



## 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."*

# MINUTES

FOR THE

ORDINARY MEETING OF COUNCIL

**1 AUGUST 2011**

**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  
1 AUGUST 2011

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## NOTICE OF MEETING

Dear Council Member,

The next Ordinary Meeting of the Shire of Broome will be held on Monday 1 August 2011, in the Council Chambers, Corner Weld and Haas Streets, Broome, commencing at 5.00pm

Regards



K R DONOHOE  
Chief Executive Officer

25 July 2011

**1. OFFICIAL OPENING**

The Chairperson welcomed members of the gallery and declared the meeting open at 5.00pm.

**2. ATTENDANCE AND APOLOGIES**

Attendance	Cr G T Campbell Cr C R Mitchell Cr D M Male Cr R J Lander Cr J Bloom Cr E Yu Cr R de Wit	Chairperson, Shire President Deputy Shire President
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Leave of Absence	Cr P D Matsumoto Cr E R M Foy
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*Moved: Cr D M Male* *Seconded: Cr E Yu*

*That Cr E R M Foy be granted a Leave of Absence for all Council meetings for the month of August 2011; and*

*That Cr C R Mitchell be granted a Leave of Absence for all Council Meetings from 26 August 2011 to 28 September 2011 inclusive.*

**CARRIED UNANIMOUSLY**  
7/0

Apologies	Nil
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Officers	Kenn Donohoe Ingrid Bishop Peter Naylor  Darryl Butcher Neville Lavey Bridget Visser Alison Seaman Belinda Stayt  Michelle Teoh Rod McGrath	Chief Executive Officer Deputy CEO Director Corporate and Community Services Director Development Services Director Engineering Services Media and Promotions Officer Council Secretary Personal Assistant to Chief Executive Officer Manager Planning Services Manager Recreation Services
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Public Gallery	Jason Vander Ende Nicola Kalmar Tony Proctor Carmel Leahy	WA Police Broome Advertiser Broome Chamber of Commerce
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John Geapprn            Red Sun Camels  
 Alan Brumlei            Aus Traders  
 Bev Johnson  
 Shely Ovrana  
 Hillary Woodley        Land Corp.  
 Philip Matsumoto  
 Cauline Masuda  
 Susan Potts  
 Joy Hunter  
 Jacinta Sesar  
 Robyn Wells

### 3. DECLARATIONS OF FINANCIAL INTEREST

Councillor	Item No	Page No	Item	Nature of Interest
Cr E Yu	9.3.3	26	Royalties For Regions Country Local Government Fund - 2010/2011 Allocation	Impartiality – Has an association with Broome Basketball Association and a user of BRAC services.
Cr E Yu	9.3.4	29	Companion Card Policy and Business Operating Procedure	Impartiality – Has an association with Broome Basketball Association and a user of BRAC services.
Cr E Yu	9.3.5	32	Broome Recreation and Aquatic Centre – Operational Review	Impartiality – Has an association with Broome Basketball Association and a user of BRAC services.
Cr E Yu	9.3.6	38	Broome Recreation and Aquatic Centre – Consideration of Management System And Practice	Impartiality – Has an association with Broome Basketball Association and a user of BRAC services.
Cr E Yu	9.4.1	52	Proposed Master Plan: Broome Road Industrial Area Master Plan	Impartiality - has an association with Yawuru, NTHAC and RNTB
Cr E Yu	9.4.2	64	Proposed Amendment - Januburu (Six Seasons) Development Plan	Impartiality - has an association with Yawuru, NTHAC and RNTB
Cr E Yu	9.4.8	99	Purchase of Fire Truck – Park Council	I Impartiality - has an association with Yawuru, NTHAC and RNTB

**4. PUBLIC QUESTION TIME**

Tony Proctor submitted the following questions at the Special Meeting of Council held on 13 July 2011. The answers are as follows:

Question 1:

*"In relation to Item 9.3.1 what percentage of the budgeted revenue of \$194,300 is attributable to Bed and Breakfast operations and from tourism businesses that operate from private residences and are not within the Broome Commercial category?"*

Answer – Manager Finance Services advised:

*"The specific answer to the question is that no percentage of the budgeted revenue of \$194,300 is attributable to Bed and Breakfasts and tourism businesses from private residences.*

*Legal opinion has confirmed that tourism or commercial uses that are incidental to the residential purpose of a property does not override the predominant use of a property as residential. Rates are levied based on the predominant use of the land. The consultant's Domenic Carbone and Associates and Darren Long Consulting, estimated in 2010, that the notional rates attributable to 25 registered Bed and Breakfast's outside of the Commercial rates category was ~\$15,000, if statutory law allowed such assessment."*

Question 2:

*"In relation to item 9.3.3 how many Bed and Breakfast operations are (a) rated as private residences and (b) rated as commercial businesses. What are the same figures for other tourist related businesses that do not have physical business premises but operate from private residences (and may have business equipment located at that residence)?"*

Answer – Manager Finance Services advised:

*"(a) 25 registered B&B's are rated as Broome Residential (21); Dampier Coconut Wells(3) and Dampier Skuthorpe(1); and*

*(b) None are rated tourism/commercial.*

*There have been 52 planning applications since 2003 for other Home Businesses and Home Occupations, however it is unknown as to how many of these uses actually commenced or are still in existence, therefore no estimate is available for notional rates outside of Commercial rates categories if statutory law allowed such assessment. "*



Carmel Leahy submitted the following questions on 1 August 2011 in regards to "Representing the interests of the Broome Community":

*"The Broome Shire has a responsibility represent the interests of the Broome Community. Given the Shire's commitment to liaise more effectively with the Broome Community following the Taiji issue and the current, significant Community discontent being expressed over the proposed gas hub:"*

Question 1 – Carmel Leahy:

*"What measurable, tangible actions are the Shire taking to gauge and analyse the current and ongoing Community position? (E.g. a short PO box survey and/or student operated street stop survey, using minimal front end Shire resources?)"*



Answer 1 – Chairperson:

Please see answer to question two below.

Question 2 – Carmel Leahy:

“If such data is not being sourced, why not?”

Answer 1 and 2 – the Chairperson advised in response to questions 1 and 2:

“At the April 2011 Ordinary Council Meeting, Council appointed Buzz Communications to provide media constantly services to the Shire.

The appointment of this consultancy service was to specifically address the significant media and public pressure faced by the Shire due to the proposed gas precinct at James Price Point

Since then the Shire has drafted a Corporate Communications Strategy which covers all aspects of public and media communications, including any related to the proposed ‘gas hub’.

This draft strategy will be going to Council for approval at its September Ordinary Council Meeting.

This strategy will incorporate an initial phone survey to gauge residents’ perceptions and awareness of the Shire’s role and core activities, and will incorporate 1-2 questions about the proposed Browse LNG precinct, which is expected to take place within the next two months.

Following this, a more thorough written survey to all community members on their perceptions of the Shire, their level of satisfaction in communication and information and preferred methods to be advised of projects / initiatives / decisions will also be conducted. The intention is for this written survey to be a biennial activity, so that Council is regularly updated on community viewpoints.

In addition to the surveys, the Shire has recently established a public question and answer column in its fortnightly newsletter, which appears in the local paper and is posted on the Shire’s website.

All questions submitted by the public (which are not defamatory or of a personal / private nature) will be posted online with the Shire’s response and selected questions will be posted in the Shire’s newsletter. (Not all questions received can be posted in the newsletter due to space restrictions.)”

Question 3 – Carmel Leahy:

“Earlier this year, Bruce Goring, Research Co-ordinator of Nulungu Centre for Indigenous Studies at Notre Dame University here in Broome, offered assistance to do this. What has been the Shire’s response to this offer?”

Answer – Chairperson:

“Following the Special Electors Meeting that was held in November 2010, one of the key outcomes was for improved communications. To this end, a tender process was run independently through WALGA’s Tender Services. The result of this was the appointment, subject to funding on this year’s budget of Buzz Communications.

A previously indicated, the Communications Strategy will be presented to Council for adoption in September."



John Geappen from Red Sun Camels submitted the following questions on 1 August 2011:

Question 1 – John Geappen:

*"In June 2010 and again in July 2010, my wife and I met with the CEO, Director Community Services, Darryl Butcher and the Head of Ranger Services, Doug Van Badel. At these two meetings we raised a number of concerns regarding the unlawful and non-conforming conduct and persistent lack of compliance by the business Ships of the Desert. These related to non-compliance with regards to keeping camels on land not zoned suitable for such activity, no building or large shade sail approvals, excessive dog numbers on site, resulting in dozens of reports to local rangers, illegal camping by employees of the business Ships of the Desert and frequent non-compliance with license conditions. Numerous emails and phone calls to the department heads assigned to investigate these complaints have resulted in no action being taken by those responsible. I have addressed Council during Public Question time in December 2010, April 2011 and now again in August 2011 with these same concerns. What will it take for those responsible to take action?"*

Answer 1 – Chairperson:

*"This question will be taken on notice."*

Question 2 – John Geappen:

*"In previous years, the business Broome Camel Safaris had to relocate their business on several occasions due to a lack of suitable land. Each time this happened and the land was deemed to be unsuitable, the Shire took immediate action against the business. Our camel business was originally located at 16 Sanctuary Drive, Cable Beach. The Shire of Broome changed the zoning of the location, resulting in the need for the business to relocate. A new lease from State Land Services took some time to come into effect. This did not stop the Shire issuing infringement notices and taking the business Red Sun Camels to court regarding the breach. The Business Cable Beach Camel Safaris had their application for a camel license refused by Council based on the grounds of unsuitable land for the keeping of camels. This business was located exactly where the business Ships of the Desert are currently located. They have been there since this Council issued them a license in December 2009. Why has no action been taken by the Shire in this case as with all others?"*

Answer 2 – Chairperson referred to the Director Development Services:"

*"These matters have been allocated for action. There has been a failure to follow up that action and I apologise for any inconvenience that has caused Mr Geappen. These matters will be followed up as a matter of urgency."*

Question 3 – John Geappen:

*"On 15<sup>th</sup> July 2011, an email was sent to a number of related parties. These included the Shire@Broome, Shire President, and Councillors Bloom, Male, De wilt and Yu. The author of this email, Jayne Hart, raised several concerns regarding the conduct of the business Ships of the Desert. Many of these concerns are related to the very issues we have been bringing to the attention of the Shire and Council since June 2010. Issues relating to public health and public safety are raised. A recent attack by two dogs on one of our staff could have resulted in serious injuries to an innocent party. Given the warnings the Shire has received, the continued support by the Shire staff for the unlawful conduct of this*

*business in an area not deemed suitable to keep camels and the public health and safety issues described, doesn't this Shire and therefore it's rate payers not expose themselves to possible litigation?"*

Answer 3 Chairperson:

*"The Shire is exposed to litigation matters all the time. The Chair is disappointed that no action has been taken to your issues. Consideration is to be given by the Chief Executive Officer to have these matters presented to the Ordinary Meeting of Council held in September. The Shire will address legal aspects of all issues brought forward by yourself and others."*



Robyn Wells submitted the following question on 1 August 2011 in regards to light emissions and visual impacts:

*"The recent Cardno Report highlights information from the Strategic Assessment Report that a proposed LNG hub at Walmanadny (James Price Point) would result in a 37 kilometre radius of light emissions.*

*The report states that Manari Road uses would suffer from 'high level of impact' from light emissions and that these light emissions would extend as far as the Broome Highway, where there was a 'low impact'.*

*It states that there would also be an overall 'high visual impact' of the gas hub; 'it will generate a considerable change in landscape', particularly for people camping, fishing or taking part in cultural activities.*

*Councillors, are no doubt aware of the crucial role this area plays in the recreational and cultural life of many Broome residents, particularly Barred Creek, Quondong Point, James Price Point and Manari."*

Question 1 – Robyn Wells:

*"The Cardno Report notes that there are implications for the Broome Shire in the provision and maintenance of appropriate camping sites in this Shire. Does Council acknowledge that the high visual impact of this proposed industrial site, and the 37 kilometres of light emissions would cause a profound change in the nature of camping and cultural activities along this coastline?"*

Answer 1 – Chairperson:

*"This question will be taken on notice."*

Robyn Wells submitted the following question in regards to the Loss of Future Sustainable Economic Opportunities.

*"Council in no doubt aware of the value of this significant piece of coastline for local businesses such as Willie Creek Pearl Farm, and Indigenous cultural events such as the Lurajarri Trail.*

*Council is no doubt aware of the future economic value of this area to the whole Shire as well as individual businesses who may benefit from prompting aspects such as an intact dinosaur track way or the wonders of humpback whales, as well as people developing bush plant industries, eco-tourist developments or small-scale agricultural businesses.*

The Department of State Development has acknowledged to me in a community information meeting last year that the proposed LNG gas hub would effectively rule out the scenario of diverse small-scale businesses that have the potential to develop on this part of the coastline."

Question 2 – Robyn Wells:

"Does the Council acknowledge that an industrial site in this location has far-reaching effect on land surrounding the actual site and is at direct odds with current Shire Planning Guides? I refer here to the Waterbank Structure Plan which was endorsed by the Broome Shire and WA State Cabinet in 2000 but not yet ratified by the WA Planning Commission. This plan earmarks James Price Point as part of a 9,000 Conservation Reserve and area of Aboriginal Heritage."

Answer 2 – Chairperson:

"This question will be taken on notice."

<b>5. CONFIRMATION OF MINUTES</b>
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<b>Moved: Cr E Yu</b>	<b>Seconded: Cr C R Mitchell</b>
<b>That the Minutes of the Ordinary Meeting of Council held on 7 July 2011 be confirmed as a true and accurate record of that meeting.</b>	
<b>CARRIED UNANIMOUSLY</b>	
<b>Moved: Cr E Yu</b>	<b>Seconded: Cr C R Mitchell</b>
<b>That the Minutes of the Special Meeting of Council held on 13 July 2011 be confirmed as a true and accurate record of that meeting subject to the following amendments:</b>	
<ul style="list-style-type: none"> <li>• <b>Page 6 and page 31 – 3. Declarations of Financial Interest for Item 9.3.4 RV Sports Proposal – Cable Beach Invitational Event, Cr Yu, Nature of Interest should read as follows:</b>   <i>"Impartial – A member of the Broome Basketball Association <del>that uses BRAC on a hire basis</del>".</i> </li> <li>• <b>The Council Resolution for Item 9.2.1 – Broome Multipurpose Arts and Community Venue (BMACV) on page 55 part (g) should read as follows:</b>   <i>"(g) Holds a final meeting of the Broome Performing Arts Centre Advisory Group as well as a community information session to inform interested parties of the design rationale , features of the design concept and the process for the project moving forward (as per Council resolution May 2010)."</i> </li> </ul>	
<b>CARRIED UNANIMOUSLY</b>	

**6. ANNOUNCEMENTS BY PRESIDENT WITHOUT DISCUSSION**

The welcomed the new Officer in Charge of Broome Police Station, Jason Vander Ende from WA Police.

**7. PETITIONS**

The Chief Executive Officer presented to Shire President a petition that was received on 13 July 2011. This petition is in the correct format as stated in the Shire’s Standing Orders. The Shire’s staff were required to check the names on petition in accordance with the 2009 Electoral Roll (2009 being the last time an election that was held in the Shire). The petition was comprised of 822 signatures in total with 324 persons being on the 2009 electoral roll and 498 persons not located on the 2009 Electoral Roll.

The Chairperson read aloud the petition statement:

*“We the undersigned electors and residents of the Shire of Broome request that the Broome Shire Council this week urgently holds a public meeting to state its position on the proposed Kimberley LNG processing precinct at James Price Point to provide information on the works being undertaken by Woodside at the moment and to respond to questions from the community.*

*I will request the Chief Executive Officer to present this petition to an Ordinary Meeting of Council for attention.”*

**8. MATTERS FOR WHICH MEETING MAY BE CLOSED**

Nil.

**9.**

**REPORTS**

**OF**

**OFFICERS**

# 9.1

## LEADERSHIP/GOVERNANCE

AND

## ORGANISATION



### *OUTCOME*

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

There are no reports in this section.



**9.2**

**BUSINESS ENTERPRISE/PROPERTY**

**AND**

**STRATEGY DEVELOPMENT**

***OUTCOME***

There are no reports in this section.

# 9.3

## CORPORATE AND COMMUNITY

### SERVICES



### *OUTCOME*

To facilitate the social wellbeing and development of the community.

<b>9.3.1 ACCOUNTS FOR PAYMENT - JUNE 2011</b>	
<b>LOCATION/ ADDRESS:</b>	N/A
<b>APPLICANT:</b>	N/A
<b>FILE:</b>	FRE02
<b>AUTHOR:</b>	Finance Officer
<b>CONTRIBUTOR/S:</b>	Nil
<b>RESPONSIBLE OFFICER:</b>	Director Corporate and Community Services
<b>DISCLOSURE OF ANY INTEREST:</b>	N/A
<b>DATE OF REPORT:</b>	1 August 2011
<b>SUMMARY:</b> This report presents the list of payments made under delegated authority during the month of June 2011.	

**BACKGROUND**

Previous Considerations

Nil.

**COMMENT**

The Chief Executive Officer has been delegated the power to make payments from the Municipal and Trust funds in accordance with budget allocations.

The Shire provides payments facilities to suppliers be either cheque or electronic funds transfer (EFT).

Attached is a list of all payments made under delegation during the preceding month of operation.

**CONSULTATION**

Nil.

**STATUTORY ENVIRONMENT**

***Local Government (Financial Management) Regulations 1996***

13. *Lists of accounts*

- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —*
  - (a) *the payee’s name;*
  - (b) *the amount of the payment;*
  - (c) *the date of the payment; and*
  - (d) *sufficient information to identify the transaction.*

- (3) *A list prepared under sub regulation (1) is to be —*

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

**Place**

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

**VOTING REQUIREMENTS**

Simple Majority.

**COUNCIL RESOLUTION:**  
**(REPORT RECOMMENDATION)**

*That accounts paid under delegated authority for June 2011 as attached, covering Municipal Cheque Vouchers 54130 - 54292 totalling \$1,347,101.10, EFT Vouchers 13750 - 14082 totalling \$3,198,152.19 and Trust Cheque Vouchers 3226 - 3233 totalling \$16,700.44, be recorded as paid. The total of all expenditure for June 2011 is \$4,561,953.73.*

Moved: Cr D M Male

Seconded: Cr C R Mitchell

**CARRIED UNANIMOUSLY**

[Attachment: 15 pages](#)

**9.3.2 JUNE 2011 MONTHLY FINANCIAL ACTIVITY REPORT**

<b>LOCATION/ ADDRESS:</b>	N/A
<b>APPLICANT:</b>	N/A
<b>FILE:</b>	FRE 02
<b>AUTHOR:</b>	Finance Officer
<b>CONTRIBUTOR/S:</b>	Manager Finance Services
<b>RESPONSIBLE OFFICER:</b>	Director Corporate and Community Services
<b>DISCLOSURE OF ANY INTEREST:</b>	Nil
<b>DATE OF REPORT:</b>	4 July 2011

**SUMMARY:** This report recommends that the Council resolution not to receive a June monthly report under Regulation 34 of the Financial Management Regulations.

**BACKGROUND**Previous Considerations

Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires financial reports to be prepared. Such reports must be submitted to Council within two ordinary meetings following the end of the reporting month.

**COMMENT**

In order to maintain statutory compliance, and avoid a qualified audit opinion attached to the annual accounts, Council has the option of foregoing receipt of the June monthly activity statement, in favour of receiving the final audited results in the annual financial report.

The intention of monthly reporting has been to forecast the anticipated carried forward position compared to budget. The timing of budget preparation is such that the final carried forward position has not been confirmed at the time of preparing the budget. In this regard, with the benefit of time to complete end of year processing, there will be a comprehensive analysis of the final carried forward position and uncompleted projects presented to the next available ordinary council meeting. At this time Council will be in a position to consider any budget revisions for carry over projects and any distribution of the final carried forward position.

**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.*

Chairperson.....Date.....

- (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 sub regulation (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 sub-regulation (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**

Nil.

**STRATEGIC IMPLICATIONS**

**People**

Effectively engage with our community by providing information and provide open, transparent and good governance to the community.

**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.

**VOTING REQUIREMENTS**

Absolute Majority.

