

15.2 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:	<u>Attachment 15.2A</u> – Petition <u>Attachment 15.2B</u> – 2005 Report <u>Attachment 15.2C</u> – Survey Results (numbers) <u>Attachment 15.2D</u> – Access Route
Maps / Diagrams:	Nil



Purpose of Report

- Executive Decision
 Legislative Requirement

Background

Reserve 29700, commonly known as Hunts Dam, has been vested under Management Order (MO) in the Shire of Merredin by the Department of Lands since at least 1969 with a land use of Public Recreation. The Reserve covers an area of 25.9148Ha to the North East of the Merredin townsite.

At its July 2017 meeting a petition was presented to Council “to open or improve the access road into Hunts Dam so as to provide the Merredin community with access to this significant recreational and tourist area”. A copy of the petition, with addresses redacted for privacy, is attached.

Council’s Standing Orders Local Law Clause 3.4 specifies the necessities for a petition, which is shown below:

“3.4 Petitions

- (1) A petition, in order to be effective, is to–
 - a. be addressed to the President;
 - b. be made by electors of the district;
 - c. state the request on each page of the petition;

- d. *contain the names, addresses and signatures of the electors making the request, and the date each elector signed;*
- e. *contain a summary of the reasons for the request;*
- f. *state the name of the person upon whom, and an address at which, notice to the petitioners can be given;*
- g. *be in the form prescribed by the Act and Local Government (Constitution) Regulations 1998 if it is–*
 - i. *a proposal to change the method of filling the office of President; or*
 - ii. *a submission about changes to wards, the name of a district or ward, or the number of Councillors for a district or ward.*

(2) Following the presentation of a petition a member may move that the Council receive the petition, and refer it to an appropriate Committee for consideration.”

Technically the petition does not comply with the above requirements in that it has been signed by a number of people who are not electors of the district, it does not state the request on each page of the petition, and the date which each elector signed the petition is not included. However, in the interest of public consultation, good will and transparency, the petition has been assessed as if it were an effective petition.

As further background, at its February 2016 meeting Council considered a request from a member of the public to purchase the Reserve. That request was declined and Council resolved to seek a change in purpose of the Reserve from Public Recreation to Conservation (CMRef 81730) as it was considered the Reserve was more appropriate as a nature habitat as opposed to a recreational area. The Administration subsequently wrote to the Department of Lands requesting the purpose of the Reserve be amended.

In considering this item, the (now) Department of Planning, Lands and Heritage (the Department) was contacted in relation to that correspondence, however for whatever reason, the Department has never acted upon the correspondence and it is not held in their current electronic records. Therefore, the purpose of the Reserve remains as Public Recreation.

As a result of contacting the Department, and separate to Council’s February 2016 resolution and the petition, it was advised that an approach has been made direct to the Department from Njaki Njaki Aboriginal Culture Tours (NNACT) seeking tenure of the Reserve *“to create economic opportunities in providing eco-style accommodation, and to provide a base for their tours with facilities to enhance and immerse others in Aboriginal culture”*.

As the petition and NNACT’s approach to the Department relate to the same Reserve and are therefore intrinsically linked, they are both considered as part of this item.

Comment

While there appears to be a public opinion the Reserve has been formally closed off to public access by Council, this is in fact not the case. There are no bollards, gates or other man-made obstructions restricting access to the Reserve. While over time the access tracks have grown over with vegetation thus limiting vehicular access, there is a parking area off Merredin-Chandler Road which allows parking for a few cars, including caravans, and people can walk to all areas of the Reserve from there. Indeed, some of the comments received through Facebook and the survey query the need for improved access, with people suggesting they like the Reserve as it is currently and use the Reserve for picnics, walking their dogs or just enjoying the natural bush and wildlife, and would prefer that it stay that way.

With reference to the petition, in considering the number of electors who signed it, it includes 109 signatures (of the 163 names), which equates to 5% of electors in the Merredin district. Therefore, to ascertain if there is wider community interest on whether access to the Reserve should be improved a survey was developed and distributed via the Shire's website, social media channels, email notification to subscribers of various newsletters and distribution lists, and otherwise through Councillor's and staff's networks. 88 responses were received and the results of the survey are available via the following 3 web links:

<https://www.surveymonkey.com/results/SM-ZX6JMLP6/>

<https://www.surveymonkey.com/results/SM-RTBKXLP6/>

<https://www.surveymonkey.com/results/SM-FDDRXP6/>

A breakdown of the survey results numbers and main questions is attached.

