



Ordinary Meeting of Council

MINUTES

17 February 2022

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FOR PEOPLE WITH DISABILITY.

These minutes were confirmed at the Ordinary Meeting held on Thursday 17 February 2022.

Signed: Cr White, Shire President
Thursday 17 March 2022

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SHIRE OF BROOMEHILL–TAMBELLUP**MINUTES**

Minutes of an Ordinary Meeting of Council of the Shire of Broomehill-Tambellup held in the Tambellup Council Chambers on 17 February 2022 at 4.30pm.

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER****3. ATTENDANCE**

Cr ME White	President
Cr DT Barritt	Vice President
Cr MC Paganoni	
Cr CJ Letter	
Cr CM Dewar	
Cr JL Wills	
R Stewart	Acting Chief Executive Officer
KP O'Neill	Manager of Finance and Administration
PA Hull	Strategic Support & Projects Officer
HA Richardson	Governance and Executive Assistant

3.1 APOLOGIES

Cr SH Penny

3.2 APPROVED LEAVE OF ABSENCE**4. DISCLOSURE OF INTEREST****President M White**

'With regard to the matter in Item 9.5, I declare a Proximity and Financial Interest.

I disclose a proximity interest in the land to which the matter relates.

I disclose a financial interest in the land to which the matter relates as I intend to acquire part parcel of the said land referred to in Item 9.5.

5. PUBLIC QUESTION TIME (15 minutes)

Nil.

6. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

7. ITEMS BROUGHT FORWARD BY DECISION OF COUNCIL

Nil.

8. CONFIRMATION OF PREVIOUS MEETING MINUTES

8.1 ORDINARY MEETING HELD 17 DECEMBER 2021

RECOMMENDATION/COUNCIL DECISION

Moved Cr C Dewar, Seconded Cr J Wills

That the Minutes of the Ordinary Meeting of the Council held on 17 December 2021 be confirmed as a true and accurate record of the proceedings.

**CARRIED 6/0
001/22**

9. REPORTS OF OFFICERS

9.1 FINANCIAL STATEMENTS FOR DECEMBER 2021 AND JANUARY 2022

Attachment:	Monthly Financial Statement for December 2021 and January 2022
File Ref:	Nil
Author:	KP O'Neill - Manager Finance and Administration
Date:	10 February 2022
Disclosure of Interest:	Nil

SUMMARY

To consider the monthly financial report for the periods ending 31 December 2021 and 31 January 2022.

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 2 months after the end of the month to which the report relates.

Each financial year, the Council is required to adopt a percentage or value to be used in the statement of financial activity for reporting material variances.

As part of the 2021/22 budget process, Council adopted 10% or \$10,000 as the material variance for reporting purposes for the year.

COMMENT

Note 2 in the financial statements provides commentary on the material variances shown in the statement of financial activity by reporting program, which is a requirement of the Local Government (Financial Management) Regulations 1996.

Receivables - which includes outstanding rates, emergency services levy, pensioner rebates and other 'sundry' debtors - is reported at Note 6.

Note 8 tracks capital grants and contributions, the unspent balance of which is reported as 'Restricted Cash' throughout the financial report.

Capital revenue and expenditure is detailed in Note 12, which includes plant replacement, road construction, building improvements, reserve transfers and loan transactions.

The annual financial report and audit for year end 30 June 2021 is being finalised, and until this is complete additions/disposals to the asset register and allocation of depreciation cannot be processed. This results in material variances reporting in the Statement of Financial Activity.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

34. Financial activity statement report

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22 (1)(d), for that month in the following detail –*
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
 - (b) budget estimates to the end of the month to which the statement relates;*
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - (e) the net current assets at the end of the month to which the statement relates.*

- (2) Each statement of financial activity is to be accompanied by documents containing –*
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - (c) such other supporting information as is considered relevant by the local government.*

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

Key Results Area (KRA) One - Our People

1.5 Our Shire demonstrates strong leadership, effective governance and efficient service delivery to our community

1.5.1 Promote excellence in governance, compliance, regulation, reporting, customer service and delivery of outcomes that are in the best interests of our residents

FINANCIAL IMPLICATIONS

The report represents the financial position of the Council at the end of reporting period.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr C Letter, seconded Cr M Paganoni

That the Financial Statements for the periods ending 31 December 2021 and 31 January 2022 be received.

**CARRIED 6/0
002/22**

9.2 CREDITOR ACCOUNTS PAID DECEMBER 2021 AND JANUARY 2022

Attachment:	List of Payments for December 2021 and January 2022
File Ref:	Nil
Author:	KP O’Neill – Manager Finance and Administration
Date:	10 February 2022
Disclosure of Interest:	Nil

SUMMARY

To consider the list of payments made from the Municipal and Trust Funds during December 2021 and January 2022.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* prescribe that a list of accounts paid under delegated authority by the CEO is to be prepared each month, providing sufficient information to identify the transactions.

The list is to be presented to the Council at the next ordinary meeting after the list is prepared and recorded in the minutes of that meeting.

COMMENT

Summary of payments made for the month:-

DECEMBER 2021

	\$
Municipal Fund	553,153.46
Trust Fund	0.00
Credit Cards	4,527.56
TOTAL	557,681.02

JANUARY 2022

	\$
Municipal Fund	324,375.27
Trust Fund	0.00
Credit Cards	3,757.42
TOTAL	328,132.69

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

13. Lists of accounts

(1) If the local government has delegated authority to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO 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 IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

Key Results Area (KRA) One - Our People

1.5 Our Shire demonstrates strong leadership, effective governance and efficient service delivery to our community

- 1.5.1 Promote excellence in governance, compliance, regulation, reporting, customer service and delivery of outcomes that are in the best interests of our residents

FINANCIAL IMPLICATIONS

Lists the payments made from Municipal and Trust Funds during the previous month.

VOTING REQUIREMENTS

Simple Majority for both recommendations.

OFFICER RECOMMENDATION/ COUNCIL DECISION

Moved Cr M Paganoni, seconded Cr C Dewar

That the list of accounts paid during December 2021, consisting of –

- **Municipal Fund cheque, Electronic Funds Transfer (EFT) and direct debit payments totalling \$553,153.46;**
- **Trust Fund cheque payments totalling \$Nil; and**
- **Credit Card payments totalling \$4,527.56**

be endorsed.

**CARRIED 6/0
03/22**

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr C Letter, Seconded Cr C Dewar

That the list of accounts paid during January 2022, consisting of –

- **Municipal Fund cheque, Electronic Funds Transfer (EFT) and direct debit payments totalling \$324,375.27;**
- **Trust Fund cheque payments totalling \$Nil; and**
- **Credit Card payments totalling \$3,757.42**

be endorsed.

**CARRIED 6/0
04/22**

9.3 ORGANISATION CHART

Attachment:	Organisation Chart
File Ref:	ADM0341
Author:	Rob Stewart, Acting CEO
Date:	2 February 2022
Disclosure of Interest:	Nil

SUMMARY

The purpose of this report is to recommend the adoption of an Organisation /Staff Establishment Chart with Full Time Equivalents (FTE) noted.

BACKGROUND

Although Organisation /Staff Establishment Charts have been prepared in the past, these (and the number of full time equivalents engaged by the Council in permanent part time / full time positions) appear not to have been endorsed by the Council.

