



Shire of Lake Grace

Special Council Meeting

Minutes

7 March 2017

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SHIRE OF LAKE GRACE

Minutes for the Special Meeting of Council held at Council Chambers, 1 Bishop Street, Lake Grace, WA on Tuesday, 7 March 2017.

1.0 OPENING & ANNOUNCEMENT OF VISITORS

The Chairperson (Shire President) opened the meeting at 4.24 pm and advised that today's Special Meeting was convened to consider the following matters:

- A Retrospective Development Application from CBH for Temporary Emergency Grain Handling & Storage Facilities - Reserve 29080 Being Lot 521 Lake Grace-Newdegate Road, Newdegate;
- Endorsing the meeting with the Shire Auditor and the Audit Committee;
- Adoption of the 2015/2016 Annual Report; and,
- Setting the 2015/2016 Annual Electors' Meeting date.

2.0 ATTENDANCE RECORD

2.1 PRESENT

| | |
|--------------------|---|
| Cr JF De Landgraft | Shire President (to adjournment at 4.34 pm) |
| Cr SG Hunt | Deputy Shire President |
| Cr LW Armstrong | (from 8.00 am Wednesday 8 March 2017) |
| Cr DS Clarke | (to adjournment at 4.34 pm) |
| Cr R Chappell | |
| Cr RA Lloyd | |
| Cr AD Marshall | (to adjournment at 4.34 pm) |
| Cr MG Stanton | |
| Cr AJ Walker | (to adjournment at 4.34 pm) |

In Attendance

| | |
|--------------|---------------------------------|
| Ms D Gobbart | Chief Executive Officer |
| Ms L Gray | Deputy Chief Executive Officer |
| Mr P Webb | Manager Infrastructure Services |
| Ms N Bowman | Governance Officer |

Observer/Visitors

Nil

2.2 APOLOGIES

Nil

2.3 LEAVE OF ABSENCE PREVIOUSLY GRANTED

Cr Stanton has been granted leave of absence from Thursday, 9 March 2017 to Thursday 16 March 2017 inclusive.

Cr Marshall has been granted leave of absence from Monday 13 March 2017 to Tuesday 21 March 2017 inclusive.

3.0 PUBLIC QUESTION TIME

Nil

4.0 DECLARATIONS OF INTEREST

4.1 DECLARATIONS OF FINANCIAL INTEREST – LOCAL GOVERNMENT ACT 1995 SECTION 5.60A

Cr Chappell declared financial interest in Item 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate (refer to page 17) with the nature of the interest being a shareholder, storage, handling, freight and sale of grain and a loan.

Cr Clarke declared financial interest in Item 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate (refer to page 17) with the nature of the interest being a shareholder, storage, handling, freight and the sale of grain and lime delivered to the farm.

Cr De Landgraftt declared financial interest in Item 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate (refer to page 17) with the nature of the interest being a shareholder, storage, handling, freight and potential sale of grain.

Cr Lloyd declared financial interest in Item 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate (refer to page 17) with the nature of the interest being a shareholder, storage, handling and potential sale of grain, no contracts at this time.

Cr Marshall declared financial interest in Item 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate (refer to page 17) with the nature of the interest being a shareholder, storage, handling and marketing of grain.

Cr Stanton declared financial interest in 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate (refer to page 17) with the nature of the interest being a shareholder, sale and storage of barley and canola.

Cr Walker declared financial interest in Item 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate (refer to page 17) with the nature of the interest being an employee, a shareholder, storage, handling and the sale of grain.

4.2 DECLARATIONS OF PROXIMITY INTEREST – LOCAL GOVERNMENT ACT 1995 SECTION 5.60B

Nil

4.3 DECLARATIONS OF IMPARTIALITY INTEREST – ADMINISTRATION REGULATIONS 1996 SECTION 34C

Nil

5.0 MATTERS FOR CONSIDERATION

5.1 RETROSPECTIVE DEVELOPMENT APPLICATION – TEMPORARY EMERGENCY GRAIN HANDLING & STORAGE FACILITY – RESERVE 29080 BEING LOT 521 LAKE GRACE-NEWDEGATE ROAD, NEWDEGATE

Due to a quorum not being available at this time being 4.27 pm this item is deferred until the meeting has the required quorum. Refer to pages 15 to 21.

