

COUNCIL MEETING

MINUTES



For the Ordinary Meeting of Council held

18 October 2023



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.

ATTENTION/DISCLAIMER

These minutes will be confirmed at the next Ordinary Council Meeting. The minutes 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.

No responsibility whatsoever is implied or accepted by the Shire of Cranbrook for any act, omission, statement or intimation occurring during Council or Committee meetings.

The Shire of Cranbrook disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement of intimation occurring during Council or Committee meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or Officer of the Shire of Cranbrook during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Cranbrook.

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.

The Shire of Cranbrook advises that any plans or documents contained within these minutes may be subject to copyright law provisions (Copyright Act 1968, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction. It should be noted that Copyright owners are entitled to take legal action against any persons who infringe their copyright. A reproduction of material that is protected by copyright may represent a copyright infringement.

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MINUTES

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President, Cr Horrocks as Presiding Member declared the meeting open at 3.04pm. 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 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 DM (Daisy) Egerton-Warburton
	Cr P (Perin) Mulcahy

Chief Executive Officer	Ms LA (Linda) Gray
Acting Manager of Finance	Miss CR (Chelsea) Paterson
Executive Officer	Miss JL (Jo) Scott

Members of the Public	Trish Standish
	Twynam Cunningham
	Colin Egerton-Warburton
	Jan Pope
	Mal Humble
	Hilary Watterson
	Bill Waldron

2.2 APOLOGIES

Nil

2.3 APPROVED LEAVE OF ABSENCE

Cr LM (Lee) Casson – 18 October 2023

3. ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

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

Mrs Jacqueline Lange
Mr William Neil

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

As today's Council meeting is the final Ordinary Council Meeting for retiring Shire President, Cr Phil Horrock and Cr Peter Beech, members of the public took this opportunity to thank and express their appreciation for the commitment to community and dedication to the role the two exiting Councillors have shown in their time as Shire of Cranbrook Councillors.

5. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Hilary Watterson and Bill Waldron, members of the Darwinia Cottages Cranbrook Committee Inc. gave a presentation to the Council.

Halary and Bill left the Council Chambers at 3.19pm.

6. APPLICATIONS FOR LEAVE OF ABSENCE**Motion 01102023**

Moved Cr Egerton-Warburton, seconded Cr Pollard that Cr Casson be granted a leave of absence for the Ordinary Council meeting held 18 October 2023.

CARRIED 8/0

For	Against	Abstained	Absent
Cr Horrocks Cr Pollard Cr Beech Cr Slater Cr Quick Cr Johnson Cr Egerton-Warburton Cr Mulcahy	Nil	Nil	Cr Casson

Motion 02102023

Moved Cr Beech, seconded Cr Mulcahy that Cr Slater be granted a leave of absence for the Ordinary Council meeting to be held 15 November 2023.

CARRIED 8/0

For	Against	Abstained	Absent
Cr Horrocks Cr Pollard Cr Beech Cr Slater Cr Quick Cr Johnson Cr Egerton-Warburton Cr Mulcahy	Nil	Nil	Cr Casson

7. DISCLOSURE OF INTEREST

Nil

8. MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**9.1 ORDINARY MEETING – 20 September 2023****Motion 03102023**

Moved Cr Slater, seconded Cr Mulcahy that the minutes from the ordinary meeting of Council held on 20 September 2023 be confirmed as a true and correct record.

CARRIED 8/0

For	Against	Abstained	Absent
Cr Horrocks Cr Pollard Cr Beech Cr Slater Cr Quick Cr Johnson Cr Egerton-Warburton Cr Mulcahy	Nil	Nil	Cr Casson

10. REPORTS OF OFFICERS

10.1 CORPORATE AND COMMUNITY SERVICES

10.1.1 LIST OF PAYMENTS

RESPONSIBLE OFFICER:	Chelsea Paterson – Acting Manager of Finance
REPORT AUTHOR:	Madeleine Hammond – Finance Officer
FILE REFERENCE:	FM2
APPLICANT:	N/A
DATE OF REPORT:	02/10/2023
ATTACHMENTS:	List of Payments – 1 September to 30 September 2023

Purpose

The purpose of this report is to advise the Council of payments made during the period 1 September to 30 September 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/COUNCIL DECISION**Motion 04102023**

Moved Cr Johnson, seconded Cr Pollard that the payment of accounts totalling \$396,967.02 as per the attachment be noted:

- Electronic Funds Transfers EFT 14561 to EFT 14644 - \$199,974.34;
- Internal Account Transfers (Payroll) - \$153,893.04; and
- Direct Debit - \$43,099.64.

CARRIED 8/0

For	Against	Abstained	Absent
Cr Horrocks Cr Pollard Cr Beech Cr Slater Cr Quick Cr Johnson Cr Egerton-Warburton Cr Mulcahy	Nil	Nil	Cr Casson

10.1.2 MONTHLY FINANCIAL REPORT – SEPTEMBER 2023

RESPONSIBLE OFFICER: Diana Marsh – Manager of Finance
REPORT AUTHOR: Chelsea Paterson - Acting Manager of Finance
FILE REFERENCE: FM12
APPLICANT: N/A
DATE OF REPORT: 11/10/2023
ATTACHMENTS: Financial Statements for September 2023

Purpose

The purpose of this report is to present the financial position of the Shire of Cranbrook as at 30 September 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 September 2023 Monthly Financial Report represents three (3) months of the financial year. The following items are worthy of noting on the September 2023 report:

- Closing surplus position of \$4,733,820 (shown on page 2).
- Cash and cash equivalents of \$7,865,236 of which \$3,170,115 is held in cash backed reserve accounts (shown on page 10)
- Outstanding rates of \$103,275 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/COUNCIL DECISION**Motion 05102023**

Moved Cr Egerton-Warburton, seconded Cr Johnson that the attached Monthly Financial Report (containing the Statement of Financial Activity) for the period ending 30 September 2023 be received.

CARRIED 8/0

For	Against	Abstained	Absent
Cr Horrocks Cr Pollard Cr Beech Cr Slater Cr Quick Cr Johnson Cr Egerton-Warburton Cr Mulcahy	Nil	Nil	Cr Casson

10.2 GOVERNANCE AND EXECUTIVE SERVICES

10.2.1 PLANNING APPLICATION – PROPOSED OUTBUILDING – LOT 125 (No 12) HOVEA COURT, FRANKLAND RIVER

RESPONSIBLE OFFICER: Linda Gray - Chief Executive Officer
REPORT AUTHOR: Liz Bushby, Town Planning Innovations (TPI)
FILE REFERENCE: A1220
APPLICANT: David Bradshaw and Natasha Robb
DATE OF REPORT: 4 October 2023
ATTACHMENTS: Nil

Purpose

The purpose of this report is to inform Council of an application for an outbuilding on Lot 125 (No 12) Hovea Court, Frankland River.

The application is being advertised for public comment until 13 October 2023, therefore Council is requested to consider granting delegated authority to the Chief Executive Officer to determine the application.

Background

Lot 125 is vacant and has an approximate area of 10.25 hectares.

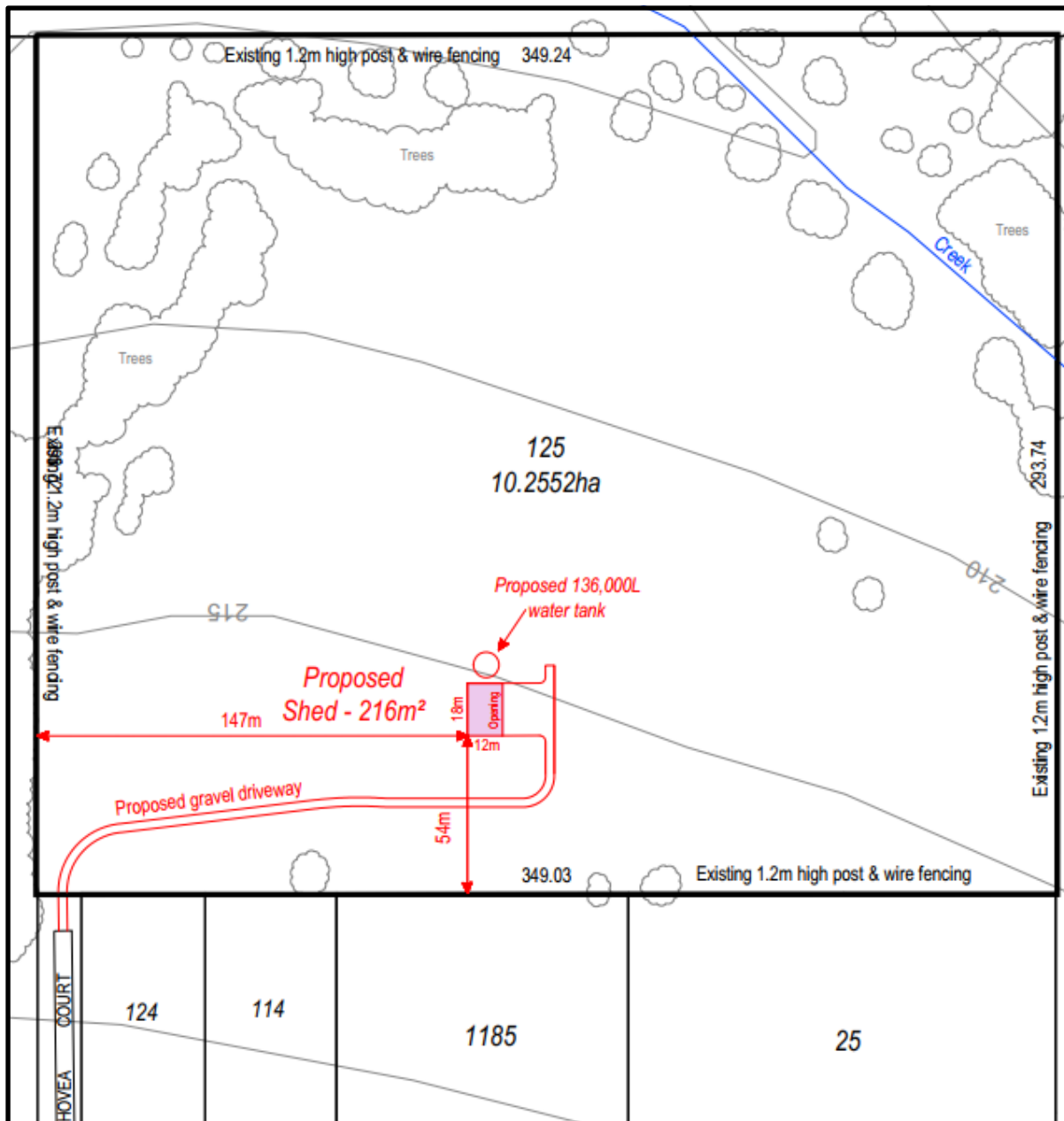


