operation of the extractive industry. Any damage caused to Climie Road as a consequence of the extractive industry is to be made good, to the satisfaction of the local government, at the proponents cost.
  - g. Adequate safety fencing and warning signs shall be placed around the perimeter of the extraction site and thereafter maintained for the life of the extractive industry as stated in the application.
  - h. A sign is to be located at the entrance to the property at all times to identify the quarry operator and a contact name and number of a responsible contact person for enquiries relating to the quarry operations.
  - i. Aggregate extraction is limited to an annual amount of 30,000 tonnes unless otherwise agreed to in writing by the Chief Executive Officer.

- j. Hours of operation shall be limited to 7:00am to 6:00pm Monday to Saturday with no operations on Sundays or public holidays, unless otherwise approved in writing by the Chief Executive Officer.
- k. The proponent is to monitor the maximum ground level prior to commencement of operation (as stated in the application), and ensure that the design pit depth is above the maximum seasonal ground water level at all times of operation. There shall be no interception of the quarry level and water table at any time.
- l. All stormwater runoff shall be fully contained within the lot boundaries at all times as stated in the application.
- m. All storage of bulk oil, fuel or other potential contaminants must be fully contained within a self bunded facility.
- n. All industrial and domestic waste is to be disposed of off-site.
- o. The Mine Closure plan (including re-use of topsoil and removal of all structures) approved by the local government is to be adhered to and implemented at the cessation of extractive operations.
- p. Detailed floor plans and elevations for ancillary buildings including the workshop, office, crib and ablutions are to be lodged to the Chief Executive Officer for endorsement prior to the issue of a Building Permit.
- q. The proponent to ensure that any road closures associated with blasting activities do not conflict or interfere with local school bus operational times.
- r. This approval is valid for a period of 23 years from the date of development approval.

**Footnotes:**

- (i) A planning consent is not an approval to commence any works. A building licence must be obtained for all works. Separate approval is also required for installation of on-site effluent disposal.
  - (ii) The extractive industry is required to comply with separate Environmental Protection (Noise) Regulations 1997.
  - (iii) In regards to condition 3, please be advised that a lot of the information is already contained in the Mining Proposal and other documents submitted, however it needs to be compiled into a more comprehensive Management Plan with a complaints procedure.
- 2. Note that the application has been advertised for public comment and one objection has been received. The issues raised in the objection are addressed in the application and / or through the recommended conditions.
  - 3. Note that proponent has applied for a clearing permit from the Department of Water and Environmental Regulation (DWER), and has approval for a major expansion/ change to existing operation from the Department of Mines, Industry Regulation and Safety (Resources Safety).

**COUNCIL RESOLUTION**

**Motion 09122017**

**Moved Cr Adams, seconded Cr Slater that Council:**

- 1. Approve the application for an extractive industry on Lot 8078 Climie Road Cranbrook subject to the following conditions and footnotes:
  - a. The extractive industry use shall be carried out and fully implemented in accordance with the documentation lodged as part of the application including the mining proposal, project management plan, explosives management plan, mine closure plan and dieback management plan.

- b. The layout of the site and the size, design and location of the proposed works shall accord with the endorsed plan(s) unless otherwise approved in writing by the Chief Executive Officer.
- c. Prior to commencement of operation, the proponent is to lodge a revised 'Management Plan' for dust, noise and vibration to be approved separately in writing by the Chief Executive Officer. The revised Management Plan shall include:

  - i. Explanation of pre site examination for ideal weather conditions prior to blasting.
  - ii. Dust suppression mechanisms to be clearly explained similar to methods described in the more detailed 'Mining Proposal' including use of sprinklers on stockpiles, retention of vegetation buffers, water suppression during crushing etc
  - iii. Dust, noise and vibration monitoring by suitably qualified external consultants on commencement of operations and lodgement of a report of the results to the Shire within a definitive timeframe.
  - iv. Prior written notification to the Shire and surrounding landowners prior to blasting.
  - v. A complaints management system should be in place and provide for corrective action if substantiated adverse impacts have occurred. All complaints should be logged and investigated with timely feedback provided to the complainant and Shire. Complaint forms should be kept and made available to relevant authorities and community members upon request.
  - vi. Commitment to cease operations / blasting/ crushing where dust or noise cannot be adequately controlled due to factors such as lack of water , weather conditions etc
  - vii. Recognition and commitment to comply with the Environmental Protection (Noise) Regulations 1997 (as mentioned in the 'Mining proposal' document.
  - viii. Limitation of hours of operation (as stated in the application).
  - ix. A dust management program should detail any ongoing monitoring and the format for reporting monitoring results.
  - x. Personnel responsible for dust/ noise / vibration management and monitoring at the site should be specified. This could be the site manager, site supervisor, environmental manager etc. Their roles, responsibilities and contact details should also be specified.
  - xi. Incorporate the map showing surrounding landuse and location of sensitive receptors as an appendice.
  - xii. Include a map showing the seeded stockpile along the western boundary.
  - xiii. Provide the Shire of Cranbrook with an annual Certificate of Currency of Public Liability insurance to a minimum value of \$50,000,000.
  - xiv. Seal Climie Road from Albany Highway to the quarry entrance within three years of commencement of operations to the satisfaction of the CEO.
- d. The proponent to implement the measures and recommendations of a revised Management Plan approved by the Chief Executive Officer.
- e. The proponent to undertake adequate precautions to protect the north 25 metre vegetation buffer, the west 10 metre vegetation buffer, and vegetation south of the quarry at all times, unless otherwise approved by Council.
- f. The section of Climie Road used as the haul road is to be maintained to an appropriate standard and to the satisfaction of the local government during the operation of the extractive industry. Any damage caused to Climie Road as a consequence of the extractive industry is to be made good, to the satisfaction of the local government, at the proponents cost.