<b><u>COUNCIL RESOLUTION:</u></b>	
<b>(REPORT RECOMMENDATION)</b>	
<i>That Council not to receive a June monthly report under Regulation 34 of the Financial Management Regulations as final audited results will be presented in the annual financial report.</i>	
<i>Moved: Cr C R Mitchell</i>	<i>Seconded: Cr R de Wit</i>
<b>CARRIED 7/0 BY ABSOLUTE MAJORITY</b>	

Nil Attachments

*With regard to Item 9.3.3 Cr E Yu disclosed that "I have had an association with Broome Basketball Association and a user of BRAC services. As a consequence, there may be a perception that my impartiality in the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly".*

**9.3.3 ROYALTIES FOR REGIONS COUNTRY LOCAL GOVERNMENT FUND - 2010/2011 ALLOCATION**

**LOCATION/ ADDRESS:** N/A  
**APPLICANT:** N/A  
**FILE:** GPC02.1  
**AUTHOR:** Director Corporate and Community Services  
**CONTRIBUTOR/S:** Nil  
**RESPONSIBLE OFFICER:** Director Corporate and Community Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE OF REPORT:** 8 July 2011

**SUMMARY:** Funding from the Royalties for Regions Country Local Government Fund 2010/2011 Program has been allocated to the Broome Performing Arts and Culture Centre project in accordance with Council Resolution 9.2.5 of 15 December 2010, and the Shire of Broome Forward Capital Works Plan.

This report recommends Council authorise the Shire President and Chief Executive Officer to engross the Financial Assistance Agreement between the Department of Regional Development and Lands and the Shire of Broome.

**BACKGROUND**

Previous Considerations

OCM 15 December 2010 – Item 9.2.5

Council adopted the Forwarded Capital Works Plan (FCWP) as presented to the meeting.

The FCWP included allocation of the Shire of Broome’s 2010/2011 Royalties for Regions Country Local Government Fund of \$1,002,877 to assist with the Broome Performing Arts and Culture Centre project.

**COMMENT**

Shire staff have processed this matter with the Department of Regional Development and Lands and Financial Assistance Agreement has been prepared between the Department and the Shire of Broome.

It is a requirement that the Agreement be signed on behalf of the Shire of Broome by the Shire President and Chief Executive Officer and the Shire’s Common Seal be affixed to the document.

The financial allocation has been included on the draft Shire of Broome Budget for the 2011/2012 Financial Year.

**CONSULTATION**

Department of Regional Development and Lands.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

**People**

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

**Place**

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

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**

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

Support business and economic development.

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

**VOTING REQUIREMENTS**

Simple Majority.

**COUNCIL RESOLUTION:**  
**(REPORT RECOMMENDATION)**

*That Council authorises the Shire President and Chief Executive Officer to engross the Royalties for Regions Country Local Government Fund Financial Assistance Agreement between the Department of Regional Development and Lands and the Shire of Broome.*

Moved: Cr E Yu

Seconded: Cr J Bloom

**CARRIED UNANIMOUSLY**

[Attachment: 27 pages](#)

*With regard to Item 9.3.4 Cr E Yu disclosed that "I have had an association with Broome Basketball Association and a user of BRAC services. As a consequence, there may be a perception that my impartiality in the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly".*

**9.3.4 COMPANION CARD POLICY AND BUSINESS OPERATING PROCEDURE**

**LOCATION/ ADDRESS:** N/A  
**APPLICANT:** N/A  
**FILE:** AFA02  
**AUTHOR:** Project and Administration Officer  
**CONTRIBUTOR/S:** Manager Community Development; Manager BRAC  
**RESPONSIBLE OFFICER:** Director Corporate and Community Services  
**DISCLOSURE OF ANY INTEREST:** N/A  
**DATE OF REPORT:** 21 July 2011

**SUMMARY:** This report recommends the Companion Card affiliation be incorporated into the Shire of Broome Access and Inclusion Plan 2007-2012 and its implementation be complemented by a Business Operating Procedure as endorsed by the Shire of Broome's Access and Inclusion Advisory Committee on 29 June 2011.

**BACKGROUND**

Previous Consideration

OCM 17 March 2011 - Item 9.2.3

**COMMENT**

Council adopted the Companion Card Affiliation on 17 March 2011 and requested that:

*"the Chief Executive Officer to develop a policy that clearly outlines the conditions of acceptance of the WA Companion Card incorporating recommendations from the Organisation and Business Affiliates Handbook and other conditions specific to Shire facilities."*

The Shire of Broome's access and inclusion strategic direction is currently captured and informed by the Access and Inclusion Plan and policy statement for 2007-2012. As such, the Companion Card affiliation should be acknowledged in accordance with this Plan.

A Companion Card Business Operating Procedure (BOP) has been developed to inform the implementation of the program for Shire staff and this negates the need for a separate Companion Card Policy as recommended OCM 17 March 2011 Item 9.2.3.

**CONSULTATION**

The Shire of Broome's Access and Inclusion Advisory Committee has reviewed the Draft Companion Card Business Operating Procedure and supports this Business Operating Procedure (BOP) in place of a Companion Card Policy. Confirmed minutes from 6 April and 29 June 2011 meetings attached to Report of Committees item 10.1.

Draft Companion Card BOP attached for Council's reference.

Chairperson.....Date.....

Other Local Government Authorities (LGA's) affiliated with the Companion Card were contacted to collect examples of any policies or procedures they developed in support of the Companion Card program. Over half of the twelve (12) LGA's contacted advised that their Disability Access and Inclusion Plan's adequately supported this program and they advised staff through internal training and operating processes.

**STATUTORY ENVIRONMENT**

*WA Disability Services Act 1993 (as amended 2004)*  
*Equal Opportunity Amendment Act Western Australia (1988)*  
*Disability Discrimination Act (1992)*  
*Local Government Act 1995*

**POLICY IMPLICATIONS**

Supports the provisions and general scope of the Shire of Broome Access and Inclusion Plan 2007 -2012.

**FINANCIAL IMPLICATIONS**

Not applicable.

**STRATEGIC IMPLICATIONS**

**People**

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

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

**Place**

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.

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;*

1. *Amends point 2 of resolution of Ordinary Council Meeting of 17 March 2011, Item 9.2.3 to acknowledge that the Companion Card affiliation is already strategically in line with the existing Shire of Broome Access and Inclusion Plan 2007-2012;*
2. *Directs the Chief Executive Officer to develop a ~~Business Operating Procedure Policy~~ that clearly outlines the conditions of acceptance of the WA Companion Card incorporating recommendations from the Organisation and Business Affiliates Handbook and other conditions specific to Shire facilities.*

**COUNCIL RESOLUTION:**

*That Council;*

1. *Amends point 2 of resolution of Ordinary Council Meeting of 17 March 2011, Item 9.2.3 to acknowledge that the Companion Card affiliation is already strategically in line with the existing Shire of Broome Access and Inclusion Plan 2007-2012;*
2. *Directs the Chief Executive Officer to develop a Policy that clearly outlines the conditions of acceptance of the WA Companion Card incorporating recommendations from the Organisation and Business Affiliates Handbook and other conditions specific to Shire facilities.*

**Moved: Cr C R Mitchell**

**Seconded: Cr D M Male**

**CARRIED 7/0 BY ABSOLUTE MAJORITY**

[Attachment: 3 pages](#)

*With regard to Item 9.3.5 Cr E Yu disclosed that "I have had an association with Broome Basketball Association and a user of BRAC services. As a consequence, there may be a perception that my impartiality in the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly".*

### 9.3.5 BROOME RECREATION AND AQUATIC CENTRE – OPERATIONAL REVIEW

<b>LOCATION/ ADDRESS:</b>	Reserve 42502, Cable Beach East Road
<b>APPLICANT:</b>	Shire of Broome
<b>FILE:</b>	RES42502
<b>AUTHOR:</b>	Manager Recreation Services
<b>CONTRIBUTOR/S:</b>	Nil
<b>RESPONSIBLE OFFICER:</b>	Director of Corporate and Community Services
<b>DISCLOSURE OF ANY INTEREST:</b>	Nil
<b>DATE OF REPORT:</b>	20 July 2011

**SUMMARY:** An Operational Review of the Broome Recreation and Aquatic Centre has been prepared by the YMCA Perth. A workshop, with representatives of the YMCA Perth, was undertaken with Councillors in May 2011 to discuss the Operational Review Report. The Report's recommendations are submitted for Council's consideration.

## BACKGROUND

### Previous Considerations

OCM 22 December 2005 - Item 9.2.2

OCM 18 January 2007 - Item 9.2.1

An Operational Review of the Broome Recreation and Aquatic Centre (BRAC) was initially conducted by A Balanced View (ABV) Leisure Consultancy Services in 2006, with the report submitted to Council in January 2007. Four years later in 2010, the Shire sought quotations for a further operational review of BRAC.

Two consultancy companies were approached to undertake an operational review.

### Key Review Areas

The brief to the consultant involved the following key areas to be reviewed:

- Staff Structure;
- Community Liaison/Relations;
- Operations; and
- Bar/Kiosk.

The review to encompass both refining and broadening the current management practices to include management options for indoor and outdoor sport and recreation and to take into account future population growth within the Shire.

### Staff Structure

The Consultant will review the existing staff structure in terms of appropriateness and effectiveness. Specifically, the consultant was to:

Chairperson.....Date.....



- Review current position descriptions and develop key performance indicators for all centre staff;
- Recommend a performance measuring system for implementation;
- Review current staffing ratio, rostering and employment arrangements; and
- Consider training and staff development opportunities.

### Community Liaison/Relations

The consultant will review the effectiveness of the partnerships with resident Clubs of BRAC in terms of:

- Liaison;
- Management Agreement;
- Marketing; and
- Future directions/opportunities.

### Operations

The consultant will review the day-to-day operations in terms of:

- Usage (Hours of operation; Number, range and frequency of programs offered; Attendance reports);
- Marketing and promotion;
- General procedures;
- Cleaning and maintenance;
- Information technology equipment/software packages; and
- Annual Management Plan (particularly targets).

### Bar/Kiosk

The Consultant will review the effectiveness of the current operation and future potential of the Bar/kiosk in terms of viability, patronage and service provided.

Recommendations may relate to, but are not limited to, building design, suitable stock purchases, staffing options, management options.

### Review Outcomes

The review will identify the strategic positioning of BRAC while recognising the need for the development of a broader Community Plan, within which Sport and Recreation, including BRAC, will form a component.

In addition, strategies will be identified to:

- Provide excellent standard of recreation and sporting service delivery to the public at an affordable price;
- Ensure the BRAC facility is utilised by a broad cross-section of the community;
- Achieve harmonious partnerships with the resident and potential sporting clubs utilising BRAC;
- Ensure that revenue streams are developed to their maximum potential;
- Ensure that minimal costs are incurred for maximum value to the community;
- Establish an appropriate target subsidy level (Operating Deficit);
- Develop practical strategies for the effective marketing of BRAC to the public;

- Attain an appropriate staff structure to achieve the smooth and efficient operation of the BRAC facility, operated by sufficiently qualified staff, where Position Descriptions reflect work expectations and aspirations;
- Install a process of continuous improvement and innovation for the centre and staff and for the overall recreation and sport operations within the developing precinct.

## COMMENT

YMCA Perth was appointed to undertake a second operational review of BRAC.

The YMCA consultants interviewed Shire of Broome staff, held meetings with sporting clubs, and inspected the facility as part of the assessment process. They also undertook a desktop review and an audit of documentation.

Consultants from the YMCA Perth presented their operational and management review findings of BRAC at a Council Workshop held on 4 May 2011.

The YMCA's Operational Review made recommendations and actions specific to the Consultancy Brief concerning how the Shire can best improve the efficiency and effectiveness of the BRAC facility (Confidential Attachment).

The YMCA also reviewed the operational review of BRAC undertaken by A Balanced View in 2006. That report provided a list of recommendations. The YMCA found that 21 per cent of the recommendations in the report had been completed to date.

Management practices for BRAC were reviewed by the YMCA consultants in comparison to YMCA benchmarks and key performance indicators.

*The YMCA's "key finding of the review process is that there are no strategic and business processes established to complement operations. The lack of contemporary management practice is inhibiting potential growth in participation, increased level of customer service and improvement of financial performance of the facility".*

Shire staff are presently working through the recommendations made in both the 2006 and 2010 Operational Reviews of BRAC so as to ensure that all of these recommendations are actioned and implemented.

## CONSULTATION

YMCA Perth  
Sporting organisations

## STATUTORY ENVIRONMENT

*Local Government Act (WA) 1995*

## POLICY IMPLICATIONS

Actioning some recommendations from the YMCA Perth Operational Review report may have policy implications.

## FINANCIAL IMPLICATIONS

In reviewing all of the recommendations within the YMCA Perth's Operational Review report, the majority of recommendations do not involve additional cash expenditure.

In order to achieve improved systems and practices, staff at BRAC, with the assistance of Manager Recreation Services and the Club Development Officer, will within normal staff hours of work seek to progress suggested recommendations from the report.

Additionally, within the proposed Shire of Broome draft Budget for 2011/2012, prepared in relation to BRAC, staff have revised income/expenditure figures to achieve the reports recommendations:

*"That the budgeted allocation on Marketing be increased in 2011/12 to bring it in line with CERM medium of 1.7% of total operational expenditure.*

*The budget expenditure allocation for Marketing and Promotions is to be increased by \$20,000 with expected income increases of \$20,000 (arising out of additional marketing and promotion for BRAC) to result in an increase in the revenue lines, specifically from pool admissions, group fitness participants and squash usage. It is also expected that an increase in the marketing and promotion budget line for BRAC will result in other benefits for the Centre."*

With the recommendation (below) concerning additional storage infrastructure to be placed at BRAC for user groups to be able to access, it is proposed that this recommendation be included in the review scope for the BRAC Master Plan (2004) which Council at the Ordinary Council Meeting held on 7 July 2011 resolved to have reviewed. Any costs concerning capital expenditure required for storage containers/sheds at BRAC to be included in a future report to Council:

*"That storage for sports clubs using the sporting fields and outdoors courts be increased with consideration for the purchase of shipping container or storage shed as a cost effective solution to limited storage available at BRAC."*

## STRATEGIC IMPLICATIONS

### People

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

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**

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

Support business and economic development.

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

**VOTING REQUIREMENTS**

Simple Majority

**COUNCIL RESOLUTION:**  
**(REPORT RECOMMENDATION)**

*That Council:*

1. *Receives the Broome Recreation and Aquatic Centre (BRAC) Operational Review 2010 Report as prepared by YMCA Perth.*
2. *Notes the recommendations made by within the Report and requests that all of the recommendations be actioned and implemented in order to improve the efficiency and effectiveness of best practice required for the BRAC’s operations.*
3. *Be provided with a further staff report by the end of the 2011 calendar year as to the status of recommendations made in the 2006 and 2010 Operational Reviews for BRAC.*

*Moved: Cr J Bloom*

*Seconded: Cr R de Wit*

**CARRIED UNANIMOUSLY**

(Confidential Attachment for Councillors and Directors: 8 pages)

**An additional attachment was tabled at the meeting and forms part of these minutes.**

**With regard to Item 9.3.6 Cr E Yu disclosed that "I have had an association with Broome Basketball Association and a user of BRAC services. As a consequence, there may be a perception that my impartiality in the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly".**

**9.3.6 BROOME RECREATION AND AQUATIC CENTRE – CONSIDERATION OF MANAGEMENT SYSTEM AND PRACTICE**

**LOCATION/ ADDRESS:** Reserve 42502, Cable Beach East Road  
**APPLICANT:** Shire of Broome  
**FILE:** RES42502  
**AUTHOR:** Manager Recreation Services  
**CONTRIBUTOR/S:** Manager Finance  
**RESPONSIBLE OFFICER:** Director of Corporate and Community Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE OF REPORT:** 20 July 2011

**SUMMARY:** This report refers to the options available for various types of management systems and practices for the Broome Recreation and Aquatic Centre (BRAC). Reference is made to financial profit and loss figures for the past four years for BRAC as reported in the YMCA Perth's 2010 Operational Review Report. This report recommends Council consider an alternate management practice be implemented via external specialised contract management.

**BACKGROUND**

Previous Considerations

Nil.

The Broome Recreation and Aquatic Centre (BRAC) located on Reserve 42052 is Broome's premier multi-purpose sporting and recreational venue.

The built facilities on this reserve which are available to assist members of the community and visitors for their recreation needs include:

- 25m swimming pool;
- Wading lagoon;
- Two indoor multi-purpose sports courts;
- Two air-conditioned squash courts;
- Eight synthetic grass tennis courts;
- Four outdoor sports courts – basketball, netball, futsal;
- Multi-purpose room;
- Crèche area; and
- Two kiosks.

Plus two sports fields and a new amenities pavilion besides the sports fields.

The Shire of Broome presently operates and manages the overall BRAC facility.

The Shire has organised for independent operational reviews of the BRAC facility to be conducted in 2006 and 2010 and the recommendations arising from those reviews have assisted the Shire with regards to the management of this centre.

The centre operates with an annual subsidy provided by the Shire which is normal for these types of local government recreational facilities, particularly in remote and regional areas.

With the latest operational review conducted by the YMCA Perth (2010), the YMCA reviewed the operational performance of the BRAC facility for the period 2006/07 to 2009/10 as per the scope of the review.

In order to enable the annual financial performance for BRAC to be benchmarked accurately, all non-operational costs were removed from the table below, including depreciation, loan repayments and major capital works. The financial figures for the operations of the BRAC sports fields were also excluded.

<b>BRAC OPERATIONAL PROFIT AND LOSS</b>				
	2009/10	2008/09	2007/08	2006/07
Total Income	548,308	610,471	610,353	565,962
Total Expense	1,533,445	1,509,618	1,431,175	1,392,024
<b>Net Loss</b>	<b>(985,138)</b>	<b>(899,147)</b>	<b>(820,821)</b>	<b>(826,062)</b>

The YMCA in their Operational Review of BRAC stated:

*"BRAC has experienced a decline income over the last four years, coupled by an increase in expense and operating deficit. Whilst it is expected that expense will increase on an annual basis at a recreation centre, this is usually off set by a corresponding increase in income."*

The annual subsidy level is essentially the difference between total expenses and total income.

Following the submission of the YMCA's 2010 Operational Review, Shire staff examined further the BRAC Operation Profit and Loss figures over the past five financial periods plus the expected budget figures for 2011/12, (Attachment – Table: BRAC Operational Profit and Loss).

Excluding the financial results for the nearby two (2) BRAC sports fields, loan repayment interest, non-cash items and capital expenditure or income, the trends are that total operating income has been decreasing in recent years, operating income has increased over the whole period and the recovery of operating income from users over operating expense has been decreasing since the 2007/2008 financial year.

At an informal Shire Audit Committee held on 9 June 2011 with the Principal Auditor, David Tomasi, from UHY Haines Norton, Chartered Accountants (UHYHN) in relation to BRAC, it was noted that there had been improvements in daily banking and receipting processes plus further staff assistance with the recruitment of an administration officer and review of stock lines, liquor provision bar services and assistance with regular gross margin reporting from Finance will all assist.

But the Shire Audit Committee meeting was informed that "petty cash and stock are still an issue with the regularity of unaccounted stock and/or out of date product- processes and procedures in place but require dedicated staff to implement and maintain. David Tomasi advised of the need to introduce a stricter gross margins policy so that revenues and costs of goods sold can be measured against a standard. Without this, performance can not be measured against a benchmark and there is no clear objective for sales activity".

The YMCA also reviewed the operational review of BRAC undertaken by A Balanced View in 2006. That report provided a list of recommendations. The YMCA found that 21 per cent of the recommendations in the report had been completed to date.

Management practices for BRAC were reviewed by the YMCA consultants in comparison to YMCA benchmarks and key performance indicators.

The YMCA's "key finding of the review process is that there are no strategic and business processes established to complement operations. The lack of contemporary management practice is inhibiting potential growth in participation, increased level of customer service and improvement of financial performance of the facility".

## COMMENT

In summary, the financial subsidy provided by Council for BRAC has increased over the past four years with total expenses increasing while total income has been decreasing during this period. And this is expected to again happen during the 2011/2012 financial year.

Usually, as the YMCA states in their 2010 review of BRAC, it would be expected that an annual increase in expenditure for BRAC would normally be offset by an annual increase in income, though it would be expected that the Shire would still be funding an annual set budgeted subsidy. Presently this is not occurring for the Shire with BRAC.

Therefore, the need to look at a different management system and practice is required so as to see whether there might be another way for the Shire to have BRAC managed and operated.