COMMENT

By adopting an Organisation Chart and the total number of full time and part time permanent staff, the Council is fulfilling the requirements of section 5.2 of the Local Government Act 1995. Further, it gives the CEO strong direction regarding staffing requirements. Consequently, for budget preparation, it can be assumed that the adopted staffing cohort will be funded. In the event that reporting structures are proposed to be changed or staff numbers increased, there will be a requirement for the CEO to present a report justifying such adjustment and how the position or positions will be funded.

It should be noted that the Organisation Chart does not show casual staff or contract staff. These are matters for the CEO. Also, there are no recorded positions of Environmental Health Officer or Building Surveyor as the duties of these positions are undertaken by contracted officers and don't form part of the organisation staff establishment. Similarly, cleaning requirements effectively needs the allocation of 1.5 Full Time Equivalents (FTE). However only 0.5 FTE is engaged as part of the part time permanent staff and the balance is filled through either casual appointments or contract.

STATUTORY IMPLICATIONS

The Local Government Act 1995 section 5.2 provides:

'The council of a local government is to ensure that there is an appropriate structure for administering the local government.'

POLICY IMPLICATION

Nil

STRATEGIC IMPLICATIONS

The recommendation in this report is in line with the Council's 2018 -2028 Community Strategic Plan which notes at Key Result Area one – Our People objective 1.5 'Our Shire demonstrates strong leadership, effective governance and efficient service delivery to our community.'

FINANCIAL IMPLICATIONS

The adoption of this report represents the existing staff cohort and therefore there are no net positive or negative financial implications.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr D Barritt, seconded Cr M Paganoni

That the attached Organisation Chart showing a total staff establishment of 28.1 full time equivalents be adopted.

**CARRIED 6/0
005/22**

9.4**CHIEF EXECUTIVE OFFICER RECRUITMENT****Attachment:**

- Terms of Reference (TOR) Shire of Broomehill-Tambellup Chief Executive Officer Selection Panel
- Policy 1.28 - Standards for CEO recruitment, performance and termination
- Remuneration package

File Ref:

ADM0571

Author:Acting CEO Rob Stewart
KP O'Neill – Manager Finance and Administration**Date:**

17 February 2022

Disclosure of Interest:Nil

SUMMARY

The purpose of this report is to initiate the recruitment process to appoint a Chief Executive Officer (CEO).

BACKGROUND

The Shire's CEO, Mr Christopher Jackson, resigned on 15 December 2021, effective from that date.

At a Special Meeting of the Council held on 15 December 2021, Mr Jackson's resignation was accepted and Ms Kay O'Neill was appointed Acting CEO effective until an external Acting CEO was appointed and had commenced.

At its Ordinary Meeting held on 17 December 2021 the Council appointed Mr Robert John Stewart as Acting CEO commencing on 10 January 2022.

The appointment of either an Acting CEO or substantive CEO is governed by the *Local Government Act 1995 and the Local Government (Administration) Regulations 1996*. The adoption of the recommendations in this report will ensure the Council meets its statutory obligations and manages the process professionally together with ensuring Elected Members have a thorough understanding of their roles and responsibilities.

The Acting appointments of Ms O'Neill and Mr Stewart complied with the Act and Regulations.

Further, a local government must recruit a CEO in accordance with the principles of merit, equity and transparency. A local government must not exercise nepotism, bias or patronage in exercising its powers. Additionally, a local government must not unlawfully discriminate against applicants.

Section 5.40 of the *Local Government Act 1995* lists a number of principles of employment that apply to local governments:

- a. employees are to be selected and promoted in accordance with the principles of merit and equity; and
- b. no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and
- c. employees are to be treated fairly and consistently; and
- d. there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the *Equal Opportunity Act 1984* or on any other ground; and

- e. employees are to be provided with safe and healthy working conditions in accordance with the *Occupational Safety and Health Act 1984*; and
- f. such other principles, not inconsistent with this Division, as may be prescribed.

COMMENT

In accordance with the *Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination*, the minimum standard for recruitment and selection will be met if:

- a. The Council has identified and agreed to the qualifications and selection criteria necessary to effectively undertake the role and duties of the CEO within that particular local government context.
- b. The Council has approved, by absolute majority, the Job Description Form (JDF) which clearly outlines the qualifications, selection criteria and responsibilities of the position. The JDF is made available to all applicants.
- c. The local government has established a selection panel to conduct the recruitment and selection process. The panel must include at least one independent person who is not a current elected member, human resources consultant, or staff member of the local government.
- d. The local government attracts applicants through a transparent, open and competitive process. The local government must advertise a vacancy for the position of CEO in the manner prescribed.
- e. The local government has assessed the knowledge, experience, qualifications and skills of all applicants against the selection criteria.
- f. The local government has verified the recommended applicant's work history, qualifications, referees and claims made in their job application.
- g. The appointment is merit-based, with the successful applicant assessed as clearly demonstrating how their knowledge, skills and experience meet the selection criteria.

Recruitment Consultant

A recruitment consultant with experience in the recruitment of senior executive positions for local government may be appointed to provide professional services related to the selection process.

The appointment of a recruitment consultant is not compulsory. The Council could also resolve to run the appointment process.

Should the Council resolve to appoint a recruitment consultant, the cost would be in the vicinity of \$6,000.00 plus advertising and potentially accommodation and out of pocket costs for candidates.

CEO Job Description Form, Selection and Performance Criteria

The Council must be satisfied with the provisions of the employment contract prior to advertising the position. Therefore the Job Description Form (JDF), selection criteria and performance criteria are to be endorsed by the Council prior to the position being advertised.

Selection Panel

In accordance with the *Local Government (Administration) Regulations 1996*, local governments are required to establish a selection panel to conduct and facilitate the recruitment and selection process.

Terms of Reference (TOR) for the selection panel have been developed that incorporate the standards for recruitment as defined in Schedule 2, Division 2 of the *Local Government (Administration) Regulations 1996*. These TOR are attached to this report.

The selection panel is responsible for the recruitment and selection process for the CEO, to make recommendations to the whole Council on the candidate (or candidates) suitable to be employed as CEO based on each applicant's knowledge, experience, qualifications and skills assessed against the adopted selection criteria for the position.

It is essential that prior to a person's appointment to the selection panel they are informed of the duties and responsibilities of their role and that of the panel. It is recommended that the attached Terms of Reference be adopted to assist with the facilitation of this process.

It is recommended that the selection panel consist of:

1. The Shire President, as this person has a key legislative relationship with the CEO under the Act;
2. The Deputy Shire President, as this person acts in the capacity of Shire President when required and also has a key legislative relationship with the CEO; and
3. One other Councillor.

The selection panel comprises elected members and must also include at least one independent person who cannot be a current elected member, human resources consultant, or employee of the local government. The Selection Panel does not need to be appointed as a committee of the Council but could be appointed if so desired pursuant to Section 5.9(2) (d) of the Act.

After discussion with the Shire President, it was agreed that Mrs Trish Standish, former Manager Finance and Administration at the Shire of Cranbrook be recommended to the Council to be invited to join as an independent member on the selection panel – Mrs Standish has extensive local government experience and is well respected by her Council and peers in the industry. She brings an informed local government financial and governance perspective to the selection panel which will assist Councillors in the decision making process. Mrs Standish has agreed to sit on the panel if appointed by Council.

CONSULTATION

No external consultation has occurred during the preparation of this report.

STATUTORY ENVIRONMENT

The *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* prescribe the requirements for the recruitment and selection of Local Government CEOs.

POLICY IMPLICATIONS

Policy 1.28 – Standards for CEO Recruitment, Performance and Termination

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

Key Result Area (KRA) One – Our People

1.5 Our Shire demonstrates strong leadership, effective governance and efficient service delivery to our community

FINANCIAL IMPLICATIONS

The remuneration package for the CEO is already an inclusion in the annual budget, however provision will need to be made in the 2021/22 budget for recruitment costs which, if a recruitment consultant is not engaged, will be advertising and relocation costs. Potentially overnight accommodation may be required if a candidate needs to travel long distances to attend interview.

VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M Paganoni, seconded Cr C Letter

That:

- a) **The recruitment process to appoint a Chief Executive Officer be initiated;**
- b) **The process to recruit for the role of Chief Executive Officer be undertaken internally;**
- c) **The remuneration package attached that offers salary, superannuation, motor vehicle, housing and other benefits as set by the Salaries and Allowances Tribunal (SAT), within the range of SAT level 4 banding, for the position of Chief Executive Officer with a contract term of three to five years be approved;**
- d) **Pursuant to Schedule 2 clauses 5(1) and 5(2) of the Local Government (Administration) Regulations 1996, approve the Job Description and Selection Criteria for the recruitment of a CEO as detailed in Attachment 1.**

CARRIED 6/0
By Absolute Majority
006/22

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M Paganoni, seconded Cr C Dewar

That a Chief Executive Officer Selection Panel be established as a committee of the Council pursuant to Section 5.9(2)(d) of the Local Government Act 1995 as follows:

- a) **The Committee shall be known as the CEO Selection Committee and is formed to satisfy Clause 8 of Schedule 2 of the Local Government (Administration) Regulations 1996 relating to the establishment of a Selection Panel for the employment of a CEO**
- b) **The duties of the Committee shall be to recommend to the Council a person to be appointed as CEO of the Shire of Broomehill-Tambellup pursuant to Section 5.36 of the Local Government Act 1996 and the Local Government (Administration) Regulations 1996**
- c) **The members of the Committee shall number four being Shire President Cr M White, Deputy Shire President Cr D Barritt, Cr C Letter and Mrs Trish Standish formerly Manager Finance and Administration of the Shire of Cranbrook as an Independent Person as defined by Clause 8(1) of Schedule 2 of the Local Government (Administration) Regulations 1996**
- d) **The committee shall disband upon the signing by both parties of a suitable contract of employment with the selected candidate unless disbanded earlier (Absolute Majority Required)**

CARRIED 6/0
By Absolute Majority
007/22

President M White: *‘With regard to the matter in Item 9.5, I declare a Proximity and Financial Interest. I disclose a proximity interest in the land to which the matter relates. I disclose a financial interest in the land to which the matter relates as I intend to acquire part parcel of the said land referred to in Item 9.5.*

President M White left the room at 4.58pm and Deputy President D Barritt presided in his absence.

9.5 PROPOSED SUBDIVISION/BOUNDARY REALIGNMENT: LOTS 3392, 5673 AND 6079 BEEJENUP ROAD, LAKE TOOLBRUNUP

Attachment:	Subdivision Plan
File Ref:	S161832
Author:	Liz Bushby, Town Planning Innovations
Date:	26 January 2022
Disclosure of Interest:	Liz Bushby, Town Planning Innovations
	Nature of Interest: Financial Interest as receive planning fees for advice to the Shire – Section 5.1270A of <i>Local Government Act 1995</i>

SUMMARY

To consider a request by the Western Australian Planning Commission (WAPC) seeking the Shire’s comment and recommendation on a proposed subdivision (WAPC Reference: 161832).

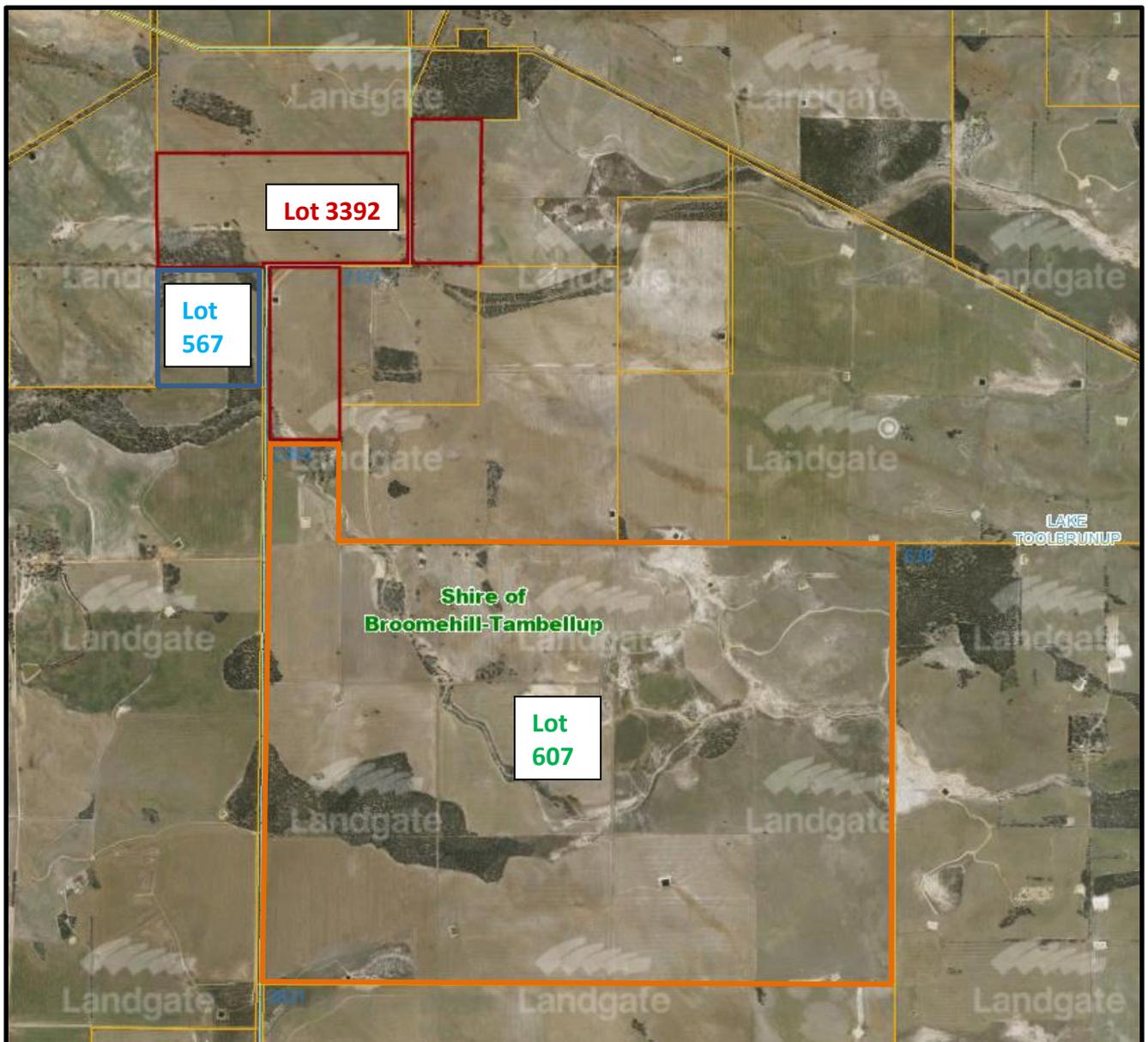
The Western Australian Planning Commission is the determining authority for the application.

BACKGROUND

The subject lots are used for agricultural activities, and are substantially cleared. The existing Lot areas are as follows:

Lot No	Lot Area
3392	167.4567 hectares
5676	42.9953 hectares
6079	955.1441 hectares

A location plan is included over page for ease of reference.



Above: Location Plan showing existing lots

COMMENT

Description of Application

The application proposes to re-align the boundaries between the three existing lots, so there is no increase in lot yield proposed.

The proposed lot areas are:

Lot No	Lot Area
A	930.77 hectares
B	26.34 hectares
C	210.42 hectares

The subdivision plan is included as Attachment 1.

Scheme Requirements

Lots 3392, 5673 and 6079 are zoned ‘Farming’ under the Shire of Tambellup Town Planning Scheme No 2 (Scheme 2). Scheme 2 has specific provisions relating to the subdivision of Farming land as summarised in the table below:

Clause 6.6.4 Subdivision	Assessment / Officer Comment
<p>Having regard to the prime agricultural importance of land in the zone the Council will only support further subdivision of existing lots where:</p>	
<p>a) the lots have already been physically divided by significant natural or man-made features which preclude the continued operation of a farming property as a single unit (unless adjoining land could be similarly subdivided and thereby, by the process of precedent, lead to an undesirable pattern of landuse in the area or in lots too small for uses compatible with the prevailing use in the area or in ribbon development alongside roads);</p>	<p>Not Applicable</p>
<p>b) the lots are for farm adjustment and the erection of dwellings is restricted;</p>	<p>The proposal is an adjustment between existing farm lot boundaries, and will not result in any increase in the number of lots or potential dwellings.</p>
<p>c) the lots are for specific uses such as recreation facilities and public utilities; or</p>	<p>Not Applicable</p>
<p>d) the lots are required for the establishment of uses ancillary to the rural use of the land or are required for the travelling public and tourists (such as service stations and motels).</p>	<p>Not Applicable</p>

Relevant State Planning Policy

The WAPC has a Development Control Policy 3.4 that outlines the circumstances where the subdivision of rural land can be considered. The Policy requirements are summarised below:

Clause 6.3 Property rationalisation to improve land management	Assessment / Officer Comment
Multiple lots in one ownership may be rationalised provided that:	
a) there is no increase in the number of lots;	There are 3 existing lots and 3 proposed lots.
b) the new boundaries achieve improved environmental and land management practices and minimise adverse impacts on rural land use	The proposal is an adjustment between existing farm lot boundaries, and will not result in any adverse impacts. The proposed lot boundaries take into account the location of vegetation.
c) no new roads are created, unless supported by the local government;	No new roads are proposed.
d) new vehicle access points on State roads are minimised; and	No access points to state roads are proposed.
e) rural living sized lots (1-40 hectares), created as a result of the rationalisation, have appropriate buffer from adjoining farming uses and water resources, and may have notifications placed on title advising that the lot is in a rural area and may be impacted by primary production.	<p>Proposed Lot B will have an area of 26.34 hectares. There is an existing dwelling on the lot which is setback 45 metres to the proposed north boundary with Lot C, and 28 metres from the eastern lot boundary.</p> <p>The setbacks, along with existing vegetation, provide some buffers from adjacent farming properties.</p> <p>The Shire can request that a Notification be placed on the Certificate of Title for proposed lot B to make prospective purchasers aware that they may be impacted on by emissions associated with farming activities in the area.</p>

CONSULTATION

The WAPC has referred the application to Western Power; Water Corporation; Telstra; Department of Primary Industries and Regional Development; Department of Mines, Industry and Regulation; and the Department of Biodiversity, Conservation and Attractions for comment.

Comments were requested by the 15 February 2022. TPI has sought and obtained an extension of time from the WAPC to allow Council to consider this application at the February 2022 meeting.

STATUTORY ENVIRONMENT

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

The Regulations include ‘Deemed Provisions’ that automatically apply and override parts of Scheme 2.

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.

Shire of Tambellup Town Planning Scheme No 2 – Explained in the body of this report.

POLICY IMPLICATIONS

The requirements of WAPC Development Control Policy 3.4 are explained in the body of this report.

STRATEGIC IMPLICATIONS

There are no known strategic implications associated with the proposal.

FINANCIAL IMPLICATIONS

The Shire pays Town Planning Innovations for general planning advice.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr C Letter, seconded Cr C Dewar

That Council:

1. **Recommend that the Western Australian Planning Commission approve the subdivision application (No 161832) seeking a boundary re-alignment for Lots 3392, 5673 and 6079 Beejenup Road, Lake Toolbrunup subject to the following condition:**
 - (a) **A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate of title of the proposed Lot B. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows: ‘The use of this lot may be affected by 24-hour operation of machinery, aerial spraying and generation of other noise, dust and odours arising from agricultural operations being carried out on surrounding land holdings.’**

**CARRIED 5/0
008/22**

Cr M White returned to the Chambers at 5.05pm.

9.6**LOCAL LAW REVIEW****Attachment:**

- Draft Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2022
- Draft Cemeteries Amendment Local Law 2022
- Draft Health Amendment Local Law 2022
- Draft Waste Amendment Local Law 2022

File Ref:

ADM0471

Author:

PA Hull, Strategic Support & Projects Officer

Date:

8 February 2022

Disclosure of Interest:

Nil

SUMMARY

To consider draft amendment local laws in accordance with the undertakings provided to the Joint Standing Committee on Delegated Legislation.

BACKGROUND

In accordance with the requirements of s.3.12-3.16 of the *Local Government Act 1995* the following local laws were reviewed or commenced in 2020, and following the required public notification periods and stakeholder consultation, were adopted by the Council in February 2021:

- Activities in Thoroughfares and Public Places and Trading Local Law 2020
- Cemeteries Local Law 2020
- Dogs Local Law 2020
- Extractive Industries Local Law 2020
- Fencing Local Law 2020
- Local Government (Council Meetings) Local Law 2020
- Local Government Property Local Law 2020
- Repeal Local Law 2020
- Waste Local Law 2020
- Bushfire Brigades Local Law 2020 (new local law)
- Health Local Law 2020
- Removal of Refuse, Rubbish and Disused Material Local Law 2020

Following advertising of the local laws in the Government Gazette in March 2021, the local laws were forwarded to the Joint Standing Committee (the Committee) for Delegated Legislation for consideration. In June 2021 the Committee identified anomalies with a number of the local laws, and at the Ordinary Meeting in August 2021, the Council subsequently resolved to provide written undertakings to the Committee that amendment or clarification of the anomalies would be completed within nine months.

Further to the Council's response to the Committee at that time, and subsequent comment provided by the Committee, draft amendment local laws have been drafted as attached.

The Committee Advisory Officer has advised that as the endorsed local laws noted above have been published in the Government Gazette, the Committee is able to provide comment on the draft amendment local laws prior to the Council's endorsement of these for advertising. A Council resolution is required to enable this review process to be undertaken.

COMMENT

The draft amendment local laws presented for consideration are:

Shire of Broomehill-Tambellup Activities in Thoroughfares and Public Places and Trading Amendment Local Law 2022

- Purpose: To amend the provisions of the principal Local Law, to include the requirement for a permit to be obtained for the construction of a temporary crossing, to correct conflicting statements regarding prohibitions on burning, and to correct typographical errors.
- Effect: To provide clarity on the requirements for the approval or prevention of activities on thoroughfares within the Shire.

Shire of Broomehill-Tambellup Cemeteries Amendment Local Law 2022

- Purpose: To amend the provisions of the principal Local Law, to include information relating to requirements for an exhumation.
- Effect: To provide a process for instances where the exhumation of a body is required.

Shire of Broomehill-Tambellup Health Amendment Local Law 2022

- Purpose: To amend the provisions of the principal Local Law, to reflect the making of the local law under section 342 of the *Local Government Act 1995*, to include an objection and appeals rights clause, to correct a clause regarding the grounds under which a lodging house registration may be revoked, and to correct typographical errors.
- Effect: To reflect the provisions of the *Local Government Act 1995*, and provide greater clarity on matters referred to in the Local Law.

Shire of Broomehill-Tambellup Waste Amendment Local Law 2022

- Purpose: To amend the provisions of the principal Local Law to correct typographical errors.
- Effect: To provide clarity on the Council's management of waste in the Shire.

Should the Council be happy to endorse the author's recommendation, the draft amendment local laws will be forwarded to the Committee for review, and then (subject to no further amendment being required) will be brought back to the Council to be endorsed for advertising and public comment.

CONSULTATION

CEO

Committee Advisory Officer, Joint Standing Committee on Delegated Legislation

STATUTORY ENVIRONMENT

Local Government Act 1995

3.12. Procedure for making local laws

(1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.

(2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.

(2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.

(3) The local government is to —

(a) give local public notice stating that —

(i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and

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

(iii) submissions about the proposed 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;

and

(b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and

(c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

[(3a) deleted]

(4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.

*** Absolute majority required.**

(5) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.

(6) After the local law has been published in the Gazette the local government is to give local public notice —

(a) stating the title of the local law; and

(b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and

(c) advising that the local law is published on the local government's official website and that copies of the local law may be inspected at or obtained from the local government's office.

(7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.

(8) In this section —

making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

[Section 3.12 amended: No. 1 of 1998 s. 8; No. 64 of 1998 s. 6; No. 49 of 2004 s. 16(4) and 23; No. 26 of 2016 s. 5; No. 16 of 2019 s. 8.]

3.13. Procedure where significant change in proposal

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

3.14. Commencement of local laws

(1) Unless it is made under section 3.17, a local law comes into operation on the 14th day after the day on which it is published in the Gazette or on such later day as may be specified in the local law.

(2) A local law made under section 3.17 comes into operation on the day on which it is published in the Gazette or on such later day as may be specified in the local law.

[Section 3.14 amended: No. 1 of 1998 s. 9.]

3.15. Local laws to be publicised

A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.

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.

[(2a) deleted]

(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.**

[Section 3.16 amended: No. 64 of 1998 s. 7; No. 49 of 2004 s. 24; No. 16 of 2019 s. 9.]

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028: Key Result Area One - Our People

1.5 Our Shire demonstrates strong leadership, effective governance, and efficient service delivery to our community.

1.5.1 Promote excellence in governance, compliance, regulation, reporting, customer service and delivery of outcomes that are in the best interests of our residents.

FINANCIAL IMPLICATIONS

Nil at this time. Costs will be incurred at the next stage where advertising of the amendment local laws is required to be undertaken. Provision of \$10,000 is made in the 2021/2022 budget for governance advertising with no expenditure to date.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M Paganoni, seconded Cr J Wills

That:

1. **The following draft amendment local laws be referred to the Joint Standing Committee on Delegated Legislation for review:**
 - a) **Shire of Broomehill-Tambellup Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2022**
 - **Purpose:** To amend the provisions of the principal Local Law, to include the requirement for a permit to be obtained for the construction of a temporary crossing, to correct conflicting statements regarding prohibitions on burning, and to correct typographical errors.
 - **Effect:** To provide clarity on the requirements for the approval or prevention of activities on thoroughfares within the Shire.
 - b) **Shire of Broomehill-Tambellup Cemeteries Amendment Local Law 2022**
 - **Purpose:** To amend the provisions of the principal Local Law, to include information relating to requirements for an exhumation.
 - **Effect:** To provide a process for instances where the exhumation of a body is required.
 - c) **Shire of Broomehill-Tambellup Health Amendment Local Law 2022**
 - **Purpose:** To amend the provisions of the principal Local Law, to reflect the making of the local law under section 342 of the Local Government Act 1995, to include an objection and appeals rights clause, to correct a clause regarding the grounds under which a lodging house registration may be revoked, and to correct typographical errors.
 - **Effect:** To reflect the provisions of the Local Government Act 1995, and provide greater clarity on matters referred to in the Local Law.
 - d) **Shire of Broomehill-Tambellup Waste Amendment Local Law 2022**
 - **Purpose:** To amend the provisions of the principal Local Law to correct typographical errors.
 - **Effect:** To provide clarity on the Council's management of waste in the Shire.
2. **Upon review by the Joint Standing Committee on Delegated Legislation, the amendment local laws shall be referred back to the Council so that the provisions of s. 3.12(4) of the Local Government Act 1995 may be implemented.**

**CARRIED 6/0
009/22**

9.7	CORPORATE BUSINESS PLAN 2018-2022 QUARTERLY PROGRESS REPORT
Attachment:	Corporate Business Plan 2018-2022 Quarterly Progress Report – October – December 2021
File Ref:	ADM0543
Author:	PA Hull - Strategic Support & Projects Officer
Date:	9 February 2022
Disclosure of Interest:	Nil

SUMMARY

To receive the Corporate Business Plan 2018-2022 Quarterly Progress Report for the period October – December 2021.

BACKGROUND

The *Local Government (Administration) Regulations 1996* require that a Council shall prepare a Corporate Business Plan which reflects the aspirations of the Strategic Community Plan and translates these into Council priorities and operations within available resources.

The Corporate Business Plan is a medium term document which covers the first four years of the Strategic Community Plan 2018-2028. A major review of the Corporate Business Plan is completed at the end of the four year period in conjunction with the major review of the Strategic Community Plan. A yearly desktop review is also conducted to review the financial implications for the year ahead in context of the annual budget, Strategic Resource Plan and other informing documents.

The Council adopted the Corporate Business Plan 2018-2022 at the April 2019 Ordinary Meeting. A desktop review of the document was completed and endorsed at the July 2021 Ordinary Council meeting.

COMMENT

While not compulsory, the quarterly report (attached) provides the Council and the community with a ‘snapshot’ of progress towards achieving the objectives of the Strategic Community Plan, for the quarter October-December 2021.

A ‘traffic light’ status and comments are assigned to each action, based on the following:

Action Status	Means
	Action is <u>on track</u> . Includes actions that are considered ‘day to day’ including advocacy, identified support, ongoing liaison, routine and scheduled reporting and activities, and progress on specific projects.
	Action is <u>being monitored</u> . Includes actions that are awaiting further information or consideration by staff or Council, initiatives that are planned, and actions where there has been little or no progress or activity.
	Action is <u>on hold</u> . Generally includes actions that are planned for a future financial year (refer to ‘Delivery Timelines’ column), or if it has been determined through review that an action is no longer relevant.
	Action is <u>complete</u> . Will generally relate to discrete time- or funding-specific projects and initiatives.

Senior staff have provided input into the October - December 2021 quarterly report. As per the last quarterly report, a number of initiatives previously shown as 'On track' are noted as 'Being monitored', due to delays, and the specific timeframes associated with completion. These include the following:

Drought Communities Program (DCP) projects: Endorsed projects (as per budget amendment – September 2021) are as follows:

Project	Budget
Adverse Events Plan / Audit	25,000
Water Efficiency (standpipe controllers)	50,000
Broomehill Recreational Complex Accessibility Upgrade	182,000
Broomehill Townscape Enhancement	560,000
Broomehill Nature Play Park	100,000
Holland Track Interpretive Centre	83,000
Tambellup Townscape / Town Centre (funding reallocated)	0
Tambellup Youth Centre (funding reallocated)	0
	\$1,000,000

The status of DCP projects is as follows:

- **Adverse Events Plan** – Progressed, awaiting second draft for staff review prior to presentation to the Council for endorsement.
- **Water Efficiency** – The Broomehill standpipe controller has been installed on the new tank at the Town Dam. Awaiting installation of the second tank at the Tambellup Works Depot, prior to installation of the standpipe controller. The supplier has advised delays in supply of the tank have been experienced. The Manager of Works follows up regularly with the supplier.
- **Broomehill Recreational Complex Accessibility upgrade** – Works are significantly progressed. The limestone retaining walls are complete, and concrete ramps and handrails are to be installed. The contractor advises the hardscape elements will be complete by the end of February, with landscaping and reticulation to follow. On track for completion by the end of March 2022.
- **Broomehill Townscape Enhancement** – The contract has been awarded to Environmental Industries Pty Ltd. H&H Architects has been engaged by the Shire to provide contract management services. A start up meeting has been held, with the contractor, H&H, Manager of Works, Chief Executive Officer and Strategic Support & Projects Officer in attendance. Delays over Christmas and New Year have pushed the onsite start date out to the first week in March, with completion by the end of April.
- **Broomehill Nature Play Park** – Completed in December 2021.
- **Holland Track Interpretive Centre** – Research for signage content is ongoing. Staff will liaise with the Broomehill Heritage Group to ensure the content is appropriate. Signage design will be completed once content has been confirmed, and again, the Heritage Group will be consulted. To be completed by 31 March 2022.

Great Southern Housing Initiative: The two Broomehill houses are complete, with some minor works to be undertaken to repair defects. In accordance with the Housing and Land Strategy, two older houses are listed for sale.

Local Roads and Community Infrastructure Program: A total of \$1,645,000 in Federal funding has been allocated to the Shire over three grant rounds in 2020/2021 and 2021/2022. A range of road and community infrastructure projects have been nominated.

Phase 1 and 2 grant funding has been applied for, projects have been endorsed by the Council and are included in the 2021/2022 budget. Projects must be completed by 30 June 2022. The confirmed projects are:

	PHASE 1	Budget	Status
LR3	Journal Street (Post office to Caravan Park) – widen seal, kerb and footpath	95,000	Widening and kerbing complete, 2 nd coat seal to be applied, footpath 80% complete
LR4	Town Streets - kerbing	21,000	Complete
LR5	Beejenup Road – resheeting slk 6.20 to 7.44	30,000	Not commenced
LR6	Birt Road – resheeting 2-3kms	30,000	Complete
LR7	Paul Valley Road – resheeting 2-3kms	60,000	Complete
LR8	Yetermerup Road - resheeting 2-3kms	60,000	Complete
LR9	Stirling Access Road – resheeting 2-3kms	60,000	Complete
LR10	Flat Rocks Road – resheeting 2-3kms	85,000	Complete
		441,000	
	PHASE 2		
LR1	Nymbup Road – repair and extend culverts	20,000	Not commenced
LR2	Etna Road – repair and extend culverts	20,000	Complete
LR11	Broomehill Primary School Carpark - reconstruction	93,100	Gravel works complete, sealing in progress to be followed by kerbing/line marking
LR12	Broomehill Fire Shed – carpark seal and kerb	15,000	Complete
LR13	Emergency Management Incident Control Centre	25,000	Quotes being obtained
LR14	Greenhills South Road – widen, reconstruct and seal	150,000	Not commenced
		323,100	

Applications for Phase 3 funding opened in January 2022, and while a number of projects have been included in the budget following early discussions with the Council, these projects should be reviewed and confirmed so the application can be submitted. Projects must be completed by 30 June 2023. Current nominated projects are as follows:

	PHASE 3	Budget
LR15	Beejenup Rd - reconstruct & seal corners	60,000
LR16	Flat Rocks Rd - enrichment seal	40,000
LR17	Paul Valley Rd - enrichment seal	50,000
LR19	Great Southern Hwy (Crawford St -Tambellup West Rd) - tree removal	20,000
LR20	Great Southern Hwy (Crawford St -Tambellup West Rd) - footpaths/barriers	20,000
LR21	Beejenup Rd - resheeting	70,000
LR22	Broomehill Caravan Park - building upgrades/storage	30,000
LR23	Broomehill Caravan Park - extend bays	40,000
LR24	Tambellup Caravan Park - cabins	100,000
LR25	Tambellup Caravan Park - infrastructure	100,000
LR26	Tambellup Caravan Park - building upgrades	80,000
LR27	Tambellup Hall - internal improvements	35,000
LR28	Broomehill Hall - internal acoustics	46,000
LR29	Broomehill Cemetery - improvements	20,000
LR30	Tambellup Cemetery - improvements	30,000
LR31	Broomehill Museum - machinery shed roof & walls	20,000
LR32	Tambellup Youth Centre - buildings upgrades/office	50,000
LR33	Tambellup Youth Centre - extend and seal court surface	20,000
BS10	Tieline Road - contribution to Black Spot project	50,000
		881,000

In general, the nature of the Shire’s Corporate Business plan is that many of the actions are incorporated into ‘day to day business’ and as such, are never really ‘completed’. The review of the Strategic Community Plan due in 2022 will provide the opportunity to review strategies and actions where there has been little or no progress.

The progress report will be made available for community information.

CONSULTATION

CEO

Senior staff

STATUTORY ENVIRONMENT

Local Government (Administration) Regulations 1996:

r. 19DA. Corporate business plans, requirements for (Act s. 5.56)

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

Key Result Area 1: Our People

1.5 Our Shire demonstrates strong leadership, effective governance and efficient service delivery to our community

1.5.1 Promote excellence in governance, compliance, regulation, reporting, customer service and delivery of outcomes that are in the best interests of our residents

FINANCIAL IMPLICATIONS

Provision for actions contained within the Corporate Business Plan is made in the current budget, or will be considered as part of future budget deliberations.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

Moved Cr J Wills, seconded Cr C Dewar

That the Corporate Business Plan 2018-2022 Quarterly Progress Report for the period October-December 2021 be received.

**CARRIED 6/0
010/22**

Motion to Proceed Behind Closed Doors (5.19pm):

COUNCIL DECISION

Moved Cr M Paganoni, seconded Cr D Barritt

That in accordance with Section 5.23 (2) of the Local Government Act 1995 the meeting is closed to members of the public with the following aspect(s) of the Act being applicable to this matter:

(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

(e) a matter that if disclosed, would reveal —

(ii) information that has a commercial value to a person;

**CARRIED 6/0
011/22**

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

10.1 PLANT REPLACEMENT 6-WHEELER TRUCK - UNDER SEPARATE COVER

Attachment:	CONFIDENTIAL: Revised Quote from Albany City Motors
File Ref:	ADM0584
Author:	P Vlahov, Manager of Works
Date:	9 February 2022
Disclosure of Interest:	Nil

SUMMARY

To consider a recommendation to revoke a previous decision and adopt an alternative proposal to purchase a new 2021 Isuzu -FVZ 260-300MWB Cab Chassis 6 wheeler truck and two way tipping body.

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M White, Seconded Cr M Paganoni, Cr C Dewar indicated their support for the revocation motion to be moved.

Council Resolution M211207:

‘That Council accepts the quote from Albany City Motors (Quote #1 received on 30 November 2021) \$125,309.38 excluding GST for the purchase of one 2021 Isuzu FVZ 260-300 MWB Cab Chassis and Evertrans Two-way Tipping Body’.

be revoked.

**CARRIED 6/0
By Absolute Majority
012/22**

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr C Letter, seconded Cr D Barritt

That the quote from Albany City Motors for the purchase of one 2021 Isuzu FVZ 260-300 MWB cab Chassis and Rolsteel two-way tipping body for the total price of \$130,751.84 excluding GST be accepted.

**CARRIED 6/0
013/22**

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M Paganoni, seconded Cr C Letter

That a budget reallocation of \$12,751.84 from Plant Reserve to the Municipal Fund (Capital Expense account 12300.40) be authorised.

**CARRIED 6/0
By Absolute Majority
014/22**

10.2 PLANT REPLACEMENT 6 X 4 PRIME MOVER - UNDER SEPARATE COVER

Attachment:	CONFIDENTIAL: Analysis of Quotations received and specifications for a new 6 x 4 Prime Mover BHT 05/2021 (WALGA VP283123)
File Ref:	ADM0591
Author:	P Vlahov, Manager of Works
Date:	9 February 2022
Disclosure of Interest:	Nil

SUMMARY

The purpose of this report is to consider the purchase of a 6 x 4 Prime Mover (Tender BHT05/2021 Plant Replacement).

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr C Letter seconded Cr Dewar

That the quote from Truck Centre (WA) Pty Ltd of \$ 185,000 (excluding GST) for the purchase of one Mack Anthem 6 x 4 Prime Mover Day Cab be accepted.

**CARRIED 6/0
015/22**

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr M Paganoni, seconded Cr D Barritt

That a budget reallocation of \$15,000.00 from Plant Reserve to the Municipal Fund (Capital Expense account 12300.40) be authorised.

**CARRIED 6/0
By Absolute Majority
016/22**

PROCEDURAL MOTION (5.24pm)

Moved Cr J Wills, seconded Cr C Letter

That Council re-opens the meeting to members of the public.

**CARRIED 6/0
017/22**

11. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

12. ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

13. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Cr C Dewar sought information relating to Western Power and recent Pole Top Fires.

The CEO took the question on notice advising that in the first instance, communication would need to occur with Western Power.

Moved Cr C Dewar, seconded Cr M Paganoni

That:

- 1. The CEO be requested to write to Western Power and copy Peter Rundle, MLA asking Western Power to examine its insulator and pole-top design due to continuing pole top fires being experienced across the agricultural region and advise the Council on their power pole replacement program.**
- 2. Pursuant to Clause 7.1 of the Shire of Broomehill-Tambellup Local Government (Council Meetings) Local Law 2020, the response received regarding part (1) above be forwarded to Cr C Dewar and copied to all other Councillors.**

**CARRIED 6/0
018/22**

14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

Moved Cr M White, seconded Cr C Letter

That New Business of an Urgent Nature relating to the appointment of the previous CEO be admitted into the meeting.

**CARRIED 6/0
019/22**

14.1 CERTIFICATION OF COMPLIANCE WITH THE SHIRE OF BROOMEHILL-TAMBELLUP’S ADOPTED MODEL STANDARD FOR CEO RECRUITMENT, PERFORMANCE AND TERMINATION

Attachment:	Nil
File Ref:	ADM0571
Author:	Rob Stewart, Acting CEO
Date:	15 February 2022
Disclosure of Interest:	NIL

SUMMARY

This report recommends the Council’s certification in accordance with the Local Government Act 1995 and Local Government (Administration) Regulations 1996, that the recruitment process for the appointment of a Chief Executive Officer was conducted in accordance with the adopted Model Standards for CEO Recruitment, Performance and Termination.

BACKGROUND

On 2 February 2021, changes to the Local Government Act 1995 and Local Government (Administration) Regulations 1996 were promulgated. These changes mandated all local governments to follow a model set of standards when dealing with CEO recruitment, performance management and termination.

At the Ordinary Meeting of the Council held on 20 May 2021, the Council adopted pursuant to section 5.39B (2) of the Local Government Act 1995, the new Model Standards for Chief Executive Officer Recruitment, Performance and Termination (Policy 1.28). At the Ordinary Meeting of the Council held on 17 June 2021 the Council also adopted the process for the appointment of a CEO including provision to enable the appointment of an independent person as required by the Model Standards.

Regulation 18FB(3) of the Local Government (Administration) Regulations 1996 now provides that a local government must certify, by absolute majority resolution, that the process that was followed in relation to the recruitment of the Chief Executive Officer, was carried out in accordance with the local government’s adopted Standards for CEO Recruitment, Performance and Termination.

STATUTORY ENVIRONMENT

The processes to be followed when recruiting a Chief Executive Officer are to be in accordance with the terms set by the Local Government Act 1995, Local Government (Administration) Regulations 1996 and the Shire of Broomehill-Tambellup’s adopted Model Standards for CEO Recruitment, Performance and Termination.

The Shire has complied with these requirements in the performance of its functions and roles in the recruitment process.

Regulation 18FB (3) of the *Local Government (Administration) Regulations 1996* provides:

18FB. Certification of compliance with adopted standards for CEO recruitment

(3) As soon as practicable after the person is employed in the position of CEO, the local government must, by resolution*, certify that the person was employed in accordance with the local government's adopted standards in relation to the recruitment of CEOs.

Absolute majority required.

POLICY IMPLICATIONS

Policy 1.28 Standards for CEO Recruitment, Performance and Termination

RISK IMPLICATIONS

The risk implications if the Shire did not follow the adopted Standards for CEO Recruitment, Performance and Termination, is that the process may be challenged and cause negative outcomes to the Shire, as well as exposing it to reputational risk.

If the Council does not certify that the Standards were followed in the recruitment of the Chief Executive Officer, the Shire may be in breach of the *Local Government (Administration) Regulations 1996*.

FINANCIAL IMPLICATIONS

Budget

There are no financial implications if the Officer recommendation is adopted. If it is not adopted the financial implications could be the cost to re-start the recruitment process which would involve consultant, advertising, administration and employee costs.

Long Term

The cost to attract a suitable candidate may impact the total reward package required to be offered for a suitable CEO.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2018-2028

Key Result Area One – Our People

To have a cohesive, diverse and inclusive community supported by quality services and facilities. These will be supported by a Council demonstrating effective leadership and good governance.

The appointment of a permanent CEO is crucial to the above Strategic goal.

