

**SHIRE OF BRUCE ROCK**

**MINUTES– ORDINARY MEETING 15 FEBRUARY 2024**

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**SHIRE OF BRUCE ROCK**

**MINUTES– ORDINARY MEETING 15 FEBRUARY 2024**

**1. Declaration of Opening**

The Shire President Ram Rajagopalan declared the meeting open at 3.00pm.

**2. Record of Attendance/Apologies/Leave of Absence (Previously Approved)**

Shire President	Cr R Rajagopalan
Deputy Shire President	Cr AR Crooks
Councillors	Cr S Strange
	Cr KP Foss
	Cr PK Hodgkiss
Chief Executive Officer	Mr DRS Mollenoyux
Manager of Governance and Community	Ms N Ugarte
Manager of Executive Services	Mrs MJ Schilling
Executive Support Officer	Ms S Wood
Apology	Cr J Verhoogt
Leave of Absence	Cr BJ Waight

**3. Declarations of Interest**

In accordance with Section 5.65 of the Local Government Act 1995, the following disclosures of **financial** interest were made at the Council meeting.

Date	Name	Item No	Reason

In accordance with Section 5.65 of the Local Government Act 1995, the following disclosures of **Closely Association Person and Impartiality** interest were made at the Council meeting.

Date	Name	Item No	Reason

In accordance with Sections 5.60B and 5.65 of the Local Government Act 1995, the following disclosures of **Proximity** interest were made at the Council meeting.

Date	Name	Item No	Reason
14/02/2024	Cr Perry Hodgkiss	10.4.1	My Mother-in-law is making the purchase of 52 Farrall Street Bruce Rock

**4. Response to Previous Public Questions Taken on Notice**

**5. Public Question Time**

**6. Petitions/Deputations/Presentations/Submissions**

**7. Applications for Leave of Absence**

**8. Announcements by Presiding Member**

Attended a DAP Workshop.  
District Health Meeting, requires more committee meeting.  
Annual Electors Meeting  
Australia Day event success.

**9. Confirmation of Minutes**

Ordinary Meeting of Council held on Thursday, 14 December 2023.

**COUNCIL DECISION**

**Resolution OCM Feb 24 – 9.1**

**Moved: Cr Crooks**  
**Seconded: Cr Foss**

**That the minutes of the Ordinary Meeting of Council held on Thursday, 14 December 2023 be received as a true and correct record.**

**For: Cr Crooks, Cr KP Foss, Cr P Hodgkiss, Cr R Rajagopalan and Cr S Strange**  
**Against: Nil**  
**Carried 5/0**

Audit and Risk Committee Meeting held on Thursday, 14 December 2023.

**COUNCIL DECISION**

**Resolution Audit and Risk Committee Meeting Feb 24 – 9.1**

**Moved: Cr Hodgkiss**  
**Seconded: Cr Crooks**

**That the minutes of the Ordinary Meeting of Council held on Thursday, 14 December 2023 be received as a true and correct record.**

**For: Cr Crooks, Cr KP Foss, Cr P Hodgkiss, Cr R Rajagopalan and Cr S Strange**  
**Against: Nil**  
**Carried 5/0**

**10. Officers' Reports**

**10.1 Manager of Works and Services**

Nil

## 10.2 Manager of Finance

**Agenda Reference and Subject:**

**10.2.1** Statement of Financial Activity

**Reporting Officer:**

Manisha Barthakur, Manager of Finance

**Author:**

Manisha Barthakur, Manager of Finance

**Disclosure of Interest:**

Nil

**Attachments:**

*Item 10.2.1 Attachment A – Monthly Financial Statements – December 2023*

*Item 10.2.1 Attachment B - Monthly Financial Statements – January 2024*

### Summary

A statement of financial activity must be produced monthly and presented to Council.

### Background

In accordance with the Local Government Act 1995, a Statement of Financial Activity must be presented to each Council meeting, including a comparison of actual year to date to the budget year to date and variances from it. It must also include explanations of any variances and any other associated information that would be useful for readers of the report.

### Comment

The Statement of Financial Activity will be made available to Councillors prior to the meeting.

### Consultation

Darren Mollenoyux, Chief Executive Officer  
Nerea Ugarte, Manager Governance and Community Services  
David Holland, Manager of Works and Services  
Julian Goldacre, Manager of Regulatory Services  
Mike Darby, Senior Finance Officer and other staff

### Statutory Implications

r. 34 Local Government (Financial Management) Regulations 1996

#### **34. Financial activity statement required each month (Act s. 6.4)**

*(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); and*
- (b) budget estimates to the end of the month to which the statement relates; and*
- (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and*
- (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.*

(4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be –

- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
- (b) recorded in the minutes of the meeting at which it is presented.

**Policy Implications**

Nil

**Risk Implications**

<b>Risk:</b> Financial performance is not monitored against approved budget		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Minor	Moderate
<b>Action / Strategy</b>		
The monthly financial report tracks the Shire’s actual financial performance against its budgeted financial performance to ensure that the Council is able to monitor to Shire’s financial performance throughout the year.		

**Financial Implications**

Comparison of actual year to date to the 2022-23 Budget

**Strategic Implications**

*Shire of Bruce Rock – Strategic Community Plan 2022-2032*

**Governance**

4.1 Our organisation is well positioned and has capacity for the future

**Voting Requirements**

Simple Majority

**Officer Recommendation**

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION</b>	
Resolution OCM Feb 24 – 10.2.1	
<b>Moved:</b>	Cr Strange
<b>Seconded:</b>	Cr Foss
<b>That the Statements of Financial Activity for the month ending 31st December 2023 and 31st January 2024 are received.</b>	
<b>For:</b> Cr Crooks, Cr KP Foss, Cr P Hodgkiss, Cr R Rajagopalan and Cr S Strange	
<b>Against:</b> Nil	
<b>Carried</b> 5/0	

<b>Agenda Reference and Subject:</b>	<b>10.2.2</b> List of Payments
<b>Reporting Officer:</b>	Manisha Barthakur, Manager of Finance
<b>Author:</b>	Cinil Thomas, Finance Officer
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	<i>Item 10.2.2 Attachment A – List of Payments for December 2023 &amp; January 2024</i>

**Summary**

List of payments made since the last Ordinary Council Meeting.

**Background**

As the Chief Executive Officer has been delegated the authority to make payments from the municipal and trust funds, a list of payments made is to be presented to Council each month. Also, in accordance with Finance Policy Number 2.3, included is a list of payments made with the CEO’s credit card.

**Comment**

Following is a list of payments made from Council’s Municipal and Trust Accounts and payments made with the CEO’s credit card for the month of December 2023 and January 2024.

If you have any queries regarding the list of payments, please advise prior to the meeting to enable staff to seek relevant information.

**Consultation**

Nil

**Statutory Implications**

s.6.10 Local Government Act 1995

r.13(1) Local Government (Financial Management) Regulations 1996

**Policy Implications**

Nil

**Risk Implications**

<b>Risk:</b> Payments are not monitored against approved budget and delegation.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Minor	Moderate
<b>Action / Strategy</b>		
The monthly list of payments provides an open and transparent record of payments made under the appropriate approved delegations.		

**Financial Implications**

Payments must be made in accordance with 2023/24 Budget.

**Strategic Implications**

Shire of Bruce Rock – Strategic Community Plan 2022-2032

**Governance**

4.3 Our organisation is well positioned and has capacity for the future

**Voting Requirements**

Simple Majority

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Feb 24 – 10.2.2**

**Moved: Cr Crooks**

**Seconded: Cr Strange**

**That Council endorse the list of payments from the:**

**Municipal Account consisting of:**

**a. EFT voucher numbers EFT22504 to EFT22567 totalling \$\$808,507.36**

**b. Cheque number 134 to 137 & 9043 totalling \$24,850.25**

**c. Trust EFT Payments \$0**

**d. Wages and Superannuation payments totalling \$506,234.33**

**and**

**e. Credit Card payments \$1181.50**

**(Please note that the credit card payment is reported separately but is a part on EFT payment)**

**With all payments totalling \$1,339,591.94 for the month of December 2023 & January 2024.**

**For: Cr Crooks, Cr KP Foss, Cr P Hodgkiss, Cr R Rajagopalan and Cr S Strange**

**Against: Nil**

**Carried 5/0**



<b>Agenda Reference and Subject:</b>	<b>10.2.3</b> Fuel Cards and Credit Card Transactions
<b>Reporting Officer:</b>	Manisha Barthakur, Manager of Finance
<b>Author:</b>	Cinil Thomas, Finance Officer
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	<i>Item 10.2.3 Attachment A – List of Credit Card &amp; Fuel Card transactions for December 2023 &amp; January 2024</i>

**Summary**

List of transactions through corporate cards are reported to the Council.

**Background**

Consistent with the Local Government Regulations Amendment Regulations 2023, From 1 September 2023, local governments are required to prepare a list of corporate cards/ credit card payments made by employees each month, and the list must be presented to council at the next ordinary meeting and recorded in the minutes.

**Comment**

Following is a list of all transactions for all corporate cards that Shire holds.

If you have any queries regarding the transactions, please advise prior to the meeting to enable staff to seek relevant information.

**Consultation**

Nil

**Statutory Implications**

s.6.10 Local Government Act 1995

r.13(1) Local Government (Financial Management) Regulations 1996

**Policy Implications**

Nil

**Risk Implications**

<b>Risk:</b> Payments are not monitored against approved budget and delegation.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Minor	Moderate
<b>Action / Strategy</b>		
The monthly corporate card transactions provide an open and transparent record of payments made under the appropriate approved delegations through the cards.		

**Financial Implications**

Payments must be made in accordance with 2023/24 Budget.

**Strategic Implications**

Shire of Bruce Rock – Strategic Community Plan 2022-2032

**Governance**

4.3 Our organisation is well positioned and has capacity for the future

**Voting Requirements**

Simple Majority

**Officer Recommendation**

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Feb 24 – 10.2.3**

**Moved: Cr Foss**

**Seconded: Cr Hodgkiss**

**That Council endorse the list of transactions through the:**

- a. Bendigo Bank Corporate Credit Card**
- b. Great Southern Fuel Card**

**For: Cr Crooks, Cr KP Foss, Cr P Hodgkiss, Cr R Rajagopalan and Cr S Strange**

**Against: Nil**

**Carried 5/0**

*Mrs M Barthakur left the Council Chambers at 3.23pm and did not return.*

*Mr J Goldacre entered the Council Chambers at 3.23pm.*

### 10.3 Manager of Regulatory Services

**Agenda Reference and Subject:**

**10.3.1** Development Application for the demolition of a State Heritage listed prisoner of war hut on Lot 15920 Wogarl Road, Bruce Rock.

**Reporting Officer:**

Julian Goldacre, Manager of Regulatory Services

**Author:**

Julian Goldacre, Manager of Regulatory Services

**Disclosure of Interest:**

Nil

**Attachments:**

*Item 10.3.1 Attachment A – Planning Development Application Demolition State Heritage Listed Prisoner of War Hut & Supporting Information;*

*Item 10.3.1 Attachment B - Archival Report for Prisoner of War (POW) Hut located on Lot 15920 Wogarl Road Bruce Rock;*

*Item 10.3.1 Attachment C – Director Historic Heritage Conservation response regarding proposed agenda item for demolition of Prisoner of War Hut.*

#### **Summary**

That Council approve the Planning Development Application for the demolition of the State Heritage listed Prisoner of War Hut located on Lot 15920 Wogarl Road Bruce Rock, and provide a record of this resolution to the Heritage Council of Western Australia, the Applicant, and to ensure a record is made for the removal of the Prison of War Hut entry in the Shire of Bruce Rock Heritage List 2022 when next reviewed.

#### **Background**

In early November 2023 the Shire of Bruce Rock received a Planning Development Application (the DA) with supporting information (Attachment A) for the demolition of a State Heritage listed building. The building to be demolished is a single room dwelling with veranda of timber framed, cement board clad presumed asbestos, with tin roof construction. The building is located on Lot 15920 south of Wogarl Road and was used as a prisoner of war hut (the Hut) during World War 2 for Italian prisoners of war whilst labouring on farms. Furthermore, the Hut is registered on the Shire of Bruce Rock Heritage List 2022 as an 'A' listing being one of four places of exceptional cultural heritage significance to the Shire of Bruce Rock and the state of Western Australia, and is included in the Heritage Council of Western Australia's (HCWA) Register of State Heritage Places. The Officer has been dealing with the applicant for some time on this matter for the Hut demolition given the heritage significance of the Hut. With the heritage information received, along with the subsequent dealings and referrals accomplished, the matter is now brought to Councils attention for determination as required by the Shire of Bruce Rock Local Planning Scheme No. 3 (the Scheme).

#### **Comment**

For this DA, matters dealing with the justification for demolition of the Hut was handled by the applicant. The heritage consultancy company Heritage Intelligence WA undertook the assessment of the Hut to provide a building condition report, an Archival Report, and to liaise with the HCWA for their formal approval to demolish the Hut. As seen in Attachment A, the correspondence from the Heritage Council

determined that the Hut is landlocked with no public access and is not visible from the road. Furthermore, whilst the Hut is a rare physical representation for farm labouring prisoners accommodation, the few other examples are suitably represented and accessible elsewhere. Consequently, the proposed demolition of the Hut is supported by the HCWA. Additional to this support is a requirement prior to demolition works occurring for an Archival Report which has been completed and received by the HCWA in September 2023 (Attachment B). Furthermore, all attachments of this agenda have been referred to the Director of Historic Heritage Conservation of the Heritage Department and formally approved the demolition as presented in this agenda item (Attachment C). Also, the Heritage Department requests a copy of the Council resolution on this DA to be provided within 10 days of the resolution, pursuant to the Heritage Regulations 2019, regulation 42(3).

The Shire of Bruce Rock obligations in heritage matters for planning development approval considerations is set out in the Shire of Bruce Rock Policy '5.4 Local Planning Policy for Heritage Places' (the Policy). The Policy has the option to request a structural condition report, although based on the pictorial content of Attachment B, and the HCWA letter approving the demolition, this is not required. The Hut as can be seen is well past its use by date in no uncertain terms. Furthermore, the Policy can condition the requirement for an archival recording although this has already been achieved by Heritage Intelligence WA (Attachment B) and already been submitted to the HCWA when applying for permission to demolish the Hut.

The Shire of Bruce Rock Local Planning Strategy (2009) is silent on heritage matters outside of the Bruce Rock Shire townsites other than to say that an inventory is to be created (for the townsites) and this has been achieved in recent years. Also, the Scheme on heritage matters is concerned only with advertising activities on heritage buildings and property, and requiring a development application for demolition which is the purpose of this item before Council. The Planning and Development (Local Planning Schemes) Regulations 2015 requires that accompanying material for a planning development application has been satisfied and in this instance for the DA this has been achieved (Attachments A & B).

Should Council support the DA then there will be a need to inform the property owners of the Council resolution which will be accomplished with the formal response back to the applicant. Furthermore, the removal of the entry for the Hut in the Bruce Rock Heritage List 2022 can be accomplished during the next review period. The HCWA also will be informed of the Council's decision for their records when the BA7 (demolition completion certificate) is received by the Shire of Bruce Rock.

Given the Director of Historic Heritage Conservation approval for the Hut demolition, it is logical to support this DA.

**Consultation**

Ms Karen Jackson, Senior Heritage Officer, Historic Heritage Conservation, Heritage, and Property Services.

**Statutory Implications**

Heritage Act 2018,  
Heritage Regulations 2019,  
Planning and Development (Local Planning Schemes) Regulations 2015, and  
Shire of Bruce Rock Local Planning Scheme No. 3.

**Policy Implications**

Shire of Bruce Rock Local Planning Strategy (2009)  
Policy 5.4 Local Planning Policy for Heritage Places

**Risk Implications**

<b>Risk:</b> The Hut building is not demolished.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Insignificant	Low
<b>Action / Strategy</b>		
This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “Low” risk and can be managed by routine procedure, and is unlikely to need specific application of resources.		

**Financial Implications**

Planning Development Application fee of \$147, and a Demolition Permit fee of \$171.65.

**Strategic Implications**

**Governance**

4.3 Proactive and well governed Shire.

**Voting Requirements**

Simple Majority.

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Feb 24 – 10.3.1**

**Moved:** Cr Strange

**Seconded:** Cr Foss

**That Council:**

**Resolves to support the planning development application for the demolition of the State Heritage listed Prisoner of War Hut on Lot 15920 Wogarl Road, Bruce Rock and approved by the Director of Historic Heritage Conservation, with the following conditions being –**

- a) this resolution outcome is provided to the Heritage Council of Western Australia within 10 days of this Resolution for their records,**
- b) this resolution outcome is provided to the Owners of Lot 15920 Wogarl Road, Bruce Rock for their records, and**
- c) an administrative record is created for the purpose of informing the Shire of Bruce Rock Heritage List 2022 next scheduled review to remove the record relating to the Prisoner of War Hut.**

**For:** Cr Crooks, Cr KP Foss, Cr P Hodgkiss, Cr R Rajagopalan and Cr S Strange

**Against:** Nil

**Carried 5/0**

*Mr J Goldacre left the Council Chambers at 3.25pm and did not return.*

## 10.4 Manager of Governance and Community Services

### Agenda Reference and Subject:

**10.4.1** Sale of Vacant Lot at 52 Farrall Street, Bruce Rock

### Reporting Officer:

Nerea Ugarte, Manager of Governance and Community Services

### Author:

Nerea Ugarte, Manager of Governance and Community Services

### Disclosure of Interest:

Cr PK Hodgkiss

### Attachments:

*Item 10.4.1 Attachment A – Expression of Interest to Purchase  
52 Farrall Street*

*Item 10.4.1 Attachment B – Market Valuation 52 Farrall Street*

### Summary

Council is asked to consider an offer from Ms Anne Ransom to purchase the vacant lot located at 52 Farrall Street, Bruce Rock (see Attachment A).

### Background

There are currently eight vacant lots within the townsite of Bruce Rock owned by the Shire and available for purchase, one of them being the lot located at 52 Farrall Street.

In 2013, the Shire received an offer to purchase this lot, but the sale did not proceed.

On 8 January 2024, Council received a written offer of between \$10,000 and \$12,000 from Ms Ransom to purchase 52 Farrall Street. Ms Ransom has advised that she is willing to consider a higher negotiated figure, should Council deem her offer to be too low once a land valuation is undertaken.

The applicant is the owner of the adjoining land (being 50 Farrall Street, Bruce Rock). She has advised that her intention is to build a large shed at the rear end of the block to house vehicles and a caravan, and to have a small personal workshop. In the future, she would like to build a small dwelling to rent out.

As per section 3.58(4)(c)(i) of the Local Government Act 1995, which deals with the disposal of property by Local Governments, the Shire commissioned property consultants and valuers Preston Rowe Paterson to undertake an independent market valuation of 52 Farrall Street. Preston Rowe Paterson has determined the value of the vacant lot to be \$12,500<sup>1</sup>. This amount is the mid-point of the market value range for the land, which is between \$10,000 and \$15,000. The valuation report is provided as Attachment B.

### Comment

The sale of 52 Farrall Street would be of benefit for the following reasons:

- The Shire would benefit financially, both from the proceeds of the sale and from savings associated with the ongoing maintenance of the lot, which would no longer be necessary.
- The future building of a dwelling on the lot for rent would contribute to addressing the shortage of housing stock in Bruce Rock.

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<sup>1</sup> Note that GST is not included, as valuations of residential property are undertaken on the basis that GST is not applicable.

It is therefore recommended that Council proceed with the disposal of 52 Farrall Street at the price of \$12,500 (consistent with the market value determined by Preston Rowe Paterson).

To do so, Council will be required to:

- negotiate the \$12,500 price with Ms Ransom; and
- comply with the process set out in section 3.58(3) of the Local Government Act 1995 for the disposal of property, which includes:
  - the publication of a public notice advising of Council’s proposed disposal; and
  - Council’s consideration of any submissions made in response to the public notice.

### **Consultation**

Darren Mollenoyux, Chief Executive Officer

Manisha Barthakur, Manager of Finance

Mike Darby, Senior Finance Officer

Preston Rowe Paterson

### **Statutory Implications**

Local Government Act 1995 - Section 3.58

#### *“3.58 - Disposing of property*

*(1) In this section —*

*dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not; property includes the whole or any part of the interest of a local government in property, but does not include money.*

*(2) Except as stated in this section, a local government can only dispose of property to —*

*(a) the highest bidder at public auction; or*

*(b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

*(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*

*(a) it gives local public notice of the proposed disposition —*

*(i) describing the property concerned; and*

*(ii) giving details of the proposed disposition; and*

*(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

*and*

*(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

*(4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*

*(a) the names of all other parties concerned; and*

*(b) the consideration to be received by the local government for the disposition; and*

*(c) the market value of the disposition —*

*(i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or”*

**Policy Implications**

Nil

**Risk Implications**

<b>Risk:</b> If Council does not approve the disposal of 52 Farrall Street, the Shire may not be able to meet its estimated land disposal sales for the 2023/24 Budget. An opportunity to contribute to the housing stock in the Bruce Rock townsite will also be missed.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Minor	Low
<b>Action / Strategy</b>		
That, following the negotiation of the sale price with Ms Ransom and the completion of the disposal process outlined in section 3.58(3) of the Local Government Act 1995, Council sells 52 Farrall Street to Ms Ransom.		

**Financial Implications**

Reduction in assets in the balance sheet held as Land and Building category.

Increase in sales proceeds for the 2023/24 financial year, which was budgeted as \$10,000.

**Strategic Implications**

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Infrastructure

Goal 3: Assist the local economy to grow

Goal 4: Workers and their families can work and reside in the Shire

- 4.3 – Promote existing residential land and plan for future commercial and residential land developments to meet current and future needs

**Voting Requirements**

Absolute Majority

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Feb 24 – 10.4.1**

**Moved: Cr Crooks**

**Seconded: Cr Strange**

**That Council:**

1. agrees to proceed with the disposal of 52 Farrall Street, Bruce Rock at the price of \$12,500;
2. authorises the Shire’s Chief Executive Officer to negotiate the above sale price with Ms Anne Ransom;
3. subject to Ms Anne Ransom’s agreement to the sale price, authorises the Chief Executive Officer to give local public notice of Council’s intention to sell 52 Farrall Street, Bruce Rock to Ms Anne Ransom at the price of \$12,500; and
4. agrees to the outcomes of the public notice process to be presented to Council at its Ordinary Meeting of March 2024.

**For: Cr Crooks, Cr KP Foss, Cr R Rajagopalan and Cr S Strange**

**Against: Nil**

**CARRIED BY ABSOLUTE MAJORITY 4/0**

*CR SA Strange left the Council Chambers at 3.35pm and did not return.*



## 10.5 Chief Executive Officer

### Agenda Reference and Subject:

**10.5.1** Retail Trading Hours – Bruce Rock – Proposed Extension

**Reporting Officer:** Darren Mollenoyux, Chief Executive Officer

**Author:** Darren Mollenoyux, Chief Executive Officer

**Disclosure of Interest:** Nil

**Attachments:** Nil

### Summary

Council is asked to consider a proposal to permanently extend Retail Trading Hours in Bruce Rock to commence at 7.00am in the Shire of Bruce Rock rather than the prescribed Retail Trading Hours commencing at 8.00am for Non-Metropolitan Local Governments.

### Background

At the Ordinary Meeting of Council held in December 2023 an item was presented for consideration following the Manager of Foodworks Bruce Rock Supermarket and Hardware approaching the Chief Executive Officer requesting information on the Shire's approval process for the extension of retail trading hours.

### Proposed permanent extension to trading hours:

Monday to Friday 7.30am to 5.30pm

Saturday 8.00am to 2.00pm (these hours are already allowance under current prescribed hours)

Current prescribed hours under the Retail Trading Hours Act 1987 (WA)

Monday, Tuesday, Wednesday and Friday – 8.00am to 6.00pm

Thursday 8.00am to 9.00pm

Saturday 8.00am to 5.00pm

Sunday and General Public Holidays – No trading permitted

The CEO contacted the Consumer Protection Division of the Department of Mines, Industry Relations and Safety to seek guidance on the process for seeking a permanent extension to the retail trading hours for Bruce Rock.

If the Shire intends to seek approval from the Minister for a permanent/long term variation of trading hours within its local government area, a process of public consultation with the local community, business and tourism interests and local members of State Parliament is required to ascertain the views on the proposal to extend trading hours. The application needs to show there is community support for the proposal and that it is supported by Council.

The other option to allow for extended trading is for individual shops to apply to be certified as a small or special retail shop. Small retail shops are shops that are owned by up to six people, who operate no more than four retail shops, in which up to 25 people work in the shop at any one time. Shops that are certified as a small retail shop can trade 24 hours a day, every day of the year.

Special retail shops are considered necessary for emergency, convenience, or recreation goods. Special retail shops can trade from 6am to 11.30pm on every day of the year but are restricted to only selling the types of goods prescribed for the category of special retail shop they are certified under.

A copy of the Department of Consumer Protection Extended Trading Hours Policy and Application documentation is provided as an attachment to this item.

There are many other regional local government that have received this adjustment, including neighbouring Shires of Merredin and Narembeen.

At the December 2023 Ordinary Council Meeting the following resolution was made;

*OFFICER RECOMMENDATION AND COUNCIL DECISION*

*Resolution OCM Dec 23 – 12.4*

*Moved: Cr Verhoogt*

*Seconded: Cr Waight*

- 1. That Council provides in principle support for an application for the extension of the trading hours within the Shire of Bruce Rock district boundary.*
- 2. That Council seeks submissions from specifically businesses and the wider community for a 28 day period, with submissions to be presented to the February 2024 Ordinary Council meeting for consideration.*
- 3. If no objections are received after the 28 day consultation period the an application for Permanent Extended Trading Hours be submitted to the Minister seeking support to permanently extend the Retail Trading Hours for the Local Government boundary of the Shire of Bruce Rock as follows;*

*Monday to Friday 7.00am to 6.00pm*

*Saturday to remain 8.00am to 5.00pm*

*No trading on Sunday or Public Holidays*

*For: Cr Crooks, Cr KP Foss, Cr P Hodgkiss, Cr R Rajagopalan, Cr J Verhoogt and Cr Waight*

*Against: Nil*

*Carried 6/0*

**Comment**

The owner of Foodworks Bruce Rock Supermarket and Hardware emailed the CEO in late December 2023 to advise that they had been certified as a Small Retail Shop by the Commissioner of Consumer Protection.

Following clarification through from the Consumer Protection Division of the Department of Energy, Mines, Industry Regulations and Safety, the classification awarded means that Foodworks Bruce Rock Supermarket and Hardware has no restriction on hours and whilst not required to are permitted to trade up to 24 hours a day.

This approval therefore meets the request of Foodworks Bruce Rock Supermarket and Hardware to open at their requested earlier time of 7.30am opposed to the standard Retail Trading Hours (being 8.00am).

Therefore, Council no longer needs to proceed with the request to consider permanently extending the Retail Trading hours for the Shire of Bruce Rock and subsequently Council is asked to consider revoking the decision made at the December 2023 Ordinary Meeting of Council.

**Consultation**

- Business owners of Foodworks Bruce Rock Supermarket and Hardware, Regal Ventures
- Principal Inspector from Consumer Protection Division of Department of Mines, Industry, Regulation and Safety
- Manager of Regulatory Services, Mr Julian Goldacre

**Statutory Implications**

Compliance with the Retail Trading Hours Act 1987

10. Revoking or changing decisions made at council or committee meetings — s. 5.25(1)(e)

- (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —
  - (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or
  - (b) in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (1a) Notice of a motion to revoke or change a decision referred to in sub regulation (1) is to be signed by members of the council or committee numbering at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —
  - (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
  - (b) in any other case, by an absolute majority.
- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

**Policy Implications**

Nil

**Risk Implications**

<b>Risk:</b> There is no direct risk to Council, and the determination for the Bruce Rock Supermarket as a Small Retail Shop negates their request for a variation to the Shire’s Retail Trading Hours permitted under the Retail Trading Hours Act 1987 (WA).		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Unlikely	Minor	Low
<b>Action / Strategy</b>		
This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “low” risk and requires no further action.		

**Financial Implications**

Nil

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**Strategic Implications**

*Shire of Bruce Rock – Strategic Community Plan 2022-2032*

**Community**

Strategic Priority

- 1.1– Our Community are engaged and have a healthy lifestyle
- 1.2 Inclusive community activities, events and initiatives
- 1.3 Shire facilities are maintained in a strategic manner and meet community need

**Economic**

Strategic Priority

- 2.1 – Assist the local economy grow
  - Occupation of retail space
- 2.3 – Workers and their families can work and reside in the Shire
- 2.4 – Our tourism profile is continually built upon

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Feb 24 – 10.5.1**

**Moved: Cr Foss**

**Seconded: Cr Crooks**

**Officer Recommendation**

**That Council, in accordance with Section 5.25 (1) (e) of the Local Government Act 1995 revokes Resolution OCM Dec23 – 12.4 passed at its ordinary meeting held on Thursday 14th December 2023 as the request from Foodworks Bruce Rock Supermarket and Hardware for permanent extended Retail Trading Hours is no longer required as they have been approved as a Small Retail Shop, therefore have unlimited restrictions to hours of trade.**

**For: Cr Crooks, Cr KP Foss, Cr P Hodgkiss and Cr R Rajagopalan**

**Against: Nil**

**Carried 4/0**

**11. Regional Reports**

Nil

**12. New Business of an Urgent Nature Introduced by Discussion of the Meeting**

Nil

### 13. Confidential Items

<b>Agenda Reference and Subject:</b>	<b>13.1</b> Disposal of Batching Plant Equipment and Concrete Truck and Lease of Council Quarry
<b>Reporting Officer:</b>	Nerea Ugarte, Manager of Governance and Community Services
<b>Author:</b>	Nerea Ugarte, Manager of Governance and Community Services
<b>Disclosure of Interest</b>	Nil
<b>Attachments</b>	<i>Item 13.1 Attachment A</i>

#### OFFICER RECOMMENDATION AND COUNCIL DECISION

##### Resolution OCM Feb 24 – 13.1.1

Moved: Cr Crooks

Seconded: Cr Foss

##### Officer Recommendation

That in accordance with Section 5.23 (2) of the Local Government Act 1995, the meeting is closed to the members of the public for this item, as the following sub-section applies:

“If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

- 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; and
- d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
- e) a matter that if disclosed, would reveal —
  - (i) information that has a commercial value to a person; or
  - (ii) information about the business, professional, commercial or financial affairs of a person,”

For: Cr Crooks, Cr KP Foss, Cr P Hodgkiss and Cr R Rajagopalan

Against: Nil

Carried 5/0

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Feb 24 – 13.1.2**

**Moved: Cr Crooks**

**Seconded: Cr Foss**

**Officer Recommendation**

**That in accordance with Section 5.23(2) of the Local Government Act 1995, Council reopens the meeting to the members of the public.**

**For: Cr Crooks, Cr KP Foss, Cr P Hodgkiss and Cr R Rajagopalan**

**Against: Nil**

**Carried 4/0**

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**Resolution OCM Feb 24 – 13.1.3**

**Moved: Cr Hodgkiss**

**Seconded: Cr Foss**

**Officer Recommendation**

**That Council:**

- 1. authorise the Shire’s Chief Executive Officer to advise WA Concrete that the lease of the Shire quarry and the sale of the batching plant and the concrete truck to the company will not proceed; and**
- 2. request the Chief Executive Officer to present to Council (at its Ordinary Meeting of March 2024) a proposed strategy for the Shire’s sourcing of cement supplies in the future, including consideration of the retention or disposal of the batching plant and cement truck.**

**For: Cr Crooks, Cr KP Foss, Cr P Hodgkiss and Cr R Rajagopalan**

**Against: Nil**

**Carried 4/0**



**14. Closure of Meeting**

The Shire President Ram Rajagopalan thanked everyone for their attendance and declared the meeting closed at 3.46pm.

These minutes were confirmed at a meeting on 21 February 2024.

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Cr R Rajagopalan  
Shire President