



SHIRE OF
DOWERIN
TIN DOG TERRITORY

AGENDA

Special Council Meeting

To be held in Council Chambers
13 Cottrell Street, Dowerin WA 6461
Thursday 6 July 2023
Commencing 3.00pm





NOTICE OF MEETING

Dear President and Councillors,

A Special Council Meeting will be held on Thursday July 2023 in the Shire of Dowerin Council Chambers, 13 Cottrell Street, Dowerin commencing at 3.00pm. The purpose of the meeting will be to appoint the new Chief Executive Officer (CEO).

Rebecca McCall
Chief Executive Officer
3 July 2023

DISCLAIMER

Statements or decisions made at this meeting should not be relied or acted on by an applicant or any other person until they have received written notification from the Shire. Notice of all approvals, including planning and building approvals, will be given to applicants in writing. The Shire of Dowerin expressly disclaims liability for any loss or damages suffered by a person who relies or acts on statements or decisions made at a Council or Committee meeting before receiving written notification from the Shire.

The advice and information contained herein is given by and to Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

It should be noted that the Attachment hyperlinks may not be functional from this document when sourced from the Shire of Dowerin's website. Attachment copies follow on from the end of the Agenda.

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Shire of Dowerin
Special Council Meeting
3.00pm Thursday July 2023



1. Official Opening

The President welcomes those in attendance and declares the meeting open.

2. Record of Attendance / Apologies / Leave of Absence

Councillors:

Cr RI Trepp	President
Cr BA Ward	Deputy President
Cr WG Allsopp	
Cr LG Hagboom	
Cr DP Hudson	
Cr NP McMorran	
Cr AJ Metcalf	
Cr JC Sewell	

Staff

Ms R McCall	Chief Executive Officer
Mr A Wooldridge	Deputy Chief Executive Officer
Ms L Dreghorn	Executive & Governance Officer

Members of the Public:

Apologies:

Approved Leave of Absence:

3. Public Question Time

4. Disclosure of Interest

Councillors are to complete a Disclosure of Interest Form for each item they are required to disclose an interest in. The Form should be given to the Presiding Member before the meeting commences. After the meeting, the Form is to be provided to the Executive & Governance Officer for inclusion in the Disclosures Register.

5.1 Policy Manual Review – Policy 4.2 – Gravel, Sand & Pit Rehabilitation Policy

Asset & Works



Date:	28 June 2023
Location:	Various
Responsible Officer:	Rebecca McCall, Chief Executive Officer
Author:	Linley Dreghorn, Executive & Governance Officer
Legislation:	<i>Local Government Act 1995</i>
Sharepoint Reference:	Organisation/Governance/Council Policies
Disclosure of Interest:	Nil
Attachments:	Attachment 5.1A – Policy 4.2- Gravel Sand & Pit Rehabilitation Policy

Purpose of Report

Executive Decision

Legislative Requirement

Summary

This Item presents a review of Policy 4.2 – Gravel , Sand & Pit Rehabilitation Policy to Council for consideration and, if satisfactory, adoption.

Background

This policy was last reviewed by Council at its January 2021 Meeting (Item 13.1, CMRef 0357).

Comment

Policy 4.2 – Gravel, Sand & Pit Rehabilitation Policy provides clarity for all parties regarding any transactions relating to the removal of materials for roadworks and the rehabilitation of pits once no longer required.

The Policy clearly states the dollar value for each of the material types and also identifies who is responsible for areas that might be impacted ie change in fencing due to stock, rehabilitation of disused pit etc.

It also allows for agreements to be negotiated so that the materials used by the Shire can be paid to the owner as a part cash payment/part private works arrangement. This is something that landowners have requested before and this Policy clarifies the conditions where such a transaction may occur.

The current Policy also includes the legislative right of a local government to undertake forced acquisition of materials as per the *Local Government Act 1995*, specifically Sections 3.21, 3.22, 3.27, 3.31, 3.32, 3.33 and Schedule 3.2.

Minor amendments, including Policy title, position titles, price for materials and the addition of a document control box have been made.

Consultation

Rebecca McCall, Chief Executive Officer

Ben Forbes, Asset & works Coordinator

Council Workshop, 20 June 2023

Policy Implications

The Policy Manual will be updated accordingly, should Council resolve to adopt the Officer's Recommendation.

Strategic Implications

Strategic Community Plan

Community Priority:	Our Infrastructure
Objective:	We have functional assets and infrastructure that supports the community
Outcome:	3.2
Reference:	3.2.3

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Statutory Implications

Section 2.7(2)(b) of the *Local Government Act 1995* is applicable to Council's role in relation to policies and states:

"2.7. Role of council

(1) *The council –*

- (a) *governs the local government's affairs; and*
- (b) *is responsible for the performance of the local government's functions.*

(2) *Without limiting subsection (1), the council is to –*

- (a) *oversee the allocation of the local government's finances and resources; and*
- (b) *determine the local government's policies."*

The following Sections and Schedules of the *Local Government Act 1995* are also applicable:

Section 3.21	Duties when performing functions
Section 3.22	Compensation
Section 3.27	Particular things local governments can do on land that is not local government property
Section 3.31	General procedure for entering property
Section 3.32	Notice of entry
Section 3.33	Entry under warrant
Schedule 3.2	Particular things local government can do on land this is not local government property

Risk Implications

Risk Profiling Theme	Asset Management Practices
Risk Category	Project Budget
Risk Description	No noticeable regulatory or statutory impact
Consequence Rating	Insignificant (1)
Likelihood Rating	Rare (1)
Risk Matrix Rating	Low (1)
Key Controls (in place)	Road Asset Management Program
Action (Treatment)	Review Road Asset Management Program
Risk Rating (after treatment)	Adequate

Financial Implications

Financial implications will form part of Council’s annual budget deliberations.

Voting Requirements

Simple Majority Absolute Majority

Officer’s Recommendation - 5.1

That, by Simple Majority, in accordance with the *Local Government Act 1995*, Council adopts the amended Policy 4.2 - Gravel, Sand and Pit Rehabilitation Policy, as presented in Attachment 5.1A.

POLICY NUMBER	-	4.2
POLICY SUBJECT	-	4.2 Gravel, Sand and Clay Supplies and Pit Rehabilitation Policy
DATE ADOPTED	-	18 December 2018 (Item 10.1.1)
RESPONSIBLE OFFICER	-	Manager Works & Assets Chief Executive Officer
REVIEWED	-	6 July 2023 (CMRef XXXX) 19 January 2021 (CMRef 0357)

Objective

To ensure that at all times the Shire has sufficient materials and arrangements in place to meet the needs of road maintenance and construction programs. This will be achieved by:

1. Ensuring access to an adequate supply of high-quality road building materials.
2. Ensuring that an effective rehabilitation program is in place; and
3. Ensuring that all facets of these transactions are transparent and compliant with relevant legislation.

Policy

Access to Material

Council recognises that in order to access gravel, sand or clay it needs to pay a fair price and abide by its own policies and local laws. To this end, Council will undertake the following:

1. Approach the landowner at least four weeks prior to the time that the works are due to commence, to advise the landowner of the Shire's intention, advise of compensation and to enable the landowner to make any domestic arrangements in relation to stock, etc.
2. All pits opened on private property will be reclaimed before the plant shifts to the next programmed job, unless firm arrangements are made with the landowner for not reclaiming.
3. If the area is required for dam catchments, all topsoil shall be stock piled, or removed if suitable for road building.
4. If required by the land holder, the areas shall be fenced, and suitable gates fitted to the fenced area, at the Shires expense.
5. Construction shall occur when necessary to create or repair affected haul roads.
6. All care will be taken to reduce, as much as possible, the impact or inconvenience to the landowner.
7. All pits will be rehabilitated in accordance with the signed gravel agreement and this Policy.
- 7.8. Material from new pits will be tested to ensure specifications are suitable for construction.
- 8.9. Rate of payment for materials, including GST are:
 - Gravel ~~\$2.20~~ \$3.30 per cubic metre for compacted gravel removed from private property.
 - Sand \$1.75 per cubic metre.
 - Clay ~~\$1.10 per cubic metre.~~
- 9.10. All transactions are to be in accordance with relevant legislation and include a written agreement, detailing all aspects of the proposed transaction, including rehabilitation of the quarry/pit. No works are to occur prior to the signing of the agreement by both parties.
- 10.11. Landowners have an option to:
 - a. Claim full payment for the materials extracted.

