

COUNCIL MEETING

AGENDA



For the Ordinary Meeting of Council to be held on

16 August 2023

Dear Council Member,

The next Ordinary Meeting of the Shire of Cranbrook will be held on Wednesday 16 August 2023 at the Frankland River Community Centre commencing at 3.00pm.

A handwritten signature in black ink, appearing to read 'L Gray', with a stylized flourish at the end.

Linda Gray
Chief Executive Officer



PUBLIC QUESTION TIME – RULES AND PROCEDURES

The Shire of Cranbrook provides the public with the opportunity to raise questions (as per Section 5.24 of the Local Government Act 1995), or to make a brief statement on issues of concern at all Ordinary Meetings, Special Meetings and Standing Committee Meetings of Council.

The Local Government (Administration) Regulations 1996 requires that a minimum of 15 minutes is to be provided at the beginning of the meeting for question time (where members of the public wish to ask questions).

Question time is the first item on the agenda and the following procedures apply:

1. Council encourages input from the public but will not debate any issue with those in attendance at meetings.
2. Questions should be directed to the Shire President (or Chairman at Committee Meetings). If the answer is not known and requires further investigation, questions will be taken on notice and a written response will be provided at a later date and such responses be recorded in the Minutes of the next ordinary meeting of Council.
3. The President (or Chairman) has the right to determine any address, question or statement made by a member of the public to be out of order if it is considered to be:
 - (i) a personal attack or adverse reflection on the integrity of Elected Members or Employees;
 - (ii) inappropriate behaviour and use of public question time. **Such behaviour will not be permitted or tolerated.**
4. Prevention of Disturbance (refer to Standing Order Local Law clause 8.6)
 - a) Any member of the public addressing the Council or a committee is to extend due courtesy and respect to the Council or committee and the processes under which they operate and must take direction from the person presiding whenever called upon to do so. (Penalty \$1,000)
 - b) No person observing a meeting is to create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means. (Penalty \$1,000)
5. Taped recording of meetings is not permitted.
6. Copies of “Public Question Time – Rules and Procedures” will be distributed at each Council/Committee Meetings where members of the public are in attendance.

DISCLAIMER

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

In certain circumstances members of the public are not entitled to inspect material, which in the opinion of the Chief Executive Officer is confidential, and relates to a meeting or a part of a meeting that is likely to be closed to members of the public.

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The Shire of Cranbrook advises that anyone who has any application lodged with the Shire of Cranbrook must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application and any conditions attaching to the decision made by the Shire of Cranbrook in respect of the application.

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AGENDA

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President, Cr Horrocks as Presiding Member will declare the meeting open at ____pm. The Shire President will alert the meeting to the procedures for emergencies including evacuation, designated exits and muster points.

2. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

2.1 ATTENDANCE

President	Cr PL (Phil) Horrocks
Deputy President	Cr G (George) Pollard
Councillors	Cr PM (Peter) Beech
	Cr PW (Peter) Slater
	Cr JA (Jennifer) Quick
	Cr RW (Robert) Johnson
	Cr LM (Lee) Casson
	Cr DM (Daisy) Egerton-Warburton
	Cr P (Perin) Mulcahy
Chief Executive Officer	Ms LA (Linda) Gray
Manager of Finance and Administration	Mrs DE (Diana) Marsh
Manager of Works	Mr JE (Jeff) Alderton
Executive Officer	Ms JL (Jo) Scott
Members of the Public	

2.2 APOLOGIES

2.3 APPROVED LEAVE OF ABSENCE

3. ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.2 PUBLIC QUESTIONS

5. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

6. APPLICATIONS FOR LEAVE OF ABSENCE

7. DISCLOSURE OF INTEREST

8. MATTERS FOR WHICH MEETING MAY BE CLOSED

The meeting will be closed to discuss confidential item 13.1.

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

9.1 ORDINARY MEETING – 19 July 2023

That the minutes from the Ordinary Meeting of Council held on 19 July 2023, be confirmed as a true and correct record.

10. REPORTS OF OFFICERS

10.1 CORPORATE AND COMMUNITY SERVICES

10.1.1 LIST OF PAYMENTS

RESPONSIBLE OFFICER: Jo Scott – Acting Manager of Finance and Administration

REPORT AUTHOR: Madeleine Hammond – Finance Officer

FILE REFERENCE: FM2

APPLICANT: N/A

DATE OF REPORT: 2 August 2023

ATTACHMENTS: List of Payments – 1 July to 31 July 2023

Purpose

The purpose of this report is to advise the Council of payments made during the period 1 July to 31 July 2023.

Background

Nil

Officer's 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 **impacts** of the risk are: 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 report 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 2021-2031 Shire of Cranbrook, Strategic Community Plan states that:

Key Pillar: Connect

Outcome 16 – High Performing Shire: An accountable and respected Shire, investing in its people and structures.

Deliverable 16.1: A Shire and supporting entities are well-governed with delineated roles and accountabilities.

Consultation

Consultation was not required for this report.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

That the payment of accounts totalling \$728,805.66 as per the attachment be noted:

- Electronic Funds Transfers EFT 14360 to EFT 14463 - \$570,493.85;
- Internal Account Transfers (Payroll) - \$127,086.91;
- Cheque Payments 12269 to 12269 - \$42.00 and
- Direct Debit - \$31,182.90.

10.1.2 MONTHLY FINANCIAL REPORT – JULY 2023

RESPONSIBLE OFFICER:	Diana Marsh – Manager of Finance and Administration
REPORT AUTHOR:	Diana Marsh – Manager of Finance and Administration
FILE REFERENCE:	FM12
APPLICANT:	N/A
DATE OF REPORT:	9 August 2023
ATTACHMENTS:	Financial Statements for July 2023

Purpose

The purpose of this report is to present the financial position of the Shire of Cranbrook as at 31 July 2023.

Background

The Local Government (Financial Management) Regulations 1996 require a statement of financial activity to be prepared each month and prescribe the contents of that report and accompanying documents. The report is to be presented at an ordinary meeting of the Council within two months after the end of the month to which the report relates.

