



SHIRE OF BODDINGTON

'The Council and Staff of the Shire of Boddington, in partnership with the community, are committed to operating effectively and efficiently to provide quality lifestyle opportunities that encourage population growth and development'

AGENDA

For The Special Meeting
To Consider

The Swearing In
Of a Councillor
&
To consider Differential Rates
&
To Discuss a Staff Matter

To Be Held At

6:30pm

THURSDAY 21ST MAY 2020

At The
Council Chambers
39 Bannister Road Boddington

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1. DECLARATION OF OPENING:

The Shire President, Rod McSwain will open the meeting.

2. SWEARING IN OF NEW COUNCILLORS

2.1.1 Swearing in of a New Councillor

Summary

It is necessary for a Councillor elect to be sworn in prior to the commencement of duties as Councillor.

Comment

In accordance with 2.29 of the *Local Government Act 1995* and Regulation 13 of the *Local Government (Constitution) Regulations 1996* a person elected to the position of a Council member must make a declaration of office prior to being able to act in that office (refer attachment 1).

"13. Oaths, affirmations and declarations by Elected Members (s. 2.29)

(1) For the purposes of sections 2.29

[(a), (b) deleted]

(c) the form of declaration for a mayor, president, deputy mayor, deputy president or councillor is that in Form 7;

(2) A declaration required by section 2.29 to be made by a person elected as a mayor or president is to be made before –

(a) the immediate predecessor of the person in the office of mayor or president; or

(b) an authorised person.

(3) A declaration required by section 2.29 to be made by a person elected as a councillor, deputy mayor or deputy president is to be made before an authorised person."

The Newly Elected Councillor shall be invited to make their Declaration of Office, in accordance with section 13(1) and (3) above.



Form 7. Declaration by elected member of council

[r. 13(1)(c)]

Local Government Act 1995
Local Government (Constitution) Regulations 1998
Declaration by elected member

I, Eugene Desnie Smalberger

Of 139 Castlerock Way, Boddington WA 6390

having been elected to the office of: **Councillor**

declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the Local Government (Rules of Conduct) Regulations 2007.

Declared at: **39 Bannister Street, Shire of Boddington Chambers**

on: _____ 21 May 2020

By: _____ Eugene D Smalberger

Before me: _____

Wayne English , Justice of the Peace 10841

[Form 7 inserted in Gazette 21 Aug 2007 p. 4187.]

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4. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:

4.1.1	Attendance
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4.1.2	Apologies
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Nil at this time.

4.1.3	Leave of Absence
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Nil at this time.

5. DISCLOSURE OF FINANCIAL INTEREST:

8.1.1 Declaration of financial interest (section 5.60A): Cr McSwain as I am a service provider – I provide accommodation to Newmont Gold.

8.1.1 Declaration of financial interest (section 5.60A): Cr Ventris as one son works for a contractor for South 32 and one son works as a contractor for Newmont Gold

8.1.1 Declaration of financial interest (section 5.60A): Cr Schreiber as I am a service provider – provide postal services to Newmont Gold.

8.1.1 Declaration of financial interest (section 5.60A): Cr Smalberger as I am a registered supplier of Newmont Boddington Gold Mine (catering for company functions) and my husband is an employee of Newmont Boddington Gold.

8.1.1 Declaration of financial interest (section 5.60A): Cr Erasmus as I provide medical service to Newmont.

8.1.1 Declaration of financial interest (section 5.60A): Cr McGrath as my partner Racquel Bird is employed by Newmont Gold; and my partner's son, who lives with us, works at Newmont Gold.

6. PUBLIC QUESTION TIME:

Nil at this time.

6.1 RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE:

Nil at this time.

6.2 WRITTEN QUESTIONS PROVIDED IN ADVANCE:

Nil at this time.

6.3 PUBLIC QUESTIONS FROM THE GALLERY:

7. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS:

Nil at this time.

8.1.1 Declaration of financial interest (section 5.60A): Cr McSwain as I am a service provider – I provide accommodation to Newmont Gold.

8.1.1 Declaration of financial interest (section 5.60A): Cr Ventris as one son works for a contractor for South 32 and one son works as a contractor for Newmont Gold

8.1.1 Declaration of financial interest (section 5.60A): Cr Schreiber as I am a service provider – provide postal services to Newmont Gold.

8.1.1 Declaration of financial interest (section 5.60A) and declaration of interest affecting impartiality (Regulation 11): Cr Smalberger as I am a registered supplier of Newmont Boddington Gold Mine (catering for company functions) and my husband is an employee of Newmont Boddington Gold.