5.2 MEETING WITH SHIRE OF LAKE GRACE AUDITORS

Applicant: Internal
File No. 0202
Attachments: 1. 2015/16 Annual Statements (refer Annual Report)
 2. Moore Stephens Management Report
 3. Extract from Audit Committee Minutes
 27 February 2017
Author: Ms Linda Gray


 Deputy Chief Executive Officer

Disclosure of Interest: Nil
Date of Report: 21 February 2017
Senior Officer: Ms Denise Gobbart


 Chief Executive Officer

Summary

The purpose of this item is for the Audit Committee to recommend to Council to accept the in person meeting with Council's Auditor Mr Greg Godwin from Moore Stephens.

Background

On appointment of the audit committee, the terms of reference provided the following:

- Meet with the auditor once in each year and provide a report to Council on the matters discussed and outcome of those discussions. This duty is pursuant to Section 7.12A(2) of the *Local Government Act 1995*.

The Local Government Act does not require the Audit Committee to meet with the Auditor; rather the Local Government is to meet with the Auditor at least once each year.

It should be noted that there will be a fee involved for the auditor to visit the Shire of Lake Grace in person due to travelling and time.

It has been arranged with the Shire's Auditor, Mr Greg Godwin from Moore Stephens to attend the Audit Committee meeting in person.

Comment

Mr Godwin provided the Audit Committee with an overview of the process of the external Audit, the independent auditor's report and the importance of this independence in the process.

Discussions points were:

- Auditor Role – Material not Forensic
- Description of the Finance Report
- Interim Audit – Systems & Procedures
- Budget & Integrated Planning - outlining that the Council has the responsibility for the Shire's strategic direction.
- Infrastructure Valuation - the issue with the revaluation of roads in the 2014/15 Financial Year and the necessity of looking closely at what was right and wrong with that valuation, and the adjustment necessary to correct it.

- Impact of Depreciation - there is also an increased awareness of the effect of depreciation especially on ratios.
- Fraud – increasing levels of risk, including having access to the payment listing in the minutes on websites.
- Independent Auditor's Report - the Shire had attained a good result in that there were no matters of non-compliance.
- Management Report - noting that there were no matters to report, and that the Shire's ratio position, after adjustment for the early receipt of Federal Assistance Grants, appeared reasonably consistent with prior years (refer Attachment 2).
- Ratio Comparison Report - Moore Stephens was also able to provide further information by preparing a ratio comparison report which will provide comparisons with other local governments of choice.

Legal Implications

Local Government Act 1995 Section 7.12A Duties of Local Government with Respect to Audits:

- (1) A local government is to do everything in its power to —
 - (a) assist the auditor of the local government to conduct an audit and carry out his or her other duties under this Act in respect of the local government; and*
 - (b) ensure that audits are conducted successfully and expeditiously.**
- (2) Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.*
- (3) A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to —
 - (a) determine if any matters raised by the report, or reports, require action to be taken by the local government; and*
 - (b) ensure that appropriate action is taken in respect of those matters.**
- (4) A local government is to —
 - (a) prepare a report on any actions under subsection (3) in respect of an audit conducted in respect of a financial year; and*
 - (b) forward a copy of that report to the Minister, by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.**

Policy Implications

N/A

Consultation

Internal: Denise Gobbart, Chief Executive Officer

External: Moore Stephens (Auditors)

Financial Implications

N/A

Strategic Implications

Shire of Lake Grade Community Strategic Plan

- Ec1 - Ensure the Shire's capital investment program is cost effective and financially sustainable.
- Ec2 - Provide an environment that supports business and investment opportunities.
- Ec3 - Engage with the community to develop sustainable budget commitments.

Voting Requirements

Simple majority required.

Audit Committee Recommendation/Resolution

RESOLUTION 12474

Moved Cr Hunt
Seconded Cr Marshall

That Council,

1. Endorse that a meeting between the Audit Committee and the Auditor in person would satisfy the requirements of Section 7.12A(2) of the Local Government Act 1995 and that the minutes of the meeting show the auditor was involved and the matters discussed; and,
2. Endorse that the verbal report by the Shire Auditor Mr Greg Godwin from Moore Stephens be noted in the minutes and received (refer Attachment 3).

CARRIED 8/0

5.3 SHIRE OF LAKE GRACE 2015/2016 ANNUAL REPORT

Applicant: Internal Report
File No. 0202
Attachments: 2015/2016 Annual Report
Author: Ms Linda Gray


 Deputy Chief Executive Officer

Disclosure of Interest: Nil
Date of Report: 21 February 2017
Senior Officer: Ms Denise Gobbart


 Chief Executive Officer

Summary

The purpose of this item is for the Audit Committee to recommend to Council to accept the Annual Report for the year ended 30 June 2016.

Background

The Annual Financial Report for the year ended 30 June 2016 was presented to the Shire of Lake Grace's Auditor on Wednesday, 7 November 2016. The auditors undertook the annual site visit on the Wednesday 16 November to Friday 18 November 2016. The Audit was completed and signed off on Friday, 17 February 2017.

Section 5.54 'Acceptance of Annual Reports' of the *Local Government Act 1995* requires an Annual Report to be accepted by Council by 31 December in each year unless the Auditors Report is not available in time. Due to the Auditors report not being signed off until 17 February 2017 the next available Council Meeting for this to be endorsed is Tuesday 7 March 2017. The *Local Government Act 1995* Section 5.54(2) requires that if the Annual Report is not accepted by the Local Government by 31 December then it must be presented within two (2) months of the Auditors Report becoming available.

It is intended that the advert advising of the Annual Electors' Meeting and 2015/2016 Annual Report availability will be placed in the West Australian and local community papers. Notices will also be placed on our Notice Boards and the website.

Comment

The completion of the audit and the financial report confirms all figures for the 2015/16 year including the carried forward position at 30 June 2016.

The 2015/16 end of year surplus of \$1,608,569 is a minor variation to the 2016/17 budget surplus estimate of \$1,608,571. There were no adjustments made that impacted our carried forward position.

Legal Implications**Local Government Act 1995 Section 5.53 Annual Reports;**

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain —*
 - (a) *a report from the mayor or president; and*
 - (b) *a report from the CEO; and*
 - [(c), (d) deleted]

- (e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and
- (f) the financial report for the financial year; and
- (g) such information as may be prescribed in relation to the payments made to employees; and
- (h) the auditor's report for the financial year; and
- (ha) a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and
- (hb) details of entries made under section 5.121 during the financial year in the register of complaints, including —
 - (i) the number of complaints recorded in the register of complaints; and
 - (ii) how the recorded complaints were dealt with; and
 - (iii) any other details that the regulations may require; and
- (i) such other information as may be prescribed.

Local Government Act 1995 Section 5.54 Acceptance of Annual Reports;

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.

* Absolute majority required.

- (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

Local Government Act 1995 Section 5.55 Notice of Annual Reports;

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

Policy Implications

N/A

Consultation

Internal Denise Gobbart, Chief Executive Officer

External Moore Stephens (Auditors)

Financial Implications

N/A

Strategic Implications

Shire of Lake Grace Strategic Community Plan

- Ec1 - Ensure the Shire's capital investment program is cost effective and financially sustainable.
- Ec2 - Provide an environment that supports business and investment opportunities.
- Ec3 - Engage with the community to develop sustainable budget commitments.

Voting Requirements

Absolute majority (5) required.

Audit Committee Recommendation/Resolution

RESOLUTION 12475

Moved Cr Clarke
Seconded Cr Hunt

That Council:

1. In accordance with Sections 5.53 and 5.54 of the Local Government Act 1995, accepts the Annual Report for the 2015/2016 financial year, and;
2. In accordance with Section 5.55 of the Local Government Act 1995, authorise the Chief Executive Officer to give local public notice of the availability of the Annual Report from Wednesday 8 March 2017.

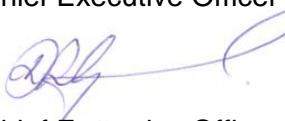
CARRIED BY ABSOLUTE MAJORITY 8/0

5.4 2015/2016 ANNUAL ELECTORS GENERAL MEETING

Applicant: Internal Report
File No. 0202
Attachments: Nil
Author: Ms Linda Gray

Disclosure of Interest: Nil
Date of Report: 21 February 2017
Senior Officer: Ms Denise Gobbart


 Deputy Chief Executive Officer


 Chief Executive Officer

Summary

For the Audit Committee to recommend to Council to endorse the date for the Annual Electors' General Meeting set by the Chief Executive Officer.

Background

The Annual Electors' General Meeting is to be held within 56 days of the local government accepting the Annual Report.

A requirement of setting the date is that 14 days local public notice is required for advertising the meeting. Providing the Annual Report is endorsed at the Special Council meeting held on Tuesday, 7 March 2017, it is recommended that this be held at 7.00 pm Wednesday, 29 March 2017 in Lake Grace.

It is intended that local public notice will be published into the West Australian and the local community newspapers. Notices will also be placed on our Notice Boards and the website.

Comment

The Audit Committee is requested to endorse the date set, in accordance with the Local Government Act, for the Annual Electors' meeting.

Legal Implications**Local Government Act 1995 Section 5.27 Electors' General Meetings;**

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.

Local Government (Administration) Regulation No 15 Matters for discussion at General Electors' Meetings – s.5.27(3)

For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.

Local Government Act 1995 Section 5.29 Convening Electors' Meetings;

- (1) The CEO is to convene an electors' meeting by giving —
 - (a) at least 14 days' local public notice; and

- (b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.
- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.

Policy Implications

Nil

Consultation

Internal Denise Gobbart, Chief Executive Officer
Cr Jeanette De Landgraft, Shire President

Financial Implications

Minor expenses will be incurred with the required advertising.

Strategic Implications

Nil

Voting Requirements

Simple majority required.

Audit Committee Recommendation/Resolution

RESOLUTION 12476

Moved Cr Stanton
Seconded Cr Lloyd

That Council, hold the Annual General Meeting of Electors on Wednesday, 29 March 2017 at 7.00 pm in the Shire of Lake Grace Council Chambers, 1 Bishop Street, Lake Grace.

CARRIED 8/0

Resolution

RESOLUTION 12477

Moved Cr Walker
Seconded Cr Hunt

That Council adjourn the meeting at 4.34 pm with the meeting to reconvene at 8.00 am on Wednesday 8 March 2017 to discuss item 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 Being Lot 521 Lake Grace-Newdegate Road, Newdegate.

CARRIED 8/0

The meeting reconvened at 8.00 am on 8 March 2017 with all those previously present in attendance with the exception of Cr De Landgraft, Cr Clarke, Cr Walker and Cr Marshall. Cr Armstrong was in attendance when the meeting reconvened.

Deputy President Cr Hunt presided the meeting from 8.00 am as Cr (President) De Landgraft was not in attendance when the meeting reconvened.

The Chief Executive Officer advised that as a result of the declarations received prior to the meeting, an application had been made to the Minister for Local Government for approval under section 5.69(3)(a) of the Local Government Act 1995 for sufficient elected members to be present to form a quorum to allow the matter to be discussed. As a result of that request correspondence had been received from the Department of Local Government and Communities as follows:

“I refer to your correspondence dated 27 February 2017 and advise that, in accordance with authority delegated by the Minister for Local Government, the Director General has approved the Shire of Lake Grace’s application, in part, under section 5.69(3)(a) of the Local Government Act 1995 (the Act).

This approval allows disclosing members, Councillors Rosalind Lloyd, Murray Stanton and Ross Chappell to fully participate in the discussion and decision making relating to the below-mentioned item at the Shire’s Special Council Meeting of 7 March 2017;

Item 5.1 – RETROSPECTIVE DEVELOPMENT APPLICATION – TEMPORARY EMERGENCY GRAIN HANDLING AND STORAGE FACILITY RESERVE 29080 BEING LOT 521 LAKE GRACE-NEWDEGATE ROAD, NEWDEGATE

Subject to the following conditions:

- 1. The approval is only valid for the abovementioned item, when it is considered at the Shire’s Special Council Meeting of 7 March 2017;*
- 2. The abovementioned Councillors must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;*
- 3. You, as the CEO, are to provide a copy of the Department’s letter of approval to the abovementioned Councillors;*
- 4. You, as the CEO, are to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;*
- 5. You, as the CEO, are to provide a copy of the confirmed minutes of the abovementioned meeting to the Department, to allow the Department to verify compliance with the conditions of this approval; and*
- 6. The approval granted is based solely on the interests disclosed by the abovementioned Councillors, made in accordance with the application. Should other interests be identified, these interests will not be included in this approval and the financial interest provisions of the Act will apply.*

It has been noted that, Deputy President, Stephen Hunt has not disclosed an interest in the matter and is therefore able to preside at the meeting when the matter

is considered and Councillor (President) De Landgraft is required to disclose her interest and leave the room.”

Cr Chappell declared aloud his financial interest in Item 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate with the nature and extent of the interest being a shareholder, storage, handling, freight and sale of grain and a loan. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Special Council Meeting of 7 March 2017.

Cr Lloyd declared aloud her financial interest in Item 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate with the nature and extent of the interest being a shareholder, storage, handling and potential sale of grain, no contracts at this time. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Special Council Meeting of 7 March 2017.

Cr Stanton declared aloud his financial interest in 5.1 Retrospective Development Application – Temporary Emergency Grain Handling and Storage Facility – Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate with the nature and extent of the interest being a shareholder, sale and storage of barley and canola. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Special Council Meeting of 7 March 2017.

As Ministerial approval has been granted to allow Cr Chappell, Cr Lloyd and Cr Stanton to fully participate in the discussion and decision making related to this matter, they remained in the Council Chambers.

As Cr Clarke, Cr De Landgraft, Cr Marshall and Cr Walker were not in attendance when the meeting reconvened, no further disclosures were made.

5.1 RETROSPECTIVE DEVELOPMENT APPLICATION – TEMPORARY EMERGENCY GRAIN HANDLING & STORAGE FACILITY – RESERVE 29080 BEING LOT 521 LAKE GRACE-NEWDEGATE ROAD, NEWDEGATE

Applicant: Co-operative Bulk Handling Ltd on behalf of the State of Western Australia (Landowner)
File No. 0455/0365
Attachments: 1. Plan 1 – Site Development Plan
2. Plan 2 – Bulkhead Design Drawings
3. Plan 3 – Approved Licence Area Plan
Author: Mr Joe Douglas (Urban & Rural Perspectives)
Town Planning Consultant
Disclosure of Interest: Nil
Date of Report: 9 February 2017
Senior Officer: Ms Denise Gobbart



Chief Executive Officer

Summary

This report recommends that a development application submitted by Co-operative Bulk Handling Limited (CBH) on behalf of the State of Western Australia (Landowner) seeking Council's retrospective approval for the continued use of portion of Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate for temporary emergency grain handling and storage purposes be approved subject to conditions.

Background

In September 2003 and November 2013 Council granted conditional development approval to CBH to develop and use portion of Reserve 29080 in Newdegate for temporary emergency grain handling and storage purposes.