Commented [RM1]: Unless stipulated in signed gravel agreement

Commented [LD2]: This is dependant upon quality and agreed price with landowner.

Commented [RM3R2]: Unsure how to articulate the quality - I assume because we have the material tested, if it does not reach the specs we do not proceed.

Commented [RM4R2]: Add a clause to state that gravel is to be tested for quality.

Commented [LD5R2]: I removed new so this applies to all pit material - is this ok?

Commented [RM6R2]: yes

- b. Claim part payment and part private works up to the value of the material extracted; or
- c. Receive no payment and have private works carried out to the value of the materials extracted.

The value of private works will be determined by the ~~Manager Works and Assets~~Asset and Works Coordinator.

~~11.12.~~ The private works in Part 9 above may only be carried out on the property from which material has been extracted and is subject to plant availability. Any works scheduled are to be performed during the budgeted financial year and are not to be carried over.

~~12.13.~~ When landowner consent from the extraction of road building or other materials required for public works is not granted and the Chief Executive Officer and ~~Manager Works and Assets~~Asset and Works Coordinator considers the acquisition of these materials is in the best interest of the public, the Chief Executive Officer will provide such notices and takes such actions as prescribed by the *Local Government Act 1995*, Section 3.27 (1) to secure the materials.

~~13.14.~~ If materials are extracted without the landowner's consent then the rates of royalty that would have been applicable and remedial actions to the land that would have been taken, will apply as if the landowner had given their permission.

~~14.15.~~ Upon meeting all requirements of the Agreement in Part 7 (Access to Material) the ~~Manager Works and Assets~~Asset & Works Coordinator shall ensure the landowner is adequately satisfied by way of a signed acceptance letter.

Pit Rehabilitation

The Shire recognises and accepts that pit rehabilitation is necessary to avoid soil compaction, decrease surface drainage, avoid erosion and minimise visual pollution.

1. In general, prior to opening a pit, a management plan of the site will be prepared which will include rehabilitation and monitoring.
2. Private operators are required to submit and abide to a pit management plan, which includes rehabilitation and monitoring, before establishing a pit.
3. Wherever possible, new pits will be established on cleared land, not existing bushland and not be located on a road verge.
4. Where necessary, the visual impacts of an operating pit will be minimised through the establishment of buffers between the pit and visual vantage point/s.
5. Where necessary, the dust and noise impacts of an operating pit will be minimised through the establishment of buffers between the pit and neighbours.
6. Throughout the life of the pit, topsoil, overburden and vegetation will be stockpiled separately ready for respreading in the rehabilitation process.
7. If weeds have developed on the topsoil mounds these will be removed prior to respreading the topsoil.
8. If necessary, drainage structures will be established within the pit, to reduce any ponding and/or surface erosion.
9. Rehabilitation will be done progressively throughout the life of the pit, ~~and~~

~~10.~~ The site will be monitored ~~every year for three years after closure of the pit. If after three years, rehabilitation is considered inadequate, appropriate measures will be undertaken to bring the pit up to the appropriate rehabilitated standard. In accordance with the signed rehabilitation plan and this policy; and~~

~~10.1.~~ Private pits shall be rehabilitated in accordance with the signed gravel rehabilitation agreement

Bush Sites

Where a proposed pit is located within bushland, the following will apply:

1. Reference to the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and obtain the necessary clearing permits.
2. Prior to opening a pit, seed from local endemic species will be collected from the site and stored for use in the revegetation phase of rehabilitation.
3. The general process of rehabilitation will be:
 - a. Rip the floor of the pit at 1 one metre intervals across the contour.
 - b. Shape the ripped pit so that the surfaces are as smooth as possible.
 - c. Batter the edges down to blend in with the landscape with the batter slopes no steeper than 4H:1V.

Commented [LD7]: Do we do this?

Commented [RM8R7]: Ben - does this section need amending?

Commented [RM9R7]: Amend clause 10 - private pits rehab as per gravel agreement

Commented [LD10R7]: Amended - for approval

Commented [RM11R7]: 10. - in accordance with the rehabilitation plan and this policy.

- d. Return the overburden and the topsoil to the pit.
 - e. Then cross-rip the site at one metre intervals on the contour to encourage plant growth and
 - f. Return all vegetation and debris to the pit.
4. Seeds collected prior to pit establishment should be scattered on the site at the time of year suited for germination (varies with location) if establishment from resspreading vegetation has been inadequate. If a store of seeds is not available, seed from local endemic species should be collected from surrounding areas; and
 5. If required by the landowner and the pit is located on farmland, it will be fenced to exclude stock to help ensure adequate regeneration at the Shire's expense.

Pastured Sites

1. Prior to establishment of the site, the landowner will be asked how they want the site rehabilitated.
2. For sites to be rehabilitated back to pasture the general process of rehabilitation will be:
 - a. Rip the floor of the pit to a depth of at least 50cm along the contour.
 - b. Shape the pit so that the surfaces are as smooth as possible and edges are battered down to blend in with the landscape.
 - c. Return the overburden and then topsoil to the pit and
 - d. Pasture seed will be spread.

Abandoned Pits

1. As part of its annual budget deliberations, Council will determine an amount specifically for the rehabilitation of abandoned pits. This will take into account, a works program to ensure that over time, all abandoned pits are rehabilitated to a satisfactory level.
2. The method for rehabilitation will not change from that mentioned in the section on current pits.
3. If fill is no longer available, spoil from roadworks etc. will be used. Topsoil, if no longer on site, will be carted to the area to ensure regeneration will be satisfactory and
4. The site will be monitored ~~every year for three years~~ after rehabilitation works are completed to ensure compliance with signed rehabilitation plan. If rehabilitation is inadequate, appropriate measures will be taken to ensure success.

Commented [LD12]: Does this occur?

Commented [LD13]: Is this appropriate?

Commented [RM14R13]: Probably need to revise this section

Commented [LD15R13]: Amendment made - for approval

Commented [RM16R13]: 4. agreement or plan

Roles and Responsibilities

Chief Executive Officer

The Chief Executive Officer has responsibility to ensure this policy is implemented.

Related Documentation

Nil

Related Legislation/Local Law/Policy/Procedure

Sections 3.21, 3.22, 3.27, 3.31, 3.32, 3.33 and Schedule 3.2 of the *Local Government Act 1995*.

Related Delegation

Nil

Document Control	
<u>Policy Number</u>	<u>4.2</u>
<u>Policy Version</u>	<u>3</u>
<u>Policy Owners</u>	<u>Chief Executive Officer</u>
<u>Creation Date</u>	<u>18 December 2018 (Item 10.1.1)</u>
<u>Last Review Date</u>	<u>19 January 2021 (CMRef 0357)</u>

	<u>6 July 2023 (CMRef XXXX)</u>
<u>Next Review Due</u>	<u>This policy will be reviewed bi-annually or more often where circumstances require.</u>

5.2 Resignation of Chief Executive Officer (CEO)

Governance & Compliance



Date:	29 June 2023
Location:	Shire of Dowerin
Responsible Officer:	Rebecca McCall, CEO
Author:	Linley Dreghorn, Executive & Governance Officer
Legislation:	<i>Local Government Act 1995</i>
SharePoint Reference:	
Disclosure of Interest:	
Attachments:	Nil

Purpose of Report

Executive Decision

Legislative Requirement

Summary

This item is presented to Council to receive the resignation of the Chief Executive Officer (CEO), Ms Rebecca McCall from the Shire of Dowerin.

Background

In April 2023 the current CEO, Ms Rebecca McCall provided a letter of resignation to the Shire President affective from 8 September 2023.

At the May Ordinary Meeting of Council, it was ratified (CMRef 0784) to commence the recruitment process for a new CEO.