- g. Adequate safety fencing and warning signs shall be placed around the perimeter of the extraction site and thereafter maintained for the life of the extractive industry as stated in the application.**
- h. A sign is to be located at the entrance to the property at all times to identify the quarry operator and a contact name and number of a responsible contact person for enquiries relating to the quarry operations.**
- i. Aggregate extraction is limited to an annual amount of 30,000 tonnes unless otherwise agreed to in writing by the Chief Executive Officer.**
- j. Hours of operation shall be limited to 7:00am to 6:00pm Monday to Saturday with no operations on Sundays or public holidays, unless otherwise approved in writing by the Chief Executive Officer.**
- k. The proponent is to monitor the maximum ground level prior to commencement of operation (as stated in the application), and ensure that the design pit depth is above the maximum seasonal ground water level at all times of operation. There shall be no interception of the quarry level and water table at any time.**
- l. All stormwater runoff shall be fully contained within the lot boundaries at all times as stated in the application.**
- m. All storage of bulk oil, fuel or other potential contaminants must be fully contained within a self bunded facility.**
- n. All industrial and domestic waste is to be disposed of off-site.**
- o. The Mine Closure plan (including re-use of topsoil and removal of all structures) approved by the local government is to be adhered to and implemented at the cessation of extractive operations.**
- p. Detailed floor plans and elevations for ancillary buildings including the workshop, office, crib and ablutions are to be lodged to the Chief Executive Officer for endorsement prior to the issue of a Building Permit.**
- q. The proponent to ensure that any road closures associated with blasting activities do not conflict or interfere with local school bus operational times.**
- r. This approval is valid for a period of 23 years from the date of development approval.**

**Footnotes:**

- (i) A planning consent is not an approval to commence any works. A building licence must be obtained for all works. Separate approval is also required for installation of on-site effluent disposal.**
  - (ii) The extractive industry is required to comply with separate Environmental Protection (Noise) Regulations 1997.**
  - (iii) In regards to condition 3, please be advised that a lot of the information is already contained in the Mining Proposal and other documents submitted, however it needs to be compiled into a more comprehensive Management Plan with a complaints procedure.**
- 2. Note that the application has been advertised for public comment and one objection has been received. The issues raised in the objection are addressed in the application and / or through the recommended conditions.**
  - 3. Note that proponent has applied for a clearing permit from the Department of Water and Environmental Regulation (DWER), and has approval for a major expansion/ change to existing operation from the Department of Mines, Industry Regulation and Safety (Resources Safety).**

**Carried 8/0**

Reason for Change

The Council wanted to put a time frame to the sealing of the road and to be able to confirm the proponents public liability insurance cover.

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<b>10.2.5</b>	<b>PLANNING APPLICATION – RETROSPECTIVE PLANNING APPROVAL FOR SILOS – LOT 3 (NO 14) ALBANY HIGHWAY, TENTERDEN</b>
<b>RESPONSIBLE OFFICER:</b>	Peter Northover – Chief Executive Officer
<b>REPORT AUTHOR:</b>	Liz Bushby – Town Planning Innovations (TPI)
<b>FILE REFERENCE:</b>	A749
<b>APPLICANT:</b>	Swain Assets PTY LTD
<b>DATE OF REPORT:</b>	13 December 2017
<b>ATTACHMENTS:</b>	Nil

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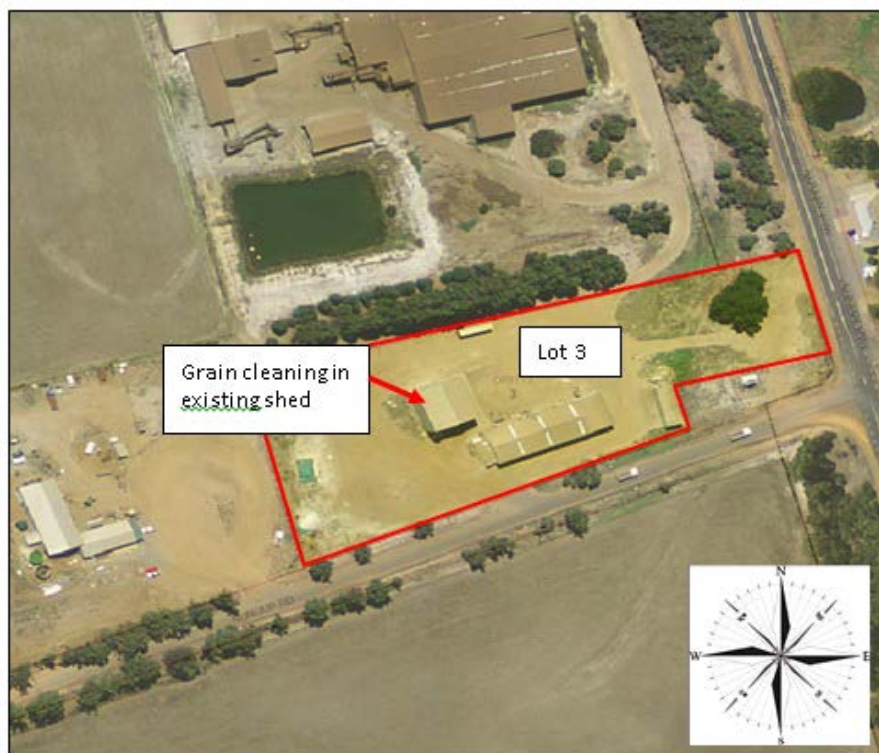
**Purpose**

The purpose of this report is for the Council to consider a new planning application seeking retrospective planning approval for silos on Lot 3 (No 14) Albany Highway, Tenterden.

**Background**

**Location Plan**

The lot has an area exceeding 1.5 hectares, is predominantly cleared and contains three existing buildings. It has access to both Nunijup Road and Albany Highway in Tenterden.



Location Plan

**Zoning**

Lot 3 is zoned ‘Industrial’ under the Shire of Cranbrook Town Planning Scheme No 4 (‘the Scheme’).

The objectives of the Industrial zone are:

- To provide for the needs of industry to support the community.
- To provide appropriate buffers between industry and adjacent land uses, to avoid land use conflicts.
- To avoid non-industry related uses establishing in the industrial areas that may constrain industrial activities.

***Change of use – Grain Cleaning Business***

The owners have indicated that when they purchased the lot they took over an existing business known as ‘Stirling Bulk Distributors’ which entails the sale of fertiliser and stockfeed. The Shires records indicate the change of ownership occurred in August 2017.

The owners commenced processing grain on site for stockfeed, and advise that this entails using a grain cleaner contained within an existing shed. The shed is located in the most western portion of the lot.

The grain cleaning component of the business is construed as a ‘Rural Industry’ which is defined as ‘means —

- (a) an industry handling, treating, processing or packing rural products; or*
- (b) a workshop servicing plant or equipment used for rural purposes’.*

A ‘Rural Industry’ is permitted within the Industrial zone under ‘Table 1- Zoning Table’.

TPI is of the view that the initial installation of grain cleaning machinery within an existing shed was exempt from planning approval under Regulation 61 (2) of the Planning and Development (Local Planning Schemes) Regulations 2015 as at that time there was no works component (ie such as changes to the building).

Notwithstanding the above, any subsequent works such as installation of silos does require planning approval under both the Shire of Cranbrook Town Planning Scheme No 4 (*‘the Scheme’*) and Regulation 61 (1) of the Planning and Development (Local Planning Schemes) Regulations 2015 (*‘the Regulations’*).

There is an exemption for Permitted Uses under the Regulations but it does not extend to any subsequent building extensions or installation of new external structures.

It is understood from discussion with the applicant that the installation of concrete pads and silos occurred separately and after the grain cleaning operation commenced.

**Officers Comment**

***Description of proposed development***

A number of silos have been installed on the lot and they are located on concrete pads.

The applicant has advised that the grain exits the rear end of the western shed (‘shed 2’) and is then distributed into a series of silos located immediately adjacent to the building.



Photos of the grain storage silos are included below.



The applicant also advises that 6 silos have been installed on a separate concrete pad for fertiliser and stockfeed storage associated with the Stirling Bulk Distributor business. The 6 additional silos are to the north of 'shed 1'.

***EPA Guidelines / buffers to sensitive landuses***

The Environmental Protection Authority (EPA) has developed a document called '*Guidance for the Assessment of Environmental Factors Western Australia - Separation Distances between Industrial and Sensitive Land Uses*'.

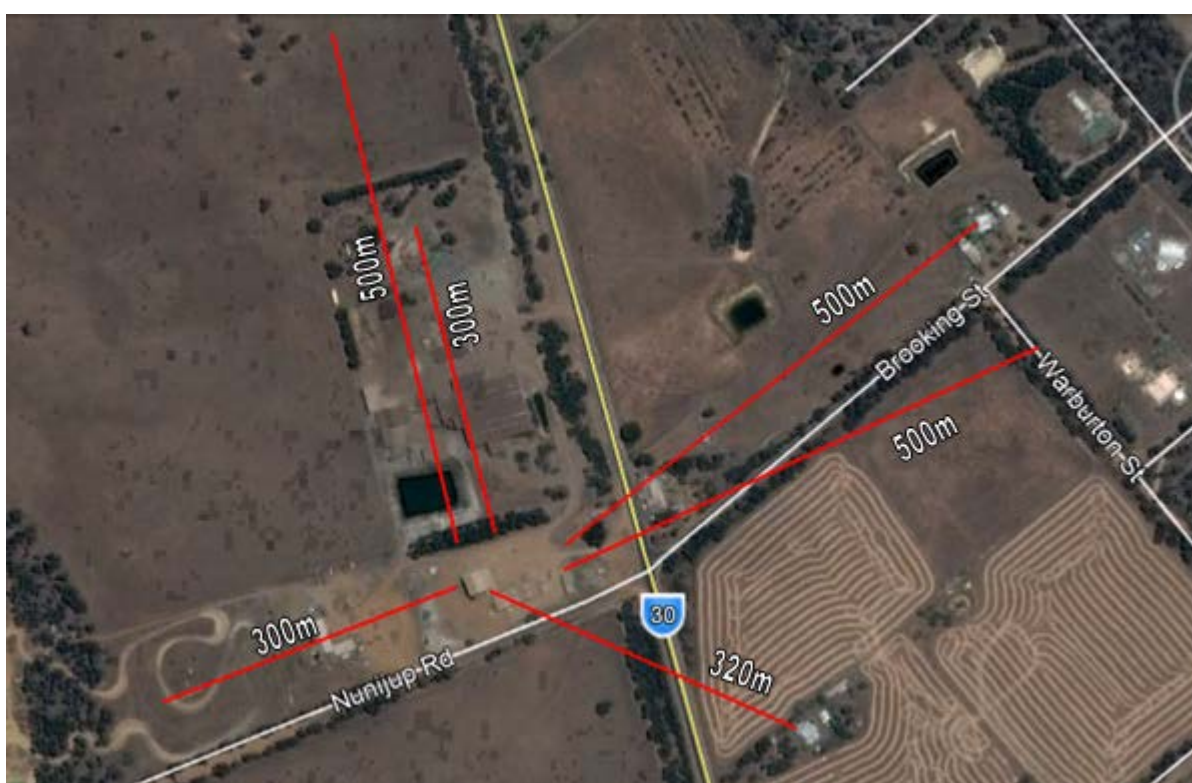
It specifically addresses generic separation distances between industrial and sensitive land uses to avoid conflicts between these land uses. It focuses on protecting sensitive land uses from unacceptable impacts on amenity that may result from industrial activities, emissions and infrastructure.

While not replacing the need for best practice approaches to emission management, buffers are a useful tool in achieving an acceptable environmental outcome. It recognises that in most cases, land use conflicts resulting from industrial emissions are not expected where the generic separation distances are maintained.

The EPA Guidelines recommend a buffer of 300-500 metres for grain cleaning, depending on size. It also recommends a 500 metre buffer for grain elevators/ conveyor belts.

The applicant has advised that they do not currently have any grain elevators, therefore the 300 to 500 metre buffer can be used as a general guide.

Based on aerial information it appears the closest dwelling is approximately 320 metres. TPI has compiled a basic map below to show approximate distances. The buffers to the north east are measured conservatively from the boundary of Lot 3 to show the difference between a 300 metre and 500 metre boundary.



The proposal achieves reasonable buffers to existing dwellings, however is in close proximity to the local general store.

Having regard that the main Rural Industry landuse is permitted, that the silos are ancillary development, that there are no existing grain elevators, and that it is an industrial use in an Industrial zone, it is recommended that the 300 buffer be accepted combined with a condition that requires the applicant to prepare and lodge a Dust Management Plan for separate written approval.

TPI has discussed this with the applicant and a Dust Management Plan can outline methods for dust mitigation, and include a complaints procedure.

If Council has concerns over buffers or dust emissions then additional site specific information can be requested 'up front' from the applicant such as a map that demonstrates compliance with the EPA buffers, a Dust Management Plan, an independent assessment of dust by a suitably

qualified consultant or any other information deemed necessary by the Shire to determine the application.

Determination of the application can be deferred to allow for submission of additional information.

**Traffic**

The applicant has advised that the previous owner mainly used contractors for transport and distribution. The current owners have a main contract with CBH, and they generally utilise their own fleet of 4 trucks to deliver grain from the silos.

Whilst there is potential in the future for other drivers/ contractors to be used in a harvest season, the operation to date has relied on vehicles already on site and used to service the fertiliser business. The largest truck has two trailers.

The site is of a sufficient area to accommodate normal truck movements as associated with an industrial area. The applicant has advised that their two businesses complement each other as the fertiliser business is not busy during summer, so the trucks are then able to be fully utilised for grain deliveries.

**Relevant State Planning Policies and Guidelines –Bushfire Prone Areas**

The Western Australian Planning Commission released SPP3.7 and associated Guidelines for Planning in Bushfire Prone Areas (‘the Guidelines’) in December 2015. These documents (as amended) apply to all land identified as Bushfire Prone.

Bushfire prone areas are declared by the Commissioner of Fire and Emergency Services and can be viewed on the website of the Department of Fire and Emergency Services. The eastern portion of Lot 3 is within the declared bushfire prone area.

It is not recommended that a Bushfire Attack Level Assessment be required for the silos as they are a storage structure and not a building. The western silos are outside of the bushfire prone area however TPI cannot accurately determine whether the silos north of shed 1 are completely outside of the declared bushfire prone area.



There is no significant intensification of land-use (existing facility and no new buildings are proposed) and consequently there is no increase in the threat of bushfire to people, property and infrastructure. Hence, approving this development application without requiring further consideration of the bushfire risk is not contrary to the intent or the main objective of State Planning Policy 3.7. These principles are discussed in Western Australian Planning Commissions Bulletin 111/2016 in relation to extensions/alterations/additions.

### **Building Permit**

TPI has liaised with the Shires Environmental Health Officer/ Building Surveyor to ascertain whether a separate Building Permit is required for the silos.

The Environmental Health Officer / Building Sur has advised that:

- Under section 74 (1) a permit is not required for a building or an incidental structure that is, or is proposed to be used, in construction, operation or maintenance of a facility that is predominately an industrial processing plant.
- As there is no definition of an 'industrial processing plant' the general advice from the Building Commission is that it is up to the Permit Authority.

TPI is of the understanding that the Shire has discretion to construe that the grain cleaning business is an 'industrial processing plant' and therefore not require a Building Permit for the silo structures.

### **Statutory Environment**

**Shire of Cranbrook Town Planning Scheme No 4 ('the Scheme')** – explained in the body of this report.

The development complies with the minimum setbacks under the Scheme for Industrial zoned land being 7.5 metres front/rear and 5 metres side.

**Planning and Development (Local Planning Schemes) Regulations 2015** – Regulation 60 of the 'deemed provisions' requires that a person must not commence or carry out works on, or use, land in the Scheme area unless the person has obtained the development approval of the local government or it is exempt from the requirement for planning.

Regulation 67 outlines 'matters to be considered by Council' including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, the compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

Regulations 61 (1) and (2) are explained in the body of this report.

**Building Act 2011** – explained in the body of this report.

### **Policy Applicable – Implications**

There is no Council policy applicable to this report.

### **Financial Implications**

The Shire pays consultancy fees to Liz Bushby of Town Planning Innovations for planning advice.

### **Risk Implications**

The risks associated with matters in this report are:

- Failure to fulfil Statutory, Regulatory or Compliance Requirements

The **impact** of the risk is Non-Compliance

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 seeking professional planning advice

### **Strategic Community Plan Reference**

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

*Objective 4: Leadership - Demonstrate strong governance, leadership and organisational growth*

Outcome 4.1: Excellence in governance, compliance, regulation and reporting

### **Consultation**

No consultation has been undertaken. There is no statutory requirement for the application to be advertised.

However, Council has discretion to advertise any application for public comment. Council may wish to seek comment from nearby and surrounding landowners within a 300 to 500 metre radius.

If Council resolves to advertise the application it will need to be deferred and referred back to Council in February 2018.

### **VROC Implications**

There are no strategic VROC implications from this report

### **Voting Requirements**

Simple Majority

#### **Motion 10122017**

**Moved Cr Slater, seconded Cr Beech that standing orders be suspended at 3.57pm in order to discuss this item in further detail.**

**Carried 8/0**

#### **Motion 11122017**

**Moved Cr Denton, seconded Cr Adams that standing orders be resumed at 4.06pm.**

**Carried 8/0**

### **OFFICERS RECOMMENDATION/COUNCIL DECISION**

#### **Motion 12122017**

**Moved Cr Slater, seconded Cr Denton that Council:**

1. **Note that the grain cleaning business operating from within an existing shed building is a 'Rural Industry' which is a permitted use in the Industrial zone.**
2. **Approve the application retrospectively for silos on Lot 3 (No 14) Albany Highway, Tenterden subject to the following conditions:**



- a. The plans lodged with this application shall form part of this planning approval. All development shall be in accordance with the approved plans.
  - b. This approval is for silos only and does not include any approval for grain elevators or conveyor belts.
  - c. The proponent is to lodge a 'Dust Management Plan' to be approved separately in writing by the Chief Executive Officer.  
The Dust Management Plan shall include:
    - i. Dust suppression mechanisms to be clearly explained including the use of extraction fans, checking of weather conditions, containment within closed buildings etc
    - ii. A complaints management system should be in place and provide for corrective action if substantiated adverse impacts have occurred. All complaints should be logged and investigated with timely feedback provided to the complainant and Shire. Complaint forms should be kept and made available to relevant authorities and community members upon request.
    - iii. Commitment to cease operations temporarily where dust cannot be adequately controlled due to factors such as machinery faults, extraction fan breakdown etc
    - iv. A dust management program should detail any ongoing monitoring and the format for reporting monitoring results.
    - v. Personnel responsible for dust/ noise / vibration management and monitoring at the site should be specified. This could be the site manager, site supervisor, etc. Their roles, responsibilities and contact details should also be specified.
    - vi. In the event of any demonstrated ongoing dust nuisance, a commitment to dust monitoring by suitably qualified external consultant and lodgement of a report of the results to the Shire within a definitive timeframe.
  - d. All stormwater from concrete pad areas shall be disposed of on-site. All drainage to be fully contained within the property boundaries with no water discharge into adjacent land or road reserve unless otherwise approved in writing by the Chief Executive Officer.
3. Determine that the silos are associated with an 'industrial processing plant' and not require a Building Permit in accordance with Section 74 (1) of the Building Act 2011.

Carried 8/0

### 10.3 WORKS

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#### 10.3.1 FRANKLAND RIVER OVAL UPGRADE

<b>RESPONSIBLE OFFICER:</b>	Jeff Alderton – Manager of Works
<b>REPORT AUTHOR:</b>	Jeff Alderton – Manager of Works
<b>FILE REFERENCE:</b>	CP209
<b>APPLICANT:</b>	N/A
<b>DATE OF REPORT:</b>	7 December 2017
<b>ATTACHMENTS:</b>	Nil

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#### **Purpose**

The purpose of this report is for the Council to consider continuing with the planned upgrade to the Frankland River Oval.

#### **Background**

At the 19 October 2016 meeting of Council it was resolved that:

**“The Manager of Works obtain further information on various options to upgrade the Frankland River Oval and bring these to a future Council meeting”**

Representatives from the Frankland River community met with the Manager of Works and a Council representative in October 2016 to discuss options available for the upgrade to the Frankland River Oval.

At the 15 March 2017 meeting of Council it was resolved:

**“That:**

- 1. Council commits to the re-construction of the two dams at the Frankland River Sporting Facility; and**
- 2. The cost of this re-construction to be funded from the Frankland River Sporting Facilities Reserve.”**

At the 19 October 2017 meeting of Council it was resolved:

**“That this item lay on the table in order for further community consultation and additional information be presented to the 15 November 2017 ordinary meeting of Council”**

Representatives from the Frankland River community met again with the Manager of Works and three Council representatives on 6 December 2017 and unanimously agreed to upgrade the Frankland River oval as proposed.

#### **Officers Comment**

Council will recall that a grant application was submitted to the Department of Water in April 2017 to assist with the supply and installation of two new pumps, new reticulation to the oval, a water tank, new electrics and improve drainage of the oval at an estimated cost of \$120,000. Grant funding of \$84,000 was applied for with the Council contributing \$36,000 from the Frankland River Sporting Facilities Reserve.

Unfortunately, staff were advised by the Department of Water that the Shire was not successful in obtaining the grant for the proposed upgrade. The community representatives were advised of this and that further consultation would be sought. This consultation was completed on 6 December 2017 and the Frankland River community representatives unanimously agreed to the proposed upgrade.

If Council wish to continue with the upgrade of the Frankland River Oval, a budget amendment will be required to withdraw the shortfall of \$84,000 from the Frankland River Sporting Facilities Reserve.

### **Statutory Environment**

Section 6.8 of the Local Government Act 1995, states that:

6.8. Expenditure from municipal fund not included in annual budget

(1) A Local Government is not to incur expenditure from its municipal fund for additional purpose except where the expenditure –

(a) is incurred in a financial year before the adoption of the annual budget by the local government; or

(b) is authorised in advance by resolution\*; or

(c) is authorised in advance by the major or president in an emergency.

### **Policy Applicable – Implications**

There is no Council policy applicable to this report.

### **Financial Implications**

#### ***Budget***

The 2017/2018 adopted budget includes an amount of \$148,207 of Capital Expense for the Frankland River Oval Upgrade. This is made up of \$120,000 as estimated above as well as a carryover of \$28,207 from the dam upgrade that was not completed prior to 30 June 2017. There is also \$84,000 of associated grant funding as anticipated revenue.

As the grant funding application was unsuccessful, it is recommended that a budget amendment be made to transfer \$84,000 from the Frankland River Sporting Facilities Reserve in order for this project to be completed. The 2017/2018 budget estimates there will be \$197,534 in this reserve at 30 June 2018.

#### ***Long Term***

Ongoing Council budget considerations will be required for the operating costs of this facility in subsequent years.

#### ***Whole of Life***

The whole of life financial implications including depreciation, maintenance and operating costs are included in budgets annually.

### **Risk Implications**

The risks associated with matters in this report are:

- Business and Community Disruption
- Inadequate Engagement Practices
- Inadequate Asset Sustainability Practices
- Inadequate Project/Change Management
- Inadequate Supplier/Contract Management
- Ineffective Management of Facilities/Venues/Events

The **impact** of the risk is Financial, Service Interruption, Reputational and Property,

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 use of specialist turf contractors to ensure the project is completed to a high standard.

### **Strategic Community Plan Reference**

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

*Objective 1: Social – Be respected for its friendly, vibrant, connected and safe communities.*

Outcome 1.1: An engaged, supporting and inclusive community

Strategy 1.1.3: Provide, maintain and improve community facilities within available resources

Outcome 1.3: A health place to grow and age

Strategy 1.3.2: Support a healthy, sporting and active community

*Objective 3: Environment – Enhance, maintain, protect and promote our built infrastructure and natural environment*

Outcome 3.2: A built infrastructure servicing the needs of the community

Strategy 3.2.1: Maintain and enhance our roads, built infrastructure, parks and reserves

### **Consultation**

Consultation for this report included members of the Frankland River Community, the Executive Management Team, Councillors, Parks & Gardens staff, a Water Reticulation Contractor and a Turf Management specialist.

### **VROC Implications**

There are no strategic VROC implications from this report

### **Voting Requirements**

***Absolute Majority (Budget Amendment)***

### **OFFICERS RECOMMENDATION/COUNCIL DEISION**

**Motion 13122017**

**Moved Cr Bigwood, seconded Cr Beech that:**

- 1. Council notes the application for grant funding of \$84,000 from Department of Water for the upgrade to the Frankland River Oval was unsuccessful;**
- 2. Council commit to the continuation of the upgrade to the Frankland River Oval; and**
- 3. The 2017/2018 adopted budget be amended by:**
  - a. Removing the \$84,000 of anticipated grant funding for the upgrade to the Frankland River Oval; and**
  - b. Include an \$84,000 transfer from The Frankland River Sporting Facilities Reserve for the upgrade to the Frankland River Oval.**

**Carried 8/0  
By Absolute Majority**

**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**

**Motion 14122017**

Moved Cr Denton, seconded Cr Beech that late Item 12.1 Reserve 29057 – Proposed Excision for the Tunney Fire Shed and Training Facility be discussed now.

Carried 8/0

**Motion 15122017**

Moved Cr Adams, seconded Cr Carey that standing orders be suspended at 4.11pm to discuss this item in further detail.

Carried 8/0

**Motion 16122017**

Moved Cr Adams, seconded Cr Slater that standing orders be resumed at 4.13pm.

Carried 8/0

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<b>12.1</b>	<b>RESERVE 29057 - PROPOSED EXCISION FOR TUNNEY FIRE SHED AND TRAINING FACILITY</b>
<b>RESPONSIBLE OFFICER:</b>	Trish Standish – Manager of Finance and Administration
<b>REPORT AUTHOR:</b>	Toni Melia – Emergency Services and Recreation Officer
<b>FILE REFERENCE:</b>	R29057
<b>APPLICANT:</b>	N/A
<b>DATE OF REPORT:</b>	13 December 2017
<b>ATTACHMENTS:</b>	Map of proposed excision site

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**Purpose**

The purpose of this report is for the Council to consider the proposed excision of approximately three hectares of Reserve 29057 for the purpose of constructing a fire shed and training facility for the Tunney Fire Brigade, with the remainder of the Reserve being placed under the management of the Conservation and Parks Commission.

**Background**

At the 15 February 2017 meeting of Council it was resolved:

**“That:**

- 1. Council request the Department of Lands to change the vesting of Reserve 29057 from “Parklands and Recreation” to “Parklands, Recreation and Community”;**
- 2. Council apply for capital works funding for the construction of a new fire shed and training facility for the Tunney Bushfire Brigade on Reserve 29057 in the 2017/2018 Local Government Grants Scheme;**
- 3. If successful with the above grant, Council permit the Tunney Bushfire Brigade to utilise 3000 square metres of Reserve 29057 for the purpose of constructing a new**

**fire shed and training facility in accordance with the Local Government Grants Scheme Grants Manual 2017/2018;**

- 4. The costs associated with the connection of electricity to the proposed new fire shed and training facility be referred to the 2017/2018 annual draft budget; and**
- 5. Suitable grants be applied for to assist with the cost of the electricity connection mentioned above.”**

Shire staff were notified earlier this year, that the grant submission for the construction of a new fire shed and training facility was successful.

#### **Officers Comment**

In February 2017 the Department of Planning, Lands and Heritage (DPLH) was contacted by the Shire to begin the process of altering the purpose of the reserve. The Shire have recently received a response from DPLH offering two options for altering the purpose, owing to the fact that Reserve 29057 is an 'A' class reserve and the timeframes for altering purposes on reserves such as this is time consuming (minimum 12-18 months).

#### Option 1

Change the purpose for the entirety of Reserve 29057 from “Parklands and Recreation” to “Parklands, Recreation and Community Purposes”. This process will involve advertising the proposed change in a state wide publication and obtaining the approval of the Minister for Lands to table the change in both Houses of Parliament. The tabling in Parliament would not occur until, at least, the latter part of the first session of parliament in 2018.

#### Option 2

To excise an approximate 3 hectare portion of the land from Reserve 29057 for the fire shed and training facility, with the Shire of Cranbrook having a management order over the excised portion for “Community Purposes”. The remainder of Reserve 29057 will be placed under the management of the Conservation and Parks Commission.

The Shire has discussed the options with DPLH South West and Great Southern Senior State Land Officer and they have stated that DPLH supports the proposed use of the reserve for the establishment of a fire shed and training facility. DPLH staff are also of the opinion that to expedite the process and to ensure that the land can be used as soon as possible, that Option 2 would be the best course of action. This recommendation is due to the grant funding timeframe constraints for the overall construction of the fire shed and training facility, and the fact that DPLH would struggle to complete the necessary documentation required to submit the change of purpose for the full portion of Reserve 29057, in time for the first session of parliament in 2018.