Given the previous applications submitted by CBH stated the development and use of the subject land was going to be undertaken on a temporary basis only, Council granted temporary development approval for a period of six (6) and twelve (12) months respectively. Under the terms of those approvals CBH were required to submit further applications for Council's development approval prior to their expiry to maintain ongoing use rights.

As the use of the land has continued unabated without the issuance of any further development approvals since the second temporary approval granted in 2013, this latest application from CBH has been deemed 'retrospective' with penalties applied to the standard application fee payable as per the relevant planning regulations. It is understood CBH has now arranged payment of the required fee to enable this application to proceed.

At the time of assessment of the previous applications received and approved by Council the reporting officer concluded the proposal was unlikely to have any negative impacts upon the amenity, character, functionality and safety of the immediate locality subject to compliance with a number of conditions regarding approval timeframes, reinstatement of the site following the decommissioning and removal of the proposed facilities, clearing of native vegetation, vehicle access to/from Lake Grace-Newdegate Road, stormwater drainage management and preservation of local amenity and character. This conclusion has been validated with no record of any complaint having been received by the Shire in respect of the

development and use of the land for its approved purpose since it was first established on the land in 2003.

Under the terms of the latest application no changes are proposed to the previous approved development and use of the land for the intended purposes (see Plans 1 & 2).

Council should note that in addition to the development approval requirements of Town Planning Scheme No.4, approval to a new licence agreement between the Shire of Lake Grace and CBH under section 18 of the *Land Administration Act 1997* was granted by the Minister for Lands on 16 January 2017. The licence agreement identifies the area within which the development and use of the land for the intended purposes may be undertaken and sets out each party's rights and obligations (see Plan 3). The agreement is due for renewal on 30 June 2017 for a further eight (8) month period subject to approval by both Council and the Minister for Lands.

Comment

Given:

- a) there have been no changes to land use permissibility and the general development standards prescribed in Shire's Local Planning Scheme No.4 since the temporary development approval granted by Council in 2013 as these apply specifically to the subject land; and,
- b) the land has been developed and used generally in accordance with the terms and conditions of all previous development approvals issued by Council,

it is concluded Council may again use its discretion by resolving to grant approval to this latest application.

It is recommended that Council impose a number of conditions on any new development approval issued to again ensure reinstatement of the site following the decommissioning and removal of the proposed facilities, protection of existing native vegetation, safe and convenient vehicle access to/from Lake Grace-Newdegate Road, suitable stormwater drainage management and preservation of local amenity and character.

It is also recommended that development approval be granted for a slightly longer term to ease the administrative burdens and costs associated with the ongoing temporary approval process. An increased temporary approval term of five (5) years is considered reasonable and can be reassessed by Council when considering future development applications received in respect of the land.

It should be noted that under the terms of the licence agreement referred to previously above, the Shire has the right to terminate the licence agreement for any breach of the licence conditions including any failure to comply with the conditions of development approval. If Council were to exercise its termination rights for any valid reason, CBH would no longer be permitted to continue using the land for the approved purposes even if the relevant development approval issued by Council was still current at that time. This additional level of control adds weight to the recommendation to increase the term of any development approval issued to help ease both party's future administrative burdens and costs.

Non-Compliance with Previous Development Approval Conditions

It was noted during assessment of the latest development application that CBH does not appear to have complied with a condition imposed on the two previous development approvals issued which required the first ten (10) metres of the existing gravel access road to the facility from this road's intersection with Lake Grace-Newdegate Road to immediately be sealed and drained to the specifications and satisfaction of the Shire's Manager Infrastructure Services.

It is recommended that this condition be retained, CBH be advised of the need to satisfy this condition as a matter of priority to avoid the potential risk of prosecution and the Shire's Manager Infrastructure Services be instructed to monitor CBH's progress with regards to the required works to ensure they are completed to the required specifications in a timely manner.

Conclusion

It is concluded from a detailed assessment of the application that the existing development and use of portion of Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate by CBH for temporary emergency grain handling and storage purposes is not having a negative impact on the general amenity, character, functionality and safety of the immediate locality and that its continuation for a further five (5) year term is capable of being supported and approved by Council.

