

15.3 Reserve 29700 – Hunts Dam – Consideration of Petition and Proposed Uses

Administration



Responsible Officer:	Greg Powell, CEO
Author:	Vanessa Green, EA to CEO
Legislation:	<i>Local Government Act 1995</i>
File Reference:	R29700
Disclosure of Interest:	Nil
Attachments:	Attachment 15.3A – August Minutes Extract

Purpose of Report



Executive Decision



Legislative Requirement

Background

Council considered this matter at its August 2017 meeting and resolved that the matter lay on the table (CMRef 82016). A copy of the Minutes extract and attachments from that report is provided for Council's information.

Since that time further discussions have been held with Department of Lands (the Department) and Njaki Njaki Aboriginal Cultural Tours (NNACT).

Where additional information to that included in the previous report is known it is detailed here, otherwise the information from the previous report remains current.

Comment

In considering the matter at its August meeting, concern was raised around the right of public access to the Reserve should Council relinquish control of the Management Order (MO).

NNACT has advised that should its proposal proceed public access would not be possible for a number of reasons. These include:

1. the proposed layout of the site and facilities over the whole Reserve area;
2. the responsibility for public liability and insurance costs for members of the public who may be on the Reserve but not as part of the NNACT activities; and
3. the duty of care requirements on NNACT for the security and welfare of the participants in NNACT's activities on site.

Should the Officer's Recommendation be supported by Council, and a lease agreed between the State and NNACT, access to the site by general members of the public would cease, as would be the case with any other private property or privately managed property.

Therefore, in making its resolution Council needs to consider whether or not maintaining public access to the Reserve is the most critical factor in this matter.

In relation to paragraph 11 of the August report regarding the 'power to lease', the Department has since advised that as the MO does not contain a 'power to lease' option, the amendment of the MO to include such would require a future act process under the *Native Title Act 1993*. Therefore Option 5 of the previous report could not occur until such time as that process was completed. The Department advises that would usually take "*at least 12 months*" before such time as any further progress on the matter could be made. Therefore it is not considered a viable option.

The Department has also advised it will not consider the relinquishment of the MO without the future tenure being agreed as the State does not want unmanaged land. This means that should for whatever reason a lease not be able to be agreed between the State and NNACT, Council automatically retains the MO of the site i.e. Council only relinquishes the MO of the Reserve at the point in which a lease is agreed and signed.

There is no guarantee that a lease could be agreed and, should that scenario occur, Council would retain the MO of the Reserve thus allowing it the option to reconsider the request to improve access to the Reserve at that time should it wish to do so.

NNACT has advised it met with various Departmental staff on Friday 15 September 2017 which included the portfolios of Lands, Tourism, and Aboriginal Affairs to discuss the proposal and tenure of the Reserve. NNACT indicated those discussions were positive, and being in favour of the proposal.

NNACT further advise, should its proposal proceed it intends to invite school groups and corporate organisations (being local, national and international) to participate in activities on the site, with various length tours and camps proposed.

It is considered that the NNACT proposal is unique, certainly in the Wheatbelt region, and could have far-reaching benefits for Merredin and the region, aside from just a tourism perspective. These could include:

1. the empowerment of the Aboriginal population by providing a venture in which they can participate, learn, collaborate and grow in the many different skills and activities associated with operating the venture;
2. the opportunity to showcase the local Aboriginal population's connection with their country, aiding in an increased sense of ownership and belonging;
3. by doing so there is the possibility for a decreased crime rate, an increased school attendance rate, as well as in other general community activities, as the children and families are included and involved in the venture; and

4. aiding in increased reconciliation amongst the community and wider population as a result of sharing a greater understanding between cultures.

The Officer's Recommendation takes into account the same considerations as those presented in the previous report, with the addition of the following:

1. it is believed there is little benefit to be gained in Council expending funds and resources (which it doesn't currently have) to improve access to the Reserve at this time, if ultimately it would not retain the MO of the site;
2. it appears there is support for the NNACT proposal at a State level, which could ultimately result in the Reserve being compulsory acquired by the State;
3. Council retains the MO of the Reserve until the point of when a lease is agreed between the State and NNACT, and should a lease not be agreed the MO of the Reserve is maintained by Council;
4. there is no guarantee that a lease will be agreed between the State and NNACT as this would depend on the satisfaction of each party to the clauses and conditions specified in the lease (note, the Shire would not be involved in discussions surrounding the lease as that is a matter between the State and NNACT);
5. NNACT are able to progress their proposal, developing business plans and funding applications, with some level of certainty over tenure of the site (subject to a lease being agreed);
6. by providing 'in principle' support subject to a lease being agreed and the proposal being approved, Council has the option to withdraw that support should either of those conditions not be achieved;
7. should a lease not be able to be agreed between the parties Council has the option of reconsidering the matter of improving access to the Reserve at that point in time should there be sufficient demand from the public to do so; and
8. if NNACT's proposal were to proceed and prosper it could be argued that favourable benefits could be gained by the wider community and other businesses in the town and region as a result.

Policy Implications

Nil

Statutory Implications

Nil

Strategic Implications

➤ Strategic Community Plan

Vision Element: Developing

Strategic Goal: The population and economic base is expanding sustainably

Key Priority: Economic Development

➤ **Corporate Business Plan**

Strategy: SP.D1.5 – Facilitate further development of local and regional tourism
Action #: 1
Action: Implementation of identified strategies in the CWVC Business Plan
Directorate: Community Development
Timeline: Ongoing

Sustainability Implications

➤ **Strategic Resource Plan**

Nil

➤ **Workforce Plan**

Directorate: Nil
Activity: Nil
Current Staff: Nil
Focus Area: Nil
Strategy Code: Nil
Strategy: Nil
Implications: Nil

Risk Implications

There is little change to the Risk Implications to Council from the previous report, except that should Council resolve not to relinquish the MO on the Reserve, an option available to NNACT is to seek compulsory acquisition of the site from the Shire by the Minister for Lands.

Although compulsory acquisition is not common, and NNACT would need to justify that doing so would be “*in the community interest*”, it could be argued that as NNACT’s proposal aligns to a number of current State priorities such as increasing local jobs in the regions, increasing and improving tourism in the regions, and increasing and improving opportunities for indigenous ventures and economic development in the regions, the State would look favourably on NNACT’s proposal.

Financial Implications

Should Council endorse the Officer’s Recommendation below, there are no financial implications to Council.

Should Council resolve differently to the Officer’s Recommendation financial implications may be applicable, certainly should improving access to the Reserve be the chosen option, with suggested costs indicated in the previous report. Council would need to determine where these funds would be sourced. Otherwise, the exact financial implications would depend on Council’s resolution.

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation

Moved: Cr Crees

Seconded: Cr Crisafio

That:

1. the Department of Planning, Lands and Heritage be advised Council supports in principle the relinquishment of the Management Order for Reserve 29700, subject to:
 - a. a lease being agreed between the State and Njaki Njaki Aboriginal Cultural Tours for the conduct of its tourism venture; and
 - b. Njaki Njaki Aboriginal Cultural Tours submitting plans for the conduct of its tourism venture to the satisfaction of Council; and
2. Mr Peter Gerrand be advised of the outcome of the assessment of the petition to open or improve the access road into Hunts Dam.

Amendment/Resolution

Moved: Cr Patroni

Seconded: Cr Butler

82083 That subject to Njaki Njaki Aboriginal Cultural Tours submitting a Business Plan and Feasibility Study for the conduct of its tourism venture to the satisfaction of Council, the Department of Planning, Lands and Heritage be advised Council supports the relinquishment of the Management Order for Reserve 29700 to enable a 5 year performance based lease being agreed between the State and Njaki Njaki Aboriginal Cultural Tours for the conduct of its tourism venture.

CARRIED 9/0

The Amendment became the Motion and was put

CARRIED 9/0

Reason

Council wished to obtain further specific information in relation to the proposed conduct of the venture prior to relinquishing the Management Order, and sought to specify the term and intent of any proposed lease between the State and Njaki Njaki Aboriginal Cultural Tours.

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation / Resolution

Moved: Cr Crees

Seconded: Cr Willis

82084 Mr Peter Gerrand be advised of the outcome of the assessment of the petition to open or improve the access road into Hunts Dam.

CARRIED 9/0

16. Motions of which Previous Notice has been given

Nil

17. Questions by Members of which Due Notice has been given

Nil

18. Urgent Business Approved by the Person Presiding or by Decision

Nil

19. Matters Behind Closed Doors

Nil

20. Closure

There being no further business the President thanked all those in attendance and declared the meeting closed at 4.50pm.