Consultation

Rebecca McCall, Chief Executive Officer
Aaron Wooldridge, Deputy Chief Executive Officer
Cr Robert Trepp, Shire President
Ordinary Council Meeting 16 May 2023

Policy Implications

Council Policy "Model Standards for CEO Recruitment, Performance and Termination" is relevant to this item.

Statutory Implications

Section 5.36, 5.39 and 5.39C of the *Local Government Act 1995* is relevant.

5.36. Local government employees

- (1) A local government is to employ –
 - (a) a person to be the CEO of the local government; and

- (2) A person is not to be employed in the position of CEO unless the council –
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.

** Absolute majority required.*

- (4) Unless subsection (5A) applies, if the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.

5.39. Contracts for CEO and senior employees

- (1) *Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.*
- (1a) *Despite subsection (1) –*
 - (a) *an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and*
 - (b) *a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.*
- (2) *A contract under this section –*
 - (a) *in the case of an acting or temporary position, cannot be for a term exceeding one year;*
 - (b) *in every other case, cannot be for a term exceeding 5 years*
- (3) *A contract under this section is of no effect unless –*
 - (a) *the expiry date is specified in the contract; and*
 - (b) *there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and*
 - (c) *any other matter that has been prescribed as a matter to be included in the contract has been included.*
- (4) *A contract under this section is to be renewable and subject to subsection (5), may be varied.*
- (5) *A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.*
- (6) *Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.*
- (7) *A CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7A.*

- (8) *A local government is to ensure that subsection (7) is complied with in entering into, or renewing, a contract of employment with a CEO.*

5.39C. Policy for temporary employment or appointment of CEO

- (1) *A local government must prepare and adopt* a policy that sets out the process to be followed by the local government in relation to the following –*
- (a) *the employment of a person in the position of CEO for a term not exceeding 1 year;*
 - (b) *the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.*

** Absolute majority required.*

- (2) *A local government may amend* the policy.*

** Absolute majority required.*

- (3) *When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.*

- (4) *The CEO must publish an up-to-date version of the policy on the local government's official website.*

Strategic Implications

Strategic Community Plan

Community Priority: Our Organisation

Objective: We are recognised as a transparent, well governed, and effectively managed Local Government

Outcome: 5.3

Reference: 5.3.1

Asset Management Plan

Nil

Long Term Financial Plan

There will be no impact on the Long-Term Financial Plan as remuneration is factored into the proposed 2023/24 budget.

Risk Implications

Risk Profiling Theme	Employment Practices
Risk Category	Compliance
Risk Description	No noticeable regulatory or statutory impact
Consequence Rating	Insignificant (1)
Likelihood Rating	Possible (3)
Risk Matrix Rating	Low (4)
Key Controls (in place)	Council Policies

Action (Treatment)	Recruitment and enactment of Council Policies.
Risk Rating (after treatment)	Adequate

Financial Implications

The cost to engage an Acting CEO can be covered under the existing budget allocation in (GL 2140500) so no additional financial implications.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation - 5.2

That, by Absolute Majority, in accordance with the *Local Government Act 1995*, Council receives the resignation from Ms Rebecca McCall, Chief Executive Officer.

6. MATTERS BEHIND CLOSED DOORS

- 6.1 **Confidential Item 6.1** – Appointment of Chief Executive Officer (CEO)
Confidential Attachment 6.1A – Assessment of Applicants & Interviewees
Confidential Attachment 6.1B – Qualifications and Referee Report on Preferred Candidate

In accordance with Section 5.23(2)(c) of the *Local Government Act 1995*, Council will go Behind Closed Doors.

Voting Requirements

- Simple Majority Absolute Majority

Officer's Recommendation – 6

That, in accordance with Section 5.23(2)(c) of the *Local Government Act 1995*, Council go Behind Closed Doors.

The matter of the Confidential Item – Appointment of Chief Executive Officer (CEO) will be discussed, and a resolution made.

Voting Requirements

- Simple Majority Absolute Majority

Officer's Recommendation – 6

That, in accordance with Section 5.23(1) of the *Local Government Act 1995*, Council come out from Behind Closed Doors.

The President will read aloud the Council Resolution made Behind Closed Doors. This will be reported in the Minutes.

7. Closure