



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."

AGENDA

FOR THE

ORDINARY MEETING OF COUNCIL

29 OCTOBER 2009

OUR MISSION

"To provide a quality range of affordable and sustainable services to our community with a strong commitment to customer focus so that our citizens and visitors enjoy a quality lifestyle."

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

Respect

Integrity

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.

SHIRE OF BROOME

ORDINARY COUNCIL MEETING 29 OCTOBER 2009

INDEX - AGENDA

1.	OFFICIAL OPENING	6
2.	ATTENDANCE AND APOLOGIES.....	6
3.	DECLARATIONS OF FINANCIAL INTEREST	6
4.	PUBLIC QUESTION TIME	6
5.	CONFIRMATION OF MINUTES.....	8
6.	ANNOUNCEMENTS BY PRESIDENT WITHOUT DISCUSSION.....	8
7.	PETITIONS	8
8.	MATTERS FOR WHICH MEETING MAY BE CLOSED.....	8
9.	REPORTS OF OFFICERS.....	9
9.1	LEADERSHIP / GOVERNANCE AND ORGANISATION	10
	9.1.1 YAWURU NATIVE TITLE AGREEMENTS	11
	9.1.2 COUNCIL MEETING DATES 2010.....	18
	9.1.3 SHORT TERM INDIGENOUS ACCOMMODATION	21
9.2	COMMUNITY SERVICES.....	24
	9.2.1 TRANSFER OF LICENCE FOR TRADING IN PUBLIC PLACES.....	25
9.3	DEVELOPMENT SERVICES	29
	9.3.1 IMPLEMENTING DEVELOPMENT ASSESSMENT PANELS IN WESTERN AUSTRALIA - DEPARTMENT OF PLANNING.....	30
	9.3.2 PROPOSED DISTRICT DEVELOPMENT PLAN AND LOCAL DEVELOPMENT PLAN – BROOME NORTH, CABLE BEACH, DJUGUN AND BILINGURR	39
	9.3.3 SHIRE OF BROOME AIRPORT DEVELOPMENT PLAN	51
	9.3.4 REVIEW OF LOCAL PLANNING POLICY 4.1.6 – ADDITIONAL	62
	ACCOMMODATION IN RURAL ZONES	
	9.3.5 REVIEW OF LOCAL PLANNING POLICY 4.1.14 – BONDS AND/OR BANK	66
	GUARANTEES	
	9.3.6 REVIEW OF LOCAL PLANNING POLICY 4.1.15 – SHIPPING AND/OR STORAGE ..	68
	CONTAINERS POLICY.....	
	9.3.7 REVIEW OF LOCAL PLANNING POLICY 4.1.22 – OUTDOOR DINING	71
	9.3.8 APPLICATION FOR PLANNING APPROVAL – CONSULTING ROOMS - LOT	73
	1031 (NO 40) CARNARVON STREET BROOME.....	
	9.3.9 APPLICATION FOR PLANNING APPROVAL – SHOWROOM – LOT 51(2)	79
	DE CASTILLA STREET MINYIRR	
	9.3.10 PROPOSED TEMPORARY WORKERS ACCOMODATION – LOT 8, AND LOT 113 ..	83
	WATTLE DRIVE BROOME.....	
	9.3.11 PLANNING APPROVAL – TEMPORARY METEOROLOGICAL TOWER – LOT 259, ..	91
	JAMES PRICE POINT, DAMPIER PENINSULA	
	9.3.12 APPLICATION FOR PLANNING APPROVAL – WHALE WATCHING TOWER	97
	WITH ASSOCIATED FACILITIES - LOT 348 DAMPIER BEAGLE BAY.....	
	9.3.13 ILLEGAL CARAVAN PARK - LOT 3000 BROOME HWY, BROOME	102

9.3.14	APPLICATION TO CAMP OTHER THAN AT A CARAVAN PARK.....	106
9.3.15	RUBBISH COLLECTION SERVICES - MALLINGBARR (KENNEDY HILL)	110
9.3.16	APPROVAL FOR FUNDING TO COMPLETE THE REGIONAL WASTE	
	MANAGEMENT PLAN	113
9.3.17	WASTE MANAGEMENT WORKING GROUP RECOMMENDATION – PUBLIC	
	PRESENTATION ON WASTE MANAGEMENT	117
9.4	CORPORATE SERVICES	120
9.4.1	ACCOUNTS FOR PAYMENT	121
9.4.2	SEPTEMBER 2009 MONTHLY FINANCIAL ACTIVITY REPORT	122
9.4.3	SHINJU MATSURI COMMITTEE - GUARANTEE	128
9.4.4	MULBERRY TREE CHILDCARE – SHED PROPOSAL	130
9.4.5	LEASE - KIMBERLEY REGIONAL OFFICES - MINISTER FOR WORKS	133
9.4.6	RESERVE FUNDS - APPROVAL OF EXPENDITURE	137
9.5	ENGINEERING SERVICES	140
9.5.1	ACCESS EASEMENT AND CONSOLIDATION OF DRAINAGE RESERVE	141
9.5.2	BROOME-CAPE LEVEQUE ROAD WET SEASON CLOSURE 2009/2010.....	145
9.5.3	CONCESSIONAL LOADING ROUTE NETWORKS	150
9.5.4	DRAINAGE RESERVE AT BROOME SENIOR HIGH SCHOOL.....	153
9.5.5	ENGINEERING GUIDELINES FOR SUBDIVISIONAL DEVELOPMENT - 2009.....	156
10.	REPORTS OF COMMITTEES.....	160
11.	NOTICES OF MOTION.....	162
12.	LATE ITEMS.....	162
13.	QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN.....	162
14.	MATTERS BEHIND CLOSED DOORS.....	162
15.	MEETING CLOSURE	162

NOTICE OF MEETING

Dear Council Member,

The next Ordinary Meeting of the Shire of Broome will be held on Thursday 29 October 2009, in the Council Chambers, Corner Weld and Haas Streets, Broome, commencing at 5.00pm.

Regards

A handwritten signature in black ink, appearing to read 'Donohoe', written over a horizontal line.

K R DONOHOE
Chief Executive Officer

20 October 2009

1. OFFICIAL OPENING

2. ATTENDANCE AND APOLOGIES

Attendance

Leave of Absence

Apologies Cr Ross De Wit Incumbent Councillor

Officers

Public Gallery

<p><i>Moved:</i></p> <p><i>That Cr G T Campbell be granted Leave of Absence for the Ordinary Council Meeting of 29 October 2009.</i></p>	<p><i>Seconded:</i></p> <p style="text-align: right;"><i>FOR:</i></p> <p style="text-align: right;"><i>AGAINST:</i></p>
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3. DECLARATIONS OF FINANCIAL INTEREST

Councillor	Item No	Page No	Item	Nature of Interest

4. PUBLIC QUESTION TIME

At the Special Council Meeting of 13 October 2009 the following questions were taken on notice. Questions and responses are shown below:

John McCourt, President, Kimberley Performing Arts Council presented the following questions at the meeting of 13 October 2009, which were taken on notice by the Chairperson:

Question 1 – John McCourt: “Can Council advise the detail of stakeholder and public consultation on the subject of the future of an indoor performing arts facility following a Council workshop on 30 July 2009?”

Answer 1 – Director Community Services: As per Council resolution at SCM held on 13 Oct 09, community consultation will be carried out following liaison with Department of Culture and the Arts and upon commencement of stage 2 of the tender process. Project viability needs to first be ascertained to enable meaningful consultation to occur.

Question 2– John McCourt: “Who was invited to the workshop, as detailed in (1) above?”

Answer 2 – Director Community Services: Councillors, Shire Executive team and project consultant Architect.

Question 3 – John McCourt: “Does Council consider an initiation for stakeholders to attend a breakfast briefing on the proposed performing arts centre for Friday 9 October 2009, sent by email on 6 October 2009, as adequate time to allow for attendance?”

Answer 3 – Director Community Services: Due to tight timeframes, unfortunately limited notice was provided. However, Council considered that it was important to meet with the BPAC Reference Group prior to the SMC held on 13th October 2009.

Question 4 – John McCourt: “Can Council detail what facilities the town will have in the future to host performing arts events at an indoor venue with such facilities being capable to hosting same?”

Answer 4 – Director Community Services: It is considered that the viability of building and operating an indoor BPAC will increase as Broome’s population grows and ratepayer base increases. Currently, the projected level of operating subsidy of such a facility is prohibitive.

* * *

Gwen Knox submitted questions for the Special Council Meeting of 13 October 2009 and a summary of questions and answers as taken on notice is shown below.

Question 1 – Gwen Knox: “Has the Shire Council in its proposal to develop an amphitheatre in Chinatown considered the following:

- What is the likelihood that DCA will give this proposal its blessing given that the original funding was in response to the community request for an indoor performing arts venue? (Answer – Director Community Services: To be determined – Shire President and CEO are to meet with DCA in near future.)
- That an open air entertainment venue in Chinatown will be in direct competition of other businesses already providing open air outdoor entertainment. Across the road is a nearly completed indoor complex. (Answer – Director Community Services: Upcoming community consultation will further clarify both community need and preliminary concept. The indoor complex referred to will not have the capacity for large events).
- An open air entertainment venue in Chinatown will only be suitable for loud music events. (Answer – Director Community Services: The proposed community venue will be multipurpose).
- If this venue was used to maximum capacity it is likely to be closed down as it will be in direct competition with existing venues and be aurally offending people who live in and around Chinatown. (Answer – Director Community Services: Events held at Male Oval have proven to be a success.
- How this proposed facility will cover the needs of :
 - Our large emerging dance community
 - A developing theatre performance community requiring reasonable access to site lines and sound.
 - The occupational health and safety of performers.

(Answer – Director Community Services: Once again, abovementioned matters will receive due consideration as part of stage 2 of the tender process – final concept design.

- What is the likelihood that the proposed site will, in a few years time or sooner, become:
 - An all weather sleeping and toilet place for the itinerant drinkers,

- o *A vandalised concrete bunker that will be shut down because it is an unsuitable and undesirable for place to work and enjoy.*

(Answer – Director Community Services: Final concept design will be carried out by James Christou + Partners Architects who will take such matters into full consideration. Incidentally, the Visitor’s Centre has been operating successfully to date.

- *We only ever wanted a venue that had the capacity seating of 350 -375. A venue any bigger would rarely be filled or affordable.” (Answer – Director Community Services: Shire of Broome is increasingly receiving requests for larger events and venues. Operational affordability was among the key considerations leading to the evolved concept).*

Question 2 – Gwen Knox: “While I appreciate that some of the Shire members have had a workshop with James Christou and Partners architects in order to reach their decision on the subsequent proposed split of funds between the redevelopment of the civic centre and the Chinatown outdoor entertainment area. I would question the split and ask that the \$4,550,000 be spent on the civic centre redevelopment as the start of a staged development of a functional arts facility (that can still be used as a community centre). The \$1,890,000 to be used to develop an outdoor entertainment facility in another location than Chinatown such as the Town Beach precinct. This would help provide some infrastructural support to flailing arts industry upon which a lot of income has been made with relatively little financial input especially when it is compared to the financial and infrastructural support provided to the sports industry.”

Answer – Director Community Services: Please refer to Special Council Minutes of 13 October 2009, Agenda Item 9.2.1 for rationale in this regard.

5. CONFIRMATION OF MINUTES

<p><i>Moved:</i></p> <p><i>That the Minutes of the Ordinary Meeting of Council held on 1 October 2009 be confirmed as a true and accurate record of that meeting.</i></p> <p><i>Moved:</i></p> <p><i>That the Minutes of the Special Meeting of Council held on 13 October 2009 be confirmed as a true and accurate record of that meeting.</i></p>	<p><i>Seconded:</i></p> <p style="text-align: right;"><i>FOR:</i> <i>AGAINST:</i></p> <p><i>Seconded:</i></p> <p style="text-align: right;"><i>FOR:</i> <i>AGAINST:</i></p>
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6. ANNOUNCEMENTS BY PRESIDENT WITHOUT DISCUSSION

7. PETITIONS

8. MATTERS FOR WHICH MEETING MAY BE CLOSED

9.

REPORTS

OF

OFFICERS

9.1

LEADERSHIP / GOVERNANCE

AND

ORGANISATION



OUTCOME

*To provide open, transparent and good governance
to the community.*

9.1.1 YAWURU NATIVE TITLE AGREEMENTS

LOCATION/ ADDRESS:	Rubibi Native Title Claim Area
APPLICANT:	Office of Native Title
FILE:	NAT05
AUTHOR:	Director Development Services
CONTRIBUTOR/S:	Office of Native Title
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE OF REPORT:	16 October 2009

SUMMARY: Agreement has been reached between the State and the traditional owners over the global negotiations resulting from the determination of the Rubibi Native Title Claim. Two Indigenous Land Use Agreements (ILUA) have been prepared, an Area Agreement for those areas not claimed and a Prescribed Body Corporate Agreement for those areas the subject of the Rubibi determination. A Joint Management Agreement and an Assistance Agreement have also been prepared.

This report provides a brief summary of aspects of the agreements that will impact on the Shire and recommends Council authorises the engrossment of the documents.

BACKGROUND

The State and the Yawuru Community have negotiated a package of agreements comprised of a Prescribed Body Corporate Indigenous Land Use Agreement and an Area Agreement Indigenous Land Use Agreement under the *Native Title Act 1993* (Commonwealth) (NTA) a Joint Management Agreement and an Assistance Agreement. These agreements have been prepared to give expression to the determination of native title by the Federal Court of Australia and to allow for the future development of Broome whilst also recognising and protecting Aboriginal heritage and the environment and providing compensation to the Yawuru Community for the loss and impairment of native title rights and interests.

Between 2 February 1994 and 1 December 1997, the Yawuru Community filed nine native title determination applications to land and waters in and around Broome. On 21 September 1999 eight of the applications were combined by an order of the Federal Court. Under that order the native title determination application in proceeding WAD 6006 of 1998 (Rubibi) was to be the lead application.

On 29 September 2004, a further native title determination application was lodged by the Yawuru Community. That application, WAD 223 of 2004 (Rubibi #17), was heard together with proceeding WAD 6006 of 1998.

Evidence was heard on country by Justice Merkel in 2003 and 2004, and on 28 April 2006 a determination was made in favour of the Yawuru Community as native title holders to a large part of the area covered by applications WAD 6006 of 1998 (Rubibi) and WAD 223 of 2004 (Rubibi #17). In some areas the Judge found that the Yawuru Community had the right to possession and occupation as against the whole world, in other areas the rights and interests were non-exclusive.

On 2 May 2008, the Full Court of the Federal Court of Australia, in the *State of Western Australia - v - Sebastian* [2008] FCAFC 65, upheld Justice Merkel's determination in favour

of the Yawuru Community and recognised additional areas where native title rights and interests were found to exist.

On 15 August 2008, the State filed an Application for Special Leave to Appeal proceeding No. P30 of 2008 in the High Court of Australia seeking leave to appeal an aspect of the decision of the Full Court of the Federal Court of Australia. The State discontinued its application on 29 July 2009.

The Determination over Broome and its environs is entered on the National Native Title Register maintained by the National Native Title Tribunal, recording the date of determination as 28 April 2006.

Following the Determination on 28 April 2006, the Yawuru Native Title Holders and the State commenced negotiations to resolve the issues associated with the Determination.

On 31 May 2007, the State and the Yawuru Community entered into the Broome Negotiation Protocol and Broome Heritage Agreement, which together governed the global negotiations.

On 6 April 2009, an In Principle Agreement between Yawuru RNTBC and the State was signed. The In Principle Agreement forms the basis of this package of agreements, which the Parties have agreed to enter into in order to:

- give expression to the native title rights and interests of the Yawuru Community;
- provide for the protection of Aboriginal heritage;
- apply the non-extinguishment principle of the NTA wherever possible to land transfers and land reservations;
- provide a package to Yawuru RNTBC in consideration of and as full and final compensation for its agreement to the transfer of land parcels and surrender of native title and in respect of impairment and extinguishment of native title;
- facilitate the future development of land in Broome for residential, infrastructural and industrial purposes, by both the Yawuru Community and by the State;
- establish conservation and marine parks in and around Broome jointly managed by Yawuru RNTBC, the Shire of Broome and the State (dependent upon location) to provide for the protection of the environment and Aboriginal heritage;
- provide that the 'right to negotiate' procedure of the NTA does not apply to the doing of the future acts contemplated by this Agreement; and
- confirm the validity of the grant of 199 freehold titles in the area known as Neighbourhood 5A.

Yawuru RNTBC and the State intend that this package of agreements will provide the following benefits to members of the Yawuru Community:

- social and cultural maintenance and enrichment;

- the right to sustain and practise native title rights and interests;
- just terms compensation for loss, diminution and impairment of native title rights and interests;
- development of economic and commercial capability and capacity; and
- promotion of economic independence.

The agreements will be registered on the ILUA Register and will bind all holders of native title within the determination area pursuant to the NTA.

The parties to the agreements are:

- Yawuru Native Title Holders Aboriginal Corporation RNTBC which is the registered prescribed body corporate for the determination area pursuant to Orders made by the Federal Court of Australia on 8 September 2008, in proceedings WAD 6006 of 1998 (Rubibi) and WAD 223 of 2004 (Rubibi #17). It is a prescribed body corporate to hold the native title rights and interests in trust.
- Ngurra Burru Yawuru LTD, (NBY) a body corporate under the Corporations Act which is a Public Benevolent Institution to hold and distribute the compensation from these agreements.
- The State of Western Australia.
- The Minister for Lands, responsible for the administration of the Land Administration Act and as such is responsible for the grant of land titles and creation of reserves.
- The Conservation Commission of Western Australia, a body corporate under the Conservation and Land Management Act whose function includes, to develop management plans and submit them to the Minister and to accept directions from the Minister in the performance of its functions.
- The Conservation and Land Management Executive Body (Department of environment and conservation)
- The Marine Parks and Reserves Authority
- The Shire of Broome.

Proposed timetable

- A Cabinet Submission seeking approval for the Final Agreements in late October 2009;
- Yawuru ILUA authorisation meeting to be held on 29 October;
- ILUAs to be executed by mid November subject to Cabinet approval;
- Body Corporate Agreement – approximately a 3 month registration period;
- Area agreement – approximately a 6 month registration; and

- Outcomes to be initiated following registration of the area agreement.

COMMENT

The State and the native title claimant group have conducted the “global negotiations” culminating in these four agreements. The Shire has not been a party to the negotiations although the Shire President has received briefings from time to time on the progress of the negotiations. Officers from the Office of Native Title have briefed Councillors on 12 October 2009 and will provide a further briefing on 29 October 2009.

Native Title and Heritage Clearance

The resolution of native title issues enable certain parcels of land to be retained by the State for development (native title extinguished) or transferred to the Shire for drainage, roads, public open space purposes. It has also provided heritage clearances for all land identified for development in Broome. This includes land for residential development (including Broome North), tourism development, industry, and the future airport development on Broome Road.

This is particularly important because:

- Broome has experienced a significant population growth (3.5% average annual growth rate in the period 1998 to 2008 compared with 1.8% for Western Australia);
- The shortage of development land in Broome has led to high land prices (median house sale price for 2009 is \$635,000, which is a reduction from the peak during 2008 of \$715,000);
- Projected population growth from tourism expansion and Browse Basin gas resource exploration and development is high.

All native title rights and interests in the 199 freehold titles referred to as the Neighbourhood 5A Land will be extinguished at registration date.

Participation and Consultation

There is provision in the agreements that where planning processes are undertaken by State agencies or the Shire of Broome in respect of any land within the determination area, the State and the Shire (as applicable) will support Yawuru RNTBC participation and consultation in that process.

To insure there is no intention to fetter Council’s statutory planning discretions it is proposed some additional words be added to cl13.2 of the Yawuru Prescribed Body Corporate Indigenous Land Use Agreement.

Local Government Issues

Some further refinement of cl 13.3 is also considered to be required to ensure the agreement does not fetter the Minister’s statutory planning discretions and does not frustrate or complicate the shire’s planning, building, and health functions.

Memorandum of Understanding

The agreements provide for the parties to enter into a memorandum of understanding within 12 months of the registration date in respect of heritage issues that may arise from time to time within the determination area. The memorandum of understanding will recognise that for the purpose of protecting and preserving heritage, the Yawuru community has the primary and principal interests and rights. It will provide for Yawuru RNTBC to be consulted about heritage issues in the first instance and the parties to consult and deal with each other in good faith.

Conservation Estate

The agreements provide for the creation of significant areas of conservation estate jointly managed by Yawuru, the Shire and DEC, depending on location. Outside the town site the conservation estate will be jointly managed by Yawuru and DEC; inside the town site the conservation estate will be managed by DEC under agreement for Yawuru and the Shire. Additionally the agreements propose a Marine Park extending from Gantheaume Point to Cape Villaret (not including the Broome Port Gazettal Area).

By accepting the agreements as determined by the State, the Shire will be required to relinquish a number of small coastal recreation reserves (Reserves 19289 –Gantheaume Point, Reserve 35828 – Kavite Road, and Reserve 35827 – north of the Port) within the town site that will be incorporated into the conservation estate. The resulting conservation estate Reserves will be a mixture of A class reserves and a standard reserves.

The Inter Tidal Zone (ITZ) north of the Port Area on Cable Beach to the town site boundary will be jointly managed by Yawuru and the Shire. Outside the town site boundary, the ITZ from there to Willie Creek (and including the ITZ in Willie Creek) will be managed in a tripartite arrangement between Yawuru, the Shire and the Conservation Commission under a Land Administration Act reserve.

Yawuru Land

Certain land will be made available to Yawuru for development including residential, tourism and industrial land.

In the agreements the State agrees to take part in discussions with the Shire and to be supportive of NBY being made exempt by the Shire from the payment of rates until NBY has created an ongoing income stream from the development of any of the land transferred to it under these agreements. The Shire is not committed by the agreements and it is anticipated that this matter will be the subject of negotiations between Yawuru and the Shire.

Where NBY considers that a parcel of Yawuru land should be rezoned in order that NBY may make better use of it, the State and the Minister for Lands agree to be supportive of any application for rezoning to the Shire.

Once entered into none of the parties to the agreements can unilaterally withdraw from the agreements.

Advice is also being sought from the Shire's insurers (LGIS) with regard to liability and asset insurance issues relating to jointly managed land. Further information will be provided to Councillors in this regard when it becomes available.

It is considered these agreements provide a constructive path for the future development of Broome with the opportunity for the Yawuru community to play an active role in that future. It is recommended Council authorise the Shire President and Chief Executive Officer to engross the four agreements and any documentation required to be executed to implement the provisions of the agreements.

CONSULTATION

The content of the global negotiations is still confidential.

STATUTORY ENVIRONMENT

Native Title Act 1993
Conservation and Land Management Act 1984
Local Government Act 1995
Land Administration Act 1997

POLICY IMPLICATIONS

A number local laws need to be examined to establish whether they require review in the light of these agreements.

FINANCIAL IMPLICATIONS

These agreements will lead indirectly to a significant increase in the number of rateable properties. There does not appear to be any increased costs associated with entering into the agreements.

STRATEGIC IMPLICATIONS

People

The agreements provide the opportunity for the Yawuru community to actively participate in the future of Broome.

Place

The agreements enable the management and funding for the coastal Park throughout the determination area.

Prosperity

The agreements provide for land to be made available for development necessary for the future of Broome.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

1. *Acknowledges the significant efforts of the Yawuru community and the State in the resolution of issues arising from the determination of the native title claim; and,*
2. *Authorises the Shire President and Chief Executive Officer to engross the four agreements and any further documentation required to be executed to carry out the intent of the agreements subject to some additional wording to improve the clarity in clauses 13.2 and 13.3 of the Yawuru Prescribed Body Corporate Indigenous Land Use Agreement.*

Moved:

Seconded:

FOR:

AGAINST:

Attachment: 157 pages – (156 pages Confidential -to Councillors & Directors only)

9.1.2 COUNCIL MEETING DATES 2010

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: ADM.01
AUTHOR: Council Secretary
CONTRIBUTOR/S: Manager Admin Services
RESPONSIBLE OFFICER: Chief Executive Officer
DISCLOSURE OF ANY INTEREST: N/A
DATE OF REPORT: 14 September 2009

SUMMARY: To seek Council endorsement of proposed meeting dates for Ordinary Council Meetings to be held in 2010, to enable advertising as required under the Local Government Act 1995.

BACKGROUNDPrevious Considerations

OCM 21 December 2006 – Item 9.1.4
 OCM 25 October 2007 – Item 9.1.4
 OCM 20 November 2008 – Item 9.1.2
 OCM 1 October 2009 – Item 9.1.2 (Deferred)

In accordance with Regulation 12(1) of the Local Government (Administration) Regulations 1996, at least once each year a local government is required to give local public notice of the dates, times and place of its Ordinary Council Meetings and Committee meetings required under the Act to be open to the public. As such, the Shire is required to advertise meeting dates for its Ordinary Council Meetings for 2010.

COMMENT

As in the past, Ordinary Meetings of Council are proposed to be held in the Council Chambers on Thursdays, approximately every four weeks, commencing at 5.00pm. Two meetings are proposed on days other than Thursday to accommodate timelines for Local Government Week and Christmas. An Ordinary Council Meeting is also proposed to be held at the Community of One Arm Point for 2 September 2010, at a time suitable to members and One Arm Point Community representatives.

Council resolved in 2007 and 2008 to recess in January to allow staff and Councillors to plan leave during that month. A January recess allows for 12 Ordinary Council Meetings over the calendar year. Should Council choose to meet in January 2010, 13 meetings would be scheduled for 2010.

The following 13 meeting dates are proposed for Ordinary Council Meetings for 2010, commencing at 5.00pm, including the option of 21 January meeting. Agenda item closing date for the January meeting would be 7 January 2010.

Thursday	21 January 2010 (or recess)
Thursday	18 February 2010
Thursday	18 March 2010
Thursday	15 April 2010
Thursday	13 May 2010
Thursday	10 June 2010

Thursday	8 July 2010
Tuesday	3 August 2010
Thursday	2 September 2009 (One Arm Point)
Thursday	30 September 2010
Thursday	28 October 2010
Thursday	25 November 2010
Wednesday	15 December 2010

These meeting dates have been proposed, taking into account:

- Local Government Week 5-7 August
- Shinju Matsuri Festival 27 August - 4 September
- The December meeting has been brought forward to Wednesday to allow for the minutes to be completed and distributed prior to the Christmas break

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

5.25. Regulations about council and committee meetings and committees

(1) Without limiting the generality of section 9.59, regulations may make provision in relation to —

(g) the giving of public notice of the date and agenda for council or committee meetings;

Local Government Act (Administration) Regulations 1996

12. Public notice of council or committee meetings — s. 5.25(1)(g)

(1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which —

(a) the ordinary council meetings; and

(b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public,

are to be held in the next 12 months.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Catering, staff and physical resource costs should a January meeting be held.

STRATEGIC IMPLICATIONS

People

Effectively engage with our community by encouraging participation and providing information.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council endorses the following Ordinary Council Meeting dates for 2010, meetings commencing at 5.00pm at the Shire of Broome Council Chambers, with the exception of 2 September 2010 meeting, to be held at the One Arm Point Community at a time suitable to members and One Arm Point Community representatives:

<i>Thursday</i>	<i>21 January 2010 (or recess)</i>
<i>Thursday</i>	<i>18 February 2010</i>
<i>Thursday</i>	<i>18 March 2010</i>
<i>Thursday</i>	<i>15 April 2010</i>
<i>Thursday</i>	<i>13 May 2010</i>
<i>Thursday</i>	<i>10 June 2010</i>
<i>Thursday</i>	<i>8 July 2010</i>
<i>Tuesday</i>	<i>3 August 2010</i>
<i>Thursday</i>	<i>2 September 2010 (One Arm Point)</i>
<i>Thursday</i>	<i>30 September 2010</i>
<i>Thursday</i>	<i>28 October 2010</i>
<i>Thursday</i>	<i>25 November 2010</i>
<i>Wednesday</i>	<i>15 December 2010</i>

Moved:***Seconded:******FOR:***
AGAINST:[Attachment: 2 pages](#)

9.1.3 SHORT TERM INDIGENOUS ACCOMMODATION

LOCATION/ ADDRESS: Broome Road, Broome
APPLICANT: N/A
FILE: LPA-01
AUTHOR: Chief Executive Officer
CONTRIBUTOR/S: Kadar Pearson & Partners (Report Author)
RESPONSIBLE OFFICER: Chief Executive Officer
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 13 October 2009

SUMMARY: Consideration of the recommendations of the Kadar Pearson report into short term indigenous accommodation and other social service delivery for indigenous persons in the townsite of Broome.

BACKGROUNDPrevious Considerations

OCM 16 April 2009 – Item 12.1
OCM 4 August 2009 – Item 9.3.6

COMMENT

This report was commissioned through Federal government funding (\$50,000) provided by the Indigenous Co-ordinating Committee, Broome Office and appreciation must be extended to Colin Kenworthy of that office for assisting the Shire of Broome in sourcing the funding to undertake this review.

Part funding received (\$20,000) was also used towards slashing and removal of excess rubbish and vehicles that had accumulated over time and not been removed by the government's management agency for the area. This also included the recovery of a child's playground and ablution block that was overgrown and un-serviceable until Shire contractors cleaned the site.

The instigation of the overall process was as a result of a meeting with Mr Aspinall of the Indigenous Co-ordination Committee with the President and Chief Executive Officer who requested assistance from the Shire of Broome to facilitate a co-ordinated response from stakeholders that involved local government to initiate some actions to see a whole of government approach for the development of service provision for Broome.

The report prepared by Kadar Pearson & Partners identifies a number of key issues in relation to short term indigenous accommodation and provides a set of recommendations that could be instigated by government to fill gaps in service provision to aboriginal persons.

The report is detailed and analyses well the specifications requested to be undertaken by the consultant.

CONSULTATION

Colin Kenworthy
Significant consultation undertaken by the KPP

STATUTORY ENVIRONMENT

N/A

POLICY IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

Funding was sourced from the Commonwealth to undertake the report.

STRATEGIC IMPLICATIONS

People

The report details provisions for government to consider in relation to Short Term Accommodation and other integrated service delivery models that should be considered by the Commonwealth and State governments in relation to Indigenous services.

It is considered critical that the State government liaise directly with the community at Nillir Irbanjin to ensure that this community is fully aware of those services being proposed and redevelopment of the site should the Commonwealth and State governments agree to fund new housing and hostel services within the district.

Place

District of Broome

Prosperity

Should government consider the recommendations and provisions as contained in the report then these provisions may provide opportunities for development of some dysfunctional services within the Shire of Broome.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

1. *Adopts the report and recommendations as contained within the Kadar Pearson & Partners Report.*
2. *Authorises the Chief Executive Officer and Shire President to lobby relevant government agencies and Ministers to seek the objectives as detailed within the report particularly the redevelopment by government of the "One Mile Area" for the benefit of aboriginal persons.*

Moved:

Seconded:

FOR:

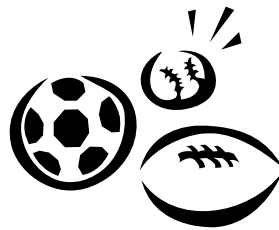
AGAINST:

(Confidential Attachment: 75 pages – To Councillors & Directors only)

9.2

COMMUNITY

SERVICES



OUTCOME

*To facilitate the social wellbeing and development
of the community.*

9.2.1 TRANSFER OF LICENCE FOR TRADING IN PUBLIC PLACES

LOCATION/ ADDRESS: Cable Beach
APPLICANT: Mr Christopher Hill – Trading as “Ships of the Desert”
FILE: COS11.3
AUTHOR: Manager Emergency, Ranger & Beach Services
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Director Community Services
DISCLOSURE OF ANY INTEREST: N/A
DATE OF REPORT: 11 September 2009

SUMMARY: A letter has been received from Mr Christopher Hill, proprietor of “Ships of the Desert” Camel Tours requesting Council approve the transfer of his Licence for Trading in Public Places (Cable Beach) to Ms Samantha Cousins.

It is recommended that Council approve the transfer of licence from Mr Christopher Hill to Samantha Cousins, subject to all relevant conditions as detailed in the Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2003 and Council’s Commercial Camel Activities on Cable Beach Policy being met.

BACKGROUNDPrevious Considerations

OCM -5 July 2007

At the OCM held on the 5 July 2007 Council resolved to approve the transfer of a commercial camel trading licence and business name from Mr Abdul Casley to Mr Christopher Hill.

Mr Hill has been trading as Ships of the Desert since that time and been issued a licence under Council’s Camel Commercial Activities on Cable Beach Policy for five years expiring in June 2013.

COMMENT

The Trading, Outdoor Dining and Street Entertainment Local Law 2003 paragraph 5.3.1 states that a trading licence is only transferable with the approval of the local government and on payment of the transfer fee.

Mr Hill has indicated in a letter (see attached) dated 16 September 2009 to the Shire of Broome that he is in breach of contractual arrangements with respect to the sale of the business “Ships of the Desert” from Mr Abdul Casley in 2007 and subsequently Mr Casley has reclaimed the business to sell under contract to Ms Cousins.

Mr Hill has provided a copy of this documentation to the Shire.

Should the transfer be approved Ms Cousins has indicated that all conditions currently contained on that licence will be met.

Application

Applicant	Samantha Cousins
Shire of Broome Form	Received 14 September 2009
Application/Transfer Fee Paid	\$250.00
Information on Form	Completed
Appropriately zoned land	Copy of Crown Land Title lease agreement attached (in the name of Christopher Hill – to be shown as transferred in new documentation)
Approvals	Approval to keep a large animal and approval to lead, walk or ride large animal in public completed and subject to licence transfer.
Public Liability Insurance	Copy of Schedule \$10M valid to 2009 provided.
Details of Proposed Activity	Commercial Trading Activity on Cable Beach namely Camel rides.
Additional Information	Details of location and time of operation: 8am – 9am, 3pm – 6pm, 7 days a week; Experience in conducting the commercial camel activities: satisfactory statement addressing this criteria has been provided.
Summary	Necessary copies of documentation to be submitted to the Shire: <ol style="list-style-type: none"> 1. appropriate lease holding documentation in the name of Ms Samantha Cousins (transfer in progress) 2. appropriate Public Liability Insurance Schedule in the name of Ms Samantha Cousins (transfer in progress)

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

“3.5. Legislative power of local governments

- (1) *A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.*
- (2) *A local law made under this Act does not apply outside the local government's district unless it is made to apply outside the district under section 3.6.*
- (3) *The power conferred on a local government by subsection (1) is in addition to any power to make local laws conferred on it by any other Act.*
- (4) *Regulations may set out —*
 - (a) *matters about which, or purposes for which, local laws are not to be made; or*
 - (b) *kinds of local laws that are not to be made, and a local government cannot make a local law about such a matter, or for such a purpose or of such a kind.*
- (5) *Regulations may set out such transitional arrangements as are necessary or convenient to deal with a local law ceasing to have effect because the power to make it has been removed by regulations under subsection (4).”*

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

“Licence restrictions

5.3.1 A trading licence is only transferable with the approval of the local government and on payment of the transfer fee.”

POLICY IMPLICATIONS

Trading Licence transfer and conditions set in accordance with Council’s Commercial Camel Activities on Cable Beach Policy.

FINANCIAL IMPLICATIONS

Transfer of Licence Fee of \$250 applies and has been paid in full.

STRATEGIC IMPLICATIONS

People

Actively contribute to well-being and safety and support community initiative.

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

Prosperity

Support business and economic development

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

- A. *Approves the transfer of Trading Licence from Christopher Hill to Samantha Cousins, subject to:*
 - 1. *All relevant conditions as detailed in the Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2003 and Council's Commercial Camel Activities on Cable Beach Policy being met.*
 - 2. *Information relating to an appropriate lease held by Christopher Hill over property for the purpose of the penning and grazing of camels or permission to use such property designated for this purpose, has been transferred to Samantha Cousins, being provided to the Shire.*
 - 3. *All necessary approvals (eg planning approval) for all aspects of the operation being obtained and evidence of such approvals presented to the Shire.*
 - 4. *Provision of public liability insurance cover to the value of \$10,000,000 at all times.*

Moved:

Seconded:

FOR:

AGAINST:

(Attachment: 45 pages – Confidential – To Councillors & Directors only)

9.3

DEVELOPMENT

SERVICES



OUTCOME

To pursue sustainable development that will protect and enhance the Shire's unique heritage and environment and facilitate increased employment.

9.3.1 IMPLEMENTING DEVELOPMENT ASSESSMENT PANELS IN WESTERN AUSTRALIA - DEPARTMENT OF PLANNING

LOCATION/ ADDRESS: Western Australia
APPLICANT: Department of Planning
FILE: PLA 01
AUTHOR: Director Development Services
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Director Development Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 16 October 2009

SUMMARY: The Department of Planning has advised of a discussion paper "*Implementing Development Assessment Panels in Western Australia*" setting out the model the Government is committed to implementing. The model includes assessment panels independent of local government being responsible for developments above a certain value.

This report provides comments on various aspects of the proposal and recommends some modifications to the model.

BACKGROUND

Description of the Proposal

The Department of Planning has advised by letter dated 11 September 2009 (Attachment 1) the release of a discussion paper - *Implementing Development Assessment Panels in Western Australia* - setting out the assessment panel model the Government is committed to implementing. The letter was accompanied by the discussion paper and a questions and answers document and the discussion paper contains a seven page feedback form which seeks to shape feedback to a predetermined format. The letter advises any submission should be provided to the Department of Planning by Monday 2 November 2009 and that a series of were to be held across the State explaining the proposal. A presentation was held in Broome on to October 2009 attended by councillors and staff from the Shires of Broome, Derby West Kimberley and Wyndham East Kimberley.

The model provides for two types of assessment panels; the type applicable to the Shire of Broome is the Joint Development Assessment Panel to determine applications made to two or more local governments that do not have high growth to support their own local development assessment panel. The development assessment panels will be mandatory and will determine applications made under planning schemes meeting particular criteria to be established by regulation.

The objectives of the proposed model are listed as:

- *Streamline the determination process for particular types of development applications, by eliminating the requirement for two decision-makers to make a decision on the same development application where the provisions of both local and region planning schemes apply;*
- *Involve independent technical experts in the determination process, in accordance with the DAF Leading Practice Model;*

- *Encourage an appropriate balance between independent professional advice and local representation in decision-making for significant projects; and*
- *Reduce the number of complex development applications being determined by local governments, to allow local governments to focus their resources on strategic planning.*

Requirements for dual approvals

Certain areas of the State are covered by both a region scheme and a local planning scheme. In most instances responsibility for determining approvals under the region scheme is delegated to local authorities so that both approvals can be determined at the one time. There are however a limited number of circumstances where the authority is not delegated and separate determinations are required by both the local authority and the regional authority. The proposed development assessment panel model would provide for certain applications to require only one determination by the development assessment panel.

Local government resources

The discussion paper identifies that local governments are required to spend a large amount of resources assessing applications for planning approval. It identifies that some local authorities have limited resources and may lack staff with appropriate expertise in assessing complex development applications. It claims this lack of resources may affect the timeliness and consistency of planning decisions.

A further claim is that skilled local government staff are often distracted from addressing long-term strategic planning which should be the focus of planning authorities by administering development application determinations.

Lack of regional planning

The discussion paper points out many areas of the State do not have region planning schemes but if there were regional planning schemes the development assessment panel model would help to eliminate the requirement for dual approvals.

Development industry bodies

It is noted in the paper that development industry bodies have been vocal in their criticism of the development assessment process particularly the time taken for determinations. The State government is committed to improving the planning process by addressing approval timelines and streamlining approval requirements.

Development assessment panels

It is proposed to amend the Planning and Development Act 2005 and introduced regulations to prescribe that for certain development applications the provisions relating to responsibility for determination would be overridden in favour of the appointed panels. In effect the appointed panels would be determining certain development applications in place of the local authority.

The discussion paper claims the proposed panels will not introduce a new approval system but operate within the existing system. It also claims that this should assist local governments and the Western Australian Planning Commission by allowing them to focus

on the development of strategic planning instruments, rather than the administration of them, and that the development assessment panels will not undermine the decision-making role of local governments as decisions by the development assessment panels will be determined within the local policy framework set by the local government.

The joint development assessment panels (JDAPs) will consist of three independent specialist members and two elected members of the local authority has application is being considered. The members will be appointed by the Minister.

The intent of the non-metropolitan joint development assessment panels are to assist with strategic planning, but more significantly to overcome resource and skill shortages within the individual councils by grouping their resources and allowing them to refer as much of their decision-making power as is necessary to promote effective planning.

It is proposed there would be one JDAP for the Kimberley region to determine certain planning applications from each of the four Kimberley local authorities. The proposal is that the JDAP would determine development applications with the value over \$1 million meeting the selection criteria set out in attachment 2.

How the system will work

An application is made to the local authority and an assessment carried out by staff and or consultants as is currently the case. If the application is for a class of development that is required to be determined by a panel, an assessment report is compiled by the local authority staff and included in the agenda for the next meeting of the panel. If the application is for a class a development that is not required to be determined by a panel an assessment report will be prepared for either determination by local authority staff under delegated authority or for inclusion in an agenda for determination by the elected council. All of the necessary administrative work, receiving the application, any advertising for public comment, agenda preparation, meeting support, and advising proponents and others where necessary of the determination will be carried out by the local authority. In addition to these administrative costs the local authority will also be responsible for payment of the appointed specialist members for their time in preparing for and participating in the determination.

It is also proposed that the local authority will publicise the determinations made by the panels and prepare an annual report to the Minister for Planning detailing the panel determinations and the voting history of the panel members.

The discussion paper has been released for public consultation to inform the drafting of the new regulations that will implement the development assessment panels.

COMMENT

The proposed model for DAPs will involve a complete change in the approach to the assessment of development applications in WA. It will take the emphasis away from elected members responsible to the community and place it instead on specialists appointed by and responsible to the State. This proposed change is presented as following the example of practice in other states but it will sideline local government and community interest to a greater extent.

The change is clearly not justified by the "issues" set out in the Discussion Paper all the accompanying Questions and Answers Paper.

The first issue identified is an alleged lack of transparency with discussion about delegation of decision-making to local government officers. This is difficult to understand as most local authorities that exercise their powers of delegation do so for the approval of applications, with determinations for refusal being exercised by the elected members. If lack of transparency is concerned with the existing approvals process it is considered that this would be relatively easy to address with far less effort than is involved in introducing the proposed development assessment panels.

It would be a relatively simple exercise to require all local government development determinations (whether the result of a council determination or of an officer acting under delegated authority) to be published in a form more readily accessible to the public than Council meeting minutes. It would also be simple to require local governments to report on their development assessment activity under their local planning scheme annually to the Minister for Planning.

Another issue identified in the discussion paper is the limited local government resources available for the assessment of development applications. It is readily apparent that many local governments have limited staff and financial resources and this may on occasion cause some delay in the assessment of development applications. It is also readily apparent that the proposed model of development assessment panels will not make the slightest difference to the situation as the local government will still be required to assess the application and prepare the report for determination. The fact that the assessment panel or the elected council has individuals with greater or lesser expertise in a development specialty area will not have any impact on the resources required to carry out the assessment. This is obvious to anyone with experience of the State Administrative Tribunal process.

If there is genuine concern for the resources available to local government to assess development applications a more productive approach than the proposed model may be to provide a level of funding for local governments to be able to access approved independent consultancies to assist in the assessment. This would be far more beneficial than the proposed model which will add to the financial burden of local government without any obvious benefits.

Another issue addressed in the discussion paper is identified as striking an appropriate balance between local representation and professional advice. The existing model involves local government staff assessing the application and preparing a report and recommendation (professional advice) and the matter being determined by Council of elected members (local representation). This appears to be an appropriate balance. To claim this is a problem with the existing model must be based on an assumption that decisions are not a balance between professional advice and local representation.

The proposed model of appointed panels would certainly remove any effective local representation but would not necessarily have any impact on professional advice or improve the outcomes for the community by altering the balance between the two. This is apparent to anyone who has had the opportunity to observe the State Administrative Tribunal in action where technical experts often display a range of opposing good will opinions and filling a panel with independent experts is unlikely to improve the quality of the decision-making.

If the stated reasons for establishing the development assessment panels do not stand up to examination it is reasonable to look for likely reasons for the introduction of the change. These may include the following points listed in a recent presentation by Mr Dennis McLeod to the Local Government Planners Association (Attachment 3):

- a) *The fact that development industry bodies have been vocal in their criticism of the development approval process;*
- b) *The government has made commitments for change to the development industry; and*
- c) *Planners and other specialists serving the development industry are convinced they are better equipped to determine development applications than elected councillors.*

The use of terminology such as independent specialists to describe proposed panel members suggests it is unlikely that any such specialists will be currently employed by local government or state agencies. This suggests that local and state government employees are unable to be independent whereas consultants engaged with the development industry now or in the past are considered to be independent.

The discussion paper lists a number of benefits of the proposed assessment panels but it is considered these supposed benefits should not be accepted at face value.

***Timeliness:** As a development assessment panel will be the only decision-making body responsible for determining development applications for significant projects where dual assessment would ordinarily be required, the overall time taken to determine the application shall be reduced. For panels established voluntarily, the participation of independent and technical experts will save the costs and time delays you should occurred at the bearing of such experts to brief the decision-making authority.*

This is the most superficial of the issues identified in the discussion paper. If all the development applications to be determined by an assessment panel are currently being determined by local government councils, there will not be any discernible change in the time taken for these assessments. Every development application to be determined by an assessment panel that is currently being determined by local government officers under delegated authority will take longer it determined by a panel than under the current process. This claim for more timely development assessments is clearly not true.

The Shire of Broome does not operate under a system requiring dual assessments as there is not yet a region planning scheme for the area. If complicated applications were to be received requiring the engagement of technical experts to provide advice it is likely that any Kimberley wide development assessment panel would also require such technical expert advice. There would not be any detectable reduction in the cost or time taken to assess such applications.

The assembling of the number of development assessment panels envisaged in the proposed model could well impact on the shortage of experienced planners which could exacerbate *issues such as timeliness*

The issues most often identified as affecting the timeliness of the development applications are those where approval is required by one or more state agencies (environmental protection authority, Department of planning etc). A proposal to address delay in these areas would clearly be a benefit but the proposed model does not address this area at all.

***Efficiency:** By only requiring one decision-making body to determine applications for significant projects, applicants will incur fewer costs and fewer government resources will need to be dedicated to the matter.*

The Shire of Broome does not operate under a system requiring dual assessments therefore there will be no reduction in the costs and resources required for the assessment of applications. If an application was considered to be of regional significance under a region scheme such application would need to be assessed by both the local and the region authority so there would not be a reduction in government resources required to carry out the assessment.

***Simplicity:** Eliminating the need for dual approval will simplify the application process for significant projects, as well as for development applications made to local governments that have delegated powers to a panel.*

It is agreed that development applications may be of state, regional, or local significance and that the decision-making should take place at the appropriate level. For this to be achieved there would need to be changes to the existing legislation but that would be no more difficult than the changes that will be required to introduce the proposed assessment panels. There are undoubtedly more effective ways to simplify the current legislation than the introduction of assessment panels.

The Shire of Broome does not operate under a system requiring dual assessments therefore there will be no reduction in the complexity of the application process. The Shire of Broome has a comprehensive system of delegation to officers which achieves significant measurable reduction to processing times. The delegation of these powers to a panel in place of the existing delegation to officers would significantly increase processing times and resources required.

***Transparency:** Decisions made by development assessment panels will be transparent and publicly accessible, as they will be made in a public forum. Voting trends will be recorded and made publicly available.*

The determination of development applications by the Shire of Broome are transparent and publicly accessible as they are either made by officers under delegated authority or by the Council in public in open meetings. The only difference between a Council decision and a decision by one of the proposed panels is that the voting of the panel members would be recorded in every instance rather than by request.

It would be a very simple matter to introduce changes to the current system to provide an appropriate degree of transparency. This would have the added advantage that it would maintain community accountability that would be diminished by the proposed model.

***Sustainability:** The involvement of both independent experts and elected members on a development assessment panel should ensure that the panel makes the most sustainable decision possible.*

There is no evidence and no basis for any assertion that decisions made by one of the proposed panels would be any more sustainable than decisions made by an elected Council.

***Accountability:** Development assessment panels will be required to report regularly to the Minister on their decisions, and panel members will be subject to a strict Code of Conduct. Voting trends will be recorded and made publicly available.*

If there is a value to be gained from regular reporting of development assessment decisions to the Minister this could be made a requirement for local government. Similarly if there is a value to be gained from the recording and publication of votes on

development assessment decisions, this could be made a requirement for local government. If this is a benefit to be derived from the proposed panels it could be easily be derived from the existing process.

***Fairness:** Applicant's will be able to make an application for review to the State Administrative Tribunal regarding a discretionary decision made by a development assessment panel (unless called in by the Minister).*

Applicants are able to make an application for review to the State Administrative Tribunal regarding discretionary decisions made by an elected council. There is no additional benefit to be achieved by the proposed panels.

***Consistency:** The application and determination process for significant projects will be clear, as the criteria for such applications will be identified in the regulations made to support the panels. In addition, the confusion surrounding dual approval requirements will be eliminated by development assessment panels consistently being the determining authority for applications made in particular local government areas. Development assessment panels will make decisions in accordance with the existing planning framework.*

If the application and determination process for significant projects is unclear, this can be rectified by regulation as is proposed. There is no additional benefit to be achieved by the proposed panels.

***Suitability:** Development assessment panels will determine development applications for matters of State and regional significance. Panels may also be created by the Minister to determine applications made to a non-performing local government, or to a local government that is voluntarily participating in the development assessment panel.*

If there is a problem with the determination of matters of State and regional significance, or with non-performing local governments, these problems need to be identified publicly and a suitable solution put in place. A proposal similar to the proposed development assessment panels may be a suitable option for resolving such problems but a convincing case for that is yet to be made.

It is recommended Council make a submission in response to the discussion paper outlining possible improvements to the existing process, the lack of evidence to support change to the existing process, reinforce the appropriateness for determinations to be made by local government, highlight the inability of appointed councillors to represent the council, and identify the cost increase that will arise from the proposal.

CONSULTATION

The discussion paper was distributed on 11 September 2009 and submissions are due on 2 November 2009.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

POLICY IMPLICATIONS

Council may wish to review local planning policies in the light of this proposal to ensure they explicitly address the interests of the local community.

FINANCIAL IMPLICATIONS

The proposed development assessment panel model will increase costs and staff time required for development assessment.

STRATEGIC IMPLICATIONS

People

The proposed development assessment panel model would result in diminished accountability for development approval determination to the local community.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council advises the Director-General of the Department of Planning the following points as its submission on the discussion paper "Implementing Development Assessment Panels in Western Australia":

- 1. The existing system for the assessment of development applications by local government could well be improved by a number of the measures included in the discussion paper such as special training for elected members, improved publication of determinations, annual reporting of local government determinations, more clarity between matters of state regional or local significance.*
- 2. The existing system could be improved by the establishment of performance indicators and the assessment of local governments against those indicators.*
- 3. In the absence of any credible evidence to the contrary Council considers the quality of its development assessment to be satisfactory and is not aware of any convincing arguments for the system to be radically changed.*
- 4. Council is convinced that development applications that are not of state or regional significance should be the responsibility of the local government as that is the most effective way to ensure that the interests of the local community are given appropriate consideration.*
- 5. Council is concerned that elected members would be outnumbered by appointed specialists on the proposed panels but even if elected members were in a majority they would only be able to operate as individuals and not represent the local government and therefore the local community.*
- 6. Council considers it inequitable that local government will be required to face increased costs for development assessment as the State imposed limit on application fees removes any possibility for cost recovery for development assessment.*

7. *The Minister for Planning be requested to provide a cost benefit analysis for the Development Assessment Panel and local government processes and review the Development Application Fees Regulations accordingly to ensure that the implantation of the Development Assessment Panel process is cost neutral to local government..*
8. *If the Development Assessment Panel process is proceeded with it is suggested the development approval value criteria for the north west, that is, all that area above the 26th parallel be increased from \$1,000,000 to \$10,000,000.*

Moved:

Seconded:

FOR:

AGAINST:

[Attachment: 20 pages](#)

9.3.2 PROPOSED DISTRICT DEVELOPMENT PLAN AND LOCAL DEVELOPMENT PLAN – BROOME NORTH, CABLE BEACH, DJUGUN AND BILINGURR

LOCATION/ ADDRESS:	Lots 3128, 3129, 3130, 3132, 3149, 3150, 3106, 3107, 300, 301, 2646, 2658, 2659, 3091, 304 and 687 north of Gubinge Road, west of Broome Road and east of Lullfitz Drive, Cable Beach, Djugun, Bilingurr
APPLICANT:	LandCorp
FILE:	PLA 67
AUTHOR:	Dan Pearce of Roberts Day on behalf of LandCorp
CONTRIBUTOR/S:	Manager Planning Services and Planning Officer Rene Human
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE OF REPORT:	29 September 2009

SUMMARY: A District Development Plan and Local Development Plan have been prepared for the area referred to as Broome North. These plans have been developed through a Planning Design Forum process which has involved key stakeholders including the Shire of Broome.

The District Development Plan puts in place the strategic services and infrastructure framework and the Local Development Plan provides more detail for the consideration of subdivision and development applications. A series of technical reports accompany the plans as appendices.

In accordance with the Shire of Broome Town Planning Scheme No4 a Development Plan, when prepared, is required to be publically advertised for a period of time not less than 28 days.

This report recommends that Council adopts the District Development Plan and Local Development Plan for the purposes of advertising for public comment for a 42 day period from 2 November 2009 to 14 December 2009. This extended period of consultation is considered appropriate given the significance of the project.

BACKGROUND

Previous Considerations

OCM 4 August 2009 – Item 9.3.2

History

At its 4 August 2009 meeting Council resolved the following:

1. *Endorses the Broome North 'Statement of Roles and Responsibilities'*
2. *Authorises the Shire President and Chief Executive officer to sign the document*
3. *Writes to the Minister of Lands setting out the case of a revised model of land valuation to provide for affordable housing.*

Site and Surrounds

The subject land comprises almost 700ha of land being Lots 3128, 3129, 3130, 3132, 3149, 3150, 3106, 3107, 300, 301, 2646, 2658, 2659, 3091, 304 and 687. The land is located north of Gubinge Road, west of Broome Road and east of Lullfitz Drive and is generally referred to as Broome North.

The land is traversed north/south by Magabala Road (un-constructed) and Buckleys Road. Fairway Drive (partly sealed) traverses the site east/west. Locke Street (unconstructed) traverses the land in a northerly direction providing access to a private lot on the northern boundary. The majority of the land is Unallocated Crown Land (UCL), with 4 parcels of land privately owned freehold land and one property owned by the Water Corporation.

The site is predominantly flat, with the exception of a small ridgeline running northeast to southwest, and largely vegetated. Key attributes of the site include:

- 'Blue Haze' light industrial area in the southeast corner adjacent to Broome Road;
- An existing water supply tank located on a dedicated site on the western section;
- A disused poultry farm located in the eastern portion of the site on the southern side of Fairway Drive;
- The town's Waste Management Facility adjacent to the site's northern border;
- Rural Living properties located adjacent to the northwest and northeast corner of the site.
- Residential properties and tourist sites located adjacent to the southwest and south and a culturally important area ('Hidden Valley') located to the west;
- The Energy Development Limited low pressure gas pipe contained in a 10 metre easement in the Magabala Road reserve and along Buckley Road; and
- Horizon Power has an 11 kV copper cable within Fairway Drive.

Attachment 1 – Location Plan

Zoning

The southern portion of the site is zoned 'Development' in the Shire of Broome Town Planning Scheme No.4 (TPS 4). The northern portion of the site is currently zoned 'Rural Living' with portions reserved for 'Environmental Cultural Corridor' and 'Public Purposes – Water Supply'. Several small sections along the western boundary of the site are identified as being 'Flood Prone Land'. A former abattoir site comprising freehold land is identified on the Scheme Map as being 'Possible Contamination Site'.

The Scheme Map identifies two buffer areas:

- a 500 metre buffer extending south from the 'Water Management Facility' located on the northern boundary; and
- a 300 metre buffer around the former 'Poultry Farm' south of Fairway Drive.

The Council at its Ordinary Council Meeting of 9 July 2009 initiated a scheme amendment (No 57) over the northern portion of the site to rezone it to "Development".

Description of the Proposal

Under the Scheme the purpose of the 'Development' zone is "to provide for general urban development including residential, commercial and/or tourist development or rural

development in accordance with a Development Plan prepared under this Scheme." Specifically, the Scheme provides that development will not be permitted and subdivision will not be supported unless in accordance with an adopted Development Plan.

To comply with the requirements of the Scheme and to facilitate long term land supply as a means to address the affordability issue for the expansion of Broome, LandCorp has prepared a District Development Plan and a Local Development Plan for the Broome North site.

The District Development Plan

This has been prepared with public input, commencing with a four day intensive Planning Design Forum hosted by LandCorp between 19 - 22 August 2009 and followed by a community open day on 19 September 2009. The Plan provides a high level structure for the future development of the whole Broome North site including how broad land uses, essential services, main movement systems and major conservation and recreation areas are to be provided. The plan's notable features include:

- A series of discrete, walkable neighbourhoods separated by linear open space areas;
- Development of in excess of 4,800 lots (indicative figure) based on a "transect " principle which has development progressing from the natural environment through areas of increasing density and urban character;
- Two local activity centres to provide an appropriate standard of commercial and/or community facilities to the future development;
- A network of linear open space running generally north-south incorporating retained bushland with passive Public Open Space (POS) for community use;
- Provision for two primary schools, a high school and a site for private education;
- A 150m Environmental Cultural Corridor connecting Dampier Creek to the east with the coastal dunes to the west. This will comprise retained bushland, public pathways for controlled access and the opportunity for water sensitively designed swale drainage;
- Extension of the existing 'Blue Haze' light industrial estate; and
- Sites for future expansion of water and power facilities.

The Local Development Plan

This encompasses an area of approximately 126ha in the southeast corner adjacent to Gubinge Road and including the 'Blue Haze' Light industrial estate. This could be referred to as Stage 1 of the Broome North. In addition to the elements contained in the District Development Plan relevant to the area, the Local Development Plan provides greater detail of the following key features:

- A 4.5ha for a future primary school and associated early childhood learning centre;
- A total of over 550 residential dwellings (Final yields will be confirmed once detailed subdivision design progresses). This mix comprises the following :
 - Approx 64% being single residential dwellings coded between R20 – R25;
 - Approx 21% residential dwellings provided on duplex sites coded R30/40. The R40 coding being a bonus applicable where lots are amalgamated – which can yield an additional 2 dwellings; and
 - Approximately 16% being Grouped Dwelling lots. These are located close to the Local Activity Centre and areas of higher amenity.
 - A 1,500sqm Local Activity Centre in a 'main street' configuration to contain commercial and civic 'shop-top' housing, office space and other community and commercial uses such as medical uses;

- An integrated network of linear open space, bushland and local parks performing numerous functions including local habitat (notably northern brushtail possums), civic spaces, active community use and drainage;
- Provision of a site for a future tennis club;
- Extension of the existing 'Blue Haze' light industrial estate, including a more balanced spread of lot sizes comprising approximately 15% of 1500-2000sqm lots, 65% of 2000-3000sqm and 15% of 3000-4500sqm lots; and
- Retention of existing underground gas easements and infrastructure within the local road network and open space.

Attachment 2 – Broome North District Development Plan – front page and map

Attachment 3 - Broome North Local Development Plan – front page and map

Attachment 4 - Technical Reports – some executive summaries

Note: Because of the size and number of documents attachments to this report consist only of selected extracts.

Planning Provisions

The Scheme states that the aim of the 'Development' zone *is to provide for general urban development including residential, commercial and/or tourist development or rural development in accordance with a Development Plan prepared under this Scheme.* Specifically, the Scheme provides that development will not be permitted and subdivision will not be supported unless in accordance with an adopted Development Plan. Clause 4.25 of the Shire's TPS No. 4 describes the requirements and procedures for the development and approval of a Development Plan.

A Development Plan is required to be advertised for public comment and submissions prior to its consideration and adoption by both Council and the Western Australian Planning Commission. The periods of public display is specified as being a minimum 28 days.

COMMENT

Consultation

LandCorp has undertaken extensive public consultation in the preparation of the District Development Plan for Broome North. This has included:

- Extensive preliminary liaison with government stakeholders, utility and service providers, community groups and local residents;
- Formation of a Community Reference Group to provide local input into the development of the proposal;
- Four day intensive Planning Design Forum hosted by LandCorp at the Mangrove Resort Hotel between 19-22 August 2009. The substantive elements of the District Development Plan were resolved and agreed as an outcome of the Forum. A Planning Design Forum Report (included in the Appendices) details the outcomes of the Planning Design Forum, including all presentations given.
- Community Open Day held by LandCorp at the Boulevard Shopping Centre on 19 September 2009. This was attended by approximately 280 people and provided a range of useful and supportive feedback on the District Development Plan. A summary of the verbal and written comments received at the Open Day is provided below:

- Queries in relation to the potential closure of the extension of Lullfitz Drive/Fairway Drive. Questions were predominantly related to vehicle traffic but also how camels and pedestrians would be accommodated.
- Queries about the impact development will have on existing property values - land release should not undermine existing property values.
- Development should occur "the sooner the better".
- What will be the method of land release and how much will lots cost?
- Where and how will social housing be located? Concern that this could impact on property values within the development.
- Queries about whether the Anglican School will be established and when.
- Will development mean the speedway has to close?
- How and when will the Shire progress the proposed caravan park?
- The existing hospital is at maximum capacity and won't be able to accommodate this many more people. A suggestion was made that land be allocated for a new facility in Broome North
- Water tanks should be mandatory component of all houses.
- Query that north-south street orientation might not maximise opportunities for breezes.

During the preparation of the draft Development Plan a number of people sent in written submissions on particular topics, These submissions will be included in the Schedule of Submission considered by Council at the conclusion of the consultation process. The items included such matters as:

- Closure of Lullfitz Drive,
- Climatically sensitive subdivision and housing design
- Retention of flora and fauna
- Subdivision design should not replicate Januburu
- provision of special schools/community centre
- That a particular property be excluded from the rezoning process
- Social housing location and percentage
- Provision of a caravan park
- Include community garden areas
- Larger lot sizes

Summary of Documentation

Given the extensive scale of the landholding (almost 700ha), it was considered necessary to put in place the strategic services and infrastructure framework at the District Development Plan level and then provide for the preparation of more detailed Local Development Plans as a precursor to subdivision and development.

District Development Plan

The Statutory Section establishes the head of power from which the Development Plans are created. It also references the Statement of Roles and Responsibilities and sets out the Development Requirements and the objectives of the Transect zones. Also included is the District Development Plan.

The Explanatory Report covers such matters as :

1. Design approach
 - Liveability - how this is considered against key elements such as landscape and culture, natural environment, transport and access, housing, community, urban design and place and servicing.

- Transect – describes how this approach is used as an organising principle for the pattern of human settlement. Each transect zone has its own character defined by its streets, public spaces and buildings.
2. Site analysis
 - The key elements of liveability were used as the basis for a thorough analysis of the site.
 - Through technical investigations opportunities and constraints regarding economy, servicing, landscape and culture, housing, natural environment and urban structure were identified. These were then worked through during the Planning and Design Forum to ensure that all opportunities were explored and constraints addressed.
 3. Design Process – explains the Planning Design Forum process, participants and outcomes.
 4. Concept Plan - Key outcomes of the Planning Design Forum resulted in a design concept that was presented to the public and all relevant stakeholders for comment. The concept plan formed the basis for the preparation of the District Development Plan. Various elements such as nature, environmental cultural corridors, multiple use of public open space corridors, district parks, neighbourhood and local parks, bush living, neighbourhood living, urban living, local centre, industrial, tourism, school sites, services and utilities, road network, public transport and path network are explained in broad terms and provide a point of reference in preparing Local Development Plans.
 5. Executive Summary of Technical Reports – for easy reference key findings of key reports are summarised in this section under the headings:
 - o Engineering and Servicing
 - o Transport and Access
 - o Environment
 - o Landscape Master plan: Opportunities, Directions and Strategies
 - o Commercial Activity: Ideas and Implications
 - o Broome North Housing Report
 - o Social Context and Social Directions

Local Development Plan

Part 1- Statutory Section Para 1 - 3 set out the necessary provisions for the Development Plan to operate. Para 4 specifies the development requirements - this is done by defining the typologies of thoroughfares (roads) landscapes and built form. The characteristics of each are then explained by a plan, and through specifications and where appropriate profiles. Those standards which correlate with Liveable Neighbourhoods are noted.

4.6 Thoroughfare Typologies include

- Integrator B – Magabala Road and Tanami Drive
- Integrator B
- Town Centre Main Street
- Access Street Type 1
- Access Street Type 2
- Access Street Type 3 Neighbourhood Connector Minimum Treatment
- Industrial Access Street
- Laneway

4.7 Landscape Typologies are provided for the

- Environmental Cultural Corridor
- District Park
- Neighbourhood Park

- Local Park
- Local Park-Civic
- Multiple Use Corridor (Local park)

4.8 Built Form Typologies include

- Residential Building (R20) East-west (recommendation orientation)
- Residential building (R20) North south
- Residential Building (R25) East West
- Residential Building (R25) North South (recommended orientation)
- Residential Building (R30) East West
- Residential Building (R30) North South
- Group Dwellings/Multiple Dwellings (R40)
- Commercial/mixed use building
- (Commercial) Large format with liner buildings
- Industrial Building

A series of plans are then provided, In addition to 'Plan 1 - Local Development Plan' there are 'Plan 2 - Thoroughfare Typologies', 'Plan 3 - Landscape Typologies' and 'Plan 4 - Building Typologies'. These show where the different typologies are located within the Local Development Plan area.

Part 2 – Plan Description – in plan and text explains the design rationale used within the Local Development Plan area.

- How the indicative Transect zones have been applied through the location of residential density (with further details of the R30/R40 site).
- Key elements such as the Local Activity Centre, Light Industrial and School site are explained in terms location, size and other features.
- A similar explanation is applied to Public Open Space
- Possible Public Transport Routes, the Path Network, Road Hierarchy and a potential second access to Gubinge Road are mapped and explained
- Similarly the Drainage Network (generally) is mapped and described together the proposed Allotment Drainage.
- Additional notes are included about the development of Detailed Area Plan and Ancillary Accommodation.

Technical Reports which accompany the Development Plans as appendices include

- Acid Sulphate Soil Desktop Investigation - GHD
- Commercial Activities – TACTICS 4
- District Water Management Strategy - SKM
- Final Engineering Report - SKM
- Housing Guide – CODA
- Local Water Management Strategy - SKM
- Landscape Master Plan – UDLA
- Planning Design Forum Report - RD
- Preliminary Site Investigation 2009 – GHD
- Preliminary EIA and Biological Area "A" - GHD
- Preliminary EIA and Biological Area 'B' - GHD
- Social Context Paper – CC
- Social Planning Directions Paper –CC
- Targeted Fauna Survey – GHD
- Vegetation Master Plan – UDLA

An additional Public Open Space Plan has also been supplied

Report of the Broome Planning Steering Committee (December 2005)

The Broome Planning Steering Committee (BPSC) released its 2005 Report to address issues facing Broome and to develop strategies to manage growth over the next 10 to 15 years. The committee worked closely to identify what land might be available to accommodate housing, tourism, commercial and industrial uses while maintaining important and unique cultural, natural resource and lifestyle elements that make Broome a place that is highly sought after to live and to visit.

As an essential step towards an up-to-date local planning strategy, the Broome Planning Steering Committee developed a composite land use framework to accommodate the needs of the Broome community while maintaining a strong open space network and protection of important cultural areas. Under Urban Management in its report the BPSC commented that *“residential land demand will be met over the next five years through remaining areas of Roebuck Estate and Sunset Rise, together with lot release in the approved Herbert Street development and the planned release of Cable Beach 5B/5C residential neighbourhoods. Beyond the next five years, the community’s needs will be met through the Cable Beach 5D/5E residential neighbourhoods, the area to the west of Roebuck Estate, sections of lot 833 (now Lots 3150, 3128, 3129, & 3130), the area north of Fairway Drive and eventually through the relocation of the Broome airport.”*

Development Plan and Development Provisions Statutory Framework

This is a complex planning process requiring co-ordination and integration across a range of disciplines. The District Development Plan puts in place the key building blocks for the whole area then Local Development Plans provide the detail for the subdivision and development applications. To ensure good urban design outcomes are delivered on particular sites (eg: Local Activity Centre) further detailed planning will be required. At the same time, through the research done on solar orientation and breeze access, it became evident that if future residents are to enjoy Broome’s unique climate and lifestyle some standards of development will differ from those set out in the Residential Design Codes.

Town Planning Scheme No 4 establishes the head of power for the preparation Development Plans. The provisions as set out in the District Development Plan Part 1 sections 1-3 relating to the operation of the plans propose an innovative approach which on review by Council’s solicitors has been found requires some revision. This revision relates to procedural matters and will effect no change on the proposed plans in terms location of land use, infrastructure or proposed development provisions. Mindful of the need to progress the delivery of more housing the necessary work to refine and make the statutory provisions robust will be undertaken while the draft District Development Plan and draft Local Development Plan are on public display.

Summary

It is now evident that Roebuck Estate, Sunset Rise and LandCorp’s Januburu Estate have little additional capacity making it necessary to progress the planning for the next stage of residential development. The preparation of the District Development Plan for Broome North provides the essential higher order structure for the coordinated and timely subdivision and development of land to satisfy community requirements.

It is considered that this proposal builds upon the work and strategies already developed by the Broome Planning Steering Committee, including the need to maximise opportunities to provide more affordable housing, through increasing the supply of land,

improving residential design standards to achieve climatically responsive outcomes which are less dependent on air-conditioning and other mechanisms available to the Council.

The Broome North ‘Statement of Roles and Responsibilities’ sets out the agreed undertakings by LandCorp, the Shire of Broome, The Department of Planning and the Western Australian Planning Commission to:

- Enable the development of Broome North to occur in a timely manner; and
- Describe the key objectives that the parties agree are to be secured by the development. These are included in the table below:

Economic Health	Provide affordable housing and a mix of housing types and land solutions
	Meet public and social housing land requirements
	Ensure an economically viable project, which provides opportunities for the private sector and Local Government
	Deliver mixed use local activity centres and industrial/commercial areas for increased employment opportunities
Community Wellbeing	Provide local community facilities and an accessible safe public realm
	Focus on addressing ‘local’ needs through consultation.
	Provide opportunities for the expression of cultural needs, especially in the public realm
Environmental Leadership	Estate design to maximize micro climate benefits including breezeways
	Water Sensitive Urban Design (WSUD) and third pipe water recycling opportunities
	Multi use corridors for environmental protection, WSUD
	Management, cultural uses & linkages, transport network and trails
Design Excellence	Cardinal connectivity in the design for maximum flexibility
	A contemporary interpretation of “old Broome style” to be a basis for design especially in the public realm
	Design to achieve climate responsive built form outcomes
	Recognise cultural needs in design

The District Development Plan establishes a long term spatial planning framework to guide the subdivision and development of the Broome North land. The Plan has been developed with extensive community input and the active participation of Shire officers. The details included are highly congruent with the concept plan developed and agreed at the Planning Design Forum. The Plan provides a coherent and coordinated basis for delivery of land supply as a means of trying to achieve more affordable housing outcomes for the Broome community.

The Local Development Plan elaborates and refines the broader detail of the District Development Plan. It encapsulates the key elements contained in the District Development Plan, in particular providing mechanisms to provide affordable housing opportunities through innovative split coding incentives and a diversity of residential housing options that accommodate the diverse needs of the Broome community. If the majority of smaller grouped and multiple dwelling units are taken up by social housing agencies and the not for profit sector the Local Development Plan incorporates 37% of sites available for this purpose. The Local Housing Strategy 2009 (action 3C) sets a target of 30% social housing in new subdivisions.

Both the District Development Plan and Local Development Plan provide a sound basis for the delivery of the objectives contained in the Statement of Roles and Responsibilities for Broome North. These have considered all matters as required by TPS4 (Clause 4.25.3.1).

It is recommended that as both the District Development Plan and Local Development Plans have been prepared satisfactorily Council endorses them for advertising for a period of 42 days commencing 2 November 2009 and concluding on Monday 14 December 2009 during which time the part 1 statutory sections can be revised.

CONSULTATION

Clause 4.25.3.2 of the TPS4 stipulates that advertising of a Development Plan can be a minimum of 28 days. Given the significance of the Broome North proposal it is considered appropriate to advertise for a period of not less than 42 days from 2 November to the 14 December 2009.

To ensure that Council is able to adopt Development Plans that are relevant and responsive to the aspirations of the community a Consultation Plan has been prepared.

Attachment 5 – Consultation Plan

STATUTORY ENVIRONMENT

Planning and Development Act 2005
Town Planning Regulations 1967
Town Planning Scheme No.4 -

4.25.3 Development Plan

4.25.3.1 A Development Plan shall address the following;

- (a) the topography and vegetation of the area and distinctive features;*
- (b) the existing major road system;*
- (c) the location and width of proposed roads;*
- (d) the location of pedestrian and bicycle routes;*
- (e) the approximate location and area of the recreation and open space areas proposed;*
- (f) the population, lot layout and the location of appropriate "Residential Planning Code" densities;*
- (g) all existing and proposed land uses;*
- (h) provision for water supply, sewerage, drainage and public utilities;*
- (i) the development proposed, the method of carrying out the development and the projected times of completion of each stage of development;*
- (j) community facilities and commercial centres;*
- (k) consideration of Aboriginal heritage and cultural sites and matters and how these aspects are incorporated into the development plan;*
- (l) Environmental Cultural Corridors within the area and/or the allocation of land for conservation purposes in the area;*
- (m) environmental protection consideration and pollution prevention measures;*
- (n) Such other matter or information as is required by Council.*

4.25.3.2 When a Development Plan has been prepared to the satisfaction of Council, the Council shall:

- (a) notify in writing all servicing authorities and each owner of land affected by the Plan; and*
 - (b) advertise for public comment the existence of the plan; and*
 - (c) invite each landowner, the public, service agencies and all affected Government Authorities to make a submission to Council regarding any aspect of the Plan.*
- 4.25.3.3 *The Council shall specify a time within which submissions will be received, but the time shall not be less than 28 days from the date of notification described in Clause 4.25.3.2.*
- 4.25.3.4 *That Council shall consider any submissions made under Clauses 4.25.3.2 and may reject, amend or adopt the Development Plan after consideration of such submissions.*
- 4.25.3.5 *The Council shall:*
 - (a) subsequently forward the Development Plan to the Western Australian Planning Commission together with a precis of, and the Council's decision in relation to, each submission received in respect of the Plan; and*
 - (b) request the Commission to adopt the Plan submitted as the basis for approval of subdivision applications and development within the area covered by the Plan.*
- 4.25.3.6 *Where Council does not forward a response to the Western Australian Planning Commission within three months from the closure of the public advertising period, the Development Plan is deemed to be refused and appeal rights, in accordance with clause 4.25.3.8 exist for the applicant.*
- 4.25.3.7 *Any departure from or alteration to the Development Plan may, subject to the approval of the Western Australian Planning Commission, be permitted if the Council considers that the proposed departure or alteration will not prejudice the progressive subdivision and development of the area the subject of the plan.*
- 4.25.3.8 *Without limiting the generality of other provisions for appeals herein, an applicant aggrieved by a decision of the Council in respect of a decision made under clauses 4.25.3.4, 4.25.3.5, 4.25.3.6, 4.25.3.7 and/or 4.25.3.9 under the Scheme may appeal in accordance with Part V of the Act and the rules and regulations made pursuant to the Act.*
- 4.25.3.9 *Following adoption of a Development Plan, required under the provisions of Clause 4.25.2, by the Western Australian Planning Commission, Council may approve development and/or support subdivision consistent with the adopted plan, and thereafter will implement Scheme amendments to rezone the land to other Scheme zones in accordance with the Development Plan.*
- 4.25.4 *Development Plan Guidelines for Precincts*

The Scheme Report - Local Planning Strategy outlines guidelines for the preparation of Development Plans for specific precincts within the Development Zone.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

1. Council considers the Broome North District Development Plan dated October 2009 has been prepared to its satisfaction and:
 - a. Endorses the Development Plan being advertised for public comments for a period of 42 days.
 - b. Directs that during the advertising period Part 1(Statutory) Clauses 3.0 – 4.0 are to be revised in accordance with the provisions contained in Clause 4.25 of the Shire of Broome Town Planning Scheme No 4 .
2. Council considers the Broome North Local Development Plan dated October 2009 has been prepared to its satisfaction and:
 - a. Endorses the Development Plan being advertised for public comment for a period of 42 days.
 - b. Directs that during the advertising period Part 1 (Statutory) Clause 3.0 is to be revised in accordance with the provisions as contained in Clause 4.25 of the Shire of Broome Town Planning Scheme No 4.

Moved:

Seconded:

FOR:

AGAINST:

[Attachment: 19 pages](#)

Further information is available via the following links:

[District Development Plan](#)

[Acid Sulphate Soil Desktop Investigation](#)

[District Water Management Strategy](#)

[Housing Guide](#)

[Landscape Master Plan](#)

[Preliminary Site Investigation 2009](#)

[Preliminary EIA and Biological Area 'B'](#)

[Social Planning Directions Paper](#)

[Vegetation Master Plan](#)

[Local Development Plan](#)

[Commercial Activities](#)

[Final Engineering Report](#)

[Local Water Management Strategy](#)

[Planning Design Forum Report](#) (extract only)

[Preliminary EIA and Biological Area A'](#)

[Social Context Paper](#)

[Targeted Fauna Survey](#)

[Public Open Space Distribution](#)

9.3.3 SHIRE OF BROOME AIRPORT DEVELOPMENT PLAN

LOCATION/ ADDRESS:	Broome International Airport, Lots 393, 394, 402, 403, 654, 982, 1648 and 1653, Broome Road, Broome
APPLICANT:	N/A
FILE:	FRE-1/LT1653
AUTHOR:	Neels Pretorius
CONTRIBUTOR/S:	Manager Planning Services
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE OF REPORT:	8 October 2009

SUMMARY: The report outlines public submissions in response to the advertisement of the Airport development Plan (ADP) lodged for Lots 393, 394, 402, 403, 654, 982, 1648 and 1653, Broome Road, Broome and recommends that Council adopt the Development Plan.

BACKGROUNDPrevious Considerations

- OCM 19 October 2004 - Item 9.3.5
- OCM 14 June 2005 - Item 9.3.4
- OCM 11 August 2005 - Item 9.3.10
- OCM 3 November 2005 - Item 9.3.10
- OCM 22 December 2005 - Item 9.3.11
- OCM 13 April 2006 - Item -9.3.2
- OCM 11 May 2006 - Item 9.3.1
- OCM 23 November 2006 - Item 9.3.5
- OCM 23 November 2006 - Item 9.3.6
- OCM 23 November 2006 - Item 12.2 – withdrawn – “not accepted under Section 13.2 of the Shire of Broome Standing Orders Local law 2003”
- OCM 15 March 2007 - Item 9.3.3
- OCM 25 October 2007 - Item 9.3.2
- OCM 18 December 2007 - Item 9.3.1
- OCM 14 February 2008 - Item 9.3.12
- OCM 14 February 2008 - Item 9.3.13
- OCM 14 February 2008 - Item 9.3.14
- OCM 13 March 2008 – Item 9.3.3
- OCM 3 July 2008 – Item 9.3.2
- OCM 19 March 2009-Item 9.3.1

History

At the meeting of 19 March 2009 Council resolved:

That Council approves the Airport Development Plan (ADP) for public comment for a period of 42 days by:

1. *making the ADP available for public comment and makes note of the new entrance on Frederick Street.*

2. *Engaging with Broome International Airport to develop the formation and operation of a joint working group to address issues relating to airport related noise and associated community concerns.*
3. *Changing the Development Plan by indicating the Existing Drainage License as a Drainage Reserve on the Development Plan.*
4. *That the drainage methodology be brought back to Council for consideration together with Development Plan.*

PLANNING CONTEXT

Current Local Structure Plan

The current Broome Airport Area Local Structure Plan (LSP) was adopted by Council in two parts. Part 1, being inclusive of the north eastern section of the LSP was adopted in January 1997. This part encompasses the present Roebuck Residential estate most of which has now been developed for residential purposes. The balance of the LSP was adopted in November 1997 where Council at the time anticipated the imminent relocation of the airport operations to a new site.

The LSP identified extensive mixed use development areas on the north side of Frederick Street, extending west from Broome Road, to the Broome Boulevard Shopping Centre. These areas were to be serviced by a main arterial east-west link road connecting from Short Street to the intersection of Gubinge Road and Cable Beach West Road, and a north south arterial road connecting Frederick Street to Gubinge Road – what is now referred to as Jigal Drive. The LSP also made provision for linear open space networks, primary schools, neighbourhood shops and Aboriginal Cultural corridors.

In 1999, on Gazettal of Town Planning Scheme No.4, the airport land was included in the Development zone. The LSP consequently became a Development Plan in that scheme.

In early 2002, the State Government, due to unresolved Native Title issues relating to the land for the preferred new airport site decided to defer further action to provide land for the relocation of the airport.

Rezoning of Roebuck Estate

Council at its meeting of 11 May 2006 resolved to remove Roebuck Residential Estate from the Development zone as the area had been largely developed.

This area was the subject of Scheme Amendment 32 where the area was removed from the Development zone and replaced by a range of zonings and Residential Density codes reflecting the particular forms of land use on the ground. Amendment 32 was gazetted in July 2007.

The area of Roebuck Estate is accordingly and appropriately not included within the ADP boundary.

PROPOSED AIRPORT DEVELOPMENT PLAN - ADMINISTRATION

The Broome International Airport Group (BIA) owners of the airport and associated surrounds have lodged the proposed Airport Development Plan covering the airport, airstrip and related land zoned 'Development' as owned by the BIA Group.
Airport Development Plan (Attachment 1)

The Airport Development Plan consists of two distinct parts namely.

1. To facilitate the operation of the airport while it still operates from the current location.
2. Indicates the future land use planning for the airport site.

Airport Development Plan

The Airport Development Plan (ADP) includes a 'Scheme-like' land use and zoning schedule relating to precincts (similar to zones) as contained in the Development Plan, (similar to a Scheme Map) being Plan A. Plan A proposes to facilitate the continued development of airport land while the airport remains 'in place'. The document also includes Plan B which is the land use plan for the development of the airport land once the airport has been relocated.

Airport Area Development Plan – Planning Report

The second part of the document includes the Airport Development Plan Planning Report (ADPP Report) which provides background text, justification and discussion in support of the Development Plan itself.

The ADPP Report describes the airport area within a planning context and has regard for issues associated with land use, amenity and safety, roads and traffic and the environment.

Scheme Provisions

The airport site is currently zoned Development. TPS 4 contains provisions relating to land zoned Development which states the need for the preparation of Development Plans and what is required to be addressed in them. Development Plans are a 'mini-Scheme' applying to an area of land located within a Development Zone.

Once finalised, the ADP would need to be made available for public comment, then adopted by Council pursuant to Clause 4.25 of TPS4 and forwarded to the Western Australian Planning Commission for approval.

Non-Conforming Use Status Removed

Adoption of the ADP by Council and WAPC will remove the current Non-Conforming Use situation that applies to any use or development of the land other than as depicted on the local structure plan. This will allow airport related uses as set out in the development plan to be assessed and approved under delegated authority and without the need for public advertising. Adoption of the ADP will also give the BIA group more certainty in their planning.

Identify Primary Objectives of the Airport Area Development Plan

The location of the Broome airport within the townsite has been accepted in the past by the community and tourists as an unusual characteristic adding to Broome's uniqueness. In some respects this acceptance is being replaced by annoyance as a result of increasing aircraft movements and increased aircraft noise. There is also a significant opportunity cost in the airport stifling potential development where it is best to occur in the short to medium term, being that airport land which is close to the town centre.

It is accepted that the airport will continue to operate from its present location for the short to medium term as its relocation is dependant on a number of issues. The primary objectives of the ADP are:

- to provide a mechanism for the day to day operation and development of the airport at the current site; and,
- to provide a process for the redevelopment of the site in an appropriate manner following the relocation of the airport.

Plan A Airport Development (Assessment)

Area

Plan A included in the airport development Plan includes a number of areas with proposed land uses. This uses are all airport related and will control development of the airport until the airport re-locates.

Land Use

Zone	Existing Uses	General Policy	Proposed or Potential Uses
A1	Runway; taxiways; aprons; aircraft parking; safety and service/ refuelling facilities; air traffic services	Airside1: To retain, maintain and (to the extent required to satisfy the future demand) expand the existing uses and extend the taxiways and aircraft parking areas.	Existing uses; any legally required or otherwise appropriate aviation or aviation service use.
A2	Vacant land	Airside 2: To the extent required to satisfy the future demand, extend the A1 uses into this zone.	Taxiways; aprons; aircraft parking; safety and service/ refuelling facilities; air traffic services.
AS 1	Aircraft hangars; fuel storage; airport operation related general and light industry; light aircraft passenger terminal; communications facilities,	Aviation Service 1: To retain, maintain and (to the extent required to satisfy future demand) redevelop and/ or expand the existing uses.	Existing uses any airport operation related use compatible with or complementary to the existing uses; air traffic services; airport rescue and fire fighting service; access roads.
AS2	Vacant land; fuel storage; airport rescue and fire fighting service	Aviation Service 2: To the extent required to satisfy the future demand, extend the ASI uses into this zone.	Existing uses; aircraft hangars; airport operation related general and light industry; communications facilities; car hire & associated cleaning services; access roads and any other airport operation related uses compatible with or complementary to these uses.

Zone	Existing Uses	General Policy	Proposed or Potential Uses
AS3	Bureau of Meteorology; aircraft navigation aids; airport operation related service and light industry	Aviation Service 3: 1. To retain the existing Bureau of Meteorology and aircraft navigation aids in this zone. 2. To facilitate airport operation related service and light industrial uses.	Additional aircraft navigation aids; associated aviation and meteorological service facilities; car hire support facilities; airport operation related service and light industry.
TA	Passenger terminal and related uses including customs, immigration, quarantine and other international and domestic passenger processing facilities; bar and coffee shop; offices; car hire and associated cleaning services.	Terminal Area: To retain, maintain and (to the extent required to satisfy future demand) expand and/or redevelop existing uses and establish additional uses that are normally or reasonably associated with the terminal complex of an international airport.	Expansion of passenger terminal and related uses including customs, immigration, quarantine and other international and domestic passenger processing facilities; bar and coffee shop; bar and coffee shop; offices; car hire and associated cleaning services; tourism displays and any other uses that are normally or reasonably associated with the terminal complex of an international airport.
TS	Car parking; car hire and associated cleaning services; tourism services; airport operation related light industry and offices; caretaker's house and vacant land.	Terminal Area Support: 1. While retaining the potential to develop the zone for car parking to accommodate future demand, facilitate the continuation and expansion of existing land uses, such as passenger transfer facilities.	Expansion of existing uses; car parking and drainage.
B	Vacant Land	Buffer: To retain as a natural and/or landscaped buffer between the airport and adjoining land uses	Landscaping.

Road Layout

It is accepted that the road layout contained in Plan A is of a temporary nature until the airport move at some future date, accordingly any roads to be constructed in the area should be regarded as temporary.

Plan A (Attachment 2)

Plan B – Future Development (Assessment)

Plan B is an extract taken from the current adopted Broome Airport Area Local Structure Plan (LSP). Plan B excludes the area north of Sandpiper Avenue (Roebuck Estate) as this is not in the Development Zone. The area west of Jigal Drive (existing and proposed extension) is noted as 'subject of a separate (urban) Development Plan'.

The allocation of land use and street pattern closely reflects that of the current approved plan. The road grid network within the Mixed Uses zone has been altered slightly to accept a wider block width for the expansion of the Boulevard Shopping Centre. The intent and integrity of the original road layout under the LSP is not compromised by this change.

The design contained in Plan B is considered to reflect Council's long term objectives for the development of the airport land as it is consistent with the adopted Local Structure Plan (LSP).

There is limited detail on provisions in the Report; however, this is not essential at this time as a full planning review of Plan B should occur once planning for the relocation is initiated. This will allow planning to consider the 'state of play' at that time. It is recommended that Plan B be accepted as future 'development plan' for the airport site.
Plan B (Attachment 3)

Schedule of Modifications made to the ADP Report prior to advertising

Community Amenity – Noise

Australian Noise Exposure Forecasts (ANEF)

In response to the Shire raising the issue of 'noise not being adequately addressed in the ADPP Report' the BIA Group provided in the 'Schedule' proposed extensive new text under the heading 'Amenity and Noise'.

Noise Abatement Program

The BIA group accepted that the ANEF contours do not account for noise from helicopter operations, engine run ups and light aircraft operations. A revised ANEF will take account of helicopter operations (including takeoff, landing and currency training) and light aircraft movements, particularly piston engine aircraft.

Community Safety - Airport Operations

The location of the airport within Broome townsite, particularly with part of Chinatown being in the flight path, provides an inherent risk but this is no greater or less than many city airports within Australia or the world which are located within or adjacent to built up areas. The airport operations are regularly audited by the Civil Aviation Safety Authority and must comply with regulation standards and procedures. BIA advises the airport continually meets these requirements. The 'Schedule' includes text advising of the airports safety record.

Traffic - Transport - Roads

A Traffic Study for the Airport and Roebuck Estate and Surrounds was undertaken by Uloth and Associates and is appended to the ADPP Report. The ADPP Report, in reference to the Traffic Study concludes that "development under the ADP Plan A can be accommodated within the currently planned road network".

The airport being retained in its current position denies the ability for two crucial roads to be built; the north-south link of Jigal Drive with Port Drive and an east-west link from Chinatown to Gubinge Road / Cable Beach Road West. Without these two roads the existing roads that create a ring around the airport (Broome Road, Frederick Street, Cable Beach Road, Gubinge Road, Jigal Drive and Sandpiper Avenue) will continue to accommodate higher volumes than they otherwise would. It is considered the construction of Gubinge Road has relieved some of this pressure but the situation could arise where additional works will be required for the Cable Beach Road East intersection with Frederick Street.

BIA have suggested that traffic numbers on key roads be monitored at least every second year to assess the trend in order to validate the predictions contained in the Uloth Traffic Study. BIA and the Shire will need to work together on traffic number predictions to identify future impacts on the road network and identify any road or intersection works that may be necessary.

New Airport Entry Road from Frederick Street

The ADPP Report proposes that a new airport entry road be built with direct access from Fredrick Street after such time as road trains are prevented from using Frederick Street. The location of this proposed new airport entry road is consistent with the long term plans as shown in the current LSP and Plan B and it is recommended that this new access road be approved. This new road will also help to improve traffic movements in and around the airport site.

COMMENT

A number of relating matters specified within Councils' resolution of 19 March 2009 required action these included:

2. *Engaging with Broome International Airport to develop the formation and operation of a joint working group to address issues relating to airport related noise and associated community concerns.*
3. *Changing the Development Plan by indicating the Existing Drainage License as a Drainage Reserve on the Development Plan.*
4. *That the drainage methodology be brought back to Council for consideration together with Development Plan.*

With regard to point 2 there is an ongoing consultation process and a working group has now been formed.

Staff have also held meeting with BIA on a number of occasions to be briefed on the issues but have not attended a meeting of the working group at this stage.

Point 3 will again be included in the Council Resolution and with regard to point 4 staff will meet with BIA to discuss the issue.

The development plan was advertised and three submissions were received. In summary the following concerns were raised.

- Aircraft and helicopter noise is a major concern of the Billingurr residents.
- The vagueness of the date of the movement of the Airport to the new site.
- Passenger forecasts seems to be incorrect.

- No indication on the exact density of the future development on the airport site.
- Disturbance of the shorebirds in the Roebuck Bay by planes.
- Possible environmental impacts of increase in stormwater run off into Roebuck Bay.

To ensure the efficient and effective operation of the airport it will be important that exact flight paths are maintained for commercial flights and for training purposes ensure impact on adjoining residential areas and the shore birds in Roebuck Bay is kept to the minimum. This can be affected through the operation of the joint working group.

Conclusion

The Airport Development Plan complies with the provisions of TPS4. The Airport Development Plan can be used as a mechanism to guide future development of the airport site.

The content of the document will give clarity to the airport owners and the public as to what interim development may occur while the airport is still operating at this site. All future development will require a planning application which will be assessed against the Airport Development Plan and TSP4.

It is recommended that the Airport Development Plan be adopted subject to conditions.

Attachment 4: Schedule of submissions

CONSULTATION

In accordance with the Town Planning Scheme No.4 the Development Plan has been referred to relevant service authorities and advertised for public comment for a period of 42 days.

STATUTORY ENVIRONMENT

Planning and Development Act 2005
Shire of Broome Town Planning Scheme No. 4

4.25 Development Zone

4.25.1 Aims and Objectives

4.25.1.1 The aim of the zone is to provide for general urban development including residential, commercial and/or tourist development or rural development in accordance with a Development Plan prepared under this Scheme.

4.25.3 Development Plan

4.25.3.1 A Development Plan shall address the following;

- (a) the topography and vegetation of the area and distinctive features;*
- (b) the existing major road system;*
- (c) the location and width of proposed roads;*
- (d) the location of pedestrian and bicycle routes;*
- (e) the approximate location and area of the recreation and open space areas proposed;*

- (f) the population, lot layout and the location of appropriate "Residential Planning Code" densities;*
- (g) all existing and proposed land uses;*
- (h) provision for water supply, sewerage, drainage and public utilities;*
- (i) the development proposed, the method of carrying out the development and the projected times of completion of each stage of development;*
- (j) community facilities and commercial centres;*
- (k) consideration of Aboriginal heritage and cultural sites and matters and how these aspects are incorporated into the development plan;*
- (l) Environmental Cultural Corridors within the area and/or the allocation of land for conservation purposes in the area;*
- (m) environmental protection consideration and pollution prevention measures; and*
- (n) Such other matter or information as is required by Council.*

4.25.3.2 When a Development Plan has been prepared to the satisfaction of Council, the Council shall:

- (a) notify in writing all servicing authorities and each owner of land affected by the Plan; and*
- (b) advertise for public comment the existence of the plan; and*
- (c) invite each landowner, the public, service agencies and all affected Government Authorities to make a submission to Council regarding any aspect of the Plan.*

4.25.3.3 The Council shall specify a time within which submissions will be received, but the time shall not be less than 28 days from the date of notification described in Clause 4.25.3.2.

4.25.3.4 That Council shall consider any submissions made under Clauses 4.25.3.2 and 4.25.3.3 and may reject, amend or adopt the Development Plan after consideration of such submissions.

4.25.3.5 The Council shall:

- (a) subsequently forward the Development Plan to the Western Australian Planning Commission together with a precis of, and the Council's decision in relation to, each submission received in respect of the Plan; and*
- (b) request the Commission to adopt the Plan submitted as the basis for approval of subdivision applications and development within the area covered by the Plan.*

4.25.3.6 Where Council does not forward a response to the Western Australian Planning Commission within three months from the closure of the public advertising period, the Development Plan is deemed to be refused and appeal rights, in accordance with clause 4.25.3.8 exist for the applicant.

4.25.3.7 Any departure from or alteration to the Development Plan may, subject to the approval of the Western Australian Planning Commission, be permitted if the Council considers that the proposed departure or alteration will not prejudice the progressive subdivision and development of the area the subject of the plan.

4.25.3.8 Without limiting the generality of other provisions for appeals herein, an applicant aggrieved by a decision of the Council in respect of a decision made under clauses 4.25.3.4, 4.25.3.5, 4.25.3.6, 4.25.3.7 and/or

4.25.3.9 under the Scheme may appeal in accordance with Part V of the Act and the rules and regulations made pursuant to the Act.

4.25.3.9 Following adoption of a Development Plan, required under the provisions of Clause 4.25.2, by the Western Australian Planning Commission, Council may approve development and/or support subdivision consistent with the adopted plan, and thereafter will implement Scheme amendments to rezone the land to other Scheme zones in accordance with the Development Plan

4.25.4 Development Plan Guidelines for Precincts The Scheme Report - Local Planning Strategy outlines guidelines for the preparation of Development Plans for specific precincts within the Development Zone.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The proponent is responsible for costs incurred in the Development Plan process. There are some requirements for Council to upgrade road works.

STRATEGIC IMPLICATIONS

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

- 1. Endorses the comments in the Schedule of Submissions as attached.*
- 2. Adopts the Airport Development Plan as attached subject to:*
 - The existing Drainage License being included as a Drainage Reserve on the Development Plan.*
 - A new Australian Noise Exposure Forecasts map indicating the latest noise readings.*
- 3. Authorises the President and the Chief Executive Officer to engross the Airport Development Plan.*

4. *Invites the Broome International Airport to join a Broome Airport Working Group to address issues including aircraft noise, and airport relocation.*

Moved:

Seconded:

FOR:

AGAINST:

[Attachment: 54 pages](#)

9.3.4 REVIEW OF LOCAL PLANNING POLICY 4.1.6 – ADDITIONAL ACCOMMODATION IN RURAL ZONES

LOCATION/ ADDRESS: Scheme Area
APPLICANT: Not Applicable
FILE: PLA 22
AUTHOR: Neels Pretorius
CONTRIBUTOR/S: Manager Planning Services, Max Hipkins Consultant and Planning Officers
RESPONSIBLE OFFICER: Director Development Services
DISCLOSURE OF ANY INTEREST: Nil
DATE RECEIVED: 8 October 2009

SUMMARY: All Local Planning Policies (LPP’s) are being progressively reviewed. A number of amendments to LPP 4.1.6 — Additional Accommodation in Rural Zones have been proposed.

It is recommended that Council modifies Local Planning Policy – Additional Accommodation in Rural Zones.

BACKGROUND

Previous Considerations

OCM 6 July 2006 – Item 4.1.6

COMMENT

Policy reviews for a number of LPP’s are presently being undertaken in accordance with the Shire of Broome Strategic Action Plan.

The policy is needed to maintain the character of rural areas and to discourage temporary accommodation for off-site workers in rural areas.

It is proposed that Local Planning Policy – Additional Accommodation in Rural Zones be strengthened while discouraging temporary accommodation for persons not directly employed on rural properties. It has also been reformatted into the Shire’s standard policy template.

The changes can be summarised as

Existing (Attachment 1)	Amended (Attachment 2)
Background no section	Background has been inserted to clarify the intention of the policy
Objectives	Objectives have been extended to emphasise the <ul style="list-style-type: none"> • retention of the rural character • restrict accommodation of off-site

Existing (Attachment 1)	Amended (Attachment 2)
	workers
Definitions did not exist	Definitions have been clearly set out
General requirements	<p>General requirements have been expanded to include</p> <ul style="list-style-type: none"> • The rural lot has an area of not less than 1ha • The proposed dwelling is not located within any Special Control Area described in Part 6 of TPS4 • The proposed dwelling will not detract from the landscape values of the locality as seen from any public road or from any dwelling on adjacent lots
Applications not in accord with Policy – No section	Applications not in accord with Policy – this section has been added to clearly outline that such application will be referred to Council for consideration only after a number of criteria have been addressed by the applicant
Delegation	This has not been included as these details are covered by the Instrument of Delegation Register

The policy has been amended to provide greater clarity to applicants and sets out clear requirements to be followed.

It is recommended that the revised Local Planning Policy – Additional Accommodation in Rural Zones be made available for public comment and then be referred back to Council for further consideration and adoption.

Attachment 1: Current Policy.
Attachment 2: Revised Policy.

CONSULTATION

The reviewed policy in accordance with Section 2.5 of TPS4 will be advertised for a period of 21 days an extended period is not considered necessary as there no major issues expected to arise from this modification.

STATUTORY ENVIRONMENT

Shire of Broome Town Planning Scheme No.4 - Section 2.5.

Section 2.5 of TPS4 requires the following procedure to initiate and finalise an amendment to a LPP.

"Procedures for Making and Amending Local Planning Policy

A Local Planning Policy shall become operative only after the following procedures have been completed:

- (a) The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the draft Policy may be inspected, the subject and nature of the Policy and in what form and during what period (being not less than 21 days) submissions may be made.*
- (b) The Council shall review the draft Policy in the light of any submissions made and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.*
- (c) Following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.*
- (d) Where, in the opinion of the Council, the provisions of any Policy affect the interests of the Commission, a copy of the policy shall be forwarded to the Commission.*
- (e) The Council shall keep copies of any Policy with the Scheme documents for public inspection during normal office hours.*
- (f) Any amendment or addition to a Policy shall follow the procedures set out in (a) - (d) above."*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS**Place**

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

1. *Modifies Local Planning Policy – Additional Accommodation in General Rural, Agriculture and Rural Living Zones in accordance with Attachment 2.*
2. *Adopts the modified policy for public comment.*

Moved:

Seconded:

FOR:

AGAINST:

[Attachments: 4 pages](#)

9.3.5 REVIEW OF LOCAL PLANNING POLICY 4.1.14 – BONDS AND/OR BANK GUARANTEES

LOCATION/ ADDRESS:	Scheme Area
APPLICANT:	Not Applicable
FILE:	PLA 22
AUTHOR:	Neels Pretorius
CONTRIBUTOR/S:	Manager Planning Services and Planning Officers
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE RECEIVED:	9 October 2009

SUMMARY: To present for Councils consideration Local Planning Policy (LPP) 4.1.14 – Planning Conditions - Bonds and/or Bank Guarantees which has been reviewed and a determination made that no changes are warranted.

It is recommended that Council retains Local Planning Policy – Planning Conditions - Bonds and/or Bank Guarantees without modification.

BACKGROUND

Previous Considerations

OCM 17 December 1996 – Item 8.1.3

OCM 20 March 2001 – Item 4.8

OCM 4 February 2003 – Item 9.2.7

OCM 11 August 2005 – Item 9.3.4

COMMENT

Policy reviews for a number of LPP's are presently being undertaken in accordance with the Shire of Broome Strategic Action Plan.

LPP 4.1.14 should be retained in its current form, it puts in place mechanisms by which bonds or bank guarantees are considered and received. On reviewing the details it has been established that there is no need to change the current policy.

It is recommended that Council retain Local Planning Policy – Planning Conditions - Bonds and/or Bank Guarantees without change.

Attachment 1 – Local Planning Policy – Planning Conditions - Bonds and/or Bank Guarantees

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Shire of Broome Town Planning Scheme No.4 - Section 2.5

Section 2.5 of TPS4 requires the following procedure to initiate and finalise an amendment to a LPP.

“Procedures for Making and Amending Local Planning Policy

A Local Planning Policy shall become operative only after the following procedures have been completed:

- (a) The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the draft Policy may be inspected, the subject and nature of the Policy and in what form and during what period (being not less than 21 days) submissions may be made.
- (b) The Council shall review the draft Policy in the light of any submissions made and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.
- (c) Following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.
- (d) Where, in the opinion of the Council, the provisions of any Policy affect the interests of the Commission, a copy of the policy shall be forwarded to the Commission.
- (e) The Council shall keep copies of any Policy with the Scheme documents for public inspection during normal office hours.
- (f) Any amendment or addition to a Policy shall follow the procedures set out in (a) - (d) above."

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council retains Local Planning Policy – Planning Conditions - Bonds and/or Bank Guarantees without modification.

Moved:

Seconded:

FOR:

AGAINST:

9.3.6 REVIEW OF LOCAL PLANNING POLICY 4.1.15 - SHIPPING AND/OR STORAGE CONTAINERS POLICY

LOCATION/ ADDRESS: Scheme Area.
APPLICANT: Not Applicable
FILE: PLA 22
AUTHOR: Neels Pretorius
CONTRIBUTOR/S: Manager Planning Services, consultant Max Hipkins and Planning Officers
RESPONSIBLE OFFICER: Director Development Services
DISCLOSURE OF ANY INTEREST: Nil
DATE RECEIVED: 9 October 2009

SUMMARY: All Local Planning Policies (LPP's) are being progressively reviewed. A number of amendments to Local Planning Policy 4.1.15 - Shipping and/or Storage Containers — have been proposed.

It is recommended that Council modifies Local Planning Policy - Shipping and/or Storage Containers.

BACKGROUND

Previous Considerations

OCM 3 Nov 2005 – Item 9.3.2

COMMENT

Policy reviews for a number of LPP's are presently being undertaken in accordance with the Shire of Broome Strategic Action Plan.

It is proposed that LPP 4.1.15 be strengthened and be made applicable to the entire scheme area and not just certain zones. It has also been reformatted into the Shire's standard policy template.

The changes can be summarised as:

Existing (Attachment 1)	Amended (Attachment 2)
Objectives	<p>Objectives have been extended to</p> <ul style="list-style-type: none"> • emphasize that the use of containers is intended for shipping. • To discourage alternative use of containers.
Exemptions (No previous section)	<p>Exemptions has been included to clarify when no planning approval is required for a shipping container.</p>
Guidelines	<p>General requirements has been changed from guidelines to requirements to make it</p>

Existing (Attachment 1)	Amended (Attachment 2)
	clear that there is no flexibility. Permanent Use of containers has been brought in as an extra heading
Delegation	This has not been included as these details are covered by the Instrument of Delegation Register

The policy has been amended to provide better clarity to applicant and sets out clear requirements to be followed. It is recommended that Local Planning Policy 4.1.15 be modified and adopted for public comment prior to further consideration and adoption by Council.

Attachment 1: Current Policy.

Attachment 2: Modified Policy.

CONSULTATION

The reviewed policy in accordance with Section 2.5 of TPS4 will be advertised for a period of 21 days – an extended period is not considered necessary as no major issues are expected to arise.

STATUTORY ENVIRONMENT

Shire of Broome Town Planning Scheme No.4 - Section 2.5

Section 2.5 of TPS4 requires the following procedure to initiate and finalise an amendment to a LPP.

“Procedures for Making and Amending Local Planning Policy A Local Planning Policy shall become operative only after the following procedures have been completed:

- (a) The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the draft Policy may be inspected, the subject and nature of the Policy and in what form and during what period (being not less than 21 days) submissions may be made.*
- (b) The Council shall review the draft Policy in the light of any submissions made and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.*
- (c) Following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.*
- (d) Where, in the opinion of the Council, the provisions of any Policy affect the interests of the Commission, a copy of the policy shall be forwarded to the Commission.*
- (e) The Council shall keep copies of any Policy with the Scheme documents for public inspection during normal office hours.*
- (f) Any amendment or addition to a Policy shall follow the procedures set out in (a) - (d) above.”*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

1. *Modifies Local Planning Policy – Shipping and/or Storage Container in accordance with Attachment 2*
2. *Adopts the modified policy for public comment.*

Moved:

Seconded:

FOR:

AGAINST:

[Attachments: 4 pages](#)

9.3.7 REVIEW OF LOCAL PLANNING POLICY 4.1.22 – OUTDOOR DINING

LOCATION/ ADDRESS:	Scheme Area.
APPLICANT:	Not Applicable
FILE:	PLA 22
AUTHOR:	Neels Pretorius
CONTRIBUTOR/S:	Manager Planning Services and Planning Officers
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE RECEIVED:	9 October 2009

SUMMARY: To present for Councils consideration Local Planning Policy (LPP) 4.1.22 – Outdoor Dining which has been reviewed and a determination made that no changes are warranted.

It is recommended that Council retains Local Planning Policy – Outdoor Dining without modification.

BACKGROUNDPrevious Considerations

OCM 8 June 2006 – Item 9.3.4.

COMMENT

Policy reviews for a number of LPP's are presently being undertaken in accordance with the Shire of Broome Strategic Action Plan.

LPP 4.1.22 should be retained in, it puts in place mechanisms to manage alfresco dining. Currently there are four (4) licenses issued on reviewing the details it has been established that there is no need to change the current policy.

It is recommended that Council retains Local Planning Policy – Outdoor Dining without modification

Attachment 1 – Local Planning Policy – Outdoor Dining

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Shire of Broome Town Planning Scheme No.4 - Section 2.5

Section 2.5 of TPS4 requires the following procedure to initiate and finalise an amendment to a LPP.

“Procedures for Making and Amending Local Planning Policy

A Local Planning Policy shall become operative only after the following procedures have been completed:

- (a) *The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the draft Policy may be inspected, the subject and nature of the Policy and in what form and during what period (being not less than 21 days) submissions may be made.*
- (b) *The Council shall review the draft Policy in the light of any submissions made and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.*
- (c) *Following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.*
- (d) *Where, in the opinion of the Council, the provisions of any Policy affect the interests of the Commission, a copy of the policy shall be forwarded to the Commission.*
- (e) *The Council shall keep copies of any Policy with the Scheme documents for public inspection during normal office hours.*
- (f) *Any amendment or addition to a Policy shall follow the procedures set out in (a) - (d) above."*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council retains Local Planning Policy - Outdoor Dining.

Moved: **Seconded:**

FOR:
AGAINST:

[Attachments: 2 pages](#)

9.3.8 APPLICATION FOR PLANNING APPROVAL – CONSULTING ROOMS - LOT 1031 (NO 40) CARNARVON STREET BROOME

LOCATION/ ADDRESS:	Lot 1031(No 40) Carnarvon Street, Broome
APPLICANT:	ENGAWA Architects on behalf of Bruce & Francine Rudeforth
FILE:	CAR-2/40
AUTHOR:	Justine Mudimbu
CONTRIBUTOR/S:	Manager Planning Services
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE OF REPORT:	2 October 2009

SUMMARY: An application for planning approval has been lodged for Consulting Rooms at Lot 1031 (40) Carnarvon Street, Broome.

This application is being referred to Council as the applicant proposes to locate car parking within the Haas Street road reserve.

This report recommends approval.

BACKGROUND

Previous Considerations

Nil

Site and Surrounds

Lot 1031 (40) is located on the corner of Carnarvon Street and Haas Street, Broome. The lot is across the road from the Anglican Church. The site has been cleared leaving a large Pandanus Spiralu to the front. It is bound to the south by a residential property Lot 1030 (42) Carnarvon Street and to the west by Lot 32(23) Hamersley Street. There is a depression on the road verge next to the site along Haas Street and this drains stormwater towards Carnarvon Street.

Attachment 1: – Locality Plan & Site Plan.

Description of the proposal

The proposal is to be developed in 2 phases:

- Phase 1 - the construction of a Dental Surgery consisting of consulting rooms for 2 dentists.
- Phase 2 (timing not yet determined) - will be for a two storey building with commercial offices (120sqm-150sqm) on the ground floor and residential (2 units of 120sqm – 150sqm) on the first storey.

Nine (9) on site parking bays are to be provided for and the applicant proposes to construct and an additional seven (7) off-site car park bays and has sought 2 reciprocal car parking rights for occupant parking of the future two residential units.

Attachment 2: –Floor Plan, Sections and Elevations.

Planning Provisions

Lot 1031 (40) Carnarvon Street is zoned 'Mixed Use' – the aim of the zone is to provide for residential, tourist, office, commercial, showrooms and other compatible uses which complement the mixed use character of the locality. Within the 'Mixed Use' zone 'Consulting Rooms' is a "P" use which means it is permitted.

The 'Mixed Use' zone Clause 4.16 sets out a range of requirements that must be complied with and Clause 10.2 establishes the matters which the Council is to have regarded for when considering applications.

Local Planning Policy 4.1.8 Car Parking sets out the required car parking provisions.

COMMENT

The proposed development has been designed to both provide operational efficiency (as a consulting room) and to address Carnarvon street in such a way that will maximise the opportunity to put in place an active streetscape. The development also retains the substantial Pandanus palm within a proposed landscaped area

The design of the building includes the use of gable roof forms, verandas, pitched roofs, timber features Colorbond wall and roof cladding and is considered compatible with Broome's Architectural heritage (Broomestyle). Setbacks and landscaping proposed are in accordance with the TPS 4 requirements. It recognises the objectives of the 'Mixed Use' Zone by (in Phase 2) proposing that residential be located above a commercial office.

The lot drains into the road reserve adjoining Haas Street which then subsequently drains to Carnarvon Street. The flow of the storm water requires that the abutting verge be retained in a managed swale.

In accordance with Local Planning Policy 4.1.8 Car Parking the following applies:

Land Use	Rate/ Calculation	Parking Bays Required	Parking Bays Provided
Consulting Rooms (phase 1) – 2 consultants, 2 nurses and 1 receptionist.	4 car bays for each professional person, plus 1 for each employee.	8+2+1 = 11 bays	9 bays
Commercial (phase 2)- 150m2*	1/30m2	5 bays	Request off site bays
Residential (phase 2) – 2 Units*	1/DU Mixed Use*	2 bays	Requests Addition reciprocal rights
Total		18 Bays	9 Bays

**RCodes 7.21. A1 (iii) states on site car parking may be reduced to one for dwelling were on-site parking required for other uses is available outside normal business hours.*

Should the details of Phase 2 alter the car parking requirements will have to be reassessed.

Local Planning Policy 4.1.8 Car Parking specifies applicants can provide car parking within the road reserve. The car parking requirements for the residential component (Stage 2) has already been reduced to accommodate the Mixed Use development by only requiring one bay per unit on the assumption that other car bays can be accessed by residents after hours It is therefore not appropriate that further reduction in parking be provided and the applicant be required to provide for 9 off site car parking spaces

The shire currently has designed a parking layout to enable any future verge parking designed to create a contiguous parking area at the corner of Hamersley and Haas Streets. It is proposed that the applicant be responsible for the construction of nine (9) car bays as marked on the accompanying plan.

It is recommended that the proposed development be approved.

Attachment 3: Off site Parking Bays.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Broome Town Planning Scheme No.4

TPS4 Clause 4.16 Mixed Use Zone

4.16.1 Aims and Objectives

4.16.1.1. The aim of the zone is to provide for residential, tourist, offices, commercial showrooms and other compatible uses which complement the mixed use character of the locality.

4.16.2 Site and Development Requirements

4.16.2.1. Setbacks for development in the Mixed Use zone shall have regard to the following:

a) Primary and Secondary Street – 3.0 metres

b) Side and Rear – Nil, with the exception of residential development, which shall be set back in accordance with the Residential Design Codes of WA.

4.16.2.2. Landscaping may be required by Council to be provided and maintained abutting the boundary of all street frontages to a minimum depth of 3 metres from the boundary.

4.16.2.3. Car parking areas shall be landscaped to provide shade and screening of vehicles.

4.16.2.4. Car parking for tourist land uses, which are within a site which comprise a mixed land use/development, shall be located in an area which is separate from any car parking for commercial land uses, and exclusively used for the tourist land use.

4.16.2.7 On corner sites, development shall address both streets.

4.16.4 Residential Development

4.16.4.1 New residential development is not permitted unless located above or behind existing or new commercial development onsite.

4.16.4.2 Unless otherwise shown on the Scheme map, residential development within the Mixed Use zone shall be developed to a maximum density of R40, as per the Residential Design Codes.

4.16.4.3 When determining site and development requirements for residential development, Council shall have regard for the 'Mixed Use Development' provisions of the Residential Design Codes of WA."

Clause 10.2 Matters to be Considered by Council

The Council in considering an application for planning approval may have due regard to the following:

- (a) *the aims and provisions of this Scheme and any other relevant town planning Scheme(s) operating within the district;*
- (b) *the Scheme Report - Local Planning Strategy;*
- (c) *the requirements of orderly and proper planning including any relevant proposed new town planning Scheme that has been adopted by the Council pursuant to the Town Planning Regulations 1967;*
- (d) *any approved Statement of Planning Policy of the Commission;*
- (e) *any approved Environmental Protection Policy under the Environmental Protection Act 1986;*
- (f) *any other policy or strategy of the Commission or any planning policy adopted by the Government of the State of Western Australia;*
- (g) *any planning policy adopted by the Council under the provisions of clause 2.5 of this Scheme, any heritage policy statement for any designated Heritage Area adopted under clause 7.2.2 of this Scheme, or any other plan or guideline adopted by the Council under the provisions of this Scheme;*
- (h) *the conservation of any place on the Heritage List or character or appearance of a Heritage Area under the Aboriginal Heritage Act, 1972 and the Heritage Act of WA, 1990;*
- (i) *any environmental consideration;*
- (j) *whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;*
- (k) *the preservation of the amenity of the locality;*
- (l) *the relationship of the proposal to development on adjoining land or on other land in the locality;*
- (m) *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (n) *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (o) *whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;*
- (p) *whether public utility services are available and adequate for the proposal;*
- (q) *whether adequate provision has been made for access by disabled persons;*
- (r) *whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved;*
- (s) *whether the proposal is likely to cause soil erosion or land degradation;*
- (t) *the potential loss of any community service or benefit resulting from the planning approval;*
- (u) *any relevant submissions or objections received on the application.*
- (v) *the comments or submissions received from any authority consulted under clause 10.1.1;*
- (w) *the comments and submissions received from the representative Aboriginal group and people on matters of heritage and cultural importance and Native Title;*
- (x) *whether adequate provision is made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
- (y) *any social issues which have an effect on the amenity of the locality;*
- (z) *any other matter which in the opinion of the Council has planning relevance.*

Local Planning Policy 4.1.8 Car Parking

6.0 Local Centre, Mixed Use and Tourist Zones

- 6.1 *A minimum of 50% of the assessed carparking bays are to be provided on-site.*
- 6.2 *Cash-in-lieu payments are to be made for carparking bays not provided on-site.*
- 6.3 *Developers may be permitted to develop part of the road reserve, which adjoins a site in accordance with plans approved by Council at the time of assessing the application for planning approval for the proposed development.*
- 6.4 *Any car parking permitted by Council within the road reserve will be at the full cost of the Developer and be subject to the requirements set out in Sub Clause 2.0 of this policy.*
- 6.5 *The developer is to provide or contribute to the provision of landscaping, footpaths and street lighting and provide for the future maintenance of these works as determined by Council.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council approves the application for planning approval 2009/42 for Consulting Rooms on Lot 1031(No 40) Carnarvon Street, Broome, subject to the following conditions:

1. *Development must be carried out in accordance with the plans dated 28 August 2009 and endorsed by the Shire.*
2. *If the development the subject of this approval is not substantially commenced within a period of 3 years from the date of the approval, the approval will lapse and be of no further effect. Where an approval has lapsed, no development must be carried out without the further approval of the Council.*
3. *A stormwater drainage system is to be provided in accordance with the Shire of Broome's guidelines and specification for 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.*
4. *Drainage and any filling of the site must be carried out in accordance with the approved Drainage Plan and then maintained to the satisfaction of the Shire.*

5. *Any signs proposed for the development will require further approval from the Shire of Broome.*
6. *Prior to any construction or works starting on-site, a Landscaping Plan must be submitted to and approved by the Shire, drawn to an appropriate scale and show the following:*
 - a) *The location and type of existing and proposed trees and shrubs.*
 - b) *Any lawns to be established.*
 - c) *Any natural landscape areas to be retained.*
 - d) *Those areas to be reticulated or irrigated.*
7. *Landscaping of Carnarvon and Haas Streets Road Reserves 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.*
8. *The applicant must provide nine (9) car bays on site and nine (9) bays off site.*

Moved:

Seconded:

FOR:

AGAINST:

[Attachments: 7 pages](#)

9.3.9 APPLICATION FOR PLANNING APPROVAL – SHOWROOM – LOT 51(2) DE CASTILLA STREET MINYIRR

LOCATION/ ADDRESS:	Lot 51(2) De Castilla Street Minyirr
APPLICANT:	Lyndsay Mathews
FILE:	DEC – 1/2
AUTHOR:	Neels Pretorius
CONTRIBUTOR/S:	Manager Planning Services
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE RECEIVED:	6 October 2009

SUMMARY: An application for planning approval for a showroom on Lot 51(2) De Castilla Street, Minyirr has been received. This application is being referred to Council because a showroom is not a permitted use in the Industrial zone in terms of the Broome Town Planning Scheme No4.

This report recommends refusal.

BACKGROUND

Previous Considerations

Nil

History

- Existing buildings on site approved on 9 December 2003, 14 September 2004 and 14 March 2005.
- 31 August 2006 during the final building inspection it was noted that part of Factory Unit B was used as a shop. A certificate of classification for the buildings on the site was not issued as the finished factory units did not match the approved drawings.
- 13 November 2008 - An application for built strata was received; because of the illegal showroom it was not possible to approve the built strata.
- 6 October 2009 - An application for planning approval for a change of use from workshop to showroom was lodged.

Site and Surrounds

Lot 51 (2) in De Castilla street Minyirr currently is developed with two factory units and an existing caretaker's residence. The one factory unit is occupied by Kingswood Marine and the other one factory unit is occupied by Broome Wheel aligning and suspension. Side of Port Drive the site is surrounded by existing Industrial uses. On the eastern side of Port Drive located opposite the site is Jetty Stockyard.

Attachments 1 – Site Plan

Description of the Proposal

The existing 249 sqm in unit B is used for the display and sale of large goods associated with aquatic recreation. The applicant is seeking planning approval so that the Built Strata application which has been submitted can be issued.

Attachment 2 – Proposed Development.

Planning Provisions

Lot 51(2) De Castilla Street is zoned 'Industry' under the provisions of Shire of Broome's Town Planning Scheme No. 4 (TPS4). In this zone a 'Showroom' and 'Retail premises-shop' are 'x' uses that is not permitted.

TPS4 further specifies (as footnotes) on page 17 of the Text Document.

Note for Clauses 4.2.1 and 4.2.2

4. A Council must refuse to approve any 'X' use of land. Approval to an 'x' use may only proceed by way of an amendment to the Scheme.

COMMENT

Shire of Broome's Town Planning Scheme lists two types of retail premises.

***Showroom** means the building or part of a building used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive spare parts, carpets, large electrical appliances, furniture, hardware or goods of a bulky nature.*

***Retail premises-shop** means the use of any land or building used to sell goods by retail, or, in which services of a personal nature including but not limiting the generality of the term, a hairdresser and beauty therapist, but does not include a showroom or fast food outlet. The hire of goods, provided for retail sale, may be undertaken as an ancillary use.*

The existing activity is considered to fit definition of a Showroom. Within the 'Industry' zone both a 'Showroom' and a 'Retail Premises-Shop' are listed as 'X' uses which means they are not permitted.

The proponent has been advised that TPS4 does not permit the operation of a retail outlet whether a Showroom or Retail premises-shop. He is extremely concerned that the illegal operation of Kingswood Marine is stopping him from obtaining Built Strata. He has also cited a number of examples of other operations he considers to be similar and is concerned that the Shire is not addressing these matters in a similar fashion.

TPS4 is very clear on what uses are permitted, discretionary or not permitted. The only option available to the proponent would be to request an initiation of a scheme amendment that lists 'Showroom' as an Additional Use on Lot No 51 De Castilla Street. This course of action is however not supported. The 'Industry' zone seeks to provide a suitable area for manufacturing industry and the distribution of goods and associated uses which by the nature of their operations should be separate from residential uses. With the continuing development of the Browse Basin the need to accommodate such activities will grow and it is important that this area be retained for the intended purpose as set out in TPS4.

Kingswood Marine has the option of establishing in areas where 'Showrooms' are permitted. TPS4 lists these as this as 'D' use in Town Centre Chinatown and (provided is it an ancillary activity) in the 'Light and Services' zone. Showroom is a 'P' use or permitted in the 'Mixed Use' zone.

It is recommended that the planning application be refused.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005
Shire of Broome Town Planning Scheme No.4

4.18 *Industry Zone*

4.18.1 *Aims and Objectives*

4.18.1.1. *The aim of the zone is to provide for manufacturing industry, the storage and distribution of goods and associated uses, which by the nature of their operations should be separate from residential areas.*

4.18.1.2. *Council's objectives will therefore be to:*

(a) encourage large storage and transport related land uses, noxious, hazardous and port related industry and other land uses which require large land parcels and/or separation from other land uses for health, safety or environmental reasons; and

(b) minimise the intensity of subdivision in the zone;

4.18.2 *Site and Development Requirements*

4.18.2.1. *Setbacks for all development in the Industry zone shall have regard to the following:*

(a) primary street - 9 metres; and

(b) secondary street - 4.5 metres; and

(c) side and rear - subject to the Building Code of Australia, and with at least one setback which shall provide adequate area to incorporate service areas, storage, parking, manoeuvring and/or access ways with a minimum width of 6 metres.

4.18.2.2. *A minimum shed of 200m² floor area shall be provided.*

4.18.2.3. *Landscaping shall be provided and maintained abutting the boundary of all street frontages, to a minimum depth of 3 metres from the boundary.*

4.18.2.4. *Multiple factory units may be developed on a lot. A multiple factory development may comprise a building or group of factory buildings. Each factory unit shall comply with the following:*

(a) a minimum floor area of 200m² and

(b) a minimum of 4 car parking bays per unit; and

(c) service areas for loading/unloading to each unit; and

(d) external storage area for each unit, which is accessible from the service area and/or access way; and

(e) all other requirements for setbacks, landscaping, and parking within an Industry Zone shall also apply to the total lot area of a multiple factory development.

4.18.2.5. The storage and use of toxic and hazardous substances are required to comply with the requirements of relevant Legislation and Government Authorities.

4.18.3 Subdivision Requirements. Lot areas in the Industry zone should not be less than 6,000m². The Council may recommend a minor reduction of the minimum lot area if the Council considers that the minor reduction will not prejudice the intent of the Industry zone.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

People

Engage with our community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

1. Refuses the application for planning approval 2009/106 for a showroom on Lot 51(No 2) De Castilla Street Minyirr because a 'Showroom' is not permitted in the 'Industry' zone.
2. Invites the proponent to discuss with staff a suitable location for the activity.

Moved:

Seconded:

FOR:

AGAINST:

9.3.10 PROPOSED TEMPORARY WORKERS ACCOMODATION – LOT 8, AND LOT 113 WATTLE DRIVE BROOME

LOCATION/ ADDRESS: Lot 8 and Lot 113 Wattle Drive Broome
APPLICANT: Graeme J Robertson and Warren Minshull
FILE: WAT-1/51
AUTHOR: Rene Human
CONTRIBUTOR/S: Manager Planning Services
RESPONSIBLE OFFICER: Director Development Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 8 October 2009

SUMMARY: Council has received a proposal for staff accommodation comprising approximately 30 temporary dwellings on Lot 8 and 20 temporary dwellings on Lot 113 Wattle Drive, Broome.

This matter is referred to Council for direction on how the proposal is to be considered.

This report recommends that the development be assessed through the lodging of an Application for Planning Approval for 'Use Not Listed – Temporary Workers Accommodation'.

BACKGROUND

Previous Considerations

Lot 8:
 OCM 18 December 2001 – Aquaculture Development
 OCM 29 April 2003 – Aquaculture Processing Room

Lot 113:
 Nil

Site and Surrounds

Lot 8 Wattle Drive has an area of 1.2991 ha and Lot 113 measures 1.0001 ha. Both properties are located between Broome Highway and Wattle Drive, west of Wattle Drive and south east of Broome Highway. Both lots have a flat gradient and have some natural vegetation.

See Attachment 1: Locality Plan.

Description of Proposal

A letter (with attached plans) was received from the owner of Lot 8 on 26 August 2009 asking:

“Council to consider under its planning powers, the use of the land to include staff accommodation (30 Units) as shown on the enclosure. I am aware that this has been possible in the past, and would facilitate a timely provision of staff accommodation to ease the apparent demand in your Shire”

Subsequently on 2 September 2009 a letter was received from the owner of Lot 113 outlining a proposal to provide a 'mirror image' development. Plans were subsequently received on 14 September 2009

The concept proposes:

- The creation of a self contained living environment for 50 dwellings that could accommodate from 100 to 200 people.
- Each dwelling (2m x 13.0m) consists of two bedrooms with ensuite bathrooms, shared kitchen and lounge an 'outdoor' living area with BBQ and laundry. Attached to each dwelling is a single carport (2.8m x 6.2m).
- Each lot has a single entry point from which access ways allows one car to be parked at each dwelling – the layout is similar in style to a caravan park.
- Visitors parking is provided on each lot and Lot 8 allows for the parking of boat and trailers. The whole of the remaining sites are to be landscaped.
- The dwellings on Lot 113 are generally aligned in an north south alignment and on Lot 8 in a north east and south west alignment.

The concept does not include the provision for common recreational areas or a manager's/caretaker's residence.

The development of 50 dwellings on 2.3 hectares which equates to a density of approximately 21 dwellings per hectare. This will be similar to a R20 coding.

Attachment 2: Concept Plans

PLANNING CONTEXT

Lot 8 and Lot 113 Wattle Drive are currently zoned ' Rural Living Zone' in terms of Broome Town Planning Scheme No. 4 (TPS 4). The aim of the zone is to provide for residential use in a rural environment.

Council's objectives are:

- (a) provide an area within a rural environment wherein closer subdivision may be permitted to provide for such uses as small scale rural pursuits/industry including horticulture (limited by water availability), small scale aquaculture, rural-residential retreats, home businesses, bed and breakfast facilities and outdoor recreation; and*
- (b) retain the rural landscape and amenity in a manner consistent with a rural environment; and*
- (c) the siting and scale of dwellings and buildings on the lot should aim to reduce the visual impact of the buildings within the area and to adjoining properties.*

'Temporary Workers Accommodation' is not listed in the use class table within TPS4. Clause 4.3.3 of the Scheme provides that Council may permit a use that is not listed in the Scheme if it considers that the use may be regarded as consistent with the objectives and purposes of the zone in which it is proposed. The application then has to be advertised in accordance with Clause 9.4 of the Scheme before the final consideration and determination of the application.

Local Planning Policy 4.1.8 Car Parking Policy - 8.0 *All Other Zones (Excluding Residential)* specifies that for 'other uses not listed' the number of parking bays is to be determined by Council, on a case by case basis.

The Local Housing Strategy (2009) - Objective 8 – 'Provide for Affordable, Low Cost Temporary Employee Accommodation' states that Council continues to consider applications for temporary employee accommodation as a Use Not Listed in the Town Planning Scheme (TPS 4).

COMMENT

The proponents are seeking Council's support to develop the sites for staff accommodation for 100 to 200 employees of businesses based in Broome for a temporary period.

The development of the area currently referred to as Broome North is scheduled to release the first residential lots by 2011. The Broome North Draft District Development Plan indicates development in that area opposite Wattle Drive to be Residential – Neighbourhood Living and it will have a Public Open Space buffer along Broome Road.

While on the opposite side of Broome Road to Broome North it is not anticipated there will be any need to change to the 'Rural Living' zoning of the Wattle Drive area. It will continue to be an area in which people have the opportunity to live on larger lots and enjoy a semi rural lifestyle or establish rural living enterprises.

Temporary Worker's Accommodation

There has been considerable deliberation on the issue of the supply of Temporary Workers Accommodation in Broome. The lack of workers accommodation has created significant difficulties for every sector in the local economy. With the release of residential blocks in Broome North by 2011, the need for workers accommodation within the town can be expected to increase as the construction and associated service industries again pick up.

Council has in recognition of the need to provide for Temporary Workers Accommodation resolved to treat these as a Use Not Listed under TPS4 so that each application is considered on its merits. This enables Council to respond within an acceptable timeframe to an urgent problem. Generally temporary has been defined as from two to five years.

At the same time it is important to ensure the form of accommodation will allow occupants to enjoy a living environment that compliments the unique attributes of the Broome climate/lifestyle of outdoor living. Any proposed development should address such matters as:

- Form and location of outdoor living area,
- access to breezes/breeze pathways,
- shade,
- landscaping,
- location of external fixtures,
- management of the facility
- common areas
- car parking, motorcycle, bicycle facilities
- drainage and filling of the site, and
- traffic impacts on neighbouring roads and intersections

There are two options currently available to Council

Option 1 – require the proponents to apply for a Planning Application for a Use Not Listed – ‘Temporary Worker’s Accommodation’. As part of this the proposal has to be advertised in accordance with the provisions of clause 9.4 before the final consideration and determination of the application.

Arguments for:

- Enables Council to respond within an acceptable timeframe to an urgent matter.
- Ensures the surrounding community has an opportunity to provide comments
- Is a temporary development and the site will be reinstated at the end of the approval period

Arguments against

- The proposed development with a density of 21 dwellings per hectare does not meet the ‘Rural living’ zone objectives

Option 2 – require the proponents to request that a Scheme Amendment be initiated to list Temporary Workers Accommodation as an additional use on Lot 8 and Lot 113 Wattle Drive Broome.

Arguments for:

- Enables the Council to amend the zoning to fit the proposed development.
- Ensures the surrounding community has an opportunity to provide comments

Arguments against:

- The proposed development is not in accordance with the Rural Living objectives
- Does not enable Council to respond to a urgent matter - this process can take between 9 and 12 months
- The development will be permanent.

It is recommended that Council as per Option 1 supports the application of a Planning Application for a ‘Use Not Listed – Temporary Workers Accommodation’ as per the adopted Local Housing Strategy 2009.

It is also recommended that the proponent be directed to address the following matters in the planning application:

- Provide details on how any detrimental affect on the adjoining Rural Living area is to be addressed including (but not limited to - setbacks, landscaping and traffic management).
- Form, size and location of each dwellings outdoor living area.
- Access to breezes/breeze pathways both for the outdoor living area and the habitable rooms.
- Shade to be provided to reduce solar impact.
- Location of external fixtures including air conditioners, clothes drying line etc. and whether these impact on adjoining residential units or the enjoyment of adjoining outdoor living areas.
- Details of the common areas to be provided including facilities and size.
- Waste disposal – both refuse and recycling.
- Car parking, motorcycle, bicycle facilities and boat parking and how informal parking adjacent to the units is to be prevented.

- How the site is to be filled and stormwater drainage managed.
- How traffic impacts on Wattle Drive and Broome Road intersection (including when the Speedway is operating) are to be managed.
- On going tenure of the lots – they should not to be subdivided, strata titled or subdivided in any other way that passes the long term tenure to the residents or lease.
- Proposed landscaping within the site and adjoining verge.
- Proposed road reserve works, footpath, lighting and road improvements.
- The proposed form of tenancing and management of the facility including exclusive dealing with employers for employee accommodation.
- Outline of what is to be included in the management agreement –eg: fire management, cyclone evacuation management alcohol management plan etc.
- Tenants sign a rental agreement that they are aware of the Speedway's location and operation.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Broome Town Planning Scheme No. 4 (TPS 4)

4.23 *'Rural Living Zone' - The aim of the zone is to provide for residential use in a rural environment.*

Council's objectives will therefore be to:

- (a) provide an area within a rural environment wherein closer subdivision may be permitted to provide for such uses as small scale rural pursuits/industry including horticulture (limited by water availability), small scale aquaculture, rural-residential retreats, home businesses, bed and breakfast facilities and outdoor recreation; and*
- (b) retain the rural landscape and amenity in a manner consistent with a rural environment; and*
- (c) the siting and scale of dwellings and buildings on the lot should aim to reduce the visual impact of the buildings within the area and to adjoining properties.*

Use Not Listed -

4.3 *Interpretation of the Zoning Table*

4.3.1 *Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.*

4.3.2 *In determining an application for planning approval, if a proposed use of the subject land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of any other use in the Zoning Table, the Council may:*

- (a) determine that the use is consistent with the objectives and purposes of the relevant zone involved in the application, and therefore may be treated as a permitted use; or*
- (b) treat the use as a use not listed if the Council considers that the use may be regarded as consistent with the objectives and purposes of the zone in which it is proposed and thereafter follow the procedures in relation to a use not listed set out hereafter; or*

(c) determine that the use is not consistent with the objectives and purposes of the particular zone in which case the use is to be treated as a use which is not permitted in that zone.

4.3.3 If the Council determines in connection with an application for planning approval that a use may be treated as a use not listed, the Council may permit the use provided that the application is advertised in accordance with the provisions of clause 9.4 before the final consideration and determination of the application

9.4 Advertising of Applications

9.4.1 Where an application is made for planning approval to commence an 'S' use or a use not listed (subclause 4.3.2) or commence or carry out development which involves an 'S' use or a use not listed, the Council shall not grant approval to that application unless notice is first given in accordance with the provisions of clause 9.4.3.

9.4.2 Notwithstanding the provisions of clause 9.4.1, where an application is made for planning approval for any other purpose, the Council may require that notice is first given in accordance with the provisions of clause 9.4.3.

9.4.3 The Council may require the applicant to give notice or may itself give notice of an application for planning approval by any one or more of the following means;

- (a) notice of the proposed development to be served on nearby owners and occupiers who are likely to be affected by the granting of planning approval stating that submissions may be made to the Council by a specified date being not less than twenty-one days after the service of such notice;*
- (b) notice of the proposed development to be published in a newspaper circulating in the Scheme area stating that submissions may be made to the Council by a specified date being not less than twenty-one days after the publication thereof;*
- (c) sign or signs displaying notice of the proposed development in such form as the Chief Executive Officer of the Shire approves to be erected in a conspicuous position on the land for not less than 21 days.*

9.4.4 The notice referred to in clause 9.4.3 (a) and (b) shall be in the form contained in Schedule 7 with such modifications as the circumstances may require.

9.4.5 Any person may inspect the application for planning approval referred to in the notice and material accompanying that application.

9.4.6 After the expiration of the specified period from the serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the latest, the Council shall consider and determine the application.

*Local Planning Policy 4.1.8 Car Parking Policy**Objectives:*

1. *To provide sufficient on-site parking for all developments within the townsite of the Shire of Broome.*
2. *To minimise any negative impacts of car parking on the streetscape within the Scheme area.*
3. *To ensure that developments are provided with an acceptable standard of car parking, which is safe, convenient and practical for the operation of the site and the community in general.*

1.0 Car Parking Provision

No development or redevelopment, including land use changes will occur within the Scheme area without the provision of the required number of car bays in accordance with Table One.

POLICY IMPLICATIONS

Local Housing Strategy 2009

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS**Place**

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

Council advises the proponents:

- A. *It will consider an application of a Planning Application for a 'Use Not Listed – Temporary Workers Accommodation'.*
- B. *The application for Planning Approval should address but not be limited to the following matters:*
 1. *Provide details on any detrimental affect on the adjoining Rural Living amenity is to be addressed including (but not limited to - setbacks, landscaping and traffic management).*

2. *Form, size and location of each dwellings outdoor living area.*
3. *Access to breezes/breeze pathways both for the outdoor living area and the enclosed accommodation areas.*
4. *Shade to be provided to reduce solar impact.*
5. *Location of external fixtures including A/c condensers clothes drying line etc and whether these impact on adjoining residential units or the enjoyment of adjoining outdoor living areas.*
6. *Proposed landscaping within the site and adjoining verge.*
7. *Proposed road reserve works, footpath, lighting and road improvements.*
8. *Details of the common areas to be provided including facilities and size.*
9. *Waste disposal – both refuse and recycling.*
10. *Car parking, motorcycle, bicycle facilities and boat parking and how informal parking adjacent to the units is to be prevented.*
11. *How the site is to be filled and stormwater drainage management.*
12. *How traffic impacts on Wattle Drive and Broome road intersection (including when the Speedway is operating) are to be managed.*
13. *On going tenure of the lots – they should not to be subdivided, strata titled or subdivided in any other way that passes the long term tenure to the residents or lease.*
14. *The proposed form of tenanting and management of the facility including exclusive dealing with employers for employee accommodation.*
15. *Outline of what is to be included in the management agreement –eg: fire management, cyclone evacuation management alcohol management plan.*
16. *A memorandum to be placed on the title giving notice of potential noise emanating from speedway activities and reference made to this notice in all tenancy agreements.*

Moved:

Seconded:

**FOR:
AGAINST:**

9.3.11 PLANNING APPROVAL – TEMPORARY METEOROLOGICAL TOWER – LOT 259, JAMES PRICE POINT, DAMPIER PENINSULA

LOCATION/ ADDRESS:	Lot No. 259 off Menari Road, James Price Point
APPLICANT:	Woodside Energy Ltd on behalf of the State of Western Australia
FILE:	DAM/259.LNG
AUTHOR:	Neels Pretorius
CONTRIBUTOR/S:	Manager Planning Services and Principal Environmental Officer
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE OF REPORT:	5 October 2009

SUMMARY: Woodside Energy Ltd proposes to develop a temporary Meteorological Tower for a minimum period of 12 months and a maximum period of three years. From this facility field data will be collected on the atmospheric conditions in the area to help with the detailed planning of the LNG Precinct.

The item is brought to Council for consideration as the land falls within the Shire of Broome's Interim Development Order No. 4 (IDO4).

It is recommended that Council support the development.

BACKGROUND

Previous Considerations

Nil

Site and Surrounds

James Price Point is located approximately 60 kilometres north of Broome. Two potential sites have been identified each is 2000 to 2500sqm in size. Located on an elevated part of the coast the natural vegetation consists of eucalyptus and acacia woodlands.

See Attachment 1 – 3 : Locality Plans.

Description of the Proposal

The proposal is to construct 30m high Temporary Meteorological Tower (the Tower), with associated weather station monitoring equipment for a minimum of 12 months and a maximum of 36 months. The Tower will be located within either one of two sites each approximately 2,000m² (0.2 hectares) to 2,500m² (0.25 hectares) in area. The final site will be determined after a heritage clearance has been obtained.

The features of the tower include:

- One, 30metre high galvanized steel (grey colour) tower with three mast guy wires extending out to approximately 18m from the tower base at a 120 degree angle.
- The tower base and mast guy wires will be secured with concrete footings.
- Wind and air temperature sensors at the top of the tower, between 10m to 20m above the ground and also near ground level.

- Rain gauge, humidity sensor, pyranometer (measures solar radiation) devices near ground level.
- 'Earthing and Lightning' Protection is provided by the installation of a 4m earthing rod, which is driven into the soil under the mast centre. An earthing wire will be connected to the rod and will extend up the length of the tower to a lightning arrestor kit.
- A power generation system (batteries and solar) will be provided to power the equipment. A communication system (wireless or satellite) will be installed to transmit the collected data to an office location for processing.
- A 1.8m high galvanized steel fence with locked gates will surround the tower in a triangular shape. No 'barbed' wire is planned to be used.
- The land within the fenced area of the tower will be selectively cleared - slashed or rolled - to eliminate interference with sensors and reduce fire risk.
- The top of the tower will be designed to inhibit the nesting of a sea eagle (osprey).
- No overhead or underground cables are required.
- There is no aviation requirement to place a light at the top of the tower.

Planning Provisions

The land is included in Interim Development Order No 4. Woodside Energy Ltd is undertaking this work on behalf of the Department of State Development and the proponent is required to obtain a written approval for the development in accordance with Clause 4, 4A and 4B of IDO 4.

COMMENT

The tower is required to monitor weather and environmental conditions and collect field data on atmospheric conditions, such as wind speed, air quality and temperature. The information recorded by monitoring equipment (sensors and loggers) will be used to assist in the future planning and development of the site, for the anticipated future gas storage and gas processes that are to occur in this location. The monitoring will be used to guide LNG train design, assess safety aspects of LNG plant site layout, and complete air quality assessment to guide engineering design to maximize dispersion of potential air pollutants.

To minimize the requirement for on site field visits, field data will be transmitted from site via a satellite to an offsite location for processing. Service visits will be required at two (2) to three (3) monthly intervals or earlier if data problems are incurred. Access to the site during the operation phase will be by light passenger vehicle e.g. 4WD and any parking will be onsite.

Two sites, of between 2,000sm to 2,500sm have been identified. Each is a triangular shape of approximately 45m x 45m x 45m. Only one site is required for the construction of the tower. The final site selection will be made after a heritage clearance has been undertaken by the Kimberley Land Council, Traditional Owners, Environmental Specialist and Contactors. This process will ensure that the final selected site is technically and structurally stable, whilst minimizing potential environmental impacts and avoiding heritage sites.

It is proposed that approval be given to both the sites to be developed for a meteorological tower to give Woodside the benefit to start with the erection of the tower immediately after the final site selection has taken place.

Option A — The preferred site is located approximately:

- 4.5km south of James Price Point
- 1km east of the coast cliff line

-100m east of the unsealed Manari Road.

This site would require a new track of approximately 3m wide and 100m in length to be established from Manari Road to the tower site. Vegetation would be selectively cleared by 'scrub roll' or 'blade up' clearing to minimize the extent of clearing of the track. The track in would have a 'bend' so the proposed tower could not be viewed directly from Manari Road.

Option B - is located approximately:

- 4km south - east of James Price Point
- 3km east of the coast cliff line
- 2.5km east of the Manari Road.

Access would be via an old track recently re-cleared and reinstated during a vegetation/flora study in this area. This track leaves the Manari Road some 13km north of the point at James Price Point and then proceeds south approximately 15km.

The following factors were taken in consideration in the process of site selection:

- The proposed sites do not overlay any Department of Environment and Conservation listed Threatened Ecological Communities or priority flora.
- By sitting the development away from coastal areas, drainage lines and or flood prone areas the impact on natural surface drainage is minimal.
- Minimize disturbance and clearing by using existing cleared tracks to access the site and/or to locate the site near the existing Manari Road
- The accessibility of the site for construction and ongoing management.
- The close proximity to the intended future LNG Precinct this allows accurate meteorological information to be obtained relevant to the planning for future LNG development.

The proposed sites do not overlay any registered Aboriginal Heritage Sites (Dept Indigenous Affairs 2009).

A site visit by Environmental Specialists Contractors and Shire staff was undertaken on Friday 2 October. The following factors were discussed on-site:

- Clearing of the site would be undertaken by an exemption under the Clearing Act. Clearing of the vegetation undertaken for the access road and Meteorological Tower would be mulched and spread back onto the site.
- Topsoil that is removed is to be stored and replaced back onto the site
- The access road is to be re-aligned around large endemic trees
- Further clearing for a firebreak was considered unnecessary as it would not protect the site due to the location therefore further clearing for a firebreak beyond the fence line is not permitted
- Hygiene of vehicles will be undertaken to limit weed infestations.
- Once the infrastructure is removed from the site and the access road is no longer required the site will be rehabilitated to a good condition. The use of local provenance seed and propagated plants from site seed is recommended for rehabilitation of the site.

Notwithstanding the details outlined above, discussed during the site visits, and subsequent negotiations Woodside advise that it may be necessary to make minor location changes before determining the final defined site.

It is recommended that the development of a Temporary Metrological Tower and associated access tack be approved on both sites Option A and Option B.

See Attachment 3: - Proposed Temporary Metrological Tower.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Interim Development Order No.4

4 *Application for, and Grant of, Approval*

- (a) *No person shall carry out development (other than permitted development as set out in paragraph 6 of this Order) on land within the scope of this Order until he/she has applied for approval from the local government and has received the written approval or conditional approval of the local government in accordance with the provisions of the Act and this Order.*
- (b) *Application shall be made by or on behalf of the owner of the land and shall be accompanied by three copies of a plan or plans drawn to scale illustrating the proposed development and its location and indicating the type and construction or any buildings or works proposed*
- (c) *The application shall be dealt with by the local government in accordance with the terms of this Order and the approval, conditional approval, or refusal of the local government shall be issued to the applicant together with one copy of the plan or plans.*

4A *Matters to be Considered by Council*

The Council in considering an application for approval may have due regard to the following:

- i. any approved Statement of Planning Policy of the Western Australian Planning Commission; any approved Environmental Protection Policy under the Environmental Protection Act 1986;*
- ii. any other adopted planning policy or strategy that may be applicable to the area;*
- iii. the conservation of any place on the Heritage List or character or appearance of a Heritage Area under the Aboriginal Heritage Act, 1972 and the Heritage Act of WA, 1990;*
- iv. any environmental consideration;*
- v. whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;*
- vi. the preservation of the amenity of the locality;*
- vii. the relationship of the proposal to development on adjoining land or on other land in the locality;*
- viii. whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- ix. the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*

- x. *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- xi. *whether the proposal is likely to cause soil erosion or land degradation;*
- xii. *any relevant submissions or objections received on the application.*
- xiii. *the comments or submissions received from any statutory, public or planning authority and relevant Aboriginal people and community group/s;*
- xiv. *any other matter which in the opinion of the Council has planning relevance.*

- 4B (a) *Conditions to be complied with*
Where conditional approval to the carrying out of development is given under paragraph 4 of this Order no person shall commence, carry out, or complete that development otherwise than in accordance with the condition or conditions upon which the approval is given or continue to carry out such development after the expiry of any period limited by such a condition for the completion of the development or fail to remove any structure or building erected pursuant to the approval if so required by such condition.
- (b) *Development to be carried out in accordance with approval plans where, pursuant to the provisions of the Order, plans indicating the form which development and other works shall take is approved by the Council, no development or other works shall be carried out otherwise than in strict accordance with the approved plans except in instances where a condition of approval requires the development to be modified in which case the development shall be carried out in its modified form.*

Failure to comply with the requirements of paragraph 4 and 4b shall constitute an offence for the purposes of Section 7B of the Town Planning and Development Act, 1928 (as amended).

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council approves the application for planning approval 2009/124 for a Temporary Meteorological Tower for both sites Option A and Option B at James Price Point, subject to the following conditions:

- 1. Development must be carried out in accordance with the plans dated 21 September 2009 and endorsed by the Shire.*
- 2. If the development the subject of this approval is not substantially commenced within a period of 3 years from the date of the approval, the approval will lapse and be of no further effect. Where an approval has lapsed, no development must be carried out without the further approval of the Council.*
- 3. Only one Temporary Metrological Tower is to be constructed either on site Option A or on site Option B.*
- 4. That all works associated with the development is to be removed from site and the site re-instated at the time of the ceasing of the use as a Metrological Tower for the purposes of the collection of data for the proposed LNG precinct or April 2013 which ever is sooner. Reinstatement of the site is to include weed management and the revegetation.*

Moved:

Seconded:

FOR:

AGAINST:

[Attachment: 4 pages](#)

9.3.12 APPLICATION FOR PLANNING APPROVAL – WHALE WATCHING TOWER WITH ASSOCIATED FACILITIES - LOT 348 DAMPIER BEAGLE BAY.

LOCATION/ ADDRESS:	Lot 348, Dampier Beagle Bay.
APPLICANT:	Andrew Bowles for Goojarr Goonyool Aboriginal Corporation
FILE:	ABL02-5
AUTHOR:	Justine Mudimbu
CONTRIBUTOR/S:	Manager Planning Services
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE OF REPORT:	6 October 2009

SUMMARY: An application for planning approval has been received for the construction of a Whale Watching Tower at Two Moons Whale and Marine Research Base with associated facilities in the Goojarr Goonyool Aboriginal Community.

The report is referred to Council for consideration as the land comes under the control of the Shire's Interim Development Order No. 4 (IDO4). The area is not covered by a Community Layout Plan.

This report recommends Council approve the proposed development.

BACKGROUND

Previous Considerations

Nil

Site and Surrounds

Two Moons Whale and Marine Research Base is located approximately 145 kilometres north of Broome and approximately 60km south west of Cape Leveque. The site is 24.18 *hectares* in size.

Attachment 1 -Locality Plan.

Description of the proposal

The proponent proposes to build a research tower at Two Moons Whale and Marine Research Base (Two Moons) with associated facilities, including:

- One Whale Watch Tower with a footprint of 9.4m x 9.4m and 15.3m in height (4 levels).
 - Levels 1, 2 and 3 will be accessible to the public as viewing platforms with visitor information and educational material.
 - Level 4 will be communications/survey room (24hrs surveys) with perimeter observation platform.
- Public Toilets.
- Accommodation (Dongas to house researchers).
- Caretaker's accommodation.
- Car parking area.

- Attachment 2 – Site Plan and Tower
- Attachment 3 – Public Toilets
- Attachment 4 – Proposed Accommodation – Dongas
- Attachment 5 – Caretaker Dwelling

Planning Provisions

The land falls within the Shire of Broome's Interim Development Order No 4 (IDO4) and therefore Council's approval is required.

COMMENT

The Western Australian Marine Science Institution (WAMSI), Tourism WA, Kimberley Land Council have provided letters of support for the Goojarr Goonyool's proposed marine research facility. WAMSI noted that the focus of the research station is to establish an independent, peer reviewed assessment of the humpback whale population and behavioural patterns - is being akin to what WAMSI has been endeavouring to do in Camden Sound.

The proposal is to build a tower at Two Moons with associated facilities to be used for scientific research of humpback whales on their migratory paths. It will also allow the general public to observe and learn more about the whales in their natural environment. The applicant has been collecting data on migrating humpback whales for a decade and hosts scientists keen to observe Pender Bay, a whale nursery area. The studies have established this area is a highly populated aggregation site during the whale's southern migration. The proposed development will also provide training and employment opportunities for the local people. Funding of up to \$300,000 of state funding towards the project has already been secured.

Statement of Planning Policy No 2.6 "State Coastal Planning Policy" (SPP 2.6) seeks to ensure the coastal area, natural and landscape and cultural value are protected and to ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities. The proposed facility is set back approximately 50 metres from high water mark. This facility has the potential to provide a unique experience for tourists to the Dampier Peninsula with the increased camping locations there is a growing demand for locations and activities to visit.

While the former Department of Planning and Infrastructure initiated work on a Dampier Peninsula Land Use Plan this has not been concluded nor is there a Tourism strategy or Strategic Access Plan in place for the Peninsula. The community is not of a population size to warrant the preparation of a Community Layout Plan however a draft Goojarr Goonyool Outline Plan (GGOP) was prepared over 12 months but has not been finalised. This identifies the existing use of the site for whale observation research and identified possible future facilities. The proposed development while locating the tower in a slightly different location is generally in accordance with the GGOP.

The applicant has advised that there will be no tourism accommodation provided on site. The focus of the development is the establishment of a whale watching facility that can both operate as a land based research station and as an educational/information centre for the day visitors. Development is to occur in a staged way subject to the availability of sponsor funds.

The access track to Goojarr Goonyool is not a gazetted road. Should the development be approved the applicant will be responsible for maintaining any vehicular access from the Peninsula Access Road.

This proposal will provide the necessary facilities for scientific research of humpback whales and will provide unique day trip experience for visitors to the Peninsula. It is recommended the application be approved.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005
Interim Development Order No 4

Clause 1 Application

This Order applies to:

Land between the Scheme boundary of Town Planning Scheme No.4 and extending northwards, eastwards and southwards to the boundaries of the Municipality.

Clause 4 Application for, and Grant of, Approval:

- (a) No person shall carry out development (other than permitted development as set out in paragraph 6 of this Order) on land within the scope of this Order until he/she has applied for approval from the local government and has received the written approval or conditional approval of the local government in accordance with the provisions of the Act and this Order.*
- (b) Application shall be made by or on behalf of the owner of the land and shall be accompanied by three copies of a plan or plans drawn to scale illustrating the proposed development and its location and indicating the type and construction or any buildings or works proposed.*
- (c) The application shall be dealt with by the local government in accordance with the terms of this Order and the approval, conditional approval, or refusal of the local government shall be issued to the applicant together with one copy of plan or plans.*

Clause 4A Matters to be considered by Council.

The Council in considering an application for approval may have due regard to the following:

- i. any approval Statement of Planning Policy of the Western Australian Planning Commission;*
- ii. any approved Environmental Protection Policy under the Environmental Protection Act 1986;*
- iii. any other adopted or proposed planning policy or strategy that may be applicable to the area;*
- iv. the conservation of any place on the Heritage List or character or appearance of a Heritage Area under the Aboriginal Heritage Act, 1972 and the Heritage Act of WA, 1990;*
- v. any environmental consideration;*
- vi. whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;*
- vii. the preservation of the amenity of the locality;*

- viii. *the relationship of the proposal to development on adjoining land or on other land in the locality;*
- ix. *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- x. *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and probable effect on traffic and safety;*
- xi. *whether adequate provision has been made for the landscaping of land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- xii. *whether the proposal is likely to cause soil erosion or land degradation;*
- xiii. *any relevant submissions or objections received on the application;*
- xiv. *the comments or submissions received from any statutory, public or planning authority and relevant Aboriginal people and community group/s;*
- xv. *any other matter which in the opinion of the Council has planning relevance.*

Clause 4B*(a) Conditions to be complied with:*

Where conditional approval to the carrying out of development is given under paragraph 4 of this Order no person shall commence, carry out, or complete that development otherwise than in accordance with the condition or conditions upon which the approval is given or continue to carry out such development after the expiry of any period limited by such a condition for the completion of the development or fail to remove any structure or building erected pursuant to the approval if so required by such condition.

(b) Development to be carried out in accordance with approval plans

Where, pursuant to the provisions of the Order, plans indicating the form which development and other works shall take is approved by the Council, no development or other works shall be carried out otherwise than in strict accordance with the approved plans except in instances where a condition of approval requires the development to be modified in which case the development shall be carried out in its modified form.

Failure to comply with the requirements of paragraph 4 and 4b shall constitute an offence for the purposes of Section 7B of the Town Planning and Development Act, 1928 (as amended).

POLICY IMPLICATIONS

Statement of Planning Policy No 2.6 "State Coastal Planning Policy"

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS**Place**

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION*That Council:*

- A. *Approves the application for planning approval 2009/125 for a Whale Watching Tower Accommodation, Public Toilets and Caretakers Dwelling at Two Moons Whale and Marine Research Base on Lot 348. in the Goojarr Goonyool Aboriginal Community, Dampier Peninsular , subject to the following conditions:*
1. *Development must be carried out in accordance with the plans dated 4 September 2009 and 14 October 2009, and endorsed by the Shire.*
 2. *If the development the subject of this approval is not substantially commenced within a period of 3 years from the date of the approval, the approval will lapse and be of no further effect. Where an approval has lapsed, no development must be carried out without the further approval of the Council.*
 3. *No accommodation is to be used for short stay tourist accommodation*
 4. *The proponent to provide all vehicular access and maintenance from the Peninsula Access Road to the development.*
 5. *Car parking be provided adjacent to the tower for 10 car parking bays*
- B *Advises the applicant that the Goonjarr Gooyool Outline Plan should be finalised to provide a strategic direction for future development applications.*

Moved:***Seconded:******FOR:******AGAINST:***[Attachment: 16 pages](#)

9.3.13 ILLEGAL CARAVAN PARK - LOT 3000 BROOME HWY BROOME

LOCATION/ ADDRESS:	Lot 3000 Broome Hwy, Broome
APPLICANT:	N/A
FILE:	BRO1/LT3000
AUTHOR:	Manager Health Services
CONTRIBUTOR/S:	Manager Planning Services
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	N/A
DATE OF REPORT:	20 August 2009

SUMMARY: In July 2009 an illegal caravan park and camping ground was operating at Lot 3000 Broome Highway. This report is for Council to consider the appropriate course of action for the illegal operation of a caravan park and camping ground at Lot 3000 Broome Highway, Broome.

This report recommends Council advise the owner should he reoffend prosecution proceedings will be initiated.

BACKGROUNDPrevious Considerations

OCM 20 November 2001 – Item 4.5 (Bed and Breakfast)

OCM 2 March 2004 – Item 9.2.3 (Building Works Constructed Without a Building Licence)

OCM 16 April 2009 – Item 9.3.3 (Proposed Scheme Amendment – ‘Additional Uses’ for Tourist Related Activities)

On Friday 17 July 2009 the Shire of Broome received a complaint regarding the illegal operation of a caravan park and camping ground at Lot 3000 Broome Road, Skuthorpe. The Shire of Broome’s Planning Officer and Environmental Health Officer completed a site visit that afternoon and confirmed the complaint to be substantiated as they reported a caravan park was operating from the premises with 12 caravans onsite. Waste water was seen to be discharging from caravans into the surrounding environment.

The operator was verbally advised that operating a caravan park on this site contravenes the Town Planning Scheme No.4, Caravan Parks and Camping Grounds Act 1995 and Regulations 1997 and Health Act 1911 and was directed to cease operating the site as a caravan park. This direction was formalised in writing to the owner of the premises.

A subsequent site visit completed on Wednesday 29 July 2009 by the Shire’s Environmental Health Officer, confirmed the owner of the property had remained compliant with the Shire’s direction and ceased operating the caravan park.

The property owner has previously obtained planning approval to operate a Bed and Breakfast, accommodating a maximum of 6 guests in 3 rooms. The Shire of Broome’s Planning Services is currently processing a Scheme Amendment application for Additional Uses ‘Camping and Caravan Park’ and ‘Lodging House’. As this is a lengthy process to complete, it is anticipated this approval process will not be finalised until approximately July 2010.

A meeting was held with the property owner at the Shire of Broome Administration Office to further clarify the planning approval process and reiterate the requirement to obtain

planning approval before a Caravan Parks and Camping Grounds Licence can be issued. Planning approval is also necessary to consider this site as a possible overflow caravan park location. Waste water disposal requirements were also discussed at this meeting.

COMMENT

Operation of a caravan park at property such as that at Lot 3000 Broome Highway, Broome, requires compliance with the legislation prior to the Shire of Broome issuing a licence to operate the facility. In this instance, the property owner has contravened various legislative requirements, including –

Town Planning Scheme No.4

The Shire of Broome's Town Planning Scheme No.4 Clause 11.3.2 requires compliance with the scheme. If any person fails to comply an offence is committed and penalties apply as set out in the Planning and Development Act 2005.

Caravan Parks and Camping Grounds Act 1995

The Caravan Parks and Camping Grounds Act 1995 prohibits a person from operating a caravan park without a licence. To obtain a Caravan Parks and Camping Grounds Licence, following planning approval, the applicant is to submit an application together with site plans of the proposal indicating the proposed facility is compliant with all aspects of the Caravan Parks and Camping Grounds Act 1995 and Regulations 1997.

Health Act 1911

Waste water, including black and grey water, can not discharge into the environment. Section 98 of the Health Act 1911 requires waste water to be disposed of into depot or place duly authorised to accept waste water. Such a place includes the sewer or an apparatus for the treatment of sewerage. As this property is not located in a sewered area, waste water must be discharged into a Local Government/Department of Health approved waste water system. This requires submission of an Application to Construct or Install an Apparatus for the Treatment of Sewerage to obtain approval for installation and use of a waste water system.

The property owner expressed concerned about the high number of tourists camping illegally in the vicinity of his property during the tourist season and saw a need for additional camping facilities. It is acknowledged Broome experiences a significant influx of tourists during the dry season with the licenced caravan parks and overflow caravan parks reaching maximum occupancy. However, allowing unlicensed facilities to operate to cater for this need sets an illegal precedence that can create significant environmental issues that may impact the health of the community.

Given the property owner complied with Shire Officer's direction to cease operating the caravan park at the property, it is recommended that the Council of the Shire of Broome further advise in writing :

1. Operation of a caravan park at this property contravenes the Town Planning Scheme No.4, Caravan Parks and Camping Grounds Act 1995 and Health Act 1911,
2. Should further contravention of legislation occur, the Shire of Broome shall prosecute the property owner in accordance with the Caravan Parks and Camping Grounds Act 1995 and Health Act 1911.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Town Planning Scheme No. 4

Clause 11.3.2 Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by section 10 of the Act.

Caravan Parks and Camping Grounds Act 1995

6. *Caravan park or camping ground not to be operated without a licence*
- (1) *On and after the appointed day a person must not operate a facility, or a facility of a prescribed type, unless the person holds the appropriate licence under this Act in relation to that facility.*
- Penalty: \$5 000.*

Health Act 1911

98. *Punishment for placing sewage in streets etc.*
- Any person spilling, casting, throwing, or otherwise putting down or depositing or causing or allowing to be spilt, cast, thrown or otherwise put down or deposited any sewage into or upon any road, street, tramway, channel or tunnel, footway, lane or any land or place other than a place or depot duly authorised for the purpose, commits an offence.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

People

Actively contribute to well being and safety and support community initiative.

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural built environment to support a quality lifestyle and local economy.

Ensure the Shire's infrastructure and assets are strategically planned and managed

Prosperity

Support business and economic development

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council advises the owner of Lot 3000 Broome Highway:

1. *The operation of a caravan park at this property contravenes the Town Planning Scheme No.4, Caravan Parks and Camping Grounds Act 1995 and Health Act 1911.*
2. *Should further contravention of legislation occur, Council authorises the Chief Executive Officer to initiate prosecution proceedings against the property owner in accordance with the Caravan Parks and Camping Grounds Act 1995, Health Act 1911 and the Planning and Development Act 2005.*

Moved:

Seconded:

FOR:

AGAINST:

9.3.14 APPLICATION TO CAMP OTHER THAN AT A CARAVAN PARK

LOCATION/ ADDRESS: LOT 28, No.5 Dawn Way Broome (Blue Haze)
APPLICANT: Kyal Ager & Angela Kettle
FILE: DAW-1/5
AUTHOR: Environmental Health Officer
CONTRIBUTOR/S: Manager Health Services
RESPONSIBLE OFFICER: Director Development Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 12 October 2009

SUMMARY: This report details an application to Council to allow 'camping' for an extended period contrary to Shire Broome Policy Number 4.2.10 -Approval To Camp For An Approved Period Of Time In Residential, Rural, Industrial, Light Industrial And Recreational Areas.

The recommendation from Shire's Environmental Health Services is that approval be denied based on legislative constraints and concerns regarding the setting of precedence contrary to Shire policy.

BACKGROUNDPrevious Considerations

Nil

In May 2009 the Shire's Town Planning department issued a letter to property owners in the Blue Haze light industrial area giving an explanation of when caretaker dwellings and caravans are permitted in this area. The letter went on to advise people to seek approval for any caravans that were currently on sites without approval.

The Shire's Environmental Health Services has subsequently received applications for the approval of temporary caravan accommodation as a result of this letter including the one that is the subject of this report

The application in question (Approval to Camp Other than at a Caravan Park) dated 17 August 2009, was received with an accompanying letter from the applicants at Lot 28, No. 5 Dawn Way, Blue Haze. The letter outlined that the applicants' tenant was on medical benefits, was unable to join the work force and was being provided with "a caravan and cheap rent to allow him to survive in Broome..."

The Caravan Parks and Camping Grounds Regulations 1997 and Shire of Broome Policy 4.2.10 - *Approval to Camp for an Approved Period of Time in Residential, Rural, Industrial, Light Industrial and Recreational Areas* (attached) - sets down the requirements and time frames allowable for people to use caravan accommodation with the intention that this be available in periods of extreme accommodation shortage. The following table from Policy 4.2.10 shows these requirements and time frames.

Zone	Period of Stay	Number of Caravans	A Requirement to Be Employed in Broome
Residential	3 months	1 caravan or 1 tent	No (can be friends and relatives)
Rural	12 months	3 caravans	Yes

Zone	Period of Stay	Number of Caravans	A Requirement to Be Employed in Broome
Light and Service Industry	12 months	3 caravans	Yes
Industrial	12 months (dependant on land use. To be assessed by the Shire at time of application)	3 caravans	Yes
Parks & Recreational Areas (sporting clubs etc)	12 months	3 caravans	Yes

As Blue Haze is zoned Light and Service Industry the policy requires that a person seeking approval to camp must be:

- Employed in Broome and the period of stay must not exceed 12 months.

Further to this, legislative constraints set down in the *Caravan Parks and Camping Grounds Regulations 1997* states that:

- While written approval may be given to a person to camp on land between 3 nights and 3 months by the local government, a period longer than 3 months can only be granted by the Minister for Local Government and Regional Development. *That is, the applicant needs to make application to the Minister rather than the Shire for periods exceeding 3 months.*

Policy 4.2.10 also makes reference to environmental, safety and social issues such as black and grey water disposal, cyclone risks and consultation with neighbours requiring adequate address by the applicant. The applicants have not indicated in their submission that consultation with their neighbours has occurred.

This application has been referred to Council for consideration as the application is non compliant with Council Policy 4.2.10.

COMMENT

While there is sympathy for individual cases and acknowledgement of the ongoing problem of a shortage of low-cost housing in Broome, there is concern that setting a precedent to allow caravans to become long term housing solutions for short term tenants on private land may become problematic for the Shire.

It is recommended that approval not be granted as setting a precedent would open the door to similar appeals and once approval is granted it would be very difficult to monitor individual cases with regards to the potential for subsequent tenants, in varying circumstances, renting the same caravan should the original tenant vacate. Additionally, there is the potential for environmental, social and safety issues to be ongoing for the Shire.

Furthermore and regardless of the above, the Shire is limited by legislation to approve such applications for a period not longer than 3 months. If this application were to be approved, this would only provide a temporary, short term accommodation solution for the 'tenant' who would nonetheless be required to source alternative accommodation.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

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, states written approval may be given for a person to camp on land (that has legal right to occupy) for a period:

- *Between 3 nights and 3 months within any 12 months by the local government,*
- *Longer than 3 months within any period of 12 months by the Minister, or*
- *Up to 12 consecutive months while a building licence issued to that person in respect of the land is in force, by the local government.*

POLICY IMPLICATIONS

Shire Broome Policy Number 4.2.10 – *Approval to Camp for an Approved Period of Time in Residential, Rural, Industrial, Light Industrial and Recreational Areas.*

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS**People**

Effectively engage with our community by encouraging participation and providing information.

Place

Build partnerships with the community and other agencies to recognize, protect and enhance the natural environment and cultural heritage.

Ensure the Shire's infrastructure and assets are strategically planned and managed.

Prosperity

Partner with other agencies to ensure affordable and equitable services and infrastructure.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council rejects this application based on legislative constraints and concerns regarding the setting of precedence contrary to the Caravan Parks and Camping Grounds Regulations and Shire policy 4.2.10 Approval to Camp For an Approved Period of Time in Residential, Rural, Industrial, Light Industrial and Recreational Areas.

Moved:

Seconded:

FOR:

AGAINST:

[Attachment: 3 pages](#)

9.3.15 RUBBISH COLLECTION SERVICES - MALLINGBARR (KENNEDY HILL)

LOCATION/ ADDRESS:	Reserve 25790, 1 Frederick Street Broome
APPLICANT:	N/A
FILE:	RES 25790
AUTHOR:	Manager Health Services
CONTRIBUTOR/S:	N/A
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	N/A
DATE OF REPORT:	5 October 2009

SUMMARY: This report recommends Council withdraws the rubbish collection service from Mallingbarr (Kennedy Hill) following non payment of the outstanding rubbish collection service account.

BACKGROUNDPrevious Considerations

Nil

Reserve 25790 is a Crown Reserve for the use and benefit of aboriginal inhabitants vested in the Aboriginal Lands Trust and leased to the Mallingbarr Aboriginal Corporation. Mallingbarr community comprises 11 family homes, an office and meeting room.

Mallingbarr community has a weekly rubbish collection service provided by the Shire of Broome through its contractor Kimberley Waste Services. This service is charged through the Shire of Broome's rating system.

Mallingbarr Aboriginal Corporation failed to pay the 2007/2008 rubbish collection service charge. An agreement was reached on the 27 May 2008 to pay the 2008/2009 rubbish collection charge in monthly instalments. This arrangement proved unsuccessful with Mallingbarr Aboriginal Corporation failing to make the monthly repayments. The 2009/2010 rubbish collection charge is now overdue and a significant debt is now accruing through non payment of outstanding accounts and subsequent interest charges.

The Shire of Broome's Director Development Services met with the community Chairperson on Monday 5 October 2009 to discuss the provision of the rubbish collection service and payment of the outstanding rates account. The following resolution was reached –

- Should no payment or agreement for payment be reached by the 1 November 2009, the rubbish collection service will be removed from Mallingbarr community.

COMMENT

The Shire of Broome acknowledges that non payment leading to removal of the rubbish collection service from Mallingbarr community will potentially create significant environmental problems from accumulating and decomposing waste that may impact on the health and safety of the residents of the community. Removing the rubbish collection service may also contribute to the litter concerns associated with this area, of which the Shire of Broome has received a number of complaints.

However, the Shire of Broome does not have the capacity to continue funding this rubbish collection service. Assistance will be more appropriately sourced from the Aboriginal Lands Trust, as land owner, or other government departments. The Aboriginal Lands Trust, Department of Housing and Department of Indigenous Affairs have been advised of this current situation by letter. The Aboriginal Lands Trust indicated they will liaise with the community to determine the most appropriate way forward with this issue.

Should Mallingbarr Aboriginal Corporation elect to discontinue the rubbish collection service provided by the Shire of Broome, consideration needs to be given to the collection of the defaulted outstanding account given there does not appear to any capacity to meet payments.

Owing to the above, it is recommend Council:

1. Withdraw the rubbish collection service from Mallingbarr community should no payment or agreement for payment be reached by the 1 November 2009;
2. Pursue Mallingbarr Aboriginal Corporation and Aboriginal Lands Trust for the payment of the account balance should the rubbish collection service be discontinued.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The current outstanding account for Mallingbarr Aboriginal Corporation comprises this financial year's rubbish collection charge, plus arrears and interest of the previous two financial year's outstanding accounts.

Should Mallingbarr Aboriginal Corporation elect to no longer continue with the rubbish service provided by the Shire of Broome, the total defaulted account will include the arrears of the previous financial year's accounts, interest and the pro rata rubbish collection service fee for the current financial year.

STRATEGIC IMPLICATIONS

People

Actively contribute to well- being and safety and support community initiative.

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural built environment to support a quality lifestyle and local economy.

Prosperity

Partner with other agencies to ensure affordable and equitable services and infrastructure.

VOTING REQUIREMENTS

Simply Majority

REPORT RECOMMENDATION

That Council –

1. *Withdraw the rubbish collection service from Mallingbarr community should no payment or agreement for payment be reached by 1 November 2009.*
2. *Pursue Mallingbarr Aboriginal Corporation and Aboriginal Lands Trust for the payment of the account balance should the rubbish collection service be discontinued.*

Moved:

Seconded:

FOR:

AGAINST:

9.3.16 APPROVAL FOR FUNDING TO COMPLETE THE REGIONAL WASTE MANAGEMENT PLAN

LOCATION/ ADDRESS:	N/A
APPLICANT:	N/A
FILE:	ENH 92
AUTHOR:	Manager Health Services
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE OF REPORT:	1 October 2009

SUMMARY: This report recommends Council authorise the expenditure of an additional \$6000 to finalise the ASK Waste Management's contract to develop a Regional Waste Management Plan for the Shires of Broome, Derby/West Kimberley and Halls Creek.

Shire Officers will continue to pursue requests to the Minister for Environment to make available the final payment of funding allocated to the Regional Group through the Department of Environment and Conversation's Zero Waste Plan Development Scheme.

BACKGROUNDPrevious Considerations

NIL

The Shires of Broome, Derby/West Kimberley and Halls Creek combined to develop a Regional Waste Management Plan (RWMP), forming phase 2 of the Department of Environment and Conservation's Towards Zero Waste Project.

The Department of Environment and Conservation (DEC) funded the development of the RWMP by local government authorities through the Zero Waste Plan Development Scheme. This scheme allocated \$15,000 per local government authority (where 'regional groupings' of local government authorities were formed) totalling \$45,000 funds allocated to the 3 Kimberley Shires. The funding program comprised rolling out 60% of the funds to initiate the project with a further 20% on receipt of the draft RWMP and the final 20% of funds once the RWMP is endorsed by the DEC. The DEC set deadlines for state wide completion of the RWMP's, these being September 2008 for completion of the draft and March 2009 for endorsement of the RWMP.

The Kimberley Shires intended to have the plan developed to meet these timelines. During the tender process, it became apparent a suitable consultant would not be available to complete the project within the specified time period. Upon discussion with the regional DEC, Waste Management Board officer, the group decided to progress with the RWMP knowing there may be a possibility the RWMP may not be completed by the deadlines set by the DEC. This decision was made to generate a quality waste management plan and was delayed for the following reasons –

- Availability of a quality consultant who was willing to visit the Kimberley region and gain a first hand perspective of waste management issues in the area;
- Delay the start of the project to coincide with the conclusion of the wet season. This enabled access to sites and an understanding of the significant impact of tourism on the region.

- The Health Services department were significantly understaffed during the second half of 2008 with only a part time Environmental Health Officer and Manager Health Services. Following the resignation of the previous Manager Health Services, there was a 2 ½ month delay prior to commencement of the current Manager Health Services.

A letter was sent to the Minister for Environment acknowledging the submission dates had passed, however request the funds still be made available to the Kimberley group to ensure successful completion of the project. We have become aware the DEC advised the Minister to refuse our request for the remaining funding. A response from the Minister is yet to be received and has been followed up on numerous occasions. This now leaves the Shire's of Broome, Derby/West Kimberley and Halls Creek \$18,000 short in honouring the consultants contract to develop the RWMP.

COMMENT

The 3 Kimberley Shires entered into a contract with the consultant to pay for the development of the RWMP. The financial aspect of this contract has been handled by the Shire of Broome. The consultant employed by the 3 Kimberley Shires, ASK Waste Management has worked closely with Shire staff to develop a workable document that can be applied to the differing waste services managed by the 3 Kimberley Shires, covering a combined area of approximately 317,400km². The consultant travelled to the region, basing himself in Derby for a 2 month period to ensure a thorough understanding of waste management issues faced by the 3 local government authorities.

Given the substantial delay experienced in the provision of the remaining funding for the project, it is considered necessary to honour the contract with the consultant by the 3 Shires allocating \$6000 each to meet the shortfall of \$18,000 remaining on the contract. Should the Minister be forthcoming in approving the roll out of the remaining funding, these funds will be returned to the account. This action has been discussed with both the Shire's of Derby/West Kimberley and Halls Creek who have agreed to finalise the contract as soon as possible.

It is recommended the Council of the Shire of Broome consider the following action appropriate:

1. Authorise expenditure of an additional \$6000 to account 74531 Zero Waste Expense Account and invoice the Shires of Derby/West Kimberley and Halls Creek for \$6000 each to enable payment and finalisation of ASK Waste Management's contract for the development of Regional Waste Management Plan;
2. Pursue the requests to the Minister for Environment to make available the full course of funding allocated to generation of Regional Waste Management Plan for the Shires of Broome, Derby/West Kimberley and Halls Creek; and

CONSULTATION

Department of Environment and Conservation, Waste Management Board
Shire of Derby/West Kimberley
Shire of Halls Creek

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

To finalise the contract for the development of the Regional Waste Management Plan, the consultant is to receive a further \$25,500 from account 74531. These funds are to be covered by the \$7,500 currently in the project's unspent grant account, 7910. The remaining \$18,000 is to be made up of a \$6,000 contribution from the Shires of Broome, Derby/West Kimberley and Halls Creek. The \$12,000 recovered from the Shires of Derby/West Kimberley and Halls Creek is to be allocated to account 74440. Authorisation is sort from Council to allocate \$6,000 to finalise this contract.

Should the Minister for Environment authorise payment of the remaining \$18,000 allocated from the DEC's Zero Waste Plan Development Scheme, this will be divided between the 3 local government authorities to replenish the \$6,000 contributed by each local government authority this project. Should the Minister for Environment elect to refuse the funding request, the allocation of the \$6,000 will need to be absorbed by the Shire of Broome.

STRATEGIC IMPLICATIONS**People**

Actively contribute to well-being and safety and support community initiative.

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

Ensure the Shire's infrastructure and assets are strategically planned and managed.

Prosperity

Partner with other agencies to ensure affordable and equitable services and infrastructure.

VOTING REQUIREMENTS

Absolute Majority

REPORT RECOMMENDATION

That Council:

1. *Enables payment of the remaining \$25,500 owing to finalise ASK Waste Management's contract for the development of Regional Waste Management Plan by authorising expenditure to 74531, Zero Waste Expense Account, Invoice the Shires of Derby/West Kimberley and Halls Creek for \$6000 each(\$12,000) to be paid into account 74440 Reimbursements, Utilise the remaining project funding being \$7,500 in account 7910 Unspent Grant, leaving a net cost to Shire of \$6000 subject to (2); and*
2. *Pursues the requests to the Minister for Environment to make available the final payment of funding, being \$18,000, allocated from the Department of Environment and Conservation's Zero Waste Plan Development Scheme to generate a Regional Waste Management Plan for the Shires of Broome, Derby/West Kimberley and Halls Creek, forming phase 2 of the Department of Environment and Conservation's Towards Zero Waste Project.*

Moved:

Seconded:

(Absolute Majority required)

FOR:

AGAINST:

9.3.17 WASTE MANAGEMENT WORKING GROUP RECOMMENDATION - PUBLIC PRESENTATION ON WASTE MANAGEMENT

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: ENV 87
AUTHOR: Manager Health Services
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Director Development Services
DISCLOSURE OF ANY INTEREST: N/A
DATE OF REPORT: 24 September 2009

SUMMARY: A meeting of the Waste Management Working Group was held on Wednesday 16 September 2009 at which the group resolved to recommend Council consider inviting Professor Steve Halls to present to Council, Shire staff and the wider Broome community on opportunities for converting waste into a community resource.

BACKGROUNDPrevious Considerations

Nil

A meeting of the Waste Management Working Group (WMWG) was held on Wednesday 16 September 2009. A recommendation was made for Council to consider inviting Professor Steve Halls to present to Council, staff, and the wider community.

Professor Steve Halls is the Director of Integrated Environmental Management Solutions and also represents Murdoch University. Professor Halls presented to the WMWG at a previous meeting held on the 11 February 2009.

COMMENT

As the Shire of Broome works towards securing a new waste management site and planning for future waste management operations, it was considered an addition presentation by Professor Halls to Councillors, Shire staff and community members would be beneficial.

An invitation would be extended to Council, Shire staff and the wider community. This is considered imperative to educating the whole community on the new direction of waste management the Shire is progressing towards. With the continual expansion of Broome, considerations for waste management need to be planned for now as the Shire looks to secure a new waste management site.

It is recommended the Council of the Shire of Broome –

1. Invite Professor Steve Halls to present to Council, Shire staff and the wider community; and
2. Allocate funds from account 101040 to cover the cost of Professor Hall's airfare, accommodation and expenses to present in Broome.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Approximately \$2000 to cover Professor Halls' airfare, accommodation and expenses to present in Broome.

STRATEGIC IMPLICATIONS

People

Actively contribute to well-being and safety and support community initiative.

Place

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

Ensure the Shire's infrastructure and assets are strategically planned and managed.

Prosperity

Partner with other agencies to ensure affordable and equitable services and infrastructure.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

1. *Invites Professor Steve Halls to present to Council, Shire staff and the wider community.*
2. *Allocate funds from account 101040 to fund the Professor Hall's airfare, accommodation and expenses to present in Broome.*

Moved:

Seconded:

FOR:

AGAINST:

9.4

CORPORATE

SERVICES



OUTCOME

To provide a range of customer focused corporate services incorporating financial and human resource management, administrative support and IT solutions, which meets the needs of both internal and external customers and of Council and to ensure statutory compliance within the directorate as part of the Shire's good governance obligation.

9.4.1 ACCOUNTS FOR PAYMENT*REPORT RECOMMENDATION***Moved:****Seconded:**

That accounts for payment for September 2009 as attached, covering Municipal Cheque Vouchers 51445 to 51579 totalling \$359,224.54, EFT Vouchers 7700 to 7983 totalling \$2,473,026.58 and Trust Cheque Vouchers 3105 to 3118 totalling \$23,388.82, be passed for payment. The grand total expenditure for September 2009 is \$2,855,639.94.

FOR:**AGAINST:**

[Attachment: 11 pages](#)

9.4.2 SEPTEMBER 2009 MONTHLY FINANCIAL ACTIVITY REPORT

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: FRE 02
AUTHOR: Accountant
CONTRIBUTOR/S: Manager Financial Services, Managers
RESPONSIBLE OFFICER: Director Corporate Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 26 October 2009

SUMMARY: Monthly Financial Activity Report of the Shire's operations for the month of September 2009. The final result from 2008-2009 is not yet determined however budget forecast changes to date have predicted end of year forecast of a \$66,300 deficit.

BACKGROUNDPrevious Considerations

Nil except where associated with a previous ordinary council meeting as identified.

COMMENT

The following are the key indicators of the year to-date budget position:

Budget Year elapsed	25%
Total Operating Expenditure	27%
Total Operating Revenue	73%
Total Capital Expenditure	4%
Total Sale of Assets Revenue	4%
Total Capital Revenue	1%

Committed expenditure as percentage of forecast budget:

Parks & Ovals Infrastructure	44%
Drainage Infrastructure	46%
Transport Infrastructure	10%

The forecast position of a \$66.3K deficit represents a 0.4% variance when viewed in proportion to operating expenditure excluding depreciation.

The predicted deficit as at 30 September 2009 represents the net result of last month's net budget forecasts of \$66.3K expense. The estimated surplus of \$810K expected at this time to be brought forward from the 2008-2009 year is still subject to further end of year adjustments and cannot be used for guidance at this time.

More detailed explanations of variances are contained in the notes to the monthly statement of financial activity. The commentary will identify variations to year-to-date budget positions, or variations that may require consideration for amended forecast.

All forecasts are included as a comparison to original budget in monthly reports.

Forecasts

Education and Welfare

Community Services

- \$9K for final payment of the Town Beach Cultural Plan consultant expenses.

Helping Young People Engage

- \$5K for HYPE advertising expenses as carried by OCM 1/10/09 Item 9.2.1.
- \$5K grant to pay for HYPE advertising expenses as carried by OCM 1/10/09 Item 9.2.1.

Community Amenities

Other Community Amenities

- \$30K expenditure for the Installation of a CCTV system at Broome Cemetery as carried by absolute majority at the OCM on 2/9/09 Item 12.1.
- \$30K less expenditure on the Royalties For Regions funded Public Shade Structure as funding has been reallocated to Haynes Oval Basketball and Netball fencing as carried at the OCM on 2/9/09 Item 9.3.2.
- \$30K less restricted cash income from the Royalties For Regions funding for the Public Shade Structure as this has been reallocated to Haynes Oval Basketball and Netball fencing as carried at the OCM on 2/9/09 Item 9.3.2.

Recreation and Culture

Other Recreation & Sport

- \$15K non operating expenditure for the completion of onshore boat ramp upgrade works commenced in 08/09.
- \$107 non operating expenditure for the design of a dual finger Jetty at Entrance Point as carried by absolute majority at the OCM 4/8/09 Item 9.5.1.
- \$47.5K additional non operating grant income for onshore boat ramp upgrade works commenced and substantially completed in 08/09.
- \$70K additional non operating grant income for the design of a dual finger Jetty at Entrance Point as carried by absolute majority at the OCM on 2/9/09 Item 9.5.1.

Parks and Ovals

- \$30K non operating expenditure for the Haynes Oval basketball/netball fencing upgrade instead of on the Public Shade Structure as carried at the OCM on 2/9/09 Item 9.3.2.
- \$30K reallocated non operating Royalties for Regions grant income for the Haynes Oval basketball/netball fencing upgrade originally allocated to the Public Shade Structure project as carried at the OCM on 2/9/09 Item 9.3.2.

Transport

Road Construction

- \$95.5K additional non operating expenditure on Cape Leveque Road sheet, reform and drainage renewal construction as carried by absolute majority at the OCM 1/10/09 Item 9.5.2.
- \$70K less non operating expenditure on Bidyadanga Rd re-forms and gravel renewal construction as carried by absolute majority at the OCM 1/10/09 Item 9.5.2.

- \$25.5K additional non operating R2R income from Auslink for aboriginal roads as carried by absolute majority at the OCM 1/10/09 Item 9.5.2.

Other Property and Services

Engineering Office

- \$254K additional non operating income from Plant Reserve for purchase of mobile plant items that remained unpurchased from 2008-2009 as carried by absolute majority at the OCM 2/9/09 Item 9.5.1.

Parks & Gardens Operations

- \$26K additional non operating income from the sale of renewed and upgraded mobile plant from Parks and Gardens that remained unsold from 2008-2009 as carried by absolute majority at the OCM 2/9/09 Item 9.5.1.
- \$37K additional non operating expenditure on mobile plant renewal for Parks and Gardens that remained unpurchased from 2008-2009 as carried by absolute majority at the OCM 2/9/09 Item 9.5.1.
- \$43K additional non operating expenditure on mobile plant upgrade for Parks and Gardens that remained unpurchased from 2008-2009 as carried by absolute majority at the OCM 2/9/09 Item 9.5.1.

Works Operations

- \$60K additional non operating income from the sale of renewed mobile plant from Works that remained unsold from 2008-2009 as carried by absolute majority at the OCM 2/9/09 Item 9.5.1.
- \$260K additional non operating expenditure on mobile plant renewal for Works that remained unpurchased from 2008-2009 as carried by absolute majority at the OCM 2/9/09 Item 9.5.1.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

6.4. Financial report

- 1) *A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.*
- 2) *The financial report is to —*
 - a) *be prepared and presented in the manner and form prescribed; and*
 - b) *contain the prescribed information.*
- 3) *By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor —*
 - a) *the accounts of the local government, balanced up to the last day of the preceding financial year; and*
 - b) *the annual financial report of the local government for the preceding financial year.*

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 —
- a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
 - b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.
- * Absolute majority required.

Financial Management Regulations

33A. Review of budget

- (1) Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.
- (2A) The review of an annual budget for a financial year must —
- (a) consider the local government’s financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and
 - (b) consider the local government’s financial position as at the date of the review; and
 - (c) review the outcomes for the end of that financial year that are forecast in the budget.
- (2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.
- (3) A council is to consider a review submitted to it and is to determine* whether or not to adopt the review, any parts of the review or any recommendations made in the review.
- *Absolute majority required.
- (4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

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*
 - 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.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

These are detailed above and in the attachment.

STRATEGIC IMPLICATIONS

People

Effectively engage with our community by providing information.

Place

Achieve positive long-term economic, social and environmental benefits.

Prosperity

Build the Shire's organisational capacity to service the needs of a growing community.

Governance

Provide open, transparent and good governance to the community.

VOTING REQUIREMENTS

Absolute Majority

REPORT RECOMMENDATION

That Council:

1. *Adopts the Monthly Financial Activity Report for the period ended 30 September 2009.*
2. *Notes the year-end forecasts compared to the original budget.*
3. *Adopts budget amendments to the following general ledger account/jobs:*
 - a. *Increase of \$9K in GL account 82619 – “Town Beach Cultural Plan – Grant Funded – Op Exp Community Services” for the \$9K for final payment of the Town Beach Cultural Plan consultant expenses.*
 - b. *Increase of \$5K in GL account 83046 – “Other Costs – Op Exp- Comm Dev & HYPE” for HYPE advertising expenses as carried by OCM 1/10/09 Item 9.2.1.*
 - c. *Increase of \$5K in GL account 8395 – “Donations and Contributions Received Inc GST- Comm Dev & HYPE” to fund HYPE advertising expenses as carried by OCM 1/10/09 Item 9.2.1.*
 - d. *Decrease of \$30K in GL Job 107671 “Public Shade New Building Const – Cap Exp – Other Com Amen” to defer the Royalties For Regions funded Public Shade Structure construction as funding has been reallocated to Haynes Oval Basketball and Netball fencing as carried at the OCM on 2/9/09 Item 9.3.2.*
 - e. *Decrease of \$30K in GL account 107570 “Transfer from Restricted Cash – Other Com Amen” as the Royalties For Regions funding for the Public Shade Structure has been reallocated to Haynes Oval Basketball and Netball fencing as carried at the OCM on 2/9/09 Item 9.3.2.*
 - f. *Increase of \$15K in GL Job 113571 – “Entrance Pt Boating Facilities New Infra by Wks – Cap Exp ” for the completion of onshore boat ramp upgrade works commenced in 08/09.*
 - g. *Increase of \$47.5K in GL account 112485 – “Grant Non Op – State Swim Areas & Beaches” for non operating grant income for onshore boat ramp upgrade works commenced and substantially completed in 08/09.*
 - h. *Increase of \$30K in GL job 113612 – “Haynes Oval Basketball/Netball Court Fencing Upgrade – Pks&Ov” for the Haynes Oval basketball/netball fencing upgrade instead of on the Public Shade Structure as carried at the OCM on 2/9/09 Item 9.3.2.*
 - i. *Increase of \$30K in GL account 113987 - “Transfer From Restricted Cash – Parks & Ovals” for Regions grant income for the Haynes Oval basketball/netball fencing upgrade originally allocated to the Public Shade Structure project as carried at the OCM on 2/9/09 Item 9.3.2.*

Moved:

Seconded:

(Absolute Majority required)

**FOR:
AGAINST:**

9.4.3 SHINJU MATSURI COMMITTEE - GUARANTEE

LOCATION/ ADDRESS: N/A
APPLICANT: Shinju Matsuri Inc
FILE: ORL33
AUTHOR: Manager Financial Services
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Director Corporate Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 15 October 2009

SUMMARY: Shinju Matsuri committee seeks continuation of guarantee for a \$15,000 overdraft facility for (2) years.

BACKGROUNDPrevious Considerations

OCM 1 March 2005 - Item 9.4.4
OCM 8 June 2006 - Item 9.4.3
OCM 30 August 2007 – Item 9.4.3

Since March 2005 the Shinju Matsuri committee has operated with an overdraft facility of \$15,000 guaranteed by Shire.

COMMENT

The Shinju Matsuri board of management and project management team have recognised the operational importance of maintaining an overdraft facility to cover outgoing cash flow issues in the lead up to the Shinju Matsuri Festival.

The Shinju Matsuri committee has a good financial record, repaying a loan of \$55,000 during 2001-2004 then subsequently maintaining an overdraft facility since 2005 without having cause to affect Shire's guarantee. Unfortunately Shinju were unable to provide a copy of financial results for the last two financial years, at the time of this agenda report.

This good record is the basis for the officer recommendation to continue supporting the overdraft facility, giving recognition of the success of a board of management to provide a stronger focus on governance and project planning after replacing the previous committee structure.

CONSULTATION

Project Manager - Shinju Matsuri Inc

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Contingent liability of \$15,000 as guarantor to the overdraft, for a period of (2) two years.

STRATEGIC IMPLICATIONS

People

Effectively engage with our community by encouraging participation.

Place

Build partnerships with the community to enhance the cultural heritage.

Prosperity

Support business and economic development.

VOTING REQUIREMENTS

Absolute Majority

REPORT RECOMMENDATION

That Council resolves to continue as guarantor for an overdraft in favour of Shinju Matsuri Committee, limited to \$15,000 for a period of (2) years from the date of this resolution.

Moved:

Seconded:

(Absolute Majority Required)

FOR:

AGAINST:

[Attachment: 1 page](#)

9.4.4 MULBERRY TREE CHILDCARE – SHED PROPOSAL

LOCATION/ ADDRESS: Reserve 1640
APPLICANT: Mulberry Tree Childcare
FILE: LSS.070 & RES.1640
AUTHOR: Administration Officer
CONTRIBUTOR/S: Planning Officer
RESPONSIBLE OFFICER: Director Corporate Services
DISCLOSURE OF ANY INTEREST: N/A
DATE OF REPORT: 13 October 2009

SUMMARY: Cachet Holdings Pty Ltd (Mulberry Tree Childcare) lessees at Reserve 1640 are requesting permission to construct a shed on the premises.

BACKGROUNDPrevious Considerations

The Shire of Broome currently lease Reserve 1640 to Cachet Holdings Pty Ltd for the purpose of a Child Care Centre known as Mulberry Tree Childcare, previously known as Chu Chuu's Early Education Centre.

The lease commenced on 1 November 2007 and is for a period of five (5) years with two further five (5) year options.

Description of Proposal

A request has been received from Mulberry Tree Childcare to construct a new colour bond shed on Reserve 1640. It is proposed the shed will be located in the rear northern corner of the property and will be utilised to store childcare equipment etc that is not currently being used at the centre. Details of the proposed shed are as follows:

- Size - 3 metres wide x 5.8 metres long x 2.2 metres high with a gable roof
- Designed and certified for cyclonic region 'C' T/C 2
- 1 personal access door
- 1 window

A plan showing the proposed location of the shed is attached for Council information.

COMMENT

As the proposed shed will be a free standing structure and not attached to the existing building, from a leasing perspective, written Council approval is not required on this occasion.

However, both planning and building applications lodged at the Shire require the signature of the owner. As the land in this case is a Reserve vested in the Shire by way of a Management Order, it would be necessary to obtain Council approval for the Chief Executive Officer to sign relevant applications.

Should planning and building approvals be obtained, and the shed be constructed, on expiry of the lease, the CEO may request that the lessee remove the shed and make good any damage to the property.

Lot 3151 (Reserve 1640) situated on the north east corner of Guy and Herbert Street, under the Shire of Broome Town Planning Scheme No. 4 (TPS4) is a Local Reserve denoted as 'Public Purposes'. Clause 8 specifies all development on land zoned and reserved under the Scheme requires the prior approval of Council and that no person shall commence or carry out any development without first having applied for and obtained the planning approval of the Council pursuant to the provisions of Part 9 of the Scheme.

The erection of a shed for storage of childcare equipment is generally in accordance with the standard requirements for a shed in a residential area. Details of the location and setbacks will be determined when the Planning Application is submitted.

CONSULTATION

Clause 10 of the Lease Agreement states:

"10 Alterations to Premises

(1) Structural Alterations and Installations

The Lessee must not make or cause to be made to the Premises any structural alterations or any other additions or improvements or make any changes to the air-conditioning installation or sprinkler systems or cut maim or injure or suffer to be cut maimed or injured any of the principal structure or walls of the Premises without first obtaining the written approval of the Lessor which approval will not be unreasonably withheld. If required by the Lessor, such work will be carried out or supervised by the Lessor's engineers, builders or architects, and the Lessee must pay all costs to the Lessor for providing such approval, or for carrying out or supervising such works."

STATUTORY ENVIRONMENT

Shire of Broome Town Planning Scheme No. 4 (TPS4)

3.2 *Scheme Reserves:*

The land shown as Scheme Reserves on the Scheme Map, hereinafter called 'Local Reserves', are land reserved under the Scheme for the purposes shown on the Scheme Map and are listed hereunder:

*Coastal Park
Environmental Cultural Corridor
Parks and Recreation
Public Purposes
Highways and Major Roads
Important Roads
Local Roads
Civic and Cultural*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS**Place**

Ensure the Shire's infrastructure and assets are strategically planned and managed.

Prosperity

Support business and economic development.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

1. *Supports the proposal for a storage shed:*
2. *Authorises the Chief Executive Officer to sign planning and building licence applications, subject to the relevant fees being paid by the Lessee.*
3. *Advises the lessee:*
 - a) *He is responsible for any associated construction costs and ongoing maintenance, and*
 - b) *Unless otherwise agreed, on the expiry of the lease, the lessee will be responsible for the removal of the shed and make good any damage to the premises/property.*

Moved:

Seconded:

FOR:

AGAINST:

[Attachment: 1 page](#)

9.4.5 LEASE - KIMBERLEY REGIONAL OFFICES - MINISTER FOR WORKS

LOCATION/ ADDRESS:	Kimberley Regional Offices, Corner Weld and Frederick Streets
APPLICANT:	Minister for Works
FILE:	LSS.153
AUTHOR:	Administration Officer
CONTRIBUTOR/S:	Manager Administration Services
RESPONSIBLE OFFICER:	Director Corporate Services
DISCLOSURE OF ANY INTEREST:	N/A
DATE OF REPORT:	13 October 2009

SUMMARY: Consideration of a request from CB Richard Ellis – Global Corporate Services to secure a lease for the vacant tenancy at the Kimberley Regional Offices Stage 1 on behalf of the Minister for Works.

BACKGROUNDPrevious Considerations

Nil

The Kimberley Regional Offices, on the corner of Frederick and Weld Streets, Broome, are located on a Portion of Reserve 8656, which is vested in the Shire for the purpose of "Office Accommodation", and Lot 31, which is a freehold lot owned by the Shire. (Refer Attachments 1, 2 and 3)

Kimberley Group Training (KGT) occupied a tenancy area of approximately 164.7 square metres at the Kimberley Regional Offices Stage 1. Formal advice was received on 8 June 2009, that KGT would not be exercising their option on the expiry of their current lease, and would be vacating the tenancy on 9 September 2009. Existing tenants of KRO Stages 1 and 2 were advised on 18 June 2009 that this office space would become available in mid September, and that Council would accept expressions of interest for the tenancy

COMMENT

In July 2009, CB Richard Ellis – Global Corporate Services contacted the Shire on behalf of the Minister for Works to express interest in the vacant tenancy. The Minister for Works would be the lessee with a view that the Department of Treasury and Finance would occupy the tenancy.

A Letter of Offer dated 12 October 2009 was received from CB Richard Ellis - Global Corporate Services advising that they had been appointed by the Department of Treasury and Finance to assist in securing a lease on behalf of the Minister for Works, and stated:

"Please find below the terms and conditions that are likely to be acceptable to the Minister for Works to enter into a lease for the premises."

A full copy of terms and conditions proposed by CB Richard Ellis - Global Corporate Services on behalf of the Department of Treasury is attached (Refer Attachment 4).

It is now a requirement that the Shire's solicitors prepare all Shire leases. State government lessees prefer to prepare their own leases, however the resulting lease terms can be less than favourable to the Shire, which may lead to protracted negotiations. The extended

time frame can result in a loss of income to the Shire under the terms and conditions such as rent free period for fit out (6 weeks) and a three (3) month rent free period at lease commencement as requested by the prospective State government lessee.

As the Minister for Works is a State government department, this request has been considered under Local Government (Functions and General) Regulations 1996 Section 30.(2)(c)(ii) and does not require advertising.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Functions and General) Regulations 1996

30. Dispositions of property to which section 3.58 of Act does not apply

- (1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*
- (2) *A disposition of land is an exempt disposition if —*
 - (a) *the land is disposed of to an owner of adjoining land (in this paragraph called the transferee) and —*
 - (i) *its market value is less than \$5 000; and*
 - (ii) *the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;*
 - (b) *the land is disposed of to a body, whether incorporated or not —*
 - (i) *the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
 - (ii) *the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*
 - (c) *the land is disposed of to —*
 - (i) *the Crown in right of the State or the Commonwealth;*
 - (ii) *a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or*
 - (iii) *another local government or a regional local government;*
 - (d) *it is the leasing of land to an employee of the local government for use as the employee's residence;*
 - (e) *it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land;*
 - (f) *it is the leasing of land to a "medical practitioner" (as defined in section 3 of the Medical Act 1894) to be used for carrying on his or her medical practice; or*
 - (g) *it is the leasing of residential property to a person.*
- (2a) *A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —*
 - (a) *put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government;*
 - (b) *the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or*
 - (c) *the subject of Statewide public notice under section 3.59(4), and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including —*

- (i) the names of all other parties concerned;*
 - (ii) the consideration to be received by the local government for the disposition; and*
 - (iii) the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.*
- (2b) Details (see section 3.58(4) of the Act) of a disposition of property under subregulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.*
- (3) A disposition of property other than land is an exempt disposition if —*
 - (a) its market value is less than \$20 000; or*
 - (b) it is disposed of as part of the consideration for other property that the local government is acquiring for a consideration the total value of which is not more, or worth more, than \$50 000.*

[Regulation 30 amended in Gazette 25 Feb 2000 p. 974-5; 28 Apr 2000 p. 2041; 31 Mar 2005 p. 1055-6.]

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Estimated net annual rental for the first twelve months is \$49,410.00 **plus** GST and outgoings. This figure is based on an estimated tenancy area of 164.7 square metres and a rental of \$300.0 per square metre. The lease would include annual CPI increases, with market rental reviews every three years.

STRATEGIC IMPLICATIONS

Place

Ensure the Shire's infrastructure and assets are strategically planned and managed.

Prosperity

Support business and economic development.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

A. *That Council accepts, in accordance with Local Government (Functions and General) Regulations 1996, Section 30(2)(c)(ii), the request from the CB Richard Ellis – Global Corporate Services on behalf of the Minister for Works to occupy office space of approximately 164.7 square metres, and delegates authority to the Chief Executive Officer to negotiate terms and conditions of the lease arrangement, including executing any option clauses, subject to:*

- 1. Consent of the Minister of Lands being obtained.*
- 2. Initial net rental being based on \$300 per square metre per annum plus outgoings and GST.*
- 3. The lease to be for a period of five (5) years with a further three one (1) year option with commencement date to be determined.*
- 4. Rental increases to be based on annual CPI increases, with market rental reviews conducted at the end of every third year, including throughout any option period exercised.*
- 5. The lessee reimbursing the Shire for all costs associated with preparation and finalisation of lease documentation, including advertising, even if the lease does not proceed.*
- 6. The tenancy is let on an 'as is' basis.*
- 7. The lessee reimbursing the Shire for all market reviews undertaken during the term of the lease.*
- 8. Cleaning and maintenance of the leased area being the responsibility of the lessee, with a Periodic Maintenance Schedule to be developed during the lease negotiations.*
- 9. The lessee being responsible for all utility and consumption costs, and any additional outgoings which may arise during the term of the lease. Outgoings to include, but not be limited to: Shire of Broome Rates, Water Rates, Land Tax, Building Insurance, Air conditioning servicing, Gardening, Servicing of Emergency Equipment, Phone lines, Pest Control, Electricity, Pressure Cleaning of Roof and Building Exterior.*
- 10. That any internal or external improvements/office fitout to be at the lessees expense and subject to prior written approval being obtained from the Shire of Broome.*
- 11. Upon termination/expiry of the lease, the Shire reserves the right to have the building reinstated with all refurbishment/office fitouts installed by the lessee during their occupancy removed, if required, and at the lessee's cost.*
- 12. The lessee to ensure that all relevant bylaws and regulations (Federal, State or Local Government) are complied with.*

B. *That the Shire President and Chief Executive Officer be authorised to engross the final document.*

Moved:

Seconded:

FOR:

AGAINST:

9.4.6 RESERVE FUNDS - APPROVAL OF EXPENDITURE

LOCATION/ ADDRESS:	Broome Cemetery - Japanese, Chinese and Muslim sections
APPLICANT:	Corporate Services
FILE:	GPC03-006
AUTHOR:	Administration & Project Officer
CONTRIBUTOR/S:	Manager Administration Services
RESPONSIBLE OFFICER:	Director Corporate Services
DISCLOSURE OF ANY INTEREST:	N/A
DATE OF REPORT:	29 September 2009

SUMMARY: This report brings to Council's attention costs associated with expansion of the scope of the ground penetrating radar survey of Broome Cemetery and seeks retrospective approval for the use of reserve funds of \$20,000.

BACKGROUNDPrevious Considerations

OCM 5 July 2007 – Item 10.1
OCM 27 September 2007- Item 9.4.4
OCM 25 October 2007 – Item 10.2
OCM 24 July 2008 – Item 10.1
OCM 17 December 2008 – Item 9.4.5

COMMENT

The Shire of Broome received funding under the Regional and Local Community Infrastructure Program to undertake a ground penetrating radar survey of the main section of Broome Cemetery.

During September 2009, while the survey was being conducted, it became apparent that it would be prudent to survey the Japanese, Muslim and Chinese sections of the Broome Cemetery as well. Given that the equipment and operators with the necessary technical expertise were onsite and available, it was considered cost effective to extend the scope and timing of the survey to include these additional areas.

It was proposed to draw funds from the reserve account funds allocated to cemetery activity to cover any costs associated with expansion of the project scope so that the survey of the additional areas could be completed.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Cemeteries Act 1986
Local Government Act 1995
Shire of Broome Cemeteries Local Law 1998

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

All costs for the initial survey were covered by RLCIP funding of \$54,000.

Current reserve funds held for cemetery activity total \$58,000. There is no adverse impact or ongoing costs.

STRATEGIC IMPLICATIONS

People

Effectively engage with our community by encouraging participation and providing information.

Actively consult and work with the Traditional Owners and Aboriginal people of Broome

Place

Build partnerships with the community and other agencies to recognise, protect and enhance the natural environment and cultural heritage.

Ensure the Shire's infrastructure and assets are strategically planned and managed.

Prosperity

Build the Shire's organisational capacity to service the needs of a growing community.

Partner with other agencies to ensure affordable and equitable services and infrastructure.

VOTING REQUIREMENTS

Absolute Majority

REPORT RECOMMENDATION

That Council:

1. *Notes the expansion of the ground penetrating radar survey of Broome Cemetery to include the Japanese, Muslim and Chinese sections.*
2. *Grants retrospective approval for the use of reserve funds of \$20,000 to cover the additional costs associated with the extended project.*

Moved:

Seconded:

(Absolute Majority required)

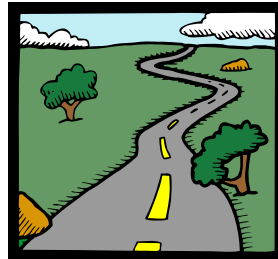
FOR:

AGAINST:

9.5

ENGINEERING

SERVICES



OUTCOME

The provision and maintenance of sustainable infrastructure to service the changing needs of the community.

9.5.1 ACCESS EASEMENT AND CONSOLIDATION OF DRAINAGE RESERVE

LOCATION/ ADDRESS:	Corner Gubinge Road and Old Broome Road
APPLICANT:	N/A
FILE:	Res 47635 / Res 47627
AUTHOR:	Director Engineering Services
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director Engineering Services
DISCLOSURE OF ANY INTEREST:	N/A
DATE OF REPORT:	14 October 2009

SUMMARY: State Land Services wish to create an access easement to provide legal access to the new sewerage pump station on Reserve 47635 Gubinge Road. This report advises that the Shire will need to relinquish the Management Order over part of Drainage Reserve 47627. The request is supported and this report seeks Council's formal resolution to that effect.

BACKGROUND**ACCESS TO WATERCORP SEWERAGE PUMP STATION**

Watercorp have progressed with the construction of a new sewerage pump station and emergency over-flow storage on Reserve 47635, Lot 3086 on Gubinge road.

In order to achieve the most suitable practical legal access arrangements and to avoid an access directly off Gubinge road, Watercorp have requested Council's concurrence to gaining an access easement via a 5m strip of land within the buffer strip on Gubinge road (Lot 1134 P 49210), extending from Sanderling Drive to Council's Drainage Reserve 47627, and for Council grant a small part of Council's Drainage Reserve 47627 for the full width of Reserve 47635.

However, in order to prevent the creation of an otherwise unusable plot of land under Council's responsibility, it would be better to extend Watercorp's own Reserve R47635 to the boundary of Lot 3087. This would create a better outcome for both parties.

It is therefore proposed that Council agree to both relinquish of the management responsibility and to agree to the excision of that piece of land (1153m²) from R 47627 so that it can be incorporated into R 47635.

The effected land (1153m²) over which Council must relinquish the Management Order (XE) and to grant to Watercorp's use is as shown on Attachment A.

DRAINAGE RESERVE OVER "LAKE BROOME"

"Lake Broome" is a large low lying excavation situated partially on the above allotment, on adjacent unused road reserve and another allotment. It would be appropriate to consolidate these three (3) parcels of land being Broome Lots 3087, 3088 and the adjacent road reserve into one consolidated lot designated as "Drainage Reserve" with Management Orders in favour of the Shire of Broome. In order to do this it will be necessary to permanently close a section of road Reserve.

COMMENT**ACCESS TO WATERCORP SEWERAGE PUMP STATION**

Council is in receipt of an emailed request from State Land Services, acting upon a request from Watercorp to create an access easement to service the new Sewerage Pump Station on Gubinge Road.

The Shire's Chief Executive Officer has been requested to sign a Statutory Declaration that there is no knowledge of other interests over Lot 3087 on Reserve 47627 and that the Shire has issued no other interests over the land. It is appropriate that the Chief Executive Officer proceed with the backing of a Council Resolution.

Relinquishment of Management rights over part of Reserve No 47627 (Lot 3087) and granting of excision right to Watercorp

It is proposed to relinquish Management responsibility over and to agree to an excision of an area of land of 1153m² from Drainage Reserve No 47627 (Lot 3087). This area lies between Watercorp's Reserve 47635 and the vegetation buffer strip, Lot 1134 P49210.

It would be appropriate to incorporate this piece of land into Watercorp's Reserve 47635. It is shown on a sketch map attached at Attachment A.

Description of Land

Council to relinquish Management Responsibility over Part of:-

- Reserve No 47627 for "Drainage Reserve"
- Lot 3087
- Deposited Plan DP 193521
- Crown Land Title Vol 3081 Folio 836
- Management Order to Shire of Broome

CONSOLIDATION OF DRAINAGE RESERVE OVER "LAKE BROOME"

It would also be appropriate to commence the process to consolidate the three parcels of land in the vicinity of and over "Lake Broome" being Broome Lots 3087, 3088 and the adjacent road reserve into one consolidated lot designated as "Drainage and Public Open Space Reserve". It is proposed to nominate the Management order as being for Drainage and Pubic Open Space as this is the general designation proposed in the Broome North development process and better reflects the ultimate usage of the area.

To do this will require the permanent closure of part of a road reserve. The Shire must advertise a notice of motion for the resolution to close that section of road reserve by publication in a newspaper circulating in its district.

CONSULTATION

State Land Services

STATUTORY ENVIRONMENT

Land Administration Act 1997

58. *Closure of roads*

- (1) *When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) *When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*

- (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*
- (4) *On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —*
- (a) by order grant the request;*
 - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*
 - (c) refuse the request.*
- (5) *If the Minister grants a request under subsection (4) —*
- (a) the road concerned is closed on and from the day on which the relevant order is registered; and*
 - (b) any rights suspended under section 55(3)(a) cease to be so suspended.*
- (6) *When a road is closed under this section, the land comprising the former road —*
- (a) becomes unallocated Crown land; or*
 - (b) if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.*

[Section 58 amended by No. 59 of 2000 s. 18(1) ⁹.]

Land Administration Regulations, 1998 (as amended), Part 2 – General, Regulation 9 – Preparation and Delivery by Local Government of Request to close a road permanently.

For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request –

- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require;*
- (b) sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed;*
- (c) copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government's comments on those submissions;*
- (d) a copy of the relevant notice of motion referred to in paragraph (c);*
- (e) any other information the local government considers relevant to the Minister's consideration of the request; and*
- (f) written confirmation that the local government has complied with section 58(2) and (3) of the Act.*

POLICY IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS**People**

Contribute to the well-being and safety of the community

Place

Ensure Shire assets are strategically planned and managed

Prosperity

Delivering infrastructure that meets community needs.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

1. *Agrees, in response to the request from State Land Services for an access easement over part of Drainage Reserve No 47627, on the corner of Gubinge Road and Old Broome Road:*
 - a. *to relinquish the Management Order over part of Drainage Reserve No 47627 totalling 1153m²;*
 - b. *to excise 1153m² from Drainage Reserve No 47627 as described in Attachment A to this report and for it to be incorporated into Reserve 47635;*
 - c. *to offer no objection to the creation of a 5m wide easement over the buffer strip on Lot 49964 P1134 between Sanderling Drive and the drainage reserve;*
 - d. *to authorise the Chief Executive Officer to complete the statutory declaration requested that the Shire has not issued any other interests over the land and there is no knowledge of any other interests over this land;*
2. *Indicates its intention under Section 58 of the Land Administration Act 1997, to request the permanent closure the section of un-used road reserve adjacent Lots 3087 and 3088 shown on DP 93521 and totalling 3.0697 Ha in area for the purpose of the creation of a Drainage and Public Open Space Reserve.*
3. *Advertise this intention in a newspaper circulating in the district and directs that a further report be brought back to Council after 35 days have elapsed, detailing all objections received prior to considering a recommendation to Request the Minister for Lands to close that section of road.*

Moved:

Seconded:

FOR:

AGAINST:

9.5.2 BROOME-CAPE LEVEQUE ROAD WET SEASON CLOSURE 2009/2010

LOCATION/ ADDRESS: Broome - Cape Leveque Road
APPLICANT: N/A
FILE: BRO-3/GEN - ENR 01
AUTHOR: Director Engineering Services
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Director Engineering Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 11 October 2009

SUMMARY: This report advises Council of a recent advertisement of the proposed partial closure of a section of the Broome Cape Leveque Road and recommends closing the Broome Cape Leveque Road partially to traffic for the 2009/10 wet season in accordance with routine practice over recent years.

BACKGROUNDPrevious Considerations

OCM 25 November 2003 - Item 9.5.1
 OCM 23 November 2006 – Item 9.5.1
 OCM 18 December 2007 – Item 9.5.1
 OCM 25 September 2008 - Item 9.5.1
 OCM 20 November 2008 – Item 9.5.1

EXISTING RESTRICTED ACCESS VEHICLE (RAV) RESTRICTIONS

Broome Cape Leveque Rd is a Network 2 Restricted Access Vehicle (RAV) permit route (Road-Train restricted) road. This applies all year round and was instigated due to concerns about the narrow nature of the pindan (unsealed) road width available between banks, passing room, the amount of dust generated and the length of vehicles. This RAV Network level (2) allows for B-double use but a double road-train is permitted to travel on the road only under permit.

Permits may be issued for over size vehicles by Main Roads WA only after a letter of support from Council.

NORMAL WET SEASON RESTRICTIONS

Given the very difficult conditions created in wet weather on about 90km the unsealed pindan section of the Broome Cape Leveque Road, Council considers it imperative to enforce an even greater restriction on vehicles during the wet season by limiting the weight of vehicles through the imposition of a partial road closure each year.

From previous experience this has proven to be the best way to both maintain essential access for communities and to prolong heavy vehicular access to the communities serviced by the road in the wet season.

A partial road closure involves advertising the proposed closure under the Local Government Act 1995, inviting and then considering any submissions received prior to a report to and decision by Council. A copy of Shire's decision is then forwarded to the Commissioner of Main Roads.

The partial closure of the Broome-Cape Leveque Road to traffic of 11 tonnes and heavier vehicles has proven worthwhile in past wet seasons and would appear to be appropriate for the upcoming wet season.

Recognised essential services operators are still able to deliver fuel and food supplies throughout the wet season, under permit. In accordance with past practice, there are normally two (2) operators who have the current community contracts and would normally be granted these permits. They are Nexus Freight (Dean Wilson Transport) and West Kimberley Fuels.

The road is generally closed to other heavy vehicles during the wet season but it has been found on occasions that other companies will have business involving essential heavy transport and they also have been permitted on the road under special conditions.

During the wet season Council's Engineering Services Department is in daily contact with residents at Country Downs and at Beagle Bay. By this means an assessment of the actual condition and driveability of the unsealed section of the road can be determined, advice provided to travellers and control exercised over heavy vehicle trips.

COMMENT

An advertisement was placed in the Broome Advertiser on 24 September 2009 inviting submissions from the public by 16 October 2009.

Council can now consider the partial closure of the road in accordance with its practices over previous recent years.

CONSULTATION

Partial Road Closure was publicly advertised prior to this report to Council for the 2009/10 wet season. No (nil) public submissions were received in response to Council's advertisement, and one application for a wet season permit has been received from Dean Wilson Transport.

STATUTORY ENVIRONMENT

Local Government Act, 1995

Section 3.50

Subdivision 5 — Certain provisions about thoroughfares

[3.49. Repealed by No. 64 of 1998 s. 14(1).]

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.*

(1a) *A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.*

(2) *The order may limit the closure to vehicles of any class, to particular times, or to such other case or class of case as may be specified in the order and may contain exceptions.*

[(3) repealed]

(4) *Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —*

(a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when,

- and why it would be closed, and inviting submissions from any person who wishes to make a submission;*
- (b) give written notice to each person who —*
- (i) is prescribed for the purposes of this section; or*
 - (ii) owns land that is prescribed for the purposes of this section; and*
- (c) allow a reasonable time for submissions to be made and consider any submissions made.*
- (5) The local government is to send to the Commissioner of Main Roads appointed under the Main Roads Act 1930 a copy of the contents of the notice required by subsection (4)(a).*
- (6) An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.*
- [(7) repealed]*
- (8) If, under subsection (1), a thoroughfare is closed without giving local public notice, the local government is to give local public notice of the closure as soon as practicable after the thoroughfare is closed.*
- (9) The requirement in subsection (8) ceases to apply if the thoroughfare is reopened.*
- [Section 3.50 amended by No. 1 of 1998 s. 11; No. 64 of 1998 s. 15; No. 49 of 2004 s. 26.]*

3.50A. Partial closure of thoroughfare for repairs or maintenance

- Despite section 3.50, a local government may partially and temporarily close a thoroughfare, without giving local public notice, if the closure —*
- (a) is for the purpose of carrying out repairs or maintenance; and*
 - (b) is unlikely to have a significant adverse effect on users of the thoroughfare.*
- [Section 3.50A inserted by No. 64 of 1998 s. 16.]*

Subdivision 2 — Fees and charges

6.16. Imposition of fees and charges

- (1) A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.*
** Absolute majority required.*
- (2) A fee or charge may be imposed for the following —*
 - (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
 - (b) supplying a service or carrying out work at the request of a person;*
 - (c) subject to section 5.94, providing information from local government records;*
 - (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;*
 - (e) supplying goods;*
 - (f) such other service as may be prescribed.*
- (3) Fees and charges are to be imposed when adopting the annual budget but may be —*
 - (a) imposed* during a financial year; and*
 - (b) amended* from time to time during a financial year.*

** Absolute majority required.*

Section 92 Road Traffic Act, 1974

92. Roads may be closed

- (1) *The Minister may, if he considers any road unsafe for public traffic, cause the same to be closed for such period as he considers necessary.*
 - (2) *A local government for a period of one month may exercise a similar power with regard to any road under its control, but the exercise of such power shall not extend beyond such period, except with the approval in writing of the Minister.*
 - (3) *No person shall drive, take, or use any vehicle on to or on any road while such road is closed under this section.*
- [Section 92 amended by No. 14 of 1996 s. 4.]*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Social

Effectively engage with our community by encouraging participation and providing information.

Actively contribute to well-being and safety and support community initiative.

Environmental

Ensure the Shire's infrastructure and assets are strategically planned and managed.

Economic

Support business and economic development.

Partner with other agencies to ensure affordable and equitable services and infrastructure.

VOTING REQUIREMENTS

Absolute Majority

REPORT RECOMMENDATION

That Council partially closes the Broome - Cape Leveque Road to the passage of vehicles of all classes of gross vehicle mass (GVM) 11 tonnes or more, for the period from 1 December 2009 to 31 March 2010:

- 1. From the end of the bitumen south of the Manari Road turn-off to the start of northern sealed section south of Beagle Bay.*
- 2. That the Chief Executive Officer be given delegated authority to grant permits as necessary.*
- 3. That the Commissioner of Main Roads Western Australia be advised of this Decision.*

Moved:

Seconded:

(Absolute Majority required)

**FOR:
AGAINST:**

[Attachment: 1 page](#)

9.5.3 CONCESSIONAL LOADING ROUTE NETWORKS

LOCATION/ ADDRESS: Across Broome
APPLICANT: N/A
FILE: ENG01
AUTHOR: Director Engineering Services
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Director Engineering Services
DISCLOSURE OF ANY INTEREST: N/A
DATE OF REPORT: 11 October 2009

SUMMARY: This report considers advice from Main Roads Western Australia with respect to the establishment of a new system of concessional loading routes which affects some roads in Broome.

BACKGROUND

Council is in receipt of a letter from Main Roads Western Australia dated 16th Sept 2009 advising of the Establishment of Concessional Loading Route Networks. Refer to Attachment A.

COMMENT

By letter Main Roads Western Australia has advised Council of a new method for dealing with concessional loading permits. This is addition to the RAV Permit Networks (established in 2006). Main Roads Western Australia have reviewed the access arrangements for concessional loading across the state and believe that a similar network approach would be beneficial.

Current practice is to issue Concessional Loading Bulk Product Scheme (CLBPS) permits to individual transport operators on specific routes between fixed loading and unloading points for specific products. The CLBPS allows for an additional 3.5 tonnes mass on all tri-axle groups in a vehicle combination – increased mass is not allowed on other axle groups.

Over the years Main Roads Western Australia has issued CLBPS permits on selected roads to a number of different operators for a variety of products and vehicles. Main Roads Western Australia is seeking Council's Assistance in developing concessional loading networks based on these individual approvals.

Main Roads Western Australia advise that the current CLBPS will not be extended as part of this process and the new concessional loading network will only include those routes currently approved for concessional loading.

It should be noted that the access controls currently available to Shires/road owners under the RAV permit network system will also apply to Concessional Loading Permit Network routes.

Council will continue to control access by imposing conditions such as curfews, or speed restrictions, and may include a condition requiring a letter of approval issued by the Council to the operator on any routes not available to all operators.

CURRENTLY APPROVED CLBPS ROUTES

0001 Cable Beach Road West	0085 Blackman Street
0002 Guy Street	0087 Archer Street
0005 Gubinge Road	0114 Clementson Street
0006 Sanctuary Road	0115 McDaniel Street
0037 Frederick Street	0118 De Castilla Street
0038 Macpherson Street	0154 Reid Road
0047 Coghlan Street	0219 Fairway Drive
0066 Haynes Street	0222 Cable Beach Road East
0067 Hunter Street	0248 Lullfitz Drive
0081 Buckleys Road	0319 Port Drive

Main Roads Western Australia is responsible for Gubinge Road as it is a declared Main Road. They are responsible for concessional permits on that road and other declared main roads.

In addition, some Shire Roads have continued to evolve and now may have narrow road widths, light pavements and small roundabouts when considered against requirements for over-mass tri-axle transport movements. Of these roads the following should be removed:

It is proposed that the following be removed from the listing and not be included on the proposed Concessional Loading Network:-

0001 Cable Beach Road West	0219 All Fairway Drive except for the section from the Broome Highway to Buckley's Road
0002 Guy Street	0222 Cable Beach Road East
0006 Sanctuary Road	0248 Lullfitz Drive
0154 Reid Road	
0037 Frederick Street	
0038 Macpherson Street	
0047 Coghlan Street	

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995
Health Act 1911

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There will be a reduction in the life (years) of Council's Road Assets as the number and mass of heavy vehicle loads increases. The life of a pavement is designed for a projected number of Standard Axle repetitions estimated over an asset's life measured in years and an increase in the number of repetitions or the mass of those repetitions will reduce the period of time for which the pavement remains viable. Concessional loading implies

greater than standard axle loading and increases the impact on the road thus bringing forward maintenance and renewal requirements.

STRATEGIC IMPLICATIONS

Place

Ensure the Shire's infrastructure and assets are strategically planned and managed.

Prosperity

Support business and economic development.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council advises Main Roads Western Australia that it supports the introduction of Concessional Load Route Networks and in particular the routes identified in Main Roads Western Australia letter of 16 September 2009 with the exception of the following:

- 0001 Cable Beach Road West*
- 0002 Guy Street*
- 0006 Sanctuary Road*
- 0154 Reid Road*
- 0037 Frederick Street*
- 0038 Macpherson Street*
- 0047 Coghlan Street*
- 0219 Fairway Drive (except for the section from the Broome Highway to Buckley's Road)*
- 0222 Cable Beach Road East*
- 0248 Lullfitz Drive*

Moved:

Seconded:

FOR:

AGAINST:

[Attachment: 2 pages](#)

9.5.4 DRAINAGE RESERVE AT BROOME SENIOR HIGH SCHOOL

LOCATION/ ADDRESS:	Broome High School
APPLICANT:	N/A
FILE:	RES 42938
AUTHOR:	Director Engineering Services
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director Engineering Services
DISCLOSURE OF ANY INTEREST:	N/A
DATE OF REPORT:	12 October 2009

SUMMARY: A large open unlined drain runs from Matsumoto Street to Frederick Street along the southern and eastern boundaries of the existing Broome Senior High School allotment. This report advises that for Council to maintain the drainage asset it is necessary to have the land under Council's care and control, proposes that an area of land be acquired for dedication as drainage reserve and seeks Council's formal resolution to that effect.

BACKGROUND

A large stormwater catchment area of old Broome extending from Port Drive/Guy Street to Frederick Street is drained by an open unlined drainage channel. This channel is located in the developed areas and conveys stormwater drainage to the major Frederick Street trunk Drain via the Broome Senior High School allotment.

In the early days a 20m road reserve existed over this major drain on both the southern and eastern boundaries of the Broome Senior High School land. Some years ago the land was also apparently consolidated/amalgamated into the High School Reserve.

The drain is fenced-off and separated from the high school grounds by a 1.8m high man proof fence on the eastern and southern boundaries of the school presumably to prevent students from accessing the drain. Since then, the Dormitory College for students has been developed on part of the land.

As this is a major drainage channel servicing the requirements of much of Old Broome, the drain plays an important role in the appropriate servicing of the residential areas surrounding the school. As such it is expected to be the Shire's drainage asset responsibility and the Shire is expected to carry out regular maintenance to maintain this drain.

The Shire can properly only perform maintenance work on assets which lie on land under the Shire's care and control. This is not currently the case although maintenance is still required.

The open unlined drain lies on the School Site Reserve No 42937. Accordingly the drain is in fact the property/asset of the State Government and Council is currently legally required to ask permission to enter onto the land if it wishes to maintain the drain.

To achieve this and to clarify legal liability, it is appropriate that a Drainage Reserve be created over the open drain.

COMMENTDescription of Land

Reserve No 42937 for "School Site"
District A103874
Lot 1773
Existing C/Title Volume LR 3003
C/Title Folio 751
LTO Plan DP 215231

Excision of land from Reserve No 42937 (Lot 1773) and Dedication as Drainage Reserve

It is proposed to excise a 20m wide strip of land from the school site reserve No 42937 (Lot 1773) and then to dedicate it as drainage reserve. It is shown on a sketch map attached at Attachment A. entitled proposed High School Drainage Reserve. It may require survey on the ground.

A piece of land immediately east of the Dormitory College is not required to form part of the drainage system and remains as State Land.

CONSULTATION

Discussion with Mr Gary Downsborough Principal Broome Senior High School.

STATUTORY ENVIRONMENT

Land Administration Act 1995

POLICY IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

Depending on the response from the Department, the cost of survey may be required.

STRATEGIC IMPLICATIONS**People**

Contribute to the well-being and safety of the community

Place

Ensure Shire assets are strategically planned and managed

Prosperity

Delivering infrastructure that meets community needs.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That with respect to the dedication of a Drainage Reserve over the open unlined drain through Lot 1773, Frederick Street, Broome, Council:

- 1. Requests the excision from School Site Reserve No 42937 on Lot 1773, of all that strip of land (generally 20m wide) from Matsumoto Street to Frederick Street as described in Attachment A to this report.*
- 2. Requests the Minister for Lands to dedicate all that strip of land described above as Drainage Reserve.*
- 3. Advises the Minister for Education of this decision.*

Moved:

Seconded:

FOR:

AGAINST:

[Attachment: 1 page](#)

9.5.5 ENGINEERING GUIDELINES FOR SUBDIVISIONAL DEVELOPMENT - 2009

LOCATION/ ADDRESS:	Various Locations
APPLICANT:	N/A
FILE:	ENG-01
AUTHOR:	Manager of Assets and Design
CONTRIBUTOR/S:	Director of Engineering
RESPONSIBLE OFFICER:	Director of Engineering
DISCLOSURE OF ANY INTEREST:	NIL
DATE OF REPORT:	15 October 2009

SUMMARY:

This report advises Council of the recent publication of the Institute of Public Works Engineering Australia (IPWEA) Local Government Guidelines for Subdivisional Development (Edition 2 - 2009) for Western Australia. A review of that document was undertaken and a modifying document "Broome Addendum (Revision 1)", intended to sit above the IPWEA document was developed by staff to reflect conditions in Broome.

It is intended that these two documents be used together to guide engineering design, assessment and control of subdivisional development within the Shire until further review and modification occurs. This report recommends formal adoption of the documents as Council's Engineering Guidelines for subdivisional development.

BACKGROUNDPrevious Considerations

Nil

The need for a consistent approach to subdivisional engineering standards in Western Australia was recognised back in the early 1970's. Many attempts to form committees to produce the standards failed due to lack of resources or industry support and it was not until 1993 that the issue was formally raised again.

At the time Local Governments were generally using their own individual standards for subdivisional works, many of which varied greatly from one to another. This caused unnecessary work and frustration for developers, consultants and contractors, who were required to know and comply with the individual requirements of each local government.

The Civil Contractors Federation were dissatisfied with this inconsistent approach to civil engineering standards and challenged Local Government Engineers to work with industry bodies to standardise specifications in the road construction industry.

The Institute of Municipal Engineers Australia (IMEA) through the then Minister for Local Government, Paul Omodei MLA restarted the process in 1994. Together with several industry bodies and some of the larger local governments they started the process to produce a design manual of subdivisional engineering standards. That document was issued in 1998 and was supported by funding from many of the largest local governments.

The IMEA then became the Institute of Public Works Engineering Australia (IPWEA). That body has now reviewed the original 1998 document and has produced a second edition entitled "Local Government Guidelines for Subdivisional Development" Edition 2 -2009. This document has been provided free to all local governments in Western Australia.

This single document has much of the engineering information applicable to potential developers in Broome and would be an efficient and useful tool for both the developers and Shire in the future.

COMMENT

In a similar fashion to many other local authorities the Shire of Broome produced its own Guidelines for Subdivisional Development in 2000, utilising many clauses reproduced from the 1998 IMEA document. It is not known whether the 2000 document was presented to Council or not and it is thought to have never formally been approved by Council. It has not been actively used or referenced in the subdivision approval process since about 2003.

During that six year period, the 1998 IMEA document, Shire Drainage Guidelines and acceptance of the civil constructions standards used on Shire roadworks programs have been used as the basis for subdivisional development standards. Basically all stages of Roebuck Estate, Sunset Rise, Herbert Street and Januburu have been constructed using the same standards and specifications.

This process has worked to an acceptable degree but it is now recognised that more formal documentation is required.

It is therefore timely that the new local government engineering group, the Institute of Public Works Engineering Australia (IPWEA) has produced a second edition of the original 1998 document entitled "Guidelines for Subdivisional Development" and provided it free to all local governments in Western Australia. This single document has all the engineering information applicable to potential developers in Broome and would be an efficient and useful tool to guide both developers Engineers and Shire Staff.

These guidelines are intended to underlie and support subdivision conditions applied by the Western Australian Planning Commission (WAPC) pursuant to the Planning and Development Act 2005. The guidelines encompass current legislation and current best practice minimum engineering standards.

The Guidelines are intended to balance specifications and costs for land affordability whilst constraining whole-of-life costs for assets. Developers will provide adequate and sound infrastructure assets which will provide economic benefits to the community under asset management principals.

The guidelines use design principles and standards applicable to the entire state and now include references and links to WAPC "Liveable Neighbourhoods Planning Guidelines". These guidelines are supported and recommended for Local Government adoption by the Department of Planning, West Australian Planning Commission, Institute of Public Works Engineering Australia and WALGA.

Generally the application of the Guidelines will be:

- The guidelines are engineering standards and are intended to be applied uniformly by Local Government Engineers, Works Managers and other professionals well as the development industry in the development of new subdivisions.
- It is expected that these Guidelines will be referenced by the Western Australian Planning Commission and Administrative Appeals Tribunal in any determinations they make.
- The guidelines reference all relevant legislation and provide links to technical engineering documentation.

The Guidelines, although written to be applicable over the whole state, do vary in some instances to local practices, materials and construction methods found to be "most appropriate practice" in Broome. To allow for these variations a detailed attachment to the Guidelines has been produced. This is described below.

***IPWEA Local Government Guidelines for Subdivisional Developments 2009
Shire of Broome Addendum (Revision 1)***

This addendum specifically highlights items which are considered to require variation from the IPWEA Guidelines-Ed. 2 document to suit the Broome environment. These requirements shall take precedence over the relevant requirements in the Guidelines-Ed. 2 document. The Addendum also includes:

- Shire of Broome Guidelines for Design of Stormwater Drainage Systems (Engineering Services September 2009).
- Guidelines and Specification for Reticulation Systems and Associated Works in Public Open Space Areas (Engineering Services September 2009).
- Shire of Broome standard drawings for kerbing, drainage, crossovers, etc.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

The following is a list of legislation that governs subdivisional development throughout WA:

Planning and Development Act 2005
Environmental protection Act 1986
Contaminated Sites Act 2003
Disability Services Act 1993
Conservation and Land Management Act 1945
Native Title Act 1993 and amendments 1998(Federal)
Aboriginal heritage Act 1972
Fire and Emergency Services Act 1998
Occupational Safety and Health Act 1984
Environmental protection and Biodiversity Conservation Act 1999 as amended.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The IPWEA Local Government Guidelines for Subdivisional Development (Edition 2 - 2009) are provided to all Local Governments throughout WA free of charge, the adoption of the guidelines should have no negative financial impact and may provide a long-term benefit in lower life-cycle costs on infrastructure assets.

STRATEGIC IMPLICATIONS

People

Actively contribute to well being and safety.

Place

Ensure that the Shire's Assets are strategically planned and managed.

Prosperity

Support Businesses and Economic development.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That for the engineering design, assessment and control of subdivisional development within the Shire of Broome, Council:

- 1. Formally adopts the Institute of Public Works Engineering Australia (IPWEA) Local Government Guidelines for Subdivisional Development (Edition 2 - 2009) and the associated Shire of Broome Addendum (Revision 1) as its adopted guidelines;*
- 2. Accepts as Council assets, only that infrastructure constructed to the standards identified in the Guidelines.*

Moved:

Seconded:

FOR:

AGAINST:

[Attachment: 18 pages](#)

Records Ref I091021-47455-Local Government Guidelines For Subdivisional Development - Edition 2 - 2009, available to Councillors & Directors on request.

10.

REPORTS

OF

COMMITTEES

There are no items for this Section.

11. NOTICES OF MOTION

12. LATE ITEMS

13. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

14. MATTERS BEHIND CLOSED DOORS

15. MEETING CLOSURE