The Shire has also liaised with the Department of Biodiversity, Conservation and Attractions Manager, Species and Communities Branch (formally Department of Parks and Wildlife) about any potential flora or fauna conservation issues in the reserve that may impact on the change of purpose. Minimising the amount of clearing for the construction of the fire shed and training facility, would be a priority in gaining support for the project from the Department of Biodiversity, Conservation and Attractions, due to the conservation significance of the area.

The reserve area is covered by the nationally listed threatened ecological community, the Eucalypt woodlands of the Western Australian Wheatbelt. If there was to be any significant clearing in this reserve, it would need to be referred to the Australian Government for assessment.

The reserve also has some threatened and/or priority fauna records including records of Carnaby's cockatoo within the reserve. In the adjacent areas there are further records of

Carnaby's and one of a rainbow bee-eater (1999). The site is within the buffer of a confirmed breeding area for Carnaby's, so it is possible that Carnaby's breed in the reserve and/or opportunistically forage on the reserve and use Pingandy Creek as a watering point. This however cannot be confirmed without a formal fauna survey. Both Carnaby's cockatoo and the rainbow bee-eater are also nationally listed and should not have their habitat disturbed without assessment as the Carnaby's cockatoo is also state listed as a threatened species.

There is one record of a rare orchid from the reserve in the south west corner of the northern block.

The proposed excised area is more sparsely vegetated than the remainder therefore obtaining the relevant permits should be an easier process.

It would be the responsibility of the Shire of Cranbrook to meet the cost of undertaking the required survey and fencing work for the excision, and any additional conditions and costs that the Planning Commission consider appropriate for the excision to occur e.g. flora and fauna studies, as these are not covered under the Emergency Services Levy Capital Grants Scheme funding that has been obtained by the Shire.

### **Statutory Environment**

The Land Administration Act (1997) is applicable to this report.

### **Policy Applicable – Implications**

There is no Council policy applicable to this report.

### **Financial Implications**

#### ***Budget***

Based on previous surveys completed by the Shire the approximate cost for the cadastral survey of the site would be \$6,500, flora survey \$4,000, fauna survey \$950. The area required to be surveyed is one quarter the size of the Sukey Hill Motocross facility which is where the above figures have been obtained, so it could be expected that costs may not be as high as anticipated.

The 2017/2018 adopted budget includes financial consideration for the provision of funding for the installation of the electrical cabling etc. to the site under the Capital Expense Account Number 051203.

The total cost of the surveys required for this excision to occur is anticipated to be \$11,450 which can be funded from Professional Services 041021.

#### ***Long Term***

Ongoing Council budget considerations will be required for the operating costs of this facility upon completion in subsequent years.

#### ***Whole of Life***

The whole of life financial implications including depreciation, maintenance and operating costs for the facility upon completion will be included in budgets annually.

### **Risk Implications**

The risks associated with matters in this report are:

- Inadequate Environmental Management
- Errors, Omissions and Delays
- Failure to fulfil Statutory, Regulatory or Compliance Requirements

- Inadequate Supplier/Contract Management

The **impact** of the risk is Non-Compliance, Reputational and Natural Environment

The **consequences** of these risks are considered to be Major

The **likelihood** is Unlikely

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

Risk mitigation includes ensuring all surveys are completed by appropriately trained professionals prior to any works commencing.

### **Strategic Community Plan Reference**

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

*Objective 1: Social – Be respected for its friendly, vibrant, connected and safe communities*

Outcome 1.1: An engaged, supporting and inclusive community

Strategy 1.1.3: Provide, maintain and improve community facilities within available resources

Outcome 1.2: A safe place to live

Strategy 1.2.2: Advocate and actively support emergency management and services

*Objective 3: Environment - Enhance, maintain, protect and promote our built infrastructure and natural environment*

Outcome 3.1: A protected, diverse, healthy natural environment

Strategy 3.1.1: Promote, enhance and maintain our natural attractions, parks and reserves

Strategy 3.1.4: Promote reduced environmental impact from activities within the Shire of Cranbrook

### **Consultation**

Consultation for this report included discussions with the captain of the Tunney Bushfire Brigade, Bushfire Advisory Committee, Department of Planning, Lands and Heritage and the Department of Biodiversity, Conservation and Attractions.

### **VROC Implications**

There are no strategic VROC implications from this report

### **Voting Requirements**

Simple Majority

### **OFFICERS RECOMMENDATION/COUNCIL DECISION**

**Motion 17122017**

**Moved Cr Adams, seconded Cr Fiegert that:**

- 1. Council request the Department of Planning, Lands and Heritage to:**
  - a. Excise an approximate three hectare portion of land from Reserve 29057 as defined on the attached map for the purpose of a fire shed and training facility for the Tunney Bushfire Brigade;**
  - b. Provide the Shire of Cranbrook with a management order over the abovementioned excised portion of land for Community Purposes; and**
  - c. Place the remainder of Reserve 29057 under the management of the Conservation and Parks Commission.**

**Carried 8/0**



**13. MATTERS BEHIND CLOSED DOORS**

Nil

**14. CLOSURE OF MEETING**

There being no further business to discuss, the Shire President, Cr Egerton-Warburton declared the meeting closed at 4.13 pm.