CONSULTATION

Throughout the CEO recruitment process consultation has occurred with the Department of Local Government, Sport and Cultural Industries and WA Local Government Association (WALGA) to ensure compliance with *Schedule 2 – Model standards for CEO recruitment, performance and termination of the Local Government (Administration) Regulations 1996*.

The CEO Selection Committee also sought advice from the appointed Recruitment Consultant and the Acting CEO.

COMMENT

Each of the clauses that provide a requirement from the Standards are listed below, with a brief outline of those requirements and what the Shire did to satisfy the requirements of that clause.

Clause 5 – Determination of selection criteria and approval of job description form

Local governments are required to determine the selection criteria for the position of CEO based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to perform the duties of the CEO, as well as adopting (by absolute majority) the job description form.

At the Special Meeting of the Council held on 5 July 2021, the Council adopted the selection criteria and job description pursuant to Schedule 2 clause 5(2) of the Local Government (Administration) Regulations Act 1996

Clause 6 – Advertising requirements

Local governments are required to comply with section 5.36(4) of the Act and regulation 18A of the Local Government (Administration) Regulations 1996, which requires the local government to advertise the position by Statewide public notice, and the notice must contain:

The details of the remuneration and benefits offered.

Details of the place where applications for the position are to be submitted.

The date and time for the closing of applications of the position.

The duration of the proposed contract.

A website address where the job description form for the position can be accessed.

Contact details for a person who can provide further information about the position.

Any other information the local government considers relevant.

The position was advertised on Saturday 10 July 2021 in the LG section of the West Australian, on Friday 9 July 2021 commenced on SEEK and on the 12 July 2021 on the Shire's website . The advertisements and application pack contained all information as prescribed above.

Clause 7 – Job description form to be made available by local government

Local governments are required to provide a copy of the job description form to anyone who requests it by either referring to the web address listed in the advertisement (requirement of clause 6 above) or by emailing or posting a copy to the person if unable to access the website.

On all occasions, where a request for the job description form was requested, this request was actioned.

Clause 8 – Establishment of selection panel for employment of CEO

Local governments are required to establish a selection panel to conduct the recruitment of the CEO. This must consist of council members (as determined by the local government) and at least one independent person.

At the Ordinary Meeting of the Council held on 17 June 2021, the Council endorsed a CEO Selection Panel comprising the Shire President Mark Paganoni, Deputy Shire President Michael White and

Councillor Kelly Holzkecht and that an independent panel member be appointed. Ms Trish Standish, (then) Manager Finance and Administration, Shire of Cranbrook was appointed to join the CEO selection panel as the independent person, pursuant to Regulation 8(3) (b) of the Local Government (Administration) Regulations 1996. The council also adopted Terms of Reference (TOR) for the CEO Selection Panel.

At the Special Meeting of the Council held on 5 July 2021, Cr Holzkecht advised in writing she was no longer available to sit on the CEO selection panel and withdrew her appointment. Cr Letter was nominated by Cr White as a member of the CEO selection panel; Cr Letter accepted the nomination and the motion was carried.

Clause 9 – Recommendation by selection panel

Local governments are required to:

Assess each applicant’s knowledge, experience, qualifications against the selection criteria by or on behalf of the selection panel.

Provide a summary of the panel’s assessment of each applicant and a recommendation as to which applicant(s) are suitable to be employed as a CEO to the Council.

If none of the applicants are considered suitable, recommend that a new recruitment process be carried out and any changes that should be made to the duties and responsibilities of the position.

The selection panel must not recommend an applicant to the local government unless the selection panel has:

assessed the applicant as having demonstrated that their knowledge, experience, qualifications and skills to meet the selection criteria; and

verified any academic or other tertiary level qualifications the applicant claims to hold; and

whether by contacting referees provided by the applicant or making any other inquiries considered appropriate, verified the applicants character, work history, skills performance and any other claims made by the applicant.

During the selection panel’s deliberations, and through interviews with suitable candidates, the selection panel made assessments based on the adopted criteria and made a recommendation to the Council in accordance with the model standards requirements in a confidential report, which was prepared by the Acting Chief Executive Officer.

The recommendation was made following the candidate undergoing the Shire’s selection processes including but not limited to, the candidate’s ability to demonstrate that their knowledge, experience, qualifications and skills met the selection criteria, verifying their academic, or other tertiary level, qualifications and contacting referees to verify their character, work history, skills, performance and any other claims made by the candidate.

Clause 10 – Application of clause 5 where new process carried out

This clause applies if the local government accepts a recommendation by the selection panel under clause 9(3) (a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.

This clause does not apply to this recruitment process, as the selection panel recommended an applicant as suitable to be employed in the position of CEO.

Clause 11 – Offer of employment in position of CEO

Local governments are to approve by absolute majority the making of an offer of employment to an applicant and the proposed terms of the contract of employment to be entered into with the applicant before making an offer of employment to that applicant.

The Shire did not make an offer of employment to the successful candidate prior to the resolution of the Council at Ordinary Council Meeting of 15 September 2021 where the Council approved by absolute majority:

The making of an offer to the candidate named in the Confidential Attachment for the position of CEO at the Shire of Broomehill-Tambellup as the candidate the Council believes to be the person most suitably qualified for the position; and

The proposed terms of the CEO employment contract detailed in the Confidential Attachment, being for a period of 5 years inclusive of a Total Reward Package valued at \$178,841 calculated in accordance with the 2021 Salaries and Allowances Tribunal Local Government Determination Band 4 range.

Clause 12 – Variations to proposed terms of contract of employment

This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the local government a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the local government.

This clause does not apply to this recruitment process, as the terms of the contract that was executed with the preferred candidate did not differ from the terms approved by Council at the Special Meeting of the Council of 2 September 2021.

Clause 13 – Recruitment to be undertaken on expiry of certain CEO contracts

Where the incumbent CEO will have held the position of CEO for a period of 10 or more consecutive years and the same time period has elapsed since a recruitment or selection process for the position was carried out, and the CEO has notified the local government that they wish to have their contract renewed upon its expiry, then before the expiry of the contract, the local government must carry out a recruitment process in accordance with these standards. Nothing prevents that CEO from being able to be selected as the preferred candidate.

This clause does not apply to this recruitment process, as this process was triggered by the departure of the previous substantive Chief Executive Officer and not the continuation of an incumbent CEO with 10 years or more of continuous service.

Clause 14 – Confidentiality of information

Local governments must ensure that information relating to a recruitment process is not disclosed or made use of, except for the purpose of, or in connection with, that recruitment or selection process.

No breach of confidentiality occurred during the recruitment process.

Certification process

If the Council adopts the Officer Recommendation to certify that the recruitment process was performed in accordance with the adopted Model Standards of CEO Recruitment, Performance and Termination, the Acting Chief Executive Officer will write to the Department of Local Government, Sport and Cultural Industries to confirm the Council's certification of the process.

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr C Letter, seconded Cr C Dewar

That:

- 1. The recruitment of the Chief Executive Officer be certified as performed in accordance with the model Standards for CEO Recruitment, Performance and Termination; and**
- 2. The Departmental CEO for the Department of Local Government, Sport and Cultural Industries be advised in terms of (1) above.**

**CARRIED 6/0
By Absolute Majority
020/22**

15. CLOSURE

There being no further business the President thanked those in attendance and declared the meeting closed at 5.35pm.