Officers Comment

In the Local Government (Financial Management) Regulations 1996, part 4, which outlines the monthly financial reporting requirements, has recently been amended with changes effective from 1 July 2023. The statement of financial activity in the monthly report is now required to be structured in the same way as the annual budget and is to be shown according to nature classification. The monthly report must also include a statement of financial position as at the last day of the previous month. These reports must be presented within 2 months after the end of the previous month and be recorded in the minutes of the meeting at which it is presented.

The template for the Monthly Financial Report has been updated to comply with industry standards and all statutory reporting requirements are contained within the report.

The attached July 2023 Monthly Financial Report represents one (1) month of the financial year. The following items are worthy of noting on the July 2023 report:

- Closing surplus position of \$5,134,840 (shown on page 2).
- Cash and cash equivalents of \$5,323,169 of which \$3,154,028 is held in cash backed reserve accounts (shown on page 11)
- Outstanding rates of \$3,159,926 equates to the 2023/2024 rates levied and arrears from previous years (shown on page 15); and
- Explanation of material variances is shown by nature on page 6.

Statutory Environment

The Local Government (Financial Management) Regulations 1996 define the requirements for monthly financial reporting (Regulations 34 and 35).

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 \$10,000 to be reported.

Financial Implications

The attached report represents the financial position of the Council at the end of the previous month and 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 2021-2031 Shire of Cranbrook, Strategic Community Plan states that:

Key Pillar: Connect

Outcome 16 – High Performing Shire: An accountable and respected Shire, investing in its people and structures.

Deliverable 16.1: A Shire and supporting entities are well-governed with delineated roles and accountabilities.

Consultation

Consultation was not required for this report.

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION

That the attached Monthly Financial Report (containing the Statement of Financial Activity) for the period ending 31 July 2023 be received.

10.1.3	2022-2023 FINANCIAL AUDIT
RESPONSIBLE OFFICER:	Diana Marsh – Manager of Finance and Administration
REPORT AUTHOR:	Diana Marsh – Manager of Finance and Administration
FILE REFERENCE:	FM9
APPLICANT:	N/A
DATE OF REPORT:	9 August 2023
ATTACHMENTS:	1. Shire of Cranbrook Audit Plan – year ending 30 June 2023 2. Interim Management Letter

Purpose

The purpose of this report is for Council to acknowledge the receipt of the Shire of Cranbrook Audit Plan for the year ending 30 June 2023, and the Interim Management Letter.

Background

Local governments in Western Australia are audited by the Office of the Auditor General (OAG) or a Contract Auditor to the OAG. Lincolns have been engaged by the OAG to undertake the audit work for the 2022-2024 financial year.

Australian Auditing Standard *ASA 260: Communication of Audit Matters with those charged with Governance*, requires auditors to communicate with those responsible for ensuring the entity is achieving its objectives with regard to reliable financial reporting, effective and efficient operations, compliance with laws and regulations, and reporting to interested parties. To meet this requirement, Lincolns and the OAG communicate matters of governance with Council and/or management, as appropriate, starting with an audit entrance meeting at the time of the interim audit where they provide the plan for the audit with the objectives and scope of the audit.

Officer's Comment

The interim audit was conducted during May 2023 by Lincolns, and the findings for that audit are in the attached Interim Management Letter.

Unfortunately, due to the OAG and Lincolns not being available at the same time, the audit entrance meeting could not take place until June 2023. The audit entrance meeting occurred electronically, at short notice on 28 June 2023, attended by Subha Gunalan from the OAG, Chris Martain from Lincolns, Linda Gray Chief Executive Officer and myself as Manager of Finance and Administration. Due to the meeting only focussing on the availability of Lincolns and the OAG, attendance notice was not provided to the Chair of the Audit and Risk Committee, Cr Peter Slater, and an apology and report to him was provided shortly afterwards.

Statutory Environment

Regulation 7 of the Local Government (Audit) Regulations 1996 includes the requirement for an agreement between a local government and an auditor to include audit objectives, scope, and plan for the audit.

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:

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

The **impacts** of the risk are: Non-Compliance, Reputational

The **consequences** of these risks are considered to be: Minor

The **likelihood** is: Possible

Hence the **risk rating** for this report is: Medium

Risk mitigation includes ongoing communication with auditors, council and management staff.

Strategic Community Plan Reference

The 2021-2031 Shire of Cranbrook, Strategic Community Plan states that:

Outcome 16 – High Performing Shire: An accountable and respected Shire, investing in its people and structures.

Deliverable 16.1: A Shire and supporting entities are well-governed with delineated roles and accountabilities.

Consultation

Consultation was not required for this report.

Voting Requirements

Simple Majority

AUDIT COMMITTEE RECOMMENDATION

That Council acknowledge receipt of the Shire of Cranbrook Audit Plan for the year ending 30 June 2023, and the interim management letter.

10.1.4	FINANCIAL MANAGEMENT REVIEW
RESPONSIBLE OFFICER:	Linda Gray – Chief Executive Officer
REPORT AUTHOR:	Linda Gray – Chief Executive Officer
FILE REFERENCE:	FM8
APPLICANT:	N/A
DATE OF REPORT:	10 August 2023
ATTACHMENTS:	1. Financial Management Review Document 2. Report addressing Recommendations

Purpose

The purpose of this report is for the Council to consider the Financial Management Review Document prepared by external consultant, Darren Long Consulting.

Background

The Local Government (Financial Management) Regulations 1996 5(2)(c) requires the Chief Executive Officer to undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the Local Government regularly. See Statutory Environment section of this agenda item.

The previous Financial Management Review was done by Paul Gilbert FCPA MBA of Macleod Corporation Pty Ltd in 2019, and prior to that they have been undertaken internally. The Executive Management Team decided an external review should be undertaken as this is considered 'best practice'.

Officer's Comment

Two quotations were obtained to complete the Financial Management Review, Paul Gilbert FCPA MBA of Macleod Corporation Pty Ltd and Darren Long of Darren Long Consulting. Darren Long was successful and undertook the Financial Management Review in Cranbrook in May 2023, and forwarded the completed document in June 2023. There was considerable difference between the consultant's report of 2019; as the Macleod Corporation Pty Ltd document was approximately 18 pages whilst the final report received from Darren Long was 114 pages long. Perusal of the Darren Long Consulting report identified that flow charts amended to match recommendations, samples of policies and delegations were included, and the length of the recommendations matched the size of the document including a great deal of duplication.

As a result of the findings, the following improvement recommendations were suggested, these are not compulsory and must fit within our level of staffing and the high rate of part time employees. Some recommendations relate to improvements to our financial reporting (Annuals) and will be implemented. Others are against the improvements we have made regarding reducing printing and advancing to a paperless office (see No 8 and 13). In most case we can ensure that there are different signatures on accounts payable but often the manager will initiate and receive the goods and then sign off as the authorised officer which is perfectly acceptable. Further comments are in the attached report.

The recommendations are as follows:

- (1) That the relevant information on rate payment incentives be collected so the appropriate disclosure can be made in the 2023/2024 annual budget.
- (2) That the relevant information on rate payment incentives be collected so the appropriate disclosure can be made in the 2022/2023 annual financial report.
- (3) That the relevant information on concessions on fees and charges provided under Delegation 1.90 be collected so the appropriate disclosure can be made in the 2022/2023 annual financial report.
- (4) That the relevant information on waivers of fees and charges provided for under Policy 4.12 be collected so the appropriate disclosure can be made in the 2022/2023 annual financial report.
- (5) That Council pass a separate resolution for the imposition of interest on money (other than rates and service charges) owed to the local government, under Section 6.13(2) of the *Local Government Act* as part of its budget adoption process.
- (6) That the rate of interest imposed on money owing to the Shire (other than rates and service charges) be listed in the Schedule of Fees and Charges.
- (7) That the CEO implement a register of rate exempt properties, with a procedure where periodic reviews are conducted every 2 years.
- (8) That the CEO implement new internal control procedures to ensure a copy of all debtor invoices are printed and filed along with debtor invoice supporting documentation.
- (9) That the CEO implement new internal control procedures for accounts receivable where the finance officer debtors signs and dates the debtor batch transaction listing report.
- (10) That the CEO implement new internal control procedures for accounts receivable to ensure a count of the administration office cash register float is performed each day as part of the End of Day Cash Register reconciliation by two employees. This approach provides for sound internal controls through good cash handling and cash hand-over procedures through verification by two officers.
- (11) That the CEO obtain regular reports from the external IT provider that data backups have been validated and ensure an annual test of a full system restore is performed.
- (12) That the CEO implement new internal control procedures for accounts payable to ensure the ordering officer certifies good/services have been rendered, and a separate officer authorises the supplier invoice for payment. This practice will provide adequate separation of roles.
- (13) That the CEO implement new internal control procedures for accounts payable requiring a copy of the purchase order to be attached to each supplier invoice.

- (14) That the CEO consider implementing new internal control procedures for accounts payable where the purchase order contains a summary table of the quotations obtained to show compliance with the purchasing thresholds in Council's purchasing policy 4.8.
- (15) That the CEO implement new internal control procedures for accounts payable where the finance officer creditors signs and dates the creditor batch transaction listing report.
- (16) That the CEO consider amending Delegation 1.32 to incorporate the positions/employees who are authorised signatories to approve electronic payments or sign cheques from the Municipal or Trust Funds, and the limit applicable to each position (if any).
- (17) That Council place a priority on the review of its informing strategies required under *Local Government (Administration) Regulation 19DA(3)(c)*.
- (18) That the CEO prepare a report for Council to consider what action, if any, needs to be taken to address the weaknesses identified in relation to the Internal Control Evaluation.
- (19) That Council consider the suitability of the model policies provided.

The final comment from the consulting firm was that the review of the Financial Management Systems and Procedures developed by the Shire of Cranbrook indicates that, except for those matters identified in the findings and recommendations section of this report, were appropriate and effective for the particular operations and size of the Shire. In addition, the review has concluded that, except where indicated in this report, the Shire has observed the requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.

Statutory Environment

The Local Government (Financial Management) Regulations 1996 5(2)(c) states that:

"The Chief Executive Officer is to undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews."

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

The cost to have this review conducted by an external consultant was \$8,250.

Risk Implications

The risks associated with matters in this report are:

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

The **impacts** of the risk are: Non-Compliance, Reputational

The **consequences** of these risks are considered to be: Minor

The **likelihood** is: Possible

Hence the **risk rating** for this report is: Medium

Risk mitigation includes ongoing communication with the consultant and both administration and management staff.

Strategic Community Plan Reference

The 2021-2031 Shire of Cranbrook, Strategic Community Plan states that:

Outcome 16 – High Performing Shire: An accountable and respected Shire, investing in its people and structures.

Deliverable 16.1: A Shire and supporting entities are well-governed with delineated roles and accountabilities.

Consultation

Consultation was not required for this report.

Voting Requirements

Simple Majority

AUDIT COMMITTEE RECOMMENDATION

That Council receive the attached Financial Management Review and Report in accordance with Financial Management Regulation 5(2)(c).

10.2 GOVERNANCE AND EXECUTIVE SERVICES

10.2.1 PLANNING APPLICATION – PROPOSED OUTBUILDINGS (SEA CONTAINERS) – LOT 129 (NO 41) EDWARD STREET, CRANBROOK

RESPONSIBLE OFFICER: Linda Gray – Chief Executive Officer
REPORT AUTHOR: Liz Bushby – Consultant Planner (Town Planning Innovations)
FILE REFERENCE: A218
APPLICANT: MG & VJ Moncrieff
DATE OF REPORT: 8 August 2023
ATTACHMENTS: 1. Site Plan
 2. Photo of Proposed Sea Container

Purpose

The purpose of this report is for Council to consider approving a development application for two outbuildings (sea containers) on Lot 129 (No 41) Edward Street, Cranbrook.

Background

Lot 129 is zoned 'Residential' with a flexible R5/12/30 density code under the Shire of Cranbrook Town Planning Scheme No 4 (the Scheme).

The lot has an approximate area of 1.9 hectares. It contains an existing house, and some existing outbuildings – refer location plan below.



Officer's Comment

• *Description of Proposal*

The owners propose to place two second hand sea containers on the lot to be used for general storage. Each sea container would measure 2.43 metres wide, 2.53 metres high and 6 metres long. The combined floor area of the containers is 27.6m².

A site plan is included as Attachment 1.

Both containers are blue – refer photograph in Attachment 2.

• *Residential Design Codes*

The Residential Design Codes ('the Codes') operate as a state planning policy and have two separate options for the assessment of development including 'Deemed to Comply' criteria and 'Design Principles'.

Under the Residential Design Codes there are specific 'Deemed to Comply' requirements for outbuildings. Where an application complies with the 'deemed to comply' criteria it doesn't need planning approval if ancillary to a dwelling.

This application has been assessed in accordance with the base R5 density code, and the new Residential Design Codes which become operative on the 1 September 2023.

The proposed outbuilding seeks variations to the Residential Design Codes as detailed below:

Clause 5.4.3 C3 B 'deemed to comply' criteria / Outbuildings that:	Officer Comment (TPI)
(i) individually or collectively does not exceed 60sqm in area or 10 percent in aggregate of the site area, whichever is the lesser	Variation. Based on the site there are existing outbuildings with an aggregate area of approximately 116m ² and a separate stable. The proposed outbuildings (sea containers) have a combined floor area of 27.6m ² . The combined area of all outbuildings will exceed 60m ² .
(ii) setback in accordance with Table 2a.	Complies. The required side setback is only 1 metre. The sea containers will be setback over 38 metres and 61 metres from each side lot boundary.
(iii) does not exceed a wall height of 2.4 metres	Variation. A wall height of 2.53 metres is proposed.
(iv) does not exceed a ridge height of 4.2 metres	Complies. The maximum ridge height is 2.53 metres.
(vi) not located within the primary or secondary street setback area; and	Complies.
vi) do not reduce the open space and outdoor living area requirements in table 1.	Complies.

The application proposes variations to the 'Deemed to Comply' requirements therefore the Shire has to determine if the outbuilding complies with the 'Design Principle' (5.4.3 P3) of the Codes which is:

"Outbuildings that do not detract from the streetscape or the visual amenity of residents of neighbouring properties".

The applicant has advised that the outbuilding will be partially screened by existing trees. Whilst the sea containers may be visible this is partially mitigated by the distances proposed to the street and adjacent lot boundaries.

Statutory Environment

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 sections of the Shire of Cranbrook Town Planning Scheme No 4.

Clause 61(1)(d) only exempts outbuildings from the need for planning approval where no variations to the 'deemed to comply' provisions of the Residential Design Codes are proposed.

Clause 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.

Clause 82(1) gives the local government the ability to delegate its powers to the Chief Executive Officer. Clause 82(2) requires any delegation to be by Absolute Majority.

Policy Applicable – Implications

There is no Council policy applicable to this report.

There is no State Planning Policy relevant to the application however the Western Australian Planning Commission has a Fact Sheet on Outbuildings which outlines that shipping containers are considered to be outbuildings.

The Fact Sheet states that *'depending on the dimensions and placement of a shipping container, it may be capable of meeting the deemed-to-comply requirements of the R-Codes.'*

If a local government has concerns about the appearance of this kind of outbuilding or shed, the solution is to introduce scheme provisions or a Local Planning Policy that deals with visual impacts including design, materials and finishes.'

Financial Implications

The Shire pays consultancy fees to TPI for general 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, Reputational

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

The **likelihood** is Unlikely

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

Risk mitigation includes seeking professional planning advice.

Strategic Community Plan Reference

The Shire of Cranbrook's Strategic Community Plan 2021 – 2031 states that:

Outcome 16 – High Performing Shire: An accountable and respected Shire, investing in its people and structures.

Deliverable 16.1: A Shire and supporting entities are well-governed with delineated roles and accountabilities.

Consultation

Shire Administration is advertising the application and formal advertising closes on 22 August 2023.

Consultation for the application included:

- (a) Letters to nearby and surrounding landowners;
- (b) Publication of the proposed plans on the Shire website.

At the time of writing this report, no submissions had been received.

Voting Requirements

Absolute Majority (for Delegated Authority)

OFFICER'S RECOMMENDATION

That Council:

1. Note that the application for two outbuildings (sea containers) on Lot 129 (No 41) Edward Street, Cranbrook is being advertised for public comment. Advertising closes on 22 August 2023.
2. Pursuant to Clause 82(1) and 82(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* grant (by Absolute Majority) delegated authority to the Chief Executive Officer to determine the application for two outbuildings (sea containers) on Lot 129 (No 41) Edward Street, Cranbrook.

10.2.2

PROPOSED ROAD CLOSURE – BETTES STREET, TENTERDEN

RESPONSIBLE OFFICER: Linda Gray – Chief Executive Officer
REPORT AUTHOR: Liz Bushby – Town Planning Innovations
FILE REFERENCE: R20085
APPLICANT: Shire of Cranbrook
DATE OF REPORT: 8 August 2023
ATTACHMENTS: 1. Proposed Road Closure Plan