Location plan

Officer's Comment

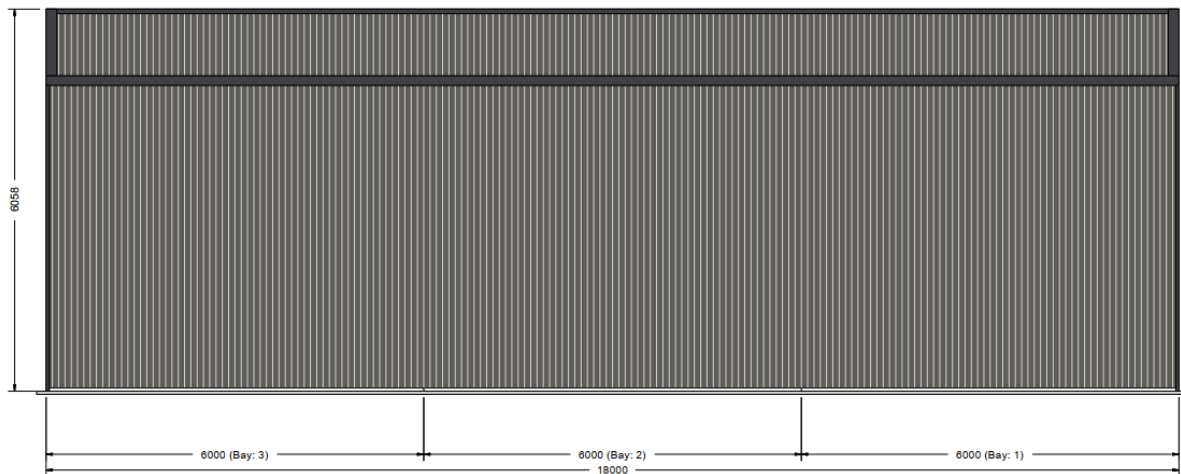
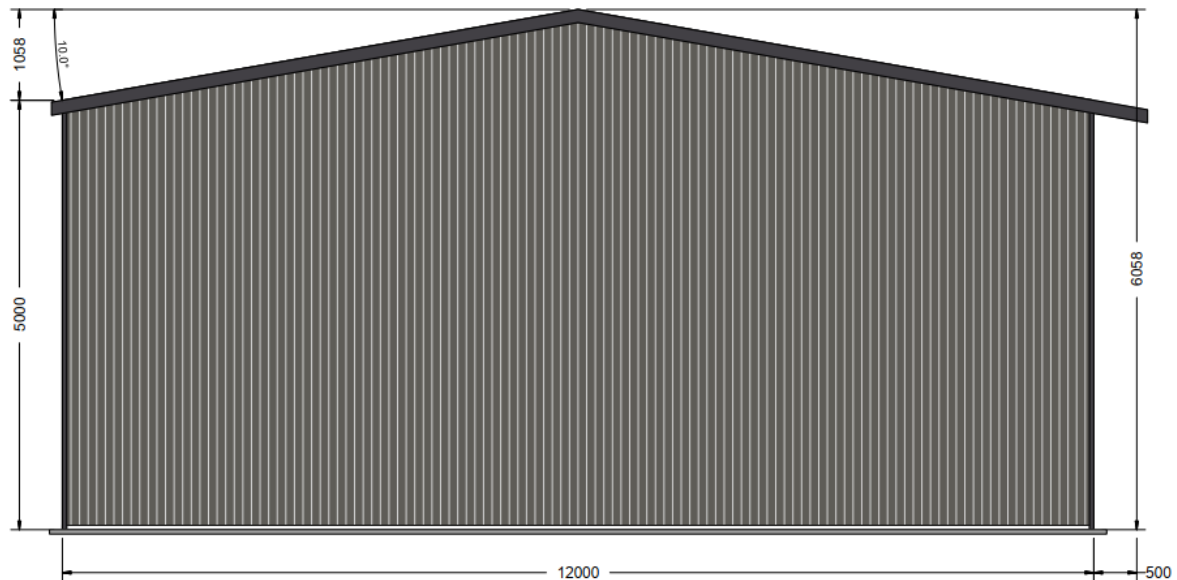
• **Description of Proposed Development**

The owners of Lot 125 propose to construct a 216m² outbuilding and associated 136,000 litre water tank on the southern portion of the property.



The outbuilding will have a wall height of 5 metres, and a total height of 6.058 metres to the peak of the gable roof.

Elevations are included over page.



Statutory Environment

Planning and Development (Local Planning Schemes) Regulations 2015 –

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.

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.

Shire of Cranbrook Town Planning Scheme No 4 –

The lot is zoned Rural under the Shire of Cranbrook Town Planning Scheme No 4.

Under Clause 5.20.1 a minimum front/rear setback of 20 metres is required, and a minimum 10 metre side setback is required. The development complies with the setback requirements.