Analysis of the survey indicates that most respondents who completed the survey live in Merredin and support vehicular access to the Reserve being improved. The majority visit the Reserve monthly, with the next most popular visits being annually. The majority of respondents indicated they would visit the Reserve more if access were improved. The majority of respondents would like to see additional facilities installed at the Reserve and believe that grant funding should be utilised to partially fund any improvements (with the balance coming from Council's own resources).

In improving vehicular access to the Reserve a number of factors should be considered. These include:

1. the cost of ongoing road maintenance and the provision of any facilities;
2. the cost of regularly monitoring the Reserve to ensure litter, vandalism etc is kept at a minimum (and rectifying any such incidents);
3. where funds for those costs can or should be obtained from;
4. the approvals and permits required for clearing the existing native vegetation;
5. the amount of use the Reserve receives, and what other similar areas are otherwise available within the Shire for the same purpose; and

6. whether any additional benefits can be realised by the wider community with increased access to the Reserve.

The Shire's Natural Resource Management Officer has advised that in order to provide clear vehicular access permits to clear the vegetation would be required from the Department of Water and Environmental Regulation. The timeframe to obtain these permits, depending on the type of vegetation to be cleared, is 6-12 months. Should any threatened or declared species be located within the proposed clearing area the permit processing time would increase, and depending on the species, it's possible that a permit request could be declined.

The Reserve is not on Council's current maintenance program and hasn't been for some time. No funds are allocated in the 2017/18 Budget for any works at the Reserve, and it has not previously been included in the Shire's current IPR Plans or arisen as a significant community interest during the 2016 IPR consult series.

The CWVC currently directs visitors to Merredin Peak (which is also the Shire's RV Friendly 24hr stopover site) and Totadgin Rock, which are both part of the Golden Pipeline Trail, and Council's recognised natural bush/rock/dam sites. Both have existing facilities which, depending on the site, includes walk trails, signage, picnic tables/seating and BBQs. Tamma Parkland is the other advertised natural bush site with walk trails and picnic tables, located in the southern area of town.

However, should Council wish to develop Hunts Dam for tourism purposes itself, modern European history links it with Totadgin Rock as a site explored and developed by Charles Hunt. It could therefore provide an interesting link in the explorer's trail through the Merredin area.

A report produced in 2005 by the then CWVC Manager relates to a proposed project at the Reserve and is included as an attachment. The report suggests the Reserve be utilised for walk trails and picnic areas. Some of the work identified in the report occurred, such as the development of the parking bay. But as the report suggests that a community organisation adopt the project to progress it further, apply for grant applications etc in conjunction with the Shire, it is believed the project never progressed beyond that point.

In relation to NNACT's approach to the Department, the site holds historical and cultural significance to the Njaki Njaki people as a communal walkway, meeting place and water supply. NNACT representatives indicate that as such it is the only site of its type which could be considered for their venture, and that no other site in the Merredin area would hold the same significance.

The Department has advised that as NNACT's proposal is considered an economic activity the 'transfer' of the MO would not be considered but the cancellation of the Reserve and a direct lease from the State would i.e. Council resolves to relinquish the MO and thus the land transfers back to the State, which would then lease direct to NNACT. The other option is if Council wished to retain the MO, it could lease the Reserve to NNACT either with or without additional conditions. This would require the Reserve Purpose being changed to include 'tourism' and the current MO being amended to include the 'power to lease'. The Department has advised the timeframe for such land transactions is 4-6 months.

In considering NNACT's request, the Department is required to consult and seek submissions from various stakeholders and agencies, of which the Shire of Merredin is one. The Department has therefore suggested that as this item is being considered now (as opposed to later in the Department's consultation process), it provides Council an opportunity to advise the Department of its position on the matter.

To conduct a venture of this sort, NNACT would need to comply with the relevant Building Codes, Caravan and Camping Ground legislation as well as bushfire/emergency management and sanitary/public health related statutes. Business plans and feasibility studies would also be required in order to obtain grant or other funding to assist with the venture. While NNACT is aware of this, these plans are yet to be finalised. This is primarily because without first obtaining tenure of the site, or at least advice on the possibility of obtaining tenure to the site, there is little point paying for and producing the plans.