Purpose

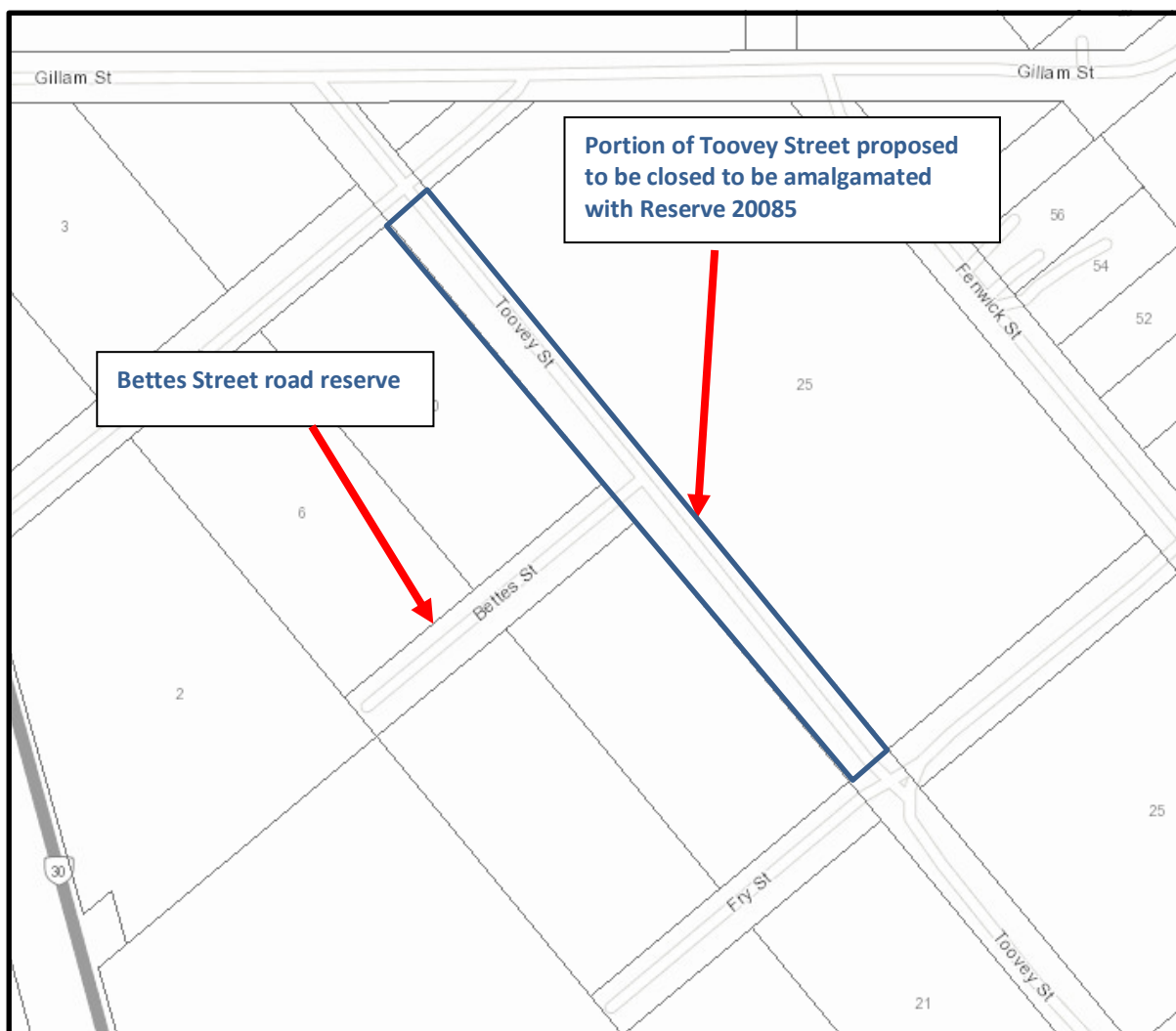
The purpose of this report is for the Council to consider resolving to close Bettes Street in Tenterden.

If the road closure is supported, the request will be lodged to the Department of Planning, Lands and Infrastructure.

Background

Council has already resolved to close several roads near the Tennis Club to enable their amalgamation with adjacent Reserves 20085 and 5546.

The road closure request is being assessed by the Department of Planning, Lands and Heritage (DPLH). DPLH has written to the Shire raising concern that the proposed Toovey Street road closure, will leave the Bettes Street road reserve isolated – refer to plan below.



Officer's Comment

The issue raised by DPLH is valid as it would be unorthodox to retain the Bettes Street road reserve in isolation, without any connectivity to other roads (once Toovey Street is closed).

The simple solution is for Council to consider closing the Bettes Street road reserve – refer to road closure plan included as Attachment 1.

The proposed road closure has been advertised for public comment, as outlined in the 'consultation' section of this report.

Council is now in a position to determine whether to proceed with the road closure.

Statutory Environment

Land Administrative Act 1997 – Part 5 deals with matters relating to public roads. The procedures for road closures are set out under Section 52.

The road closure procedure includes:

1. Initiation of advertising and formal procedures by the local government to comply with the *Land Administrative Act 1997* and *Land Administration Regulations 1998*.
2. Advertising for 35 days including a newspaper advert and letters to service authorities.

A service authority may require an easement to protect assets, or relocation of services at the applicant's expense.

3. Report to Council to consider submissions and determine whether to proceed to lodge a road closure request to the DPLH for formal consideration of the Minister of Planning, Lands and Heritage.
4. Consideration by DPLH. Acceptance by the Shire of the costs associated with the process.
5. Completion of road closure and disposal actions by DPLH, including the lodgement of a road closure order and amalgamation order for registration in Landgate.

The road closure area would need to be surveyed near the end of the process as ultimately the closed roads will need to be amalgamated with the adjacent reserves.

Land Administrative Regulations 1998 – Regulation 9 outlines information required to be lodged with a road closure request to the minister of Lands. It includes copies of Council resolutions, advertising details, submissions and Local Governments comments on submissions.

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

The Shire will be responsible for costs associated with the process including a future land survey and Landgate amalgamation / registration costs.

Risk Implications

The risks associated with matters in this report are:

- Inadequate Environmental Management
- Failure to fulfil Statutory, Regulatory or Compliance Requirements
- Inadequate Document Management Processes
- Inadequate Engagement Practices

The **impacts** of the risk are: People, Financial, Non-Compliance, Reputational, Property, Natural Environment

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

The **likelihood** is: almost certain

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

Risk mitigation includes liaising with a professional surveyor and the Department of Planning Land & Heritage.

Strategic Community Plan Reference

The 2021-2031 Shire of Cranbrook, Strategic Community Plan states that:

Key Pillar: Visit

Outcome 9 – Experiences: A well-defined and celebrated community activity program for locals and visitors.

Deliverable 9.1: A stimulus into sport and recreation participation.

Outcome 16 – High Performing Shire: An accountable and respected Shire, investing in its people and structures.

Deliverable 16.1: A Shire and supporting entities are well-governed with delineated roles and accountabilities.

Consultation

Advertising of the road closure closed on the 9 June 2023. No objections have been received.

Submissions are summarised in the table below.

Submitter	Summary of Submission	Officer Comment
Main Roads WA	Main Roads has no comment or requirements regarding this proposal.	Noted.
Water Corporation	The Water Corporation has no assets within the road reserve and therefore has no objection to the closure.	Noted.
Western Power	<p>Please check out the Planning your project section of our website – we don't actually process submissions: the information here (along with 'Dial Before You Dig') allows you to check that any work you need to do will not be impacted by proximity to our network.</p> <p>This section provides advice for Building near the electricity network and paths to take if you find that your project will encroach on electrical assets, such as booking to Speak to an engineering expert or applying for a Feasibility study.</p> <p>Local Government Authorities can review our Strategic planning information to determine if any electrical infrastructure is located.</p>	Noted.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Resolve to formally close the Bettes Street road reserve pursuant to Section 58 of the Land Administration Act 1997.**
- 2. Authorise the Chief Executive Officer to lodge a formal road closure request (for Bettes Street) to the Department of Planning, Lands and Heritage to seek Ministerial approval.**

10.2.3	PROPOSED AMALGAMATION - LOT 2 (NO 6) SALT RIVER ROAD, LOT 9 (No 82) & LOT 2 (No 84) CLIMIE STREET, CRANBROOK
RESPONSIBLE OFFICER:	Linda Gray – Chief Executive Officer
REPORT AUTHOR:	Liz Bushby – Consultant Planner (Town Planning Innovations)
FILE REFERENCE:	A107 & A147
APPLICANT:	Harley Dykstra
DATE OF REPORT:	8 August 2023
ATTACHMENTS:	Nil

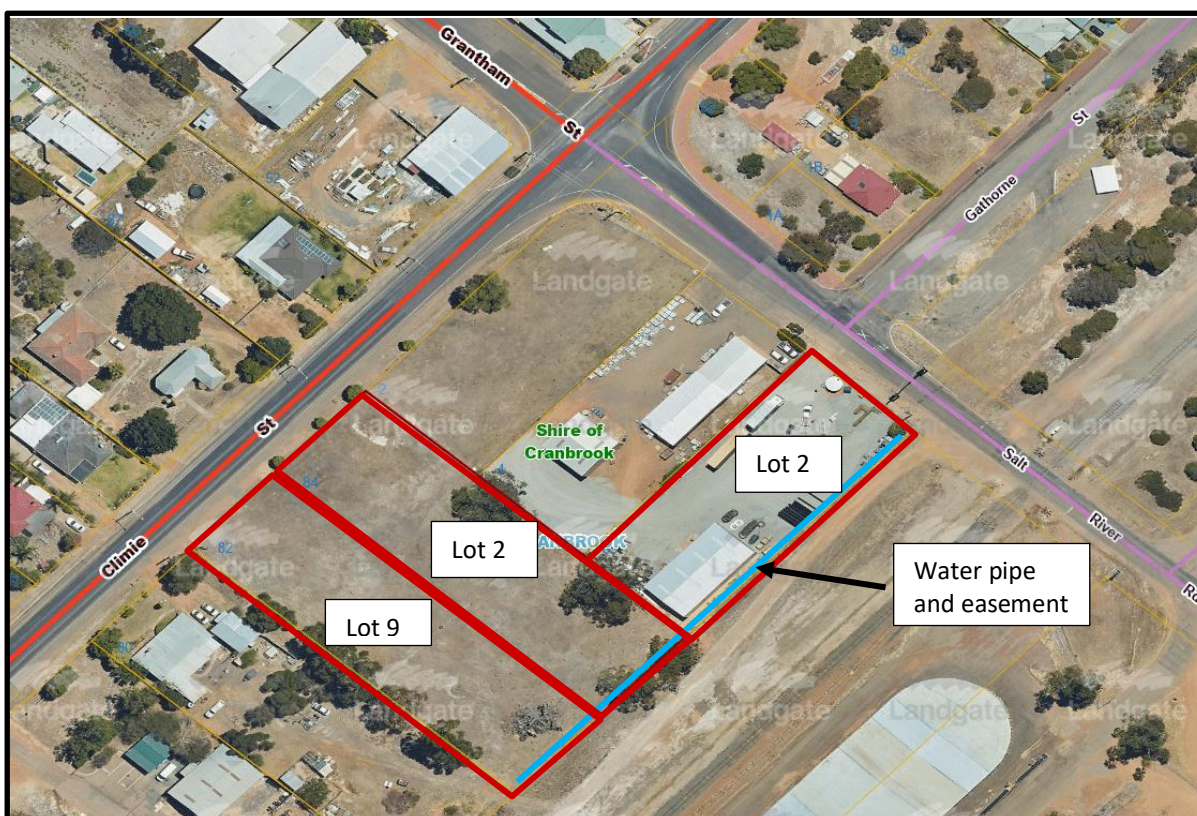
Purpose

The purpose of this report is for Council to consider an application lodged to the Western Australian Planning Commission (WAPC) to amalgamate Lot 2 (No 6) Salt River Road, Lot 9 (No 82) Climie Street and Lot 2 (No 84) Climie Street in Cranbrook.

The WAPC has requested comments from the Shire. The Commission is the determining authority.

Background

A location plan is included below.

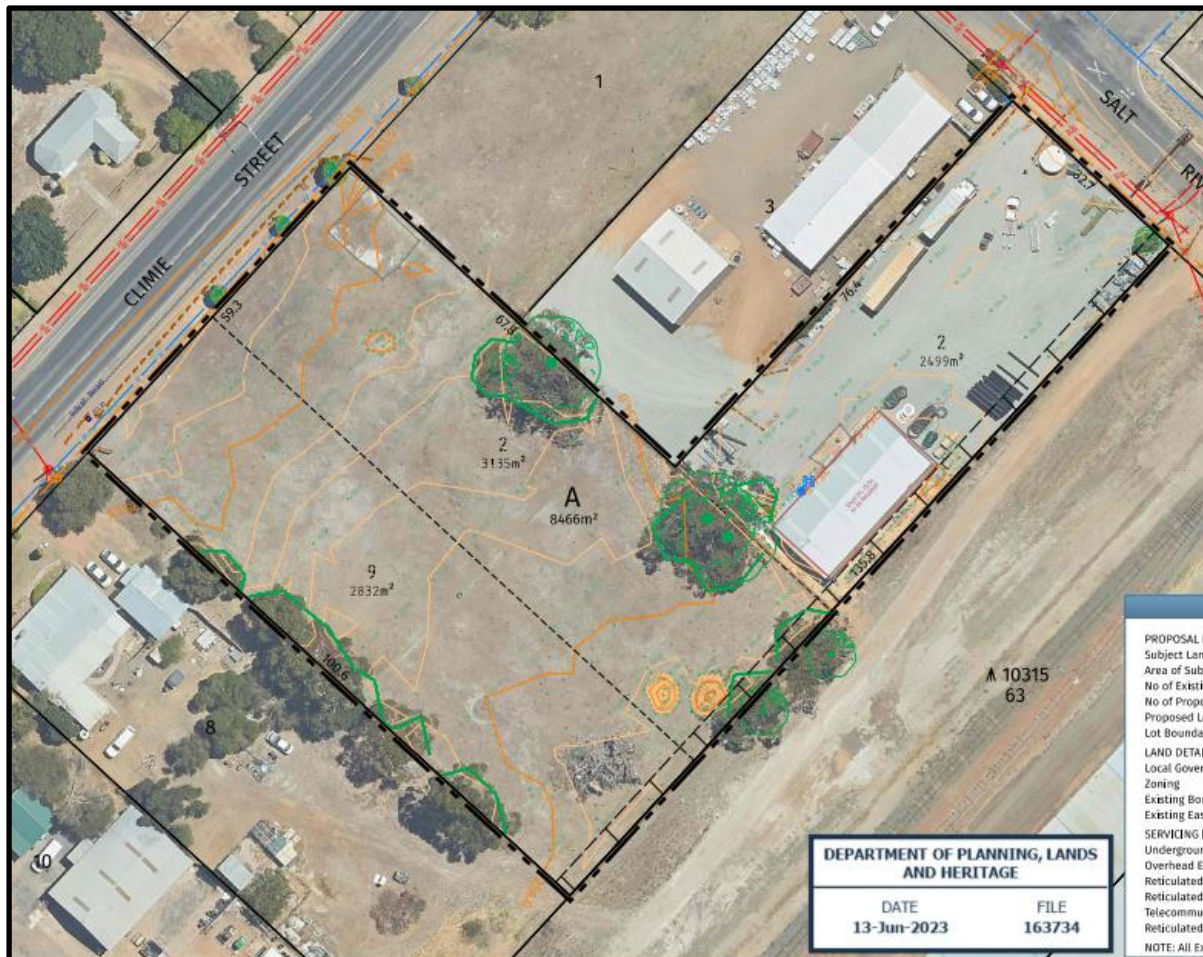


There is a 100mm water pipe along the south lot boundaries, which is protected by an easement registered on the Certificate of Title(s) of the lots.

Planning approval for a new building to be occupied by Elders who display, store and sell a wide range of agricultural related products was issued on 10 May 2023.

Officer's Comment

An application has been lodged to amalgamate the three lots which are proposed to be redeveloped for a new building for Elders.



The proposed amalgamation is supported, as it will enable all development for Elders to on one consolidated lot.

Shire of Cranbrook Town Planning Scheme No 4 – The lots are zoned Town Centre.

The objectives of the Town Centre zone are-

- to ensure the established town centres remain the principal places for retail, commercial, civic, and administrative functions.
- to ensure development will not adversely affect local amenities, and will enhance the character of townsites in the district.
- to provide for the efficient and safe movement of pedestrians and vehicles (including trucks, buses, and caravans).
- to provide sufficient parking spaces for cars, caravans, and buses, without compromising pedestrian movements.
- to provide an increased level of public amenities including public toilets, shaded areas, and street furniture.
- to provide for expansion of commercial activity and community facilities to meet future demands.

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

The Shire pays consultancy fees to TPI for general 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, Reputational

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

The **likelihood** is Unlikely

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

Risk mitigation includes seeking professional planning advice.

Strategic Community Plan Reference

The Shire of Cranbrook's Strategic Community Plan 2021 – 2031 states that:

Outcome 16 – High Performing Shire: An accountable and respected Shire, investing in its people and structures.

Deliverable 16.1: A Shire and supporting entities are well-governed with delineated roles and accountabilities.

Consultation

The Western Australian Planning Commission has referred the application to the Shire of Cranbrook, Western Power, Water Corporation, Public Transport Authority, Main Roads WA, and the Department of Biodiversity, Conservation and Attraction.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. **Resolve to support the application to amalgamate Lot 2 (No 6) Salt River Road, Lot 9 (No 82) Climie Street and Lot 2 (No 84) Climie Street in Cranbrook (WAPC Reference: 163734) subject to the following condition and footnotes:**

- (a) **An easement as required by the local government for a water pipeline being shown on the diagram or plan of survey (deposited plan) for the amalgamated lot, be granted free of cost, and vested in the local government under Sections 152 and 167 of the Planning and Development Act 2005. (Local Government).**

Footnote:

- (i) **There is an easement on the existing Certificate of titles for protection of a water pipeline. The Shire requests a new easement be placed on the Certificate of title(s) of the amalgamated lot.**
2. **Authorise the Chief Executive Officer notify the Western Australian Planning Commission of the Council decision.**

10.2.4

REVIEW OF LOCAL LAWS

RESPONSIBLE OFFICER:	Linda Gray – Chief Executive Officer
REPORT AUTHOR:	Chris Liversage – Conway Highbury Consultancy Pty Ltd
FILE REFERENCE:	LEO
APPLICANT:	N/A
DATE OF REPORT:	8 August 2023
ATTACHMENTS:	Nil

Purpose

The purpose of this report is for Council to authorise the Chief Executive Officer to initiate the advertising process as is required for the Shire of Cranbrook's Local Law review. This involves a process of calling for public comment, after which any changes required can then be made or redundant local laws repealed.

Background

Section 3.16 of the Local Government Act 1995 requires local governments to undertake a review of their local laws every eight years. The Shire of Cranbrook's Local Laws are due for review. The Shire has in place a number of local laws:

- Bush Fire Brigades Local law 2002;
- Standing Orders Local Law 2002;
- Dogs Local Law 2002;
- Local Government Property 2002;
- Cemeteries Local Law 2001;
- Activities on Thoroughfares and Trading in Thoroughfares and Public Places 2002; and
- Health Local Law 1998.

These local laws are over 20 years old, and while still functional require a number of amendments to ensure they reflect changes to other legislation since made.

Officer's Comment

A more in depth assessment can be made while the s3.16 process is underway but on face value a number of changes are required. For example:

1. Dog exercise areas are now established by a council resolution and local public notice not by local law;
2. Cats are regulated under the Cat Act rather than the Public Health Act;
3. A number of local government have introduced a cut down version of Bush Fire Brigades Local Laws that deal only with what the Bush Fires Act requires must be dealt with by local laws; and
4. Local laws relating to rubbish collection, removal and disposal are now dealt with under the Waste and Resource Recovery Act under which the Shire should consider making a Waste Local Law.

In addition, the Minister for Local Government has announced that the State intends to make a Regulation about meeting procedures. This may become clearer as amendments to the Local Government Act currently underway progress through Parliament and depending on timing, amendments to the Shire's Standing Orders may not be necessary.

Statutory Environment

Section 3.16 of the Local Government Act 1995 provides that

3.16. Periodic review of local laws

(1) Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.

(2) The local government is to give local public notice stating that —

(a) the local government proposes to review the local law; and

(b) a copy of the local law may be inspected or obtained at any place specified in the notice; and

(c) submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.

(3) After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.

(4) When its council has considered the report, the local government may determine whether or not it considers that the local law should be repealed or amended.*

** Absolute majority required.*

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

Given the specialised nature of this project, the Shire has engaged Chris Liversage of Conway Highbury Consulting Pty Ltd to assist with this project. The estimated cost to initiate the s3.16 review, advertise it for public comment, and report the outcomes to council is \$880 plus GST.

Depending on the outcome of the review, further costs estimated at \$6,720 plus GST to make the above amendments to the Shire's local laws plus any advertising and Gazettal costs. Funds are included in the 2023/2024 Annual Budget for this project.

Risk Implications

The risks associated with matters in this report are:

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

The **impacts** of the risk are: People, Financial, Non-Compliance, Reputational, Property, Natural Environment.

The **consequences** of these risks are considered to be Moderate.

The **likelihood** is: Rare.

Hence the **risk rating** for this report is: Low.

Risk mitigation includes simply dealing with the Shire's obligations to undertake the s3.16 review, and then implementation of any required changes.

Strategic Community Plan Reference

The Shire of Cranbrook's Strategic Community Plan 2021 – 2031 states that:

Outcome 16 – High Performing Shire: An accountable and respected Shire, investing in its people and structures.

Deliverable 16.1: A Shire and supporting entities are well-governed with delineated roles and accountabilities.

Consultation

The results of any feedback from the community about the Shire's local laws must be considered, after which the Shire can make any required amendments to local laws.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Gives local public notice that the Shire proposes to review its local laws under s3.16 of the Local Government Act 1995;
2. Notes that a copy of the local laws may be inspected or obtained at the Shire offices or from its website;
3. Advises that submissions about the local laws may be made to the Shire before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and
4. Notes that the results of the above advertising are to be presented to Council for consideration of any submissions received.

10.3 WORKS

Nil

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

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

13. MATTERS BEHIND CLOSED DOORS

*** CONFIDENTIAL ***

13.1 REVIEW - POLICY 1.19 CYBER SECURITY

RESPONSIBLE OFFICER: Linda Gray – Chief Executive Officer
REPORT AUTHOR: Linda Gray – Chief Executive Officer
FILE REFERENCE: AD201
APPLICANT: N/A
DATE OF REPORT: 31 July 2023
ATTACHMENTS: Confidential Attachment

Statutory Environment

Section 5.23 of the Local Government Act 1995 allows the Council to close all or part of a Council Meeting to members of the public if the meeting or the part of the meeting deals with a range of issues, dealing with any of the following; (a) a matter affecting an employee or employees; (b) the personal affairs of any person; (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; (e) a matter that if disclosed, would reveal — (i) a trade secret; (ii) information that has a commercial value to a person; or (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; (f) a matter that if disclosed, could be reasonably expected to — (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; (ii) endanger the security of the local government's property; or (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety; (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and (h) such other matters as may be prescribed.

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

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

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

That the meeting be closed to members of the public in accordance with section 5.23 (f) a matter that if disclosed, could be reasonably expected to — (ii) endanger the security of the local government's property.

Voting Requirements

Absolute Majority

AUDIT COMMITTEE RECOMMENDATION

That Council adopt the revised Policy 1.19 Cyber Security as per the confidential attachment.

OFFICER'S RECOMMENDATION

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

14. CLOSURE OF MEETING

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