8.1.1 Declaration of financial interest (section 5.60A): Cr Erasmus as I provide medical service to Newmont.

8.1.1 Declaration of financial interest (section 5.60A): Cr McGrath as my partner Racquel Bird is employed by Newmont Gold; and my partner's son, who lives with us, works at Newmont Gold.

8.1 CHIEF EXECUTIVE OFFICER:

8.1.1 Differential Rating

File Ref. No:	ADM 0727
Disclosure of Interest:	Nil
Date:	12/05/2020
Author:	Chris Littlemore

Summary

Council to consider the continued operation of differential rating.

Background

Council first adopted differential rating in June 2017.

Council resolved on 16 April 2020 that for the purposes of the 2020/21 Budget, Council endorsed a nil rate increase for residential properties.

Comment

Under normal circumstances, Council is required to undertake certain steps before it can levy Differential General Rates. Section 6.36 of the Local Government Act 1995 requires Council to give public notice of its intention to impose Differential General Rates, inviting submissions within 21 days.

The intention of section 6.36 is to ensure a fair and transparent process for ratepayers who may be affected by the imposition (or alteration) of a differential general rate or a minimum payment applicable to a Differential General Rate category.

If Council complies with Local Government (COVID-19 Response) Order 2020, it is relieved of the requirement to invite and consider submissions following its resolution to impose Differential General Rates. It is also relieved of the requirement to consider and publish its Objects and Reasons for the levying of Differential General Rates.

However, Council is always receptive to submissions put to it throughout the year in relation to forthcoming budgets, an example being Council's response to a submission by Suez during the 2019/20 Differential General Rate setting process.

While Council has not received any written submissions, due to Council's close relationship with both the major mines in the district, Council has become aware of challenges that Newmont Australia have voiced in relation to the GRV Mining Rate. This rate is discounted from the GRV Rate. The challenge relates to the fact that the community considers that Newmont Australia is receiving some concession from Council in respect of their rates.

It is therefore proposed to discontinue this Differential General Rate.

Section 6.32 of the Act provides Council the authority to levy General Rates and Differential General Rates. General rates are either GRV rates or UV rates. These general categories of rates are not Differential General Rates.

1. Differential General Rates and Minimum Payments Proposal

The proposal for the charging of Differential General Rates (as defined in The Local Government Act 1995 section 6.1) for the purposes of section 6.33 which will apply for 2020/21 is as follows:

UV Mining

This rating category covers all Mining Leases, Exploration Licenses, Prospecting Licences, Retention Licenses, General Purpose Leases, Special Prospecting Licences for Gold and Miscellaneous Licenses as defined under the Mining Act with a UV valuation. It also includes properties with a UV valuation that are held by or leased by a company whose primary activities involve mining.

The proposed rate is unchanged from the previous year.

UV Mining Minimum Payment

The proposed minimum payment is unchanged from the previous year.

UV Non-Rural

This rating category covers all properties with a UV valuation with any intensive usage which is significantly different from agricultural or horticultural production. Examples could be landfill or other industrial activities.

The proposed rate is unchanged from the previous year.

UV Non-Rural Minimum Payment

There are no properties in this category which attract a minimum payment.

2. General Rates and Minimum Payments Proposal

The proposal for the charging of General Rates (as defined in The Local Government Act 1995 section 6.1) for the purposes of section 6.32(1)(a) which will apply for 2020/21 is as follows:

GRV (gross rental value)

The proposed rate is unchanged from the previous year.

UV (unimproved Value)

The proposed rate is unchanged from the previous year.

The proposal for the charging of minimum payments for the purposes of section 6.35 which will apply for 2020/21 is as follows:

GRV Minimum Payment

The proposed minimum payment is unchanged from the previous year.

UV Minimum Payment

The proposed minimum payment is unchanged from the previous year.

Conclusion

Council is endeavouring to ensure that there will be no increase in residential rates. However no Council can guarantee that property valuations do not change. Whenever a valuation changes, there is a change in the rates which will be levied in the following year.

The proposal is that Council freeze the rate in the dollar for all categories of Differential General Rates and General Rates. Apart from properties with valuation changes, the only other properties which will see a significant change to their rating will be the two properties which were categorised as GRV Mining. These two properties can expect a total increase of \$708,500 over the prior year. One property is owned by Newmont Australia and the other is leased by them for the mining camp and it is believed that they are responsible for payment of the rates.

Council's proposed rating strategy will have an impact on Council's largest ratepayer.