A central aspect of operating a seven day-a-week business such as BRAC is having appropriate recreational centre systems and processes in place for this Centre plus having access to qualified personnel with support back-up and training.

In a remote location such as where Broome is situated, it is imperative that the Shire's recreation centre does have suitable systems and processes in place plus have access to qualified personnel. Financial audit reviews undertaken of BRAC in recent years have referred to various matters that need to be improved.

Since November 2009, the Shire has sought assistance from the YMCA Perth through the provision of a YMCA employee as centre manager at BRAC, with continual short-term contracts being put in place between the Shire and the YMCA.

Additionally, the Shire has sought assistance from the YMCA Perth with regards to BRAC staff being trained by an experienced recreation centre manager from one of the YMCA's centres with the LINKS venue hire management system presently used at BRAC.

With the annual budgeted subsidy provided by Council increasing for BRAC over the past four years, it is appropriate for Council to consider other forms of management of BRAC, than the present "in-house" management system and practice, which is in place.

Details of approaches made by three local government authorities towards a management model are outlined below. The most preferred management model of these three local governments principally involves seeking the use of outside expertise to manage their particular recreation facilities.

#### Town of Port Hedland

The Council for the Town of Port Hedland has been investigating management options for their town's new Multi-Purpose Recreation Centre (MPRC), costing in excess of \$30m, which is due for completion in mid-2012.

Councillors and staff at Port Hedland considered the specific challenges of operating a major recreation centre in their town, which similar to BRAC in Broome, is located in a remote, regional area of north-west Western Australia.

With reference to the Town of Port Hedland's deliberations, and considering Broome's BRAC facility and environmental considerations, choosing an appropriate and effective facility management option (as outlined in the Town of Port Hedland's Council Minutes of 25 May 2011) will be determined by the capacity to:

- *"Recruit suitably skilled and experienced individuals in the areas of:*
  - *Leisure facility management*
  - *Aquatic options*
  - *Sport and recreation programming*
  - *Crèche and children's services operations*
  - *Facility maintenance*
- *Provide an appropriate back-up to key staff in times of annual leave, illness and staff turnover to ensure service continuity.*
- *Offer an attractive employment package and accommodation for these suitably skilled and experienced personnel given the housing market conditions.*
- *Develop a local labour supply for high volume / high turnover positions that require a specific qualification or certification, e.g. instructors, referees, coaches, childcare workers, lifeguards – largely in the absence of the core demographic for these positions (secondary school and university students, housewives and transient workers).*
- *Retain adequate control over the various management decisions and ensure the community is being fairly and equitably serviced.*
- *Mitigate and appropriately manage operational risk including financial risk."*

#### Byron Shire Council

For the Byron Regional Sports and Cultural Complex (BRSCC) which has a construction value in excess of \$14m, the Byron Shire Council has examined closely the proposed



management philosophy in terms of the recurrent costs of the facility and also the intrinsic value of the asset to the community.

The Byron Shire Council's Business Plan (Sept 2009) for BRSCC identified four management models in order to maximise use and decrease recurrent costs for the Byron Shire Council and the community.

"Model 1

*Sees the basic complex managed by Council and volunteers. It requires considerable commitment from the community to operate the facility.*

Model 2

*Sees the development of a basic complex maintained by Council, but managed by a contractor. This is a Public-Private Partnership model. The major benefit of this model is the reduced reliance on community volunteers to operate the facility.*

Model 3

*Sees the BRSCC offering diversified activities, managed by Council using a business venture model. This is a model that moves the operation of the facility from a community project to maximising income in terms of the scope of commercial activities offered.*

Model 4

*Allows the BRSCC to offer diversified activities, under the management of Council and the Police Citizens Youth Club (PCYC) as a partnership model."*

The four models of management were developed by the Byron Shire Council after identifying six key success factors for the BRSCC as listed below:

- *Dedicated staff to manage and promote the facility;*
- *Innovative design solutions that reflect the need of users (and potential users), and minimise maintenance and operational costs;*
- *Consultation with the community;*
- *Community support for a user pays system;*
- *Commitment to maximising usage of the facility;*
- *Commitment to partnerships/*

The Byron Shire Council preferred management model referred to in Model 4:

*"... the recommended model for the operation of the BRSCC as it addresses each of the six identified key success factors, can be built to a budget allocation without impact on the potential revenue streams and has the lowest annual recurrent costs for Council. It is considered the model with the lowest financial and operational risks for Council."*

Benefits of Outsourcing Management for a Recreation/Leisure Facility

The website for the Department of Sport and Recreation's managing facilities section states that many larger local governments in the metropolitan area in Western Australia contract out the management of some of their recreation/leisure facilities to an external provider and that there are a number of reasons why this occurs:

- *Overcome a lack of in-house expertise;*
- *Reduce costs or demonstrate cost effectiveness;*
- *Increase productivity and efficiency;*

- *Improve service quality and/or customer satisfaction;*
- *Improve accountability;*
- *Move non-core operations to another party;*
- *Facilitate innovation / introduce new work practices / introduce cultural change.*
- *Share risks with another party;*
- *The Contracting Process (Note: Calling for tenders invites the market place to respond and offer its best solution.).*

Possible Management Structures for a Local Government's Recreation Centre

There are a variety of management structures that could be used for the Shire of Broome's BRAC facility depending on Council's expectations and the financial outcomes sought. In summary, listed below are the outlines of five (5) types of management structures that could be put in place for a recreation centre such as the Broome Recreation and Aquatic Centre. These types of management structures have been referenced from the Department of Sport and Recreation and the Town of Port Hedland's websites.

<b>DIRECT MANAGEMENT</b>	
<b>DESCRIPTION</b>	<b>CONSIDERATIONS</b>
<p>The owner, usually a local government authority, employs a facility manager.</p> <p>The owner is responsible for all aspects of the facility's operation including operating policies, financial performance and asset maintenance.</p> <p>In some cases, a management committee may be established to help with policy development and to ensure community involvement in management decisions.</p>	<ul style="list-style-type: none"> <li>• The facility owner has complete control over centre operations.</li> <li>• Most suitable option if there is a need to provide social services/programs that may need financial support.</li> <li>• Recreation administrators and program staff often work evenings and weekends. Overtime and penalty rates set by awards can result in higher staffing costs. These increases may be avoidable where alternative management structures are used.</li> <li>• Where only a few staff are employed at the facility, the owner may need to provide administrative support for the centre manager (banking, financial reports, and assistance with taking bookings and key collection, secretarial and mail services).</li> <li>• Asset management and skill expertise developed within organisation</li> <li>• Influenced (constrained) by LGA procedures and employment conditions.</li> <li>• Politically vulnerable</li> <li>• May have non-commercial focus</li> </ul>

INDIRECT MANAGEMENT	
DESCRIPTION	CONSIDERATIONS
<p>"Arms Length" - Managed by an independent business unit established at arms length to Council.</p>	<ul style="list-style-type: none"> <li>• Business unit is nimble and independently accountable</li> <li>• Flexible employment arrangements</li> <li>• Staff are encouraged to be entrepreneurial</li> <li>• Council still retains ultimate control</li> <li>• Investment by "Private Sector"</li> <li>• Council relinquishes some degree of control</li> <li>• Full commercial focus not possible</li> <li>• External capital investment needs to come through grants and local companies rather than Operator</li> </ul>

CONTRACT MANAGEMENT	
DESCRIPTION	CONSIDERATIONS
<p>The owner contracts the management of the centre to an individual manager, a community-based organisation or a facility management company.</p> <p>Responsibilities of the owner and contractor are set out in a formal contract for a fixed period of time.</p> <p>The owner is usually responsible for major building maintenance and any loan repayments.</p> <p>The contractor negotiates an operating budget and is responsible for financial performance in return for greater freedom in operating policies.</p>	<ul style="list-style-type: none"> <li>• The owner has less administrative responsibility.</li> <li>• Management 'freed up' to operate independently of the owner organisation. This may present opportunities to improve operational efficiency and adopt a more commercial approach.</li> <li>• The contract can be structured so as to increase the reliability of the centre's operating budget.</li> <li>• Where financial performance falls short of budget projections the contractor would normally be liable for the loss. Where an operational surplus is realised, the contractor normally retains the excess, or it may be reserved for capital purchases or improvements.</li> <li>• Financial incentives are often built into the contract to encourage the operator to succeed.</li> <li>• Owner has minimal control over day-to-day operations.</li> <li>• Potential for reduced social benefit - contractor may only offer profitable programs and competitions and may disregard the social needs of the broader community.</li> <li>• Facility owner is usually required to pay a management fee to the contractor.</li> <li>• Able to operate as full commercial</li> </ul>

	<p>operation</p> <ul style="list-style-type: none"> <li>• Limited political influence</li> <li>• Low financial risk (set contract fee)</li> <li>• Incentive for operator to invest in the development of facilities and services and the 'partnership'</li> <li>• Control usually through a longer term agreement with limited provision to modify / adapt for change in local circumstances</li> <li>• Usually no / limited opportunity for Shire to participate in management</li> <li>• Asset management may be compromised in drive for profitability</li> <li>• Equity in program / service delivery may not occur – focus on profitable activities</li> </ul>
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<b>LEASE MANAGEMENT</b>	
<b>DESCRIPTION</b>	<b>CONSIDERATIONS</b>
<p>A formal lease detailing the rights and responsibilities of the owner (lessor) and the operator (lessee) is adopted.</p> <p>The lessee has full property rights and is responsible for financial performance, asset maintenance and operational policies.</p> <p>The lessor receives an agreed rental income (or a percentage of the net surplus) but has no direct control over day-to-day management. The lease is usually set for a medium to long term.</p>	<ul style="list-style-type: none"> <li>• The owner has no day-to-day administrative responsibility.</li> <li>• The owner has minimal financial risk.</li> <li>• Lessee may invest funds in the facility if they have sufficient tenure to generate an acceptable return on their investment.</li> <li>• Difficult to lease a centre that projects an operating deficit.</li> <li>• The degree of control that the facility owner has over centre operations is limited by the way the lease agreement is structured.</li> <li>• Broader community benefits sought by the facility owner must be specified in the lease agreement.</li> <li>• The Lessee retains operational profits.</li> <li>• Difficult for either party to withdraw from or change the terms of the lease without the consent of both parties.</li> <li>• Operating costs are shared.</li> </ul>

<b>JOINT MANAGEMENT</b>	
<p>In the case of jointly developed facilities a workable management agreement should be prepared before the facility is built. Joint management agreements should detail funding, cost-sharing, legal and access arrangements, so that responsibilities and usage rights are clear.</p>	<ul style="list-style-type: none"> <li>• Less duplication and maximum use of community facilities and services.</li> <li>• Where two or more service providers are located on the same site it can create a community hub - a focal point for community activity.</li> <li>• Increased community ownership of</li> </ul>

	<p>facilities.</p> <ul style="list-style-type: none"> <li>• Access to a broader range of services and expertise.</li> <li>• Increased usage levels have been linked to reduced levels of vandalism.</li> <li>• Each party must consider the usage needs of the other and be prepared to share access and facilities.</li> <li>• Administration systems may be more complex.</li> </ul>
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It is recommended that due to factors mentioned in this report concerning a review of the direct management model which the Shire of Broome has used to manage the BRAC facility since its establishment that Council considers the contract management model for BRAC as the better model to institute the management practices and systems required for a community recreation facility owned by local government in a remote, regional location.

City of Rockingham – reference to similar considerations that could be used for a possible Shire of Broome BRAC Contract Management Tender

Preparations of Tender Documents for Contract Management of BRAC would include the following considerations – similar to requirements which the City of Rockingham approached with its management agreement for the Aqua Jetty facility with a leisure management company – with intending operators preparing: the following documented information:

- A proposed program for the maintenance, repairs, and cleaning requirements of all of the BRAC facilities, plant, equipment, fixtures and fittings.
- A proposed schedule of activities, programs and services to be provided at BRAC and the proposed days and hours of operation, highlighting any variations from the previous year to the following year.
- Expected staffing requirements and the proposed training schedule for BRAC, highlighting any variations from the previous year to the following year.
- A proposed operating budget for the next operating year. (Note: Council’s role will be to approve or not approve the proposed operating budget after having received and considered it. If Council decides not to approve an operating budget, then reasons for the decision would be forwarded to the contract manager who would then submit an amended budget(s) for further consideration until a proposed budget would be approved.)
- A proposal in relation to fees and charges to be levied during the following year highlighting any variation from the previous year.
- A marketing and promotion plan for BRAC including the conduct of customer service survey in accordance with the Centre for Environmental and Recreation management (CERM) standards.

- Preparation of a crisis management plan addressing safety, staffing and communication issues as applicable to BRAC.
- Planning for facility upgrades and capital works.
- Proposed objective quality targets measured against CERM benchmarks, other associated performance measures and details of continuous improvement initiatives.

Initial discussions have been held with companies with the expertise in managing a recreation facility, specifically three organisations - Belgravia Leisure, Bluefit Leisure Services and YMCA Perth. All of these organisations have shown interest in being involved in the north-west of Australia, such as with contract managing the Town of Port Hedland's new recreation facility to be completed in 2012. (Confidential Attachment)

Prior to formulating and advertising a tender, it is recommended that the Shire undertakes an Expression of Interest (EOI) process which is advertised nationally, with a fee being set of \$200 (plus GST) to be deposited by interested organisations for the Shire's EOI documentation concerning BRAC and that this fee is refunded if organisations submit a conforming EOI.

Additionally, it is recommended that the Shire seek the possible assistance of a specialised consultant with the expertise to assist in the preparation of Expression of Interest (EOI) documents, EOI assessment, and Tender preparation and assessment, specifically supporting a tendering process for a recreation facility such as the Shire's BRAC facility.

Access to facility recreation management expertise with experience in contract management that will be able to assist with outlining the specific responsibilities of local government and a contracted recreation management organisation will be very beneficial in the process towards the overall external outsourcing for contract management of the BRAC operations.

## CONSULTATION

Department of Sport and Recreation – Managing Facilities  
 Town of Port Hedland - Ordinary Council Minutes 25 May 2011  
 City of Rockingham – Council Minutes 24 May 2011  
 Byron Shire Council – Byron Region Sport and Cultural Complex Business Plan (Sept 2009)  
 YMCA Perth  
 Belgravia Leisure  
 Bluefit Leisure Services

## STATUTORY ENVIRONMENT

*Local Government Act 1995*

### 3.58. *Disposing of property*

(1) *In this section —*

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

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

- (a) the highest bidder at public auction; or
  - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
- (a) it gives local public notice of the proposed disposition —
    - (i) describing the property concerned;
    - (ii) giving details of the proposed disposition; and
    - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
- and
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned;
  - (b) the consideration to be received by the local government for the disposition; and
  - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (5) This section does not apply to —
- (a) a disposition of land under section 29 or 29B of the Public Works Act 1902;
  - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
  - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
  - (d) any other disposition that is excluded by regulations from the application of this section.

[Section 3.58 amended by No. 49 of 2004 s. 27.]

## **POLICY IMPLICATIONS**

Nil.

## **FINANCIAL IMPLICATIONS**

Approximately \$12,000 plus GST which includes costs for WALGA Tender Bureau's assistance and advertising in the West Australian, advertising costs nationally and locally, and the possible assistance of a specialised consultant with the expertise to assist in the preparation of EOI documents, EOI assessment, and Tender preparation and assessment.

Funding to be from the Consultants, Corporate and Community Services Operating Expenditure Corporate Governance Support account.

**STRATEGIC IMPLICATIONS**

**People**

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

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

**Place**

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

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**

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

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:

1. *Endorses the proposed position of contract management for the Broome Recreation and Aquatic Centre (BRAC).*
2. *Supports initially an Expression of Interest (EOI) process be nationally advertised with a fee of \$200 plus GST to be deposited for EOI documentation concerning BRAC and that this fee be refunded if organisations provide a conforming Expression Of Interest (EOI).*
3. *Supports tender specifications being prepared for the external management of BRAC based on considerations outlined in this report for contract management.*
4. *Considers an initial term of three (3) years with an additional two(2) year option period for BRAC to be operated by contract management.*

COUNCIL RESOLUTION:

That Council:

1. ***Endorses the proposed position of contract management for the Broome Recreation and Aquatic Centre (BRAC).***
2. ***Supports initially an Expression of Interest (EOI) process be nationally advertised with a fee of \$200 plus GST to be deposited for EOI documentation concerning BRAC and that this fee be refunded if organisations provide a conforming Expression Of Interest (EOI).***
3. ***Supports tender specifications being prepared for the external management of BRAC based on considerations outlined in this report for contract management.***
4. (a) ***Considers as an initial option, a term of three (3) years with an additional two (2) year option period for BRAC to be operated by contract management; and***  
 (b) ***Requests the Chief Executive Officer to include in the Expression of Interest (EOI) the option for submitters to propose alternative terms to the proposed initial option.***

Moved: Cr E Yu

Seconded: Cr J Bloom

**CARRIED 7/0 BY ABSOLUTE MAJORITY**

Attachment: [1 Page](#); (8 pages Confidential Attachment for Councillors and Directors only)

# 9.4

## DEVELOPMENT

### SERVICES



### **OUTCOME**

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

*With regard to Item 9.4.1 Cr E Yu disclosed that "I have had an association with Yawuru, NTHAC and RNTB. As a consequence, there may be a perception that my impartiality in the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly".*

**9.4.1 PROPOSED MASTER PLAN: BROOME ROAD INDUSTRIAL AREA MASTER PLAN**

**LOCATION/ ADDRESS:** Part of Lot 301 and Lot 214 Broome Road  
**APPLICANT:** Urbis on behalf of Landcorp.  
**FILE:** PLA70 and 144228  
**AUTHOR:** Rene Human  
**CONTRIBUTOR/S:** Manager Planning Services  
**RESPONSIBLE OFFICER:** Director Development Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE OF REPORT:** 10 June 2011

**SUMMARY:** This report outlines the strategic direction for future development of the Broome Road Industrial Area and presents stage 1 subdivision application for consideration.

The report is referred to Council for consideration as the stage 1 subdivision application is larger than able to be dealt with under delegated authority.

This report recommends Council approve the proposed subdivision Master Plan and supports the stage 1 subdivision application.

**BACKGROUND**

Previous Considerations

Nil.

*History*

This Master Plan is the result of a significant period of investigation and planning to ensure that a suitable industrial estate to service Broome and the wider Kimberley region was delivered. The site has been 'Water Reserve' 25716 since 1960, which ceased operation in 1996 after the pastoral lease was purchased by the State Government.

The subject site was rezoned in 2003 from 'Public Purpose – Water Supply' to 'Industry'. Amendment 4 of the Shire of Broome Town Planning Scheme No.4 states the purpose of the change in use was to 'create an industry zone for the development of an industrial estate which can also accommodate public utilities and infrastructure'. The original intent was to accommodate a waste water treatment plant and a power station on the site, co-located with the industrial uses. Since this time, the waste water treatment plant has been located to the south of the site and the power station redeveloped on its existing site.

The Broome Planning Context Report (2004) identified a need to undertake preliminary investigations into the emerging corridor of activity along Broome Road. The 2005 Broome Planning Steering Committee also found that industrial development on Broome Road should be investigated so as to enable the relocation of undesirable industrial activity from existing areas closer to the centre of Broome.

Chairperson.....Date.....

The development site has been identified to facilitate the strategic provision of industrial land to service Broome's growth.

### *Site and Surrounds*

The site is located 8 kilometres north-east of the Broome townsite – within the Shire of Broome. The site is about 20 kilometres west of the intersection between Broome Road and Great Northern Highway.

The nominated site occupies approximately 400 hectares and is generally rectangular in shape, with the site narrowing from east to west. The site's northern boundary is defined by Broome Road. The site is flat in nature, with no notable topographical features. It slopes generally in a southwest direction with grades ranging from 0.5 to 1.0%.

### Attachment 1 – Locality Plan

#### *Description of Proposal*

The applicant intends to use this master plan to guide and determine future industrial subdivision for the area. Following is a summary:

There are a number of public utilities that are located around the subject site. A new Wastewater Treatment Plant (WWTP) is under construction to the south of the site along Crab Creek Road. The Shire of Broome has nominated the land between the WWTP and the site as the preferred location for a Regional Resource Recovery Park.

The land to the east of the site is reserved for the relocation of the Broome International Airport. The airport's relocation from its existing location has been identified for some time however, the 2008 Master Plan indicates it is unlikely before 2025.

The land located to the north of the site is the borefield, which supplies Broome's drinking water. The subject site currently forms part of this water reserve, however only a small portion of the north east corner of the site is included within a priority protection area. The site does not contain any water supply bores.

It is proposed to have a staged development to ensure adequate provision of industrial land and to achieve the desired form and function of the estate in a rational manner that assists with the efficient provision of civil infrastructure and a drainage system to operate in a functional manner. Each stage provides a range of lot sizes to ensure variety is brought to the market over the life of the estate.

#### Landscape / Vegetation

A level 2 flora and fauna survey was undertaken in April 2010 and a targeted (dry season) survey in August 2010 and the following conclusions were made:

- There are no reserves or conservation areas located in or around the site. However it is located within an environmentally sensitive area deemed to be associated with Dampier Creek and Roebuck Bay.
- The vegetation of the project area is classified as Pindan woodland and is dominated by Acacia species. There are also species of *Eucalyptus* and *Grevillea* located within the site. There were no identified Commonwealth listed Threatened Ecological Communities.

- Field investigations recorded the site vegetation types as Pindan woodland and Damp Pindan woodland.
- In regard to fauna, 73 vertebrate taxa were recorded within the project area, including 39 bird, 26 reptile and 8 mammal species. All of the mammals are considered widespread and common throughout the region. Birds were mostly kites, doves, parrots and cockatoos. No Federally listed, conservation significant, bird species were recorded.

Overall, the site was identified to be of good condition and not containing any threatened ecological communities (TEC) or other endangered/vulnerable flora or fauna. Portion of Roebuck bay to the south of the site is Ramsar listed, with the mudflats constituting an Environmentally Sensitive Area under the Western Australian Environmental Protection Act. However, none of the project area includes mudflats, or is in close proximity to them. With appropriate drainage management plans and design features any potential impacts to Roebuck Bay will be satisfactorily managed.

#### Soils

The principle soil type of the Dampier peninsular where the site is located is known as 'pindan'. This soil is a medium to fine grade sand that is orange/red in colour. The Geological Survey of Western Australia (1982) indicates that the geology of the study area comprises of "Red sand, fine to medium, minor silt: Aeolian".

#### Native Title

Agreement was reached with respect to Aboriginal heritage by the Yawuru Indigenous Land Use Agreement (ILUA), which was registered in 2010. The Water Reserve extinguished Native Title and Aboriginal heritage.

#### Indigenous Heritage

There are no registered Aboriginal heritage sites contained in the Aboriginal Heritage Inquiry System within the subject site. An aboriginal heritage survey was undertaken February 2008, which also showed that the proposed development area does not include any significant sites.

#### *Servicing Infrastructure*

##### Sewerage

The proposed industrial area is outside the Water Corporation's licence area and sewer infrastructure will need to be extended to service the industrial area and proposed airport.

##### Water Supply

Similarly to wastewater, there is currently no water planning for the proposed Broome Road Industrial Area and adjoining airport. An allowance has been allocated in the storage capacity of the existing supply tank, however, the elevation of this tank does not provide sufficient pressure to serve the majority of the site. The existing and proposed water supply tanks are located approximately 1km directly north of the subject site, east of Cape Leveque Road. Therefore, it is necessary to construct a storage tank downstream of the existing supply tanks along with a booster station and new pressure main to the site capable of delivering sufficient pressure.

Existing trunk mains which cross the site would place an unnecessary constraint on subdivision planning for the industrial area and will need to be relocated during development works.

Power

Limited electrical infrastructure is available at the proposed industrial development site. Horizon Power has indicated that there is no spare capacity in the existing 11kV overhead power line along the north side of Broome Road to allocate to the site. Horizon Power has indicated that an electrical load in the order of 16 MVA will require an extension of 33kV feeder cables from the proposed Bilingurr zone substation in Fairway Drive (5km away and proposed to be constructed in 2014) and a new 33kV/11kV zone substation to be built within the site and may require an expansion to the Broome Power Plant.

Drainage

A detailed Local Water Management Strategy (LWMS) was prepared by JDA Consultant Hydrologists. The LWMS has been developed consistent with the framework and process detailed in the WAPC's Better Urban Water Management guidelines (2008). The document includes the principles, objectives and requirements of total water cycle management and a detailed description of the environmental conditions of the site. The capacity of the site to sustain development, including consideration of acid sulphate soils, impacts from groundwater and surface water, impacts on ecosystems and biodiversity and impacts on existing infrastructure is also examined. Implementation of the LWMS will be undertaken through the preparation of a detailed Urban Water Management Plan (UWMP) under relevant conditions of subdivision.

Telecommunications

Telstra has indicated that there is insufficient capacity in the existing main optic fibre link. Approximately 1400m of optic fibre from Lot 366 Broome Road would need to be extended to provide the basic Telstra communication services. Additional infrastructure would be required if specific data services were needed. The recently formed National Broadband Network Company (NBNCo) is currently not in a position to advise how NBNCo will impact on the provision of telecommunications infrastructure at the Broome Road site. It is anticipated that pits and pipes for telecommunications services will be provided by the developer, which is the previous arrangement under Telstra for commercial sites.

Gas

WA Gas Networks have advised that there are no reticulated gas services in Broome. However, it is possible to install an LNG vessel storage compound within the industrial area. Presently, bulk gas in the form of LNG is trucked to Broome for use in the power station.

Road Network

The site has a frontage of approximately 3 kilometres to Broome Road, which includes the newly constructed road train assembly area. Broome Road is single carriageway in both directions and according to the most recent traffic count was undertaken by Main Roads WA in March 2009 carried an average of about 2200 vehicles per day in the vicinity of the subject site. Main Roads has indicated a preference to limit the industrial area to two access points to Broome Road. Cape Leveque Road intersects Broome Road as a T-Junction along the frontage of the subject site. At the moment Cape Leveque Road only carries a small volume of traffic, 250 vehicles per day. Cape

Leveque Road is currently unsealed in a number of places, however Main Road are currently investigating options for upgrading this road which may increase the volume of traffic in the future. There is an un gazetted track that passes through the subject site known as Crab Creek Road. It is an unsealed, single carriageway that currently intersects with Broome Highway 60 metres to the west of the Cape Leveque Road intersection. Crab Creek Road provides access to the Waste Water Treatment Plant, as well as the Ramsar

Wetland at Roebuck Bay and associated bird observatory. As part of the development of the subject site, Crab Creek Road will need to be relocated and formalised.

Opportunities and Constraints

In developing the concept design for the precinct, a range of considerations were taken into account to ensure the creation of a precinct that responded to the context and existing and future circumstances.

The considerations were as follows:

1. *Opportunities*

The subject site is strategically located in terms of freight and logistics. The site area is 8 kilometres north of the Broome Central Business District and only 3 kilometres east of the Broome North development area. It is located with exposure to the primary access road into town, and in close proximity to the future Broome International Airport. Direct access is also provided to the proposed Browse LNG Precinct at James Price Point via Cape Leveque Road to the north of the site. Main Roads are currently planning for the future dualling of Broome Road in the vicinity of the site. The site has a large frontage to Broome Road of 3371 metres, and has the ability to safely provide two entrance points into the estate.

The existing industrial estate at Port Drive has extremely limited capacity for expansion, stimulating the need for an additional industrial estate. Many of the land uses at the existing Port Drive Industrial Estate are not related to the port operations or functions, therefore there is the opportunity for the relocation of these uses away from the port, freeing up sites within the Port Drive facility as well as providing the potential for heavy and noxious industry uses to be relocated away from the town centre. The waste water treatment plant is located within close proximity to the site and may offer water reuse opportunities within the industrial estate.

The site is well elevated such that it does not suffer from flooding/inundation. The site slopes with a mild gradient from north-east to south-west, which enables the movement of water through the site, and will require minimal earth works to establish effective building sites.

The site contains some mature vegetation which could be incorporated into the development. The site is located within a precinct with a number of utilities that can operate in harmony with industrial uses.

The future airport to be constructed adjacent to the subject site provides the opportunity to establish a strong relationship between the future uses within the estate and the operations of the airport. The area on the eastern portion of the site may be developed to assist/support the airside operations of the airport, and directly provide landside services.

2. *Constraints*

The geology and climate of the region results in high rainfall and low infiltration rates, meaning that stormwater needs to be directed out of the site. Significant areas of the site will need to be dedicated to drainage infrastructure, resulting in lower development yields as well as the imposition of infrastructure designed to cater for peak flow but will spend most of the year dry.

The site is not attached to any defined drainage network, and stormwater needs to be discharged into crown land. Pre-development stormwater may already flow through to Dampier Creek. The post development impact will need to be appropriately designed to maintain a peak flow no greater than pre-development, and ensure the water quality in terms of gross pollutants (litter) as well as smaller pollutants (sediment, chemicals, hydrocarbons, heavy metals and bacteria) is managed to a high level.

The current zone does not allow for any commercial uses to occur within the estate. With an estate of this size, it is standard practice to provide a commercial centre within it to support the users of the estate and provide localised amenity. This would include commercial facilities (such as post office, banks, etc) as well as some retail offer (snack bar, general store, etc).

There is an essential services buffer located over the western portion of the site. This is now redundant, and will be removed by the Shire of Broome as part of their next review of the Scheme (as part of an omnibus amendment to TPS 4 or through the introduction of TPS 5). There is a management order over the site in favour of the Water Corporation. This will be extinguished as part of the conversion of the crown land title to freehold.

The Department of Fisheries' Radio Communication Tower will need to be removed when development encroaches within its zone of influence. The future RRRP issues associated with odour and blown rubbish from uncovered loads will need to be managed so that it does not occur.

The future operation of the airport will require building height limitations to a portion of the site, as well as possible implications due to noise factors. The civil infrastructure will need to be expanded to provide the full range of services to the site. The costs are predicted to be considerable to extend the services to the site. The site is located on the main road into the Broome town site. Therefore, the treatment of the Broome Road frontage is expected to contribute to the 'gateway', and assist in providing a sense of arrival. There will be a need to balance the need for some business to gain exposure to the main road, with the desire to 'hide' the site behind a dense vegetation buffer.

## Attachment 2 – Master Plan

### Subdivision Application

An application for subdivision for the first stage has been submitted with WAPC. WAPC requires Local Government to provide any comment or conditions pertinent to the application.

This application proposes to create a total of 60 industrial lots and 3 reserves for 'POS and Drainage'. The subdivision application has been prepared in accordance with the Broome Road Industrial Area Master Plan. The proposed subdivision will offer a range of lot sizes between 6000sqm and 5.3 ha with larger average sizes than currently exist. A number of larger dual frontage lots to minimise on site manoeuvring and smaller lots located adjacent to main entry roads.

## Attachment 3 – Application for Subdivision

Chairperson.....Date.....



**COMMENT**

Broome Road Industrial Area is strategically located adjacent the future Broome Airport site and signifies the entrance to Broome for all visitors, whether they arrive by road or air. There is a need to maintain a significant vegetated buffer along all Broome Road as part of the arrival experience into Broome. The Master Plan establishes a mechanism to control the appearance/visibility of buildings from Broome Road (including associated advertising) as well as the need to control informal access onto Broome Road from individual allotments. No residential uses are permitted under the Shire of Broome's TPS 4.

The two entrance points onto Broome Road provide access into the estate and the two strong east west linkages provide permeability. The road design has been design to facilitate logical and effective staging. The design allows for the development of the estate in stages including stages undertaken by the separate land owners.

The estate has been designed to provide significant spacing between the access points and limit the incidence of four-way intersections. All roads will be trafficable by vehicles up to and including triple road trains, with heavy vehicles estimated to make up nearly 40% of total vehicle traffic within the estate (3% being road-trains). Traffic along Crab Creek Road will be a mixture of heavy vehicles and tourist traffic, and therefore the number of intersections along Crab Creek Road has been minimised and priority given to through traffic.

Crab Creek Road is proposed to be re-aligned, with the full movement intersection onto Broome Road shifting to eastern end of the estate. A new full movement intersection will be established 300 metres to the west of the Cape Leveque Road intersection, providing sufficient separation distance from Cape Leveque Road and the bend in the Broome Road.

The site is impacted by a buffer to the proposed RRRP and generally industrial uses will not be affected by this buffer. Notwithstanding, the larger lots have been provided on these sites, as they are more likely to have less intensive uses, greater possibility of odour creating operations, longer operating hours, lower levels of staff on site, and fewer visitors.

No formal public open space has been provided within the estate for active recreation. Public open space of this nature is not generally required for industrial subdivision and it was determined that the nature of the proposed land uses, proposed lot sizes, potential worker numbers and local climatic conditions did not warrant the provision of any dedicated public open space. A significant portion of quality remnant vegetation will be retained within the south-western corner of the site.

This site specific design will acknowledge the Yawuru as the traditional owners of this land and develop a dialogue with the local community to gain a greater understanding of the site and nearby significant Roebuck Bay Ramsar Wetlands and appropriate methods for retaining the existing Broome environmental and cultural 'lifestyle'.

Further discussions and negotiations on the location of the commercial activity and the service station is required.

*Conclusion*

This Master Plan outlines the details and rationale of the proposed Broome Road Industrial Area. The estate will provide for 122 lots over an area of 320 hectares in a staged

development. The first subdivision application was lodged to WAPC and referred by WAPC for Shire comment. The estate will meet the medium and long term needs of industrial development in Broome and assist in the wider economic activity that is occurring within the Kimberley and the State as a whole.

This new estate will allow for the relocation of currently undesirable industrial activity from the town and enhance the ability of Broome to response to increased economic activity.

It is recommended that Council adopts the Broome Road Industrial Area Master Plan and subsequently supports the subdivision application.

**CONSULTATION**

Nil.

**STATUTORY ENVIRONMENT**

*Planning and Development Act 2005*

**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.

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

**Prosperity**

Broome’s diverse and growing economy provides long-term employment and economic benefit for current and future generations.

**VOTING REQUIREMENTS**

Simple Majority.

REPORT RECOMMENDATION

That Council:

1. *Adopts the Broome Road Industrial Area Master Plan as submitted by Urbis on behalf of Landcorp as attached as a subdivision guide plan noting that further consideration on the location of the commercial activity and service station is required.*
2. *Advises WAPC that it supports the stage1 subdivision application no 144228 and recommends the following conditions:*
  - (a) *The land is to be provided with an adequate outlet drainage system at the applicant/owner's cost.*
  - (b) *The area marked 'POS and Drainage' on the approved plan of subdivision is to be shown on the Deposited Plan as such and is to be vested in the Crown under Section 152 of the Planning and Development Act, such land to be ceded free of cost and without any payment of compensation by the Crown.*
  - (c) *Drainage easements as may be required by the local government for drainage infrastructure being shown on the Deposited Plan as such and granted free of cost and vested in that local government under section 167 of the Planning and Development Act.*
  - (d) *The land being graded and stabilised at the subdivider's cost, to the satisfaction of the Shire of Broome.*
  - (e) *The finished ground levels at the boundaries of the lot(s) the subject of this approval are to match or otherwise co-ordinate with the existing and/or proposed finished ground levels of the land abutting.*
  - (f) *The applicant/owner is to provide a geotechnical report certifying that any filling or backfilling has been adequately compacted and the land is physically capable of development prior to the commencement of subdivision works.*
  - (g) *The land being filled and/or drained at the subdivider's cost and any easements and/or reserves necessary for the implementation thereof, being granted free of cost.*
  - (h) *Stormwater should be detained in compensating/detention basin(s) on the land the subject of this approval before discharge into external drainage systems or natural streams or waterways. The compensation/detention basin(s) should incorporate the use of nutrient stripping vegetation, and be designed to have nutrient stripping functions and wildlife habitat values.*
  - (i) *Private drainage easements to be applied to any interlot drainage.*

- (j) Those lots not fronting an existing road being provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) being constructed and drained at the applicant/owner's cost.
- (k) Street corners within the subdivision are to be truncated to a minimum truncation of 14 metres.
- (l) The design and construction of stormwater treatments and infrastructure in accordance with the Integrated Urban Water Management Strategy endorsed by the WAPC and the local government.
- (m) A Weed Management Plan is to be prepared and implemented to the satisfaction of the Shire of Broome.
- (n) A Fire Management Plan is to be prepared and implemented to the satisfaction of the Shire of Broome.
- (o) Connection to the sewer system or alternatively an environmentally acceptable system.

**COUNCIL RESOLUTION:**

**That Council:**

1. **Adopts the Broome Road Industrial Area Master Plan as submitted by Urbis on behalf of Landcorp as attached as a subdivision guide plan noting that further consideration on the location of the commercial activity and service station is required.**
2. **Advises WAPC that it supports the stage1 subdivision application no 144228 and recommends the following conditions:**
  - (a) **The land is to be provided with an adequate outlet drainage system at the applicant/owner's cost.**
  - (b) **The area marked 'POS and Drainage' on the approved plan of subdivision is to be shown on the Deposited Plan as such and is to be vested in the Crown under Section 152 of the Planning and Development Act, such land to be ceded free of cost and without any payment of compensation by the Crown.**
  - (c) **Drainage easements as may be required by the local government for drainage infrastructure being shown on the Deposited Plan as such and granted free of cost and vested in that local government under section 167 of the Planning and Development Act.**
  - (d) **The land being graded and stabilised at the subdivider's cost, to the satisfaction of the Shire of Broome.**
  - (e) **The finished ground levels at the boundaries of the lot(s) the subject of this approval are to match or otherwise co-ordinate with the existing and/or proposed finished ground levels of the land abutting.**

- (f) *The applicant/owner is to provide a geotechnical report certifying that any filling or backfilling has been adequately compacted and the land is physically capable of development prior to the commencement of subdivision works.*
- (g) *The land being filled and/or drained at the subdivider's cost and any easements and/or reserves necessary for the implementation thereof, being granted free of cost.*
- (h) *Stormwater should be detained in compensating/detention basin(s) on the land the subject of this approval before discharge into external drainage systems or natural streams or waterways. The compensation/detention basin(s) should incorporate the use of nutrient stripping vegetation, and be designed to have nutrient stripping functions and wildlife habitat values.*
- (i) *Private drainage easements to be applied to any interlot drainage.*
- (j) *Those lots not fronting an existing road being provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) being constructed and drained at the applicant/owner's cost.*
- (k) *Street corners within the subdivision are to be truncated to a minimum truncation of 14 metres.*
- (l) *The design and construction of stormwater treatments and infrastructure in accordance with the Integrated Urban Water Management Strategy endorsed by the WAPC and the local government.*
- (m) *A Weed Management Plan is to be prepared and implemented to the satisfaction of the Shire of Broome.*
- (n) *A Fire Management Plan is to be prepared and implemented to the satisfaction of the Shire of Broome.*
- (o) *Connection to the sewer system or alternatively an environmentally acceptable system.*

3. *Requests the Chief Executive Officer to write to the Chief Executive Officer of the Water Corporation and the Director General of the Department of Planning to indicate Council's strong position on the need for the Water Corporation to install the necessary infrastructure in the Broome Waste Water Treatment Plants to enable the treatment plants to accept sewerage from industrial properties in Broome so that the use of septic tank treatment of sewerage in industrial areas can be phased out.*

Moved: Cr J Bloom

Seconded: Cr C R Mitchell

**CARRIED UNANIMOUSLY**

[Attachment: 3 pages](#)

*With regard to Item 9.4.2 Cr E Yu disclosed that "I have had an association with Yawuru, NTHAC and RNTB. As a consequence, there may be a perception that my impartiality in the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly".*

**9.4.2 PROPOSED AMENDMENT - JANUBURU (SIX SEASONS) DEVELOPMENT PLAN**

**LOCATION/ ADDRESS:** Januburu, Six Seasons Estate  
**APPLICANT:** Urban and Rural Perspectives on behalf of LandCorp.  
**FILE:** PLA 38  
**AUTHOR:** Neels Pretorius  
**CONTRIBUTOR/S:** Manager Planning Services  
**RESPONSIBLE OFFICER:** Director Development Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE RECIEVED:** 25 January 2011

**SUMMARY:** Urban and Rural Perspectives (URP) on behalf of LandCorp have proposed an amendment to the density coding for Lot 426 (No. 43) and 427 (No.45) Manggala Drive, Cable Beach by amending it from R17.5 to R40.

The proposed amendment has been advertised and no submissions were received.

It is recommended that Council adopts the amendment to the Development Plan.

**BACKGROUND**

Previous Considerations

- OCM 19 December 2000 – Item 4.1
- OCM 20 February 2001 – Item 9.1.7
- OCM 20 March 2001 – Item 9.1.5
- OCM 18 January 2005 – Item 9.3.6
- OCM 22 March 2005 – Item 9.3.2
- OCM 12 April 2005 – Item 9.3.2
- OCM 24 May 2005 – Item 9.3.5
- OCM 15 February 2007 – Item 9.3.4
- OCM 7 June 2007 – Item 9.3.1
- OCM 5 July 2007 – Item 9.3.4
- OCM 25 October 2007 – Item 9.3.1
- OCM 25 November 2010 – Item 9.3.1
- OCM 14 April 2011 – Item 9.3.1
- OCM 14 April 2011 – Item 9.3.2

*History*

At the meeting of 14 April 2011 Council resolved:

*"That Council;*

*That Council adopts the amended Januburu (Six Seasons) Development Plan with the R Code of Lot 426 (No. 43) and Lot 627 (No.45) Manggala Drive, Cable Beach changed from R17.5 to R40 for the purpose of public comment for a period of 42 days."*

Chairperson.....Date.....

*Site and Surrounds*

The Januburu, Six Seasons Estate is located between Reid Road to the east, and Gubinge Road to the west. Construction works have been largely completed for stages one to three with a number of new buildings under construction for stage four. Lot 426 measures 623sqm and lot 427 is 619sqm in area.

*Description of the Proposal*

Lots 426 and 427 are located on Manggala Drive, in the north-western part of the Januburu Six Seasons Residential Estate. Under the terms of the approved Development Plan Lots 426 and 427 (Nos.43 and 45) Manggala Drive have been assigned a residential density coding of R 17.5. As such each lot may only accommodate the development of one (1) single dwelling.

The purpose of the proposed amendment to the Development Plan is to enable Lots 426 and 427 to be developed to accommodate 'Grouped Dwellings' or 'Multiple Dwellings' a form of development currently not permitted under the R17.5 density code classification.

*Planning Provisions*

Clause 4.25 of the Shire of Broome Town Planning Scheme (TPS4) describes the requirements for amending an approved Development Plan. This includes the requirement for public advertising. Once advertised the Development Plan will be returned to Council for consideration and referral to the Western Australian Planning Commission for adoption.

**COMMENT**

The proposed amendments to the Development Plan were advertised from 19 May 2011 to 30 June 2011 for a period of 42 days. No submissions were received.

The Shire of Broome Local Housing Strategy (2009) identified there was a need to increase the availability of appropriate housing especially smaller dwellings suitable for households of one or two people. Objective 2 *"Provide for a diverse range of housing types"* Action 2A states *"Urge developers/subdividers to review the subdivision patterns and R-Codings of existing undeveloped subdivisions and where appropriate provide for additional medium density residential development"*

Lots 426 and 427 are located approximately 650 metres from the Reid Road Centre and have excellent access to local residential support services and facilities including public open space. The future development of the land for higher density residential purposes will result in the provision of a more diverse and varied building form.

It is recommended that the Januburu (Six Seasons) Development Plan be amended.

Attachment 1: Revised Januburu Development Plan.

**CONSULTATION**

The proposal was advertised in accordance with the Town Planning Scheme No.4 for 42 days. No submissions were received.

Chairperson.....Date.....

**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.

#### Residential Design Codes of Western Australia

The following is an extract from Table 1 of the RCodes and shows the different requirements for the existing and the proposed density coding for grouped dwellings.

R-Code	Dwelling type	Min site area per dwelling Sq metre	Min lot area/ rear Battleaxe sq metre	Max plot ratio	Min frontage (m)	Open Space		Minimum setbacks (m)		
						Min total (% of site)	Min/door living	Primary street	Secondary street	Other/Rear
R 17.5	Single house or grouped dwelling	Min 500 Av 571	587.5	-	12	45	24	4	1.5	*
R 40	Single house or grouped dwelling	Min 200 Av 220	400	-	-	45	20	4	1.0	*
	Multiple Dwelling			0.6	-	45	-	4	1.5	*

\* Indicates that the building setback is based on wall length, wall height and major openings – further tables and charts provide clarification.

#### POLICY IMPLICATIONS

Nil.

#### FINANCIAL IMPLICATIONS

The proponent is responsible for costs incurred in the Development Plan process.

#### 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.

**COUNCIL RESOLUTION:**  
**(REPORT RECOMMENDATION)**

*That Council*

1. *Adopts the amended Januburu, (Six Seasons) Development Plan with the R Code of Lot 426 (No. 43) and 427 (No. 45) Manggala Drive, Cable Beach being changed from R17.5 to R 40.*
2. *Authorises the Shire President and the Chief Executive Officer to engross the necessary documents.*

*Moved: Cr D M Male*

*Seconded: Cr R de Wit*

**CARRIED UNANIMOUSLY**

[Attachment: 2 Pages](#)

**9.4.3 ALTERNATIVE USE OF COURT HOUSE (CABLE HOUSE)**

**LOCATION/ ADDRESS:** Lot 99 (No 8) Hamersley Street Broome  
**APPLICANT:** Department of the Attorney General  
**FILE:** Res 26855  
**AUTHOR:** Director Development Services  
**CONTRIBUTOR/S:** Nil  
**RESPONSIBLE OFFICER:** Director Development Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE OF REPORT:** 19 July 2011

**SUMMARY:** The Department of the Attorney General has written requesting advice on the possible reuse of the existing courthouse if it is no longer required for that purpose.

This report recommends Advising the Department it considers the best use of the building would be a community use such as a visual arts gallery.

**BACKGROUND**

Previous Considerations

Nil.

Site and Surrounds

Lot 99 (No 8) Hamersley Street, is bounded by Hamersley, Frederick, Weld and Stewart Streets. It is included in Reserve 26855 and contains Broome Courthouse (Cable House) and associated buildings. It is vested in the Attorney General and Minister for Justice for public buildings, quarters and community markets. The remainder of the ground contains a number of mature trees and is used on a regular basis for the Courthouse Markets.

(Attachment 1)

Cable House was constructed in 1889 and was used as the cable station until 1914. In 1921 it was purchased by the State Government and converted into a courthouse. The grounds were landscaped by the Broome Botanical Society in the 1980s. Cable house is listed in the Municipal Inventory of Heritage Places, is registered with the State Heritage Council and is classified by the National Trust.

(Attachment 2)

The Department of the Attorney General has written to Council advising of Cabinet approval of \$500,000 in Royalties for Regions funding provided to the Department to prepare a business case examining suitable locations and cost options for a new Broome Courthouse. Part of the business case is assessing options for the use and development of the existing courthouse that aligns with the Shire’s Strategic Plan.

Accordingly, the Department is seeking answers to the following questions:

- “1. If the courthouse was to relocate to another site, what are the possible or potential re-uses of the existing site? Please note that policy on government

*property disposal requires the property to be made available to other government departments first before it is offered to the Shire; and,*

- 2. *If the courthouse was to be located on the existing site but to the rear of the existing courthouse, it will be necessary for the existing courthouse to still be used by the court for jury assembly. In this option, the Project budget will include the total restoration of the courthouse to Heritage Council requirements and approval. In addition the budget will allow for all works necessary to allow the existing courthouse to be used for jury assembly. Jury assembly is anticipated to take place approximately 12 days per year and is a function that requires seating for approximately 70 people. What are the possible potential reuses of the existing courthouse which are compatible with this option?"*

The Department would like Council’s advice on to these questions by 17 August 2011.

**COMMENT**

The Courthouse (Cable House) and the surrounding grounds are important elements in the built environment of Broome. If Cable House was not being used as a Courthouse it would be considered desirable for it to be able to be restored as near as possible to its heritage condition and utilised for a community purpose such as a visual arts gallery. The grounds could be developed into a civic space reminiscent of the early years of last century to complement the period of the Cable House building.

The early draft of Council’s Community Plan contains the statement:

*“Broome’s arts and cultural communities have a limited physical presence in Broome; there is a lack of venues/facilities for performances, training/ rehearsals, displays and activities. Also the existing cultural facilities are not centrally located and hard for visitors to locate and access.”*

The use of the courthouse as a visual arts gallery would address some of this identified need is considered to be compatible with its use for jury assembly by the Department for approximately 12 days per year.

It is recommended Council advises the Department it considers the best use for a restored Cable House building would be for a visual arts Gallery which could also accommodate to use for jury assembly if required.

**CONSULTATION**

The proposal was not required to be advertised.

**STATUTORY ENVIRONMENT**

Not applicable.

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil at this stage. There could be future implications depending on the vesting of the property.

**STRATEGIC IMPLICATIONS**

**Our People**

Strategy 2: Identify affordable services and initiatives to satisfy community needs.

Strategy 3: Create community spaces.

**Our Place**

Strategy 4: Preserve and promote the unique and significant historic and cultural heritage of Broome.

**VOTING REQUIREMENTS**

Simple Majority

REPORT RECOMMENDATION

*That Council advises the Department of the Attorney General that it considers the most beneficial possible or potential reuse of an appropriately restored historic court house building (Cable House) to be a community use such as a visual arts gallery set within a landscaped park to depict the early 20<sup>th</sup> century and compliment the Cable House building.*

COUNCIL RESOLUTION:

***That Council advises the Department of the Attorney General that;***

- (a) Council’s preferred option for the new Broome Courthouse is for the new courthouse to be relocated to another site;***
- (b) If the new Courthouse is to be built on the existing site, that the requirement to use the existing courthouse for a jury assembly area will limit the opportunities for possible potential re-uses of the site;***
- (c) Consideration should be given to the Shire of Broome Plan for the Future and the work being undertaken to develop the Chinatown Development Strategy where it is possible that an outcome may be to expand the “Chinatown” footprint to incorporate among other areas – the existing Courthouse;***
- (d) The preferred possible potential uses for an appropriately restored Courthouse building (Cable House) would be for community use. For example (but not limited to) a visual arts gallery within a landscape park to depict the early 20<sup>th</sup> century and complement the Cable House building;***
- (e) If it is determined by the Attorney General that the building could be for***

*community use, the Shire would conduct extensive consultation to be incorporated into a development plan for consideration.*

**Moved: Cr J Bloom**

**Seconded: Cr R J Lander**

**CARRIED UNANIMOUSLY**

[Attachment: 2 pages](#)

**9.4.4 APPLICATION FOR PLANNING APPROVAL - INDUSTRIAL DEVELOPMENT AND CARETAKER'S DWELLING – LOT 2704 (NO. 8) MAVIS ROAD BILINGURR**

**LOCATION/ ADDRESS:** Lot 2704 (No. 8) Mavis Road Broome  
**APPLICANT:** Simon Tocas  
**FILE:** MAV-1/8  
**AUTHOR:** Dawie Jansen van Rensburg  
**CONTRIBUTOR/S:** Manager Planning Services  
**RESPONSIBLE OFFICER:** Director Development Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE RECEIVED:** 27 May 2011  
**ESTIMATED COST OF DEVELOPMENT:** \$600,000

**SUMMARY:** An application for planning approval has been lodged to develop a new Industrial Development (Shed and Office), and a Caretakers' Dwelling on Lot 2704 (No. 8) Mavis Street, Bilingurr.

As it involves the construction of a Caretakers' Dwelling the matter is referred to Council for its determination.

This report recommends approval.

**BACKGROUND**

Previous Considerations

Nil.

*Site and Surrounds*

The subject site measures 2,506sqm and is part of the Blue Haze Light and Service Industry area located to the north of Gubinge Road. The property has a flat gradient and is currently vacant.

Properties adjoining the subject site to the west (rear) include:

- Factory units rented out for private storage purposes .
- A new development comprising three (3) vacant factory units and Caretakers' Dwelling; and
- Newly constructed shed and Caretakers' Dwelling, the property has been landscaped.

The adjoining property to the southern (side) boundary consists of a general industrial shed and a Caretakers' Dwelling that has a well established garden. The adjoining property to the northern (side) boundary consists of several larger and smaller sheds occupied by the Australian Navy Cadets. The property to the east (across the road) has an industrial shed and a Caretakers Dwelling screened from the street by mature vegetation.

Attachment 1 – Locality Plan



*History*

At the Ordinary Council Meeting (OCM) held on 9 June 2011 Council considered an item to initiate a Scheme Amendment to make 'Caretaker's Dwellings' a use that is not permitted in the 'Light and Service Industry' zone. The proposed amendment was advertised and ninety six (96) submissions were received, upon which Council resolved as follows:

*"That Council:*

1. *Having considered the submissions received during the advertising period, Pursuant to Section 75 of the Planning and Development Act 2005 does not proceed with Amendment No. 61*
2. *As a matter of urgency requests the Chief Executive Officer to review Local Planning Policy 4.1.2 Industrial Buildings, Caretakers Dwellings and Attached Offices with a view to conducting a workshop to consider including:*
  - (a) *Caretakers dwellings pose a potential conflict with industrial use of land in the Light and Service Industry zone;*
  - (b) *The Light and Service Industry zone does not provide a suitable level of amenity and infrastructure for residential uses particularly for family purposes;*
  - (c) *Any Light and Service Industry zone lots created after 2010 will not be considered suitable for development for caretakers dwelling purposes;*
  - (d) *Any Light and Service Industry zone lots created prior to 2010 may be considered suitable for development for caretakers dwelling purposes where issues of land use conflict and amenity have been addressed to Council's satisfaction.*
3. *Considers making provision in forthcoming budget considerations for a detailed audit of the land use in the Light and Service Industry Zone to inform a Councillor Workshop on this matter prior to the finalisation of proposed Town Planning Scheme No. 5."*

*Description of the Proposal*

The proponent intends to construct a new shed with related mezzanine storage, office and a caretakers dwelling on the property. The proposed business (boat chartering) will service, repair, store and provide washdown facilities for marine equipment. The proponent has advised that it is unlikely that the number of boats on site at any given time will exceed a maximum of two and these boats will be from his own fleet.

Attachment 2 – Proposed development

*Planning Provisions*

The site is within the 'Light and Service Industry' zone. This zone aims to provide for light service industries and associated uses that are compatible with residential uses. There are also specific requirements (see statutory section below for scheme provisions) in relation to:

- Setbacks - primary street 9 metres and side and rear at least one of these setbacks shall be a minimum width of 6 metres;
- A minimum of 4 car parking bays per unit;

Chairperson.....Date.....

- Industrial sheds with a minimum area of 200sm;
- Landscaping with minimum depth of 3 metres from the boundary;
- Provisions relating to retail and commercial uses;
- Ancillary Offices;
- Storage of toxic or hazardous substances;
- Multiple factory units;
- Caretaker's accommodation in association with an industrial use on site.

Clause 5.3.5 Car Parking Car Parking must be provided consistent with Council's policy 4.1.8. This Policy specifies a requirement of one bay per 50 sq m industrial use and one bay per 30 sq m for office use and 2 car bays for a caretaker's unit.

Clause 5.6 Service Areas All commercial development must make provision on-site for storage areas and loading and unloading areas

Clause 5.11 Landscaping A landscaping plan is required and must show existing and proposed plantings, plus a maintenance program.

## COMMENT

The applicant proposes to construct a shed with a ground floor area of 207sqm comprising a 147sqm industrial shed with an additional 60sqm related office space. A 60sqm mezzanine storage area is proposed directly above the office area. The proposed Caretaker's Dwelling measuring 99.56sqm with a verandah and carport is located to the rear of the property.

In accordance with LPP 4.1.8 parking for the development is indicated in the table below.

Use	Parking Ratio	Required	Provided on site
Industrial/Warehouse	1 car bay for every 50sqm. 207sq m/50	4.14	5
Offices	1 bay per 30sqm 190sqm/30	2	2
Caretaker's Dwelling	2 / unit	2	2
	<b>TOTAL</b>	<b>8.14</b>	<b>9</b>

Nine (9) Car parking bays are provided for at a ratio 1/50 sq m for the Industrial use and 1/30 sq m for the Office use, including one (1) open service bay and one (1) disabled bay. The caretaker' dwelling has one carport for the sole use of the dwelling with ample space for an additional vehicle to park behind or next to the proposed carport to provide for the second caretakers' bay.

## Conclusion

At the Ordinary Council Meeting of 9 June 2011 Council resolved not to proceed with the initiation of a scheme amendment that would have made 'Caretaker's Dwellings' a use that is not permitted in the 'Light and Service Industry' zone. Council also resolved that *"any Light and Service Industry zone lots created prior to 2010 may be considered suitable for development for caretakers dwelling purposes where issues of land use conflict and amenity have been addressed to Council's satisfaction."*

Chairperson.....Date.....

The proponent advised that:

- He intended to commence development in 2008 but had to delay lodging plans due to the economic downturn.;
- This advice was also contained in his submission to Scheme Amendment No 62 (Caretakers' dwellings in the Light and Service Industry zone);
- The owner intends to occupy the Caretakers' Dwelling himself and advises that an on-site Caretakers' Dwelling will be required mainly for security reasons.

While located within a Light and service Industry area the general amenity at the time of the site inspection was one of low key industrial activity with low volumes of traffic. The layout of the internal road network means that these roads only cater for the properties located in the area itself with a complete absence of through-traffic. Several other properties in the immediate vicinity have approved (2008) Caretakers' Dwellings. The proposal to develop an industrial shed with office space and storage as well as caretaker's dwelling to the rear of the property is considered to be appropriate with regard to the site and the surrounding environment, including adjoining properties and would not create issues of land use conflict and amenity.

The development meets all relevant planning provisions including setback requirements, car parking, and service areas and landscaping. Conditions will be required in relation to the need for detailed landscaping plans, ensuring that the car parking areas and access ways are suitably constructed to Council's standards.

The application is recommended for approval.

## **CONSULTATION**

Nil.

## **STATUTORY ENVIRONMENT**

*Planning and Development Act 2005*

Shire of Broome Local Planning Scheme No. 4

4.19 *Light and Service Industry Zone*

*Aims and Objectives*

*The aim of the zone is to provide for light and service industries and associated uses which are compatible with residential uses.*

*Council's objectives will therefore be to:*

- (a) *Restrict the size and location of corner store/convenience shop in accordance with the Broome Local Commercial Strategy; and*
- (b) *Allow bulky retail/showroom in the Light and Service Industry zone as an ancillary land use; and*
- (c) *Restrict the size and location of caretaker dwelling accommodation in association with an industrial use on site.*

Site and Development Requirements

Setbacks for all development in the Light and Service 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.

A minimum 200m2 industrial shed shall be provided.

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

When considering proposals for retail and commercial land use and development in the form of corner store/convenience shop and showroom/bulky retail within the Light and Service Industry zone, Council will have regard to the Local Commercial Strategy.

Showrooms may be allowed, where the showroom is associated with another 'P' land use.

Offices may be allowed, where the office is associated with another 'P' land use.

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

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 have regard to the following;

- (a) A minimum floor area of 200m2; and
- (b) A minimum of 4 car parking bays per unit; and
- (c) Service area 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 a Light and Service Industry Zone shall also apply to the total lot area of a multiple factory development

Caretaker's Dwellings

- A Caretaker's Dwelling shall at all times be directly associated with an industrial or other approved use on the site.

- *A Caretaker's Dwelling is only permitted in association with a minimum 200m<sup>2</sup> shed which is approved for light and service industry activities and other permitted land uses.*
- *The Caretaker's Dwelling may only be occupied by the owner, operator or an employee and immediate family of the industrial or other approved use on the lot.*
- *Where an industrial building does not currently exist on-site, a bond to the value of 25% of the total cost of construction of the development shall be lodged with Council prior to issuing a Building Licence for the caretaker's dwelling to ensure:*
  - *The industrial building is completed prior to, or in conjunction with, the development of the caretaker's dwelling, and/or*
  - *Upgrading of the caretaker's dwelling where a second-hand building [dwelling] is proposed.*
- *Caravans or mobile homes are not acceptable as temporary or permanent Caretaker's Dwellings.*
- *The total floor area of the Caretaker's Dwelling, measured from the external face of walls, shall not exceed 100m<sup>2</sup>.*
- *Incidental residential development such as carports, open verandas, swimming pools, children's playground area and the like will be permitted on the basis that the total area of the lot set aside for residential purposes (including the caretakers dwelling, gardens, swimming pool, outbuildings and the like) does not exceed an area equal to that of industrial buildings on the lot, or 10 % of the total lot area, which ever is the lesser.*
- *In order to preserve the industrial appearance and intent of the area, all Caretakers' Dwellings have to be located at the rear of a lot or behind the industrial or other approved use on the site. Dwellings on sites with two road frontages may be orientated to one road frontage as opposed to being situated at the rear of the lot.*
- *Only one Caretaker's Dwelling is permitted on each freehold lot. This includes the proviso that only one caretaker's dwelling is developed for each original freehold lot where a strata lot subdivision/development exists or is proposed.*
- *An office, not exceeding 20m<sup>2</sup> shall only be located on the ground floor of a Caretakers Dwelling.*

## **POLICY IMPLICATIONS**

Policy 4.1.2 - Industrial Buildings, Caretakers Dwellings and Attached Offices.

## **FINANCIAL IMPLICATIONS**

Nil.

Chairperson.....Date.....

**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 application for planning approval 2011/98 to construct an Industrial Development (Shed and Office) for commercial boat chartering business with associated servicing, repairs, storage and wash-down facility and Caretaker's Dwelling as submitted by Simon Tocas on Lot 2704 (No. 8) Mavis Road, Bilingurr subject to the following conditions:*

1. *Development must be carried out in accordance with the plans dated 27 May 2011, which were submitted with the application, and endorsed by the Shire.*
2. *Construction of the proposed Industrial Development (Shed and Office) is to be completed and the proposed industrial or other approved use established on-site prior to, or in conjunction with the construction of the Caretakers' Dwelling.*
3. *A bond to the value of 25% of the total cost of construction of the development shall be lodged with Council prior to issuing a building licence for the Caretakers' Dwelling to ensure the industrial building is completed prior to, or in conjunction with' the development of the Caretakers' Dwelling.*
4. *The Caretakers' Dwelling shall at all times be directly associated with an industrial or other approved use on-site.*
5. *The Caretakers' Dwelling may only be occupied by the owner, operator or an employee and immediate family of the industrial or other approved use on the lot.*
6. *A minimum of 9 car parking bays are to be provided on site of which two (2) are to be for the exclusive use of the Caretakers' Dwelling. One bay (1) is to be an accessible parking bay.*
7. *All vehicle crossovers must be designed and constructed (sealed, brick paving, bitumen, concrete) to the Shire's standard cross over specification*
8. *Prior to occupation of the development, areas set aside for parked vehicle and access lanes, as shown on the approved plans, must be:*
  - (a) *Detailed in an Engineering Plan including existing finished levels, pavement type and drainage details, these plans are to be submitted prior to Building License*

- (b) Constructed to the satisfaction of the Shire of Broome.
- (c) Properly formed to appropriate levels.
- (d) Surfaced with an all-weather seal coat to the satisfaction of the Shire.
- (e) Drained and maintained to the satisfaction of the Shire.
- (f) Line-marked to indicate each car bay and all access lanes to the satisfaction of the Shire.
- (g) Be kept available for these purposes

A separate plan may be submitted and endorsed by the Shire for the purpose of complying with this condition

9. Prior to any construction or works starting on-site, a Landscaping Plan must be submitted to and approved by the Shire. It is highly desirable that mature trees already on site are incorporated into the development if feasible and practicable. For the purpose of this condition, a detailed Landscaping Plan must be drawn to an appropriate scale and show the following:

- (a) The location and type of existing trees including girth sizes (to be measured around the widest circumference). And how they interact with the proposed development
- (b) The location and type of new trees and shrubs including an estimate of ultimate girth sizes that are proposed to be installed as part of the landscaping.
- (c) Any lawns to be established.
- (d) Any natural landscape areas to be retained.
- (e) Those areas to be reticulated or irrigated.
- (f) Please note, an area 1m min. should be kept clear of all impervious materials around existing and proposed tree trunks.

10. A stormwater drainage system is to be provided that drains to an existing system or Shire roadway or that drains to the satisfaction of the Shire. No stormwater is to be discharged onto other private property.

11. Where it can be demonstrated that flooding to the building will not occur due to the slope of the lot and a local drainage system has been provided for, the floor height can be reduced from the normal 400mm above natural ground level to a minimum of 200mm.

**COUNCIL RESOLUTION:**

**That Council:**

**A. Approves application for planning approval 2011/98 to construct an Industrial Development (Shed and Office) for commercial boat chartering business with associated servicing, repairs, storage and wash-down facility and Caretaker's Dwelling as submitted by Simon Tocas on Lot 2704 (No. 8) Mavis Road, Bilingurr subject to the following conditions:**

- 1. Development must be carried out in accordance with the plans dated 27 May 2011, which were submitted with the application, and endorsed by the Shire.
- 2. Construction of the proposed Industrial Development (Shed and Office) is to be completed and the proposed industrial or other approved use

*established on-site prior to, or in conjunction with the construction of the Caretakers' Dwelling.*

3. *A bond to the value of 25% of the total cost of construction of the development shall be lodged with Council prior to issuing a building licence for the Caretakers' Dwelling to ensure the industrial building is completed prior to, or in conjunction with' the development of the Caretakers' Dwelling.*
4. *The Caretakers' Dwelling shall at all times be directly associated with an industrial or other approved use on-site.*
5. *The Caretakers' Dwelling may only be occupied by the owner, operator or an employee and immediate family of the industrial or other approved use on the lot.*
6. *A minimum of 9 car parking bays are to be provided on site of which two (2) are to be for the exclusive use of the Caretakers' Dwelling. One bay (1) is to be an accessible parking bay.*
7. *All vehicle crossovers must be designed and constructed (sealed, brick paving, bitumen, concrete) to the Shire's standard cross over specification*
8. *Prior to occupation of the development, areas set aside for parked vehicle and access lanes, as shown on the approved plans, must be:*
  - (a) *Detailed in an Engineering Plan including existing finished levels, pavement type and drainage details, these plans are to be submitted prior to Building License;*
  - (b) *Constructed to the satisfaction of the Shire of Broome;*
  - (c) *Properly formed to appropriate levels;*
  - (d) *Surfaced with an all-weather seal coat to the satisfaction of the Shire;*
  - (e) *Drained and maintained to the satisfaction of the Shire;*
  - (f) *Line-marked to indicate each car bay and all access lanes to the satisfaction of the Shire;*
  - (g) *Be kept available for these purposes.*

*A separate plan may be submitted and endorsed by the Shire for the purpose of complying with this condition.*

9. *Prior to any construction or works starting on-site, a Landscaping Plan must be submitted to and approved by the Shire. It is highly desirable that mature trees already on site are incorporated into the development if feasible and practicable. For the purpose of this condition, a detailed Landscaping Plan must be drawn to an appropriate scale and show the following:*
  - (a) *The location and type of existing trees including girth sizes (to be measured around the widest circumference). And how they interact with the proposed development;*
  - (b) *The location and type of new trees and shrubs including an estimate of ultimate girth sizes that are proposed to be installed as part of the*



- landscaping;*
- (c) Any lawns to be established;*
- (d) Any natural landscape areas to be retained;*
- (e) Those areas to be reticulated or irrigated;*
- (f) Please note, an area 1m min. should be kept clear of all impervious materials around existing and proposed tree trunks.*

- 10. *A stormwater drainage system is to be provided that drains to an existing system or Shire roadway or that drains to the satisfaction of the Shire. No stormwater is to be discharged onto other private property.*
- 11. *Where it can be demonstrated that flooding to the building will not occur due to the slope of the lot and a local drainage system has been provided for, the floor height can be reduced from the normal 400mm above natural ground level to a minimum of 200mm.*
- 12. *A notification under section 70A of the Transfer of Land Act, giving notice of the likelihood of industrial levels of noise being generated from industrial activity conducted on the surrounding properties, must be prepared in a form acceptable to the Shire and implemented prior to the development first being occupied.*

**B. Advises the applicant:**

- 1. *At its meeting on 09 June 2011 Council requested an urgent review of Local Planning Policy 4.1.2 Industrial Buildings, Caretakers Dwellings and Attached Offices with a view to including recognition that Caretakers dwellings pose a potential conflict with industrial use of land in the Light and Service Industry zone, The Light and Service Industry zone does not provide a suitable level of amenity and infrastructure for residential uses particularly for family purposes, and to consider restricting the locations of Caretakers Dwellings.*
- 2. *When considering its proposed Town planning Scheme No5 it will review to acceptability of Caretakers Dwellings in the Light and Service Industry zone and this could possibly result in any existing caretakers residence becoming a non-conforming use under the new Scheme. Should this occur existing approved caretakers dwellings may continue in use in accordance with Scheme provisions and conditions of approval.*

Moved: Cr R de Wit

seconder: Cr J Bloom

**CARRIED UNANIMOUSLY**

[Attachment: 5 pages](#)

**9.4.5 APPLICATION FOR PLANNING APPROVAL – SIGNAGE – LOT 45 (NO 26) DAMPIER TERRACE, BROOME**

**LOCATION/ ADDRESS:** Lot 45 (No. 26) Dampier Terrace, Broome  
**APPLICANT:** Roger Colless on behalf of Hermal Pty Ltd  
**FILE:** DAM -1/26  
**AUTHOR:** Rene Human  
**CONTRIBUTOR/S:** Manager Planning Services  
**RESPONSIBLE OFFICER:** Director Development Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE OF REPORT:** 24 June 2011

**SUMMARY:** An application for planning approval has been received for a Roof Sign to be erected at No 26 Dampier Terrace.

The application is referred to Council since approval of Roof Signs can only be approved by resolution of Council.

This report recommends approval.

**BACKGROUND**

Previous Considerations

Nil.

Site and Surrounds

The land is 1198sqm in extent and is located in Chinatown to the east of Dampier Terrace, between Short Street to the north and Napier Terrace to the south. The property is listed on the Shire of Broome Municipal Inventory (Place No. 24) and is also registered at the Heritage Council (Chinatown Conservation Area).

Attachment 1 – Location Plan.

*Description of the Proposal*

The applicant proposes to have one Roof Sign located on the front gable of the roof above the verandah with dimensions of 1500mm (width) x 1000mm (height). Three colours are used for the sign. The proposed lettering is red and black with the background coloured in black and the ‘Hovercraft’ logo black, red and amber.

(Attachment 2 – Proposed Roof Sign)

*Planning Provisions*

The Shire of Broome Town Planning Scheme (TPS4) requires a planning approval to be obtained for any sign involving non site specific advertising in addition to a licence being issued pursuant to Council’s Local Laws relating to Signs, Hoarding and Bill Posting (SLL).

Clause 5.13.3 states:

*"...when making a decision upon an application for approval to erect, place or display a sign, Council shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected."*

The SLL requires Council's approval for Roof Signs.

**COMMENT**

The proposed Roof Sign complies with the provisions of the LLS as well as the Chinatown Signage and Advertising Local Planning Policy.

On considering the provisions of TPS4 and the relevant Planning Policies, the proposed Roof Sign is considered to be compatible with the architectural and historical character of Chinatown. It is recommended that the application for planning approval be approved.

**CONSULTATION**

The building is Heritage Council of Western Australia Listed (0291) and accordingly the Heritage Council reviewed the plans and supported the application.

**STATUTORY ENVIRONMENT**

Planning and Development Act 2005.

Shire of Broome Town Planning Scheme No. 4.

Clause 5.13.1.2:

*Applications for Council's planning approval, pursuant to this part shall be submitted in accordance with the provisions of Clause 9.1.1. of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form set out at Schedule 6 giving details of the sign to be erected, placed or displayed on the land. The Council may waive the requirement to submit an application in this form and consequently may only require an application for a sign licence under Council's local law.*

Clause 5.13.3:

*Without limiting the generality of the matters which may be taken into account when making a decision upon an application for approval to erect, place or display a sign, Council shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.*

Chinatown Signage and Advertising Policy

*General*

- *Information displayed on signs shall be directly related to the business name, products, and/or services within the tenancy.*

- Sites with two street frontages are permitted to have signage facing each of the related streets, (i.e.: maximum of three (3) signs facing each frontage).
- Large advertising panels fixed to front, sides, or off roofs, are not acceptable in Chinatown.

#### Sign Location

- Roof signs should be located on the front elevation of gable fronted buildings, or be located above the gutter line of buildings with a verandah.
- Roof signs may be parallel or at right angles to the building facade.
- Wall signs are permitted on the facade of the building.
- Signs suspended under the verandah eaves are permitted.
- Roof signs are only to be located on the roof of the tenancy that the signage directly relates to.
- No part of any roof signs should be located on or extended above the roof ridge or gable.

#### Sign Size and Type

- A maximum of three (3) signs per tenancy may be approved, i.e.: one roof sign, and two other signs (wall sign, suspended sign, and/or vertical sign).
- Roof signs (located on the face of the gable or above the verandah): One (1) individual sign per tenancy to two-thirds (2/3) the width of the tenancy (maximum dimensions 5.0m [width] x 1.0m [height]).
- Wall Signs: Maximum of 2.0 m [width] x 1.0 m [height].
- Suspended Signs: Maximum of 1.0 m [width] x 0.6 m [height]. Headway clearance must be at least 2.1m to ensure safe pedestrian movement.

#### Sign Graphics

- Lettering to be simple. However the lettering should not dominate the design of the sign.
- Oriental graphics may be used. Oriental characters and graphics may also be painted on roof panels facing the street where considered appropriate by Council. The total area of any roof sign should not exceed 10% of the roof surface area on which it is painted.
- There is no limit on the size of a logo within each sign provided it is appropriate to the design of the sign.
- There is a limit of five (5) colours permitted on each sign, however no restrictions apply to the type or shading of these colours

#### Local Law Relating to Signs, Hoardings and Billposting

5.13.1 Approval for the erection of a sign on a roof of a building shall only be granted by resolution of the Council and where approval has been so granted, a roof sign shall:

- (a) not at any point extend above the ridge line of the roof;
- (b) not at any point be within 3 m of the ground;
- (c) not extend laterally beyond the external walls of the building;
- (d) comply as regards height above ground and height of sign with the following table:

Height of Main Building above ground level at point where sign is to be fixed	Maximum height of size
3 m and under 4 m	1.0 m
4 m and under 6 m	1.8 m
6 m and under 12 m	2.0 m
12 m and under 18 m	2.5 m
18 m and over	3.0 m

5.13.2 *When ascertaining the height of the main building above ground level for the purpose of this Local Law, any part of the roof at the point where the sign is to be erected, that is provided solely for the purpose of architectural decoration, shall be disregarded.*

**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.

**COUNCIL RESOLUTION:**  
**(REPORT RECOMMENDATION)**

*That Council;*

A) *Approves the application for planning approval 2011/105 for signage submitted by Roger Colless on behalf of Hermal Pty Ltd at Lot 45, No. 26 Dampier Terrace, Broome subject to the following conditions:*

- (1) Development must be carried out in accordance with the plans stamped and dated 8 June 2011 submitted with the application as approved by Council.*
- (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 Council.*

B). *Authorises the issue of a sign licence at Lot 45, No. 26 Dampier Terrace, Broome and subject to the following conditions:*

- (1) Corrosion protection for steelwork to be in accordance with Table 3.4.4.2 of the B.C.A. Classification "Severe".*
- (2) The sign shall be kept clean and free from unsightly material and shall be maintained in good order so that it does not become dilapidated or a safety risk.*
- (3) All construction to be performed in accordance with Structural Engineer's drawings.*

*Moved: Cr C R Mitchell*

*Seconded: Cr J Bloom*

**CARRIED UNANIMOUSLY**

[Attachment: 4 pages](#)

**9.4.6 APPLICATION FOR PLANNING APPROVAL – NEW DWELLING – LOT 4 PART OF LOCATION NO 297 DAMPIER PENINSULA**

**LOCATION/ ADDRESS:** Location No. 297 Dampier Peninsula  
**APPLICANT:** Daniel Thorne and Fiona Rahman on behalf Chile Creek Aboriginal Corporation.  
**FILE:** ABL02.1  
**AUTHOR:** Rene Human  
**CONTRIBUTOR/S:** Manager Planning Services  
**RESPONSIBLE OFFICER:** Director Development Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE OF REPORT:** 5 July 2011

**SUMMARY:** An application for planning approval has been lodged for alterations to an existing structure and the relocation of a transportable unit to be upgraded as a new dwelling on Lot No. 4 Chile Creek Community.

The application is being referred to Council for consideration as the land falls within the Shire of Broome’s Interim Development Order No. 4 (IDO4).

This report recommends approval.

**BACKGROUND**

Previous Considerations

- OCM 18 December 2007 - Item 9.3.10 (Upgrade of Solar Array System)
- OCM 11 June 2009 – Item 9.3.3 (Five safari style tents with en-suites)

*Site and Surrounds*

Chile Creek is located on the western side of the Broome Cape Leveque Road approximately 180 kilometres north of Broome and 7km from the Lombadina community.

The site is approximately 949sqm in size with natural vegetation that consists of eucalyptus woodlands and acacia woodlands. The site is currently developed with a transportable and a carport.

Attachment 1 – Locality Plan.

*Description of the Proposal*

The proponent intends to relocate an existing transportable unit consisting of three bedrooms, upgrade and alter the existing carport to accommodate a kitchen and living area and to construct a separate bathroom / laundry facility. The three separate structures will be covered by a roof to create a covered open living area between the structures.

Attachment 2 – House Plans with Elevations.

*Planning Provisions*

The site is subject to the requirements of Interim Development Order No. 4 and Council's approval is required.

**COMMENT**

The new dwelling will be constructed on part of Location 297 Lot 4 as indicated on the draft layout plan. The Department of Planning has in consultation with the Chile Creek Aboriginal Corporation commenced preparing a Draft Community Layout Plan (CLP) for the Chile Creek Community in 2007, but this process was never further progressed.

The new dwelling will provide additional housing to members of Chile Creek Community. The proposed upgrading of the transportable unit and the associated residential facilities are considered appropriate and the development is in line with the development guidelines of the Draft Chile Creek Community Layout Plan.

Contours on the Draft CLP indicate that the site is located generally higher than the surrounding area and that stormwater in this case will drain to the east away from the buildings.

It is recommended Council approves the application.

**CONSULTATION**

Nil.

**STATUTORY ENVIRONMENT**

Planning and Development Act 2005  
Chile Creek Draft Community Layout Plan No.1 2007  
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 of 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;
- ii. any approved Environmental Protection Policy under the Environmental Protection Act 1986;
- iii. any other adopted planning policy or strategy that may 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 the probable effect on traffic flow and safety;
- xi. 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;
- 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

**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.

**Prosperity**

Support business and economic development.

**VOTING REQUIREMENTS**

Simple Majority.

Amended Ordinary Meeting of Council 1 September 2011

**COUNCIL RESOLUTION:**  
**(REPORT RECOMMENDATION)**

*That Council approves the application for planning approval 2011/108 submitted by Daniel Thorne and Fiona Rahman on behalf of Chile Creek Aboriginal Corporation for the relocation of a transportable unit to be upgraded as a new dwelling on Lot 4 (Chile Creek), Part of Location No 297 Dampier Peninsula subject to the following conditions:*

1. *Development must be carried out in accordance with the plans dated 22 June 2011, which were submitted with the application, 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. *Advises the Western Australian Planning Commission that Council has utilised in formation in the Draft Community Layout Plan to determine that Lot 4 is suitable for this purpose and is not likely to be subject to flooding, subsidence, landslip or bush fire.*

Moved: Cr R de Wit

Seconded: Cr D M Male

**CARRIED UNANIMOUSLY**

[Attachment: 6 pages](#)

**9.4.7 LEGAL AGREEMENT –VERGE AREA – LOT 51 (NO. 99) ROBINSON STREET BROOME**

**LOCATION/ ADDRESS:** Lot 51 (No 99) Robinson Street Broome

**APPLICANT:** Moonwest Pty Ltd on behalf of Tropicana Enterprises Pty Ltd.

**FILE:** ROB-2/99

**AUTHOR:** Director Development Services

**CONTRIBUTOR/S:** Nil

**RESPONSIBLE OFFICER:** Director Development Services

**DISCLOSURE OF ANY INTEREST:** Nil

**DATE OF REPORT:** 21 July 2011

**SUMMARY:** the proponents have written requesting modification of a proposed notification agreement relating to a condition of planning approval.

This report recommends the proposed modification to the notification agreement be accepted.

**BACKGROUND**

Previous Considerations

- OCM 8 February 2005 - Item 9.3.4
- OCM 17 December 2008 – Item 9.3.4
- OCM 4 August 2009 – item 9.3.5

*Site and Surrounds*

Lot 51 (No 99) Robinson Street is bounded by Guy Street, Robinson Street, Saville Street, Walcott Street and contains the Oaks Hotel and Resort. Stages one and two are completed and operating while Stage three has not yet been commenced. The property is a key component of the Roebuck Bay Tourism Precinct and the Seaview Local Activity Centre.

Attachments 1 and 2.

At its 8 February 2005 Council considered aspects of the development application for the development and resolved:

*“That the application for planning approval dated 08/12/2004 (2004/233) made by Tropicana Enterprises Pty Ltd for a proposed motel development on multiple lots (No 99) Robinson Street, Broome be processed under existing delegated authority subject to:*

1. *Providing an additional two car parking bays to satisfy the requirement for one parking bay per two motel units, one parking bay per 12 m<sup>2</sup> of restaurant/bar area, two bays for the manager’s unit and five boat/trailer parking bays.*
2. *Revision of the design of parking and access in the Road reserves to minimise paved areas and increase landscaping so that the total paved*

Chairperson.....Date.....

*area in the date adjacent Road reserves combined does not exceed 40% of the area without utilising the Guy Street reserve.*

- 3. *The proposed building is not exceeding 10 m in height.*
- 4. *Mature trees in the Road reserves being identified and retained in the redesign."*

Planning approval was issued under delegated authority on 14 April 2005 subject to conditions including:

- "3. *A deed of agreement is to be prepared and executed at the owner's cost between the owner and the Shire prior to the development first being occupied, under which the owner agrees to maintain the nature strip landscaping and the car parking on the Road reserve, and to permit the Shire to lodge an absolute caveat on the certificate of title to the land to secure the performance of that maintenance obligation."*

The applicant subsequently requested a reconsideration of Condition 3 to permit an alternative form of agreement so that the caveat would not be placed on the strata titles. A variation of planning approval was issued under delegated authority on 13 December 2005 deleting condition three and adding these additional conditions:

- 19. *Proponent must at all times:*
  - (a) *fully maintain all landscaping and car parking bays and access ways located on the road verge related to this approval; and*
  - (b) *take out and maintained within ensure approved by the Shire, public liability insurance to the sum of \$10 million.*
- 20. *The proponent must, in response to a written request from the Shire, and that the proponents cost, remove or add any such landscaping within the Road reserve within 14 days,*
- 21. *A notification under section 70A of The Transfer Of Land Act, giving notice of the landowners responsibility for maintenance of the verges, or suitable alternative, must be prepared in a form acceptable to the Shire and implemented prior to the development first being occupied.*

In 2008 discussions were initiated by the proponent to preserve three existing mature boab trees in the Robinson Street reserve. Council considered this matter at its meeting held on 17 December 2008 and resolved:

*"That Council approves the application for variation to planning approval 2004/233 to reduce the parking requirement by 10 car parking bays for the Oaks Hotel and resort on Lot 13 (No 99) Robinson Street Broome subject to the following conditions:*

- 1. *Development must be carried out in accordance with the plans dated 13 November 2008 which were submitted with the application and endorsed by the Shire.*
- 2. *Tropicana Enterprises proprietary Limited shall undertake a car parking survey which would begin at commencement of operation of the new*

resort and run for a period of 12 months. A report on the survey findings will be forwarded to the Shire of Broome within one month of completion for consideration by Council.

- 3. If Council considers that the 10 parking bays are required Tropicana Enterprises proprietary Limited will construct these at a location approved by the Shire of Broome.
- 4. A bond of \$45,000 shall be lodged with the Shire of Broome to cover the provision of the parking bays."

At its meeting on for August 2009 Council considered the need for engrossment of the notification agreement and resolved:

- "1. That the Shire President and Chief Executive Officer be authorised to engross the notification under section 70A document for Lot 51 deposited plan 61355.
- 2. That the applicant meet all legal and associated costs with the lodgement of section 70A Transfer of Land Act provisions."

Ongoing discussions and negotiations have been taking place regarding a legal agreement relating to the section 70 a notification involving solicitors for the proponent and the Shire. (Attachment 3) These discussions appeared to reach a stalemate on a number of occasions and efforts have been made on both sides to reach a satisfactory conclusion. The situation now is that there is one clause in the draft agreement that is in dispute:

- 6. In the event the road reserve is not available for car parking purposes, registered proprietors shall make arrangements to ensure compliance with the car parking requirements under the relevant local planning scheme for the land.

Mr Steve Seward representing the proponent has written to the Shire advising of their keenness to reach an agreement on this matter as soon as possible. He writes:

*"The issue for Moonwest is Clause 6, under "Factors Affecting Use Or Enjoyment Of The Land" which places an obligation on Moonwest to ensure compliance with the car parking requirements under the relevant Local Planning Scheme for the land in the event that the Road Reserve is not available for car parking purposes.*

*Reference is made to the Conditions 19 and 20 of the planning consent from the Shire dated 13 December 2005 — copy is attached.*

*Firstly, Condition 19 is being complied with, as most attractive landscaping was completed and is now being fully maintained. In respect of public liability insurance please see the enclosed notification from Aon Risk Services providing \$20,000,000 of cover.*

*Secondly, Condition 20 states "the proponent must, in response to a written request from the shire, and at the proponent's cost, remove all and any such landscaping within the road reserve within fourteen(14) days." We would point out that there is no obligation contained in this condition or indeed any other condition of the planning consent that the proponent ensures compliance with car parking*

*requirements in the event the road reserve is no longer available. Further there was never any discussion during the planning and development process that contemplated this, as in simple terms, it imposes an obligation which in all likelihood could never be complied with.*

*Whilst the Shire's lawyers may consider this clause to be desirable the practicalities are unworkable and in effect would result in the remaining Stage 3 land— Lot 97 never being developed due to this restriction.*

*Therefore we request that Clause 6 be deleted. In considering this decision we respectfully request that the Shire assess the likelihood of the Road Reserve not being available for car parking purposes particularly as Robinson Street is not a major thorough fare and dead ends at Town Beach. In addition we suggest there is ample opportunity to widen the Robinson Street, if this was ever necessary, on the other side of the road to the Oaks development.*

*If the Shire agree to delete Clause 6, Moonwest will execute the Section 70A Notification forthwith and of course continue with it's obligations relating to insurance and maintenance of the verge areas."*

**COMMENT**

As the proponent points out the requirement detailed in point 6 of the notification agreement is not contained in any of the conditions attached to the planning approval for this site, nor was it subject of any development discussions. It has been included in the suggestion of the Shire Solicitor without thorough consideration of its impact and implications.

It is considered the Shire would be unlikely to ever have a need to redevelop the streets so extensively that the approved parking cannot continue to be accommodated. The current pavement widths are considered adequate for traffic numbers likely to occur in this locality.

As set out in the approval conditions the desired outcome in this instance is for landscaping to be maintained, public liability insurance to be in place, and some legal mechanism to ensure adequate notice of ongoing responsibility for those matters. This outcome is achievable but not with the inclusion of the point 6 requirement.

If the Shire continues to pursue the current approach it will likely lead to a situation of either accepting non-compliance with a condition of planning approval or consideration of taking legal action. It is considered legal action would be difficult in this instance as the only point of disagreement is not a condition of planning approval.

It is recommended Council agrees with the proponent's suggestion of point 6 being deleted from the notification.

**CONSULTATION**

The proposal was not required to be advertised.

**STATUTORY ENVIRONMENT**

Planning and Development Act 2005.

Chairperson.....Date.....

Town Planning Scheme No4.  
Transfer of Land Act 1893.

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

The proponent is responsible for the costs associated with the notification agreement.

**STRATEGIC IMPLICATIONS**

Nil.

**VOTING REQUIREMENTS**

Simple Majority.

**COUNCIL RESOLUTION:**  
**(REPORT RECOMMENDATION)**

*That Council agrees with the request from Moonwest Pty Ltd with regard to the section 70A notification regarding Lot 51 (99) Robinson Street Broome and does not require point 6 to be included in the notification.*

*Moved: Cr J Bloom*

*Seconded: Cr E Yu*

**CARRIED UNANIMOUSLY**

[Attachment: 5 pages](#)

*With regard to Item 9.4.8 Cr E Yu disclosed that "I have had an association with Yawuru, NTHAC and RNTB. As a consequence, there may be a perception that my impartiality in the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly".*

**9.4.8 PURCHASE OF FIRE TRUCK – PARK COUNCIL**

**LOCATION/ ADDRESS:** Coastal Park  
**APPLICANT:** Department of Environment and Conservation  
**FILE:** NAT55  
**AUTHOR:** Director Development Services  
**CONTRIBUTOR/S:** Manager Financial Services  
**RESPONSIBLE OFFICER:** Director Development Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE OF REPORT:** 19 July 2011

**SUMMARY:** This report recommends a budget increase of \$50,000 which is required for the 25% contribution for the purchase price of a DEC Fire Truck for Park Council, to be funded by \$50,000 from Restricted Cash Reserve set aside 30 June 2011.

**BACKGROUND**

Previous Considerations

OCM 30 September 2010 Item 9.1.1

The Yawuru Joint Management Agreement signed in February 2010 provides for the formation of a Park Council and sets out its role:

- (a) *to prepare Management Plans under Part V of the CALM Act and section 49 of the LA Act (as appropriate) and related policies for the management of the Conservation Estate;*
- (b) *to ensure that the Management Plans for the Conservation Estate are consistent with the visions and policies set out in the Cultural Management Plan for these areas;*
- (c) *to ensure that all Management Plans overseen by and developed with the Park Council are, to the greatest extent possible, taking into account different legislative frameworks, consistent.*
- (d) *to make decisions consistent with the Cultural Management Plan and Management Plans;*
- (e) *to strategically monitor the management of the Conservation Estate including the implementation of the Management Plans, but not to undertake day to day management of the Conservation Estate;*
- (f) *to give advice to the CEO, the CCWA, the MPRA and the BSC (as appropriate) on all aspects of the use, management and development of the Conservation Estate; and*



- (g) to determine priorities for any matters required to be done in accordance with or in furtherance of the Management Plans.

At its meeting held on 30 September 2010 Council determined its Park Council members.

At the meeting of the Park Council held on 8 December 2010 (see Attachment 1 – minutes) the matter of joint provision of a fire truck was discussed and an offer made by Councillors to fund 25 percent of the cost subject to Council approval. An invoice dated 15 June 2011 has been received from the Department of Conservation and Environment for \$50,000 for 25% of the cost of purchasing the DEC Fire Truck.

## COMMENT

This item was not budgeted for in the 2010-2011 budget but there was provision for \$100,000 operating expenditure for the coastal park which was not expended. Unbudgeted expenditure requires a resolution of Council with absolute majority.

Subject to the passage of this report, it is proposed to retain \$50,000 of the unspent coastal park funds in a Restricted Cash Reserve at 30 June 2011, for the specific purpose of funding 25% of the purchase cost of a DEC Fire Truck during 2011-2012.

## CONSULTATION

Nil.

## STATUTORY ENVIRONMENT

*Local Government Act 1995*

### 6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
- (a) is incurred in a financial year before the adoption of the annual budget by the local government;
  - (b) is authorised in advance by resolution\*; or
  - (c) is authorised in advance by the mayor or president in an emergency.

\* Absolute majority required.

(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.

## POLICY IMPLICATIONS

Nil.

**FINANCIAL IMPLICATIONS**

The \$50,000 will be funded from Restricted Cash Reserve.

**STRATEGIC IMPLICATIONS**

**People**

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

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.

**Prosperity**

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

**VOTING REQUIREMENTS**

Absolute Majority.

**COUNCIL RESOLUTION:**  
**(REPORT RECOMMENDATION)**

*That Council:*

1. *Adopts budget amendments to the following general ledger accounts:*

*Increase of \$50,000 expenditure in GL account 105057 - "Coastal Park management - Op Exp" for a 25% contribution to the purchase of a DEC Fire Truck for the Park Council. Funded by \$50,000 from GL account New Account.26 - "Transfer from Restricted Cash Reserve - Protection of Environment".*

2. *Sets aside \$50,000 from unspent coastal park funds (account 105057) from 2010-2011 for the specific purpose of funding 25% of the purchase of a DEC Fire Truck for Park Council.*

*(Absolute Majority required)*

*Moved: Cr C R Mitchell*

*Seconded: Cr R de Wit*

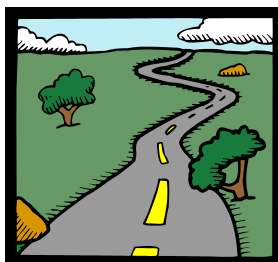
**CARRIED 7/0 BY ABSOLUTE MAJORITY**

[Attachment: 9 pages](#)

# 9.5

## ENGINEERING

### SERVICES



### OUTCOME

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

**9.5.1 DEDICATION OF LAND FOR PART GUBINGE ROAD**

**LOCATION/ ADDRESS:** Gubinge Road, Djugun  
**APPLICANT:** N/A  
**FILE:** GUB-1/GEN  
**AUTHOR:** Director Engineering Services  
**CONTRIBUTOR/S:** N/A  
**RESPONSIBLE OFFICER:** Director Engineering Services  
**DISCLOSURE OF ANY INTEREST:** N/A  
**DATE OF REPORT:** 13 June 2011

**SUMMARY:** The Department of Regional Development and Lands is considering the revestment and dedication of a parcel of land required to formalise part of the Gubinge Road reserve. This report advises Council of the requirements and seeks Council's formal adoption to allow for revestment and dedication of the land. Gubinge Road is a declared Main Road.

**BACKGROUND**

Previous Considerations

Nil.

**COMMENT**

Council is in receipt of a letter from the Department of Regional Development and Lands dated 10<sup>th</sup> June 2011 (copy attached) in relation to Unallocated Crown Land Lot 1135 on DP 49210, Certificate of Title volume 22656 folio 939. The area of the Lot is 2.9424 Ha.

The Department is considering a proposal for the revestment and dedication of the above lot whereupon the lot will form part of the Gubinge Road reserve which is a declared Main Roads Western Australia Road.

The Department requests Council's formal resolution on the proposal and also indemnification for any liability arising against the State.

The Department points out in its letter that the easement benefit previously created under section 136C TLA for Drainage Purposes that exists over Lot 1135 on DP 47388, will carry over onto the proposed part of the Gubinge Road Reserve.

**CONSULTATION**

Not applicable.

**STATUTORY ENVIRONMENT**

**56. Dedication of Roads**

- (1) *If in the district of a local government —*
  - (a) *land is reserved or acquired for use by the public, or is used by the public, as a road under the care, control and management of the local government;*

Chairperson.....Date.....

- (b) *in the case of land comprising a private road constructed and maintained to the satisfaction of the local government —*
  - (i) *the holder of the freehold in that land applies to the local government, requesting it to do so; or*
  - (ii) *those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;*
- (c) *land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years,*

*and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.*

- (2) *If a local government resolves to make a request under subsection (1), it must —*
  - (a) *in accordance with the regulations prepare and deliver the request to the Minister; and*
  - (b) *provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.*
- (3) *On receiving a request delivered to him or her under subsection (2), the Minister must consider the request and may then —*
  - (a) *subject to subsection (5), 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.*
- (4) *On the Minister granting a request under subsection (3), the relevant local government is liable to indemnify the Minister against any claim for compensation (not being a claim for compensation in respect of land referred to in subsection (6)) in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request.*
- (5) *To be dedicated under subsection (3)(a), land must immediately before the time of dedication be —*
  - (a) *unallocated Crown land or, in the case of a private road, alienated land; and*
  - (b) *designated in the relevant plan of survey, sketch plan or document as having the purpose of a road.*
- (6) *If land referred to in subsection (1)(b) or (c) is dedicated under subsection (3)(a), a person with an interest in that land (including a person who has the benefit of an easement created under section 167A of the TLA) is not entitled to compensation because of that dedication.*

*[Section 56 amended by No. 59 of 2000 s. 16.]*

## **POLICY IMPLICATIONS**

Not applicable.

## FINANCIAL IMPLICATIONS

The land will form part of the Gubinge Road reserve, a State Road. Council has existing obligations in relation to maintenance of the Gubinge Road verge and median area.

## STRATEGIC IMPLICATIONS

### People

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

### Place

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

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.

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

## VOTING REQUIREMENTS

Simple Majority.

**COUNCIL RESOLUTION:**  
**(REPORT RECOMMENDATION)**

*That Council;*

1. *Notes that Gubinge Road is a declared Main Road;*
2. *Agrees to the revestment and dedication of unallocated Crown Land Lot 1135 on DP 49210, Certificate of Title volume 22656, folio 939, area 2.9424 Ha. for the purposes of Road Reserve, and*
3. *Does not agree to indemnify the state against any liability arising out of the dedication of the land as this is a State Road.*

*Moved: Cr C R Mitchell*

*Seconded: Cr E Yu*

**CARRIED UNANIMOUSLY**

[Attachment: 9 pages](#)

<b>9.5.2 SALE OF RECYCLABLES POLICY – SECOND REPORT</b>	
<b>LOCATION/ ADDRESS:</b>	Buckley's Road Waste Management Facility
<b>APPLICANT:</b>	N/A
<b>FILE:</b>	RES 40813; ENG24
<b>AUTHOR:</b>	Engineering Administration Officer
<b>CONTRIBUTOR/S:</b>	Nil
<b>RESPONSIBLE OFFICER:</b>	Director Engineering Services
<b>DISCLOSURE OF ANY INTEREST:</b>	N/A
<b>DATE OF REPORT:</b>	13 July 2011
<b>SUMMARY:</b> This report informs Council of the response to an advertisement seeking public comment on a proposed policy for Sale of Recyclables and recommends adoption of the policy.	

**BACKGROUND**

Previous Considerations

At the Ordinary Council Meeting held on 12<sup>th</sup> May 2011, it was resolved:

*“That Council:*

1. *Endorses the draft “Sale of Recyclables” Policy for the purpose of being advertised in the local newspaper for public comment ;*
2. *Requests that the draft policy and any public comments be brought back to the August Council meeting for further consideration;*
3. *Delegates the authority to determine all requests for Sale of Recyclables in accordance with the Policy to the Chief Executive Officer; and*
4. *Requests a Business Operating procedure be developed to support the policy”.*

The report and attached draft policy that went to Council on 12th May 2011.

This policy was prepared to enable the sale of recyclable items to the public from the Waste Management Facility (WMF) to be achieved in an open, transparent and accountable manner.

It prescribes that such sales are carried out on a basis endorsed by Council in a systematic way and duly recorded. Sale of recyclables will help to ensure that the volume of waste sent to landfill is minimised.

This policy sets out the pricing mechanism for such items and how a tip shop site is to be managed.

It also notes the requirement for a Condition of Sale to be developed which removes the liability for the re-use of such items from Council.

The draft new Policy is proposed at Attachment “B” entitled “Sale of Recyclables Policy”.



**COMMENT**

An advertisement was placed in the Broome Advertiser on 19<sup>th</sup> May 2011 (Attachment A). Submissions were invited to be submitted by 7<sup>th</sup> July 2011. No submissions were received.

The proposed Policy is represented at Attachment "B" entitled "Sale of Recyclables Policy".

It is recommended that Council adopt the policy.

**CONSULTATION**

Public comment was sought by advertisement in the Broome Advertiser on 19<sup>th</sup> May 2011.

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

**3.58. Disposing of property**

- (1) In this section —
- "dispose" includes to sell, lease, or otherwise dispose of, whether absolutely or not;*
  - "property" includes the whole or any part of the interest of a local government in property, but does not include money.*
- (2) Except as stated in this section, a local government can only dispose of property to —
- (a) *the highest bidder at public auction; or*
  - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
- (a) *it gives local public notice of the proposed disposition —*
    - (i) *describing the property concerned;*
    - (ii) *giving details of the proposed disposition; and*
    - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and*
  - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) *the names of all other parties concerned;*
  - (b) *the consideration to be received by the local government for the disposition; and*
  - (c) *the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.*
- (5) This section does not apply to —
- (a) *a disposition of land under section 29 or 29B of the Public Works Act 1902;*
  - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;*

- (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
  - (d) any other disposition that is excluded by regulations from the application of this section.
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 sub-regulation (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.*

**POLICY IMPLICATIONS**

This is a proposed new policy.

**FINANCIAL IMPLICATIONS**

If adopted, this policy will allow for sales of recyclable items from the WMF, result in a reduction in the volume of waste going to landfill and an increase in income for the Council.

**STRATEGIC IMPLICATIONS**

**Place**

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

**Prosperity**

Support business and economic development.

**VOTING REQUIREMENTS**

Absolute Majority.

<b><u>COUNCIL RESOLUTUION:</u></b> <b>(REPORT RECOMMENDATION)</b>	
<i>That Council adopts the document “Sale of Recyclables Policy” attached to this report as Policy.</i>	
<b>(Absolute Majority required)</b>	
<b>Moved: Cr J Bloom</b>	<b>Seconded: Cr D M Male</b>
<b>CARRIED 7/0 BY ABSOLUTE MAJORITY</b>	

[Attachment: 6 pages](#)

**9.5.3 TENDER 11/02 - SUPPLY AND APPLICATION OF BITUMINOUS SEALING WORKS (RE-ADVERTISED)**

**LOCATION/ ADDRESS:** Various Locations  
**APPLICANT:** N/A  
**FILE:** Contract 11/02  
**AUTHOR:** Manager of Asset and Design  
**CONTRIBUTOR/S:** Nil  
**RESPONSIBLE OFFICER:** Director of Engineering Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE OF REPORT:** 21 July 2011

**SUMMARY:** This report considers Tenders received following re-advertisement for the Supply and Application of Bituminous Sealing products to be used in the construction of various projects, and seeks adoption of the recommendation contained in the confidential tender evaluation report.

**BACKGROUND**

Previous Considerations

At the Ordinary Council Meeting held on 17 February 2011, Item 9.4.2 "Contract 10/11 Supply and Application of Bituminous Sealing Works for the Shire Of Broome (Period 1 March 2011 To 1 March 2013)" Council adopted the following recommendation:

"COUNCIL RESOLUTION:

*That Council;*

1. *Declines to accept any tender for the Schedule of Rates Contract 10/11 Supply and Application of bituminous Sealing Works for the Shire of Broome for the period 1st March 2010 to 1st March 2013.*
2. *Re-call for tenders for Supply and Application of Bituminous Sealing Works for the 2011/2012 works program.*
3. *Delegates to the Chief Executive Officer the authority to negotiate directly with Bitumen Sealing Contractors so as to obtain the best value possible for sealing works for the remainder of the 2010/2011 Capital Works program.*

*Reason: The Council Resolution adopted was similar to the Officer recommendation in the Confidential Report with minor amendment and the addition of a third dot point."*

**COMMENT**

This Tender is a Schedule of Rates contract for the supply and application of bituminous sealing works to various Shire road and car park projects. Various options are included for different seal types as used, with estimated totals based on the expected works program. The Contract is set up as a biannual contract with the provision after 12 months for the

successful tenderer to review their schedule of rates and resubmit prices based on the increase in the world gross market price of bitumen at the time.

As part of the process for advertising Tender 11/02, a review of previous documentation was undertaken. The basic tender specification had been used for over 10 years, was based on being serviced by contractors mobilising from Perth and did not reflect the current arrangements of a company with a local presence providing the best value to the Shire. The tender documentation does however not preclude non-local companies from providing a conforming tender.

The Shire carries out a varied and complex Capital Works Program with it being split over two distinct construction periods, before and after wet seasons. The ability of sealing contractors to provide multiple visits and react within short notice is now a major requirement, especially in urban construction. It would be extremely difficult to schedule works such as the recently constructed Cable Beach East roundabout to not only be constructed out of the wet, out of the tourist season, finished prior to Christmas and also coincide with random visits by sealing contractors.

The new tender documentation also provides specific schedules for any required sealing works on Cape Leveque Road and Bidyadanga Roads.

## **CONSULTATION**

Not applicable.

## **STATUTORY ENVIRONMENT**

### ***Local Government Act 1995***

*"Section 1.8 Statewide Public Notice*

*Where under this Act Statewide public notice of a matter is required to be given, section 1.7 applies except that the newspaper referred to in section 1.7(1)(a) is required to circulate generally throughout the State.*

*Section 3.57 Tenders For Providing Goods or Services*

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply good or services.*
- (2) *Regulations may make provision about tenders*

### ***Local Government (Functions and General) Regulations 1996:***

*Section 5 R14 and R15*

#### **14. Requirements for publicly inviting tenders**

- (1) *When regulation 11(1), 12 or 13 requires tenders to be publicly invited, Statewide public notice of the invitation is to be given.*
- (2) *If the CEO has, under regulation 23(4), prepared a list of acceptable tenderers, instead of giving Statewide public notice the CEO is required to give notice of the invitation to each acceptable tenderer listed.*
- (2a) *If a local government —*

- (a) is required to invite a tender; or
- (b) not being required to invite a tender, decides to invite a tender, the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.
- (3) The notice, whether under subregulation (1) or (2), is required to include —
  - (a) a brief description of the goods or services required;
  - (b) particulars identifying a person from whom more detailed information as to tendering may be obtained;
  - (c) information as to where and how tenders may be submitted; and
  - (d) the date and time after which tenders cannot be submitted.
- (4) In subregulation (3)(b) a reference to detailed information includes a reference to —
  - (a) such information as the local government decides should be disclosed to those interested in submitting a tender;
  - (b) detailed specifications of the goods or services required;
  - (c) the criteria for deciding which tender should be accepted;
  - (d) whether or not the local government has decided to submit a tender; and
  - (e) whether or not the CEO has decided to allow tenders to be submitted by facsimile or other electronic means, and if so, how tenders may so be submitted.
- (5) After a notice has been given under subregulation (1) or (2), a local government may vary the information referred to in subregulation (3) by taking reasonable steps to give each person who has sought copies of the tender documents or each acceptable tenderer, as the case may be, notice of the variation.

[Regulation 14 amended in Gazette 29 Jun 2001 p. 3130.]

- 15. Minimum time to be allowed for submitting tenders
  - (1) If the notice is published in the newspaper as part of giving Statewide public notice, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is first published in the newspaper as part of giving Statewide public notice.
  - (2) If the notice is given to a person listed as an acceptable tenderer, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is given."

**Local Government Act 1995**

Clause 2.4 The Local Government (Functions and General) Regulations 1996, Part 4, Division 2, regulation 18, paragraph (2)

- (1) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.

**POLICY IMPLICATIONS**

Not applicable.

**FINANCIAL IMPLICATIONS**

Assuming the report recommendation is accepted, then the overall cost of bituminous materials to be used are fully funded as per the proposed 2011/2012 Operational and Capital Works budgets.

**STRATEGIC IMPLICATIONS**

**People**

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

**Place**

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

**Prosperity**

Support business and economic development.

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

**VOTING REQUIREMENTS**

Simple Majority.

**REPORT RECOMMENDATION:**

*That Council adopts the recommendations as contained in the Confidential Tender Assessment Report for Contract 11/02 - Supply and Application of Bituminous Sealing Works for the Shire of Broome (Period 15 August 2011 to 30 July 2013).*

**COUNCIL RESOLUTION:**

*That Council;*

- (a) Accepts the Tender of DOWNER EDI Works Pty Ltd for the schedule of rates contract 11/02 Supply and Application of Bituminous Sealing Works for the Shire of Broome for the period 15<sup>th</sup> August 2011 to 30<sup>th</sup> June 2013 on the basis of that tender meeting the evaluation criteria assessment as set out in the tender details, and offering the best value to the Shire of Broome; and*
- (b) That the final agreed contract schedules on which final prices will be paid, will consist of the base rate conforming the alternative schedule (1) and the alternative schedule (2).*

**Moved: Cr C R Mitchell**

**Seconded: Cr R de Wit**

**CARRIED UNANIMOUSLY**

Attachment: 10 pages (Confidential to Councillors and Directors Only)



**9.5.4 TENDER 11/06 - CONSTRUCTION OF EXTRUDED CONCRETE KERBING WITHIN THE BROOME TOWNSITE (15 August 2011 – 30 June 2013)**

**LOCATION/ ADDRESS:** Various Locations  
**APPLICANT:** N/A  
**FILE:** Contract 11/06  
**AUTHOR:** Manager of Asset and Design  
**CONTRIBUTOR/S:** Nil  
**RESPONSIBLE OFFICER:** Director of Engineering Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE OF REPORT:** 21 July 2011

**SUMMARY:** This report considers Tenders received for the construction of extruded concrete kerbing within the Broome Town site, and seeks adoption of the recommendation contained in the confidential tender evaluation report.

**BACKGROUND**

Previous Considerations

Not Applicable.

**COMMENT**

This contract is a schedule of rates contract for the supply and construction of extruded concrete kerbing to various Shire road and car park capital works and maintenance projects. Various types of kerb profile and miscellaneous associated works are included and the quantities are based on estimates only from the works program. The contractor is paid only for the actual metres of kerb laid, at the accepted rate, and therefore the total costs shown on the evaluation report attached schedules are best estimates only, for the purpose of tender comparison.

To minimise costs associated with the contract tender process, this contract is proposed to run for two (2) years. The successful tenderer will be able to claim an increase in rates after 12 months should they provide evidence of an increase in the base per cubic metre price of concrete from the time of original tender.

**CONSULTATION**

Not applicable.

**STATUTORY ENVIRONMENT**

***Local Government Act 1995***

*Section 1.8: Statewide Public Notice*

*“Where under this Act Statewide public notice of a matter is required to be given, section 1.7 applies except that the newspaper referred to in section 1.7(1)(a) is required to circulate generally throughout the State.”*

## Section 3.57 Tenders for providing goods or services:

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply good or services.
- (2) Regulations may make provision about tenders

**Local Government (Functions and General) Regulations 1996:**

## Section 5 R14 and R15

## 14. Requirements for publicly inviting tenders:

- (1) When regulation 11(1), 12 or 13 requires tenders to be publicly invited, Statewide public notice of the invitation is to be given.
- (2) If the CEO has, under regulation 23(4), prepared a list of acceptable tenderers, instead of giving Statewide public notice the CEO is required to give notice of the invitation to each acceptable tenderer listed.
- (2a) If a local government —
  - (a) is required to invite a tender; or
  - (b) not being required to invite a tender, decides to invite a tender, the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.
- (3) The notice, whether under subregulation (1) or (2), is required to include —
  - (a) a brief description of the goods or services required;
  - (b) particulars identifying a person from whom more detailed information as to tendering may be obtained;
  - (c) information as to where and how tenders may be submitted; and
  - (d) the date and time after which tenders cannot be submitted.
- (4) In subregulation (3)(b) a reference to detailed information includes a reference to —
  - (a) such information as the local government decides should be disclosed to those interested in submitting a tender;
  - (b) detailed specifications of the goods or services required;
  - (c) the criteria for deciding which tender should be accepted;
  - (d) whether or not the local government has decided to submit a tender; and
  - (e) whether or not the CEO has decided to allow tenders to be submitted by facsimile or other electronic means, and if so, how tenders may so be submitted.
- (5) After a notice has been given under subregulation (1) or (2), a local government may vary the information referred to in subregulation (3) by taking reasonable steps to give each person who has sought copies of the tender documents or each acceptable tenderer, as the case may be, notice of the variation.

[Regulation 14 amended in Gazette 29 Jun 2001 p. 3130.]

## 15. Minimum time to be allowed for submitting tenders

- (1) If the notice is published in the newspaper as part of giving Statewide public notice, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is first published in the newspaper as part of giving Statewide public notice.

- (2) *If the notice is given to a person listed as an acceptable tenderer, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is given.*

**Local Government Act 1995**

Clause 2.4 The Local Government (Functions and General) Regulations 1996, Part 4, Division 2, regulation 18, paragraph (2)

- (1) *A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.*

**POLICY IMPLICATIONS**

Not applicable.

**FINANCIAL IMPLICATIONS**

Costs of all kerbing construction are fully funded as per the 2011/2012 operational and capital works budgets.

**STRATEGIC IMPLICATIONS**

**People**

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

**Place**

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

**Prosperity**

Support business and economic development.

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

**VOTING REQUIREMENTS**

Simple Majority.

**REPORT RECOMMENDATION:**

*That Council adopts the recommendations as contained in the confidential tender evaluation report for Contract 11/06 Construction of Extruded Concrete Kerbing within the Broome Townsite for the period 15 August 2011 to 30 June 2013*

**COUNCIL RESOLUTION:**

*That Council accepts the tender submitted by Kimberley Kerbs for the Schedule of Rates Contract 11/06 Construction of Extruded Concrete Kerbing within the Broome Townsite for the period 15<sup>th</sup> August 2011 to 30<sup>th</sup> June 2013 on the basis of the tender meeting the evaluation criteria assessment as set out in the tender details and being the only tender received.*

**Moved: Cr C R Mitchell**

**Seconded: Cr J Bloom**

**CARRIED UNANIMOUSLY**

Attachment: 5 pages (Confidential to Councillors and Directors Only)

**9.5.5 TENDER 11/07 - CONSTRUCTION OF CONCRETE FOOTPATHS AND CROSSOVERS WITHIN THE BROOME TOWNSITE (15 August 2011 – 30 June 2013)**

**LOCATION/ ADDRESS:** Various Locations  
**APPLICANT:** N/A  
**FILE:** Contract 11/07  
**AUTHOR:** Manager of Asset and Design  
**CONTRIBUTOR/S:** Nil  
**RESPONSIBLE OFFICER:** Director of Engineering Services  
**DISCLOSURE OF ANY INTEREST:** Nil  
**DATE OF REPORT:** 21 July 2011

**SUMMARY:** This report considers Tenders received for the construction of concrete footpaths and crossovers within the Broome Town site, and seeks adoption of the recommendation contained in the confidential tender evaluation report.

**BACKGROUND**

Previous Considerations

Not applicable.

**COMMENT**

This Contract is a "Schedule of Rates" contract for the supply and construction of concrete footpaths, pram ramps and associated items for the works program, plus crossovers for those owners who request the Shire to arrange for their construction.

The footpath and crossover contracts are now combined as the total number of crossovers constructed each year is relatively low (Approx. less than 3), mainly due to the majority of owners using coloured, stamped and brick crossovers to match their internal driveways, and therefore these are normally arranged by the builder. The contractor is paid only for the actual area of footpaths and/or crossovers constructed, at the accepted rate, and therefore the total costs shown in the attachments of the confidential tender report are based on estimated areas only for tender purposes.

To minimise costs associated with the contract tender process, this contract is proposed to run for two (2) years. The successful tenderer will be able to claim an increase in rates after 12 months should they provide evidence of an increase in the base per cubic metre price of concrete from the time of original tender.

**CONSULTATION**

Not applicable.

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*"Section 1.8 Statewide Public Notice*

Where under this Act Statewide public notice of a matter is required to be given, section 1.7 applies except that the newspaper referred to in section 1.7(1)(a) is required to circulate generally throughout the State.

*Section 3.57 Tenders for Providing Goods or Services*

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply good or services.
- (2) Regulations may make provision about tenders

**Local Government (Functions and General) Regulations 1996**

*Section 5 R14 and R15*

14. *Requirements for publicly inviting tenders*

- (1) When regulation 11(1), 12 or 13 requires tenders to be publicly invited, Statewide public notice of the invitation is to be given.
- (2) If the CEO has, under regulation 23(4), prepared a list of acceptable tenderers, instead of giving Statewide public notice the CEO is required to give notice of the invitation to each acceptable tenderer listed.
- (2a) If a local government —
  - (a) is required to invite a tender; or
  - (b) not being required to invite a tender, decides to invite a tender, the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.
- (3) The notice, whether under subregulation (1) or (2), is required to include —
  - (a) a brief description of the goods or services required;
  - (b) particulars identifying a person from whom more detailed information as to tendering may be obtained;
  - (c) information as to where and how tenders may be submitted; and
  - (d) the date and time after which tenders cannot be submitted.
- (4) In subregulation (3)(b) a reference to detailed information includes a reference to —
  - (a) such information as the local government decides should be disclosed to those interested in submitting a tender;
  - (b) detailed specifications of the goods or services required;
  - (c) the criteria for deciding which tender should be accepted;
  - (d) whether or not the local government has decided to submit a tender; and
  - (e) whether or not the CEO has decided to allow tenders to be submitted by facsimile or other electronic means, and if so, how tenders may so be submitted.
- (5) After a notice has been given under subregulation (1) or (2), a local government may vary the information referred to in subregulation (3) by taking reasonable steps to give each person who has sought copies of the tender documents or each acceptable tenderer, as the case may be, notice of the variation.

[Regulation 14 amended in Gazette 29 Jun 2001 p. 3130.]

15. *Minimum time to be allowed for submitting tenders*

- (1) If the notice is published in the newspaper as part of giving Statewide public notice, the time specified in the notice as the time after which

- tenders cannot be submitted has to be at least 14 days after the notice is first published in the newspaper as part of giving Statewide public notice.
- (2) If the notice is given to a person listed as an acceptable tenderer, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is given.

**Local Government Act 1995**

Clause 2.4 The Local Government (Functions and General) Regulations 1996, Part 4, Division 2, regulation 18, paragraph (2)

- (1) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.

**POLICY IMPLICATIONS**

Not applicable.

**FINANCIAL IMPLICATIONS**

Costs of all footpath construction is fully funded as per the 2011/2012 Operational and Capital Works budgets.

**STRATEGIC IMPLICATIONS**

**People**

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

**Place**

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

**Prosperity**

Support business and economic development.

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

**VOTING REQUIREMENTS**

Simple Majority.

REPORT RECOMMENDATION

*That Council adopts the recommendations as contained in the confidential tender evaluation report for Contract 11/07 Construction of Concrete Footpaths and Crossovers within the Broome Townsite for the period 15 August 2011 to 30 June 2013.*

COUNCIL RESOLUTION:

*That Council accepts the tender of AMO Contracting for the Schedule of Rates Contract 11/07 Construction of Concrete Footpaths and Crossovers within the Broome Townsite for the period 15<sup>th</sup> August 2011 to 30<sup>th</sup> June 2013 on the basis of that tenderer scoring the highest overall under the evaluation criteria assessment as set out in the tender details.*

**Moved: Cr D M Male**

**Seconded: Cr E Yu**

**CARRIED UNANIMOUSLY**

Attachment: 6 pages (Confidential to Councillors and Directors Only)



**10.**

**REPORTS**

**OF**

**COMMITTEES**

**10.1 BROOME CEMETERY ADVISORY COMMITTEE - MINUTES 20 JUNE 2011**

**LOCATION/ ADDRESS:** N/A  
**APPLICANT:** N/A  
**FILE:** CTE 39; RES 1647  
**AUTHOR:** Project and Administration Officer (Cemeteries)  
**CONTRIBUTOR/S:** Nil  
**RESPONSIBLE OFFICER:** Director Corporate and Community Services  
**DISCLOSURE OF ANY INTEREST:** N/A  
**DATE OF REPORT:** 13 July 2011

**SUMMARY:** To advise Council of the matters discussed at the Broome Cemetery Advisory Committee meeting held 20 June 2011 and to seek Council support for the Committee’s resolutions.

**BACKGROUND**

Previous Considerations:

Nil.

The Broome Cemetery Advisory Committee meets on a regular basis to discuss matters related to the management and administration of the Shire of Broome Cemeteries.

A recent meeting was held on Monday 20 June 2011 and Minutes for this meeting are attached.

**COMMENT**

The Committee discussed a number of issues and dealt with operational and strategic matters including, but not limited to:

- Committee membership changes;
- Cemetery Project Status update;
- Works at the Japanese Cemetery; and
- Niche Wall

Key outcomes included, the Committee’s resolution regarding future planning for a niche wall for placement of ashes and memorials in the Broome Cemetery.

**CONSULTATION**

Not applicable.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Funding is allocated in the 2010/2011 budget for the management, maintenance and capital works at the Shire of Broome cemeteries.

**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.

**VOTING REQUIREMENTS**

Simple Majority.

**COUNCIL RESOLUTION:**  
**(REPORT RECOMMENDATION)**

*That Council;*

1. *Receives the Broome Cemetery Advisory Committee Minutes of 20 June 2011; and*
2. *Endorses the recommendation (under minuted item 8.2) that Council considers future planning for a niche wall for the placement of ashes and memorials in the Broome Cemetery.*

*Moved: Cr R J Lander*

*Seconded: Cr C R Mitchell*

**CARRIED UNANIMOUSLY**

[Attachment: 6 pages](#)

**11. NOTICES OF MOTION**

Nil.

**12. LATE ITEMS**

Nil.

**13. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil.

**14. MATTERS BEHIND CLOSED DOORS**

Nil.

**15. MEETING CLOSURE**

There being no further business the Chairperson declared the meeting closed at 5.46pm.