As such it is recommended that Council exercise its discretion and grant retrospective approval to the application subject to the imposition of a number of conditions.

Legal Implications

Planning and Development Act 2005

Shire of Lake Grace Local Planning Scheme No.4

Planning and Development (Local Planning Schemes) Amendment Regulations 2015 (LPS Amendment Regulations) – The subject land is located within a designated 'bushfire prone area'. Following a review of the proposal, having due regard for Western Australian Planning Commission (WAPC) Planning Bulletin 111/2016 ('Planning in Bushfire Prone Areas') and the outcomes from previous discussions with Mr Geoffrey Lush (Lush Fire & Planning), it was concluded the grain storage facilities on the land are not habitable structures and do not intensify the potential bushfire risk on the land. As such a Bushfire Attack Level (BAL) assessment was not required in support of the application.

Policy Implications

Nil

Community Consultation

Community consultation not required.

Financial Implications

Nil

Strategic Implications

Shire of Lake Grace Strategic Community Plan 2014 – The proposal for Lot 89 is considered to be generally consistent with the aims and objectives of the Shire's

Strategic Community Plan as it applies to the following:

- Economic: Provide an environment that supports business and investment opportunities; and
- Environment: Manage and Protect the Natural Environment.

Voting Requirements

Simple majority required.

Recommendation/Resolution

RESOLUTION 12478

Moved Cr Armstrong

Seconded Cr Lloyd

That the development application submitted by Co-operative Bulk Handling Limited (CBH) on behalf of the State of Western Australia (Landowner) seeking Council's retrospective approval for the continued use of portion of Reserve 29080 being Lot 521 Lake Grace-Newdegate Road, Newdegate for temporary emergency grain handling and storage purposes be **APPROVED** subject to compliance with the following conditions and advice notes:

Conditions

1. Approval to the use hereby permitted is temporary only and valid for a period of five (5) years from the date of Council's issuance of retrospective development approval.
2. All development and use of the land shall be consistent with the information and plans submitted in support of the application as well as the various conditions documented below unless otherwise approved by Council.
3. Any additional development which is not in accordance with the application the subject of this approval or any condition of this approval will require the further approval of Council.
4. All grain storage facilities and associated infrastructure constructed on the subject land in accordance with this approval are required to be removed within ninety (90) days from the date of expiry of this approval unless otherwise approved by Council.
5. The subject land and its immediate surrounds are required to be reinstated to the specifications and satisfaction of the Shire's Manager Infrastructure Services immediately following removal of all grain storage facilities and associated infrastructure thereon.
6. The first ten (10) metres of the existing gravel access road to the facility from this road's intersection with Lake Grace-Newdegate Road shall be sealed and drained to the specifications and satisfaction of the Shire's Manager Infrastructure Services within sixty (60) days from the date of this approval unless otherwise approved by Council.

RESOLUTION 12478 Continued

7. All stormwater drainage management in respect of the development shall be undertaken to the specifications and satisfaction of the Shire’s Manager Infrastructure Services.
8. The subject land shall be so ordered and maintained so as to not have a detrimental impact upon the character and visual amenity of the immediate locality or give rise to any potential bushfire risk.

Advice Notes

1. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and the Shire of Lake Grace Local Planning Scheme No.4 and may result in legal action being initiated by the local government.
2. If the applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be submitted within 28 days of the determination.

CARRIED 5/0

6.0 CONFIDENTIAL BUSINESS – as per Local Government Act s5.23 (2)

Nil

7.0 CLOSURE

There being no further business, the Deputy Chairperson closed the meeting at 8.05 am Wednesday 8 March 2017.

8.0 CERTIFICATION

I Jeanette De Landgraft certify that the minutes of the Special Meeting held on the 7 March 2017 as shown were confirmed as a true record at the meeting held on the 22 March 2017.

Shire President

Date