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 **impacts** of the risk are: Non-Compliance

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

The **likelihood** is: Unlikely

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

Risk mitigation includes seeking professional planning advice.

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

The application is being advertised for public comment, which closes on 13 October 2023.

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

Voting Requirements

Absolute Majority (for delegated authority)

OFFICER'S RECOMMENDATION/COUNCIL DECISION**Motion 06102023**

Moved Cr Beech, seconded Cr Slater that Council grant (by Absolute Majority) delegated authority Pursuant to Clause 82(1) and 82(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* to the Chief Executive Officer to determine the application for an outbuilding on Lot 125 (No 12) Hovea Court, Frankland River.

CARRIED 8/0
By Absolute Majority

For	Against	Abstained	Absent
Cr Horrocks Cr Pollard Cr Beech Cr Slater Cr Quick Cr Johnson Cr Egerton-Warburton Cr Mulcahy	Nil	Nil	Cr Casson

10.2.2	PLANNING APPLICATION - PROPOSED SINGLE HOUSE – LOT 123 (NO 6) BREWER STREET, TENTERDEN
RESPONSIBLE OFFICER:	Linda Gray – Chief Executive Officer
REPORT AUTHOR:	Liz Bushby – Consultant Planner (Town Planning Innovations)
FILE REFERENCE:	A990
APPLICANT:	WA Building and Maintenance
DATE OF REPORT:	11 October 2023
ATTACHMENTS:	Nil

Purpose

The purpose of this report is for Council to consider a development application for a single house on Lot 123 (No 6) Brewer Street, Tenterden.

Background

Lot 123 is zoned 'Rural Residential' under the Shire of Cranbrook Town Planning Scheme No 4 (the Scheme). All development in the Rural Residential zone requires planning approval.

The lot has an approximate area of 1.73 hectares.



Above: Location Plan showing Lot 123 (in red outline)

The lot has been developed with outbuildings and several water tanks.

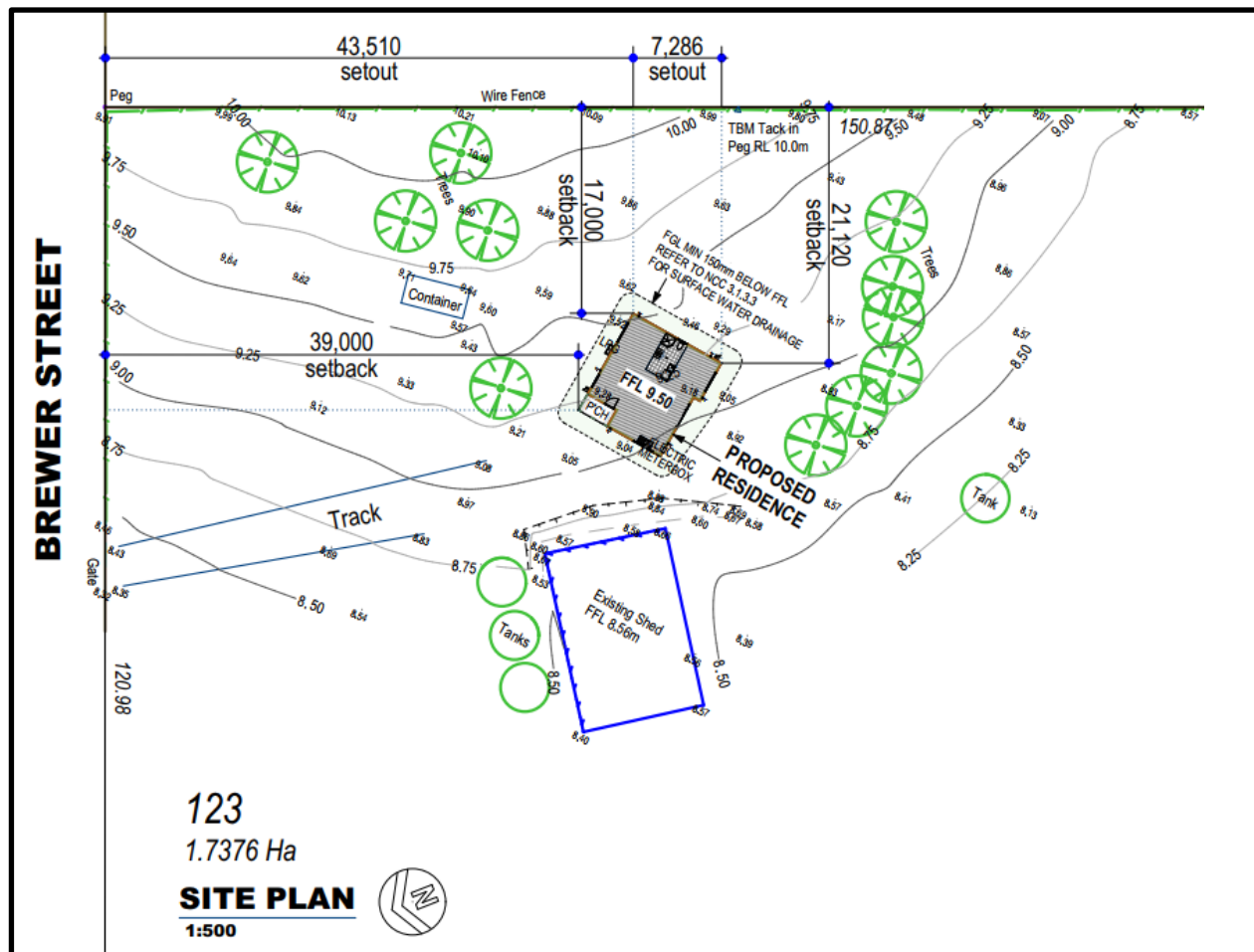


Officer's Comment

- ***Description of Proposal***

A planning application has been lodged for a single storey 2 bedroom dwelling.

A partial site plan is included below.



- **Setbacks**

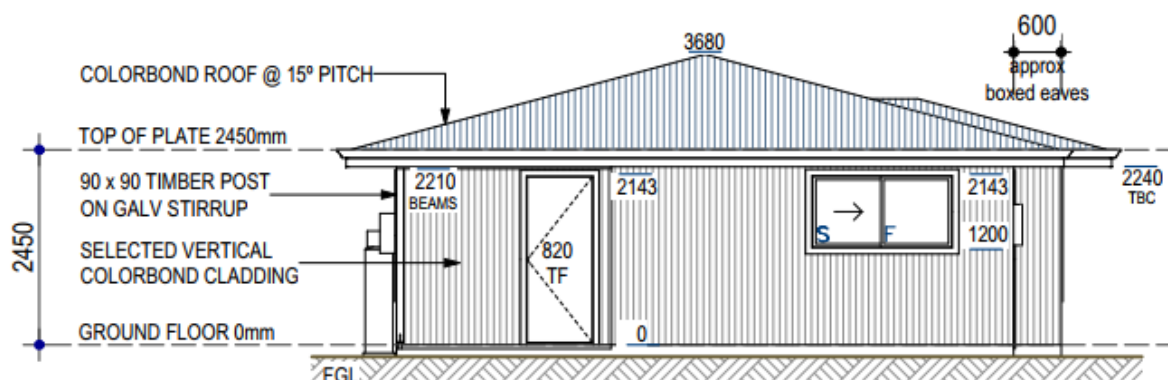
The Scheme requires a front setback of 30 metres and a 10-metre setback to any side and rear lot boundaries.

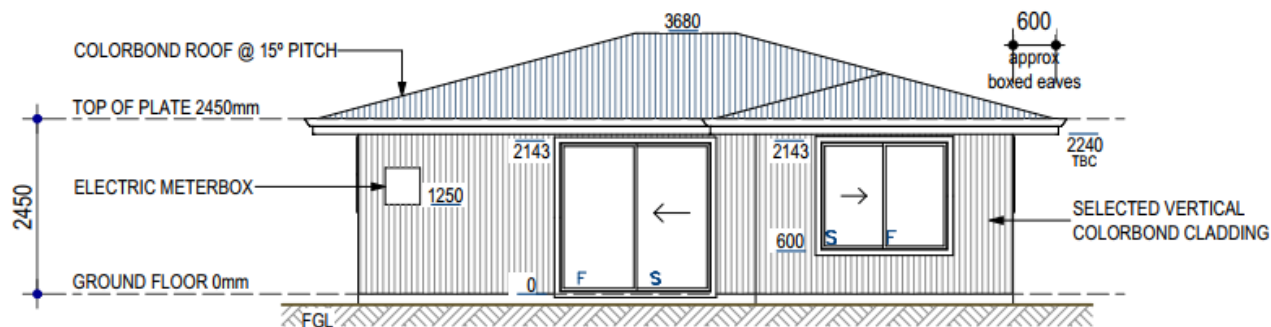
The application complies with the minimum setback requirements. The house is proposed to be setback approximately 39 metres from the Brewer Street lot boundary and over 17 metres from the nearest eastern side boundary.

- **Materials**

The walls and roof are proposed to be constructed out of colorbond.

The front and rear elevations are included below.





• **State Planning Policy 3.7 : Planning for Bushfire Prone Areas**

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).

The Shire has a mandatory obligation to consider SPP3.7 when making a decision on any application where the lot is within a designated bushfire prone area.

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

Mapping identifying Bushfire Prone Areas is available through the Department of Fire and Emergency Services website. Lot 123 is within the declared bushfire prone area.

Under the WAPC Bushfire Guidelines all planning applications in Bushfire Prone Areas are to be accompanied by a BAL (Bushfire Attack Level) assessment.

A Bushfire Attack Level (BAL) assessment has been lodged with the application, and BAL-29 can be achieved for the dwelling, which is acceptable under current bushfire policy requirements. The BAL rating determines the level of higher construction standards applied at the separate Building Permit stage.

Additional guideline requirements are assessed and summarised in the table below.

Summary of Bushfire Guideline Requirements	Officer Comment
Driveways to have a minimum trafficable driveway width of 4 metres with a 6 metre horizontal clearance.	There is a clear defined existing gravel driveway with good access all the way around the existing outbuilding, which will also service the proposed dwelling. The driveway is not more than 70 metres from Brewer Street, so no passing bays are required.
A 10, 000 litre water supply dedicated to firefighting purposes is required.	There are two 27,500 litre tanks, one with a camplock fitting, adjacent to the existing outbuilding. The existing tank is accessible for fire vehicles as it is adjacent to a driveway. The applicant has also advised that the owners will construct a new water tank adjacent to the proposed dwelling.

Shire of Cranbrook Town Planning Scheme No 4 –

Clause 5.18.4 sets out development requirements and states:

‘To achieve a high standard of development within a Rural-Residential zone, and to minimise the visual impacts of development the local government will have regard to the following:

- a) the colour and texture of external building materials;*
- b) building size, height, bulk, and roof pitch;*
- c) setback and location of the building on its lot;*
- d) architectural style and design details of the building;*
- e) relationship to surrounding development; and f) other characteristics considered by the local government to be relevant.’*

Schedule 11 requires a dwelling to be provided with a rainwater tank with a minimum capacity of 90 kilolitres, and for a water supply tank to have camlock fittings providing access to some of the tank capacity for fire fighting.

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 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 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 **impacts** of the risk are: Non-Compliance

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

The **likelihood** is: Unlikely

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

Risk mitigation includes seeking professional planning advice.

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.

Consultation

Nil

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION/COUNCIL DECISION**Motion 07102023****Moved Cr Mulcahy, seconded Cr Quick that Council:****A. Approve the application for a single house and associated works (water tank) on Lot 123 (No 6) Brewer Street, Tenterden subject to the following conditions and footnotes:**

- 1. Provision to made for one water tank accessible from a driveway to maintain a minimum of 10 kilolitres of water dedicated to fire fighting. The water tank to be fitted with 50mm male camlock coupling with a full flow valve.**
- 2. The plans lodged with this application shall form part of this planning approval. All development shall generally be in accordance with the approved plans unless otherwise approved separately in writing by the Chief Executive Officer.**
- 3. All driveway, turnaround areas and water tank(s) shall be always maintained to the satisfaction of the Shire Chief Executive Officer.**
- 4. The Bushfire Attack Level Assessment Report prepared by Structerre Consulting Engineers (11 May 2023 V1) together with any requirements and recommendations detailed thereon, are approved as part of this application and shall form part of the development approval issued. The owners shall implement the recommendations of the Bushfire Attack Level Assessment Report.**
- 5. 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 road reserve unless otherwise approved in writing by the Chief Executive Officer.**
- 6. 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.**

Footnotes:

- (i) It is important to comply with Condition 1 prior to occupation of the new dwelling. Condition 1 can be satisfied by ensuring an existing water tank (near the outbuilding) is maintained with a minimum of 10,000 litres dedicated for firefighting, or through construction of a new water tank.**
- (ii) The owners are advised that they need to apply to the Shire for separate approval for the installation of any on site effluent disposal.**

CARRIED 8/0

For	Against	Abstained	Absent
Cr Horrocks Cr Pollard Cr Beech Cr Slater Cr Quick Cr Johnson Cr Egerton-Warburton Cr Mulcahy	Nil	Nil	Cr Casson

10.2.3 REQUEST FOR ROAD CLOSURE – FRANKLAND RURAL

RESPONSIBLE OFFICER: Linda Gray – Chief Executive Officer
REPORT AUTHOR: Liz Bushby – Town Planning Innovations
FILE REFERENCE: A353
APPLICANT: Shire of Cranbrook
DATE OF REPORT: 11 October 2023
ATTACHMENTS: Objection to Option 4 road closure plan

Purpose

The purpose of this report is for Council to consider a written request seeking the closure of unmade roads adjacent to Frankland Rural in the Frankland River.

Background

- Location**

Frankland Rural is an established business located on Lot 77 (No 1) Trent Road in Frankland River townsite.

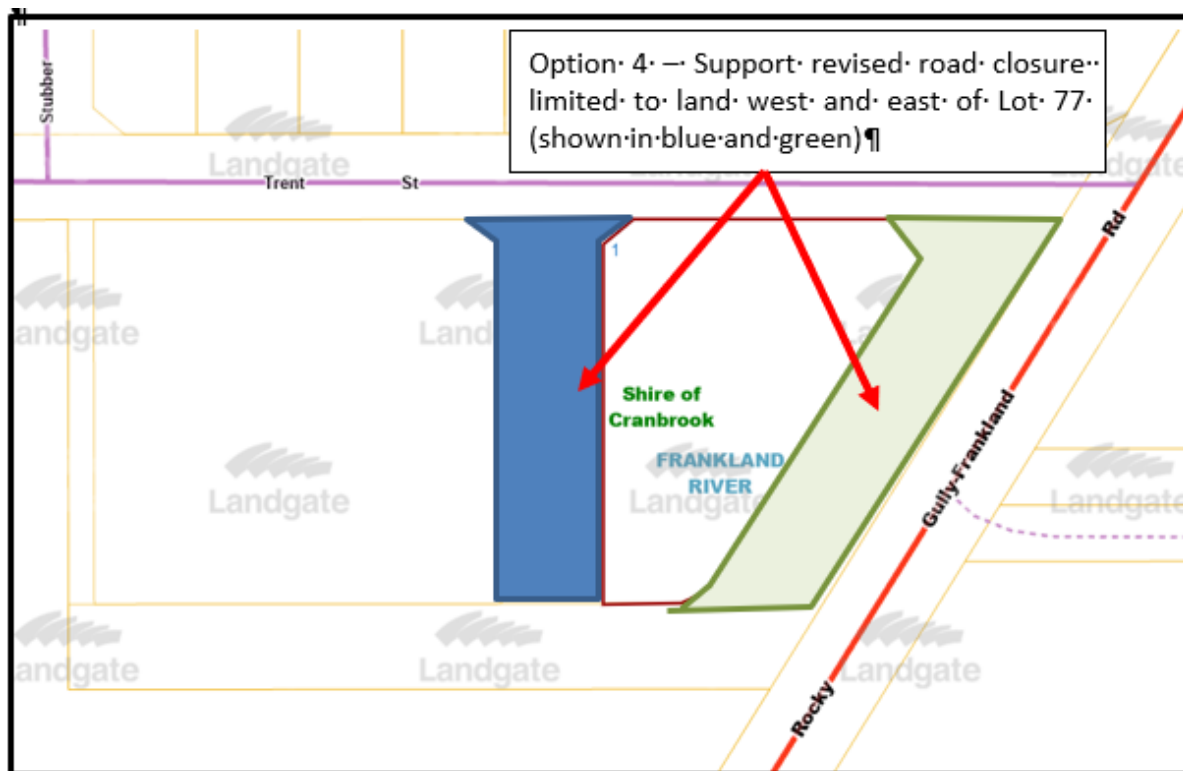


- Road Closure Request and Council Briefing Session**

The owners of Lot 77 lodged a written request on 8 May 2023 seeking the Shires support for the closure of two unconstructed public roads adjacent to their property.

The location and size of unmade road reserves adjacent to Lot 77 meant there were several options that Council could consider.

Four options were discussed at a pre-Council briefing in May 2023. Council favoured Option 4 which was a revised road closure plan limited to land to the west and east of Lot 77.



- Preliminary Consultation**

The proposed 'Option 4' road closure was advertised informally to gain feedback from the wider local community.

Advertising included placing a Public Notice on the Shires website and at the Frankland River Community Resource Centre. Four advertising signs were also erected to face both Trent Street and Rocky Gully Frankland Road.

Owners of land opposite the 'blue' unmade road reserve lodged an objection to that part of the road closure based on:

- When they purchased the property one of the features that influenced their decision was it's location and views looking towards the woodland on the southern side of Trent Street.
- They highly value the view of existing bushland, and were of the understanding that it may form part of a larger area being made into a nature reserve.
- There is a large number of orchid species in this area and nearby golf course.
- They advise they contacted the Shire prior to purchasing their property, and were assured that Frankland Rural would not expand to the west.
- They raise concern over clearing and replacement of bush views with a noisy, busy and visually unappealing business.
- They are opposed to the 'blue' portion of the road closure being cleared of woodland that they value for its habitats, flora, wildlife and its intrinsic natural beauty.

A full copy of the submission is included as Attachment 1.

Officer's Comment

A portion of the unconstructed road to the east of Lot 77 is cleared, however part of the west road reserve is vegetated.

Part of the character of the Frankland River townsite is its leafy streets and rural amenity.

It is clear that one affected local resident has high expectations that their existing amenity and the bushland near their lot would be retained in the longer term.

Whilst it is open to Council to initiate a road closure based on the 'Option 4' map, TPI recommends that road closure procedure only be initiated for the road reserve to the east of Lot 77.

This provides a compromise between the needs of an important local business, and a local resident who values the amenity provided by existing bushland. If there is highly valued native vegetation on vacant crown land in this area, there is potential that some of those species, such as orchids, may also be within the road reserve west of Lot 77.

- ***Options Available to Council***

Option 1 – Support the 'Option 4' road closure

The owners of Frankland Rural have confirmed that they would like to proceed with the 'Option 4' road closure plan.

If Council supports the written road closure request 'as is' then it can:

- "1. *Resolve to formally initiate advertising procedures to advise of the intention to potentially close portions of unconstructed road reserve to the immediate west and east of Lot 77 pursuant to Section 58 of the Land Administration Act 1997.*

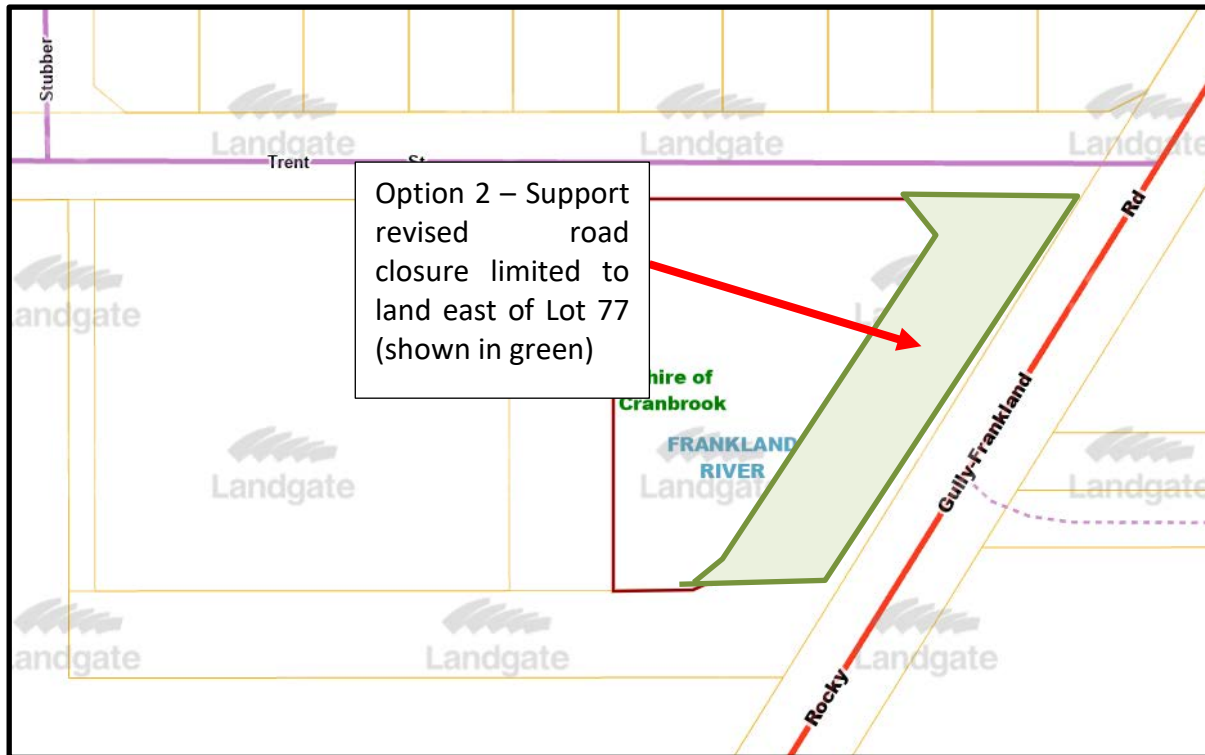
Advertising shall be for a minimum of 35 days and shall include a:

- Notice in a local newspaper;*
 - Notice on Shire Public Noticeboard and website;*
 - A3 advertising signs visible from Trent Street and Rocky Gully Frankland Road.*
 - Letters to relevant service authorities; and*
 - Letters to nearby local residents.*
2. *Authorise the Chief Executive Officer to advertise the proposed road closures to action the Council resolution."*

Option 2 – Support a revised road closure proposal (east road only)

If Council seeks to uphold the written objection received during preliminary advertising and maximise retention of existing vegetation which forms part of the existing streetscape and character of Frankland River townsite, a revised proposal may be supported that:

- A. Allows closure of part of the public road to the immediate east of Lot 77; and
- B Retains the existing vegetated road reserve to the west of a Lot 77 (as depicted in the plan over page).



TPI supports Option 2 as outlined in the Officer Recommendation.

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 formal 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.
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 road(s) will need to be amalgamated with Lot 77.

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.

Shire of Cranbrook Town Planning Scheme No 4 – Lot 77 is zoned ‘Town Centre’ and the adjacent unconstructed roads are ‘Local Scheme Reserves’ for ‘roads’ on the zoning map.

If any roads are closed and amalgamated with Lot 77, then the scheme would need to be amended to zone the closed roads as ‘Town Centre’. The owners of Lot 77 have advised that they will pursue a scheme amendment in the future if a road closure proceeds.

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

The Shire pays consultancy fees to TPI for advice. The owners of Lot 77 are willing to pay the costs associated with the road closure process.

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: Financial, Non-Compliance, Reputational, Property, Natural Environment

The **consequences** of these risks are considered to Minor (as the final steps of the road closure process is by the Department of Planning, Lands and Heritage).

The **likelihood** is: minor

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

Risk mitigation included conducting preliminary informal consultation with the local community.

Strategic Community Plan Reference

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

Key Pillar: Visit

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

Outlined in the background section of this report.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION**Moved Cr Johnson, seconded Cr Pollard that Council:**

1. Note that the 'Option 4' road closure plan was advertised informally. Advertising closed on 25 August 2023 and one objection was received – refer Attachment 1.
2. Resolve to formally initiate advertising procedures to advise of the intention to potentially close a portion of unconstructed road reserve to the immediate east of Lot 77 pursuant to Section 58 of the Land Administration Act 1997.

Advertising shall be for a minimum of 35 days and shall include a:

- i) Notice in a local newspaper;
 - ii) Notice on Shire Public Noticeboard and website;
 - iii) A3 advertising signs visible from Trent Street and Rocky Gully Frankland Road;
 - iv) Letters to relevant service authorities; and
 - v) Letters to nearby local residents.
3. Authorise the Chief Executive Officer to advertise the proposed road closures to action the Council resolution.

AMENDED MOTION/COUNCIL DECISION**Motion 08102023**

Moved Cr Slater, seconded Cr Egerton-Warburton that this item be deferred to a future Council meeting to allow the Chief Executive officer to engage with the applicant regarding a change of option.

CARRIED 8/0

For	Against	Abstained	Absent
Cr Horrocks Cr Pollard Cr Beech Cr Slater Cr Quick Cr Johnson Cr Egerton-Warburton Cr Mulcahy	Nil	Nil	Cr Casson

Reason for Change

Advice was received that Frankland Rural wished to change their choice of options, for that reason Council agreed to defer the matter to a future Council Meeting.

10.3 WORKS

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

Nil

13. MATTERS BEHIND CLOSED DOORS

Nil

14. CLOSURE OF MEETING

There being no further business to discuss, the Shire President, Cr Horrocks declared the meeting closed at 3.37pm.