Should such a tourism proposal be realised there could likely be a positive impact for the local community as a result of increased employment opportunities and upskilling during both the construction phase and ongoing operation of the venture. It would also result in the expansion of an already existing local small business. Additionally, as tours and experiences of this type are not common in the Central Wheatbelt area, there is the possibility to attract a wider range of visitors to the region generally, thus increasing economic benefit to other businesses in Merredin and those of surrounding towns.

Council has a number of options:

1. it can retain the MO of the Reserve, either leaving the purpose as Public Recreation or again requesting that it be amended to Conservation, and leave the Reserve in its current state;
2. it can retain the Reserve for the purpose of Public Recreation and improve road access to the Reserve;
3. it can retain the Reserve for the purpose of Public Recreation, improve road access to the Reserve and provide additional facilities such as rubbish bins, picnic tables/seating, interpretive and/or trail signage, bbqs etc;
4. it can relinquish the MO of the Reserve to the State thus allowing a direct lease between the State and NNACT; or
5. it can retain the MO of the Reserve, request Tourism be added as a purpose and the Power to Lease be included in the MO then lease the Reserve to NNACT.

In considering the above options the following should be noted:

Option 1

This option would result in no additional costs to Council, the public would retain the right to access the Reserve, however NNACT's tourism proposal could not be realised.

Option 2

This option would result in additional costs to Council to open up vehicular access as well as annual maintenance costs associated with maintaining vehicular access. The public would retain the right to access the Reserve, however NNACT's tourism proposal could not be realised.

Option 3

This option would result in additional costs to Council in order to open up vehicular access as well as costs associated with maintaining vehicular access. There are also costs associated with installing the facilities and ongoing maintenance of the facilities (refer to Financial Implications). An alternative may be that a community group, such as the Men's Shed, were able to make and donate the seating/shade shelters, rubbish bins, trail posts etc and that grant funding be used to purchase interpretive signage, thus reducing the initial cost to Council (and ultimately the ratepayer), although Council would still be responsible for the annual maintenance of those facilities. The public would retain the right to access the Reserve, however NNACT's tourism proposal could not be realised.

Option 4

This option would result in no additional costs to Council. NNACT's tourism proposal could be realised however the public would no longer have the right to access the Reserve. The ongoing management and responsibility for the Reserve would lie with the State, or NNACT, depending on the lease content.

Option 5

NNACT's tourism proposal could be realised however the public would no longer have the right to access the Reserve. As holder of the MO Council would still ultimately be responsible for the Reserve. Therefore to reduce any costs or liability to Council, it would be suggested that a lease include clauses to pass those responsibilities to NNACT. For example, should NNACT's tourism venture fail, Council should not be obliged to expend further funds in either removing any infrastructure or maintaining any infrastructure. Additionally, the responsibility for maintenance and upkeep of the Reserve, managing risk and potential liabilities etc would be transferred to NNACT.

NNACT has indicated its preference for Option 4, for the following reasons:

1. *“to have control and autonomy to make decisions and get on with things direct with the State, (a layer of bureaucracy is removed);*
2. *ownership of infrastructure is known;*
3. *liabilities and management is known;*
4. *opportunity to have an asset that will allow for economic, cultural and social development for the town and region;*
5. *opportunity for this asset to promote the town and region outside of agriculture;*

6. *creates a level of sustainability for a structured model with multiple benefits (cultural, economic and social);*
7. *our proposal aligns with State and regional plans, blueprints and investment strategies for tourism, regional development and Aboriginal affairs;*
8. *our proposal aligns with the Shire's Corporate Business Plan (Reviewed in Feb 2017) Key Priority Economic Development SP.D1.5; and*
9. *our relationship with key stakeholders including: Wheatbelt Development Commission, Western Australian Indigenous Tourism Operators Council, Australia's Golden Outback, Department of Biodiversity, Conservation and Attractions, Tourism WA and others have provided support for the proposal."*

In determining the Officer's Recommendation the following has been taken into consideration:

1. that little has occurred at the Reserve for over a decade with little/no query or concern from the public;
2. the Reserve is not included in Council's IPR suite (nor has it been previously) hence the Reserve wasn't highlighted as a priority by the community through the recent IPR consultation series, nor has it arisen previously;
3. there is no allocation in the 2017/18 Budget for any works at the Reserve therefore any works would need to be fully grant funded or other pre-identified activities/priorities would need to be postponed to enable any proposed works in the Reserve to occur;
4. at 109 signatures the petition represents only 5% of Merredin electors, with the number of the survey respondents (88) being less again (it should be noted that the survey was completely anonymously so, in making the latter statement, it is presumed those who completed the survey favourably were indeed electors of the district, and that some respondents were not in favour of the proposal for increased access or the provision of facilities);
5. the development and expansion of a local small business and unique tourism venture for the benefit of the town and wider region;
6. the NNACT proposal aligns with Council's IPR suite and objectives;
7. the potential for increased employment for the town and wider region should the NNACT proposal prove successful;
8. the potential for increased economic benefit for the town and wider region as a result of increased tourism should the NNACT proposal prove successful;
9. there is no other site within Merredin which holds the same cultural and historical significance to the Njaki Njaki people and could therefore be utilised for the NNACT proposal;
10. that Merredin has other similar sites available for public access (Merredin Peak, Totadgin Rock and Tamma Parkland) with already existing facilities, which are managed by Council;

11. there is no guarantee of long term increased patronage for the Reserve, or proof that visitor numbers would increase with improved access to the Reserve, and if the Reserve is accessed mostly by residents of Merredin there is little or no increase in economic benefit to the town or wider region;
12. the other similar sites in neighbouring Shires available for public access (thus potentially increasing the economic benefit to those towns should visitors stay and spend money while there);
13. the reduction in risk management and liability to Council by no longer holding the MO to the Reserve; and
14. the cost saving to Council (and therefore ultimately ratepayers as a whole) in not having to improve access and/or provide facilities to the Reserve.

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

Council's insurers have advised that whether access to the Reserve is improved or not, there is the same potential for a public liability case to be made against Council. Should Council wish to retain the MO of the Reserve and not improve access it is suggested that signage to that effect be installed at the entrance to the tracks (i.e. "vehicular access restricted to 4WD", or "pedestrian access only") to reduce Council's risk.

Other risks to Council around this item are varied, depending on the options:

Option 1

Minimal risks to Council, except for unfavourable public opinion from the portion of the population disagreeing with the outcome.

Option 2

As above. Additionally, if access to the Reserve is improved and more visitors access the site there is potential for increased requests for facilities to be provided in the future, increasing costs and management resources for Council.

Option 3

Risks relate to the ongoing cost of maintaining the Reserve and any facilities, particularly around rubbish collection, vandalism and bushfire management. Potential for unfavourable public opinion from the portion of the population disagreeing with the outcome. While the survey respondents suggested they would visit the site more with improved access, there is no guarantee that in improving access and/or providing facilities this would occur on an ongoing basis.

Option 4

There would be no risk to Council as it would no longer be responsible for the Reserve, except for unfavourable public opinion from the portion of the population disagreeing with the outcome.

Option 5

Potential risk to Council should the NNACT proposal either not progress or fail. Potential for unfavourable public opinion from the portion of the population disagreeing with the outcome.

Financial Implications

The EMES has calculated initial costs to reinstate road access (clear, gravel and roll) at \$10,034. The proposed road access route is attached. Annual costs to maintain access are estimated at between \$1,300-\$1,500.

Should Council consider the installation of additional facilities (not provided/donated by a community group) quoted costs are detailed below:

Item	Cost per item	Description/type/style of item
Picnic tables, seating, shade shelters	\$5,409 + GST each	Exteria Aluminium Shelter – skillion with table and seating
BBQs	\$5,584 + GST each	Omni Single with bench
Walk trail posts, signage	\$92 + GST each	Exteria - Blackwood Eco Wood Plastic Composite 98% recycled bollard square or pyramid top
Rubbish bins	\$278 + GST each	Exteria – Commander Bin post gal. steel, single mount to suit a standard wheelie bin

As any costs associated with wear and tear, damage and vandalism etc of any facilities installed at the Reserve are difficult to ascertain as it depends on the extent and the frequency, they have not been included here, but are a factor should Council wish to retain the MO of the Reserve.

Should Council decide to relinquish the Reserve back to the State there would be no ongoing costs.

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation

Moved: Cr Crisafio

Seconded: Cr Anderson

That:

1. the Department of Planning, Lands and Heritage be advised Council supports, in principle, the cancellation of the Management Order for Reserve 29700, enabling Njaki Njaki Aboriginal Cultural Tours to lease the land direct from the State for the conduct of its tourism venture; 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.

MOTION WITHDRAWN

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation / Resolution

Moved: Cr Blakers

Seconded: Cr Young

82016 That the Item relating to Reserve 29700 – Hunts Dam – Consideration of Petition and Proposed Uses lay on the table.

CARRIED 5/2