Despite being exempt from the provisions of section 6.36 Council could, in the interests of openness and transparency, resolve to advertise an invitation for submissions to be made by an elector or a ratepayer in respect to the Differential General Rates proposed.

Council could go still further and invite submissions for its strategy on General Rates (as defined in The Local Government Act 1995 section 6.1)

Strategic Implications: The adoption of differential rating for 2020/21 will enable Council to achieve the essential elements of its Strategic Community Plan. The current plan was adopted in 2019 after a complete review, despite the fact that Council was only obliged to complete a desk top review as only 2 years had passed since the previous complete review.

Statutory Environment.

The following sections in Local Government Act 1995 apply:

- Section 6.32 of the Local Government Act 1995 provides Council with the power to apply rates to property;
- Section 6.33 of the Local Government Act 1995 provides Council with the power to apply differential general rates although Ministerial approval is required where a Differential General Rate is more than twice the lowest Differential General Rate to be imposed;
- Section 6.35 of the Local Government Act 1995 provides Council with the power to apply a minimum payment which is greater than the general rate which would otherwise be payable on that land;
- Section 6.36 of the Local Government Act 1995 requires Council to give public notice of its intention to impose Differential General Rates, inviting submissions within 21 days. *(Note that on this occasion, 21 days notice is not required.)*

The following clause of the Local Government (COVID-19 Response) Order 2020 applies:

- Clause 12. Section 6.36 modified (local government to give notice of certain rates)
(1) Section 6.36 is modified as set out in this clause in relation to a local government if, as a consequence of the COVID-19 pandemic, the local government resolves (whether before or after commencement day) that –
 - (a) no proposed differential general rate of the local government will exceed the corresponding differential general rate that was imposed by the local government in the 2019/20 financial year; and
 - (b) no proposed minimum payment of the local government of the kind referred to in section 6.36(1) will exceed the corresponding minimum payment that was imposed by the local government in the 2019/20 financial year.
- (2) The requirements in section 6.36(1) to (4) do not apply to the local government and are replaced with the requirements in subclauses (3) and (4).
- (3) The local government must publish on the local government's official website details of each proposed differential general rate and each proposed minimum payment of the local government.
- (4) The details referred to in subclause (3) must be published by the local government within 10 days after the later of the following –
 - (a) the day on which the local government makes the resolution referred to in subclause (1);

Policy Implications – Nil

Financial Implications – Council's rating strategy will underpin its ability to provide services and facilities for the 2020/21 Financial Year and into the future.

Economic Implications - Nil

Social Implications – Nil

Environmental Considerations - Nil
Consultation –

Legal opinion provided by Civic Legal.

Council has attempted to meet with the management of Newmont Boddington to discuss Council's plans as outlined in the Strategic Community Plan but due to timing challenges has not been successful.

Counsel was also sought from Dr Shayne Silcox, former CEO of Melville City Council.

Options

Council can:

1. Accept the Officer's Recommendation;
2. Amend the Officer's Recommendation; or
3. Not accept the Officer's Recommendation.

Voting Requirements – Absolute Majority

OFFICER RECOMMENDATION – ITEM 8.1.1

That as a consequence of the COVID-19 pandemic, Boddington Shire Council resolves that

1. no proposed differential general rate will exceed the corresponding differential general rate that was imposed by the local government in the 2019/20 financial year; and
2. no proposed minimum payment of the kind referred to in section 6.36(1) will exceed the corresponding minimum payment that was imposed by the local government in the 2019/20 financial year.
3. The following Differential General Rate categories and Minimum Payments apply for the 2020/21 financial year:

Category	Rate	Minimum Payment
UV Mining	0.031850	\$960
UV Non Rural	0.024812	N/A

4. The following General Rates and Minimum Payments apply for the 2020/21 financial year:

Category	Rate	Minimum Payment
GRV	0.108500	\$960
UV	0.006716	\$825

5. That Council invite submissions on both the proposed general rates and differential general rates closing 5pm, Thursday 11 June 2020.

9. ELECTED MEMBERS' MOTION OF WHICH PREVIOUS MOTION HAS BEEN GIVEN:

Nil

10. URGENT BUSINESS WITHOUT NOTICE WITH THE APPROVAL OF THE PRESIDENT OR MEETING:

Nil.

Item 11.1.1

Move that pursuant to S5.23 (2) (a) as Council is about to discuss a matter affecting an employee that the meeting be closed to members of the public.

11. CONFIDENTIAL ITEM:

11.1.1	Consideration of a Staff Matter
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12. CLOSURE OF MEETING: