



MISSION AND VALUES OF COUNCIL

"A Sustainable Community that is inclusive, attractive, healthy and pleasant to live in, that uses our land so as to preserve our history and environment, respects the rights and equality of our citizens and manages our future growth wisely."

CONFIRMED MINUTES

OF THE

ORDINARY MEETING OF COUNCIL

25 JUNE 2015

OUR VISION

"A thriving and friendly community that recognises our history and embraces cultural diversity and economic opportunity, whilst nurturing our unique natural and built environment."

OUR MISSION

"To deliver affordable and quality Local Government services."

CORE VALUES OF THE SHIRE

The core values that underpin the achievement of the mission will be based on a strong customer service focus and a positive attitude:

Communication

Integrity

Respect

Innovation

Transparency

Courtesy

DISCLAIMER

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Broome expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

Councillor		Cr G Campbell	Cr J Bloom	Cr H Tracey	Cr D Male	Cr M Manado	Cr C Mitchell	Cr A Poelina	Cr M Lewis	Cr P Matsumoto
2013	21 November									LOA
	19 December									
2014	27 February							LOA		
	27 March – No quorum	A		LOA		LOA		LOA	NA	NA
	31 March			LOA						
	24 April								A	
	22 May		LOA	LOA				LOA		LOA
	26 June									LOA
	24 July							LOA	A	
	28 August						LOA			
	25 September					A			A	
	23 October		Resigned 16/10/14					LOA	A	
	27 November									
	18 December			A					A	
2015	26 February					LOA				
	26 March									
	30 April	LOA						A		
	2 June				LOA	A				
	25 June					A				
	30 July									
	27 August									
	24 September									
	15 October									

- LOA (Leave of Absence) • NA (Non Attendance)
- A (Apologies)

2.25. Disqualification for failure to attend meetings

- (1) A council may, by resolution, grant leave of absence, to a member.
- (2) Leave is not to be granted to a member in respect of more than 6 consecutive ordinary meetings of the council without the approval of the Minister, unless all of the meetings are within a period of 3 months.
- (3A) Leave is not to be granted in respect of —
 - (a) a meeting that has concluded; or
 - (b) the part of a meeting before the granting of leave.
- (3) The granting of the leave, or refusal to grant the leave and reasons for that refusal, is to be recorded in the minutes of the meeting.
- (4) A member who is absent, without obtaining leave of the council, throughout 3 consecutive ordinary meetings of the council is

Chairperson: Date:

disqualified from continuing his or her membership of the council, unless all of the meetings are within a 2 month period.

- (5A) If a council holds 3 or more ordinary meetings within a 2 month period, and a member is absent without leave throughout each of those meetings, the member is disqualified if he or she is absent without leave throughout the ordinary meeting of the council immediately following the end of that period.
- (5) The non-attendance of a member at the time and place appointed for an ordinary meeting of the council does not constitute absence from an ordinary meeting of the council —
- (a) if no meeting of the council at which a quorum is present is actually held on that day; or
 - (b) if the non-attendance occurs —
 - (i) while the member has ceased to act as a member after written notice has been given to the member under section 2.27(3) and before written notice has been given to the member under section 2.27(5); or
 - (ii) while proceedings in connection with the disqualification of the member have been commenced and are pending; or
 - (iiia) while the member is suspended under section 5.117(1)(a)(iv); or
 - (iii) while the election of the member is disputed and proceedings relating to the disputed election have been commenced and are pending.
- (6) A member who before the commencement of the Local Government Amendment Act 2009 section 5¹ was granted leave during an ordinary meeting of the council from which the member was absent is to be taken to have first obtained leave for the remainder of that meeting.

[Section 2.25 amended by No. 49 of 2004 s. 19(1); No. 17 of 2009 s. 5.]

SHIRE OF BROOME
ORDINARY MEETING OF COUNCIL
THURSDAY 25 JUNE 2015
INDEX – MINUTES

1.	OFFICIAL OPENING	8
2.	ATTENDANCE AND APOLOGIES	8
3.	DECLARATIONS OF FINANCIAL INTEREST / IMPARTIALITY	9
4.	PUBLIC QUESTION TIME	10
9.	REPORTS OF OFFICERS	14
	9.3.1 EVALUATION OF SUBMISSION FROM RALSTON BAY HOLDINGS TO LEASE ROEBUCK BAY CARAVAN PARK	14
5.	CONFIRMATION OF MINUTES	25
6.	ANNOUNCEMENTS BY PRESIDENT WITHOUT DISCUSSION	25
7.	PETITIONS	25
8.	MATTERS FOR WHICH THE MEETING MAY BE CLOSED	25
9.	REPORTS OF OFFICERS	26
9.1	OUR PEOPLE	27
	9.1.1 APPOINTMENT OF MEMBERS TO THE ARTS CULTURE AND HERITAGE ADVISORY COMMITTEE	28
	9.1.2 KIMBERLEY LIBRARIES REGIONAL ACTIVITY PLAN 2015/2016	32
	9.1.3 PROPOSED CLOSURE OF BIN SALLIK AVENUE LANEWAY	36
9.2	OUR PLACE	40
	9.2.1 APPLICATION FOR PLANNING APPROVAL -TOURIST DEVELOPMENT AND RESTUARANT - LOT 280 (NO. 22) HAMERSLEY STREET AND LOTS 3 AND 281 (NO. 2) ANNE STREET	41
	9.2.2 PROPOSED LOCAL PLANNING POLICY - NON-CONFORMING USE REGISTER	61
	9.2.3 CABLE SOUNDS CONCERT APPLICATION - MELLEN EVENTS	66
	9.2.4 USE OF COMMON SEAL - LEGAL AGREEMENT FOR CONDITION OF PLANNING APPROVAL 2013/240	76
	9.2.5 AMENDMENT NO 1 TO LOCAL PLANNING SCHEME NO 6 - BROOME NORTH LOCAL CENTRE	80
	9.2.6 LORITZ CIRCUS EVENT APPLICATION	86
9.3	OUR PROSPERITY	95

9.3.1	EVALUATION OF SUBMISSION FROM RALSTON BAY HOLDINGS TO LEASE ROEBUCK BAY CARAVAN PARK	96
9.4	OUR ORGANISATION	97
9.4.1	PAYMENTS - MAY 2015	98
9.4.2	MAY 2015 FINANCIAL ACTIVITY REPORT	100
9.4.3	CONTRACT ANIMAL MANAGEMENT SERVICES.....	104
9.4.4	MEETING SCHEDULE FOR ECONOMIC DEVELOPMENT ADVISORY COMMITTEE	112
10.	REPORTS OF COMMITTEE.....	117
10.1	ACCESS AND INCLUSION ADVISORY COMMITTEE MEETING MINUTES 17 FEBRUARY 2015.....	118
10.2	MINUTES OF THE BROOME CEMETERY ADVISORY COMMITTEE 3 JUNE 2015	121
10.3	BUSH FIRE ADVISORY COMMITTEE SPECIAL MEETING MINUTES 29 APRIL 2015	125
10.4	YAWURU PARK COUNCIL (YPC) - PROGRESS REPORT AND MINUTES OF MEETINGS FOR 13 AUGUST AND 22 SEPTEMBER 2014.....	129
11.	NOTICES OF MOTION.....	140
12.	BUSINESS OF AN URGENT NATURE	140
13.	QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	140
14.	MATTERS BEHIND CLOSED DOORS	140
	9.4.5 CHIEF EXECUTIVE OFFICER PERFORMANCE APPRAISAL.....	140
15.	MEETING CLOSURE.....	141

NOTICE OF MEETING

Dear Council Member,

The next Ordinary Meeting of the Shire of Broome will be held on Thursday, 25 June 2015 in the Council Chambers, Corner Weld and Haas Streets, Broome, commencing at 5.00pm.

Regards

A handwritten signature in black ink, appearing to read 'K R Donohoe', with a horizontal line underneath.

K R DONOHOE
Chief Executive Officer

18/06/2015

Chairperson: Date:

**MINUTES OF THE ORDINARY MEETING OF COUNCIL OF THE SHIRE OF BROOME,
HELD IN THE COUNCIL CHAMBERS, CORNER WELD AND HAAS STREETS, BROOME,
ON THURSDAY 25 JUNE 2015, COMMENCING AT 5.00PM.**

1. OFFICIAL OPENING

The Chairman welcomed Councillors, Officers and members of the public and declared the meeting open at 5.02 pm.

2. ATTENDANCE AND APOLOGIES

Attendance:	Cr G Campbell	Shire President
	Cr H Tracey	Deputy Shire President
	Cr A Poelina	
	Cr P Matsumoto	
	Cr M Lewis	
	Cr D Male	
	Cr C Mitchell	

Leave of Absence:

COUNCIL RESOLUTION:

Moved: Cr C Mitchell

Seconded: Cr PM Matsumoto

That leave of absence be granted to Cr A Poelina for the period 6-13 July inclusive and that leave of absence also be granted to Cr M Manado for any Ordinary or Special Council Meetings to be held between June to August 2015.

CARRIED UNANIMOUSLY 7/0

Apologies: Cr M Manado

Officers:	Mr K Donohoe	Chief Executive Officer
	Mr P Martin	Deputy Chief Executive Officer
	Mr S Mastrolembo	Director Corporate Services
	Mr A Schonfeldt	Director Development Services
	Mr M Dale	Director Engineering Services
	Ms E Harding	Senior Administration & Governance Officer
	Mr S Penn	Media and Promotions Officer

Public Gallery:	Lynn Commins	RBCP Visitor
	Danielle Dwyer	Shire of Broome
	Mary Berry	RBCP
	Desiree Sutherland	
	Daniel High	Shire of Broome
	Neila Harding	Resident
	Keith Clinch	RBCP
	Mike Dunnett	RBCP
	Jo Park	RBCP
	June and Don Kelly	RBCP
	Cherryl Cuning	RBCP

Chairperson: Date:

Ed Dixon	RBCP
John McFadden	
Theresa Patterson	Resident RBCP
Pauline Braimbridge	RBCP Resident
Lee Poletti	Drive visitor
David Cummins	Visitor
Don Jones	Visitor
Mark Watts	Visitor
Janet Thong	Visitor
Stuart Key	RBCP
Clive Johnson	Resident
Glenn Cordingley	Broome Advertiser
Brendon Barwick	WA Police
Theresa Bengtson	Shire of Broome
Frank Horner	
Colleen Horner	
Beau Mold	
Jenny Mold	
Nick Nocke	
Kim Treveton	
Sandra Ash	
Patrick Hamill	
Chris Peters	
Beau Cooke	
Lyn McKenzie	
Maurie Grant	
Peter Taylor	
Veronica Sholtes	Visitor
Grace Cooke	
Gary Harding	Resident
Christine Johnson	Resident
N.G. Millington	RBCP
Harold Kiney	RBCP
Dave Poletti	RBCP
John McCue	RBCP
Ernie McCreed	RBCP
K. Delaney	RBCP
P Taylor	RBCP
Kevin Taylor	RBCP
Diane Campbell	RBCP
Wayne & Lyn McRostie	
Laurie Crocker	
Sam Jones	RBCP
Tamara Cusack	Shire of Broome
Kirsten Wood	
Eddie Dixon	

3. DECLARATIONS OF FINANCIAL INTEREST / IMPARTIALITY

Chairperson: Date:

FINANCIAL INTEREST			
Councillor	Item No	Item	Nature of Interest
Cr G Campbell	9.3.1	Evaluation of submission from Ralston Bay Holdings to lease Roebuck Bay Caravan Park	Financial – Director of proponent company.
Mr K Donohoe – Chief Executive Officer	9.4.5	Chief Executive Officer Performance Appraisal	Financial – Item refers to Chief Executive Officers performance appraisal and employment conditions with the Shire of Broome.

IMPARTIALITY			
Councillor	Item No	Item	Nature of Interest
Nil	Nil	Nil	Nil

4. PUBLIC QUESTION TIME

COUNCIL RESOLUTION:

Moved: Cr A Poelina

Seconded: Cr DM Male

In accordance with Standing Order 3.2(2) Agenda Item 9.3.1 be moved forward in the order of business and dealt with following Public Question Time.

CARRIED UNANIMOUSLY 7/0

Cr G Campbell departed the chambers at 5.05pm as questions that had been submitted related to Item 9.3.1, to which he had a financial interest.

Cr H Tracey assumed the Chair.

The Following questions were submitted prior to the meeting by Mike Dunnett:

Question One: The Brighthouse Report was received by the Shire around May 2014 and Ralston Bay Holdings Pty Ltd, the lessee of Roebuck Bay Caravan Park, contributed financial information on a confidential basis to Brighthouse who used that information selectively in drafting the report. That report has recently been leaked to the Broome Advertiser and possibly elsewhere. What action has the Shire taken to address that serious breach of protocol and identify the source of the breach?

Answer provided by Chief Executive Officer: I am required under law to investigate how a confidential matter was leaked and must report this to the appropriate agencies.

Question Two: Given that the Brighthouse Report has been leaked to the public, what guarantee can the Shire give the Directors of Ralston Bay Holdings Pty Ltd that the detailed financial information supplied in confidence in support of its submission to the Shire regarding the redevelopment of the Roebuck Bay Caravan Park will remain confidential?

Chairperson: Date:

Answer provided by Deputy Chief Executive Officer: The information provided to Brighthouse remains confidential. The information provided to the Auditors for their report is confidential and has not been made available to the evaluation panel, officers or Councillors.

The Following questions were submitted prior to the meeting by Peter Taylor:

Given that the Independent Evaluation Panel has recommended that the Ralston Bay Holdings submission be rejected and that the Council should 'assure the community that the absolute best possible submissions (tenders) have been obtained to redevelop the RBCP on the iconic site overlooking Roebuck Bay;

Will the Council now withdraw Item 9.3.1 of today's agenda and put an immediate halt to this poorly designed process which among many other issues is based on a development plan which has had no input from local community and industry stakeholders and no opportunity for public scrutiny to date?

If not how does the Council assure the community that it will have obtained the best possible submissions from a future tender process when there has been no key stakeholder or community input into the development and or business plan?

Does the Council consider this halt will add value by providing the opportunity for the Council/Shire to undertake a truly open and transparent consultation process to canvass development opportunities using local and regional input from key industry and community stakeholders such as the Broome Tourism Leadership Group, Australia's NW, BCCI, Economic Advisory Group, and others rather than just relying on a consultant's report.

Does the Council consider the two and a half years until the current lease expires should be ample time to complete effective community input, workshops, public consultation on a revised business plan and an open tender and award of a new lease?

Answer provided by Deputy Shire President: Council will give these questions full consideration when considering this item tonight.

The following question was asked at the meeting by Mary Berry:

I am a long term resident of the caravan park. Do we have any rights regarding tenancies in future after this 2.5 years or are we all going to be asked to leave by the new lessee? Are we going to have a home or aren't we?

Answer provided by Deputy Shire President: This is a very complex question involving the Tenancy Act. This question will be taken on notice.

The following question was asked at the meeting by Patrick Hamill:

Given that the lease for the Roebuck Bay Caravan Park is going to open tender, has there been a consideration in the process in regards to the long term permanent residents?

Answer provided by Deputy Shire President: *Speaking for myself, these issues will be given consideration this evening.*

The following question was asked at the meeting by Gary Harding:

Does the Shire realise if tenants are asked to move, any solid annexes will be impossible to move and will be left to be bulldozed?

Answer provided by Deputy Shire President: *This will be taken into consideration.*

The following question was asked at the meeting by Desiree Sutherland:

Can the consultants report be made available at the library for public comment?

Answer provided by Deputy Shire President: *This item is before us this evening and will be taken into consideration.*

Answer provided by Chief Executive Officer: *It is a consideration of Council as to what levels of engagement be considered.*

The following question was asked at the meeting by Cheryl Cunningham:

If I need to leave Broome and sell my van, what can I tell potential buyers regarding a timeframe for finalising lease arrangements?

Answer provided by Deputy Shire President: *Things may be clearer after consideration of this item tonight.*

The following question was asked at the meeting by Stuart Key:

Where will people go to get a start when new to town and starting a business as lots of business people come through this park. Where is the money going to go if it is taken over by an out of town investor?

Answer provided by Deputy Shire President: *Councillors are aware of the history of the caravan park and the impact it has had on the community.*

Answer provided by Deputy Chief Executive Officer: *Depending on what Council determines, there may be a period of public consultation which will be a forum for people to submit comments and have part in the consultation process.*

Chairperson: Date:

The following question was asked at the meeting by Frank Horner:

I am worried that Council aren't aware of the cost factor of getting to and staying in Broome. Regular visitors may not be able to afford to come.

Answer provided by Deputy Shire President: *Councillors are aware of these issues and will deal with the item accordingly.*

The following question was asked at the meeting by Dave Poletti:

Will Council give consideration to private enterprise in the tender of the Roebuck Bay Caravan Park.

Answer provided by Deputy Shire President: *This question will be taken on notice.*

The following question was asked at the meeting by David Cummins:

I have a background in swimming pools having been a board member of Royal Life Saving. Has there been consideration of the cost factor of including a swimming pool and the safety issues?

Answer provided by Deputy Shire President: *This question will be taken on notice.*

The following question was asked at the meeting by Theresa Patterson:

If long term residents are asked to leave would there be an opportunity for reimbursement to help people be re-homed so the tenderer takes responsibility for their future?

Answer provided by Deputy Shire President: *Council understand the emotion and sensitivity of this item.*

Answer provided by Deputy Chief Executive Officer: *If Council wants to go to tender this doesn't mean there will be no permanent residents in the park into the future. Council can include a range of conditions in the tender, including this.*

The following question was asked at the meeting by Pauline Braimbridge:

Will the Council only be seeking tenders for the lease of Roebuck Bay Caravan Park to retain it as a caravan park or will they be seeking tenders to redevelop the lease as a different entity or complex eg. hotel, shopping centre, or any other type of development?

Answer provided by Deputy Shire President: *I understand it is the intention of Council to keep as a caravan park.*

Chairperson: Date:

The following question was asked at the meeting by Chris Mitchell:

Can the tender document include permanent residents for a set period of time, or perpetuity?

Answer provided by Deputy Shire President: Council can consider including such matters.

Answer provide by Deputy Chief Executive Officer: Council can have clauses they wish in the tender with consideration for the Caravan and Camping Act.

The following question was asked at the meeting by Samantha Jones:

Question One: *What will happen to our jobs if someone else takes over?*

Answer provided by Deputy Shire President: *That is a matter of conjecture, I can't answer that.*

Question Two: *What will happen to the cost of staying at the park once it has been developed?*

Answer provided by Deputy Shire President: *That is also a matter of conjecture.*

9. REPORTS OF OFFICERS

With regard to Item 9.3.1 Cr G Campbell declared a Financial Interest as "Director of proponent company" and remained outside the Chambers for consideration of this item.

9.3.1 EVALUATION OF SUBMISSION FROM RALSTON BAY HOLDINGS TO LEASE ROEBUCK BAY CARAVAN PARK

LOCATION/ADDRESS:	Portion Reserve 17132
APPLICANT:	Nil
FILE:	LSS028
AUTHOR:	Deputy Chief Executive Officer
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	9 June 2015

SUMMARY: This report presents Council with the assessment undertaken by the Evaluation Panel of the submission made by Ralston Bay Holdings to lease the Roebuck Bay Caravan Park beyond the expiry of the current lease in December 2017.

In line with options available to Council, a revised timeline for the development of a new lease is attached for Council's reference.

Chairperson: Date:

This report also recommends Council releases as a public document the Redevelopment Master Plan for the Roebuck Bay Caravan Park prepared by Brighthouse.

BACKGROUND

Previous Considerations

OMC 26 February 2002	Item 9.3.2
OMC 26 June 2002	Item 9.1.5
OMC 15 March 2007	Item 9.3.12
OMC 18 December 2007	Item 9.4.4
OMC 20 June 2013	Item 9.2.8
OMC 24 July 2014	Item 9.3.3
OMC 26 February 2015	Item 9.2.10
OMC 30 April 2015	Item 9.2.8

Council considered this matter at the 26 February meeting and resolved the following:

That Council:

- 1. Notes the Redevelopment Plan prepared by Brighthouse will be used as a guide for the future development of the Roebuck Bay Caravan Park.***
- 2. Endorses the Essential Lease terms as attached to this report with the amendment to exclude the amount Council may contribute towards any redevelopment.***
- 3. Request the CEO to seek the consent for the essential lease terms of the lease from the Department of Lands for the Ministers consideration and subsequent approval.***
- 4. Invite the current lessee of the Roebuck Bay Caravan Park to make a submission to the Shire to lease the RBCP into the future addressing the following criteria:***
 - a. Proposed alignment to the Redevelopment Plan***
 - b. Return to the Shire based upon the proposed essential lease terms***
 - c. Level of financial capacity to redevelop the park as an iconic Broome site***
 - d. Full cash flow analysis including 5 year projections and Profit & Loss for that period***
 - e. Ability of the lessee to manage the redevelopment of the park***
 - f. Any contribution the lessee would require from the Shire towards the redevelopment of the park.***

Following amendments to the essential lease terms as outlined above, Ralston Bay Holdings was invited to make a submission to lease the Roebuck Bay Caravan Park in line with the Council resolution.

Subsequent to this, Council considered the outcomes of a compliance review and at its meeting of 30 April resolved the following:

Chairperson: Date:

That Council notes the outcomes of the recent compliance review undertaken into the disposition provisions of the Roebuck Bay Caravan Park and requests the Chief Executive Officer to:

- 1. Review and update the Roebuck Bay Caravan Park Review Timeline to reflect the current situation and any reference it has to the creation of a new lease.***
- 2. Establish an Evaluation Panel for the Roebuck Bay Caravan Park with the purpose of:***
 - Reviewing any submission received from the current lessee's, Ralston Holdings to lease the Caravan Park into the future and provide a recommendation to Council for consideration.***
 - Reviewing any submission received from the advertising of the Roebuck Bay Caravan Park business plan once developed and endorsed for advertising by Council.***
 - Reviewing and providing recommendations on tenders for the Roebuck Bay Caravan Park.***
- 3. The Evaluation Panel to have the membership comprising the following:***
 - A representative from Tourism Western Australia.***
 - A employee of RSM Bird Cameron (the Shire Auditors).***
 - A Compliance Advisor.***
 - A Shire Officer as delegated by the Chief Executive Officer.***
- 4. Ensure the current level of compliance and good governance be maintained with the highest level of probity in particular regards to the statutory provisions set out in the Roebuck Bay Caravan Park Compliance Review Report.***

COMMENT

Following receipt of the submission from Ralston Bay Holdings on 12 May 2015 the Evaluation Panel was convened to review the submission and provide a report and recommendation to Council for consideration. A copy of the submission is attached as Confidential Attachment 1 to this report for Councillors reference.

In assessing this submission, the templates and process used to assess a tender have been used to ensure rigour and continued probity in the process. This has resulted in the Evaluation Panel preparing a confidential report on its assessment including a recommendation for Council's consideration which is attached as Confidential Attachment 2 to this report. Whilst this report is confidential the following is an extract from the Summary and Recommendations from the report.

SUMMARY

Whilst the submission from RBH has merit, the panel was not convinced that it was the best possible outcome that could be achieved on the site or the best financial return that could be provided to the Shire. To undertake a private treaty arrangement, Council needs to be absolutely convinced that the proposal is better than would be achieved by going to the open market.

In the panel's opinion, even if the points identified as areas for improvement in the RBH submission could be clarified and negotiated to the satisfaction of the panel and Council, there would still be nothing to compare these outcomes against. Furthermore, the panel is not convinced that to enter into what would be extensive and relatively complicated negotiations with the likely outcome of still unresolved issues, is the most productive use of all parties' time and resources and therefore recommends proceeding to an open tender process.

Where there is doubt about the outcome from a private treaty process, it is advisable to opt for the public tender process which is the more recognised way for a local government to do business and assure the community that the absolute best possible submissions (tenders) have been obtained to redevelop the RBCP on the iconic site overlooking Roebuck Bay. The tender process will ensure openness, transparency and accountability.

RECOMMENDATIONS

That Council:

- 1. Thanks Ralston Bay Holdings for its submission to lease the Roebuck Bay Caravan Park into the future but informs them that it will not be progressing with the submission any further and will be undertaking a public tender process for disposal of the park beyond the expiration of the current lease.**
- 2. Requests the Chief Executive Officer to work with the evaluation panel to prepare a package for the tender of the RBCP for consideration by Council prior to advertising.**
- 3. Thanks the panel members for their assistance in this matter.**

These recommendations are reflected in the report recommendation for Councils consideration.

In accordance with the compliance review undertaken, a revised timeline to prepare a new lease for the Roebuck Bay Caravan Park beyond the expiry of the current lease in December 2017 is presented for Council's information at Attachment 3. This timeline includes both the options available to Council being a private treaty with the current lessee or undertaking a public tender process and compliance with the Local Government Act 1995.

The third matter this report recommends Council considers is the release of the Brighthouse Redevelopment Master Plan to the public. Initially it was the intention for this report to remain confidential until such time as a Business Plan was advertised for the disposal of the new lease. This was due to the report containing financial projections which are considered commercial in confidence.

However, given the production of the Business Plan could potentially be some time away and requests have been made for the release of the report Officers are recommending that Council releases the report, (without Appendix 2 – Financial Projections) to the community. Furthermore, a typographical error was discovered in the report regarding a heading in the attachments relating to "Preliminary Cost Estimates for Lancelin Caravan Park". This matter has been clarified to the satisfaction of the Evaluation Panel as a

typographical error and does not impact upon the cost estimates provided which solely deal with the redevelopment of the Roebuck Bay Caravan Park.

Therefore attached at Confidential Attachment 4 is a copy of the Redevelopment Master Plan prepared by Brighthouse without the Attachment 2 – Financial projections and with this typographical error corrected. Officers are recommending this version of the report be made available to the public.

CONSULTATION

Ralston Bay Holdings
Evaluation Panel
Herbert Smith Freehills

STATUTORY ENVIRONMENT

3.58. *Disposing of property*

(1) *In this section —*

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) *Except as stated in this section, a local government can only dispose of property to —*

- (a) *the highest bidder at public auction; or*
- (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

(3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*

- (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
- and*
- (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

(4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*

- (a) *the names of all other parties concerned; and*
- (b) *the consideration to be received by the local government for the disposition; and*
- (c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*

Chairperson: Date:

- (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.

(5) This section does not apply to —

- (a) a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or
- (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
- (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
- (d) any other disposition that is excluded by regulations from the application of this section.

[Section 3.58 amended by No. 49 of 2004 s. 27; No. 17 of 2009 s. 10.]

3.59. Commercial enterprises by local governments

(1) In this section —

acquire has a meaning that accords with the meaning of **dispose**;

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

land transaction means an agreement, or several agreements for a common purpose, under which a local government is to —

- (a) acquire or dispose of an interest in land; or
- (b) develop land;

major land transaction means a land transaction other than an exempt land transaction if the total value of —

- (a) the consideration under the transaction; and
- (b) anything done by the local government for achieving the purpose of the transaction, is more, or is worth more, than the amount prescribed for the purposes of this definition;

major trading undertaking means a trading undertaking that —

- (a) in the last completed financial year, involved; or
- (b) in the current financial year or the financial year after the current financial year, is likely to involve, expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

trading undertaking means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of **land transaction**.

(2) Before it —

- (a) commences a major trading undertaking; or
- (b) enters into a major land transaction; or
- (c) enters into a land transaction that is preparatory to entry into a major land transaction, a local government is to prepare a business plan.

- (3) The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —
- (a) its expected effect on the provision of facilities and services by the local government; and
 - (b) its expected effect on other persons providing facilities and services in the district; and
 - (c) its expected financial effect on the local government; and
 - (d) its expected effect on matters referred to in the local government's current plan prepared under section 5.56; and
 - (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
 - (f) any other matter prescribed for the purposes of this subsection.
- (4) The local government is to —
- (a) give Statewide public notice stating that —
 - (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and
 - (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;and
 - (b) make a copy of the business plan available for public inspection in accordance with the notice.
- (5) After the last day for submissions, the local government is to consider any submissions made and may decide* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.
- * Absolute majority required.
- (5a) A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.
- (6) If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.
- (7) The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.
- (8) A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.

- (9) *A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.*
- (10) *For the purposes of this section, regulations may —*
- (a) prescribe any land transaction to be an exempt land transaction;*
 - (b) prescribe any trading undertaking to be an exempt trading undertaking.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

To save costs, the Evaluation Panel has met in Perth reducing the need for members of the Evaluation Panel, the majority of whom are Perth based, to travel to Broome. The Evaluation Panel has met at the WA Local Government Association Offices which are an independent location and provided to the Shire free of charge. The costs of the Evaluation Panel meeting have been incorporated within the existing budget for this matter.

Depending upon the option Council determines to progress, this matter will result in different financial costs associated with the Evaluation Panel and any other advice required. It is proposed to incorporate an allocation to meet the requirements for the option selected within the draft 2015/16 Budget for consideration by Council.

RISK

There are considerable risks associated with this process. These are outlined for Council's consideration in the confidential attachment prepared by the Evaluation Panel.

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Affordable services and initiatives to satisfy community need

Participation in recreational activity

A healthy and safe environment

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

Realistic and sustainable land use strategies for the Shire within state and national frameworks and in consultation with the community

Chairperson: Date:

A built environment that reflects arid tropical climate design principles and historical built form

Retention and expansion of Broome's iconic tourism assets and reputation

Best practice asset management to optimise Shires' infrastructure whilst minimising life cycle costs.

Our Prosperity Goal – Create the means to enable local jobs creation and lifestyle affordability for the current and future population:

Affordable and equitable services and infrastructure

Affordable land for residential, industrial, commercial and community use

Key economic development strategies for the Shire which are aligned to regional outcomes working through recognised planning and development groups/committees

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

Responsible resource allocation

Effective community engagement

Improved systems, processes and compliance

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION:

That Council:

1. *Adopts the recommendation contained in the confidential Evaluation Report as outlined below:*

That Council:

1. ***Thanks Ralston Bay Holdings for its submission to lease the Roebuck Bay Caravan Park into the future but informs them that it will not be progressing with the submission any further and will be undertaking a public tender process for disposal of the park beyond the expiration of the current lease.***
 2. ***Requests the Chief Executive Officer to work with the evaluation panel to prepare a package for the tender of the RBCP for consideration by Council prior to advertising.***
 3. ***Thanks the panel members for their assistance in this matter.***
2. *Agrees to release to the public the Redevelopment Master Plan prepared by Brighthouse (without Appendix 2 – Financial projections and with the typographical error corrected) as attached at Confidential Attachment 3.*

Chairperson: Date:

3. *Notes the revised timeline for the process to develop a new lease for the Roebuck Bay Caravan Park.*

COUNCIL RESOLUTION:

Moved: Cr A Poelina

Seconded: Cr D Male

That Council:

1. **Adopt the recommendation contained in the confidential Evaluation Report as outlined below:**
 - A. **Thanks Ralston Bay Holdings for its submission to lease the Roebuck Bay Caravan Park into the future but informs them that it will not be progressing with the submission any further and will be undertaking a public tender process for disposal of the park beyond the expiration of the current lease.**
 - B. **Request the Chief Executive Officer to work with the evaluation panel to advertise community and industry consultation for a period of 8 weeks to inform Council of the types of planning and development options regarding the Tender of the Roebuck Bay Caravan Park to incorporate:**
The Brighthouse Redevelopment Master Plan as a Guide only.
The Old Broome Development Strategy.
The Vision and Core Values of the Shire of Broome
 - C. **Request the Chief Executive Officer to work with the evaluation panel and Council to prepare a package for the tender brief of the Roebuck Bay Caravan Park for consideration by Council prior to advertising.**
 - D. **thanks the panel members for their assistance in this matter.**
2. **Agrees to release the Redevelopment Master Plan prepared by Brighthouse (without Appendix 2 - Financial projections and with typographical error corrected) as attached in the Confidential Attachment 3.**
3. **Notes the revised timeline for the process to develop a new lease for the Roebuck Bay Caravan Park**

CARRIED UNANIMOUSLY 6/0

Reason: To seek community and industry consultation to inform Council and the Evaluation Panel of the potential design and development options for the RBCP. Secondly to ensure the Brighthouse Redevelopment Master Plan is a guide only and incorporates the vision and core values of the Shire. Furthermore, to include the Old Broome Development Strategy as guide to the planning and development of the RBCP.

Attachments

1. *Ralston Bay Holdings Submission (Confidential to Councillors and Directors Only)*

This attachment is confidential in accordance with Section 5.23(2) of the Local

Chairperson: Date:

Government Act 1995 section 5.23(2)((e)(i)) as it contains “a matter that if disclosed, would reveal a trade secret, where the trade secret is held by, or is about, a person other than the local government”, and section 5.23(2)((e)(ii)) as it contains “a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government”, and section 5.23(2)((e)(iii)) as it contains “a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government”, and section 5.23(2)(c) as it contains “a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting”.

2. Evaluation Panel Report and Recommendations (Confidential to Councillors and Directors Only)

This attachment is confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)((e)(i)) as it contains “a matter that if disclosed, would reveal a trade secret, where the trade secret is held by, or is about, a person other than the local government”, and section 5.23(2)((e)(ii)) as it contains “a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government”, and section 5.23(2)((e)(iii)) as it contains “a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government”.

3. Timeline for new lease
4. Roebuck Bay Caravan Park Redevelopment Master Plan (Confidential to Councillors and Directors Only)

This attachment is confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)((e)(i)) as it contains “a matter that if disclosed, would reveal a trade secret, where the trade secret is held by, or is about, a person other than the local government”, and section 5.23(2)((e)(ii)) as it contains “a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government”.

Cr G Campbell returned to the chambers at 5.54pm and assumed the Chair. The Chief Executive Officer read aloud the resolution.

5. CONFIRMATION OF MINUTES**COUNCIL RESOLUTION:****Moved: Cr C Mitchell****Seconded: Cr A Poelina*****That the Minutes of the Ordinary Meeting of Council held on 2 June 2015 be confirmed as a true and accurate record of that meeting.*****CARRIED UNANIMOUSLY 7/0****COUNCIL RESOLUTION:****Moved: Cr H Tracey****Seconded: Cr A Poelina*****That the Minutes of the Special Meeting of Council held on 16 June 2015 be confirmed as a true and accurate record of that meeting.*****CARRIED UNANIMOUSLY 7/0****6. ANNOUNCEMENTS BY PRESIDENT WITHOUT DISCUSSION**

Best wishes to Cr M Manado, and we look forward to seeing him back at Council.

7. PETITIONS

Nil

8. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

The Chief Executive Officer advises that there are matters for discussion on the agenda for which the meeting may be closed, in accordance with section 5.23(2) of the *Local Government Act 1995*.

Recommendation

That the following Agenda items be considered under 14. Matters Behind Closed Doors, in accordance with section 5.23(2) of the *Local Government Act 1995*, as specified:

9.4.5 CHIEF EXECUTIVE OFFICER PERFORMANCE APPRAISAL

Item 9.4.5 and any attachments are confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)(a) as it contains "a matter affecting an employee or employees", and as it contains "a decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting", and section 5.23(2)(b) as it contains "the personal affairs of any person".

9.

**REPORTS
OF
OFFICERS (CONTINUED)**

9.1

OUR PEOPLE



PRIORITY STATEMENT

Embracing our cultural diversity and the relationship between our unique heritage and people, we aim to work in partnership with the community to provide relevant, quality services and infrastructure that meet the needs and aspirations of our community and those visiting and doing business in our region.

Supporting and contributing to the well-being and safety of our community is paramount, as is our focus on community engagement and participation.

Council aims to build safe, strong and resilient communities with access to services, infrastructure and opportunities that will result in an increase in active civic participation, a reduction in anti-social behaviour and improved social cohesion.

9.1.1 APPOINTMENT OF MEMBERS TO THE ARTS CULTURE AND HERITAGE ADVISORY COMMITTEE

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	RCS12
AUTHOR:	Manager Community Development
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	3 June 2015

SUMMARY: At the Ordinary Meeting of Council held on 2 June 2014, Council requested the Chief Executive Officer to call for Expressions of Interest for community representatives to fill two vacancies on the Arts, Culture and Heritage Advisory Committee. This report presents the expressions of interest received for Council's consideration, recommends the appointment of committee members and seeks Council's endorsement of the revised Terms of Reference for this committee.

BACKGROUND

Previous Considerations

OMC 1 November 2012	Item 9.1.2
OMC 21 November 2013	Item 9.4.6
OMC 27 April 2014	Item 10.3
OMC 2 June 2015	Item 9.1.1

At the OMC held on 2 June, it was resolved;

That Council:

1. Appoints Councillor Tracy as a Deputy to the Arts, Culture and Heritage Committee.
2. Endorses the proposal to appoint an additional community member to the Arts, Culture and Heritage Advisory Committee particularly with experience in visual arts.
3. Requests the Chief Executive Officer to;
 - (a) seek Expressions of Interest from the community for the following positions on the Arts, Culture and Heritage Advisory Committee;
 - (i) Arts Organisation representative
 - (ii) Community representative (visual arts)
 - (b) make a recommendation to Council to appoint members in the above categories;
 - (c) amend the Terms of Reference for the Arts, Culture and Heritage Committee accordingly.

COMMENT

Appointment of Committee Members

In accordance with Council's resolution above, expressions of interest were called via the Shire's web and social media sites, advertised in the Broome Advertiser and promoted via

Chairperson: Date:

email networks. 8 expressions of interest were received. A summary of the nominations received and recommendation for appointment is included as a confidential attachment to this report.

Terms of Reference

In accordance with Council's resolution of 2 June, the Terms of Reference have been updated to reflect;

- the appointment of Councillor Tracy as a Deputy elected member
- an additional community representative
- the appointment of a community representative and an arts organisation representative in accordance with the confidential attachment to this report

Upon review, Officers noted that the Terms of Reference did not contain any reference to the expression of interest process for appointment of community members. This has also been included as a proposed amendment in the attached Revised Terms of Reference. Further changes to the Terms of Reference for the Arts, Culture and Heritage Committee are envisaged following the development of guidelines for the implementation of the Shire's Local Planning Policy 8.20 Provision of Public Art. Once the guidelines are developed, they will be presented to the committee along with proposed amendments to the Terms of Reference for recommendation to Council.

CONSULTATION

Information regarding the available positions on the ACHAC and an expression of interest form were available on the Shire of Broome website, via social media and in hard copy at the Administration Office, Broome Public Library and Broome Civic Centre. A public notice calling for expressions of interest appeared in the 10 June edition of the Broome Advertiser. Emails were sent to relevant networks.

STATUTORY ENVIRONMENT

Local Government Act 1995

5.10. Committee members, appointment of

- (1) A committee is to have as its members —
- (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).

* Absolute majority required.

5.11. Committee membership, tenure of

- (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —
- (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or
 - (b) the person resigns from membership of the committee;

POLICY IMPLICATIONS

Nil

Chairperson: Date:

FINANCIAL IMPLICATIONS

Nil

RISK

Risks are associated with community dissatisfaction with and potential questions related to the rationale for the proposed appointments. The likelihood of this occurring is unlikely with little impact in the event that it does occur. This results in a low risk according the Shire's Risk Matrix and has been addressed by the process of calling for Expressions of Interest (EOI's) and identifying the skills gap that exists in the committee and calling for EOI's from community members with those specific skills.

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Effective communication

High level social capital that increases community capacity

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

A preserved, unique and significant historical and cultural heritage of Broome

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

Effective community engagement

VOTING REQUIREMENTS

Absolute Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

Moved: Cr DM Male

Seconded: Cr C Mitchell

That Council:

1. ***Appoints community representatives to the Arts, Culture and Heritage Advisory Committee as per the recommendation contained in the confidential attachment to this report.***
2. ***Adopts the amended Terms of Reference for the Arts, Culture and Heritage Advisory Committee***

CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY 7/0

Attachments

1. Revised Terms of Reference ACHAC 0615
2. Expression of Interest Summary and recommendation for appointment (*Confidential to Councillors and Directors Only*)

Chairperson: Date:

This attachment is confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)(b) as it contains “the personal affairs of any person”.

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	OGS70, CLIB2
AUTHOR:	Library Coordinator
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	5 June 2015

SUMMARY: This report seeks endorsement of the proposed Kimberley Regional Activity Plan for the 2015/16 financial year which governs the coordinated Regional Library services as undertaken by the Broome Public Library. The Activity Plan is drafted in coordination with officers from the other three Kimberley Local Governments and is completed under the Regional Model as implemented in 2011.

Previous Considerations

OMC 12 July 2012

OMC 26 June 2014

At the Ordinary Meeting of Council held on 26 June 2014, it was resolved:

That Council:

1. *Endorses the attached Kimberley Regional Activity Plan 2014/15 for submission to the State Library of WA.*
2. *Notes the Chief Executive Officer has incorporated \$3,650 into the 14/15 draft budget to ensure a high quality level of service is maintained for Broome residents and visitors as a result of the changes by the State Government to Regional Library funding model.*

The Shire of Broome has been the Regional Library for the Kimberley since January 1990. Implementation requires that the host library prepares an Activity Plan. This is done in consultation with other Local Governments in the region and needs to be signed off by all parties before submission to the State Library as a funding application.

Until 2010, the State Library provided a subsidy of \$24,000 per annum to support the work of the Regional Library which involved a range of responsibilities including advocacy and support services to the other participating Local Governments.

With changes made in 2010, the automatic subsidy was removed from Regional Libraries in favour of the current Activity Plan process. Services and projects are negotiated with all Local Governments participating in the plan to create an application for funding to the State Library.

COMMENT

Chairperson: Date:

The attached Activity Plan for 2015/16 is divided into Core and Value Added Activities which are assessed against various criteria by State Library when determining the funding allocated by region. Core activities are those activities which are expected as minimum requirement of the Host Local Government as the Regional Library. Value added activities are those that are proposed to add value to the Regional Model. Once State Library officers have made their determination as to funding, specific projects and services are launched. If funding is not supplied in full, participating local governments renegotiate the services dictated in the Value Added section of the plan.

In 2015/16, Core Activities will include:

Activity Planning	<ul style="list-style-type: none"> - Activity plan preparation, endorsement and signing - Twice yearly reporting against agreed outcomes
General Support	<ul style="list-style-type: none"> - On-going support to library staff (unqualified) at Halls Creek Library - Advocacy, representation and input into Framework review process - Liaison and communication regarding changes to Regional Model
Training	<ul style="list-style-type: none"> - Oral history training for all libraries (to be undertaken as a roadshow in conjunction with regional meeting and in-region visit requirements and the provision of a regional presenter (see below) - Induction and support for new library staff within the region
Regional Meeting	<ul style="list-style-type: none"> - To be undertaken as a roadshow in conjunction with training and in-region visits requirements and the provision of a regional presenter
In-region Visits	<ul style="list-style-type: none"> - To be undertaken as a roadshow in conjunction with training and regional meeting requirements and the provision of a regional presenter
Perth Visits	<ul style="list-style-type: none"> - Attend State Library WA regional librarians meetings representing the region - Attend Public Libraries WA meetings representing the region - Participate in the SLWA's used item exchange - Provided information and feedback to regional libraries

Value Added activities proposed for 2015/16 include a request from the Shires of Derby/West Kimberley and Wyndham/East Kimberley for support for bi-annual Perth visits to participate in the used item exchange and for the purposes of professional development and networking. In addition, officers are proposing to include the provision of a Regional Presenter to provide specialist training as part of the proposed roadshow.

As these services and programs have been jointly negotiated with key personnel throughout the region, it is recommended that the Council endorses the Regional Activity Plan 2015/16 in its current form. It should be noted that the 2015/16 Plan includes more detail than previously included regarding the officer hours attributed to the implementation of the Plan. This is outlined more fully in the Financial Implications section of this report.

The primary benefit for the Shire of Broome to be recognised as the Regional Library is the opportunity to participate in the SLWA stock exchange program. Each Perth exchange trip brings in approximately \$4,600 worth of stock into Broome Library ie 200 items with an average value \$23 each, resulting in \$50,600 worth of stock annually. The State Library's guiding collection management principles dictate that 20% of a public library's stock is

Chairperson: Date:

turned over annually. Without the ability to refresh stock via the exchange trips, the Shire of Broome would need to increase the local stock budget to achieve this state wide standard.

A further benefit for the Shire of Broome as the Host Local Government for the Regional Model is recognition as a regional centre. Shire officers represent the collective voice of the other Kimberley Local Governments with regard to library services within the region, enhancing and reinforcing Broome's reputation as a regional centre.

CONSULTATION

Library Manager for the Shire of Derby West Kimberley
Library Manager for the Shire of Wyndham East Kimberley
Senior Administration Officer for the Shire of Halls Creek
Financial Services Manager for the Shire of Halls Creek
State Library of Western Australia: Library Liaison – Janet Deegan

STATUTORY ENVIRONMENT

Library Board Act 1951
 Framework Agreement
 Local Level Agreement
 Regional Agreement

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

In accordance with the attached Plan, the cost to the Shire of Broome as the Host Local Government (HLG) in 2015/16 is proposed to be \$9,771. While this is an increase on previous years, this figure recognises employment costs attributed to the Plan for Shire officers involved in its implementation which have not previously been included.

As outlined previously, the Shire's role as the HLG also provides access to approximately \$50,000 worth of library stock per annum. Should the Shire cease to be the HLG, a significantly increased annual budget allocation will be necessary in order to maintain even a minimum level of service to the community.

The table below outlines start up costs and ongoing costs involved in a service project:

Service:

Regional Library	Initial Cost	Lifecycle Cost (Annual)	Remarks
Budget Impact			Determined by activities planned on an annual basis
Operational (Annual)	\$53,693		
Less Additional Revenue (Annual)	\$43,922		
TOTAL	\$9,771		

The table below outlines funding sources for the capital and lifecycle costs.

Chairperson: Date:

Funding Source: Regional Library

Funding Type	Capital or Start Up Expense	Life Cycle Costs (Annual)		Funding Details (eg RLCIP)	Account Number
		Cost \$	*Cost Type		
Grant	\$43,922		Operating	SLWA – Regional Library	115380
Reserve					
Budget	\$9,771		Operating		115286
TOTAL	\$53,693				

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Affordable services and initiatives to satisfy community need

Accessible and safe community spaces

High level social capital that increases community capacity

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

A preserved, unique and significant historical and cultural heritage of Broome

Retention and expansion of Broome's iconic tourism assets and reputation

Our Prosperity Goal – Create the means to enable local jobs creation and lifestyle affordability for the current and future population:

Key economic development strategies for the Shire which are aligned to regional outcomes working through recognised planning and development groups/committees

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

Moved: Cr C Mitchell

Seconded: Cr PM Matsumoto

That Council;

- Endorses the attached Kimberley Regional Activity Plan 2015/16 for submission to the State Library of Western Australia.**
- Notes the Chief Executive Officer has incorporated \$9,771 (cash and in-kind) into the 2015/16 draft budget to ensure a high quality level of service is maintained for Broome residents and visitors.**

CARRIED UNANIMOUSLY 7/0

Attachments

- Kimberley Regional Activity Plan 2015-2016

Chairperson: Date:

9.1.3 PROPOSED CLOSURE OF BIN SALLIK AVENUE LANEWAY

LOCATION/ADDRESS:	31 - 33 Bin Sallik Avenue
APPLICANT:	Nil
FILE:	BIN-1/GEN
AUTHOR:	Development and Subdivision Engineer
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director of Engineering Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	4 June 2015

SUMMARY: At the Ordinary Meeting of Council on 2 June 2015, Cr Mitchell presented a petition of behalf of residents requesting the closure of the laneway between 31 and 33 Bin Sallik Avenue, Broome.

This report recommends that a community consultation be undertaken for the proposed lane closure, prior to a report being presented to Council for its consideration.

BACKGROUNDPrevious Considerations

OMC 2 June 2015

At the OMC on 2 June 2015, a petition was presented by Cr Mitchell on behalf of residents within the vicinity of Bin Sallik Avenue.

The petition requested:

"The Shire of Broome to close/block off the laneway passing from Larja Link through to Bin Sallik Avenue for the following reasons – Damage to property, vandalism to Council foot-paths, light poles and barriers. Large scale graffiti damage to residents fences, damage to parked vehicles verge side, burglary and anti social behaviour."

COMMENT

A review of the signed petitioners indicates that of the 13 signatures, 10 are electors of the Shire of Broome.

Attachment 1: Petition to Close Bin Sallik Avenue Laneway

The laneway between 31 and 33 Bin Sallik Avenue is a reserve for public access (Lot 642 of Reserve 50253). It was developed within the Januburu Six Seasons Estate as a Strategic Dual Use Path for the residential catchment to the south to access public open space to the north.

Officers recommend that prior to any action to close the laneway being considered by Council, a community engagement plan be developed. This plan will ensure adequate consultation is undertaken with stakeholders and the community. The proposed laneway closure would be advertised for 35 days.

Chairperson: Date:

Attachment 2: Locality Plan - Bin Sallik Avenue Laneway CONSULTATION

Broome Community

STATUTORY ENVIRONMENT

Local Government Shire of Broome Standing Orders Local Law 2003

3.5 Petitions

- (1) A Petition, in order to be effective, is to –
 - (a) be addressed to the President of the Shire of Broome;
 - (b) be made by residents and/or electors of the district;
 - (c) state the request on each page of the petition;
 - (d) contain the names, addresses and signatures of the residents and/or electors making the request, and the date each resident and/or 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;
 - (ii) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.
 - (h) not contain any language that is disrespectful to the Council or likely to be defamatory to any person
- (2) A member of the Council presenting a petition shall be limited to a statement from the parties from whom it comes, the number of signatures attached to it, the material issues contained in it and to the reading of the preamble to the petition. It shall be incumbent on the member of Council presenting the petition to be familiar with the nature and contents of the petition, and to ascertain that it is in the form prescribed by subclause (1).

POLICY IMPLICATIONS

5.1.10 Community Engagement Policy

FINANCIAL IMPLICATIONS

The estimated cost to place a public notice in the Broome Advertiser is \$300. Funds are available for advertising in the Engineering Advertising Budget (Account 143036), and staff costs can be covered within the Engineering Operational Budget.

RISK

The consequence of immediately proceeding to close the laneway prior to public consultation being undertaken could result in "Medium" damage to the Shire's reputation from the Broome Community.

The likelihood of damage to the Shire's reputation occurring is identified as being "Likely", which represents an overall "HIGH" risk to the Shire.

Chairperson: Date:

In order to reduce the risk to an acceptable level, Officers recommend a community engagement plan be prepared and public consultation be undertaken to determine the level of community support prior to Council considering the closure of the laneway.

Almost Certain	H	H	E	E	E
Likely	M	H	H	E	E
Possible	L	M	H	E	E
Unlikely	L	L	M	H	E
Rare	L	L	M	H	H
<i>Likelihood and Impact</i>	Insignificant	Minor	Moderate	Major	Catastrophic

Legend	Remedial Outcome
<i>E</i>	<i>Extreme Risk - Immediate intervention required</i>
<i>H</i>	<i>High Risk - Director or CEO must be informed and aware</i>
<i>M</i>	<i>Medium Risk - Management responsibility to monitor</i>
<i>L</i>	<i>Low Risk - Operationally address</i>

Frequency	Likelihood of Incident Occurring	
<i>Almost Certain</i>	<i>Expected to occur in most circumstances</i>	<i>More than once per year</i>
<i>Likely</i>	<i>Will probably occur in most circumstances</i>	<i>At least once per year</i>
<i>Possible</i>	<i>Should occur at some time</i>	<i>At least once in three years</i>
<i>Unlikely</i>	<i>Could occur at some time</i>	<i>At least once in ten years</i>
<i>Rare</i>	<i>May occur, only in exceptional circumstances</i>	<i>Less than once in fifteen years</i>

LEVEL	DESCRIPTION	FINANCIAL IMPACT	HEALTH	REPUTATION	OPERATION
1	<i>Insignificant</i>	<i>Less than \$1,000</i>	<i>No injuries</i>	<i>Unsubstantiated, low impact, low profile or no news item</i>	<i>Little impact</i>
2	<i>Low</i>	<i>\$1,000 to \$10,000</i>	<i>First aid treatment</i>	<i>Substantiated, low impact, low media profile</i>	<i>Inconvenient delays</i>
3	<i>Medium</i>	<i>\$10,000 to \$50,000</i>	<i>Medical treatment</i>	<i>Substantiated, public embarrassment, moderate impact, moderate media profile</i>	<i>Significant delays to major deliverables</i>
4	<i>High</i>	<i>\$50,000 to \$150,000</i>	<i>Death or extensive injuries</i>	<i>Substantiated, public embarrassment, high impact media profile, third party actions</i>	<i>Non achievement of major deliverables.</i>
5	<i>Extreme</i>	<i>More than \$150,000</i>	<i>Multiple deaths or severe permanent disablements</i>	<i>Substantiated, public embarrassment, very high multiple impacts, high widespread multiple media interactivity, third party action.</i>	<i>Non achievement of key objectives.</i>

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Accessible and safe community spaces

A healthy and safe environment

Our Organisation Goal – Continually enhance the Shire’s organisational capacity to service the needs of a growing community:

Effective community engagement

Chairperson: Date:

VOTING REQUIREMENTS*Simple Majority***COUNCIL RESOLUTION:**
(REPORT RECOMMENDATION)**Moved: Cr DM Male****Seconded: Cr H Tracey*****That Council request the Chief Executive Officer:***

- 1. To prepare a community engagement plan and advertise the proposal to close the laneway between 31 and 33 Bin Sallik Avenue for a period of 35 days.***
- 2. To contact the signatories of the petition to advise of Council's determination.***

CARRIED UNANIMOUSLY 7/0**Attachments**

1. Petition to Close Bin Sallik Avenue Laneway
2. Locality Plan - Bin Sallik Avenue Laneway

9.2

OUR PLACE



PRIORITY STATEMENT

The Shire of Broome has an abundance of unique natural features, coastal attractions, significant streetscapes, historic precincts and a mix of old and new urban developments.

Our aim is for all communities and settled areas, including the Broom Township, to be a place where the natural environment, on which life depends, is maintained, whilst at the same time the built environment contributes to the economy and a quality lifestyle for all.

Preserving the Shire's natural environment is a critical community outcome. Council will put into place strategies that nurture and improve the Shire's unique environment and biodiversity.

The Shire will work in partnership with the community and other agencies to ensure responsible and accountable management of both the natural and build environments is achieved in the short term and for future generations.

Chairperson: Date:

9.2.1 APPLICATION FOR PLANNING APPROVAL -TOURIST DEVELOPMENT AND RESTUARANT - LOT 280 (NO. 22) HAMERSLEY STREET AND LOTS 3 AND 281 (NO. 2) ANNE STREET

LOCATION/ADDRESS:	Lot 280 (No. 22) Hamersley Street and Lots 3 and 281 (No 2) Anne Street
APPLICANT:	Concept Buildign Designs
FILE:	ANN-1/2
AUTHOR:	Statutory Planning Coordinator
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director of Development Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	17 April 2015

SUMMARY: An application for planning approval was received by the Shire of Broome in November 2010 for a proposed tourist development over three lots, being Lot 280 Hamersley Street and Lots 3 and 281 Anne Street.

The application was originally referred to Council in July 2011 for consideration as the decking forming part of the restaurant encroaches into the Anne Street road reserve and as the development sought a variation to the car parking requirements.

Council at the July 2011 meeting resolved to defer the consideration of the application for a number of reasons.

Shire Officer's have since undertaken further research into the matters raised by Council and the applicant has also modified the proposal.

This report recommends that the application is conditionally approved.

BACKGROUND

Previous Considerations

OMC 7 July 2011

Item 9.4.1

Site and Surrounds

The subject site is 6,083sqm in area and compromises of Lots 3 and 281 Anne Street and Lot 280 Hamersley Street. These properties are respectively 3,650sqm, 1,215sqm and 1,217sqm in area and are located on the corner of Hamersley Street and the Anne Street cul-de-sac. The site is in a prominent position opposite Matso's Brewery and forms part of the 'active street frontages' identified in the Old Broome Development Strategy. Please refer to **Attachment No 1** for the locality plan.

Lot 3 is currently developed with the Bayside Holiday Apartments and two existing dwellings are constructed on lots 280 and 281, which have direct frontage to Hamersley Street.

History

This development application has an extended history and is summarised by the key milestones below:

- October 2007 – the first of several pre-lodgement discussions were held;

Chairperson: Date:

- 10 May 2010 – the applicant briefed Councillors on the proposed development particularly with regard to how the development addressed Broome-style architecture;
- 18 November 2010 – the planning application was lodged. Several changes were requested by Officers and plans were revised as a result of ongoing discussions between the proponent and Shire Officers.
- 7 July 2011, the item was considered by Council, where Council made the following resolution:

That the Council;

1. *Defer this item pending clarification of the State Governments position in relation to the use of the land which is within the road reserve;*
 2. *Engineering to be reworked with proponent;*
 3. *Carparking – 10 additional bays;*
 4. *Clarification on whether the application needs to be referred to the Development Assessment Panel (DAP);*
- July 2011 – March 2013 – numerous discussions were held with the Department of Lands and legal advice was sought with regard to the issue of development within the road reserve.
 - 18 March 2013 - following consideration of advice and discussions, the Shire of Broome communicated with the applicant and advised on options for tenure over the deck in the road reserve and also advice on outstanding matters raised in above resolution of Council.
 - 31 July 2013 – applicant forwarded revised drawings which were reviewed by Shire Officer's and a request was made that the all outstanding information be provided.
 - 23 February 2015 and 9 March 2015 – the applicant forwarded amendment plans for assessment which were again reviewed by Council officers with a request for clarifications.
 - 17 April 2015 applicant supplied updated plans for referral to Council workshop.

The amended plans and updated information received is now presented to Council for determination.

Description of the Proposal

The application proposes the following:

- The 'main building' which fronts both Anne Street and Hamersley Street is proposed to have a total building area of 1,370.86sqm. Total building and wall height of 9.905m and 8.9m respectively. The building consists of three levels as set out below:
 - A basement level of 367.53sqm incorporating a reception, foyer, office, bathrooms, staff change rooms, day spa consultation rooms, store rooms, gym and cool room.
 - The first floor of 691.25sqm incorporating the hotel reception, lobby, foyer, office, gallery, toilets, bar, restaurant and kitchen. Immediately adjacent to the restaurant is a raised timber deck which is positioned on the south-eastern portion of the site. The application also proposes that a portion of the outdoor deck area (totalling 70.11sqm) extends into the Anne Street road reserve a total of 5.3m at the longest projection. The deck is proposed to have a Finished Floor Level (FFL) of 10m and will be 0.9m above natural ground level.

Chairperson: Date:

- The second floor will have an area of 311.76m and is proposed to include a function area/restaurant, conference room, departure lounge, and a balcony which would extend over the Anne Street road reserve.
- A total of five three storey buildings 'blocks' consisting of self-contained accommodation units with a building height of 12.2m and wall height of 9.6m (note for blocks C & B due to the fall in the land the maximum wall height will be 10.3m). The 'blocks' will consist of the following:
 - Four blocks (shown as blocks A-D on the site plan) each consisting of 14 one bedroom units, five on the ground floor and first floor and four units on the third floor.
 - One block (shown as block E on the site plan) consisting of eight one bedroom units, three on the ground floor and first floor and two units on the second floor.
 - The total amount of units available on site would be 64.
- A two storey building on the north-western portion of the site to be used as a managers quarters and laundry.
- A bin storage area on the western boundary, screened from view of the street by a gabion feature wall, 2.4m in height.
- A pump room on the Hamersley Street frontage which would be screened from view of the road by a 2.4m high gabion feature.
- A store room and pool pump room positioned between blocks D and C.
- A central swimming pool/recreation area.

The site has been designed to provide two way vehicle movement from both Hamersley Street and Anne Street. A security gate with remote control gate key will be installed on the Hamersley Street access which would limit the general public access from this entry point. The portion of the onsite parking will be available to general public access from the Anne Street frontage and security access gates will be installed between the bin store building and Unit Block E.

The development proposes to make provision for 76 onsite car parking bays (of which 17 will be available for general public use) and a total of 19 off site bays are proposed (8 in the Anne Street verge and 11 in the Hamersley Street verge). A temporary bus pick up and drop off bays is also proposed to be incorporated into the crossover on Anne Street and will be within the road reserve.

A full set of site plans, floor plans, elevations and streetscape perspective are shown in **Attachment No 2 – Development Proposal**.

COMMENT

The development has been modified slightly since being presented to the July 2011 Ordinary Meeting of Council in the following manner:

- The design of the deck has been amended to be smaller. The deck previously encroached up to 9m into the road verge and was between 1.2 to 1.5m above natural ground level. Further the deck was previously enclosed with balustrading, completely sectioning off the area for any access unless they entered through the restaurant.

The deck now encroaches less into the road reserve and the maximum intrusion is now 5.3m. The maximum height above natural ground level is 0.9m and the balustrading has been removed.

- The bus drop off area was previously situated on the eastern side of the crossover onto Anne Street. This position has changed slightly and an improved path and paved area is proposed.
- Incorporation of an additional off-site car parking bay in the Anne Street road verge.

The other aspects of the proposal remain unaltered.

When the item was considered by Council at the July 2011 Meeting, the following resolution was made:

1. Defer this item pending clarification of the State Governments position in relation to the use of the land which is within the road reserve;
2. Engineering to be reworked with the proponent;
3. Car parking – 10 additional bays;
4. Clarification on whether the application needs to be referred to the Development Assessment Panel (DAP);
5. Item to be workshopped by Council as soon as possible.

Each of the above points will be reviewed below, in addition to a revised assessment of the application against the new planning framework being LPS, LPS6 and the OBDS. This assessment will be set out under the following headings of land use and development. A planning assessment summary setting is included for reference as **Attachment No 3**.

Use of land within the road reserve

In reviewing advice received from the Department of Lands and legal advice received in relation to development of the deck in the road reserve there are two aspects which must be considered. Firstly, the tenure arrangements for development in the road reserve and secondly, whether development within the road reserve should be supported. Each of these aspects will be discussed below:

Tenure

Officers from Department of Land's have set out the following options are available to the Shire of Broome in considering this proposal:

- Option 1 – the deck could be approved by Council in the road reserve and the applicant would need to seek a section 57 lease from the State under the Land Administration Act 1997, however general public access must be maintained through the area.
- Option 2 – the applicant could seek that the portion of road reserve in question is permanently closed.

If Council were to entertain the development of the deck in the road reserve, Option 2 is not considered favourable given that Anne Street is identified under the OBDS as possibly being extended to Hamersley Street. The closure of the road would not allow for this to progress in the future and therefore it is recommended that Council does not pursue this option. Therefore if the deck is to be entertained, the applicant would need to arrange appropriate tenure arrangements with the Department of Lands in the form of a section 57 lease.

Legal advice received, in addition to discussion with Department of Lands officer has confirmed that the Shire of Broome has the ability to issue planning approval for the

Chairperson: Date:

development. Based on advice received, in granting this approval the Shire must be satisfied that the ordinary and reasonable use of the public thoroughfare or public place for the purposes to which it is dedicated is not to be permanently or unreasonably obstructed.

To achieve this, the applicant has redesigned the deck area so that it encroaches less into the road reserve. Further the deck is not barricaded off with balustrading and therefore there would be no permanent physical obstructions limiting the general public to access this area. Also, the development has been redesigned so that the portion of the deck can be removed without impacting upon the ability for the restaurant to function. Immediately adjacent to the proposed deck areas, at natural ground level, the proponent has shown on the site plan the provision of footpath that would be greater than 2m in width and therefore would be consistent with the development provisions for outdoor dining as established under LPP 8.3 – Outdoor Dining (which requires unobstructed access way of at least 2.0m wide past the easting area).

Development in a road reserve

In considering this application, it must also be determined whether the development within the local road reserve is appropriate. Anne Street is identified as a Local Scheme Reserve – Local Road under LPS6. In determining an application for planning approval the local government is to have due regard to the ultimate purpose and intent for the reserve, which in this case is a local road. It is noted that generally speaking the development of a local road for purposes associated with private commercial venture can be deemed as being inconsistent with the purpose of the reserve. Further, the purpose and function of a road reserve is to provide access way, a location for services and associated infrastructure, provide for a pleasant streetscape and a transition area through landscaping between the roadway and adjoining lots.

In this particular case, it is considered the deck could be approved for the following reasons:

- The deck has been designed to not restrict general public access;
- The ability for the general public to use the road reserve for pedestrian movement will not be compromised as public footpaths will still be provided at natural ground level;
- The applicant has provided advice from servicing authorities confirming that the deck can be accommodated taking into account services constructed in the location;
- The deck development would not impact upon the movement of vehicles in the road reserve (it is noted that this may change in the future if Council were to implement the recommendation in the OBDS, which is to open Anne Street through to Hamersley Street);
- The deck can be removed at any point in the future without compromising the ability for the development to function;
- While the outdoor dining area could be constructed at ground level and licenced as such under the Local Law, the slightly elevated deck will provide improved views from the development site to Roebuck Bay, which is encouraged in the OBDS; and
- The development as proposed would increase the amount of public activity and surveillance in this area contributing to an improved streetscape.

Further, as acknowledged by the Officer in the preparation of the 2011 Agenda Item, the public edges of buildings should house activities that benefit from interaction within the public realm and contribute to the vitality of the area. The design of the main building

Chairperson: Date:

endeavours to incorporate these elements mainly by means of the extended decking into the verge and its connection to the street enhances vibrant and lively interaction between the building and the movement of people along the Hamersley Street 'tourist path'. It will invigorate and add to the attractiveness of the corner it is situated on.

In considering the above points, it is recommended that the deck is approved, with the condition that the Shire can require the applicant to remove the deck at any point in the future if this is required. To ensure that future landowners are aware that the deck is not a permanent structure, it is further recommended that the applicant acknowledges this in a Deed of Agreement; this will require that any subsequent land owner would also have to enter into an agreement setting out that they acknowledged the deck can be removed at any time.

Further, a condition of approval is proposed which requires the applicant to make appropriate land tenure arrangements over the deck, prior to the commencement of site works.

Engineering to be reworked

It is unsure why this formed part of the resolution of Council as no records can be located in regards to engineering issues associated with the development. Furthermore, the Shire's Engineering Section has reviewed the plans and has not raised concerns with the proposal.

Since Council considered the item at the July 2011 meeting, the Shire of Broome has undertaken works to the adjacent drain at the head of the Anne Street cul-de-sac. These works consisted of improvements to the culvert under Hamersley Street and improvements to the rock pitching at the outfall point.

Standard conditions of approval are recommended with regard to stormwater design and implementation of works within the road reserve. Further, a condition with regard to the detailed design of improvements in the road reserve has been recommended. It is therefore considered that there are no changes required to the plan to address this issue.

Car Parking

In the 2011 assessment of the application the car parking requirements were calculated in accordance with the 'motel' land use, which requires 1 bay for each bedroom plus 1 bay per 25sqm of gross floor area of service building. However, the report acknowledged that the rate of calculating the number of bays per bedrooms should be applied consistent with the 'tourist development' parking requirements, which requires 1 bay for every two units. This was consistent with previous decisions of Council for both the Oakes and Mecure redevelopments. As the car parking rate was assessed as a 'motel' land use employee, day spa and boat/trailer parking was not required.

Based on the calculations it was determined that a total of 114 bays were required to support the development. The application proposed the construction of 94 bays (77 on site and 17 within the adjacent road reserves). Therefore there was a total shortfall of 20 car parking bays. While the officer comments suggested that additional bays could be provided in Anne Street this was not recommended as a condition of approval. Council in considering the development application foreshadowed that an additional 10 bays should be provided.

The request to provide an additional 10 car parking bays was communicated with the applicant and they have not provided alternative designs to accommodate the

Chairperson: Date:

additional bays, however the applicant provided the following rational in December 2011 for why additional bays should not be required:

Referencing the additional 10 offsite parking bays which have been requested, we object to the findings of the Councillors on the grounds that over the 2 year design and consultation process undertaken we were instructed down a specific design path as to which Scheme to follow for car parking calculations. In addition to this we were informed to reference specific case studies which set a predicant in direct vicinity of our development.

The request for additional bays would be unnecessary in this case as evidence from our clients and recent surveys shows the current parking policy would provide more bays than required. Alternative surveys have been undertaken by other similar developments which consolidated these findings.

As the current number of car parking bays would be more than sufficient, the addition of any further parking bays we believe would not only have a negative impact on the surround area but due to the fact that they will be located away from the development they would not likely be used by the development patrons.

If an additional 10 bays are provided in accordance with Council's resolution then the total parking provision for the development would be 106 bays.

The parking calculations for the site have been reviewed in addition to the previous decisions of Council referenced above. As the development falls within the land use definition of 'tourist development' as opposed to 'motel' it is considered that the car parking rate for 'tourist development' as prescribed under Scheme 16 should be applied.

In applying this it is noted that the tourist development car parking requirement sets out that one bay per 6sqm of restaurant floor space is required. In the previous determinations made for the Mecure and Oakes a rate for restaurant land use applied was 1 per 12sqm. It is considered that this rate should be applied when calculating the car parking for the following reasons:

- Upon review of other local governments provisions in relation to parking bays for restaurant land uses generally a parking bay for each four persons to be accommodated is required (this would be on the assumption that on average four people would be accommodated in a car). If the same principle was applied, 6sqm would be too small to accommodate 4 people whilst allowing for adequate circulation space and distance between table/guests. It is therefore considered that a 1/12sqm rate should be applied as it would be more reflective of the number of vehicles called to such a land use and is consistent with previous approvals issued.
- A portion of the guests at the restaurant will be staying within the tourist accommodation and therefore would not require a parking allocation.
- Not all patrons would be arriving in their own vehicles, some may travel to the site on the tourist bus, taxi or walking. Therefore on average 1 bay per 12sqm is considered to be more reflective of the number of bays reasonably required to support such a use.

If the above rational and rates were applied, the table below sets out the car parking requirement for the site:

Land Use	Sub-uses	Bays Required	Calculation	Total
Tourist Development	Short stay units	1 bay for every two keyed units	64 bedrooms/2	32
		Plus 1 visitor bay for every five keyed units	64 bedrooms/5	12.8
	Long stay units (caretakers)	Provided in accordance with the R-Codes	Single bedroom multiple dwelling – 1 bay	1
	Restaurants, cafe's and bars	1 bay per 12sqm of seating area	435.61sqm/12	36.3
	Commercial development	1 bay per 25sqm of gross lettable area	Gallery, conference room – 453.44sqm /25	18.13
	Day Spas	1.5bays per spa/massage/treatment room with a minimum of two bays	6 rooms @ 1.5 bays per room	9
	Employee Parking	1 bay for each restaurant, cafe, bar or commercial component	1 restaurant and two separate bar areas = 3	3
	Boat/trailer bay	One bay for every 10 units	64units/10	6.4
TOTAL				118.63 = 119 bays

The applicant has made provision for 96 car parking bays and therefore there is a shortfall of 23 bays. It is recommended that this shortfall is satisfied through a cash-in-lieu contribution. This is recommended as there is sufficient area within proximity to the site that Council could utilise towards the construction of car parking bays. In accordance with Clause 5.7.6 of LPS6, it is recommended that Council advise this rate will be calculated based on estimated construction costs and the land value of an equivalent area required to accommodate the bays, this will form an advice note to the approval.

Further, consistent with LPP 8.16 - Parking, conditions of approval are recommended requiring the applicant to enter into a Deed of Agreement setting out management and landscaping responsibilities with regard to the bays proposed within the Anne Street and Hamersley Street road reserve.

Clarification on whether the application needs to be referred to the DAP:

The application for planning approval was submitted to the Shire of Broome on the 18 November 2010, which was prior to the gazettal of the *Planning and Development (Development Assessment Panels) Regulations 2011*. The application remains undetermined by the Shire of Broome.

Clause 10.9 of Town Planning Scheme No 4 (which has also been carried through to LPS6) does have deemed refusal provisions and while this application would be deemed refused, under this clause despite an application being deemed to be refused, the local government may issue a determination in respect of the application after the expiry of the period. Therefore regardless of the time that has elapsed, the application remains capable of determination (please refer to **Attachment No 5** – legal advice).

The Regulations define what is an 'excluded development' which includes a development application in a district for which a DAP was not established at the time the application was made. As the provisions of the Regulations did not come into force until 24 March 2011, with the DAP being established on the 29 April 2011, therefore at the time the application was lodged the DAP had not been established. Consequently, the 2010 application is an 'excluded development application' which the DAP cannot determine. The Shire therefore remains the responsible planning authority for determining the application.

As mentioned above, the following headings represent an assessment of the application against the Shire's local planning framework.

Land Use

The development as proposed is a permitted land use in the Mixed Use zone under the provisions of Local Planning Scheme No 6. The Local Planning Strategy (LPS) further supports such land uses on this site as the area is identified as Mixed Use which specifically provides for tourist accommodation.

Further, the site is identified as 'Precinct 2' in the LPS which objective is to provide a mixed use area which should consist of tourist land uses and recommends that development strategies are prepared to consider the integration of retail, mixed use development and tourism and recreational values.

The Shire has adopted Local Planning Policy - Old Broome Development Strategy (OBDS) in which the subject site is identified as falling within 'Area D – Mixed Use Tourist/Residential' which lists tourism development as a preferred land use. Further the OBDS identifies this site as a 'Priority Active Frontage' with the portion of the site on Hamersley Street being identified as 'Nil setbacks'.

Overall, the tourist land use that is proposed is consistent with the Scheme provisions and the local planning framework being the LPS and the OBDS. It is therefore considered from a land use perspective that the development meets with the aims of the Scheme and is consistent with orderly and proper planning.

Development

The development generally meets with the site and development standards prescribed under LPS6. As set out in **Attachment No 3**, the following aspects of the proposal seek a variation to the prescribed site and development requirements under the Scheme:

- Car Parking (refer to comments above)
- Plot Ratio

Schedule 15 of LPS 6 sets a plot ratio of 0.5 and the development is proposing a plot ratio of 0.62.

Plot ratio is a calculation of the ratio of the gross total of all floors of buildings on a development site (excludes any lift shafts, stairs or stair landings, equipment rooms, space below natural ground level, etc) to the area of land within the site boundaries. This means that the development has additional floor areas, however in this case the variation is considered acceptable for the following reasons:

- The site exceeds the open space requirement under the scheme (50% is required and 64.18% is provided) and therefore the development will still maintain a sense of openness.
 - Clause 4.34.2 requires that tourist development in the mixed use zone should achieve a density equivalent to the R40. R40 would allow for a plot ratio of 0.6 (and thus only proposes a slight variation) and open space of 45%.
- Building Height

Clause 5.11.2 set the height limits for non-residential development and details that development must not exceed a wall height of ten metres (10m) and a building height of 14m. All buildings on site satisfy the building height limits, with the maximum height at any one point being 12.2m. The wall heights of the accommodation buildings is 9.6m, however due to the slight fall in land, accommodation blocks B & C will slightly exceed to maximum wall height limit as it would be 10.3m instead of 10m.

As this variation is minimal, is for a small portion of the site and is a consequence of the site conditions and the overall building height limit is still satisfied, it is considered that this can be supported.

- Setbacks

Schedule 15 of LPS6 establishes sets out that setbacks are to be set by the local government in each case having regard to the likely impact of a planning proposal on adjoining properties.

The OBDS highlights that development fronting Hamersley Street is encouraged at a nil setback and is silent on setbacks to the remaining boundaries. The commercial component of the development is at a nil setback to Anne Street and has a slight setback to Hamersley Street. The accommodation units are proposed to be setback 1.3m from Hamersley Street frontage which is considered acceptable and preferred as it would provide some prominence to the commercial component of the development and as these building are higher, will assist to minimise building bulk.

In front of the accommodation units along the Hamersley Street frontage, the applicant is proposing to construct a 0.6m high gabion wall with a privacy screen on top, to 1.8m in height. The objective and principles for urban design in the Strategy is to encourage active building frontages facing the public realm. While no concerns is raised with regard to the gabion wall, the placement of a screen on top, will essentially result in a 1.8m high fence along this frontage and will compromise the objective of having active building frontages. It is therefore recommended through a condition, the placement of the privacy screen is not approved.

Further to ensure that Scheme and relevant Local Planning Policy provisions are achieved, conditions of approval are recommended with regard to the following aspects:

- Servicing

Clause 5.8 of LPS6 establishes that development must make provision onsite for storage areas, bin areas and general services areas for loading and unloading of goods. The development has made adequate provision for this through the installation of a

loading bay close to the restaurant, an onsite laundry, store, pump rooms and bin enclosure.

Particularly to ensure that the Health Local Law provisions are satisfied a condition of planning approval is recommended requiring that the bin store area is completed prior to occupation of the development.

- Landscaping

Areas have been allocated on the site plan for landscaping. This incorporates both landscaping on site and landscaping within the adjacent Hamersley Street and Anne Street road reserve. This is consistent with the landscaping requirement prescribed under Schedule 15 of LPS6 which requires landscaping along street frontages within the road reserve. Further clause 5.7.4.1 (d) requires that external parking areas are landscaped in the form of shade trees at the rate of every four consecutive bays.

To ensure that the Scheme provisions are satisfied and the detailed landscaping designs can be reviewed by the Shire's Parks and Garden's section, a condition of approval is recommended that requires the submission of a detailed landscaping design prior to the commencement of development. Further a condition is recommended requiring that landscaping is installed in accordance with the approved plans prior to occupation of the development.

- Public art

In September 2013 Council adopted LPP 8.20 – Provision of Public Art. This Policy applies to all development within the Shire of Broome over the value of \$2 million (unless falling within the exemptions provided for under Clause 3.1, which do not apply to this application). The Policy sets out that development is required to contribute a monetary amount equal in value to one per cent of the estimated construction cost. The estimated construction cost of this development application is \$16,000,000 and therefore a condition of planning approval is recommended which required the payment of a \$160,000 cash contribution prior to occupation of the development.

In summary, it is considered that the revised development application addresses the matters that have been previously of concern to Council and as set out above generally meets with the Scheme and the Old Broome Development Strategy and addresses the matters to be considered under Clause 10.2 of LPS6. It is therefore recommended that the application is conditionally approved.

CONSULTATION

Tourist Development is a 'P' land use within the Mixed Use zone and the application does not present variations in terms of setbacks. Therefore, In accordance with Local Planning Policy 8.23 – Public Consultation – Planning Matters, the application is not required to be referred to adjoining landowners and does not require wider public consultation.

In 2011 the applicant consulted with the immediate adjoining landowners where parapet walls were proposed to be constructed. At this time one of the owners within the units in the 'Captians' development (being 7 Hass Street) objected to a parapet wall being constructed along the northern boundary. In response to this the applicant amended the proposal to setback this building from the boundary. This aspect of the proposal has not been altered and further the setbacks proposed to this structure are in excess of that prescribed under LPS6.

As referred to above, the Shire has referred the development proposal to the Department of Lands for comment due to the proposed encroachments into the road reserve.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Broome Local Planning Scheme No 6

POLICY IMPLICATIONS

LPP 8.10 – Parking, Storage, Crossover and Drainage Standards for Planning Applications

LPP 8.16 – Parking – Car, Motorcycle, Bicycle

LPP 8.20 – Provision of Public Art

LPP 8.23 – Public Consultation – Planning Matters

LPP 8.25 – Old Broome Development Strategy

FINANCIAL IMPLICATIONS

Condition of planning approval recommended will have financial implications because if the development does proceed it would result in contributions towards public art and transfer of money for cash-in-lieu of car parking bays.

With regard to public art, in accordance with the Policy the application is conditioned requiring a \$160,000 contribution. These funds would be held by the Shire in a trust account for the expenditure on public art works within proximity to the site.

With respect to cash-in-lieu for car parking bays, there are two components to this calculation being estimated construction costs and land area component. With regard to construction costs this is established in the Shire's Fee's and Charges and for this financial establishes a rate of \$6,020 per bay, therefore requiring a \$138,460.

With regard to determining an equivalent land area value this would ultimately need to be calculated by a licenced valuer, however to give an indicative calculation based on a similar property sale it is likely that the land value component would be approximately \$188,000. Therefore the total cash-in-lieu contribution is likely to be in the region of \$330,000. In accordance with the Scheme provisions, these funds would be paid into a parking fund to be used for the provision and maintenance of public car parking facilities within reasonable proximity to the subject land.

It should be noted that while clause 5.7.6.1 (a) of LPS6 sets out that cash-in-lieu for car parking is to include the value of land, Council has the ability to waive this component. This would be consistent with how cash-in-lieu for car parking is calculated in Chinatown under LPP 8.9 - Cash-in-lieu of Car Parking – Town Centre Chinatown Zone, whereby only construction costs are applied. This position was adopted by Council for Chinatown as it was identified in this precinct that car parking bays are developed within the road reserves and Council to date has not had to purchase land to construct car parking bays. If Council determines that the land value component should not be applied in this case, advice note v) should be deleted and the following condition of approval would need to be amended as set out below:

Chairperson: Date:

- ix) *The applicant must provide cash-in-lieu for the twenty three (23) car bays not provided on site calculated in accordance ~~with Clause 5.7.6.1 (a) of Local Planning Scheme No 6,~~ with the Shire of Broome Schedule of Fee's and Charges less the land value component prior to the occupation of the development and to the satisfaction of the Shire.*

It should be noted that if Council amends the above condition, in the event the car parking bays cannot be reasonably accommodated in road reserve or land under the control of the Shire, then sufficient funds would not exist for the purchase of land to construct car parking bays.

STRATEGIC IMPLICATIONS

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

Realistic and sustainable land use strategies for the Shire within state and national frameworks and in consultation with the community

A built environment that reflects arid tropical climate design principles and historical built form

A unique natural environment for the benefit and enjoyment of current and future generations

A preserved, unique and significant historical and cultural heritage of Broome

Retention and expansion of Broome's iconic tourism assets and reputation

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION:

1. *That Council approves the application for planning approval 2010/170 for the Tourist Development at Lot 280 Hamersley Street and Lots 3 and 281 Anne Street, Broome submitted by Concept Building Designs subject to the following conditions:*
 - i) *Development must be carried out in compliance with the plans and documentation listed below and endorsed with the Council's stamp, except where amended by other condition of this approval.*

Plans & Specifications
P1 (Site Plan), P2 (Administration Building – Basement Floor Plan), P3 (Administration Building – Ground Floor Plan), P4 (Administration Building – First Floor Plan), P5 (Administration Building – Elevations), P6 (Block A – Ground Floor Plan), P7 (Block A – First Floor Plan), P8 (Block A – Second Floor Plan), P9 (Block A – Elevations), P9 (Block E Ground Floor Plan), P10 (Block E – First Floor Plan), P11 (Block E – Second Floor Plan), P12 (Block E – Elevations) and P13 (Managers Quarters & Laundry Plans) as received by the Shire on 17 April 2015.
 - ii) *Accommodation units within the development must only be occupied on a short-stay basis and must not be used for permanent habitation.*

- iii) Lot 280 Hamersley Street and Lots 3 and 281 Anne Street must be amalgamated into a single lot on a Certificate of Title. Amalgamation must occur prior to commencement of site works for the development, unless a legal agreement (including the placement of an absolute caveat on the relevant title) is achieved in accordance with the requirements of the Shire's solicitors to allow the amalgamation to occur at a later time.
- iv) Prior to the commencement of site works, the applicant must obtain a lease under Section 57 of the Land Administration Act 1997 from the Department of Lands for the proposed development which encroaches into the road reserve.
- v) If at any stage in the future the Shire of Broome alters the alignment of the Anne Street carriageway or associated infrastructure the deck must be removed within 60 days of receiving written request from the Shire of Broome and must not be reinstated unless further planning approval is obtained from the Shire of Broome.
- vi) Prior to the commencement of site works a stormwater drainage system is to be provided in accordance with the Shire of Broome's guidelines and specifications for the design and construction of stormwater drainage systems. The system shall be designed and documented by a practicing Civil Engineer to the satisfaction of the Shire. Drainage and any filling of the site must be carried out in accordance with the approved stormwater drainage system prior to the occupation of the development and then maintained at the applicants costs to the satisfaction of the Shire.
- vii) Prior to occupation to the development, areas set aside for parked vehicles and access lanes, as shown on the approved plans, must be:
 - a) Detailed in an Engineering Plan including existing finished levels, pavement type and drainage details, these plans to be submitted prior to the commencement of site works.
 - b) Constructed to a minimum of prime and two coat standard bitumen seal, drained and curbed in accordance with the approval plan.
 - c) Fully drained to the requirements in accordance with the Shire of Broome's guidelines and specification.
 - d) Line marked and signed in accordance with AS 2890 (off street parking) except standard bay sizes to be 2.7m x 5.5m and disabled bays to be in accordance with AS/NZS2890.6:2009.
 - e) Be kept available for these purposes. A separate plan may be submitted and endorsed by the Shire for the purpose of complying with this condition.
- viii) A minimum of ninety-four (94) car parking bays must be provided for the development, seventy-seven (77) onsite and seventeen (17) off-site in the Hamersley Street and Anne Street road verge.
- ix) The applicant must provide cash-in-lieu for the twenty three (23) car bays not provided on site calculated in accordance with Clause 5.7.6.1 (a) of Local Planning Scheme No 6, prior to the occupation of the development and to the satisfaction of the Shire.
- x) Prior to any construction or works starting on-site, a Landscaping Plan must be submitted to and approved by the Shire. It is highly desirable that mature trees already on site are incorporated into the development if feasible and practicable. For the purpose of this condition, a detailed Landscaping Plan must be drawn to an appropriate scale and show the following:

Chairperson: Date:

- a) The location and type of existing trees including girth sizes (to be measured around the width circumference); and how they interact with the proposed development.
 - b) The location and type of new trees and shrubs including an estimate of ultimate girth sizes that are proposed to be installed as part of the landscaping.
 - c) As a minimum shade trees at the rate of one per ever four consecutive parking bays must be provided within proximity to the parking areas.
 - d) Any lawns to be established.
 - d) Any natural landscape areas to be retained.
 - e) Those areas to be reticulated or irrigated.
 - f) Please note, an area 1m minimum, should be kept clear of all impervious materials around existing and proposed tree trunks.
- xi) Landscaping of the site and the adjacent road reserve must be in accordance with the approved Landscaping Plan and must be completed prior to occupation of the development and then maintained to the satisfaction of the Shire at the landowners cost.
- xii) A deed of agreement is to be prepared and executed at the owners cost between the owner and the Shire prior to the commencement of site works, under which the owner agrees and acknowledged the following:
- The owner agrees to maintain the car parking, landscaping and any construction within the road verge;
 - The owner agrees to indemnify the Shire over any claim arising from the improvements in the road verge and agrees to take out and maintain public liability insurance for a minimum amount of \$10 million for any one claim; and
 - The owner agrees that if at any stage in the future, the Shire requires the deck or improvements to be removed or altered, this is to be undertaken at the applicants costs within 60 days of receiving the written request from the Shire.

The deed of agreement is to permit the Shire to lodge a caveat against the Certificate of Title to the land to secure the performance of the obligations of the Deed.

- xiii) All works (footpaths, structure, parking and crossovers) within the Hamersley Street and Anne Street road reserve must be detailed in an engineering plan prepared in accordance with the Guidelines for the Construction of Carparking within the Shire of Broome Road Reserve and approved by the Shire of Broome. These works once approved shall be constructed, installed and maintained to the satisfaction of the Shire of Broome.
- xiv) All vehicle crossovers must be designed and constructed (sealed, brick paving, bitumen, concrete) to the Shire's standard crossover specification.
- xv) The screened refuse bin storage area shown on the approved plan must be provided to the satisfaction of the Shire prior to the occupation of the development.
- xvi) Prior to occupation of the development, the applicant is to make a \$160,000 cash contribution to the Shire of Broome in accordance with Local Planning Policy 8.20 – Provision of Public Art.

xvii) The proposed privacy screen to be installed on top of an immediately adjacent to the 600mm high gabion structure along Hamersley Street has not been approved.

xviii) The 'landscaping outdoor seating garden' shown on the site plan does not form part of this approval.

Advice Notes

i. This approval does not permit the use of the land and or any building or undertaking of development unless all conditions have been and continue to be complied with. You are advised of the need to comply with the requirements of the following other legislation:

- The Western Australian Building Act 2011 requires a Building Permit being obtained from the Shire before any work commences on site; and
- Health Act 1911 and Department requirements in respect to the development and use of the premises.

ii. If the development, the subject of this approval, is not substantially commenced within two (2) years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has lapsed, development is prohibited without further approval being obtained.

iii. The granting of this Planning Approval is not a clearance that there are no Aboriginal Heritage Sites on the land nor is it an approval under Section 18 of the Aboriginal Heritage Act, in the event that there is an Aboriginal Heritage Site on the land. The land owner will need to make enquiry and application to the Department of Aboriginal Affairs in this regard.

iv. The development must be connected to the Water Corporations sewer and water.

v. With regard to condition ix) please be advised that the cash-in-lieu payment for car parking bays is to be equal to the estimated cost of providing and constructing the parking spaces as determined in the Shire of Broome's Fees and Charges and the estimated cost of the area of land which would be occupied by those parking spaces as determined by a licensed valuer.

vi. Activities on site must at all times comply with the Environment Protection (Noise) Regulations 1997.

2. Authorises the Shire President and CEO to engross the necessary legal documents required to be prepared to satisfy the abovementioned conditions.

COUNCIL RESOLUTION:

Moved: Cr G Campbell

Seconded: Cr H Tracey

That Council:

1. Approves the application for planning approval 2010/170 for the Tourist Development at Lot 280 Hamersley Street and Lots 3 and 281 Anne Street, Broome submitted by Concept Building Designs subject to the following conditions:

- i) **Development must be carried out in compliance with the plans and documentation listed below and endorsed with the Council's stamp, except where amended by other condition of this approval.**

Plans & Specifications

P1 (Site Plan), P2 (Administration Building – Basement Floor Plan), P3 (Administration Building – Ground Floor Plan), P4 (Administration Building – First Floor Plan), P5 (Administration Building – Elevations), P6 (Block A – Ground Floor Plan), P7 (Block A – First Floor Plan), P8 (Block A – Second Floor Plan), P9 (Block A – Elevations), P9 (Block E Ground Floor Plan), P10 (Block E – First Floor Plan), P11 (Block E – Second Floor Plan), P12 (Block E – Elevations) and P13 (Managers Quarters & Laundry Plans) as received by the Shire on 17 April 2015.

- ii) **Accommodation units within the development must only be occupied on a short-stay basis and must not be used for permanent habitation.**
- iii) **Lot 280 Hamersley Street and Lots 3 and 281 Anne Street must be amalgamated into a single lot on a Certificate of Title. Amalgamation must occur prior to commencement of site works for the development, unless a legal agreement (including the placement of an absolute caveat on the relevant title) is achieved in accordance with the requirements of the Shire's solicitors to allow the amalgamation to occur at a later time.**
- iv) **Prior to the commencement of site works, the applicant must obtain a lease under Section 57 of the Land Administration Act 1997 from the Department of Lands for the proposed development which encroaches into the road reserve.**
- v) **If at any stage in the future the Shire of Broome alters the alignment of the Anne Street carriageway or associated infrastructure the deck must be removed within 60 days of receiving written request from the Shire of Broome and must not be reinstated unless further planning approval is obtained from the Shire of Broome.**
- vi) **Prior to the commencement of site works a stormwater drainage system is to be provided in accordance with the Shire of Broome's guidelines and specifications for the design and construction of stormwater drainage systems. The system shall be designed and documented by a practicing Civil Engineer to the satisfaction of the Shire. Drainage and any filling of the site must be carried out in accordance with the approved stormwater drainage system prior to the occupation of the development and then maintained at the applicants costs to the satisfaction of the Shire.**
- vii) **Prior to occupation to the development, areas set aside for parked vehicles and access lanes, as shown on the approved plans, must be:**
- a) **Detailed in an Engineering Plan including existing finished levels, pavement type and drainage details, these plans to be submitted prior to the commencement of site works.**
 - b) **Constructed to a minimum of prime and two coat standard bitumen seal, drained and curbed in accordance with the approval plan.**
 - c) **Fully drained to the requirements in accordance with the Shire of Broome's guidelines and specification.**
 - d) **Line marked and signed in accordance with AS 2890 (off street parking) except standard bay sizes to be 2.7m x 5.5m and disabled bays to be in accordance with AS/NZS2890.6:2009.**

- e) **Be kept available for these purposes. A separate plan may be submitted and endorsed by the Shire for the purpose of complying with this condition.**
- viii) **A minimum of ninety-four (94) car parking bays must be provided for the development, seventy-seven (77) onsite and seventeen (17) off-site in the Hamersley Street and Anne Street road verge.**
- ix) **The applicant must provide cash-in-lieu for the twenty three (23) car bays not provided on site calculated in accordance with the Shire of Broome Schedule of Fee's and Charges less the land value component, prior to the occupation of the development and to the satisfaction of the Shire.**
- x) **Prior to any construction or works starting on-site, a Landscaping Plan must be submitted to and approved by the Shire. It is highly desirable that mature trees already on site are incorporated into the development if feasible and practicable. For the purpose of this condition, a detailed Landscaping Plan must be drawn to an appropriate scale and show the following:**
 - a) **The location and type of existing trees including girth sizes (to be measured around the width circumference); and how they interact with the proposed development.**
 - b) **The location and type of new trees and shrubs including an estimate of ultimate girth sizes that are proposed to be installed as part of the landscaping.**
 - c) **As a minimum shade trees at the rate of one per ever four consecutive parking bays must be provided within proximity to the parking areas.**
 - d) **Any lawns to be established.**
 - d) **Any natural landscape areas to be retained.**
 - e) **Those areas to be reticulated or irrigated.**
 - f) **Please note, an area 1m minimum, should be kept clear of all impervious materials around existing and proposed tree trunks.**
- xi) **Landscaping of the site and the adjacent road reserve must be in accordance with the approved Landscaping Plan and must be completed prior to occupation of the development and then maintained to the satisfaction of the Shire at the landowners cost.**
- xii) **A deed of agreement is to be prepared and executed at the owners cost between the owner and the Shire prior to the commencement of site works, under which the owner agrees and acknowledged the following:**
 - **The owner agrees to maintain the car parking, landscaping and any construction within the road verge;**
 - **The owner agrees to indemnify the Shire over any claim arising from the improvements in the road verge and agrees to take out and maintain public liability insurance for a minimum amount of \$10 million for any one claim; and**
 - **The owner agrees that if at any stage in the future, the Shire requires the deck or improvements to be removed or altered, this is to be undertaken at the applicants costs within 60 days of receiving the written request from the Shire.**

The deed of agreement is to permit the Shire to lodge a caveat against the Certificate of Title to the land to secure the performance of the obligations of

the Deed.

- xiii) **All works (footpaths, structure, parking and crossovers) within the Hamersley Street and Anne Street road reserve must be detailed in an engineering plan prepared in accordance with the Guidelines for the Construction of Carparking within the Shire of Broome Road Reserve and approved by the Shire of Broome. These works once approved shall be constructed, installed and maintained to the satisfaction of the Shire of Broome.**
- xiv) **All vehicle crossovers must be designed and constructed (sealed, brick paving, bitumen, concrete) to the Shire's standard crossover specification.**
- xv) **The screened refuse bin storage area shown on the approved plan must be provided to the satisfaction of the Shire prior to the occupation of the development.**
- xvi) **Prior to occupation of the development, the applicant is to make a \$160,000 cash contribution to the Shire of Broome in accordance with Local Planning Policy 8.20 – Provision of Public Art.**
- xvii) **The proposed privacy screen to be installed on top of an immediately adjacent to the 600mm high gabion structure along Hamersley Street has not been approved.**
- xviii) **The 'landscaping outdoor seating garden' shown on the site plan does not form part of this approval.**

Advice Notes

- i. **This approval does not permit the use of the land and or any building or undertaking of development unless all conditions have been and continue to be complied with. You are advised of the need to comply with the requirements of the following other legislation:**
 - **The Western Australian Building Act 2011 requires a Building Permit being obtained from the Shire before any work commences on site; and**
 - **Health Act 1911 and Department requirements in respect to the development and use of the premises.**
 - ii. **If the development, the subject of this approval, is not substantially commenced within two (2) years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has lapsed, development is prohibited without further approval being obtained.**
 - iii. **The granting of this Planning Approval is not a clearance that there are no Aboriginal Heritage Sites on the land nor is it an approval under Section 18 of the Aboriginal Heritage Act, in the event that there is an Aboriginal Heritage Site on the land. The land owner will need to make enquiry and application to the Department of Aboriginal Affairs in this regard.**
 - iv. **The development must be connected to the Water Corporations sewer and water.**
 - v. **Activities on site must at all times comply with the Environment Protection (Noise) Regulations 1997.**
2. **Authorises the Shire President and CEO to engross the necessary legal documents required to be prepared to satisfy the abovementioned conditions.**

CARRIED UNANIMOUSLY 7/0

Reason: Within the vicinity of Bedford Park there is existing gravel car parking within the road reserve that is utilised for special events. It was conditioned for the proponent to pay cash-in-lieu for construction of car parking bays but not the land value.

Attachments

1. Attachment No 1 - Location Plan
2. Attachment No 2 - Development Plans
3. Attachment No 3 - Planning Assessment Summary
4. Attachment No 4 - Applicants Design Rational
5. Attachment No 5 - Legal Advice (*Confidential to Councillors and Directors Only*)

This attachment is confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)(d) as it contains "legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting".

9.2.2 PROPOSED LOCAL PLANNING POLICY - NON-CONFORMING USE REGISTER

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	LPS6/REG-1
AUTHOR:	Planning Officer
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director of Development Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	4 June 2015

SUMMARY: Council at Ordinary Council Meeting on 26 March 2015 resolved to adopt the draft *Non-Conforming Use Register Local Planning Policy* for the purpose of seeking public comment.

The Local Planning Policy (LPP) was prepared to facilitate the preparation of a non-conforming use register which will recognise and ensure the protection of existing, lawful, land-uses affected by changed land-use permissibility's under Local Planning Scheme No.6 (LPS 6). The public consultation period has now closed and no submissions were received.

This report recommends that Council adopt the policy.

BACKGROUNDPrevious Considerations

OMC 26 March 2015 *Item 11.1*

History

Gazetted 30 January 2015, LPS 6 introduced changes to some land-use permissibility's within the Shire. These changes have meant that some existing, lawful land-uses, or land-uses for which Planning Approval was not required under previous Town Planning Schemes, could now be considered 'non-conforming' under LPS6. Changes to previous planning schemes had over time created similar situations for some land-uses, and in some instances, non-conforming use rights were granted to particular properties. However, a lack of records relating to various non conforming uses granted by the Shire over many years means there is a need for a register of properties with such use rights.

To address this situation, at the Ordinary Meeting of Council 26 March 2015, Council resolved to adopt the draft LPP – Non-conforming Use register. In accordance with the Scheme, LPP 8.23 – Public Consultation Planning Matters and the adopted Community Engagement Strategy, the draft policy was made available for public comment for a period of 21 days.

COMMENT

The LPP as proposed was prepared to maintain a consistent and transparent approach to listing properties on the non-conforming register and to:

Chairperson: Date:

- Provide delegation for officers to be able to incorporate a property onto the register;
- Establish a procedure for property owners to request that their property be included on the register;
- Establish the minimum level of detail that must be provided by a person wishing to nominate a property for the register; and
- Set out matters that will be assessed in determining whether a property has non-conforming use rights.

The LPP has been advertised for public comment with no submissions received raising concern with the policy as proposed. As such it is recommended that the policy be adopted.

As foreshadowed in the previous Council item where it was resolved that the LPP be advertised for public comment, following adoption of the LPP, the Shire is to commence an advertising campaign seeking expressions of interests for property owners to submit a request to be listed on the register. Following a search of Shire records, no information could be located showing that the Shire has formally adopted a non-conforming register under any previous Scheme or Interim Development Order. However, a draft register prepared under TPS2 has been located and Shire Officers will undertake further research of these identified properties to confirm whether the non-conforming use exists, and to allow these properties to be included on a new non-conforming use register. The process to establish a non-conforming use register will be as follows:

- Shire's synergy records will be reviewed to identify any documents relating to a 'non-conforming use' and will then research property files to determine whether or not a property should be listed on the register;
- The previously drafted list of non-conforming uses prepared for TPS2 will be reviewed to determine whether those properties do in fact have non-conforming use rights and are eligible for inclusion on the register;
- Following this review an advertisement will be placed in the Broome Advertiser and on the Shire's website calling for expressions of interest for inclusion on the register. This process is proposed to be undertaken over a six week period.

However, it should be noted that limitations with respect staffing capacity in planning services will mean this process is unlikely to be initiated until the end of this calendar year.

CONSULTATION

Clause 2.4.1 of LPS 6 and LPP 8.23 – *Public Consultation Planning Matters*, require that LPP's be advertised for 21 days and placed in a local newspaper circulating within the scheme area for two consecutive weeks. The draft LPP was advertised in the Broome Advertiser on 9 April 2015 and 16 April 2015, seeking public comment for a period of 21 days. The draft LPP was also made available for public comment via the Shire's website for a period of 21 days.

At the close of the advertising period no submissions were received providing comment with respect the proposed policy. However, the Shire did receive one submission expressing interest in inclusion on the register.

As set out above, it is considered there is adequate provision within the LPP to ensure that matters as raised in the submission will be addressed in the future implementation of the LPP. It is therefore recommended that Council adopt the LPP.

STATUTORY ENVIRONMENT*Local Planning Scheme No.6**2.2 Local Planning Policies*

2.1.1 The local government may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area so as to apply:

- (a) generally or for a particular class or classes of matters; and*
- (b) throughout the Scheme area or in one or more parts of the Scheme area; and may amend or add to or rescind the policy.*

2.4 Procedures for making and amending a Local Planning Policy

2.4.1 If the local government resolves to prepare a Local Planning Policy, the local government:

(a) is to publish a notice of the proposed Policy once a week for two consecutive weeks in a newspaper circulating in the Scheme area giving details of –

- i. where the draft Policy may be inspected;*
- ii. the subject and nature of the draft Policy; and*
- iii. in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;*

(b) may publish a notice of the Policy in such other manner and carry out such other considerations as the local government considers appropriate.

2.4.2 After the expiry of the period within which submissions may be made, the local government is to:

- (a) review the proposed Policy in light of any submissions made; and*
- (b) resolve to adopt the Policy with or without modification, or not to proceed with the policy.*

2.4.3 If the local government resolves to adopt the Policy, the local government is to:

- (a) publish notice of the Policy once in a newspaper circulating within the Scheme area; and*
- (b) if, in the opinion of the local government, the Policy affects the interest of the Commission, forward a copy of the Policy to the Commission.*

2.4.4 A Policy has effect upon publication of a notice under clause 2.4.3 (a).

4.22.1 Except as otherwise provided in this Scheme, no provision of the Scheme shall be deemed to prevent:

- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the Gazettal date of the Scheme; or*
- (b) the carrying out of any development thereon for which, immediately prior to that time, an approval or approvals, lawfully required to authorise*

Chairperson: Date:

*the development to be carried out, were duly obtained and are current;
or
(c) subject to clause 5.18.3 the continued display of advertisements which
were lawfully erected, placed or displayed prior to the approval of this
Scheme.*

4.28 Register of Non-Conforming Uses

4.28.1 The Council to keep a Register of non-conforming uses at the offices of the Council which shall be made available for public inspection during office hours.

4.28.2 A person who wishes the Council to record that a non-conforming use exists may submit to the Council in writing full details of the nature, location and extent of the non-conforming use claimed.

4.28.3 Where the Council is satisfied that a non-conforming use exists, it shall record details of the non-conforming use on the Register.

4.28.4 Non-conforming use does not cease to exist if it is not registered on the Register.

This report recommends that Council resolve to adopt the LPP as proposed to facilitate the creation of a non-conforming use register as set out in the above provisions of LPS6.

POLICY IMPLICATIONS

Adoption of the LPP as proposed will have implications for implementation of statutory planning within the Shire insofar as the policy will apply to the LPS6 area and, by giving effect to clause 4.28 of LPS6, will:

1. Establish a process for a property to be nominated for inclusion on the Shire of Broome's non-conforming use register.
2. Define a minimum amount of information to be presented for the Shire of Broome to assess whether a property can be included on the non-conforming use register.
3. Establish a process to guide whether a property is appropriate for inclusion or exclusion from the non-conforming use register.

Further to the provisions of clauses 7.0 & 8.0 of the Policy, implementation of the Policy will be undertaken in accordance with LPP 8.18 *Operative Policy*.

FINANCIAL IMPLICATIONS

The publication of an advertisement in the local newspaper, further to the requirements of clause 2.4.3 of LPS 6, will incur costs to be met within relevant budgets dedicated for such purposes.

RISK

Nil.

STRATEGIC IMPLICATIONS

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

Realistic and sustainable land use strategies for the Shire within state and national frameworks and in consultation with the community

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

Improved systems, processes and compliance

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

Moved: Cr C Mitchell

Seconded: Cr H Tracey

That Council:

- 1. Adopts the Local Planning Policy – Non-Conforming Use Register without modification, as set out in Attachment No 1;**
- 2. Request the Chief Executive Office to publish notice of the Policy once in a newspaper circulating within the Scheme area; and**
- 3. Request the Chief Executive Officer to commence an advertising campaign in a local newspaper requesting interested property owners to submit a request for registration of a non-conforming use in accordance with this policy.**

CARRIED UNANIMOUSLY 7/0

Attachments

1. Local Planning Policy - Non-Conforming Use Register

9.2.3 CABLE SOUNDS CONCERT APPLICATION - MELLEN EVENTS

LOCATION/ADDRESS:	Cable Beach Ampitheatre
APPLICANT:	Mellen Events Pty Ltd
FILE:	REE41
AUTHOR:	Events Coordinator
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	5 June 2015

SUMMARY: This report seeks Council's consideration of Mellen Events application to hold a concert event 'Cable Sounds' at the Cable Beach Amphitheatre Reserve on Saturday 8 August 2015. The total event timeline including set up and pack down is seven (7) days from Wednesday 5 August until Tuesday 11 August 2015. This event falls within Tier 3 of Council's Events Policy and is therefore required to be considered by Council. In addition to this public access will be affected in the following ways: a) one and a half (1.5) days of Cable Beach public vehicle access ramp closure; and b) four (4) days of Cable Beach Amphitheatre Reserve partial or full closure; impacting up to 50 car park bays.

Further, Mellen Events have written seeking council support of the event via waiving all or part of venue hire fees and the reduction or waiving of Sulo bin hire fees.

This report recommends that the application be approved and that council confirm in-kind support (waiver of Sulo bin hire fees) to the value of \$1800.00 to be drawn from the Tourism Development – Operations Expenses Tourism Area and Promotion budget for the 15/16 FY.

The report also recommends approval for the event to operate for a period longer than 48 hours under provisions within Local Planning Scheme 6.

BACKGROUNDPrevious Considerations

OMC 16 May 2013 Item 9.1.2

OMC 24 July 2014 Item 9.1.1

Mellen Events has successfully staged the 'Cable Sounds' Concert at the Cable Beach Amphitheatre Reserve for the last two years. The inaugural 2013 event attracted over 1500 patrons whilst the 2014 event attracted over 2000 patrons. Mellen Events proposes a 2015 event with headlining artist Hoodoo Gurus and supporting artists Eskimo Joe. Mellen Events have requested an event permit for 2500 patrons in reflection of the event's growth and popularity of the proposed artists.

The Cable Sounds Concert is a 'WA Country Cups' initiative and is supported by Tourism WA's Regional Events Program (EventsCorp), which is funded by the State Government's Royalties for Regions program. The funding has provided enhanced marketing and events management initiatives to create and elevate peripheral activities around regional thoroughbred race meets across the state in Kalgoorlie, Bunbury and Broome over the three year period 2013-2015.

Chairperson: Date:

The Cable Sounds concert marks the start of the Broome Cup Carnival highlighted by Ladies day on the Tuesday 11 August and Cable Sounds ticket holders also receive free entry to the Broome Turf Club's Ladies Day race meet.

Mellen have advised that they anticipate ticket sales will be strong and the applicant anticipates a general crowd of 2500 patrons and an additional 450 patrons in the VIP area within the Cable Beach Club Resort Sunset Bar. The event application has been presented to the Shire's Development Control Unit for comment and is being referred to Council for its consideration.

COMMENT

Mellen Events seeks approval to stage a large scale concert on Saturday 8 August 2015 at the Cable Beach Amphitheatre.

Mellen Events have long history of staging highly successful events, concerts and festivals and are Perth's largest professional touring concert promotion company.

The Cable Sounds Concert event successfully stimulates tourism and commerce within the Shire of Broome. The State Government has supported these intentions to date, however the current funding model finishes with the 2015 Cable Sounds Concert Event. In order for Mellen events to achieve viability and longevity of the Cable Sounds Concert event, their overall production costs need to be reduced or offset. Mellen Events are seeking Shire support to wave all or part of the 2015 venue hire fees; and or reduce or wave Sulo bin hire fees.

Road Closure

The applicant has submitted a comprehensive Traffic Management Plan (TMP) which involves the closure of Cable Beach Road West to vehicular traffic beyond the roundabout on the corner of Cable Beach and Sanctuary Road. The closure will be conducted between the hours of 6:00am and 12:00am (midnight) on the event date Saturday 8 August 2015. This is consistent with the road closures for last year's event.

Access is permitted to event personnel and patrons and guests of the Cable Beach Club Resort. Public Access Public access to the Cable Beach Car Park, Cable Beach Amphitheatre Reserve will be impacted by the event in the following way;

Wednesday 5 August Two (2) rows of the Cable Beach Car Park (Northern End) will be cordoned off and temporary fencing erected to create a 'lay down' area for housing storage, machinery, vehicles, portable toilets and event equipment. The main stage will be erected on the Cable Beach Amphitheatre Reserve on this day. The Cable Beach vehicle access ramp will remain open to the public throughout this day and the public will have access to the Cable Beach Amphitheatre Reserve.

Thursday 6 August. The Cable Beach vehicle access ramp will remain open to the public throughout this day. Event perimeter fencing installation begins. Cable Beach Amphitheatre Reserve remains partially accessible to the public.

Friday 7 August. The Cable Beach vehicle access ramp will remain open to the public throughout this day. Event perimeter fencing continues. Cable Beach Amphitheatre Reserve remains partially accessible to the public in a stage format to allow public accessibility for as long as possible.

Chairperson: Date:

Saturday 8 August (Event Date) The Cable Beach vehicle access ramp will be closed to the public from 6am in line with the road closure plan. Public access to the Cable Beach Amphitheatre Reserve will be closed from 6am. Cable Beach Road West will be closed at the round about leaving access to event personnel and patrons of Cable Beach Club as outlined above.

Sunday 9 August The Cable Beach vehicle access ramp will be reopened at 12noon. Public access to the Cable Beach Amphitheatre Reserve will be closed in stages whilst perimeter fencing is dismantled.

Monday 10 August Public access returns to normal for the Cable Beach Amphitheatre Reserve. The Cable Beach vehicle access ramp will be open to the public. The lay-down area at the northern end of the Cable Beach Car Park will be dismantled and event site aims to be clear by 5pm.

Tuesday 11 August Allows for additional contingency day for bump-out until 12pm

Emergency Management

Mellen Events have submitted a comprehensive Emergency Management Plan for the event and will be conducting pre-event site meetings with Police, DFES, St John's Ambulance and Broome SES. St Johns Ambulance will be on site for the duration of the event.

Planning Approval

Clause 8.2 *Permitted Development* of The Shire Local Planning Scheme No.6 (LPS6) provides under part (g) that 'any use or works which are temporary in nature and in existence for less than 48 hours or such longer time as the local government agrees', does not require the planning approval of the Shire. Although the Cable Beach Sounds Event is proposed to operate for a period exceeding 48 hours, there is nevertheless provision within 10.2 (g) for a use to operate, 'as the local government agrees', for a longer period. On this basis, the proposed event use is able to be considered 'Permitted Development' for the purposes of Clause 8.2, and a planning approval for the event is therefore not required.

Summary

The event is the third in a series of Country Cup events which are designed to enhance the Broome Race Round and provide economic benefit to the Shire. The applicant has addressed all the requirement of the application process and on this basis Officers are recommending the event be approved.

The Shire's support for waiving of bin hire demonstrates Council's commitment to developing an event calendar around iconic events attracting tourists to Broome.

CONSULTATION

The Shire of Broome will inform the three (3) camel operators advising of the need to divert the normal camel train route to the public access ramp south of the Broome Surf Life Saving Club on the event date Saturday 8 August and include up until 12noon on Sunday 9 August 2015.

The Broome Surf Life Saving Club and Beach Hut Hire will be advised of the vehicle access ramp closure and necessary alternate access arrangements will be made. The applicant

Chairperson: Date:

has also undertaken consultation with key stakeholders; Cable Beach Club Resort, Zanders Cafe and the Broome Camp School.

The applicant has applied to the CEO for a Regulation 18 Approval (noise exemption for rapid variation of noise levels) during the pre-event sound check (4:00-6:00pm, Friday 7 August); artist sound check (1:00-4:30pm, Saturday 8 August) and concert (4:30pm – 10:30pm, Saturday 8 August) as is normal for a concert of this scale.

Under the Environmental Protection (Noise) Regulations 1997 Part 2 Allowable noise emissions Venues used for sporting, entertainment purposes etc.

18.(11) The Chief Executive Officer is not to approve the holding of more than 2 approved non-conforming events in or at a particular venue in any period of 12 consecutive months unless the Chief Executive Officer is satisfied that the majority occupiers on whom the noise emissions will impact have no objection to the holding of the additional events.

Mellen Events application for a Regulation 18 Noise Exemption is the first application made for the Cable Beach Amphitheatre site within a 12 month period.

The applicant will be required to notify residents and commercial businesses within the Cable Beach area via post-box drop and will place an advertisement in the Broome Advertiser for two editions, two weeks prior to the event. If Council approves the application the Shire will advertise the road closures as outlined in the report in accordance with Section 3.50 of the Local Government Act 1995

STATUTORY ENVIRONMENT

Local Government Act 1995

3.50. Closing certain thoroughfares to vehicles (

- 1) A local government may close any thoroughfare that it manages to the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks.*

Shire of Broome Local Government Property and Public Places Local Law 2012

Definitions and Interpretations

1.6 (1) In this local law, unless the context otherwise requires: "function" means an event or activity characterised by any or all of the following:

- (a) formal organisation and preparation;*
- (b) its occurrence is generally advertised or notified in writing to particular persons;*
- (c) it is organised by or on behalf of a club;*
- (d) payment of a fee is required for attendance; and*
- (e) there is systematic recurrence in relation to the day, time and place;*

3.1 (1) Where a person is required to obtain an approval from the local government under this local law, that person shall:

- (a) not do the thing for which the approval is required without first obtaining the approval; and*
- (b) apply for the approval in accordance with subclause (2).*

Chairperson: Date:

(2) An applicant shall make an application for an approval by completing the form provided for the purpose by the local government, paying the application fee to the local government and forwarding the application to the local government.

(3) The signature of the applicant on the form under subclause (2) shall be deemed to be proof that the applicant has:

- (a) read and understood any conditions printed on the application form; and
- (b) accepted and agreed to comply with any conditions printed on the application form.

Determination of application

3.2 (1) The local government may, in respect of an application for an approval: (a) refuse the application; or (b) approve the application on such terms and conditions, if any, as it considers fit.

(2) Without limiting the generality of subclause (1)(b), the local government may impose conditions requiring the payment of a fee for the issue of the form of approval referred to in subclause (3) and for the renewal of the approval, including the payment of a renewal fee.

(3) If the local government approves an application under subclause (1)(b), then it is to issue to the applicant an approval in the form determined by the local government.

Conditions of approval

3.3 (1) Where an application for an approval has been approved subject to conditions, the approval holder shall comply with each of those conditions.

(2) The local government may vary the conditions of an approval and the approval holder shall comply with those conditions as varied.

Division 2 – Matters relating to approvals

Term and validity of approval

3.4 An approval remains valid until:

- (a) the expiration date and time stated in the approval is reached;
- (b) the activity or function for which the approval was issued is changed to the extent that it is no longer consistent with the original purpose or intent for which the approval was given;
- (c) the approval is cancelled by the local government under clause 3.5; or
- (d) the public liability or indemnity insurance required as a condition of an approval lapses, is cancelled or is no longer current.

3.5 (1) The local government may cancel an approval if:

- (a) anything purporting to be done in accordance with the approval is not done in conformity with the conditions of the approval;
- (b) the approval holder is convicted of an offence against this local law; or
- (c) the approval holder fails to comply with a notice given under clause 12.1 in relation to a breach of the approval or a condition of the approval.

(2) Notwithstanding subclause (1), where an approval relates to the hiring of local government property, the local government may cancel the approval at

Chairperson: Date:

any time. (3) Where the local government cancels an approval for the hire of local government property under subclause (2), then the local government shall not be liable to the approval holder for any loss or damage sustained by the approval holder arising from the cancellation

Part 4 – Activities Which Are Restricted Or Prohibited On Local Government Property and Public Places

Division 1 – Activities only permitted under an approval or by a sign

Activities requiring an approval 4.1 (1) A person shall not on any local government property or public place within the Broome town site area, without first having obtained an approval from the local government to do so:

- (a) consume any liquor;*
- (b) erect a structure for public amusement or for any performance for personal gain or otherwise;*
- (c) conduct any function;*
- (d) light or set off any fireworks or conduct a fireworks display;*
- (e) light any fire except in a facility provided for that purpose;*
- (f) erect any tent, camp, hut, building or other structure, other than a beach umbrella or other portable item used for protection from the elements between sunrise and sunset on any day;*
- (g) coach, teach, instruct or train any person for a fee;*
- (h) charge a person for entry to local government property;*
- (i) operate any broadcasting or public address system or apparatus, other than those used by a life saving club in the performance of its functions;*
- (j) erect any sign;*
- (k) walk, lead, ride, herd or drive any large animal;*
- (l) play or use any musical instrument or any other similar device;*
- (m) pursue a use on local government property set aside for that purpose under clause 5.1*

Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2003

Definitions and Interpretations 1.6 In this local law unless the context requires otherwise: "trading" includes:

- (a) the selling or hiring or, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;*
- (b) displaying goods in any public place for the purpose of:*
 - (i) offering them for sale or hire;*
 - (ii) inviting offers for their sale or hire;*
 - (iii) soliciting orders for their sale or hire; or*
 - (iv) carrying out any other transaction in relation to them; and*
- (c) the going from place to place, whether or not public places, and:*
 - (i) offering goods or services for sale or hire; or*
 - (ii) inviting offers or soliciting orders for the sale or hire of goods or services, but does not include:*
- (d) the delivery of pre ordered goods or services to the purchaser of those goods or services, or to the person nominated by the purchaser of those goods or services to*

accept delivery, whether or not payment for those goods or services is made on delivery;

46. Local laws and regulations generally (1) Any regulation made under section 44 or local law made under this Act may be so made —

(a) as to apply generally or in a particular class of case, or particular classes of cases, at all times or at a specified time or specified times, throughout the district or in a specified part or specified parts of the district and in areas which although not within the district are by the operation of the provisions of this Act nevertheless to be regarded as being within the district;

(b) as to require a matter affected by it to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and so as to delegate to or confer upon a specified body a discretionary authority; and

(c) as to provide that in specified cases, or a specified class of case, or specified classes of cases, whether on specified conditions or unconditionally, persons or things may be exempted from its provisions either wholly or to such extent as is specified.

(2) Any regulation made under section 44 or local law may make provision for the imposition of penalties not exceeding \$100 in respect of any contravention.

(3) Where in relation to a regulation made under section 44 or local law made under this Act the expression "specified" is used, the expression, unless the context requires otherwise, means specified in that regulation or local law.

Liquor Control Act 1988

30A Licensing authority may grant licences to sell liquor 4. The licensing authority may grant licences in accordance with this Act.

59 Occasional licences

(1) An occasional licence authorises the licensee to sell, or the supply or consumption of, liquor —

(a) at such times, and on such occasion or during such period not exceeding 3 weeks, as may be specified;

(b) at such places, and within such designated area, as may be specified; and

(c) subject to such terms or conditions as may be specified.

(5) An occasional licence may be granted in relation to a festival or other event authorising the organiser and specified persons participating in or associated with that festival or event to sell liquor, or liquor of a specified description, during such period or on such occasions as may be specified.

POLICY IMPLICATIONS

5.1.11 Events

4.2.12 Trading in Public Places

3.1.20 Traffic Management for Events

FINANCIAL IMPLICATIONS

Chairperson: Date:

Fee Type	Fees
Event Application Fee	112.00
Concert Licence fee	545.00
Venue hire (5 days)	3,985.00
Trading Licence	283.80
Noise Permit	500.00
Public Building Approval	200.00
Sulo bin hire	1800.00
Sulo bin hire (in-kind)	-1800.00
TOTAL	5625.80

Sulo Bin hire for the event is estimated to be \$1800.00 and recommendation is for the waiver of these fees to be drawn from the Tourism Development – Operations Expenses Tourism Area and Promotion budget for the 15/16 FY. There will be a minor carryover of \$3,000 of unspent funds from the 14/15 FY which will be used to cover this fee waiver.

*A \$3300 refundable ground bond is required on the venue hire. Additional costs may be charged for engineering and parks and gardens

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Effective communication

Accessible and safe community spaces

High level social capital that increases community capacity

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

Realistic and sustainable land use strategies for the Shire within state and national frameworks and in consultation with the community

Retention and expansion of Broome's iconic tourism assets and reputation

VOTING REQUIREMENTS

Absolute Majority

REPORT RECOMMENDATION:

That Council;

1. *Delegates authority to the Chief Executive Officer to approve (with minor variations as required) the issuing of an event permit in accordance with the Events Policy 5.1.11 to Mellen Events for the staging of the proposed Cable Sounds Concert 2015 at the Cable Beach Amphitheatre Reserve from 5 August (6am) to the 11 August (12noon) 2015 subject to:*

Chairperson: Date:

- a) Compliance with all local laws, State and Federal Acts and Regulations related to the event activity.
 - b) Compliance with conditions set out within the Occasional Liquor Licence issued by the Department of Racing, Gaming and Liquor.
 - c) Appropriate advice and liaison being undertaken with neighbours of the proposed areas including Zanders, Broome Surf Lifesaving Club, Cable Beach Club Resort and Spa, Broome Camp School, Broome Police and Emergency Services.
 - d) All risk control measures, outlined within the Risk Management Plan submitted with the event application are adhered to, to the satisfaction of the Chief Executive Officer.
 - e) All traffic control measures outlined with the Traffic Management Plan submitted with the event application are adhered to the satisfaction of the Chief Executive Officer.
2. Request the Chief Executive Officer to advertise the road closures as outlined in the item.
 3. Agrees to waive Sulo bin hire fees to the value of \$1800 to be drawn from the Tourism Development – Op Expenses Tourism Area and Promotion budget.
 4. In accordance with clause 8.2 of Local Planning Scheme No. 6 agrees that the proposal is temporary in nature and therefore does not require planning approval.

(ABSOLUTE MAJORITY REQUIRED)

COUNCIL RESOLUTION:

Moved: Cr C Mitchell

Seconded: Cr ML Lewis

That Council;

1. **Delegates authority to the Chief Executive Officer to approve (with minor variations as required) the issuing of an event permit in accordance with the Events Policy 5.1.11 to Mellen Events for the staging of the proposed Cable Sounds Concert 2015 at the Cable Beach Amphitheatre Reserve from 5 August (6am) to the 11 August (12noon) 2015 subject to:**
 - a) **Compliance with all local laws, State and Federal Acts and Regulations related to the event activity.**
 - b) **Compliance with conditions set out within the Occasional Liquor Licence issued by the Department of Racing, Gaming and Liquor.**
 - c) **Appropriate advice and liaison being undertaken with neighbours of the proposed areas including Zanders, Broome Surf Lifesaving Club, Cable Beach Club Resort and Spa, Broome Camp School, Broome Police and Emergency Services.**

Chairperson: Date:

d) *All risk control measures, outlined within the Risk Management Plan submitted with the event application are adhered to, to the satisfaction of the Chief Executive Officer.*

e) *All traffic control measures outlined with the Traffic Management Plan submitted with the event application are adhered to the satisfaction of the Chief Executive Officer.*

2. *Request the Chief Executive Officer to advertise the road closures as outlined in the item.*

3. *In accordance with clause 8.2 of Local Planning Scheme No. 6 agrees that the proposal is temporary in nature and therefore does not require planning approval.*

CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY 7/0

Reason: Request for waiving of bin hire fees was not supported as a formal request had not been received through the community sponsorship program.

Attachments

1. Cable Sounds 2015 Site Map
2. Mellen Events Letter of Support Request 2015 Cable Sounds Concert Event
3. Mellen Events Letter Requesting Exemption Reg 18 Noise

9.2.4 USE OF COMMON SEAL - LEGAL AGREEMENT FOR CONDITION OF PLANNING APPROVAL 2013/240

LOCATION/ADDRESS:	Portion of Lot 621 Port Drive and Portion of Lot 698 Port Drive, Minyirr
APPLICANT:	M-I Australia
FILE:	RES28650
AUTHOR:	Statutory Planning Coordinator
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director of Development Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	4 June 2015

SUMMARY: Planning Approval 2013/240 was granted by the Kimberley Joint Development Assessment Panel on the 4 February 2014 for a Drilling Fluids Facility (DFF) on Portion of Lot 621 Port Drive and Portion Lot 698 Port Drive, Minyirr.

Condition No 5 of the Planning Approval requires the applicant enter into a legal agreement with the Shire of Broome and Broome Port Authority with regard to management and monitoring of possible downstream erosion.

The report is being presented so Council can give its authority to affix the common seal on the legal agreement.

BACKGROUND

Previous Considerations

SMC 13 January 2014

Item 9.2.1

History

A development application was submitted with the Shire of Broome seeking approval for the construction of a Drilling Fluids Facility at Portion of Lot 621 Port Drive and Portion of Lot 698 Port Drive, commonly referred to as 'Lot E3' (subject site). Due to the estimated development cost, this development required determination from the Joint Kimberley Development Assessment Panel.

The Responsible Authority Report (RA Report) in relation to this development application was considered and endorsed at the Special Meeting of Council on the 13 January 2014. The RA Report proposed the inclusion of the following condition:

5. *Prior to the occupation of the development, the applicant is to forward a cash bond or bank guarantee to the Shire of Broome equal to the estimated cost of completing downstream erosion control measures which is to be held for a period of two-wet seasons following the installation of the stormwater drainage system.*

This condition was recommended as the development would have resulted in the alteration to the normal overland stormwater flows from the site. Given the sites proximity to the Conservation Estate and as this was the only feasible stormwater discharge point, in accordance with Local Planning Policy – 8.2 Planning Conditions – Bonds and Bank

Chairperson: Date:

Guarantees, the condition was recommended to provide a performance measure to ensure compliance in the event of downstream erosion.

When the application was determined by the Kimberley Joint Development Assessment Panel, the above condition was amended to read as follows:

5. *Prior to the occupation of the development the applicant shall enter into a legal agreement with the Shire of Broome and the Broome Port Authority [Kimberley Port Authority] at the applicants cost, to manage downstream erosion control measures which shall be monitored for a period of two wet seasons following the installation of the stormwater drainage system. The legal agreement shall detail appropriate penalties in the event that the stormwater drainage system fails.*

Since this time, the applicant has submitted and obtained approval for the stormwater drainage system and site works have commenced with occupation of the development anticipated to occur in July 2015.

To ensure compliance with the above condition, the applicant has prepared a legal agreement which is presented to Council to give authority for the common seal to be affixed.

COMMENT

The legal agreement has been prepared consistent with the condition of approval in that it establishes the following:

- Requires that M-I Australia must comply with all Environmental Laws applicable to the Stormwater Drainage System and those parts of the Operational Environmental Management Plan (OEMP) relating to erosion control associated with the Stormwater Drainage System.
- Requires that M-I Australia must monitor the site and the immediate surrounds to assess whether any downstream erosion has been caused by the Stormwater Drainage System and this must occur at least once a month.
- Requires M-I Australia to prepare a written report of the results of the monitoring at submit at least twice a year in April and October to the Shire of Broome and the Port.
- In the event there is evidence of erosion, M-I Australia must notify the Shire of Broome and the Port that erosion has been found, take immediate steps to prevent or control the soil erosion and undertaken any remedial works to make good any damage that has occurred as a result of the erosion.
- In the event of erosion and M-I Australia fails to undertake remedial work, then the Shire of Broome may give notice to M-I to undertake remedial works and in the event this does not occur, the Shire of Broome may undertake the works and recover the cost from the Bank Guarantee.
- M-I Australia is required to take out and maintain a Bank Guarantee of \$50,000 for the term of the agreement.

Given that the agreement has been prepared consistent with the condition of approval, it is recommended that Council resolves to authorise the Chief Executive Officer and Shire President to engross the legal agreement.

CONSULTATION

Nil.

Chairperson: Date:

STATUTORY ENVIRONMENT

Planning and Development Act 2005

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

RISK

The risk of any downstream erosion is considered medium to low given that the applicant is installing a stormwater drainage system which has been designed to cater for a 1 in 50 year event. Further the measures implemented to discharge any water off-site would mitigate potential risk.

However, in the event of failure it is likely that any downstream erosion would result in a medium risk and this agreement will ensure that this risk rests with the applicant, not the Shire of Broome. The Director of Engineering Services has provided advice that \$50,000 bank guarantee would be sufficient to cover the risk in this regard.

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Accessible and safe community spaces

A healthy and safe environment

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

Realistic and sustainable land use strategies for the Shire within state and national frameworks and in consultation with the community

A built environment that reflects arid tropical climate design principles and historical built form

A unique natural environment for the benefit and enjoyment of current and future generations

A preserved, unique and significant historical and cultural heritage of Broome

Best practice asset management to optimise Shires' infrastructure whilst minimising life cycle costs.

VOTING REQUIREMENTS

Simple Majority

Chairperson: Date:

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

Moved: Cr C Mitchell

Seconded: Cr PM Matsumoto

That Council authorise the Chief Executive Officer and Shire President to engross the legal agreement and affix the common seal.

CARRIED UNANIMOUSLY 7/0

Attachments

1. Attachment No 1 - Copy of draft Legal Agreement

9.2.5 AMENDMENT NO 1 TO LOCAL PLANNING SCHEME NO 6 - BROOME NORTH LOCAL CENTRE

LOCATION/ADDRESS:	Lot 9007 Magabala Road, Djugun
APPLICANT:	Roberts Day on behalf of LandCorp
FILE:	LPS6/1
AUTHOR:	Statutory Planning Coordinator
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director of Development Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	4 June 2015

SUMMARY: An application for the initiation of a Scheme Amendment for the rezoning of portion of Lot 9007 Magabala Road, Djugun (the Broome North Local Centre) from 'Local Centre' and 'Parks and Recreation' to 'Residential', 'Local Roads' and 'Parks and Recreation' has been received.

This report recommends that Council initiate the Scheme Amendment and request that it be publicly advertised for a period of 42 days.

BACKGROUND

Previous Considerations

SCM 22 February 2010	Item 9.3.2
OMC 26 February 2015	Item 9.2.3

Site and Surrounds

The Scheme Amendment has been submitted to address two areas forming part of the Broome North local centre site, being Lot 9007 Magabala Road, Djugun. The location of the Broome North local centre is shown in **Attachment No 1**.

The land forming part of the scheme amendment request is currently zoned 'Parks and Recreation' and 'Local Centre' under Local Planning Scheme No 6 (LPS6). The site comprises the balance of the Stage One of the Local Development Plan No 1 (LDP1) area and is cleared and vacant. The surrounding land is predominantly residential with development well progressed.

History

At the Special Meeting of Council on the 22 February 2010, Council adopted LDP1 to guide the first stage of the Broome North development, commonly known as the Warannyjarri Estate. Under LDP1 the local centre site is identified as a combination of 'Local Centre', 'medium density Residential' and 'Parks and Recreation Reserve'. LDP1 provides the following direction on development within the local centre:

The centre is intended to support a total of approximately 3,000sqm of retail floorspace, with half of this capacity taken by an anchor tenant in the form of a small 1,500sqm supermarket (half the size of a typical suburban supermarket). The Local Centre zone also provides an important focal point for a range of other commercial, community, cultural, recreational and residential land uses.

Chairperson: Date:

To inform the detailed staging and marketing strategy of the local centre, LandCorp in 2013 commenced the process of preparing a Place Making Strategy for the site. The planning and design recommendations in the Place Making Strategy informed the preparation of the Local Development Plan (previously termed Detailed Area Plan or DAP under TPS4) which is the statutory planning instrument establishing detailed development control provisions for future development within the local centre. This Local Development Plan was considered and adopted by Council on the 26 February 2015.

As a part of the detailed work undertaken in the preparation of the Place Making Strategy and the Local Development Plan, it was identified that amendments were required to the zoning/reservations of the site. While this was identified in a submission to the Shire seeking an amendment to LDP1 in 2014 (at the time under TPS4 the site was zoned 'Development') the Shire was not in a position to support an amendment to LDP1. This was because LPS6 which was then a seriously entertained document, was to zone the site as per LDP1 and therefore any proposal to amend this plan would have been of no effect as it would have been inconsistent with the soon to be gazetted Scheme.

As LPS6 has now been gazetted the request to amend the Scheme is now submitted for consideration.

Proposal

The amendment proposes modifications to the zoning and reservations to the eastern portion of the local centre site. The Scheme Amendment proposes the following:

1. Extension of the 'Residential R40' zoning in the north-eastern portion of the site over land designated as 'Parks and Recreation Reserve'. This would allow for the creation of two future residential lots of 940sqm and 707sqm capable of accommodating up to 7 dwellings. It would reduce the 'Local Park-Civic Park' to an civic square of 396sqm;
2. Incorporation of a small area in the north-eastern corner of the 'Parks and Recreation' reserve, containing constructed drainage infrastructure into the adjacent Sariago Terrace/Magabala Local Road reservations;
3. Rezoning the edge of the south-eastern part of the 'Local Centre' zone to 'Residential R40', removing the ability for these lots to be used for commercial purposes and giving the ability to create 3 residential lots capable of accommodating 9 dwellings.

A copy of the proposed rezoning maps is included as **Attachment No 2** and a full copy of the applicant's scheme amendment report is included as **Attachment No 3**.

COMMENT

The purpose of the amendment is to rezone portions of the Broome North local centre site from 'Local Centre' and 'Parks and Recreation' to 'Residential', 'Local Roads' and 'Parks and Recreation'.

The rezoning is proposed following the outcomes from the Warannyjarri Local Centre Draft Place Making Strategy, which was prepared by LandCorp to provide a strategic, integrated approach to the staging, timing, market delivery and activation of the Local Centre. While the majority of the Draft Place Making Strategy's planning and design recommendations have been incorporated in the Broome North Local Centre Local Development Plan adopted at the Ordinary Meeting of Council on 26 February 2015, the proposed amendment facilitates a number of final changes that were contingent upon the rezoning of the land.

Chairperson: Date:

Below provides an assessment of the different components of the proposed amendment:

Rezoning of the 'Parks and Recreation Reserve' to 'Residential R40'

The original LDP1 design depicted a 'Local Park-Civic Park' at the north-eastern corner of the local centre site and is now zoned 'Parks and Recreation Reserve' under LPS6. The applicant has stated that the original design rational of the 'Civic Park' was to provide a meeting space within the local centre, with a view to the adjacent Youth Park and a 'green link' north connecting to 'Magabala Park' and the wider fitness trail within the estate.

Subsequent design and consideration of user requirements indicates that a park of this size in this location is not required to fulfil these functions. Accordingly the park has been resized to reflect its core function as a small civic square of 396sqm. The applicant has submitted that the revised scale of the space is more appropriate to its intended function and the anticipated uses within the square will include extension of the adjacent commercial/cafe uses of the adjoining local centre, a landscaped entry threshold signalling the arrival of the local centre and provides a connection with the adjacent youth park. The concept of providing the green link to the northern park could still be achieved if the amendment is supported and would be delivered through street tree planting.

The applicant has provided a concept plan for the proposed landscaping treatments that could be implemented in the smaller park. This is proposed to include the provision of shade trees, seating and paving and would be designed to be robust and low maintenance, please refer to **Attachment No 4**. These improvements would be LandCorp's responsibility to install and detailed designs would be submitted for the Shire's assessment as a part of the civil and landscaping designs to be implemented.

Overall the above rational and modification is supported. The proposed amendment will also be more in line with proposed provisions of the draft LPP – Structure Plan and Subdivision Standards. Given that open space already adjoins two neighbourhood parks both located immediately adjacent to the site, the current 'Parks and Recreation' reservation is considered an over-provision of public open space. The reduction in the size of this park, will still result in an overall 10% POS contribution for the whole LDP1 area and would assist to reduce future maintenance obligations for the Shire of Broome.

The Amendment seeks to rezone this portion of land to 'Residential R40' and would allow for creation of two future residential lots of 940sqm and 707sqm capable of accommodating up to 7 dwellings. This rezoning would support the direction provided within LDP with regard to medium density housing sites which is to 'encourage the development of smaller, more affordable housing in close proximity of the Local Centre and other areas of high amenity'.

As such, Officers recommend that this aspect of the Scheme Amendment proposal is supported.

Amendment to the 'Local Centre' zoning to 'Residential R40'

This component of the amendment seeks to rezone the south-eastern portion of the site from 'Local Centre' to 'Residential R40'. This is proposed to ensure that the commercial activity of the local centre is consolidated to Tanami Drive only. This change would concentrate pedestrian foot traffic and would also assist to deliver a more vibrant local centre. The residential zoning proposed along Magabala Road would remove the

Chairperson: Date:

opportunity for future landowners to undertake retail/office land uses such as commercial uses under the 'Local Centre' zoning are 'Permitted' and therefore 'as of right'.

The reduction in the area zoned Local Centre will provide controls on the retail floor space within the Broome North local centre, ensuring that development is consistent with the retail floor space target established in the Local Planning Framework including the Local Planning Strategy, the District Development Plan and Local Development Plan. Further this amendment, together with the above would result in the provision of additional medium density housing consistent with LDP1.

It is therefore recommended that this amendment is supported.

Amendment to 'Parks and Recreation Reserve' to 'Local Roads'

As a small portion of the land currently zoned 'Parks and Recreation' contains constructed drainage infrastructure. It is inappropriate that this land be rezoned to 'Residential R40' as the Shire's interest over this infrastructure would not be adequately protected. As such it is proposed that this portion of the site be zoned 'Local Road'.

The above amendments proposed are considered to be consistent with the Local Planning Strategy and achieve the objectives of LDP1. As such it is recommended that Council resolve to initiate the amendment to Local Planning Scheme No 6.

CONSULTATION

Nil.

If Council resolves to initiate the Scheme Amendment in accordance with the *Town Planning Regulations 1976* the proposal will be advertised for a minimum period of 42 days.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Town Planning Regulations 1976

The Act and Regulations prescribe the administrative process to be followed in undertaking an amendment to a Local Planning Scheme which is summarised below:

- a) Resolution by Council to initiate an Amendment to its Local Planning Scheme;
- b) Submission of the proposed Amendment to the Environment Protection Authority for clearance under the Environmental Protection Act;
- c) Approval by the Western Australian Planning Commission (WAPC) to advertise the Amendment unless it can be certified that the proposal is consistent with all relevant planning documents in which case the Council may go straight to advertising without the need for the approval of the WAPC;
- d) Advertisement of the proposed Amendment for public comment for a period of generally 42 days but which might be reduced on application to the WAPC to a minimum of 21 days;
- e) Any submissions received must be considered and scheduled in accordance with the provisions of the Town Planning Regulations as to whether or not they involve support for or objection to the proposed Amendment or express a neutral view;
- f) The Council is then required to either adopt the Amendment with or without modifications or to resolve not to proceed with the Amendment;

Chairperson: Date:

- g) If the Amendment is adopted with or without modifications, the Amendment is referred to the WAPC with a request that the Amendment be submitted to the Minister for Planning for final approval;
- h) If the Council resolves not to proceed with the Amendment, advice of that decision is to be forwarded to the WAPC and the Minister for Planning;
- i) The WAPC then considers the planning merits of the proposed Amendment and recommends to the Minister whether or not final approval should be granted;
- j) Following the final approval of the Minister for Planning, the Amendment must be published in the Government Gazette upon which it becomes operative and forms part of the Local Planning Scheme.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

All cost for undertaking the Scheme Amendment, including advertising costs and staff time are met by the applicant.

RISK

The Scheme Amendment will not present any risk to the Shire of Broome.

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Accessible and safe community spaces

A healthy and safe environment

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

Realistic and sustainable land use strategies for the Shire within state and national frameworks and in consultation with the community

A built environment that reflects arid tropical climate design principles and historical built form

A unique natural environment for the benefit and enjoyment of current and future generations

A preserved, unique and significant historical and cultural heritage of Broome

Best practice asset management to optimise Shires' infrastructure whilst minimising life cycle costs.

Our Prosperity Goal – Create the means to enable local jobs creation and lifestyle affordability for the current and future population:

Affordable land for residential, industrial, commercial and community use

Chairperson: Date:

VOTING REQUIREMENTS*Simple Majority***COUNCIL RESOLUTION:**
(REPORT RECOMMENDATION)**Moved: Cr C Mitchell****Seconded: Cr H Tracey****That Council:**

1. ***Pursuant to section 75 of the Planning and Development Act 2005, initiates Amendment No 1 to the Shire of Broome Local Planning Scheme No 6 by:***
 - (a) ***Rezoning portion of Lot 9007, Djugun from 'Local Centre' and 'Parks and Recreation' to 'Residential', 'Local Roads' and 'Parks and Recreation'.***
 - (b) ***Amend the Scheme Map accordingly.***
2. ***The Amendment is, in the opinion of Council, consistent with Regulation 25(2) of the Town Planning Regulations 1967 and shall now be referred to the Environmental Protection Authority as required by Section 81 of the Act.***
3. ***Subject to the advice of the Environmental Protection Authority under section 48A of the Environmental Protection Act, that the amendment is not subject to formal environmental assessment, advertise the amendment in accordance with the requirement of the Town Planning Regulations 1967 (as amended) for a period of not less than 42 days.***

CARRIED UNANIMOUSLY 7/0**Attachments**

1. Attachment No 1 - Location Plan
2. Attachment No 2 - Scheme Amendment Map
3. Attachment No 3 - Scheme Amendment Report
4. Attachment No 4 - Park Concept Design

9.2.6 LORITZ CIRCUS EVENT APPLICATION

LOCATION/ADDRESS:	Male Oval Concourse & Reserve
APPLICANT:	Loritz Circus
FILE:	REP004
AUTHOR:	Events Coordinator
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	9 June 2015

SUMMARY:

This report seeks Council's consideration of an application from Loritz Circus Pty Ltd to hold a series of circus performances over a 13 day period on the Male Oval Concourse and Reserve between 22 July and 3 August 2015.

The applicant proposes a total of nine (9), one and three quarter hour (1 ³/₄) performances with the majority of performances occurring in the early evening along with weekend matinee performances.

Loritz circus is largely a human based performance circus featuring acts such as Motor Cycle Cage Riders, Trapeze and Acrobatics. No caged or exotic animals are featured in the circus, although the applicant is seeking permission to house three (3) miniature horses on Male Oval for performance purposes.

Loritz Circus event application production requirements propose a total of sixteen (16) caravans and three (3) billboard trailers remain on site to accommodate a total number of 34 persons, operate a ticketing box office, advertise and hold all production equipment including 20 metre and 32 metre circus tents and stadium seating.

This event application is required to be considered by Council for the following reasons:

1. Councils Events Policy requires events occurring for longer than 5 days are required to be approved by Council;
2. Approval is required to allow caravanning and camping other than at a caravan park or camping ground for a period that is longer than 3 nights;
3. Approval for the event to operate for a period longer than 48 hours under provisions within Local Planning Scheme 6.

Loritz Circus seeks a total number of 13 nights caravanning on Male Oval for the purpose of undertaking Loritz Circus performances.

This report recommends that the application be approved.

BACKGROUNDPrevious Considerations

Nil

Loritz Circus is a professional circus outfit currently completing a tour of Australia featuring international circus acts including jugglers, acrobats, trapeze and caged motorcyclists.

Chairperson: Date:

The circus is currently touring the Northern Territory encompassing Alice Springs, Katherine and Darwin on route to Broome, Western Australia.

Loritz Circus Pty Ltd is an Australian Private company registered in QLD and has been in operation since 2009.

The event application has been presented to the Shire's Development Control Unit for comment and is being referred to council for its consideration.

COMMENT

Loritz Circus seeks approval to hold nine (9), one and three quarter hour (1 $\frac{3}{4}$) performances on the Male Oval Concourse, between 22 July and 3 August 2015. The thirteen day timeline includes a total of two days for set up and pack down and a three day consecutive break to allow for routine maintenance to take place. The majority of performances will occur in the early evening with a handful of weekend matinee performances scheduled.

Loritz Circus is largely a human based performance circus featuring acts such as Motor Cycle Cage Riders, Trapeze and Acrobatics. No caged or exotic animals are featured in the circus, although the applicant is seeking permission to house (3) three miniature horses on Male Oval for performance purposes.

The event applicant proposes a total of sixteen (16) caravans and three (3) billboard trailers remain on site in order to accommodate at total number of 34 persons, operate a box office and hold all production equipment.

The attached Loritz Circus site map indicates a site footprint with the main 'big top' tent being 32 metres in width and the foyer tent being 20 metres in width. Peripheral trailers include a box office, kiosk and mobile homes and storage vehicles. Photographic evidence demonstrates that the Loritz Circus production equipment is aesthetically attractive and will not negatively affect the appearance of Male Oval reserve.

Approval to Camp

Under the *Caravan Parks and Camping Grounds Regulations 1997, Part 2 – Caravanning and camping generally, Regulation 11 (2) –*

Camping other than at a caravan park or camping ground '(2) Written approval may be given for a person to camp on land referred to in sub regulation (1) (a) for a period specified in the approval which is longer than 3 nights (a) by the local government of the district where the land is situated, if such approval will not result in the land being camped on for longer than 3 months in any period of 12 months;

Planning Approval

Clause 8.2 *Permitted Development* of The Shire Local Planning Scheme No.6 (LPS6) provides under part (g) that 'any use or works which are temporary in nature and in existence for less than 48 hours or such longer time as the local government agrees', does not require the planning approval of the Shire. Though the circus activity is proposed to operate for a period exceeding 48 hours, there is nevertheless provision within 10.2 (g) for a use to operate, 'as the local government agrees', for a longer period. On this basis, the proposed 'Circus' use is able to be considered 'Permitted Development' for the purposes of Clause 8.2, and a planning approval for the event is therefore not required.

With reference to matters to be considered under clause 10.2 of LPS 6; potential impacts on public amenity and compliance with relevant standards and considerations relating to height limitations, and advertising will be addressed and controlled in a determination of Local Law license applications sought in association with the event.

Chairperson: Date:

Parking Provision

Given that the circus will operate outside of the trading hours of most businesses within proximity to the site, it is reasoned that there will be limited, if any, conflict in the use of public parking bays by patrons of the circus and customers of businesses within proximity. However, if the applicant wishes to operate during normal business hours, and to allow for the possibility that a shortfall of parking is experienced, it is recommended that in granting of license approvals under relevant Local Laws that the applicant be made to provide a parking and traffic management plan to ensure that there is appropriate provision for overflow parking space on Male Oval. The frequency, location and management and approval for this will be under the direction of the Director of Engineering Services.

Advertising

The applicant is seeking permission to advertise the circus show times via parked billboard trailers, a 3m x 4m inflatable clown and stationary signage. Advertising will be addressed and controlled in a determination of Local Law license applications sought in association with the event under the direction of the Director of Development Services.

Recommendation for event approval is based on the activation of Chinatown, with potential flow on benefits to Chinatown traders and assistance in building a robust Broome events calendar.

Risk

The applicant has submitted at risk management plan, emergency site plan and site evacuation plan. Current structural certification for production equipment including tents and inflatable's are required to process the event application in conjunction with a current certificate of P/L insurance. This event is considered to be a low to medium level risk for the Shire.

Summary

Overall Officers believe the applicant has addressed all the requirements and the event will bring activation and potential economic benefit to Chinatown by extending hours of activity.

On this basis the event application is recommended for approval.

CONSULTATION

Shire of Broome, Parks & Gardens
Shire of Broome, Health
Shire of Broome, Planning
Shire of Broome, Engineering
Shire of Broome, Broome Recreation & Aquatic Centre
The Broome International Airport
Alice Spring Town Council

STATUTORY ENVIRONMENT

Shire of Broome Local Government Property and Public Places Local Law 2012

Definitions and Interpretations

1.6 (1) In this local law, unless the context otherwise requires: “function” means an event or activity characterised by any or all of the following:

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) it is organised by or on behalf of a club;
- (d) payment of a fee is required for attendance; and
- (e) there is systematic recurrence in relation to the day, time and place;

3.1 (1) Where a person is required to obtain an approval from the local government under this local law, that person shall:

- (a) not do the thing for which the approval is required without first obtaining the approval; and
- (b) apply for the approval in accordance with subclause (2).

(2) An applicant shall make an application for an approval by completing the form provided for the purpose by the local government, paying the application fee to the local government and forwarding the application to the local government.

(3) The signature of the applicant on the form under subclause (2) shall be deemed to be proof that the applicant has:

- (a) read and understood any conditions printed on the application form; and
- (b) accepted and agreed to comply with any conditions printed on the application form.

Determination of application

3.2 (1) The local government may, in respect of an application for an approval: (a) refuse the application; or (b) approve the application on such terms and conditions, if any, as it considers fit.

(2) Without limiting the generality of subclause (1)(b), the local government may impose conditions requiring the payment of a fee for the issue of the form of approval referred to in subclause (3) and for the renewal of the approval, including the payment of a renewal fee.

(3) If the local government approves an application under subclause (1)(b), then it is to issue to the applicant an approval in the form determined by the local government.

Conditions of approval

3.3 (1) Where an application for an approval has been approved subject to conditions, the approval holder shall comply with each of those conditions.

(2) The local government may vary the conditions of an approval and the approval holder shall comply with those conditions as varied.

Division 2 – Matters relating to approvals

Term and validity of approval

Chairperson: Date:

3.4 An approval remains valid until:

- (a) the expiration date and time stated in the approval is reached;
- (b) the activity or function for which the approval was issued is changed to the extent that it is no longer consistent with the original purpose or intent for which the approval was given;
- (c) the approval is cancelled by the local government under clause 3.5; or
- (d) the public liability or indemnity insurance required as a condition of an approval lapses, is cancelled or is no longer current.

3.5 (1) The local government may cancel an approval if:

- (a) anything purporting to be done in accordance with the approval is not done in conformity with the conditions of the approval;
- (b) the approval holder is convicted of an offence against this local law; or
- (c) the approval holder fails to comply with a notice given under clause 12.1 in relation to a breach of the approval or a condition of the approval.

(2) Notwithstanding subclause (1), where an approval relates to the hiring of local government property, the local government may cancel the approval at any time. (3) Where the local government cancels an approval for the hire of local government property under subclause (2), then the local government shall not be liable to the approval holder for any loss or damage sustained by the approval holder arising from the cancellation

Part 4 – Activities Which Are Restricted Or Prohibited On Local Government Property and Public Places

Division 1 – Activities only permitted under an approval or by a sign

Activities requiring an approval 4.1 (1) A person shall not on any local government property or public place within the Broome town site area, without first having obtained an approval from the local government to do so:

- (a) consume any liquor;
- (b) erect a structure for public amusement or for any performance for personal gain or otherwise;
- (c) conduct any function;
- (d) light or set off any fireworks or conduct a fireworks display;
- (e) light any fire except in a facility provided for that purpose;
- (f) erect any tent, camp, hut, building or other structure, other than a beach umbrella or other portable item used for protection from the elements between sunrise and sunset on any day;
- (g) coach, teach, instruct or train any person for a fee;
- (h) charge a person for entry to local government property;
- (i) operate any broadcasting or public address system or apparatus, other than those used by a life saving club in the performance of its functions;
- (j) erect any sign;
- (k) walk, lead, ride, herd or drive any large animal;
- (l) play or use any musical instrument or any other similar device;
- (m) pursue a use on local government property set aside for that purpose under clause 5.1

Definitions and Interpretations 1.6 In this local law unless the context requires otherwise: "trading" includes:

- (a) the selling or hiring or, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;*
- (b) displaying goods in any public place for the purpose of:*
 - (i) offering them for sale or hire;*
 - (ii) inviting offers for their sale or hire;*
 - (iii) soliciting orders for their sale or hire; or*
 - (iv) carrying out any other transaction in relation to them; and*
- (c) the going from place to place, whether or not public places, and:*
 - (i) offering goods or services for sale or hire; or*
 - (ii) inviting offers or soliciting orders for the sale or hire of goods or services, but does not include:*
- (d) the delivery of pre ordered goods or services to the purchaser of those goods or services, or to the person nominated by the purchaser of those goods or services to accept delivery, whether or not payment for those goods or services is made on delivery;*

46. Local laws and regulations generally (1) Any regulation made under section 44 or local law made under this Act may be so made —

- (a) as to apply generally or in a particular class of case, or particular classes of cases, at all times or at a specified time or specified times, throughout the district or in a specified part or specified parts of the district and in areas which although not within the district are by the operation of the provisions of this Act nevertheless to be regarded as being within the district;*
- (b) as to require a matter affected by it to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and so as to delegate to or confer upon a specified body a discretionary authority; and*
- (c) as to provide that in specified cases, or a specified class of case, or specified classes of cases, whether on specified conditions or unconditionally, persons or things may be exempted from its provisions either wholly or to such extent as is specified.*

(2) Any regulation made under section 44 or local law may make provision for the imposition of penalties not exceeding \$100 in respect of any contravention.

(3) Where in relation to a regulation made under section 44 or local law made under this Act the expression "specified" is used, the expression, unless the context requires otherwise, means specified in that regulation or local law.

Shire of Broome Health Local Law 2006

Division 3 - Keeping of Large Animals

5.3.1 Interpretation

5.3.1 In this Division, unless the context otherwise requires - "approved animal" includes a horse, cow or large animal the subject of an approval by the local government under Section 5.3.2;

Chairperson: Date:

"cow" includes an ox, calf, or bull;
"horse" includes an ass, mule, donkey or pony;
and "large animal" includes a pig, sheep, goat, deer or camel.

5.3.2 Conditions for keeping of an animal 5.3.2

- (1) An owner or occupier of premises, within a townsite shall not keep a horse, cow or large animal on those premises without approval of the local government.
- (2) An owner or occupier of premises who has an approved animal shall ensure –
 - (a) the premises has an area of not less than 0.2 hectares for the exclusive use of the approved animal; and
 - (b) the approved animal does not approach within 30 metres of a dwelling.

5.3.3 Stables

5.3.3 (1) Subject to clause 5.3.3(4) the owner or occupier of premises within the townsite, who has an approved animal is to provide for its use a stable which shall –

- (a) not be situated within 30 metres of a house or other premises;
- (b) have a proper separate stall –
 - (i) for each horse, cow or large animal; and
 - (ii) the floor area of which shall be a minimum of 6 square metres;
- (c) have each wall and roof constructed of an approved impervious material;
- (d) have on all sides of the building between the wall and the roof a clear opening of at least 150 millimetres in height;
- (e) subject to subsection (3), have a floor, the surface of which shall –
 - (i) be at least 75 millimetre above the surface of the ground;
 - (ii) be constructed of cement, concrete or other similar impervious materials approved by the Manager Health Services;
 - (iii) have a fall of 1 in 100 to a drain which shall empty into a trapped gully situated outside the stable and shall discharge in a manner approved by the local government.

- (2) The owner or occupier of any premises on which a stable is located shall –
 - (a) maintain the stable in a clean condition and when so directed by an Environmental Health Officer, clean, wash and disinfect it;
 - (b) keep all parts of the stable so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
 - (c) when so ordered by an Environmental Health Officer, spray the stable or such parts as maybe directed, with a residual insecticide.

(3) A stable constructed with a sand floor may be permitted by the local government, subject to the following –

- (i) the site must be well drained with the highest known water table at least 1.5 metres below the sand floor level, which may be achieved artificially;
- (ii) sand whether natural or imported, must be clean, coarse and free from dust;
- (iii) the stable design must allow for the access of small earth moving machinery such as a skid steer loader, into each stall, to maintain the correct floor height;
- (iv) the minimum floor area of each stall shall be not less than 28 square metres and walls shall be not less than 3 metres vertically or 4 metres horizontally;
- (v) the roofed area of each stall shall not be less than 50 percent of the floor area of the stall.

(4) An owner or occupier of a premise may apply in writing to the Local Government for an exemption from compliance with the requirements of Section 5.3.3(1).

Chairperson: Date:

POLICY IMPLICATIONS

- 4.2.10 Approval to camp for up to 3 months in areas other than Caravan parks and camping Grounds
- 4.2.12 Trading in Public Places
- 5.1.11 Events

FINANCIAL IMPLICATIONS

Fee Type	Fee
Event Application Fee	57.00
Venue hire (13 Day total)	9,256.00
Trading Licence	283.80
Public Building Approvals	400.00
Sulo bin hire	405.00
TOTAL	10401.33
*A \$3300 refundable ground bond is required with venue hire. Additional costs may be charged for engineering and parks and gardens	

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Accessible and safe community spaces

Participation in recreational activity

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

Retention and expansion of Broome's iconic tourism assets and reputation

Our Prosperity Goal – Create the means to enable local jobs creation and lifestyle affordability for the current and future population:

Key economic development strategies for the Shire which are aligned to regional outcomes working through recognised planning and development groups/committees

VOTING REQUIREMENTS

Absolute Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

Moved: Cr H Tracey

Seconded: Cr C Mitchell

That Council;

1) Delegates authority to the Chief Executive Officer to approve (with minor variations

Chairperson: Date:

as required) the issuing of an event permit in accordance with Event Policy 5.1.11 to Loritz Circus for the staging of the proposed Loritz Circus performances at Male Oval Reserve from 22 July (6am) to the 3 August (12noon) 2015 subject to;

a) Compliance with all local laws, State and Federal Acts and Regulations related to the event activity.

c) Appropriate advice and liaison being undertaken with the Broome International Airport in relation to structural height restrictions

d) All risk control measures, outlined within the Risk Management Plan submitted with the event application are adhered to, to the satisfaction of the Chief Executive Officer.

e) Overflow parking on Male Oval being managed to the satisfaction of the Director of Engineering Services

- 2) Issues approval to camp on Male Oval Reserve for a period of thirteen (13) nights for total sixteen (16) caravans and three (3) billboard trailers for the purpose of accommodating at total number of 34 persons and required production equipment.**
- 3) In accordance with clause 8.2 of Local Planning Scheme No. 6 agrees that the proposal is temporary in nature and therefore does not require planning approval.**

CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY 7/0

Attachments

1. Loritz Circus Site Plan
2. Loritz Circus Advertising Signage

9.3

OUR PROSPERITY



PRIORITY STATEMENT

Our region has grown significantly over the past years in terms of population, economy and industry – this will continue! Balancing ecological sustainability with economic growth and retaining the ‘look and feel’ of Broome and its environs are an ongoing challenge for the region. Encouraging appropriate investment and business development opportunities to ensure a strong, diverse economic base is essential for community prosperity and the success of our future generations.

Focusing on developing clear pathways linking education with employment for our youth and the community at large is essential as we aim to retain our local people and continue to build a skilled and highly motivated workforce.

Business and Industry partnerships must be fostered to ensure sustainable economic growth is achieved, along with the provision of affordable and equitable services and infrastructure. Ensuring development meets community needs and legislative requirements whilst creating close community relationships and enhancing our understanding of local heritage and cultural issues will continue to be a major focus. The built environment must contribute to the economy, long term viability of the region and provide a quality lifestyle for all.

Chairperson: Date:

9.3.1 EVALUATION OF SUBMISSION FROM RALSTON BAY HOLDINGS TO LEASE ROEBUCK BAY CARAVAN PARK

This item is located at the commencement of the meeting following Public Question Time.

OUR ORGANISATION



PRIORITY STATEMENT

Council will strive to create an environment where local governance is delivered in an open and accountable manner; where we provide leadership to the region in such areas as planning and financial management; where the community has the opportunity to contribute to the Council's decision making thereby fostering ownership of strategies and initiatives.

In delivering open, accountable and inclusive governance, we will be ever mindful that we operate within a highly regulated environment that requires a high level of compliance.

Council will strive to be the conduit between the other spheres of government and the community, translating State and Federal law, policy and practice into customer focussed, on ground service delivery that support's Broome's unique lifestyle.

The Region is experiencing significant change with Council dedicated to sound governance, effective leadership and innovation, and high quality services. Building organisational capacity is a priority with a commitment to delivering services to the community in a sustainable, effective and accountable way.

The Chairperson noted that a revised attachment had been circulated and was included for the purpose of the Minutes.

9.4.1 PAYMENTS - MAY 2015

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	FRE02
AUTHOR:	Finance Officer
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director Corporate Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	3 June 2015

SUMMARY: This report recommends that Council adopts the list of payments made under delegated authority, as per the attachment to this report, May 2015.

BACKGROUND

Previous Considerations

Nil

COMMENT

The Chief Executive Officer (CEO) has delegated authority to make payments from the Municipal and Trust funds in accordance with budget allocations.

The Shire provides payments to suppliers by Electronic Funds Transfer (EFT), cheque, credit card or direct debit.

Attached is a list of all payments processed under delegated authority during May, 2015.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

13. Lists of accounts

(1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —*

- (a) *the payee's name;*
- (b) *the amount of the payment;*
- (c) *the date of the payment; and*

Chairperson: Date:

- (d) sufficient information to identify the transaction.
- (3) A list prepared under sub regulation (1) is to be —
- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

List of payments made in accordance with budget and delegated authority.

STRATEGIC IMPLICATIONS

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

An organisational culture that strives for service excellence

Sustainable and integrated strategic and operational plans

Responsible resource allocation

Effective community engagement

Retention and attraction of staff

Improved systems, processes and compliance

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION: **(REPORT RECOMMENDATION)**

Moved: Cr DM Male

Seconded: Cr C Mitchell

That Council records the accounts as paid under delegated authority for May 2015, totalling \$3,126,414.21, as attached, covering:

- **EFT Vouchers 30706-31022 totalling \$2,898,031.90;**
- **Municipal Cheque Vouchers 57290-57305 totalling \$47,049.74;**
- **Trust Cheque Voucher 3398 totalling \$5,998.50 and**
- **Municipal Direct Debits 18543.1-18599.22 totalling \$175,334.07**

CARRIED UNANIMOUSLY 7/0

Attachments

1. PAYMENTS - MAY 2015

Chairperson: Date:

9.4.2 MAY 2015 FINANCIAL ACTIVITY REPORT

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	FRE02
AUTHOR:	Senior Finance Officer
CONTRIBUTOR/S:	Manager Financial Services
RESPONSIBLE OFFICER:	Director Corporate Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	5 June 2015

SUMMARY: Council is required by legislation to consider and adopt the Monthly Financial Activity Statement Report for the period ended 31 May 2015, as required by Regulation 34(1) of the Local Government (Financial Management) Regulations 1996.

Council is further provided with a General Fund Summary of Financial Activity (Schedules 2 to 14) which provides comprehensive information on Council's Operations by Function and Activity.

BACKGROUNDPrevious Considerations

Council is provided with the Monthly Financial Activity Report which has been developed in line with statutory reporting standards and provides Council with a holistic overview of the operations of the Shire of Broome.

Supplementary information has been provided in the form of a General Fund Summary of Financial Activity, which discloses Council's Revenue and Expenditure in summary form, by Programme (Function and Activity).

COMMENT

The following are key indicators supporting the year to-date budget position with respect to the Annual Forecast Budget:

Budget Year elapsed	92%
Total Rates Raised Revenue	100% (of which 97% has been paid)
Total Other Operating Revenue	98%
Total Operating Expenditure	85%
Total Capital Revenue	42%
Total Capital Expenditure	38%
Total Sale of Assets Revenue	25%

There were a number of budget amendments processed in November, February and May as part of the Quarterly Finance and Costing Review (FACR). The statutory mid-year review was held as part of the 2nd Quarter FACR. The amendments from the 1st, 2nd and 3rd Quarter FACR are recorded in the minutes of the Audit Committee meeting held 13 November 2014, 10 February 2015 and 12 May 2015 respectively. Additionally,

Chairperson: Date:

amendments have been made since budget adoption, which further impact upon the forecast end-of-year position.

The net impact of all budget amendments reported to Council by 31 May 2015 is a predicted budget deficit of \$115,656, excluding the results of the 3rd Quarter FACR. The results of the 3rd Quarter FACR were adopted by Council at the Ordinary meeting of Council held 2 June 2015. It is noted these amendment have resulted in a revised forecast to 30 June 2015 of a \$10k surplus. These amendments will be reflected in next month's Financial Activity report.

More detailed explanations of variances are contained in the notes to the monthly statement of financial activity. The commentary identifies significant variations between the expected year-to-date budget position and the position at the reporting date.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

34. Financial activity statement report — s. 6.4

1A) In this regulation —

"committed assets" means revenue unspent but set aside under the annual budget for a specific purpose.

1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —

- a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
- b) budget estimates to the end of the month to which the statement relates;*
- c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
- d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
- e) the net current assets at the end of the month to which the statement relates*

2) Each statement of financial activity is to be accompanied by documents containing —

- a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
- b) an explanation of each of the material variances referred to in subregulation (1)(d); and*
- c) such other supporting information as is considered relevant by the local government.*

3) The information in a statement of financial activity may be shown —

- a) according to nature and type classification;*
- b) by program; or*

Chairperson: Date:

- c) *by business unit.*
- 4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
 - a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
 - b) *recorded in the minutes of the meeting at which it is presented.*
- 5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

Local Government Act 1995

6.8. Expenditure from municipal fund not included in annual budget

- 1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
 - a) *is incurred in a financial year before the adoption of the annual budget by the local government;*
 - b) *is authorised in advance by resolution*; or*
 - c) *is authorised in advance by the mayor or president in an emergency.*
- (1a) *In subsection (1) —*
"additional purpose" means a purpose for which no expenditure estimate is included in the local government's annual budget.
- 2) *Where expenditure has been incurred by a local government —*
 - c) *pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and*
 - d) *pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.*

** Absolute majority required.*

POLICY IMPLICATIONS

2.1.1 Materiality in Financial Reporting

FINANCIAL IMPLICATIONS

The adoption of the Monthly Financial Report is retrospective, and the utilisation of this information to direct the Chief Executive Officer would be prospective and subject to resolution.

Accordingly, the financial implications associated with adoption are Nil.

STRATEGIC IMPLICATIONS

Our Prosperity Goal – Create the means to enable local jobs creation and lifestyle affordability for the current and future population:

Affordable and equitable services and infrastructure

Affordable land for residential, industrial, commercial and community use

Key economic development strategies for the Shire which are aligned to regional outcomes working through recognised planning and development groups/committees

Chairperson: Date:

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

An organisational culture that strives for service excellence

Sustainable and integrated strategic and operational plans

Responsible resource allocation

Effective community engagement

Retention and attraction of staff

Improved systems, processes and compliance

VOTING REQUIREMENTS

Simple Majority

**COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)**

Moved: Cr C Mitchell

Seconded: Cr H Tracey

That Council:

- 1. Adopts the Monthly Financial Activity Report for the period ended 31 May 2015 and;**
- 2. Receives the General Fund Summary of Financial Activity (Schedules 2-14) for the period ended 31 May 2015.**

CARRIED UNANIMOUSLY 7/0

Attachments

1. Monthly Financial Activity Report May 2015
2. Sch 2-16 General Fund Summary of Financial Activity May 2015

9.4.3 CONTRACT ANIMAL MANAGEMENT SERVICES

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	RFQ14-42
AUTHOR:	Acting Director Development Services
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director of Development Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	28 May 2015

SUMMARY: The Shire engaged a consultant to undertake a review of the animal management or pound services provided to the Shire. The consultant's report indicates that the Shire needs a pound facility to accommodate fifteen (15) to twenty (20) animals and that there are a number of options available to provide this service.

This report provides Council with the consultant's report and presents options for consideration by Council with regards to the provision of an animal management facility.

BACKGROUND*Previous Considerations*

NIL

Council in setting the 14/15 budget allowed for an allocation of \$10,000 for a study to be undertaken into the provision of an animal management facility. The Shire appointed RFF consultants to undertake the review which commenced in December 2014.

RFF as part of the review undertook extensive consultation with relevant parties and provided a report of its outcomes. See **Attachment 1**.

COMMENT

Domestic animal management services is a statutory function of local governments and is empowered by "The Dog Act 1996", "Shire of Broome Dog Local Laws 2012", "The Cat Act 2011" and the Local Government (Miscellaneous Provisions) Act 1960. In order for Authorised Officers to properly administer the relevant legislation they need to have available animal management facilities (Pound) for domestic animals.

Over the last 12 months a total of around 550 animals have been impounded; 50% of which have been accepted by SAFE, around 25% having been euthanized and only 25% returned to the owner after the appropriate impounding fees have been paid. The current provision of animal management services however, is provided for through a combination of the Rangers, Shire Administration Staff, Customer Services Staff and the Broome Veterinary Hospital for cats and dogs. There is currently no formal agreement between the Shire and the Broome Veterinary Hospital other than that it has been appointed under the Cat and Dog Act as an animal management facility and authorised for the purpose of administration of the Acts; and then charges the Shire on a case by case basis for each animal impounded, treated or euthanized. The Shire also does not have any formal

Chairperson: Date:

arrangements with any agency or organisation for management of other larger domestic animals such as horses.

Based on the RFF report's estimated capital and operating costs, and considering current resources the option of the Shire establishing its own animal management facility has been discounted. As such the four options presented to Council for consideration allows for a private animal management facility service to cater for domestic animals including larger animals such as horses/camel/cattle, as follows:

Option One: Board and keep only.

Option Two: Board and keep together with associated services such as euthanasia and medical treatment of animals where required.

Option Three: Total animal management services that includes board and keep, together with associated services such as euthanasia and care of animals as well as pound administration and animal registration services.

Option Four: The provision of total animal management services and the appointment of one Animal Management Officer (AMO) that would be an authorised officer and can extend into the community.

The opportunities and constraints of each option are considered in the table below:

Option	Opportunities	Constraints	Comment
1	Provision of minimal services. Cost effective.	Duplication of responsibility and administration. Customer service constrained particularly with releasing from pound and desexing.	Not recommended
2	Reduction of split responsibilities and administration Cost effective	Limitation to provider to access animal management data	Alternative option
3	Reduction of split responsibilities and administration Outsourcing functions and providing transparency in costs to ensure sustainability of the Shire Cost effective Customer service in the area of desexing, microchipping with reference to releasing from the pound	Provider prepared to take on full administration of pound and registration of animals IT access to Council database	Recommended option
4	Reduction of split responsibilities and administration Cost effective	Traditional local government services outsourcing legislative functions A provider in Broome to provide this service	Recommended as a future enhancement

Officer Recommendation

Option 3 is recommended as it provides a “one stop shop” for the community with regards to an animal management facility and reduces administrative tasks from the Shire. Under this option the facility will be able to undertake all necessary administration and associated services required for animals to be board, kept, treated, registered and discharged from the facility including re-homing, euthanasia or receipting fees from owners claiming their animals. As such this option is also likely to deliver enhanced customer services, reduce some duplicate administrative and accounting tasks, reduce some costs and provide a sustainable model in partnership with a commercial provider in the animal management field.

CONSULTATION

RFF conducted key stakeholder consultation in preparing the consultant's report.

STATUTORY ENVIRONMENT

Dog Act 1976

s3 dog management facility means —

- (a) a facility operated by a local government that is, or may be, used for keeping dogs; or
- (b) a facility for keeping dogs that is operated by a person or body prescribed; or
- (c) a facility for keeping dogs that is operated by a person or body approved in writing by a local government;

s11. Staff and services

- (1) For the purposes of this Act a local government may establish and maintain one or more dog management facilities and may appoint, under and subject to the provisions of the Local Government Act 1995, fit and proper persons to administer those facilities and otherwise to carry out the objects of this Act.
- (2) Where each of 2 or more local governments desire to establish and maintain dog management facilities or other services required by this Act, or otherwise to co-operate in the administration of this Act, then notwithstanding the provisions of any other law it shall be lawful for an agreement pursuant to section 3.68 of the Local Government Act 1995, to be entered into and carried out for that purpose between them.
- (3) A person who is authorised by a local government to exercise any power under this Act shall be furnished with a certificate in the prescribed form evidencing his appointment, and shall produce that certificate on being required so to do by a person in respect of whom he exercises, has exercised, or is about to exercise any such power.

Cat Act 2011

s3 cat management facility means —

- (a) a facility operated by a local government that is, or may be, used for keeping cats; or
- (b) a facility for keeping cats that is operated by a person or body prescribed; or

Chairperson: Date:

- (c) a facility for keeping cats that is operated by a person or body approved in writing by a local government;

s48. Authorised persons

- (1) A local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions under this Act.
- (2) A person who is not an employee of a local government cannot be appointed to be an authorised person for the purposes of section 62.
- (3) An authorisation under this section may be made on such conditions as the local government determines, in writing given to the authorised person.

Local Government (Miscellaneous Provisions) Act 1960

s449. Pounds, establishing; poundkeepers and rangers, appointing

A local government may establish and maintain one or more public pounds, and may appoint fit and proper persons to be keepers of those pounds and may appoint a ranger or rangers.

Animal Welfare Act 2002:

The Local Government rangers are not authorised officers under the Animal Welfare Act 2002 and the Shire is not funded to undertake compliance and enforcement under this Act. However, rangers do deal with animals that necessitate referral to the appropriate enforcement authority.

Shire of Broome Dog Local Law 2012:

s1.4 pound keeper means a person authorised by the local government to perform all or any of the functions conferred on a pound keeper under this local law;

s2.1 Charges and costs

The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the Local Government Act 1995 -

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.
- (2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence -

Chairperson: Date:

- (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
- (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 No breaking into or destruction of pound

A person who -

- (a) unless he or she is the pound keeper or a person authorised to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof -
- (i) any pound; or
- (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog, commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

POLICY IMPLICATIONS

Nil.

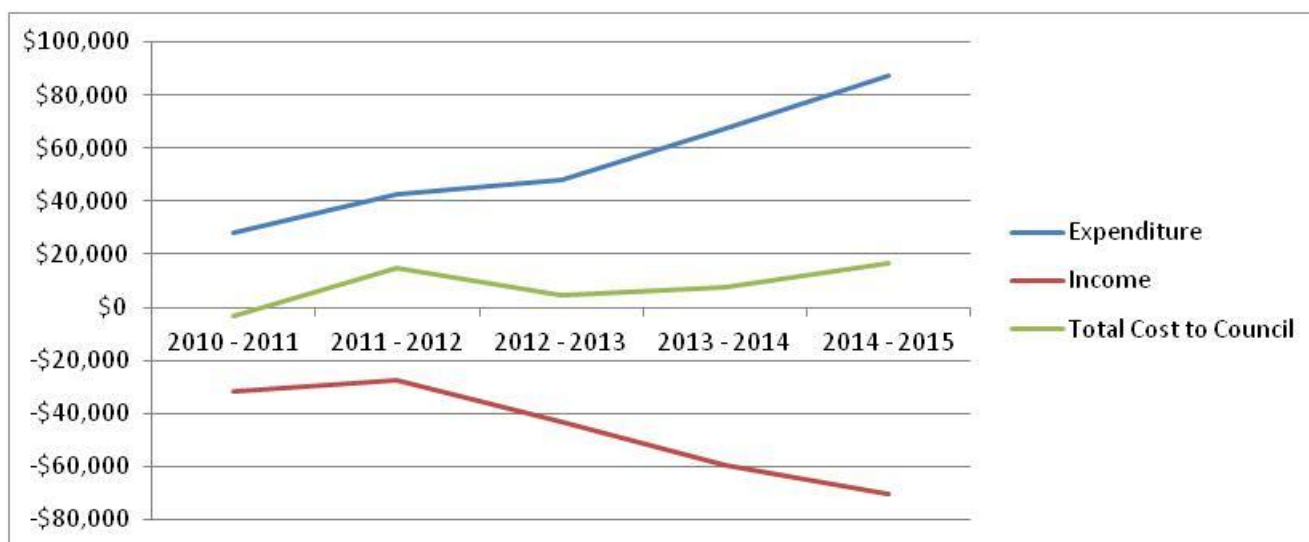
FINANCIAL IMPLICATIONS

Asset:

Should option 3 be supported there will be no capital expenditure required and as a result there will be a nil asset implication as the proposed option is outsourcing the service.

Operational Income:

Below shows some (pound costs/animal fees – registration & pound fees and fines) of the operational income and expenditure related to animal management services over the past five years (2014/15 est.) The net cost to Council appears to be under \$20,000 per annum, however there is a gradual trend of increasing costs and the below costs do not include the time of Rangers or Administration staff spent on this service.



Whilst the above graph gives the perception of relative cost neutrality, the RFF report estimates that Rangers are in fact spending more of their time (up to 60%) on animal management and related activities including capturing the animals, pound

Chairperson: Date:

administration, travel time to and from the pound to deal with administrative functions and disposal costs including travelling to and from the tip and tip fees.

As such the actual cost for the Shire to deliver this service may be much higher than the estimated \$20,000 per annum. The current service model is therefore considered not to be cost effective and as a result it is recommended that Council support a tender to be called in line with Option 3 outlined above. This option will allow Rangers to drop animals off to the facility and for the private service provider to then undertake a total animal management service including the administration of the pound, registration of animals, receipting of relevant costs associated with the service and the release or disposal of the animals. It is expected that this will free up Rangers to undertake their other local law enforcement duties, which will in turn significantly reduce the (per animal) cost to the Shire and therefore result in a much more cost effective animal management service.

The costs associated with impounding animals will generally be passed on to the owners, where the animals are claimed. It is therefore also recommended that a “per animal fee” be sought as part of the tender to allow fees and charges to be considered in line with the costs to the Shire. A similar per animal fee will be sought for unclaimed animals where the animal is then registered and re-homed, or where the animal is then euthanized by the Service provider.

RISK

The risks associated with this project are:

Risk	Risk Level Assessment	Mitigation
Inability to find a contractor prepared to accept tender	Medium	No mitigation, Shire options maintain status quo or invest in a pound facility
Increase in operational cost	Medium	Selection of competitive contract price and contract management
Reliant on an external contractor	Low	Status quo
External contractor not positive with alignment to compliance and enforcement	Medium	Need for clear roles and responsibilities and business operational procedures
Financial risk	Low - Medium	Outsourcing offset by staff reduction
Customer satisfaction	Low	Improve customer satisfaction managed by contract and defined deliverable
Negative community response outsourcing local government functions	Low	Customer satisfaction, media to convey change to community, enhancing and formalising current service
Reduced critical mass of rangers	Medium	Amendment of customer service hours, implementation of a call centre and employment of contractor seasonal staff for compliance and enforcement.

STRATEGIC IMPLICATIONS

Chairperson: Date:

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Affordable services and initiatives to satisfy community need

Accessible and safe community spaces

A healthy and safe environment

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

Best practice asset management to optimise Shires' infrastructure whilst minimising life cycle costs.

Our Prosperity Goal – Create the means to enable local jobs creation and lifestyle affordability for the current and future population:

Affordable and equitable services and infrastructure

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

An organisational culture that strives for service excellence

Sustainable and integrated strategic and operational plans

Responsible resource allocation

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION:

That Council:

1. *Receives the RFF Review of Animal Management Services March 2015 Report; and*
2. *Authorises the Chief Executive Officer to call tenders in line with option three outlined in this report requesting total animal management services from a private service provider including the provision of board and keep, pound administration and associated services together with registration agent for the Shire and should provide for larger animals.*

**COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)**

Moved: Cr C Mitchell

Seconded: Cr DM Male

That Council:

1. ***Receives the RFF Review of Animal Management Services March 2015 Report; and***

Chairperson: Date:

2. ***Authorises the Chief Executive Officer to call tenders for a period of 28 days in line with option three outlined in this report requesting total animal management services from a private service provider including the provision of board and keep, pound administration and associated services together with registration agent for the Shire and should provide for larger animals.***

CARRIED UNANIMOUSLY 7/0

Reason: To include a period of 28 days for calling of tenders.

Attachments

1. RFF Review of Animal Management Services March 2015
2. RFT Animal Management Services 25 June 2015

9.4.4 MEETING SCHEDULE FOR ECONOMIC DEVELOPMENT ADVISORY COMMITTEE

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	EDP002
AUTHOR:	Manager Economic Development
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	3 June 2015

SUMMARY: This report seeks Council endorsement of a schedule of meetings within the next 12 months for the recently created Economic Development Advisory Committee.

BACKGROUNDPrevious Considerations

OMC 31 March 2014	Item 12.3
OMC 24 April 2014	Item 12.3
OMC 22 May 2014	Item 10.4
OMC 23 October 2014	Item 10.3
OMC 30 April 2015	Item 10.2

The resolution from the April 2015 OMC Council Meeting was that Council;

1. *Notes the matters discussed at the Economic Development Advisory Group meeting held on 19 March 2015.*
2. *Endorses the recommendations on key initiatives as outlined in the report including:*
 - (a) The Inward Investment Prospectus*
 - (b) Broome Business Breakfast series*
 - (c) Investment Delegation Tours*
 - (d) Considers funding an online business portal as part of the 2015/16 FY budget.*
 - (e) Broome Tourism Strategy - Cruise Ship Servicing*
3. *Establishes the Economic Development Advisory Committee and adopts the attached Terms of Reference for the Economic Development Advisory Committee per attachment 1.*
4. *Appoints Councillors to the Economic Development Advisory Committee as per Councillors appointed to the Economic Development Advisory Group and in accordance with the attached terms of reference.*
5. *Appoints members to the Economic Development Advisory Group as per the confidential attachment 2.*

COMMENT

Now that appointments to the Economic Development Advisory Committee are finalised and Committee member information packs have been distributed, Council is therefore

Chairperson: Date:

requested to approve a schedule of meetings for the Economic Development Advisory Committee (EDAC) for the next twelve months in line with the terms of reference of the Committee (included at attachment 1) which state;

Meeting Schedule : Quarterly or more frequently as required

Section 8.0 Committee meetings – The Chairperson will call meetings every three months and as required. Committee meetings will be advertised as per statutory requirements.

Officers recommend the following meeting schedule is adopted for the next twelve months to allow forward scheduling of the EDAC meetings, noting additional meetings (as required) may be convened at the discretion of the Chairperson. The consideration of Council elections to be held in mid October has also been incorporated into the schedule. Meeting times will be 2pm.

Thursday 16 July 2015

Thursday 17 September 2015

Thursday 17 December 2015

Thursday 18 February 2016

Thursday 19 May 2016

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

5.8. Establishment of committees

A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

** Absolute majority required.*

5.9. Committees, types of

(1) *In this section —*

other person means a person who is not a council member or an employee.

(2) *A committee is to comprise —*

- (a) *council members only; or*
- (b) *council members and employees; or*
- (c) *council members, employees and other persons; or*
- (d) *council members and other persons; or*
- (e) *employees and other persons; or*
- (f) *other persons only.*

5.10. Committee members, appointment of

(1) *A committee is to have as its members —*

- (a) *persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*

Chairperson: Date:

(b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

** Absolute majority required.*

- (2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*
- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*
- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
 - (a) *to be a member of the committee; or*
 - (b) *that a representative of the CEO be a member of the committee,**the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Minor resourcing costs in terms of staff time and administration may be incurred

RISK

The scheduling of Economic Development Advisory Committee Meetings has a residual risk outcome of low risk due to rare likelihood and insignificant impact and can be addressed operationally as required.

STRATEGIC

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Effective communication

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

Realistic and sustainable land use strategies for the Shire within state and national frameworks and in consultation with the community

Our Prosperity Goal – Create the means to enable local jobs creation and lifestyle affordability for the current and future population:

Affordable and equitable services and infrastructure

Affordable land for residential, industrial, commercial and community use

Key economic development strategies for the Shire which are aligned to regional outcomes working through recognised planning and development groups/committees

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

An organisational culture that strives for service excellence

Sustainable and integrated strategic and operational plans

Responsible resource allocation

VOTING REQUIREMENTS

Simple Majority

**COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)**

Moved: Cr DM Male

Seconded: Cr H Tracey

That Council schedule the following dates for the Economic Development Advisory Committee meetings over the next twelve months:

Thursday 16 July 2015

Thursday 17 September 2015

Thursday 17 December 2015

Thursday 18 February 2016

Thursday 19 May 2016

CARRIED UNANIMOUSLY 7/0

Attachments

1. Terms of Reference - Economic Development Advisory Committee

COUNCIL RESOLUTION:

Moved: Cr G Campbell

Seconded: Cr A Poelina

That Item 9.4.5 be considered under Section 14. Matters Behind Closed Doors.

CARRIED UNANIMOUSLY 7/0

10.

**REPORTS
OF
COMMITTEES**

Chairperson: Date:

10.1 ACCESS AND INCLUSION ADVISORY COMMITTEE MEETING MINUTES 17 FEBRUARY 2015

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	COS09
AUTHOR:	Youth and Community Development Officer
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Manager Community Development
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	27 February 2014

SUMMARY: This report presents the Minutes of the Access and Inclusion Advisory Committee Meeting held 19 May 2015 for Council's consideration.

BACKGROUND

The Access and Inclusion Advisory Committee (AIAC) meets quarterly to advise Council on matters of access and inclusion and to oversee the development, implementation and review of the Shire's Disability Access and Inclusion Plan.

Previous Considerations

As outlined in the attached minutes.

COMMENT

The AIAC discussed one item at the meeting held 19 May 2015:

5.1 Disability Access and Inclusion Plan Progress Report 2014-15.

The Shire of Broome Disability Access and Inclusion Plan (DAIP) 2012-2017 is reviewed annually as required under the *Western Australian Disability Services Act 1993*. The draft DAIP Progress Report was presented to the Committee for its consideration. The Committee recommends that Council endorses the DAIP Report for submission to the Disability Services Commission.

The progress report considers how the identified strategies have been progressed to meet the desired outcomes of the DAIP. In conducting a review of the strategies and tasks contained within the DAIP, it was evident that over the reporting period the Shire of Broome has undertaken a number of initiatives to enhance access and inclusion and made some notable achievements in this area.

In particular, the findings of an access and inclusion audit conducted in March 2014 have identified a range of initiatives and remedial works required to improve access to Shire facilities and infrastructure. The findings of the audit were prioritised by the AIAC and Council and compiled into an implementation plan. This implementation plan will continue to be used to monitor the ongoing implementation of initiatives and to determine priorities for funding.

Other notable progress includes:

Chairperson: Date:

- Improvements made to ACROD parking including installation of a new bay in Dampier Terrace and maintenance of existing bays.
- The Library continues to provide access to books in various formats, including a new e-audio platform launched in 2015 which allows Library members to download e-books from the web.
- The Shire's Recruitment Business Operating Procedure has been updated to include Diversity Access and Inclusion.
- The Shire's Workforce Plan is currently being developed to include diversity access and inclusion, with specific reference to youth, indigenous employment, English as a second language, impairment and women.
- The EEO management plan was updated in accordance with Section 145 of the Equal Opportunity Act as outlined by the Public Sector Commission to be operational from 2015-2017.

Committee membership

This report also requests that Council considers the matter of committee membership. At the 19 May 2015 AIAC meeting the committee was advised of a resignation received from Ms Melanie Howard who served on the AIAC as a health services representative, representing Kimberley Population Health Unit.

The Committee discussed membership and vacancies and recommended that Council requests the Chief Executive Officer to review membership of the AIAC to identify current vacancies and advertise publicly for expressions of interest to fill identified vacancies for Council's consideration.

A vacancy also currently exists for an education and employment representative following the resignation of Dorothy McKee who tendered her resignation from the committee in February 2015 after leaving her position as Principal at Broome Primary School. Following the 19 May AIAC meeting Marie Shin, representing Ethnic Disability Advocacy Centre, also tendered her resignation from the AIAC.

Consequently, this report seeks Council's consideration of a recommendation to seek Expressions of Interest to fill the following vacancies on the AIAC:

- Health services representative
- Education and employment representative
- Community organisation representative

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

WA Disability Services Act 1993 (as amended 2004)

Equal Opportunity Amendment Act Western Australia (1988)

Disability Discrimination Act (1992)

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Chairperson: Date:

As outlined in the minutes attached.

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Accessible and safe community spaces

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

Best practice asset management to optimise Shires' infrastructure whilst minimising life cycle costs.

Our Prosperity Goal – Create the means to enable local jobs creation and lifestyle affordability for the current and future population:

Affordable and equitable services and infrastructure

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

Improved systems, processes and compliance

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION: **(REPORT RECOMMENDATION)**

Moved: Cr H Tracey

Seconded: Cr C Mitchell

That Council;

- 1. *Receives the Minutes of the Access and Inclusion Advisory Committee (AIAC) meeting held on 19 May 2015 and endorses the recommendations of the Committee (as contained in the Minutes attached) enbloc.***
- 2. *Requests the Chief Executive Officer to;***
 - (a) *seek Expressions of Interest from the community for the following positions on the Access and Inclusion Advisory Committee;***
 - (i) *Heath services representative***
 - (ii) *Education and employment representative***
 - (iii) *Community organisation representative***
 - (b) *make a recommendation to Council to appoint members in the above categories;***

CARRIED UNANIMOUSLY 7/0

Attachments

1. Minutes AIAC Meeting 19 May 2015

The Shire President apologised to Cr Poelina for failing to acknowledge that she was the Chairperson of this Committee.

Chairperson: Date:

10.2 MINUTES OF THE BROOME CEMETERY ADVISORY COMMITTEE 3 JUNE 2015

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	CTE39
AUTHOR:	Senior Administration and Governance Officer
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director Corporate Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	4 June 2015

SUMMARY: This report advises Council of the matters discussed at the Broome Cemetery Advisory Committee (BCAC) meeting held 3 June 2015, and seeks Council consideration of the Committee's recommendations.

BACKGROUND

The Broome Cemetery Advisory Committee meets bi-monthly to discuss matters relating to the management and administration of the Shire of Broome Cemeteries.

A meeting was held on Wednesday 3 June 2015 and Minutes from this meeting are attached.

COMMENT

The Committee discussed a number of issues and dealt with operational and strategic matters including Burial Statistics and the Cemeteries Financial Report contained within the attached Minutes (attachment 1).

The Committee received the Burial Statistics Report for burials that occurred in all Cemeteries within the Shire of Broome for the period 2 April to 3 June 2015 inclusive and made the following recommendation.

COMMITTEE RECOMMENDATION:

Moved: Ms J Young

Seconded: Ms J Bin Omar

That the Broome Cemetery Advisory Committee notes the Burial Status Report for the period 2 April to 3 June inclusive.

CARRIED UNANIMOUSLY 4/0

The Committee also received the Cemeteries Financial Report as at 26 May 2015 and made the following recommendation.

COMMITTEE RECOMMENDATION:

Moved: Mr R Crook

Seconded: Cr G Campbell

That the Broome Cemetery Advisory Committee notes the Cemeteries Financial Report as at 26 May 2015 as attached.

CARRIED UNANIMOUSLY 5/0

Chairperson: Date:

The Committee considered an expression of interest to join the Broome Cemetery Advisory Committee as contained in the Confidential Minutes Supplement attached (attachment 2).

This request was supported by the Committee.

CONSULTATION

Broome Cemetery Advisory Committee

STATUTORY ENVIRONMENT

5.9. Committees, types of

- (1) In this section —
other person means a person who is not a council member or an employee.
- (2) A committee is to comprise —
- (a) council members only; or
 - (b) council members and employees; or
 - (c) council members, employees and other persons; or
 - (d) council members and other persons; or
 - (e) employees and other persons; or
 - (f) other persons only.

5.10. Committee members, appointment of

- (1) A committee is to have as its members —
- (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).

* Absolute majority required.

- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.

- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
- (a) *to be a member of the committee; or*
 - (b) *that a representative of the CEO be a member of the committee,*
- the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.*

5.11. Committee membership, tenure of

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) *the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or*
 - (b) *the person resigns from membership of the committee; or*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,*
- whichever happens first.*
- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) *the term of the person's appointment as a committee member expires; or*
 - (b) *the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,*
- whichever happens first.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

A unique natural environment for the benefit and enjoyment of current and future generations

A preserved, unique and significant historical and cultural heritage of Broome

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

Improved systems, processes and compliance

VOTING REQUIREMENTS

Absolute Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

Moved: Cr A Poelina

Seconded: Cr ML Lewis

That Council:

1. ***Receives the Broome Cemetery Advisory Committee Minutes of 25 June 2015, and endorses the recommendations contained in the attached Minutes document.***
2. ***Notes the resignation of Tim Mildenhall as representative of the Broome Anglican Church, and that a representative from the Broome Anglican Church will be considered once a replacement Minister has been appointed.***
3. ***Appoints April Booth as a member of the Broome Cemetery Advisory Committee.***
4. ***Request the Chief Executive Officer to update the Terms of Reference accordingly.***

CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY 7/0

Attachments

1. Attachment 1 - Minutes of the Broome Cemetery Advisory Committee held 3 June 2015
2. Attachment 2 - Confidential Supplement to the Minutes of the Broome Cemetery Advisory Committee held 3 June 2015 (*Confidential to Councillors and Directors Only*)

This attachment is confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)((e)(iii)) as it contains "a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government", and section 5.23(2)(b) as it contains "the personal affairs of any person".

10.3 BUSH FIRE ADVISORY COMMITTEE SPECIAL MEETING MINUTES 29 APRIL 2015

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	AFC05
AUTHOR:	Executive Support Officer
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director of Development Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	14 May 2015

SUMMARY: The Bush Fire Advisory Committee (BFAC) is an established Council Committee under the Local Government Act 1995, for advising on matters relating to the prevention, controlling and extinguishing of bushfires. It meets on a quarterly basis, however to get support for the Bush Fire Break Notice a Special Meeting was called. This report requests that Council receive the minutes and adopt the recommendations of the Special meeting held on the 29 April 2015.

BACKGROUNDPrevious Considerations

OMC 27 November 2014	Item 10.1
OMC 26 February 2015	Item 10.3
OMC 30 April 2015	Item 10.1

COMMENT

The Bush Fire Advisory Committee (BFAC) meets a minimum of twice per year to provide advice to the Shire of Broome on:

1. All matters relating to the prevention, controlling and extinguishing of bushfires.
2. The planning and layout of firebreaks in the district.
3. Prosecutions for breaches of the Bush Fires Act 1956.
4. The formation of Bush Fire Brigades.
5. Co-ordination and co-operations between agencies within the district.

A Special meeting, held on 29 April 2015, was called to deal with the following matters:

- 7.1 Bush Fire Advisory Committee – Fire Hazard Management 2015 Season
- 8.1 Fire Break Inspection Plan 2015 – Shire of Broome
- 8.2 Department of Fire and Emergency Services Report to Shire of Broome
- 8.3 Coconut Wells Fire Management

With regards to Item 7.1 Bush Fire Advisory Committee – Fire Hazard Management 2015 Season, the Committee resolved as follows:

REPORT RECOMMENDATION:

That the Bush Fire Advisory Committee confirms the following and advise Council accordingly:

- 1. It is recommended that the attached Fire Break Notice be gazetted and published in the local newspaper.***
- 2. It is recommended that the BFAC endorses the following appointments and that they are gazetted and published in the local Broome newspaper.***
 - a. Steven Longo (DFES) Chief Bush Control Officer (CBFCO)***
 - b. Mark O'Connor Deputy Chief Bush Fire Control Officer (DCBFCO)***
 - c. Craig Burgess Deputy Chief Bush Fire Control Officer (DCBFCO)***
 - d. Amanda Spencer Bush Fire Control Officer (BFCO)***
 - e. Gail Harmon Bush Fire Control Officer (BFCO)***
 - f. David Neilson Bush Fire Control Officer (BFCO)***

Moved: Steven Longo

Seconded: Nathan Connor

Officers recommend that Council notes this recommendation and the Bush Fire Break Notice in the attachments that form part of the Minutes. Council should also note that the CEO, under Delegated Authority, undertook the actions recommended to ensure the relevant notices were published in time for the fire season.

With regards to Item 8.1 Fire Break Inspection Plan 2015 – Shire of Broome, the Committee resolved as follows:

RECOMMENDATION:

- 1. That the Bushfire Advisory Committee receive and note this Agenda Item.***

Moved: Scott Beckwith

Seconded: Craig Burgess

Officers have since again reviewed the Inspection Plan presented to BFAC and noted that there was an inconsistency with Council's previous enforcement regime, adopted at the OMC 26 February 2015. As a result the inspection plan has now been amended as per Attachment 2. Council will note the amendments relate to the timeframes allowed prior to enforcement action being taken.

With regards to Items 8.2 Department of Fire and Emergency Services Report to Shire of Broome and 8.3 Coconut Wells Fire Management, the Committee made no resolution and the information presented at the meeting formed part of general discussion only.

CONSULTATION

As per membership of the BFAC

STATUTORY ENVIRONMENT***Bush Fires Act 1954***

Chairperson: Date:

Section 67 – Advisory committees

1. *A Local Government may at any time appoint such persons as it thinks fit as a Bush Fire Advisory Committee for the purpose of advising the Local Government regarding all matters relating to the prevention, controlling and extinguishing of bush fires, the planning of the layout of firebreaks in the district, prosecutions for breaches of this Act, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of co-operation and co-ordination of bush fire brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind, as, or a different kind from, those specified in this subsection.*
2. *A committee appointed under this section shall include a member of the Council of the Local Government nominated by it for that purpose as a member of the committee, and the committee shall elect one of their number to be Chairman thereof.*
3. *In respect to a committee so appointed, the Local Government shall fix the quorum for the transaction of business at meetings of the committee and may:-*
 - a. *make rules for the guidance of the committee;*
 - b. *accept the resignation in writing of, or remove, any member of the committee, appoint a person to fill that vacancy.*
 - c. *where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy.*
4. *A committee appointed under this section:-*
 - a. *may from time to time meet and adjourn as the committee thinks fit;*
 - b. *shall not transact business at a meeting unless the quorum fixed by the Local Government is present;*
 - c. *is answerable to the Local Government and shall, as and when required by the Local Government, report fully on its activities.*

POLICY IMPLICATIONS

Establishment of the compliance and enforcement strategy to manage the 2015 bushfire season.

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Effective communication

Accessible and safe community spaces

A healthy and safe environment

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

Sustainable and integrated strategic and operational plans

Responsible resource allocation

Chairperson: Date:

Effective community engagement

Improved systems, processes and compliance

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION: **(REPORT RECOMMENDATION)**

Moved: Cr C Mitchell

Seconded: Cr PM Matsumoto

That Council:

- 1. Receives and endorses the recommendations contained therein for the Bush Fire Advisory Committee Special Meeting as per Attachment 1.**
- 2. Notes the amended Inspection Plan as per Attachment 2.**

CARRIED UNANIMOUSLY 7/0

Attachments

1. Unconfirmed Special BFAC Minutes 29 April 2015
2. Amended Fire Break Inspection Plan for Broome 2015

10.4 YAWURU PARK COUNCIL (YPC) - PROGRESS REPORT AND MINUTES OF MEETINGS FOR 13 AUGUST AND 22 SEPTEMBER 2014.

LOCATION/ADDRESS:	Yawuru Conservation Estate
APPLICANT:	Nil
FILE:	NAT 55.1
AUTHOR:	Coastal Park Governance Officer
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director of Engineering Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	10 June 2015

SUMMARY: This report provides an update on recent activities of the Yawuru Park Council (YPC) and presents Council with Confirmed Minutes of two YPC Meetings; an Ordinary Meeting held on 13 August 2014 and a Special Meeting held on 22 September 2014.

This report seeks Council's consideration of the YPC Recommendations.

BACKGROUND

The final YPC meeting for 2014 was held on 26 September 2014 (Meeting Number 26). The first YPC meeting for 2015 was held on 18 March 2015 (Meeting Number 27), with the second YPC meeting being held on 13 May 2015 (Meeting Number 28).

This time lapse between the 2014 and 2015 meetings was due to nominal discrepancies amongst the three member organisations. Due to this, in November 2014, the Shire of Broome (SoB) Chief Executive Officer initiated the formation of a Yawuru Park Council Senior Officers Group (YPC SOG) to progress Yawuru Park Council initiatives. The YPC SOG is to meet every two months or as required. The formation of this group was formally agreed by the YPC at the meeting held on 18 May 2015.

Yawuru Park Council Senior Officer Group membership is as follows:

Shire of Broome (SoB)	Chief Executive Officer
Nyamba Buru Yawuru (NBY)	General Manager
Department of Parks and Wildlife (DPaW)	District Manager West Kimberley

At the first meeting for 2015 (Meeting No: 27), held on 18th March 2015, YPC member agreement was provided for the following YPC meeting dates for 2015:

18 March 2015
 13 May 2015
 15 July 2015
 16 September 2015
 18 November 2015

YPC VOTING RESPONSIBILITY

Conservation Estate Area	YPC Voting and Tenure Responsibility
Minyirr Buru (In-Town Conservation Estate)	NBY and SoB.
Cable Beach Intertidal Zone (currently within the Out of Town Conservation Estate)	Draft Management Plans and tripartite arrangements yet to be fully developed. NBY, SoB and DPaW.
Birragun. (Out-of-Town Conservation Estate)	NBY and DPaW.
Nagulagun. (Marine Park)	NBY and DPaW.
Yawuru Conservation Estate (YCE). (Matters relating to the whole of the Conservation Estate).	NBY, SoB and DPaW (non land tenure issues). Occasionally YPC Agenda Items are submitted relating to the Estate as a whole (as an example the development of a communications strategy, branding development, off road vehicles and the draft Recreation Master Plan).

Previous Considerations

Yawuru Park Council Minutes	OMC	27 November 2014	Item 10.2
Yawuru Park Council Representation	OMC	22 May 2014	Item 10.2
	OMC	21 November 2013	Item 9.4.6
	OMC	30 September 2010	Item 9.1.1
In Town Management Plan	SMC	12 May 2015	Item 6.4.2
	OMC	21 February 2013	Item 9.2.13
	OMC	19 April 2012	Item 9.2.4
	OMC	15 March 2012	Item 9.2.5
	OMC	1 August 2011	Item 9.4.8
Drainage	OMC	30 April 2015	Item 9.2.4
	OMC	25 September 2014	Item 9.2.3
Out of Town Management Plan	SMC	29 May 2013	Item 9.2.1
	OMC	4 October 2012	Item 9.2.1
Yawuru Conservation Estate	OMC	29 October 2009	Item 9.1.1

COMMENT

At the meeting held on 18th March 2015, the YPC agreed to the following:

Agenda Item 3. Confirmation of minutes

- 3.1. *Review and adoption of September 2014 Minutes*
Review and adoption of August 2014 Special Meeting Minutes

The March 2015 and May 2015 Confirmed Minutes are not yet available.

Attachment A YPC Meeting Minutes (Meeting No: 25), 13 August 2014.

Attachment B YPC Special Meeting Minutes (Meeting No: 26), 22 September, 2015.

It should be noted that beginning in March 2015, the YPC Agenda formatting and Minute recording was updated.

Chairperson: Date:

(Ordinary) Meeting Number: 25. Meeting Date: 13 August 2014

Agenda Item	Approved YPC Action / Recommendation (verbatim extract from Minutes)	SoB Officer Report Recommendation
2.2 Actions Arising	<p>Numerous Actions from previous YPC meetings were discussed/ noted: YPC Meeting - 13-3-2014</p> <p>ACTION 2: SoB to present a comprehensive drainage item at October YPC following liaison with Yawuru and YPCWG. YPC Meeting - 11 June 2014.</p> <p>ACTION 4: JD (DPaW) to organise a workshop with Dave Lathwell on ORV solutions.</p>	<p>That Council notes the YPC Actions to be progressed by the YPC Working Group (YPC WG).</p>
	<p>ACTION 5: DPaW to organise Jeremy Flynn to present the Recreation Master Plan to YPC with particular attention on the northern Out-of-Town conservation park and planned beach access adjacent to Area 16 road reserve.</p>	<p>That Council notes the draft Recreation Master Plan was presented to SoB Officers in March 2015 and requests the Chief Executive Officer to present a draft Recreation Master Plan to Council for consideration.</p>
3.1. September special meeting	<p>ACTION 6: DPaW to coordinate a special YPC for 22 September 2014, 0900-1200 at Nyamba Buru Yawuru to cover the In-Town plan, the public comment period, the anticipated enquires workshop and the Marine Park plan.</p>	<p>That Council notes the YPC Action.</p>
3.2. Perth Royal Show	<p>ACTION 7: Each YPC partner organisation to consider YPC's involvement at the Perth Royal Show and respond to Shire by the end of the week 15/08/2014</p>	<p>That Council notes the YPC Action.</p>

3.3. Public comment management plan	<p>YPC discussion noted as follows:</p> <p><i>"BT – this relates to action item 4 from June YPC. We are seeking endorsement of the proposed 'YCE Communication and Public Comment Management Plan'. This was presented to the Shire Councillors at one of their workshops in July and we presented to members of the Yawuru YPC representatives yesterday. We are also requesting that YPC receive targeted out-of-session updates relating to the public comment period and getting any required endorsements in September. This is an operational document that says what the YPCWG wants to do during the public comment period. As the YPCWG we want to start progressing with the public comment to make sure we are going to be ready for the public comment period. There has been a change to the document since presenting to Shire Councillors in July. We are now proposing to have a facebook page instead of a webpage. The page will be closed so members of the public can not post onto the page but they can share it, like it and it will receive higher hits and be a much cheaper option to produce and maintain. GC – I move the recommendation as it stands. This can go for approval at Shire Council and YPBC. JB – Let's make an amendment to the recommendation that authorises the working group to make minor changes to this document without referring back to YPC."</i></p> <p>Moved: GC Seconded: not recorded</p>	<p>That Council notes the YPC Action.</p>
3.4. Roebuck Bay Working Group	<p>YPC discussion noted as follows:</p> <p><i>"TR – Shire are updating our committee booklet. Shire would like to reference the resolution in the March YPC in regards to the RBWG, I would like to request the recommendation be reviewed and revised as detailed in the briefing note to include the names Darren Stevens and Dean Matthews are the YPC representatives."</i></p> <p>Moved: JB (DPaW) Seconded: MC (Yawuru)</p>	<p>That Council notes the YPC Action - acknowledging the information was provided to the relevant SoB Officer in April 2014.</p>

3.5. 2015 Broome Directory	ACTION 8: YPC to revisit budget allocation for the 2016 Directory. ACTION 9: SoB to include YPC content in relation to the use and enjoyment of the YCE into the current SoB page allocations of the Broome Directory. SoB to liaise with YPCWG for content approvals.	That Council notes the YPC Action.
4.1. Minyirr Park stairs project	ACTION 11: DPaW to provide a timeline for the staircase project to the SoB. SoB to write to Lotteries West requesting an extension of the funding by the 18 August 2014.	That Council notes the YPC Action, noting that this has since been completed, with intent to request a further extension to the Lotteries West Grant past 30 June 2015.
4.2. Broome Port Authority Storm water presentation. Presented by Pritchard Frances.	ACTION 12: YPCWG to formally respond to Broome Port Authority on their presentation re drainage plan at Broome Port.	That Council notes the YPC agreed Action.
4.3. Minyirr Park shade shelters	ACTION 13: DPaW to report to YPC prior to commencing construction of the Minyirr Park shade shelters and provide details of the chosen concept including the life-time of the shelters and a cost breakdown.	That Council notes the YPC Action.

(Special Meeting) Meeting Number: 26. Meeting Date: 22 September 2014

A Special Meeting was required due to the need to clarify the tenure, management arrangements and Shire of Broome concerns regarding the area known as the *Cable Beach Tripartite Intertidal Zone (ITZ)*. The SoB had previously considered the draft Yawuru Out-of-Town Conservation Estate Management Plan at a Special Meeting of Council (Agenda Item 9.2.1) held on 29 May 2013. Unfortunately, the inclusions requested by Council relating to the ITZ were not incorporated into the draft Yawuru Out-of-Town Conservation Estate Management Plan.

The *Yawuru Prescribed Body Corporate Agreement (ILUA)* describes the Cable Beach Tripartite Intertidal Zone (ITZ) at *Schedule 9 - Part 2 - Intertidal Areas*. It is those areas seaward of the high water mark down to the lowest astronomical tide north of the Broome Townsite that are to be reserved under section 41 of the LA Act with orders under section 46 of the LA Act placing the care, control and management with the Yawuru RNTBC (NBY), the CCWA (DPaW) and BSC (SoB).

Attachment C Area 25 - Tripartite Intertidal Zone (ITZ) map.

Agenda Item	Approved YPC Action / Recommendation (verbatim extract from Minutes)	Outcome (verbatim extract from Minutes)	SoB Officer Report Recommendation
<p>2.1. Nagulagun Roebuck Bay Marine Park Plan.</p> <p>VOTING REQUIREMENTS</p> <p>Yawuru NBY Department of Parks and Wildlife</p>	<p>RECOMMENDATION: That the Yawuru Park Council formally endorses the release of the IJMP for the Yawuru Nagulagun Roebuck Bay Marine Park for the statutory public comment period. That the SoB did not participate in the vote/endorsement</p>	<p>OUTCOME: That Yawuru have formally endorsed this. That the SoB formally notes in the resolution that SoB did not participate in the endorsement. Moved: DM (Yawuru) Seconded: AB (DPaW)</p>	<p>That Council notes the YPC Resolution.</p>
<p>3.1. Excision of Cable Beach ITZ from the Birragun (Out-of-Town) draft management plan</p> <p>VOTING REQUIREMENTS</p> <p>Yawuru NBY Department of Parks and Wildlife Shire of Broome</p>	<p>RECOMMENDATION: That the Park Council Notes 1. The Out of town conservation area draft management plan has not considered the position of the Shire Of Broome Council as per the resolution of the Special Meeting of Council held on 13th May 2013. 2. The Yawuru Birragun Conservation Park draft Management plan and the Yawuru Nagulagun/ Roebuck bay Marine Park indicative management plan are anticipated to be released later this year.</p>	<p>That Park Council</p> <p>1. Request DPAW to proceed with the release of the Out of town Conservation area draft management plan for public comment with the exclusion of the areas in the ITZ areas that are designated as tripartite management between Yawuru, The Shire of Broome and DPAW.</p> <p>2. Request DPAW to prepare a separate management plan for the ITZ areas that are designated as tripartite management between Yawuru, The Shire of Broome and DPAW as soon as possible for endorsement by Yawuru, SOB and DPAW for the release for public comment.</p>	<p>That Council Notes the release of the Out of Town (Birragun) Draft Management Plan.</p> <p>That Council endorses the exclusion of the Tripartite Intertidal Zone (ITZ) from the Out of Town (Birragun) Draft Management Plan.</p> <p>That Council endorses the preparation of a separate management plan for the Tripartite Intertidal Zone (ITZ) Area.</p>

		3. Request the chair to write to the appropriate Minister seeking approval for two separate management plans within the Out of Town Conservation Area.	That Council Notes the YPC Resolution.
		4. Request DPAW provide a timeframe to align with the development of the Cable Beach intertidal zone with the in town management plan.	That Council Notes the YPC Resolution.
		5. That the timelines for the In Town Plan be aligned to the further extent possible with the Cable Beach intertidal zone	That Council Notes the YPC Resolution.
4.1. Update of progress of the Minyirr- Burru (In-Town) Management Plan agreed process to finalisation. 4.2. Minyirr- Burru (In-Town) management plan agreed process to finalisation	No Recommendation recorded	ACTION: DPaW set a date for WG meeting. ACTION: WG to report back to YPC after every meeting.	That Council Notes the YPC Action.
5.1. Proposal to conduct a staggered public comment period for the draft YCE management plans. VOTING REQUIREMENT:	RECOMMENDATION: 1. That YPC endorses the YPCWG to implement a staged release as detailed within this briefing note. 2. That the working group progress the development for endorsement of the YPC communication	ACTION: BT to email a copy of the finalised plan to GC. ACTION: change from communication management plan to communication strategic plan. ACTION: SOB to approve @ OMC special 7th October	That Council: (i) Notes the change of name from 'YCE Communication and Public Comment Management Plan' to 'YCE Communication and Public Comment Strategy'. (ii) Requests the Chief

Yawuru, Shire Of Broome, Department of Parks and Wildlife	and public comment strategy by the 29th October	the YCE communication and Public Comment Strategy OUTCOME: MOVED: JB SECONDED: JD	Executive Officer to present the YCE Communication and Public Comment Strategy to Council for consideration.
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CONSULTATION

Yawuru Registered Native Title Body Corporate
Department of Parks and Wildlife WA

STATUTORY ENVIRONMENT

Fish Resources Management Act 1994

4.3 CALM and FRM Act Regulations

- (a) The CALM Regulations apply to those parts of the Conservation Estate comprising the Freehold Areas and the CALM Regulations and the FRM Act Regulations apply to those parts of the Conservation Reserve comprising the Intertidal Zone Reserves.

Local Government Act 1995

Land Administration Act 1997 - Section 49

"49: Management plan for managed reserve

- (1) A management body may submit to the Minister for his or her approval a plan for the development, management and use of the Crown land in its managed reserve for the purpose of that managed reserve.
- (2) The Minister may request a management body or proposed management body to submit to the Minister in an approved form, within such period as is specified in that request, for his or her approval a plan for the development, management and use of the Crown land in the managed reserve of the management body for the purpose of that managed reserve.
- (3) A management body must, before submitting a plan to the Minister under subsection (1) or in response to a request under subsection (2) —
 - (a) consider any conservation, environmental or heritage issues relevant to the development, management or use of the Crown land in its managed reserve for the purpose of that managed reserve; and
 - (b) incorporate in the plan a statement that it has considered those issues in drawing up the plan.
- (4) If a management body submits a plan to the Minister under subsection (1) or in response to a request under subsection (2) and the Minister approves that plan and notifies the management body of that fact, the management body may develop, manage and use the Crown land concerned —
 - (a) in accordance with the plan; or
 - (b) if the Minister approves a variation of the plan, in accordance with the plan as varied."

Conservation and Land Management Act 1984 (WA) (Conservation Commission)

CALM Act (Executive Body)

Assistance Agreement (AA) - Section 33(1)(f) CALM Act 1984 (WA)

Chairperson: Date:

“33 . CEO, functions of

- (1) *The functions of the CEO are, subject to the direction and control of the Minister —*
(f) to provide advice to, or undertake work for or jointly with, and to supply services
or facilities to, any department, public or private body or other person, whether in
the State or elsewhere if the Minister is of the opinion that the provision of that
advice or the undertaking of that work is in the public interest; “

Marine Parks and Reserves Authority (Section 26A of the CALM Act - Marine Authority)

Dog Act 1976

Cat Act 2011

Control of Vehicles (Off-road Areas) Act 1978

Local Government Grants Act 1978

Dog Regulations 1976

Cat Regulations 2012

Control of Vehicles (Off-road Areas) Regulations 1979

ASSOCIATED DOCUMENTS

Yawuru Prescribed Body Corporate Indigenous Land Use Agreement – Broome (Yawuru PBC ILUA)

Yawuru Area Agreement Indigenous Land Use Agreement – Broome (Yawuru Area Agreement ILUA)

Joint Management Agreement (JMA)

Assistance Agreement (AA)

POLICY IMPLICATIONS

SoB Yawuru Park Council Policy 1.5.1 [OMC 29 November 2012 Item 9.4.4].

There is no delegation to the Yawuru Park Council representatives.

FINANCIAL IMPLICATIONS

The SoB does not have a dedicated budget for the Yawuru Conservation Estate. Should Council wish to support actions and allocate resources towards actions identified in the YPC Minutes, this may need to be budgeted for separately.

An item was presented to Council at the Shire of Broome Special Meeting of Council held on 12 May 2015, to seek Council's endorsement of the draft Yawuru Conservation Estate 2014/15 Budget.

Council resolved:

That Council endorses the attached recommendations of the draft 2014/15 Yawuru Conservation Estate Budget and the February 2015 Yawuru Trust Account, and authorises its delegates to inform the Yawuru Park Council of this resolution.

RISK

The Risks associated with not progressing any of the activities of the Yawuru Park Council as agreed (and noted within the Recitals of the ILUA's and further qualified by the *Joint Management Agreement (JMA)* and the *Assistance Agreement (AA)*) have yet to be developed by the YPC WG.

Chairperson: Date:

STRATEGIC IMPLICATIONS

Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:

Effective communication

Affordable services and initiatives to satisfy community need

Participation in recreational activity

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

A unique natural environment for the benefit and enjoyment of current and future generations

A preserved, unique and significant historical and cultural heritage of Broome

Retention and expansion of Broome's iconic tourism assets and reputation

Our Prosperity Goal – Create the means to enable local jobs creation and lifestyle affordability for the current and future population:

Affordable and equitable services and infrastructure

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

Effective community engagement

Improved systems, processes and compliance

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

Moved: Cr A Poelina

Seconded: Cr M Lewis

That Council:

1. ***Receives the Ordinary Minutes of the 25th Meeting of the Yawuru Park Council (YPC) held on 13 August 2014 and notes the resolutions of the YPC and Action Items (as contained in the Minutes attached) for Agenda Items 2.2, 3.1, 3.2, 3.3, 3.4, 3.5, 4.1, 4.2 and 4.3 enbloc and;***
 - (a) ***In response to Agenda Item 2.2 – Action Item 5, request the Chief Executive Officer to present the draft Recreation Master Plan to Council for consideration.***
2. ***Receives the Special Meeting Minutes of the 26th Meeting of the Yawuru Park Council (YPC) held on 22 September 2014 and notes the resolutions of the YPC and Action Items (as contained in the Minutes attached) for Agenda Items 2.1, 3.1,***

Chairperson: Date:

4.1, 4.2 and 5.1 enbloc and;

- (a) Council endorse the exclusion of the Tripartite Intertidal Zone from the Out-of-Town Management Plan;**
- (b) Council endorse the preparation of a separate management plan for the Tripartite Intertidal Zone;**
- (c) In response to Agenda Item 5.1, request the Chief Executive Officer to present the Yawuru Conservation Estate Communication and Public Comment Strategy to Council for consideration.**

CARRIED UNANIMOUSLY 7/0**Attachments**

1. Attachment A_YPC Minutes August 2014
2. Attachment B_YPC Minutes September 2014
3. Attachment C_Area 25_Map ITZ

11. NOTICES OF MOTION

Nil

12. BUSINESS OF AN URGENT NATURE

Nil

13. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

14. MATTERS BEHIND CLOSED DOORS

COUNCIL RESOLUTION:

Moved: Cr A Poelina

Seconded: Cr C Mitchell

That the meeting be closed to the public at 6.21pm.

CARRIED UNANIMOUSLY 7/0

The members of the gallery departed the Chambers at 6.21pm.

This item and any attachments are confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)(a) as it contains "a matter affecting an employee or employees", and section 5.23(2)(b) as it contains "the personal affairs of any person".

With regard to item 9.4.5 Mr K Donohoe declared a Financial Interest as "Item refers to Chief Executive Officers performance appraisal and employment conditions with the Shire of Broome."

9.4.5 CHIEF EXECUTIVE OFFICER PERFORMANCE APPRAISAL

LOCATION/ADDRESS:	Shire of Broome
APPLICANT:	NA
FILE:	PER/KR Donohoe
AUTHOR:	Manager Human Resources
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Shire President - Cr G Campbell
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	2 June 2015

SUMMARY: In accordance with the Chief Executive Officer's contract, an Annual Review of performance is to be undertaken in accordance with the *Local Government Act 1995*, as amended. This report seeks to consider the Annual Review undertaken.

Chairperson: Date:

COUNCIL RESOLUTION:

Moved: Cr C Mitchell

Seconded: Cr DM Male

That Standing Orders be suspended.

CARRIED UNANIMOUSLY 7/0

COUNCIL RESOLUTION:

Moved: Cr C Mitchell

Seconded: Cr H Tracey

That Standing Orders be reinstated.

CARRIED UNANIMOUSLY 7/0

COUNCIL RESOLUTION:

(REPORT RECOMMENDATION)

Moved: Cr H Tracey

Seconded: Cr PM Matsumoto

That Council accepts the performance review of the Chief Executive Officer without modification for the 2014/2015 review period.

CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY 7/0

Attachments

1. Chief Executive Officer Key Performance Indicators 2015

COUNCIL RESOLUTION:

Moved: Cr C Mitchell

Seconded: Cr H Tracey

That the meeting be open again to the public at 6.35pm.

CARRIED UNANIMOUSLY 7/0

The Council chambers were opened at 6.35pm and it was noted that no members of the public returned to the Chambers.

15. MEETING CLOSURE

There being no further business the Chairman declared the meeting closed at 6.36pm.

Chairperson: Date: