



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

HELD IN THE COUNCIL CHAMBERS,
AT 5.00PM

27 October 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.

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NOTICE OF MEETING

Dear Council Member,

The next Ordinary Meeting of the Shire of Broome will be held on, Thursday 27 October 2011 in the Council Chambers, corner of Weld and Hass Streets, Broome, commencing at 5.00pm.

Regards

K R DONOHOE
Chief Executive Officer
18 October 2011

1. OFFICIAL OPENING

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

2. ATTENDANCE AND APOLOGIES

Attendance	Cr G T Campbell	Shire President
	Cr C R Mitchell	
	Cr D M Male	
	Cr E Yu	
	Cr Peter D Matsumoto	
	Cr M Manado	
	Cr Philip F Matsumoto	(from 5.05pm)
 Leave of Absence	Cr Jenny Bloom	

Moved: Cr C Mitchell *Seconded: Cr D Male*

That Cr J Bloom be granted a Leave of Absence for all Council meetings from 15 October to 10 November 2011 inclusive.

CARRIED UNANIMOUSLY

Moved: Cr C Mitchell *Seconded: Cr M Manado*

That Cr D Male be granted a Leave of Absence for all Council meetings from 11 November to 25 November 2011 inclusive.

CARRIED UNANIMOUSLY

Apologies	Cr A Poelina Neville Lavey	Director Engineering Services
 Officers	Kenn Donohoe Ingrid Bishop Peter Naylor	Chief Executive Officer Deputy Chief Executive Officer Director Corporate and Community Services
	Andre Schonfeldt John Willis Alison Seaman Bridget Visser Rochelle Piggin	Director Development Services Manager Asset and Design Council Secretary Media and Promotions Officer Manager Governance
 Public Gallery	Chislaine Sweet Dawie Van Rensburg	Shire of Broome Shire of Broome

Darryl Butcher	Shire of Broome
Michelle Teoh	Shire of Broome
Chris Maher	
Sally Eaton	Shire of Broome
Jean Indermaur	Shire of Broome
Joan Joseph	Shire of Broome
P Elles	
Maryanne Peterson	
Christine Elsasser	
Shane Hughes	
Jon Hall	
Flip Prior	Broome Advertiser

3. DECLARATIONS OF FINANCIAL INTEREST

Councillor	Item No	Page No	Item	Nature of Interest
Cr E Yu	9.3.3	40	AMENDMENT TO RURAL RATING POLICY	Impartial – has an association with Yawuru NTHAC RNTB as an ordinary member.
Cr E Yu	9.3.4	46	EVENT PROPOSAL - BROOME BEACH POLO FESTIVAL 2012	Impartial – has an association with Yawuru NTHAC RNTB as an ordinary member.
Cr E Yu	9.3.6	61	COMMUNITY SPONSORSHIP PROGRAM 2011/12	Financial – is the Secretary of the Broome Basketball Association Inc.
Cr E Yu	9.4.1	70	PROPOSED AMENDMENT - JANUBURU (SIX SEASONS) DEVELOPMENT PLAN	Impartial – has an association with Yawuru NTHAC RNTB as an ordinary member.
Cr E Yu	9.4.4	11	STATE ADMINSTRATIVE TRIBUNAL SECTION 31 REQUEST REVIEW OF DECISION - APPLICATION FOR VARIATION IN PLANNING APPROVAL – FENCE – LOT 491 (NO. 57) WIRL BURU GARDENS, CABLE BEACH	Impartial – has an association with Yawuru NTHAC RNTB as an ordinary member.

Cr E Yu	9.5.1		CLIFF EROSION ISSUE - TOWN BEACH TO CATALINA'S - BUDGET REVISION	Impartial – has an association with Yawuru NTHAC RNTB as an ordinary member.
Cr C R Mitchell	9.2.1	24	BROOME ENTERPRISE CENTRE – PROPOSAL TO RESCIND PORTION OF COUNCILS PREVIOUS RESOLUTION OCM 12 MAY 2011 – ITEM 9.2.4	Impartial – has an association with BEC as a board members for the Small Business Centre West Kimberley
Cr C R Mitchell	9.4.2	76	APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL - GROUPED DWELLINGS – LOT 1302 NO 12 BARDWELL STREET BROOME	Proximity – lives next door
Cr Peter D Matsumoto	9.3.4	46	EVENT PROPOSAL - BROOME BEACH POLO FESTIVAL 2012	Impartial – has an association with Native Title
Cr Peter D Matsumoto	9.5.1	92	CLIFF EROSION ISSUE - TOWN BEACH TO CATALINAS - BUDGET REVISION	Impartial – has an association with Native Title
Cr D M Male	9.4.4	11	SAT SECTION 31 REVIEW OF DECISION - APPLICATION FOR VARIATION IN PLANNING APPROVAL – FENCE – LOT 491 (NO. 57) WIRL BURU GARDENS, CABLE BEACH	Proximity – resides within proximity of the subject property

4. PUBLIC QUESTION TIME

Chris Maher submitted the following question on 26 October 2011 for the Ordinary Meeting of Council held on 27 October 2011. The question is as follows:

Question 1:

“Can you explain the current management structure for the Coastal Park on Cable Beach that was established through the Native Title Settlement and in particular the impact that management structure has on vehicle access to Cable Beach north of the rocks?”

Answer 1 – Chairperson (advised by the Executive Manager Strategic Development):

“Generally Coastal Park has been used to refer to the Minyirr Park area. This area only extends to the High Water Mark and does not include Cable Beach. The sand area below High Water mark is Broome Port Authority land. This situation continues north of the rocks for about 500 metres which is the limit of the Broome Port Authority land. The Minyirr Park area is included in the Townsite Conservation Areas which are to be placed in the care, control and management jointly of the Yawuru RNTBC and the Shire of Broome.

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

Further north the sand area below the High Water mark is identified in the Indigenous Landuse Agreement (ILUA) as the Cable Beach Intertidal Area and is to be placed in the care, control and management jointly of Yawuru RNTBC, the Conservation Commission and the Shire of Broome.

The management of all the conservation estate to be created as a result of the ILUA's will lie with the Park Council which is comprised of representatives of the Yawuru RNTBC, the Department of Conservation and Environment and the Broome Shire Council. The responsibilities of the various parties vary depending on the tenure of the particular area of the conservation estate under consideration. Management of the conservation estate will be in accordance with a Management Plan to be prepared for the Park Council under agreement by the Department of Environment and Conservation.

It is possible for the Management Plan to address the issue of vehicles on the beach but at this stage the Management Plan has not been prepared and not even considered in draft form. The Management Plan will have to be approved by the Shire Council before it is approved by the Park Council.

In summary, the management structure, the Park Council, can consider the matter of vehicles on a certain part of the beach but the actual Management Plan will have to be approved by both the Shire Council and the Park Council."

Chris Maher went on to ask:

"If someone wanted to ban cars on the beach is it a lengthy process?"

Chairperson:

"This would have to be in the management plan and brought back to council for consideration. The Park Council cultural mapping process is currently being reviewed by the Park Council which forms part of the management plan."

5. CONFIRMATION OF MINUTES

Moved: Cr C Mitchell

Seconded: Cr D Male

That the Minutes of the Ordinary Meeting of Council held on 29 September 2011 be confirmed as a true and accurate record of that meeting.

CARRIED UNANIMOUSLY

Moved: Cr E Yu

Seconded: Cr C R Mitchell

That the Minutes of the Special Meeting of Council held on 17 October 2011 be confirmed as a true and accurate record of that meeting.

CARRIED UNANIMOUSLY

6. ANNOUNCEMENTS BY PRESIDENT WITHOUT DISCUSSION

The Chairperson welcomed the return of Cr Philip F Matsumoto to the Ordinary Meeting of Council. Cr Philip F Matsumoto has been a former Shire Councillor.

7. PETITIONS

Nil.

8. MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

9.

**REPORTS
OF
OFFICERS**

In accordance with Section 3.2 of the Shire of Broome Standing Orders Local law 2003, items 9.4.4; 9.1.1; 9.1.2 and 9.1.3 as follows;

9.4.4, SAT SECTION 31 REVIEW OF DECISION - APPLICATION FOR VARIATION IN PLANNING APPROVAL – FENCE – LOT 491 (NO. 57) WIRL BURU GARDENS, CABLE BEACH;

9.1.1, KIMBERLEY DEVELOPMENT COMMISSION – NOMINATIONS;

9.1.2, REVIEW LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW – 2011; and

9.1.3, DELEGATIONS TO COMMITTEES AND WORKING GROUPS

be moved in the order of business.

Moved: Cr D M Male

Seconded: Cr C R Mitchell

CARRIED UNANIMOUSLY

With regard to Item 9.4.4 Cr E Yu disclosed that *“I have had an association with Yawuru NTHAC RNTB as an ordinary member. 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”.*

Cr D M Male declared a Proximity interest in item 9.4.4 and left the Chambers at 5.14pm.

9.4.4 STATE ADMINISTRATIVE TRIBUNAL SECTION 31 REQUEST REVIEW OF DECISION - APPLICATION FOR VARIATION IN PLANNING APPROVAL – FENCE – LOT 491 (NO. 57) WIRL BURU GARDENS, CABLE BEACH

LOCATION/ ADDRESS:	Lot 491 (No 57) Wirl Buru Gardens, Cable Beach
APPLICANT:	Peter Ellett
FILE:	WIR-1/57
AUTHOR:	Andrew Pawluk for West Coast Plan
CONTRIBUTOR/S:	Manager Planning Services
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE RECIEVED:	2 February 2011

SUMMARY: An application for a variation in planning approval was lodged for a boundary wall/fence of which sections were constructed in a different form to that of the planning approval issued 13 May 2010 for Lot 491 Wirl Buru Gardens. Council refused the application for variation its meeting of 12 May 2011.

The applicant appealed the decision with the State Administrative Tribunal (SAT). At the final Directions Hearing, SAT under Section 31 of State Administrative Tribunal Act has invited the Shire of Broome to reconsider its decision.

This report recommends approval of the application with conditions.

BACKGROUNDPrevious Considerations

OCM 13 May 2010 – Item 9.3.5
 OCM 12 May 2011 – Item 9.3.5

Site and Surrounds

The site comprises approximately 863sqm on the corner of Wirl Buru Gardens and Banu Avenue, Cable Beach. The property has a single story dwelling and a constructed boundary fence.

Abutting the property to the north the property has a single storey dwelling, to the east of the property a grouped dwelling development is currently under construction. Across Wirl Buru Gardens on the opposite side is a stormwater drain within a Parks and Recreation reserve beyond which is Gubinge Road. South of Banu Avenue is an Environmental and Cultural Corridor (ECC) that includes swale drainage.

Attachment 1 Locality Plan

Description of the Proposal

The owner of Lot 491 Wirl Buru Gardens was asked to submit an application for a variation to the planning approval issued for a dwelling and fence on 13 May 2010 as sections of the constructed fence were not built in accordance with the approved plans.

The constructed fence has a height of 1.8m and consists of the following, as viewed facing the house/wall from Wirl Buru Gardens and continuing onto Banu Avenue from left to right:

- Along Wirl Buru Gardens the fence is solid up to 0.3m with visually permeable wrought iron infill above 0.3m.
- Along the truncation the fence is solid up to 1.8m.
- Along Banu Avenue the fence is solid up to 1.8m for a stretch of 23m and for the remaining 12m it is solid up to 0.3m with a visually permeable wrought iron infill above 0.3m.

The constructed fence differs from the design as per the approved plan of 13 May 2010 in the following ways:

- One new driveway gate and 3 new fence panels along length of Wirl Buru frontage. This section of fence and gate is solid up to 0.3m with visually permeable wrought iron infill above 0.3m. (Panels 1, 2, 3 and 4)
- One new solid panel on the truncation linking the section of permeable new fence along Wirl Buru to two solid panels approved under the original 13 May 2010 approval. (Panel 5)
- Five fence panels approved as permeable or mostly permeable panels along Banu Avenue frontage but built as solid panels. (Panels 8, 10, 11, 12 and 13)

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

Attachment 2 – Fence design elevation as per 13 May 2010 approval and as constructed fence design elevation being the ‘variation plan’ and includes panel reference numbers.

Planning Provisions

The lot is zoned “Residential”

Local Planning Policy 8.12 - Fences within the Townsite of Broome (LPP8.12) requires:

- fences in the residential zone need to comply with the provisions of the RCodes i.e.: within the primary street setback area be visually permeable 1.2m above natural ground level.
- Along the secondary street the fence is to be designed in a way that it contributes to an attractive streetscape for passers-by while providing adequate security and privacy to occupants of the dwelling.

COMMENT

On 12 May 2011 Council considered the fence ‘variation plan’ and resolved to refuse the application for the following reasons:

- “1. Council exercised its discretion to apply performance criteria to approve the dwelling at its meeting on 13 May 2010 and the proposed treatment of the fence was an integral part of that consideration.
2. The extent of the solid wall proposed does not provide an acceptable level of visibility to enable surveillance and negatively impacts on the streetscape and the amenity of the street.”

and:

3. Directs the Chief Executive Officer to issue a Directions Notice in accordance with the Planning and Development Act directing that the fence be modified to accord with the approval dated 13 May 2010.”

On 20 June 2011 the applicant lodged an application to review the decision with SAT. Four Hearings were held to consider the matter. A summary of the outcomes of these is set out below.

Directions Hearing held 13 July 2011 - SAT requested the Respondent (Shire) to

- provide a summary of the key decisions and actions of the Shire in regard to all applications relevant to the Appeal matter.
- appoint an Agent to provide expert planning opinion.

In a letter dated 28 July 2011 the Shire provided a summary of the key decisions which included a Planning Approval for the Dwelling, a Building Licence for the dwelling and a Building Licence for the swimming pool which incorporated a section of the boundary fence.

An Agent was appointed but due to existing commitments could not part in proceedings until 7 September 2011

Directions Hearing held 10 August 2011 - SAT considered the Shire's letter of 28 July and the Applicant's response dated 3 August 2011. Following discussion on the status of what sections of the wall were built with approval the following was established:

- Panels 1, 2, 3 and 4 on the variation plan are compliant with R Codes and Council's LPP 8.12 fencing policy requirements.
- Panel 5 remained in contention. SAT noted that the Applicant had provided an argument for Performance Criteria to be considered for this panel.
- Panels 6 and 7 were constructed as solid panels as per the original approval and accordingly are compliant.
- Panels 8 and 10 were approved by the Shire under the Building Licence for the swimming pool as solid wall panels and accordingly were deemed compliant. SAT took the view the Building Licence was a Shire approval even though it did not reflect the original planning approval.
- Panel 9 was approved as a solid panel under the original approval and accordingly was considered compliant.
- Panels 11, 12 and 13. The Applicant in addition to their argument for Performance Criteria as provided in their letter of 3 August 2011 further argued at the Directions Hearing that the Shire's LPP 8.12 Fencing Policy under the heading Secondary Street Fence, fourth dot point, states that a solid wall could be permitted where it is needed to provide adequate security and privacy to the occupants. SAT acknowledged that
 - The section of wall (being panels 11, 12 and 13) provided protection to the dwellings alfresco area and accepted the view that there was adequate justification under the Performance Criteria accept a solid wall for Panels 11,12 and 13.
 - And accepted the Applicant's argument that while the Shire's refusal to the 'variation plan' states that "*Council exercised its discretion to apply performance criteria to approve the dwelling... and the proposed treatment of the fence was an integral part of that consideration*" the actual planning reports on the original approval (13 May 2010) and variation plan refusal (12 May 2011) do not actually include any reference to the 'wall' being a factor in the application of such discretion. The discretion included in the original report was noted as considering the matters of the two areas of extensive open space on the opposite side of Banu and Wirl Buru and the provision of an outdoor decked area.
 - The solid walls on Panels 11, 12 and 13 were established to be compliant based on accepting Performance Criteria and being subject to a requirement for landscaping to be installed to provide a

softening of the wall and to create a more attractive streetscape so as to comply with LPP 8.12 Fence Policy.

- Panel 14 was constructed as a solid panel as per the original approval and accordingly was compliant.
- Panels 15, 16 and 17 were constructed as permeable panels in accordance with the original approval and are accordingly compliant.

Following Hearing of 10 August SAT ordered that:

- "1. The parties agree that the issue in relation to this matter relates to the sections of fence as shown on the plan referred to as 'Panels and Sections of Panel Requiring Approval' on Page 5 of the document prepared by Peter D Webb and Associates dated 3 August 2011.*
- 2. The applicant was to provide a detailed landscaping plan to the respondent by Wednesday, 31 August 2011.*
- 3. The matter is listed for a Directions Hearing at 9am on Wednesday, 7 September 2011."*

The outcome from the Hearing of 10 August 2011 was that both parties through the Hearing process (and not after as implied through the Order) agreed that the only remaining panel in contention was Panel 5.

Attachment 3 – Copy of Summary of Key Decisions and approved plans issued by the Shire incorporating plans.

Attachment 4 – Copy of letter from Applicant (Webb and Associates acting as Agent) dated 3 August 2011.

Directions Hearing Held 7 September 2011 - SAT considered arguments from both parties in regard to whether the justification as provided by the applicant was deemed to be acceptable as meeting the Performance Criteria to allow Panel 5 as a solid panel. The Applicant argued that headlight glare from vehicles turning into Banu from Gubinge would impact on the windows of the living room if the solid panel was replaced by a permeable panel. The SAT took the view that headlight glare was a relevant consideration in regard to Performance Criteria 6.2.5. of the R Codes.

SAT advised both parties to undertake an on-site demonstration at night time to determine whether there was impact from headlight glare as it is a key element in regard to meeting the Performance Criteria and Ordered a further Hearing for 7 October 2011 for the outcome of that exercise to be considered.

SAT accepted the Respondent's argument that the plants proposed to be used in the Applicant's landscaping plan (dated 26 August 2011) were not appropriate and that the plant selection did not provide a softening element. SAT asked the Respondent to provide a list of more appropriate plant species by the 7 October Hearing.

Subsequent to the Hearing the Respondent provided all parties with a list of plant species considered suitable and the standard shire conditions that would apply.

Directions Hearing Held 7 October 2011 - SAT considered written advice provided by both parties in regard to the on-site headlight glare exercise. The Shire officers confirmed the windows to the living room of the house were exposed and would be further exposed to headlight glare if Panel 5 was replaced by a permeable panel.

A detailed consideration of the outcome of the exercise and whether the impact of the headlight glare could be accepted as meeting the Performance Criteria 6.2.5 was provided in a letter from the Shire’s Agent to the Tribunal. It was established that glare off headlights from cars did have a significant impact on Panel 5 and that if Panel 5 was removed that this would significantly increase the impact on the living room windows to the dwelling. It was conceded that there was a case for accepting that the solid wall of Panel 5 can be considered to comply with the Performance Criteria 6.2.5. of the R Codes.

SAT considered that the list of plant species recommended to be utilised in the landscaping plan should be provided as part of the conditional approval. SAT considered that the requirement for public liability was inappropriate as no physical works were to be carried out in the verge area and that a 70A notification was onerous for a residential property where it is generally accepted that the owners of a property are responsible for the upkeep of the verge area. SAT also noted the provisions of the Property and Public Place Local Law.

SAT under Order applied Section 31 of the State Administrative Tribunal Act has invited the Council to reconsider its decision on the fence ‘variation plan’ application at its October Council meeting. Under Section 31 of the SAT Act:

- “ the decision maker may –*
- (a) Affirm the decision; or*
- (b) Vary the decision; or*
- (c) Set aside the decision and substitute its new decision.*

If the decision-maker varies the decision or sets it aside and substitute a new decision, unless the proceeding for a review is withdrawn it is taken to be for the review of the decision as varied or the substituted decision.”

Attachment 5 – Copy of email from Applicant (Webb as Agent) to M Teoh Shire of Broome dated 27 September 2011

Attachment 6 – Copy of letter from Shire to Tribunal dated 5 October providing list of appropriate plant species

Attachment 7 – Copy of letter dated 4 October 2011 from Andrew Pawluk (West Coast Plan as Agent for the Shire) to Tribunal providing consideration of the headlight glare exercise

Conclusion

Through the SAT Hearings it was found in regard to each of the panels of the application for the fence ‘variation plan’ that:

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

Panels 1, 2, 3, and 4 as permeable panels are compliant with R Codes and LPP 8.12.

Panel 5 as a solid panel can be considered compliant as meeting R Codes Performance Criteria for preventing headlight glare to the living room windows of the house, subject to landscaping being installed to soften the appearance of the wall.

Panels 6 and 7 as solid panels were constructed as per the original dwelling approval and are compliant.

Panels 8 and 10 were approved under building licence for the swimming pool as solid panels and are therefore compliant.

Panel 9 as a solid panel was constructed as per the original dwelling approval and is compliant.

Panels 11, 12 and 13 could be accepted as solid panels in accordance with Council's LPP 8.12 Fence Policy as the solid panels are facing the secondary street and provide security and privacy to the alfresco area of the dwelling. The acceptance is under the provision that adequate landscaping is installed in the street verge to soften the impact of the solid wall, in accordance with LPP 8.12.

Panel 14 as a solid panel was constructed as per the original dwelling approval and is compliant.

Panel 15, 16 and 17 as permeable panels are constructed in accordance with the original dwelling approval.

In respect to the outcome of State Administrative Tribunal (SAT) Appeal Directions hearings it is considered that the constructed fence can be supported on the basis that:

- Parts of the fence are in compliance with the original dwelling approval;
- Parts of the fence are deemed to comply by meeting relevant Performance Criteria of the R Codes and the Shire's LPP 8.12 Fence Policy objectives;
- Appropriate landscaping be undertaken along both the Wirl Buru and Banu street verges to soften the impact of the wall.

It is recommended that the refusal decision of 13 May 2011 be rescinded and that the application for the fence 'variation plan' be approved subject to appropriate conditions.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Town Planning Scheme No 4

4.13 Residential Zone

4.13.1 Aims and Objectives

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

4.13.1.1 The aim of the zone is to provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes. Any development of land is to comply with the standards and requirements of:

- (a) the provisions of this Scheme; and
- (b) without limiting the generality of sub clause 5.2.3, the Residential Design Codes in respect of development for residential purposes.

5.2 Residential Design Codes

5.2.1 For the purpose of this Scheme "Residential Design Codes" means the Residential Design Codes set out in Statement of Planning Policy No. 3.1, together with any amendments thereto

5.2.2 A copy of the Residential Design Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.

5.2.3 Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the Residential Design Codes shall conform to the provisions of those Codes.

5.2.4 The Residential Design Code density applicable to land within the Scheme Area shall be determined by reference to the Residential Design Codes density number superimposed on the particular areas shown on the Scheme maps as being contained within the solid black line borders or where such an area abuts another area having a Residential Design Code density, as being contained within the centre-line of those borders.

State Planning Policy 3.1 Residential Design Codes 2010.

6.2.5 Performance Criteria

"P5 Front walls and fences to promote surveillance and enhance streetscape, taking into account:

- The need to provide protection from noise and headlight glare where roads are designated as a primary or district distributors or integrated arterials; or
- The need to provide screening to the front setback; or
- The need to provide privacy to north facing outdoor living areas."

Appendix 1 - Definitions.

Visually permeable

In reference to a wall, gate, door or fence that vertical surface has:

- continuous vertical or horizontal gaps of at least 50 mm width occupying not less than one third of its face in aggregate of the entire surface or where narrower than 50 mm, occupying at least one half of the face in aggregate, as viewed directly from the street; or
- a surface offering equal or lesser obstruction to view.

Local Planning Policy 8.12 - Fences within the townsite of Broome.

Residential areas

Fences within residential areas shall comply with the following:

Materials Used

- Suitable materials include brick, concrete, timber, wrought iron, tubular steel, link mesh, wire, or metal sheeting- (other than zincalume).

- *Not permitted materials — include electric, barbed wire or similar sharp or jagged projections*

Primary Street fence

- *Shall comply with the provisions of the R Codes.*
- *Shall not exceed a height of 1.8m without the approval of the Council.*

Secondary Street fence

- *Shall comply with the provisions of the R Codes*
- *Shall not exceed a height of 1.8m without the approval of the Council.*
- *Along the secondary street and within the primary street setback area the fence above 1.2m is to be visually permeable replicating the design of the fence along the primary street*
- *Along the remainder of the secondary street the fence is to be a design that contributes to an attractive streetscape for passers-by while providing adequate security and privacy to occupants of the building (refer Figure 1)*

Common boundary fences

- *Fences shall not exceed a height of 1.8m without the approval of the Council.*
- *Shall be erected in accordance with the Dividing Fences Act.*
- *Where possible breezeway fencing is encouraged.*

Local Government Property and Public Places Local Law 2003.

Part 9- Activities in thoroughfares

Division 1 - Verge treatments

Interpretation

9.1 *In this Division, the following terms have the following meaning:
 “acceptable material” means any material that will create a hard surface, and which appears on a list of acceptable materials maintained by the local government; and “permissible verge treatment” means a verge treatment specified in clause 9.3.*

Verge treatment

9.2 *The owner or occupier of land adjacent to a verge shall not install or maintain a verge treatment on the verge which is not a permissible verge treatment and in any event shall not:*

- (a) *alter the finished level of the verge; or*
- (b) *cover, obstruct or otherwise adversely affect the intended purpose of any manhole, inspection pit, constructed drain or other facility or installation placed or constructed by a public body in any part of or adjacent to a thoroughfare.*

Permissible verge treatments

9.3 *For the purpose of clause 9.1, the permissible verge treatments are as follows:*

- (a) *Treatment 1 Plant and maintain a lawn; or*
- (b) *Treatment 2 Plant and maintain a garden provided that:*
 - (i) *no part of the garden (or plant, or other vegetation making up the garden) restricts the clear sight visibility of pedestrians or motorists in the vicinity of intersection corners and bends in the adjoining thoroughfare;*

- (ii) *no plant or other vegetation making up the garden is of a thorny or poisonous nature or which may otherwise create a hazard for pedestrians;*
- (iii) *pedestrians must have a 2 metre wide path or accessway established and kept clear of vegetation at all times adjacent to the edge of the carriageway where there is no made footpath; and*
- (iv) *no water pipes or connections protrude above the surface of the garden; or*
- (c) *Treatment 3 Install an acceptable material provided that storm water run off generated from the resulting hard surface is not likely to cause a hazard or damage to any property; or*
- (d) *Treatment 4 Install an acceptable material over a portion of the verge (excluding any crossover) and plant and maintain either a lawn or a garden on the balance in accordance with paragraph (a) or (b) respectively.*

Owner's or occupier's responsibilities for verge treatments

9.4 An owner or occupier of land adjacent to a verge who installs or maintains a permissible verge treatment on the verge shall:

- (a) *keep the verge treatment in good and tidy condition and ensure, where the verge treatment is a garden or lawn, that no obstruction of any sort (physical, sight or other) is caused to any accessway, footpath, pavement or carriageway;*
- (b) *create a hard surface with an acceptable material only;*
- (c) *not place any obstruction on or around any verge treatment;*
- (d) *not water or maintain a verge treatment in such a manner as to cause a nuisance or hazard to any person using the adjacent footpath, accessway or carriageway; and*
- (e) *not extend the verge treatment beyond the verge immediately adjacent to the land owned or occupied by the owner or occupier, without the written approval of the owner of the adjoining property, immediately adjacent to the verge to be treated.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

Create community spaces.

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

Encourage recreational activity.

Facilitate a safe environment.

Nurture and build social capital to increase community capacity.

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

Engage with local community by presenting realistic and sustainable land use strategies for the Shire within the state and national frameworks.

Ensure that our planning processes result in a built environment that reflects arid tropical climate design principles and historical built form.

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome’s iconic tourism assets and reputation.

Implement best practice asset management plans to optimise Shires’ infrastructure whilst minimising life cycle costs.

As required under the Commonwealth Government’s Bi-lateral Agreement, Council is able to mobilise resources to deliver municipal services to Indigenous communities that are compliant, effective and within Council’s capacity.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

Encourage the provision of affordable land for residential, industrial, commercial and community use.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.

Encourage community engagement.

Manage staff attraction and retention.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Absolute Majority

REPORT RECOMMENDATION:

That Council:

- A. *Rescinds the refusal decision of 13 May 2011 for a variation in planning approval 2011/12 – fence submitted by Peter Ellett on Lot 491 Wirl Buru Gardens Cable Beach, Broome.*
- B. *Approves the application for variation in planning application 2011/12 – fence submitted by Peter Ellett on Lot 491 Wirl Buru Gardens Cable Beach, subject to the following conditions:*
1. *Development must be carried out in accordance with the plans dated 2 February 2011, which were submitted with the application, and endorsed by the Shire.*
 2. *Within 30 days from the date of this approval a Landscaping Plan must be submitted to and approved by the Shire, for all areas within the abutting Banu Avenue and Wirl Buru road reserve. 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 and proposed trees and shrubs.*
 - b). *Any lawns to be established.*
 - c). *Those areas to be reticulated or irrigated.*
 - d). *Include those species of plants and reflect the recommended species as provided in the Shire's letter dated 5 October 2011 addressed to the State Administrative Tribunal as provided to the applicant.*
 3. *Landscaping within the verge must be in accordance with the approved Landscaping Plan and must be installed within 90 days of this approval and then maintained to the satisfaction of the Shire.*

COUNCIL RESOLUTION:

That Council:

- A. *In accordance with section 31 of the State Administrative Tribunal (SAT) Act 2004 set aside the refusal decision of 13 May 2011 for a variation in planning approval 2011/12 – fence submitted by Peter Ellett on Lot 491 Wirl Buru Gardens Cable Beach, Broome; and*

B. Substitutes the decision to refuse with a decision to approve the application for variation in planning application 2011/12 – fence submitted by Peter Ellett on Lot 491 Wirl Buru Gardens Cable Beach, subject to the following conditions:

1. *Development must be carried out in accordance with the plans dated 2 February 2011, which were submitted with the application, and endorsed by the Shire.*
2. *Within 30 days from the date of this approval a Landscaping Plan must be submitted to and approved by the Shire, for all areas within the abutting Banu Avenue and Wirl Buru road reserve. 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 and proposed trees and shrubs.*
 - b). *Any lawns to be established.*
 - c). *Those areas to be reticulated or irrigated.*
 - d). *Include those species of plants and reflect the recommended species as provided in the Shire’s letter dated 5 October 2011 addressed to the State Administrative Tribunal as provided to the applicant.*
3. *Landscaping within the verge must be in accordance with the approved Landscaping Plan and must be installed within 90 days of this approval and then maintained to the satisfaction of the Shire.*

Moved: Cr E Yu Seconded Cr C R Mitchell

CARRIED BY ABSOLUTE MAJORITY 6/0

[Attachment: 27 pages](#)

Cr D M Male returned to the Chambers at 5.15pm.

With regard to Item 9.2.1 Cr C R Mitchell disclosed that "I have had an association with the BEC as a board member for the Small Business Centre West Kimberley. 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".

9.2.1 BROOME ENTERPRISE CENTRE – PROPOSAL TO RESCIND PORTION OF COUNCILS PREVIOUS RESOLUTION ORDINARY COUNCIL MEETING 12 MAY 2011 – ITEM 9.2.4

LOCATION/ ADDRESS: Portion Reserve 42502 Cable Beach Road
APPLICANT: Broome Enterprise Centre (Inc) - (Trading as Small Business Centre West Kimberley)
FILE: LSS.043; RES 42502
AUTHOR: Property Management and Leasing Coordinator
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Deputy Chief Executive Officer
DISCLOSURE OF ANY INTEREST: N/A
DATE OF REPORT: 12 October 2011

SUMMARY: Request to rescind portion (2) of the rental review terms to clarify continuity of the commercial terms of the lease agreement for Broome Enterprise Centre (Inc) trading as Small Business Centre West Kimberley (SBCWK).

BACKGROUND

Previous Considerations

OCM 21 March 2000 -	Item 7.7
OCM 9 February 2006 -	Item 9.4.5
OCM 19 February 2009 -	Item 9.4.7
OCM 12 May 2011 -	Item 9.2.4

In May 2011, Council resolved to extend the lease to Broome Enterprise Centre (BEC);

Council Resolution 9.2.4:

1. *Accepts, in accordance with Local Government (Functions and General) Regulations 1996, Section 30(2)(b) the request from Broome Enterprise Centre trading as Small Business Centre West Kimberley to lease their existing premises located on portion of Reserve 42502 for a term of three(3) years with a further three (3) year option.*
2. *Phases in the market rental valuation over the initial three (3) year life of the new lease agreement as follows:*

Yr 1: applies rental of \$15,280 per annum plus outgoings and GST

Yr 2: applies rental of \$18,080 per annum plus CPI, outgoings and GST

Yr 3: applies rental of \$20,880 per annum plus CPI, outgoings and GST

Each year thereafter market rental valuation to apply per annum plus CPI, outgoings and GST

3. *Delegates authority to the Chief Executive Officer to negotiate terms and conditions of the lease arrangement including executing any option clause, subject to:*
 - a) *Consent of the Minister of Lands being obtained.*
 - b) *The lease commencing 1 July 2011.*
 - c) *Rental increases to be based on annual CPI increases, with a market rental review being carried out at the end of the third year to coincide with the commencement of the three (3) year option if exercised.*
 - d) *All utilities and consumption costs to be the responsibility of the lessee.*
 - e) *The lessee reimbursing the Shire of Broome for all legal and associated costs in preparing the lease.*
 - f) *The lessee reimbursing the Shire of Broome for all market reviews undertaken during the term of the lease.*
 - g) *The lessee to ensure that all relevant bylaws and regulations (Federal, State or Local Government) are complied with.*
4. *Authorises the Shire President and Chief Executive Officer to engross the final lease documentation.*
5. *Approves an annual financial contribution (by way of cash or lease subsidy) to value of \$2,100 to the BEC (SBCWK) for the initial three (3) year term of the new lease.*

CARRIED BY ABSOLUTE MAJORITY 8/0

Reason - Allows Council to implement a gradual increase over a three year period to bring the lease payments in line with the market valuation."

An inconsistency has been found in the rent review summary in the above resolution.

COMMENT

As stated in the above resolution:

"Each year thereafter market rental valuation to apply per annum plus CPI, outgoings and GST"

This resolution is ambiguous and not usual practice commercially. One or the other should be adopted being either a Market Review or a CPI increase.

Similarly, the addition of CPI to a market review is unusual, because a market review already accounts for inflation and cost of living increases. So the Shire is effectively claiming the benefit of inflation twice for each rent review.

The recommendation to Council is to align with current practice by way of market rent review in the 4th year and CPI in the 5th and 6th year. This will ensure that Council achieves the goal of a gradual increase over a three year period to bring the lease payments into line with market valuations.

CONSULTATION

Nil

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.]

Local Government (Functions and General Regulations) 1996

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

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if —
- (a) the land is disposed of to an owner of adjoining land (in this paragraph called the **transferee**) and —
- (i) its market value is less than \$5 000; and
- (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
- (b) the land is disposed of to a body, whether incorporated or not —
- (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
- (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;
- (c) the land is disposed of to —
- (i) the Crown in right of the State or the Commonwealth;
- (ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or
- (iii) another local government or a regional local government;
- (d) it is the leasing of land to an employee of the local government for use as the employee's residence;
- (e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land;
- (f) it is the leasing of land to a "medical practitioner" (as defined in section 3 of the Medical Act 1894) to be used for carrying on his or her medical practice; or
- (g) it is the leasing of residential property to a person.
- (2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —
- (a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government;
- (b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or
- (c) the subject of Statewide public notice under section 3.59(4), and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including —
- (i) the names of all other parties concerned;
- (ii) the consideration to be received by the local government for the disposition; and
- (iii) the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.

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

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

Land Administration Act 1997

18. Various transactions relating to Crown land to be approved by Minister

- (1) A person must not without authorisation under subsection (7) assign, sell, transfer or otherwise deal with interests in Crown land or create or grant an interest in Crown land.
- (2) A person must not without authorisation under subsection (7) —
 - (a) grant a lease or licence under this Act, or a licence under the Local Government Act 1995, in respect of Crown land in a managed reserve; or
 - (b) being the holder of such a lease or licence, grant a sublease or sublicense in respect of the whole or any part of that Crown land.
- (3) A person must not without authorisation under subsection (7) mortgage a lease of Crown land.
- (4) A lessee of Crown land must not without authorisation under subsection (7) sell, transfer or otherwise dispose of the lease in whole or in part.
- (5) The Minister may, before giving approval under this section, in writing require —
 - (a) an applicant for that approval to furnish the Minister with such information concerning the transaction for which that approval is sought as the Minister specifies in that requirement; and
 - (b) information furnished in compliance with a requirement under paragraph (a) to be verified by statutory declaration.
- (6) An act done in contravention of subsection (1), (2), (3) or (4) is void.
- (7) A person or lessee may make a transaction under subsection (1), (2), (3) or (4) —
 - (a) with the prior approval in writing of the Minister; or
 - (b) if the transaction is made in circumstances, and in accordance with any condition, prescribed for the purposes of this paragraph.
- (8) This section does not apply to a transaction relating to an interest in Crown land if —
 - (a) that land is set aside under, dedicated or vested for the purposes of an Act other than this Act, and the transaction is authorised under that Act;
 - (b) that interest may be created, granted, transferred or otherwise dealt with under an Act other than —
 - (i) this Act; or
 - (ii) a prescribed Act;
 - (c) an agreement, ratified or approved by another Act, has the effect that consent to the transaction was not required under section 143 of the repealed Act; or
 - (d) the transaction is a lease, sublease or licence and the approval of the Minister is not required under section 46(3b).

[Section 18 amended by No. 59 of 2000 s. 8(1)-(5) 5.]

Local Government Act 1995 - Shire of Broome Standing Orders Local Law 2003

Part 19 - Common Seal

19.1 The Council's Common Seal

(2) *The common seal of the Shire may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the President and the CEO or a senior employee authorised by him or her.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Alignment with market valuations.

STRATEGIC IMPLICATIONS

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

Identify affordable services and initiatives to satisfy community needs.

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

Implement best practice asset management plans to optimise Shires' infrastructure whilst minimising life cycle costs.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

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

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Absolute Majority

REPORT RECOMMENDATION:

That Council:

- 1. Rescinds the following portion of the original motion 9.2.4 of Ordinary Council Meeting 12 May 2011

“Each year thereafter market rental valuation to apply per annum plus CPI, outgoings and GST”

- 2. Adopts the following rent reviews to replace the rescinded portion:

Yr 1: applies rental of \$15,280 per annum plus outgoings and GST

Yr 2: applies rental of \$18,080 per annum plus CPI, outgoings and GST

Yr 3: applies rental of \$20,880 per annum plus CPI, outgoings and GST

Each year thereafter rental review summary on new three (3) year option:

(a) Yr1 1 July 2014 – Market Review

(b) Yr2 1 July 2015 – CPI Increase

(c) Yr 31 July 2016 – CPI Increase,

SUPPORT TO RESCIND MOTION:

Councillors Cr D M Male, Cr E Yu and Cr G T Campbell support a motion to revoke Minuted item 9.2.4 of the Ordinary Meeting of Council held on 12 May 2011 in accordance with Section 10(1) of the Local Government (Administration) Regulations 1996.

RECISION MOTION:

Moved: Cr D M Male

Seconded: Cr E Yu

That the Council Resolution of 12 May 2011 relating to item 9.2.4, part 2 BROOME ENTERPRISE CENTRE- REQUEST FOR NEW LEASE, which reads:

That Council determines that:

“Phases in the market rental valuation over the initial three (3) year life of the new lease agreement as follows:

- Yr 1: applies rental of \$15,280 per annum plus outgoings and GST
- Yr 2: applies rental of \$18,080 per annum plus CPI, outgoings and GST
- Yr 3: applies rental of \$20,880 per annum plus CPI, outgoings and GST
- Each year thereafter market rental valuation to apply per annum plus CPI, outgoings and GST “

be revoked.

CARRIED BY ABSOLUTE MAJORITY 7/0

Reason:

This resolution is ambiguous and not usual practice commercially. One or the other should be adopted being either a Market Review or a CPI increase.

Similarly, the addition of CPI to a market review is unusual, because a market review already accounts for inflation and cost of living increases. So the Shire is effectively claiming the benefit of inflation twice for each rent review.

The recommendation to Council is to align with current practice by way of market rent review in the 4th year and CPI in the 5th and 6th year. This will ensure that Council achieves the goal of a gradual increase over a three year period to bring the lease payments into line with market valuations.

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

That Council:

- 1. **Rescinds the following portion of the original motion 9.2.4 of Ordinary Council Meeting 12 May 2011**

“Each year thereafter market rental valuation to apply per annum plus CPI, outgoings and GST”

- 2. **Adopts the following rent reviews to replace the rescinded portion:**

Yr 1: applies rental of \$15,280 per annum plus outgoings and GST

Yr 2: applies rental of \$18,080 per annum plus CPI, outgoings and GST

Yr 3: applies rental of \$20,880 per annum plus CPI, outgoings and GST

Each year thereafter rental review summary on new three (3) year option:

(a) Yr1 1 July 2014 – Market Review

(b) Yr2 1 July 2015 – CPI Increase

(c) Yr 31 July 2016 – CPI Increase,

Moved: Cr D M Male

Seconded: Cr E Yu

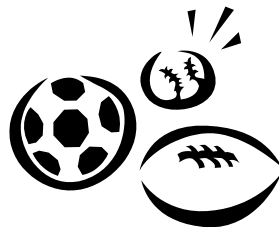
CARRIED BY ABSOLUTE MAJORITY 7/0

[Attachment: 2 pages](#)

9.3

CORPORATE AND COMMUNITY

SERVICES



OUTCOME

To facilitate the social wellbeing and development of the community.

9.3.1 ACCOUNTS FOR PAYMENT - SEPTEMBER 2011

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: FRE02
AUTHOR: Finance Officer
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Director Corporate & Community Services
DISCLOSURE OF ANY INTEREST: N/A
DATE OF REPORT: 4 October 2011

SUMMARY: List of payments made under delegated authority during the month of September 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

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

Manage resource allocation.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

<p><u>COUNCIL RESOLUTION:</u> (REPORT RECOMMENDATION)</p>	
<p><i>That Council adopts the following accounts as paid under delegated authority for September 2011;</i></p>	
<ul style="list-style-type: none">• <i>Municipal Cheque Vouchers 54543 - 54682 totalling \$9,352,855.25;</i>• <i>EFT Vouchers 14799 - 15135 totalling \$2,632,512.25; and</i>• <i>Trust Cheque Vouchers 3239 - 3244 totalling \$789,660.55.</i>	
<p><i>The total of all expenditure for September 2011 is \$12,775,028.05</i></p>	
<p><i>Moved: Cr C R Mitchell</i></p>	<p><i>Seconded: Cr E Yu</i></p>
<p style="text-align: right;">CARRIED UNANIMOUSLY</p>	

[Attachment: 12 pages](#)

9.3.2 SEPTEMBER 2011 MONTHLY FINANCIAL ACTIVITY REPORT

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: FRE 02
AUTHOR: Accountant
CONTRIBUTOR/S: Manager Finance Services
RESPONSIBLE OFFICER: Director Corporate and Community Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 30 September 2011

SUMMARY: This report recommends that Council adopts the Monthly Financial Activity Report of the Shire's operations for the month of September 2011.

BACKGROUNDPrevious Considerations

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

COMMENT

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

Budget Year elapsed	25%
Total Operating Expenditure	22%
Total Operating Revenue	73%
Total Capital Expenditure	4%
Total Sale of Assets Revenue	3%
Total Capital Revenue	6%

Committed infrastructure expenditure as percentage of forecast budget:

Parks & Ovals Infrastructure	4%
Drainage Infrastructure	3%
Transport Infrastructure	5%

The forecast position of a nil result represents a 0% variance when viewed in proportion to operating revenue excluding grants and contributions for assets and profit on sale of assets.

The predicted position as at 30 September is nil.

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

FORECASTS

All forecast figures are mentioned in \$'000's for ease of reference

GOVERNANCEOPERATING ACTIVITIES

The following Operating budget forecast change was required this month

- \$400K increase in budgeted operating income for Energy Developments Grant for community sponsorship. OCM 29/9/11 Item 9.3.2;
- \$120K increase in budgeted operating income for funding received for scoping and costing for services to aboriginal communities. OCM 29/9/11 Item 9.3.2; and
- \$120K increase in budgeted operating expenditure for consultancy fees for scoping and costing for services to aboriginal communities. OCM 29/9/11 Item 9.3.2

NON-OPERATING ACTIVITIES

The following Non-Operating budget forecast change was required this month

- \$400K increase in budgeted non-operating expenditure for Energy Developments Grant to be transferred to Reserves. OCM 29/9/11 Item 9.3.2

CONSULTATION

Internal Staff.

STATUTORY ENVIRONMENT***Local Government Act 1995*****6.4. Financial report**

- 1) *A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.*
- 2) *The financial report is to —*
 - a) *be prepared and presented in the manner and form prescribed; and*
 - b) *contain the prescribed information.*
- 3) *By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor —*
 - c) *the accounts of the local government, balanced up to the last day of the preceding financial year; and*
 - d) *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 —
 - c) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
 - d) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.
- * Absolute majority required.

Financial Management Regulations

33A. Review of budget

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

- (4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

34. Financial activity statement report — s. 6.4

- 1A) In this regulation —
 “committed assets” means revenue unspent but set aside under the annual budget for a specific purpose.
- 1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
 - a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - b) budget estimates to the end of the month to which the statement relates;

- c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
 - d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - e) *the net current assets at the end of the month to which the statement relates.*
- 2) *Each statement of financial activity is to be accompanied by documents containing —*
- a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - c) *such other supporting information as is considered relevant by the local government.*
- 3) *The information in a statement of financial activity may be shown —*
- a) *according to nature and type classification;*
 - b) *by program; or*
 - c) *by business unit.*
- 4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
- a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
 - b) *recorded in the minutes of the meeting at which it is presented.*
- 5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

These are detailed above and in the attachment.

STRATEGIC IMPLICATIONS

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

Identify affordable services and initiatives to satisfy community needs.

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

Implement best practice asset management plans to optimise Shires' infrastructure whilst minimising life cycle costs.

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

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

**COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)**

That Council adopts the Monthly Financial Activity Report for the period ended 30 September 2011.

Moved: Cr E Yu

Seconded: Cr Peter D Matsumoto

CARRIED UNANIMOUSLY

[Attachment: 18 pages](#)

With regard to Item 9.3.3 Cr E Yu disclosed that *"I have had an association with Yawuru NTHAC RNTB as an ordinary member. 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 AMENDMENT TO RURAL RATING POLICY

LOCATION/ ADDRESS:	N/A
APPLICANT:	N/A
FILE:	ARA13
AUTHOR:	Senior Rates Officer
CONTRIBUTOR:	Manager Finance Services
RESPONSIBLE OFFICER:	Director Corporate and Community Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE OF REPORT:	23 September 2011

SUMMARY: This report recommends that Council adopts the amended Rural Rating Policy and definitions outline in the attachment to this report.

BACKGROUND

Previous Considerations

Ordinary Council Meeting -	8 May 2008
Ordinary Council Meeting -	17 December 2008
Ordinary Council Meeting -	2 September 2009
Special Council Meeting -	13 July 2011

In 2007, Council staff commenced a land use study of rateable Dampier Ward properties to ascertain appropriate methods of rating in terms of land use as required under the Local Government Act 1995.

At the Ordinary Meeting of Council held on 8 May 2008, Council resolved the following:

- 1). *That Council undertakes a review of the basis of valuation used for rating Dampier Ward rural land use activities.*
- 2). *That consultation occurs in the form of general advice to the district (via advertising) of the Council's decision to undertake the review, the rationale for the review and that comment is sought. Specific advice to affected ratepayers of the land use study.*
- 3). *That Council will consider review submissions as a basis to prepare a draft policy for advertising, with specific advice of the draft policy sent to affected ratepayers for comment."*

After the review of 23 submissions, a report was presented to Council on 17 December 2008 and recommended that as a result of the land use review, Council adopt a Draft Rural Rating Policy for the purpose of advertising and further public comment.

At the Ordinary Council Meeting held on 17 December 2008, Council resolved to:

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

- "1). *Adopts the Draft "Rural Rating Policy" for the purpose of advertising only for a period of 70 days for public comment.*
- 2). *Provide specific notice of the draft policy to affected ratepayers and invites submissions during the public comment period."*

The second consultation was undertaken in accordance with Councils resolution of 17 December 2008, and a further 15 submissions were received. In summary, the following concerns were raised:

- Argued that they were undertaking rural pursuits (10);
- Argued that rural operations provide majority of income (6);
- Rural operations did not support majority of income (6);
- Lack of services or access to services because of distance (5);
- Rubbish services not provided or too expensive (3);
- No sealed road to Coconut Well and Willie Creek (3);
- Wanted to see indicative rate comparisons for UV and GRV (2);
- Is intending to use, or existing use of, property for B&B operations (3); and
- The Shire should not encourage smaller lot sizes(1).

A further report was presented to Council on 2 September 2009 recommending adoption of the Rural Rating Policy and that affected ratepayers be provided specific consultation where there is an intention to change the basis of rating.

At the Ordinary Council Meeting held on 2 September 2009, the Council resolved to:

- "1). *Adopt the "Rural Rating Policy".*
- 2). *Undertake a "Community Ratings Workshop" with affected persons in relation to the Rural Rating Policy.*
- 3). *Provide specific notice to affected ratepayers where there is an intention to change the method of valuation, in terms of policy, and invite submissions during a comment period of 35 days."*

The Community Ratings Workshop was held on 13 May 2011, facilitated by Domenic Carbone and Associates and Darren Long Consulting, with approximately 30 community members in attendance. During the workshop a number of specific issues were raised by workshop participants and answered by the consultants, as follows:

- The keeping of minutes for the workshop;
- The legal liability of a local government to levy rates as local government is not recognised in the Australian Constitution;
- The possibility of the Shire having a hidden agenda by using the change in valuation method as a revenue raising opportunity;
- The increase in market prices for land being looked upon as a trigger for GRV values increasing, leading to the possible change in methodology;
- Appointment of Valuer;
- Rural Rating Policy;
- Transparency and equity issues are of concern;
- Department of Local Government Guideline No. 2 – Changing Methods of Valuation of Land;

- Requests for Financial Information;
- Method of determining Valuations; and
- Concerns were raised over the time limitations regarding the time permitted from receiving the rate notice and when an appeal against the valuation must be lodged.

Consultant Recommendations

1. The Shire of Broome give consideration to utilising Spot Valuations in the localities of Coconut Well and 12 Mile.
2. In Order to bring the existing Rural Rating Policy into line with the rating requirements of the Local Government Act and (1) above, the Shire of Broome consider amending its Rural Rating Policy by deleting the Policy Statements and substituting the following- " To give effect to above guiding principles the Council is to observe the following:
 - a). Ensure that any rural (UV) property is assessed to determine whether the use of the property is "predominantly rural".
 - b). Subject to (a) above, the Shire is to utilise the Spot Valuation method where there is a number of individual lots within a valuation area that are used for purposes that are not consistent with the predominant use of land within that valuation area.
 - c). Properties that are considered to be predominantly used for non-rural purposes be referred to the Minister for Local Government with sufficient information to allow a determination to be made on the method of valuation to be applied.
 - d). Subject to Ministerial approval in (c) above, apply the GRV to rural land used predominantly for non-rural purposes.
 - e). Ensure that the appeal rights are made clear to affected land owners.

This amendment is considered to be an interim measure until such time the Shire appoints an independent expert to undertake the assessment of properties within Coconut Wells and 12 Mile to determine the predominant use of the land for each individual lot. Once this assessment is completed, the policy may then be amended to incorporate the criteria utilised by the independent expert to classify the land as predominant non-rural.

3. The Shire of Broome gives consideration to appointing an independent expert to undertake a land use audit/assessment of properties within Coconut Well and 12 Mile to determine the predominant use of land for each individual lot.

At the Special Council Meeting held on 13 July 2011, Council resolved to:

- "1. Receive the Changes in Basis of Valuation Methodology Study from Domenic Carbone & Associates and Darren Long Consulting.

2. *Adopts amended rural rating policy for the purpose of advertising for a period of 35 days."*

COMMENT

Following the Community Ratings Workshop held on 13 May 2011, Council resolved to adopt the amended rural rating policy for the purpose of advertising for a period of 35 days at the Special Council Meeting held on 13 July 2011.

The amended Rural Rating Policy was advertised in the Broome Advertiser on 25 August 2011 and the closing date for submissions was 4.00pm 30 September 2011.

There were no submissions received.

SUMMARY

There is a long term strategic need to have an effective rural rating policy in place so that the Shire can apply the correct basis of valuation according to future trends in changes to rural land use and planning strategies outside of the current town boundary.

Land use trends include commercial operations setting up in rural areas; subdivision of existing rural land into smaller lot sizes; rural lifestyle or hobby farm activities or the expansion of residential areas into rural zones. All of the changes mentioned above are uncertain however an effective rural rating policy provides a ready framework to administer the rating changes necessary in terms of the act. It is difficult to maintain relevant relationships within UV differential rating categories when UV values in some areas have risen exponentially.

Local governments have an obligation to ensure that rateable land in the district is valued on the appropriate method for rating purposes. As the use of land can change from time to time, it is important for local governments to have a system in place to deal with land use changes so that it can modify the valuation method accordingly. Having this information up to date will avoid criticism from ratepayers about the equities of rating policies.

The main outcome of the three phase consultation period with affected ratepayers is that they support a more equitable rating system, however spot rating is seen as a more accurate method to address changes in land use rather than a blanket approach to existing subdivisions such as Coconut Wells and 12 Mile.

CONSULTATION

During the review, public consultation has taken place with affected ratepayers by:

- May 2008 - Express notice and general advertising;
- December 2008 – Express Notice and general advertising; and
- May 2010 – Community Ratings Workshop by express invitation.

STATUTORY ENVIRONMENT

Local Government Act 1995

S6.28 Basis of Rates

- 1). *The Minister is to -*
 - (a) *determine the method of valuation of land to be used by a local government as the basis for a rate; and*
 - (b) *publish a notice of the determination in the government gazette.*

- 2). *In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be -*
 - (a) *where the land is used predominantly for rural purposes, the unimproved value of the land, and*
 - (b) *where the land is used predominantly for non-rural purposes, the gross rental value of the land.*

S6.33 Differential general rates

- 1. *A local government may impose differential general rates according to any or a combination, of the following characteristics -*
 - (a) *the purpose for which the land is zoned under a local planning scheme in force under the Planning and Development Act 2005;*
 - (b) *the predominant purpose for which the land is held or used as determined by the local government;*
 - (c) *whether or not the land is vacant land; or*
 - (d) *any other characteristic or combination of characteristics prescribed.*

POLICY IMPLICATIONS

2.1.5 Rural Rating

FINANCIAL IMPLICATIONS

\$25K has been allowed for within the Valuer General’s Office valuations budget for 2011/2012

No change to underlying Rate Yield. The rate-in-the-dollar to be set according to relative current yield and valuations would not come into affect until 2012/2013 at the earliest.

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

Nurture and build social capital to increase community capacity.

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

Engage with local community by presenting realistic and sustainable land use strategies for the Shire within the state and national frameworks.

Implement best practice asset management plans to optimise Shires’ infrastructure whilst minimising life cycle costs.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.

Encourage community engagement.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

<u>COUNCIL RESOLUTION:</u>	
(REPORT RECOMMENDATION)	
<i>That Council;</i>	
1.	<i>Adopts the amended Rural Rating Policy; and</i>
2.	<i>Adopts the amended Rural Rating Policy definitions appendix.</i>
<i>Moved: Cr C R Mitchell</i>	<i>Seconded: Cr Peter D Matsumoto</i>
CARRIED UNANIMOUSLY	

[Attachment: 14 pages](#)

With regard to Item 9.3.4 Cr E Yu disclosed that *“I have had an association with Yawuru, NTHAC RNBT as an ordinary member. 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”*.

With regard to Item 9.3.4 Cr Peter D Matsumoto disclosed that *“I have had an association with Native Title. 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 EVENT PROPOSAL - BROOME BEACH POLO FESTIVAL 2012

LOCATION/ ADDRESS: Cable Beach and Gantheaume Point
APPLICANT: Janek Gazecki – Polo Enterprises Australia
 Marilynne Paspaley – Pinctada Hotels and Resorts
FILE: REE26
AUTHOR: Acting Event and Sponsorship Coordinator
CONTRIBUTOR/S: Manager Community Development
RESPONSIBLE OFFICER: Director Corporate and Community Services
DISCLOSURE OF ANY INTEREST: N/A
DATE OF REPORT: 13 October 2010

SUMMARY: Polo Enterprises Australia and Pinctada Hotels and Resorts seek approval to stage the *‘Broome Beach Polo Festival 2012,’* a seven day polo festival to be held at Gantheaume Point and Cable Beach.

This report recommends the application be supported subject to conditions as outlined in the report’s recommendation.

BACKGROUND

Previous Considerations

- OCM 18 March 2010 - Item 12.1
- OCM 13 October 2010 – Item 9.2.11

On Saturday 23 May 2010, Polo Enterprises Australia conducted the inaugural exhibition polo match on Cable Beach. The event attracted 3,500 spectators and significant media coverage nationally and internationally. The event was the first of its kind anywhere in Australia.

The 2011 event was extended to seven days, five training days at Gantheaume Point and two days at Cable Beach with the final International match held on the Sunday.

In planning the 2011 event, Polo Enterprises Australia submitted a detailed event application targeting key areas of concern including; environmental impact, public consumption of alcohol, infrastructure impacts on the beach, waste management and risk processes for horses. Significant control measures were introduced by the proponent to minimise risks to the environment, spectators and players.

Polo Enterprises Australia and Pinctada Hotels and Resorts have submitted a detailed event application outlining the 2012 program.

COMMENT

The proposal for the Broome Beach Polo Festival 2012 has increased significantly compared with the 2010 and 2011 event applications. In particular, the proposal outlines the following:

Informal training matches to be held from Monday 7 May to Friday 11 May 2012 at Gantheaume Point leading up to game days on Cable Beach.

A two day tournament will be held on Cable Beach on Saturday 12 May and Sunday 13 May 2012.

In addition Broome Beach Polo is requesting to host a welcome reception dinner extending their time on Cable Beach to encompass Friday 11 May. This will extend the bump in time to include Friday.

Up to three hospitality marquees would be introduced to Cable Beach as part of the Broome Beach Polo Festival 2012. This is an expansion from the single hospitality marquee introduced in 2010, and two hospitality marquees in 2011.

In introducing three hospitality marquees, the proponent is seeking to address the demand for on-site hospitality over three distinct markets.

- The VIP marquee introduced for the 2010, and again in 2011, would be repeated for the high end market segment and VIP guests.
- The polo lounge marquee would provide a lower price point entry and involve cash sales at the bar.
- A Sponsors' marquee would be introduced to support partnering corporate and commercial sponsors. This marquee has not been confirmed and will be introduced if sponsors demand it.

Improved Control Measures for Environmental Protection and Spectator Safety:

Following an extensive post-event debrief with Shire officers, the 2012 event will increase control measures regarding vehicle and horse movements, animal waste management and risk processes for spectators.

CONSULTATION

The proponent will be required to gain approval from the Minister for Local Government, Broome Port Authority, and the Department for Local Government. In addition appropriate liaison is required with Nyamba Buru Yawuru Ltd, and Department of Environment and Conservation, Zanders, Broome Surf Lifesaving Club and Broome Turf Club.

STATUTORY ENVIRONMENT***Shire of Broome Local Government Property and Public Places Local Law 2003******Definitions and Interpretations***

- 1.6 (1) *In this local law, unless the context otherwise requires:*
“function” means an event or activity characterised by any or all of the following:
- (a) formal organisation and preparation;*
 - (b) its occurrence is generally advertised or notified in writing to particular persons;*
 - (c) it is organised by or on behalf of a club;*
 - (d) payment of a fee is required for attendance; and*
 - (e) there is systematic recurrence in relation to the day, time and place;*
- 3.1 (1) *Where a person is required to obtain an approval from the local government under this local law, that person shall:*
- (a) not do the thing for which the approval is required without first obtaining the approval; and*
 - (b) apply for the approval in accordance with subclause (2).*
- (2) *An applicant shall make an application for an approval by completing the form provided for the purpose by the local government, paying the application fee to the local government and forwarding the application to the local government.*
- (3) *The signature of the applicant on the form under subclause (2) shall be deemed to be proof that the applicant has:*
- (a) read and understood any conditions printed on the application form; and*
 - (b) accepted and agreed to comply with any conditions printed on the application form.*

Determination of application

- 3.2 (1) *The local government may, in respect of an application for an approval:*
- (a) refuse the application; or*
 - (b) approve the application on such terms and conditions, if any, as it considers fit.*
- (2) *Without limiting the generality of subclause (1)(b), the local government may impose conditions requiring the payment of a fee for the issue of the form of approval referred to in subclause (3) and for the renewal of the approval, including the payment of a renewal fee.*
- (3) *If the local government approves an application under subclause (1)(b), then it is to issue to the applicant an approval in the form determined by the local government.*

Conditions of approval

- 3.3 (1) Where an application for an approval has been approved subject to conditions, the approval holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of an approval and the approval holder shall comply with those conditions as varied.

Division 2 - Matters relating to approvals

Term and validity of approval

- 3.4 An approval remains valid until:
 - (a) the expiration date and time stated in the approval is reached;
 - (b) the activity or function for which the approval was issued is changed to the extent that it is no longer consistent with the original purpose or intent for which the approval was given;
 - (c) the approval is cancelled by the local government under clause 3.5; or
 - (d) the public liability or indemnity insurance required as a condition of an approval lapses, is cancelled or is no longer current. Cancellation of approval
- 3.5 (1) The local government may cancel an approval if:
 - (a) anything purporting to be done in accordance with the approval is not done in conformity with the conditions of the approval;
 - (b) the approval holder is convicted of an offence against this local law; or
 - (c) the approval holder fails to comply with a notice given under clause 12.1 in relation to a breach of the approval or a condition of the approval.
- (2) Notwithstanding subclause (1), where an approval relates to the hiring of local government property, the local government may cancel the approval at any time.
- (3) Where the local government cancels an approval for the hire of local government property under subclause (2), then the local government shall not be liable to the approval holder for any loss or damage sustained by the approval holder arising from the cancellation.

Fees

- 3.6 (1) All fees applicable under this local law shall be as determined by the local government from time to time in accordance with sections 6.16 to 6.19 of the Act.
- (2) In the event of the cancellation of an approval, a refund of any fees paid by the approval holder may be made by the local government.

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

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

Activities requiring an approval

- 4.1 (1) A person shall not on any local government property or public place within the Broome town site area, without first having obtained an approval from the local government to do so:
- (a) consume any liquor;
 - (b) erect a structure for public amusement or for any performance for personal gain or otherwise;
 - (c) conduct any function;
 - (d) light or set off any fireworks or conduct a fireworks display;
 - (e) light any fire except in a facility provided for that purpose;
 - (f) erect any tent, camp, hut, building or other structure, other than a beach umbrella or other portable item used for protection from the elements between sunrise and sunset on any day;
 - (g) coach, teach, instruct or train any person for a fee;
 - (h) charge a person for entry to local government property;
 - (i) operate any broadcasting or public address system or apparatus, other than those used by a life saving club in the performance of its functions;
 - (j) erect any sign;
 - (k) walk, lead, ride, herd or drive any large animal;
 - (l) play or use any musical instrument or any other similar device;
 - (m) pursue a use on local government property set aside for that purpose under clause 5.1 where the local government has specified under clause 5.1(3)(g) that the use is to be pursued under an approval.

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

Definitions and Interpretations

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

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

- (d) *the delivery of pre ordered goods or services to the purchaser of those goods or services, or to the person nominated by the purchaser of those goods or services to accept delivery, whether or not payment for those goods or services is made on delivery;*

Control Of Vehicles (Off-Road Areas) Act 1978 - Sect 5

5. Local government's responsibility

- (1) *Subject to the Minister, and in co-operation with the Director General, it shall be the duty of a local government to administer and enforce the provisions of this Act within its district.*
- [(2) *deleted*]
- (3) *Where in the opinion of the Governor the powers conferred by this Act on a local government should be exercised by that local government in an area outside the district the Governor may by Order published in the Government Gazette declare that for the purpose of this Act the area is to be regarded as being within the district and the provisions of this Act shall then apply as if in fact the area were within the district.*
- (4) *For the purposes of this Act a district shall be taken to include the land lying between mean high water mark at spring tides of the main sea and mean low water mark at spring tides of the main sea adjacent to that district.*
- (5) *For the purposes of this Act a local government may employ, under and subject to the [Local Government Act 1995](#) , fit and proper persons to be authorised officers.*

46. Local laws and regulations generally

- (1) *Any regulation made under section 44 or local law made under this Act may be so made —*
- (a) *as to apply generally or in a particular class of case, or particular classes of cases, at all times or at a specified time or specified times, throughout the district or in a specified part or specified parts of the district and in areas which although not within the district are by the operation of the provisions of this Act nevertheless to be regarded as being within the district;*
- (b) *as to require a matter affected by it to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and so as to delegate to or confer upon a specified body a discretionary authority; and*
- (c) *as to provide that in specified cases, or a specified class of case, or specified classes of cases, whether on specified conditions or unconditionally, persons or things may be exempted from its provisions either wholly or to such extent as is specified.*

- (2) Any regulation made under section 44 or local law may make provision for the imposition of penalties not exceeding \$100 in respect of any contravention.
- (3) Where in relation to a regulation made under section 44 or local law made under this Act the expression "specified" is used, the expression, unless the context requires otherwise, means specified in that regulation or local law.

Environmental Protection Act 1986

50B Causing material environmental harm

- (1) A person who intentionally or with criminal negligence —
- (a) causes material environmental harm; or
 - (b) allows material environmental harm to be caused, commits an offence.
- (2) A person who —
- (a) causes material environmental harm; or
 - (b) allows material environmental harm to be cause, commits an offence.
- (3) A person charged with committing an offence against subsection (1) may be convicted of an offence against subsection (2) which is established by the evidence.

51B Declaration of environmentally sensitive areas

- (1) The Minister may, by notice, declare —
- (a) an area of the State specified in the notice; or
 - (b) an area of the State of a class specified in the notice, to be an environmentally sensitive area for the purposes of this Division.

Liquor Control Act 1988

30A Licensing authority may grant licences to sell liquor

- (1) The licensing authority may grant licences in accordance with this Act.

Occasional licences

- (1) An occasional licence authorises the licensee to sell, or the supply or consumption of, liquor —
- (a) at such times, and on such occasion or during such period not exceeding 3 weeks, as may be specified;
 - (b) at such places, and within such designated area, as may be specified; and
 - (c) subject to such terms or conditions as may be specified.

An occasional licence may be granted in relation to a festival or other event authorising the organiser and specified persons participating in or

associated with that festival or event to sell liquor, or liquor of a specified description, during such period or on such occasions as may be specified.

POLICY IMPLICATIONS

There are four (4) Shire of Broome policies which should be considered in reviewing this proposal.

2.3.4 – Parks and Reserves -Venue Hire Charges and Conditions

“Any exclusive use of the Cable Beach intertidal areas requires separate approval of the Shire under Local Government Property and Public Places Local Law and the Events on Local Government Property Policy”

The use of a licensed area will necessitate approval of an exclusive use under this policy.

5.1.1 – Horses on Cable Beach Policy

“Objective: To identify the conditions and areas for riding and exercising of horses on Cable Beach to ensure an integrated and coordinated approach to the management of usage of Cable Beach.”

It is considered this policy does not apply as it aims to regulate regular exercise and riding of horses, rather than approval for competitive sporting events. Transit of horses to and from Cable Beach complied with this policy in 2010 and it is expected that the same will occur under the current proposal.

5.1.3 – Commercial Activities on Cable Beach

“1. The Shire will grant licenses for the six (6) identified commercial activities on Cable beach, these being:

- (i) Parasailing*
- (ii) Catamaran Hire*
- (iii) Jet Ski Hire*
- (iv) Beach Gear Hire*
- (v) Teaching Surf Board Riding*
- (vi) Dinghy Hire”*

A temporary trading license must be granted to the proponent in order to operate the cash bar within the ‘Polo Lounge.’ The current policy does not allow temporary trading licenses for Cable Beach.

5.1.7 – Events Held on Local Government Property and Public Places

‘Sporting Carnivals’ are approved for Cable Beach under the Draft Events Policy. Polo would be considered to be a ‘sporting carnival’ under this policy.

FINANCIAL IMPLICATIONS

Standard event fees and charges will apply

STRATEGIC IMPLICATIONS

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

Identify affordable services and initiatives to satisfy community needs.

Encourage recreational activity.

Facilitate a safe environment.

Nurture and build social capital to increase community capacity.

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

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome’s iconic tourism assets and reputation.

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

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION:

That Council delegate authority to the Chief Executive Officer to approve staging of the Broome Beach Polo Festival 2012 event at Gantheaume Point Beach between 7 to 11 May 2012 and Cable Beach and 11 May to the 13 May 2012, subject to:

1. *Satisfactory completion of the submitted event application, covering all regulatory compliances.*
2. *Broome Port Authority approval.*
3. *Presentation of a current Certificate of Currency for Public Liability Insurance with coverage of \$20,000,000.*
4. *Appropriate advice and liaison being undertaken with neighbours of the proposed areas including Zanders, Broome Surf Lifesaving Club, Broome Turf Club, Parks Council, and Department of Environment and Conservation.*
5. *Proponent to ensure acceptable access is available for vehicles to the beach in accordance with Local Law.*

Moved: Cr D M Male

Seconded: Cr C R Mitchell

MOTION WITHDRAWN (Under Standing Order 10.14)

COUNCIL RESOLUTION:

That Council delegate authority to the Chief Executive Officer to approve staging of the Broome Beach Polo Festival 2012 event at Gantheaume Point Beach between 7 to 11 May 2012 and Cable Beach and 11 May to the 13 May 2012, subject to:

1. ***Satisfactory completion of the submitted event application, covering all regulatory compliances by 23 January 2012.***
2. ***Broome Port Authority and Minister for Local Government approval.***
3. ***Presentation of a current Certificate of Currency for Public Liability Insurance with coverage of \$20,000,000.***
4. ***Appropriate advice and liaison is required with Nyamba Buru Yawuru Ltd and the Department of Environment and Conservation as well as neighbouring parties such as Zanders, Broome Surf Lifesaving Club and Broome Turf Club.***
5. ***Proponent to ensure acceptable access is available for vehicles to the beach in accordance with Local Law.***

Moved: Cr D Male

Seconded: Cr C Mitchell

CARRIED UNANIMOUSLY

Attachment: 127 pages (Confidential to Directors and Councillors only)

9.3.5 SHIRE OF BROOME LIBRARY – INTRODUCTION OF ADMINISTRATION FEE FOR LOST OR NON RETURNED BOOK/S

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: RES 8519
AUTHOR: Manager Library Services
CONTRIBUTOR/S: Director Corporate and Community Services
RESPONSIBLE OFFICER: Director Corporate and Community Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 11 October 2011

SUMMARY: Effective from 1 January 2011, the State Library of Western Australia has changed the way it will manage overdue items. A non refundable administration fee of \$41.97 (GST inclusive) has been adopted. The Manager of Library Services is proposing that Council pass this cost on to the responsible borrowers.

This report recommends that the Shire of Broome adopt a fee of \$41.97 for late return of items to the State Library of Western Australia, effective from 1 December 2011.

BACKGROUND

The Manager of Library Services became aware of the new procedure in May 2011, when a notice was placed on the Public Librarians "On-Line Bulletin Board". The fee of \$41.97 has been introduced to all libraries within the State for the late returning of books, and/or for lost or non returned books that are borrowed through the State Library WA.

While the State Library and the Broome Public Library attempt to get items back to originating libraries within the specified time frame some borrowers do not respond to telephone reminders.

The process will be to warn borrowers at the time of placing their requests for items borrowed from or via the State Library that this charge will be incurred if the item is not renewed or returned to the library on the date specified. To do so it is necessary to include the administration fee on the Shire of Broome Schedule of Fees and Charges.

The State Library process is as follows:

1. The first notice will be a courtesy reminder – it will be emailed/posted three days before the item is due. The notice will read:

The above item(s) is/are due to be returned in three days. The first overdue will be emailed/posted out one day after the item is overdue. Please return them by the due date or renew.

2. The second notice will be an overdue notice sent one day after the item is overdue. The notice will read:

"The above item(s) have not been returned.

Please renew them or return them to avoid being invoiced and charged a non refundable \$41.97 admin fee. An invoice will be created 21 days from the due date."

Before a public library receives an invoice document delivery staff will contact the public library to let them know that they will be charged if the items are not returned. It is very rare for a Public Library to be charged the non refundable fee.

COMMENT

Broome Public Library does not currently charge any fees or charges for local overdue items. The cost of recovery is seen as more expensive than a normal process of reminders leading to an account for a lost item.

Notifying borrowers at the point of request for an item would allow members to make an informed choice before going ahead with a loan which may end up costing them \$41.97.

It is certainly not fair that the Shire of Broome ratepayers, in general, should have to bear the costs to the State Library for persons who utilise the services of the State or Broome Library and do not return the books within the specified time period.

To enable the Shire of Broome to pass on the State Library WA Administration Fee for overdue items it is necessary for Council to include the fee in its Schedule of Fees and Charges. This also requires that the proposed fee be advertised in accordance with the requirements of the Local Government Act 1995, section 6.19.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

6.16. Imposition of fees and charges

(1) *A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.*

** Absolute majority required.*

(2) *A fee or charge may be imposed for the following —*

- (a) *providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
- (b) *supplying a service or carrying out work at the request of a person;*
- (c) *subject to section 5.94, providing information from local government records;*
- (d) *receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;*
- (e) *supplying goods;*
- (f) *such other service as may be prescribed.*

- (3) Fees and charges are to be imposed when adopting the annual budget but may be —
- (a) imposed* during a financial year; and
 - (b) amended* from time to time during a financial year.

* Absolute majority required.

6.17. Setting level of fees and charges

- (1) In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —
- (a) the cost to the local government of providing the service or goods;
 - (b) the importance of the service or goods to the community; and
 - (c) the price at which the service or goods could be provided by an alternative provider.
- (2) A higher fee or charge or additional fee or charge may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently.
- (3) The basis for determining a fee or charge is not to be limited to the cost of providing the service or goods other than a service —
- (a) under section 5.96;
 - (b) under section 6.16(2)(d); or
 - (c) prescribed under section 6.16(2)(f), where the regulation prescribing the service also specifies that such a limit is to apply to the fee or charge for the service.
- (4) Regulations may —
- (a) prohibit the imposition of a fee or charge in prescribed circumstances; or
 - (b) limit the amount of a fee or charge in prescribed circumstances.

6.18. Effect of other written laws

- (1) If the amount of a fee or charge for a service or for goods is determined under another written law a local government may not —
- (a) determine an amount that is inconsistent with the amount determined under the other written law; or

6.18. Effect of other written laws

- (1) If the amount of a fee or charge for a service or for goods is determined under another written law a local government may not —
- (a) determine an amount that is inconsistent with the amount determined under the other written law; or
 - (b) charge a fee or charge in addition to the amount determined by or under the other written law.
- (2) A local government is not to impose a fee or charge for a service or goods under this Act if the imposition of a fee or charge for the service or goods is prohibited under another written law.

6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and

- (b) the date from which it is proposed the fees or charges will be imposed.

Local Government (Financial Management) Regulations 1996

25. Fees and charges information

In relation to fees and charges imposed under the Act or any other written law, the annual budget is to include an estimate of the total revenue from the fees or charges from each program.

41. Information about fees and charges

In relation to each program in respect of which fees or charges were imposed (whether under the Act or any other written law), the annual financial report is to include details of the total revenue received from the fees and charges from that program.

Library Board (Registered Public Libraries) Regulations 1985

8. Payment for certain services

A charge shall not be made for the registration of a reader, for the issue of a reader’s ticket or for the loan of books, but the library authority may make a charge for the issue of a ticket to replace one lost or destroyed, the amount of which shall be determined by the library authority with the concurrence of the Board.

16. Lost or damaged books

Where a book —

- (a) *is not returned after notice requesting its return has been given;*
- (b) *is lost whilst on loan to a registered reader; or*
- (c) *after being returned is found to have been damaged, the registered reader who borrowed the book may be required by the Board —*
- (d) *to pay the cost of replacement of the book as determined by the Board and if the book is one volume of a set and it is impracticable to replace that volume, to pay the cost of replacement of the whole work; or*
- (e) *to compensate the library authority and the Board for the loss or damage sustained.*

30. Recovery of outstanding sums, etc.

All sums and penalties that are payable under these regulations may be recovered in any court of competent jurisdiction by the Board or the library authority as the case may be.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

In 2010/11, 108 requests were made which potentially could have costed the Shire of Broome \$4,530.60 if loans were not returned on time and the Shire chose to absorb the fee rather than passing it on. To do this the Library budget would need to be increased accordingly. There is also the issue of additional internal administration cost of processing this fee.

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

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

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

Develop an organisational culture that strives for service excellence.
Review and analyse strategic and operational plans.

Manage resource allocation.

Encourage community engagement.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Absolute Majority

REPORT RECOMMENDATION:

That the Shire of Broome:

1. *Adopts an administration fee of \$41.97 (GST inclusive) to be recouped from the responsible borrower(s) of non refundable administration fee invoiced by the State Library WA for overdue or non returned items to the State Library. Fee to be effective from 1 December 2011.*
2. *Advertises in the Broome Advertiser, on the Shire of Broome Website, and by posting a notice in the Broome Regional Library the adoption of the fee in accordance with the provisions of the Local Government Act 1995, section 6.19.*

COUNCIL RESOLUTION:

That Council;

1. *Adopts an administration fee of \$41.97 (GST inclusive) to be recouped from the responsible borrower(s) of non refundable administration fee invoiced by the State Library WA for overdue or non returned items to the State Library. Fee to be effective from 1 December 2011.*
2. *Advertises in the Broome Advertiser, on the Shire of Broome Website, and by posting a notice in the Broome Regional Library the adoption of the fee in accordance with the provisions of the Local Government Act 1995, section 6.19.*

Moved: Cr C Mitchell

Seconded: Cr E Yu

CARRIED BY ABSOLUTE MAJORITY 7/0

[Attachment: 1 pages](#)

Cr E Yu declared a financial interest in item 9.3.6 as Secretary of the Broome Basketball Association Inc. and departed the Chambers at 5.31pm.

9.3.6 COMMUNITY SPONSORSHIP PROGRAM 2011/12

LOCATION/ ADDRESS: N/A
APPLICANT: Various
FILE: FIS06
AUTHOR: Project and Administration Officer
CONTRIBUTOR/S: Community Sponsorship Assessment Working Group
RESPONSIBLE OFFICER: Chief Executive Officer
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 12 October 2011

SUMMARY: This report is recommending Council approve the amount of \$28,350 for Round 1 of the Annual Community Sponsorship Program 2011/12. That Council approve the surplus funding be allocated to Round 2 Annual Community Sponsorship Program with up to maximum of 10% of total annual budget allocation (\$8,550) allocated Ad Hoc sponsorship throughout the year with delegation for approval to the Chief Executive Officer.

BACKGROUND

Previous Considerations

OCM 28 October 2010 –	Item 9.2.12
OCM 2 September 2009 -	Item 9.2.4
OCM 4 August 2009 -	Item 9.2.1 - Deferred due to unavailability of a quorum
OCM 23 October 2008 -	Item 9.2.2
OCM 26 August 2008 -	Item 9.2.2
OCM 5 June 2008 -	Item 9.2.1
OCM 14 February 2008 –	Item 9.2.3
OCM 22 November 2007 –	Item 9.4.6
OCM 13 April 2006 –	Item 9.4.9

COMMENT

The Community Sponsorship Assessment Working Group (CSAWG) has suggested changes to the Annual Community Sponsorship Program in 2011/12 to be in-line with a calendar year to better support the Broome “Dry” operational season. To do this effectively in 2011/12 and without disadvantaging any community groups a program of two (2) grant rounds was developed to change the dates for the Shire’s Annual Community Sponsorship Program.

The dates set for each round:

- Round 1 Community Sponsorship Program (CSP) open from 27 July to 16 September 2011 for projects scheduled between 1 November 2011 and 31 March 2012.

- Round 2 CSP open from 6 October 2011 to 10 February 2012 for projects scheduled between 1 April 2012 to 31 March 2013. With the Round 2 timeframe becoming the Annual Community Sponsorship Program dates for future years.

The Community Sponsorship Assessment Working Group met on 10 October 2011 to assess applications under Round 1 of the Community Sponsorship Program in-line with the Assessment guidelines.

Due to the diversity and complexity of applications, the attached confidential spreadsheet has further detail and comments from the Community Sponsorship Assessment Working Group.

The table below lists recommendations to council to fund the following projects.

Round 1 Community Sponsorship Program 2011/12

Recommended Projects for Funding

Name of Organisation	Project Name	Amount Requested	Amount Recommended
Broome Aboriginal Media Association	Kimberley Girl 2011 (Broome)	\$5,000.00	\$4,000.00
Broome Community Resource Centre	e-community BROOME	\$4,950.00	\$4,950.00
Broome Sports Association	Broome Sports Awards 2011	\$3,000.00	\$2,000.00
Broome Basketball Association Inc	Broome Basketball All Stars Representative Teams to WA State Championships	\$10,000.00	\$2,350.00
Broome Historical Society Inc	Brick Paving to Museum Grounds	\$4,565.00	\$4,565.00
Broome Barracudas Swim Club	Kimberley Open Short Course	\$7,000.00	\$7,000.00
Broome Senior High School	Year 9 Camp to Coral Bay	\$10,000.00	\$3,500.00
Total		\$44,515.00	\$28,365.00

Projects not Recommended for Funding

Name of Organisation	Project Name	Amount Requested	Amount Recommended
* Broome Primary School P & C Association	Broome Primary School P & C Association Playground Project - Stage 2	\$10,000.00	\$0.00
Bidyadanga Aboriginal Community La Grange Inc	Community Recreational and Participation Projects	\$8,000.00	\$0.00
Broome Junior Cricket Association	Broome Junior Cricket Association Season 11/12	\$700.00	\$0.00
Broome Cricket Association	BCA Country Cricket 2012	\$5,000.00	\$0.00
Total		\$23,700.00	\$0.00

Total of all Submissions	\$68,215.00	\$28,365.00
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***NB:** This project is recommended to be assessed to ascertain if it meets the criteria for the Energy Development Limited (EDL) Program rather than being funded under the Community Sponsorship program for its second year of funding.

CONSULTATION

Community Sponsorship Assessment Working Group

Community Information Session 8 August 2011 (21 Community Attendees)

Advertisements in the Broome Advertiser, Shire Newsletter, Shire Website and sent via email to Community distribution list and Sport and Recreation Club Development Officer's Newsletter and database.

STATUTORY ENVIRONMENT

Local Government Act 1995

In relation to Community Sponsorship Assessment Working Group:

Voting

Voting shall be a show of hands and in accordance with S5.21 of the Local Government Act 1995.

Local Government Act 1995**S 5.21 Voting**

- (1) *Each council member and each member of a committee who is present at a meeting of the council or committee is entitled to one vote.*

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

- (2) Subject to section 5.67, each council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the council or committee is to vote.
- (3) If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote.
- (4) If a member of a council or a committee specifically requests that there be recorded —
 - (a) his or her vote; or
 - (b) the vote of all members present, on a matter voted on at a meeting of the council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.

Members Interests to be Disclosed

Members of the Community Sponsorship Assessment Working Group are required to disclose their financial interests and complete a Disclosure form where relevant for all meetings in person and approvals via email, as per the provisions of the Local Government Act Section 5.65-5.70 with respect to disclosure of financial, impartiality or proximity interests.

5.65. Members' interests in matters to be discussed at meetings to be Disclosed

- (1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest —
 - (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.

Penalty: \$10 000 or imprisonment for 2 years.

- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —
 - (a) that he or she had an interest in the matter; or
 - (b) that the matter in which he or she had an interest would be discussed at the meeting.
- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.66. Meeting to be informed of disclosures

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

[Section 5.66 amended by No. 1 of 1998 s. 16; No. 64 of 1998 s. 33.]

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 must not —

- (a) preside at the part of the meeting relating to the matter; or

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

- (b) *participate in, or be present during, any discussion or decision making procedure relating to the matter, unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.*

Penalty: \$10 000 or imprisonment for 2 years.

5.68. Councils and committees may allow members disclosing interests to participate etc. in meetings

- (1) *If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —*
 - (a) *may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and*
 - (b) *may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —*
 - (i) *the disclosing member also discloses the extent of the interest; and*
 - (ii) *those members decide that the interest —*
 - (I) *is so trivial or insignificant as to be unlikely to influence the disclosing member’s conduct in relation to the matter; or*
 - (II) *is common to a significant number of electors or ratepayers.*
- (2) *A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.*
- (3) *This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.*

5.70. Employees to disclose interests relating to advice or reports

- (1) *In this section —*
employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.
- (2) *An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.*
- (3) *An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.*

Penalty: \$10 000 or imprisonment for 2 years.

5.71. Employees to disclose interests relating to delegated functions

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

- (a) *in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and*

(b) *in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.*

Penalty: \$10 000 or imprisonment for 2 years.

POLICY IMPLICATIONS

Policy 5.1.5 – Community Sponsorship Program

FINANCIAL IMPLICATIONS

\$85,500 has been allocated to the Community Sponsorship Program for the 2011/12 financial year with the addition of \$10,450 in uncommitted funds from 2010/11 financial year.

This report recommends \$28,365 be allocated to Round 1 Community Sponsorship Program recommended annual projects as per the table above.

The remaining \$59,035 shall be held for Round 2 Community Sponsorship Program scheduled for approval in March 2012.

Funding of \$8,550 (maximum 10% of Annual budget) will be available for Ad Hoc sponsorships throughout the year. Ad Hoc sponsorships will be assessed inline with the Assessment Guidelines with the delegation of authority given to the Chief Executive Officer after reference to the Community Sponsorship Working Group to approve applications to a maximum of \$1,000.

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

Create community spaces.

Encourage recreational activity.

Facilitate a safe environment.

Nurture and build social capital to increase community capacity.

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

Engage with local community by presenting realistic and sustainable land use strategies for the Shire within the state and national frameworks.

Ensure that our planning processes result in a built environment that reflects arid tropical climate design principles and historical built form.

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome's iconic tourism assets and reputation.

Implement best practice asset management plans to optimise Shires' infrastructure whilst minimising life cycle costs.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.

Encourage community engagement.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Absolute Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

That Council;

1. *Approve the amount of \$28,365.00 for Round 1 of the Annual Community Sponsorship Program for projects as recommended by the Community Sponsorship Assessment Working Group and;*
 - (a) *the remaining amount of \$59,035 to be allocated to Round 2 Annual Community Sponsorship Program for assessments in March 2012;*
 - (b) *\$8,550 be allocated to Ad Hoc Sponsorship Program for applications up to \$1,000 delegated to the Chief Executive Officer for approval following consultation with Community Sponsorship Assessment Working Group.*

2. *Adopt revised Community Sponsorship Policy 5.1.5 and endorse;*
 - (a) *the revised dates for the Annual Community Sponsorship Program being open for applications between October and February with assessments completed and recommendations made to Council at March Ordinary Meeting of Council each year;*
 - (b) *the Assessment Guidelines used by the Community Sponsorship Assessment Working Group to recommend projects in an equitable and accountable manner.*

3. *Refers and recommends the application from Broome Primary School P & C Association Phase 2 Playground upgrade for funding of \$10,000 for installation of soft fall area at the new school playground be funded under the Energy Development Limited program.*

Moved: Cr C R Mitchell

Seconded: Cr M Manado

CARRIED BY ABSOLUTE MAJORITY 6/0

[Attachment: 6 pages](#)

(Attachment 3 pages – Confidential to Directors and Councillors only)

Cr E Yu returned to the Chambers at 5.32pm.

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.

9.4.1 PROPOSED AMENDMENT - JANUBURU (SIX SEASONS) DEVELOPMENT PLAN

LOCATION/ ADDRESS:	Januburu, Six Seasons Estate
APPLICANT:	Urban & Rural Perspectives on behalf of the Broome Port Authority.
FILE:	BAR-6/9
AUTHOR:	Neels Pretorius
CONTRIBUTOR/S:	Manager Planning Services
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE RECIEVED:	30 August 2011

SUMMARY: Urban and Rural Perspectives (URP) on behalf of the Broome Port Authority have submitted an application to amend the density coding for Lot 432 (No. 9) Barrgara Road, Cable Beach from R17.5 to R30.

This report recommends that Council adopts the amendment to the Januburu Development Plan for the purpose of seeking public comment.

BACKGROUNDPrevious 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
OCM 1 August 2011 –	Item 9.4.2

Site and Surrounds

The Januburu, Six Seasons Estate is located between Reid Road to the east, and Gubinge Road to the west. The site is vacant and measures 648sqm in area. The area surrounding the site is used for residential purposes and dwelling units under construction. The Januburu community park is situated 100m to the south-east of the site.

Attachment 1: Locality Plan

Description of the Proposal

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

Lot 432 is located on Barrgana Road, in the north-western part of the Januburu Six Seasons Residential Estate. Under the terms of the approved Development Plan the lot has been assigned a residential density coding of R17.5. As such the 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 432 to be developed to accommodate higher density residential purposes like "Grouped Dwellings" or "Multiple Dwellings" a form of development currently not permitted under the R17.5 density code classification.

If the proposed amendment is approved it would allow the construction of two grouped dwelling units on the lot or multiple dwellings with a maximum plot ratio of 0.5. It is the intention of the Broome Port Authority to develop 'staff accommodation'.

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 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 states "*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*"

Lot 432 is 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.

The proposed Residential R30 coding provides a transition built form from the adjoining Residential R40 coding on Lot 431. The provision of two grouped dwellings is considered to an appropriate built form.

It is recommended that Council adopts the amendment to the Januburu Development Plan for the purpose of seeking public comment.

Attachment 2: Revised Januburu Development Plan.

CONSULTATION

The proposal is to be advertised in accordance with the Town Planning Scheme No.4 for 42 days.

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.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

Create community spaces.

Encourage recreational activity.

Facilitate a safe environment.

Nurture and build social capital to increase community capacity.

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

Engage with local community by presenting realistic and sustainable land use strategies for the Shire within the state and national frameworks.

Ensure that our planning processes result in a built environment that reflects arid tropical climate design principles and historical built form.

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome’s iconic tourism assets and reputation.

Implement best practice asset management plans to optimise Shires’ infrastructure whilst minimising life cycle costs.

As required under the Commonwealth Government’s Bi-lateral Agreement, Council is able to mobilise resources to deliver municipal services to Indigenous communities that are compliant, effective and within Council’s capacity.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

Encourage the provision of affordable land for residential, industrial, commercial and community use.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.

Encourage community engagement.

Manage staff attraction and retention.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

<u>COUNCIL RESOLUTION:</u> (REPORT RECOMMENDATION)	
<i>That Council pursuant to clause 4.25.3.2 adopts the amended Januburu, (Six Seasons) Development Plan with the RCode of Lot 432 (No. 9) Barrana Road, Cable Beach changed from R17.5 to R30 for the purpose of advertising for public comment for a period of 42 days.</i>	
<i>Moved: Cr C R Mitchell</i>	<i>Seconded: Cr M Manado</i>
CARRIED UNANIMOUSLY	

[Attachment: 2 pages](#)

Cr C R Mitchell declared a Proximity Interest in item 9.4.2 and departed the Chambers at 5.33pm.

9.4.2 APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL - GROUPED DWELLINGS - LOT 1302 NO 12 BARDWELL STREET BROOME	
LOCATION/ ADDRESS:	Lot 553 No 12 Bardwell Street , Broome
APPLICANT:	Francis and Anna Kenna.
FILE:	BAR-1/12
AUTHOR:	Neels Pretorius
CONTRIBUTOR/S:	Manager Planning Services
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE RECIEVED:	9 November 2010
SUMMARY: An application has been submitted for a retrospective planning approval for two existing one bedroom units on Lot 553 (No.12) Bardwell Street, Broome.	
This matter is referred to Council because the two dwellings have already been constructed.	
This report recommends approval.	

BACKGROUND

Previous Considerations

OCM 26 August 2008 – Item 9.3.6

Site and Surrounds

The site measures 1091sqm on Bardwell Street and forms part of the area that has recently be rezoned to Residential with a R30 coding. The property is at the end of the Bardwell street cul de sac, the surrounding development is predominately single dwellings on 1000sqm lots.

Attachment 1 – Locality Plan

Description of the Proposal

An approved Bed & Breakfast facility located to the rear of a main dwelling has been converted into two single story 40sqm one bedroom dwellings.

Attachment 2 – Site Plan

Attachment 3 – Floor Plan

Planning Provisions

In terms of Town Planning Scheme No 4 the lot is zoned “Residential” with a R30 density coding. This coding requires a single dwelling or grouped dwelling to have an average site area per dwelling of 300sqm.

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

Grouped Dwelling is a "P" use within the Residential zone ie: permitted use provided planning Approval has been obtained.

In terms of Clause 8.4.1 of TPS4 Council may grant planning approval to a development already commenced or carried out regardless of when it was commenced or carried out.

COMMENT

This broader area was recently rezoned to have an R30 coding – the notification being gazetted on 20 September 2011.

As set out in Clause 5.2 of TPS4 the aim of the "Residential Zone" is to provide for residential development at a range of densities with a variety of housing to meet the needs of different household types.

Planning Approval is required for the development of more than a single dwelling on a single lot. The proponent has converted an approved 80sqm one bedroom Bed & Breakfast unit (PA2007/120) into two 40sqm single bedroom dwellings.

Lot 553 with an area of 1031sqm is zoned Residential with a coding of R30. This development can be supported as set out in the attached table:

Provision	Proposed development	Comment
Maximum number of dwellings 3 with average site area per dwelling of 300 sqm. (Table 1)	The lot has a total area of 1091sqm – this allows 3 grouped dwellings	Development complies.
Four Parking bays	three bedroom dwelling – 2 bays 1 bedroom dwelling – 1 bay per dwelling 4 bays provided	Development complies.
Rear and side setback (Table 2a) of 1.5m	1.5m	Development complies.
Private open space minimum total % of site 45%.	Has provided 70%	Development complies.

The proposal complies with all other aspects of the site and development requirements and is considered to be appropriate to the site and the surrounding environment. This application is recommended for approval.

CONSULTATION

Nil.

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

STATUTORY ENVIRONMENT***Planning and Development Act 2005******Town Planning Scheme No 4***4.13 *Residential Zone*4.13.1 *Aims and Objectives*

4.13.1.1 *The aim of the zone is to provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes. Any development of land is to comply with the standards and requirements of:*

- (a) the provisions of this Scheme; and*
- (b) without limiting the generality of sub clause 5.2.3, the Residential Design Codes in respect of development for residential purposes.*

5.2 *Residential Design Codes*

5.2.1 *For the purpose of this Scheme "Residential Design Codes" means the Residential Design Codes set out in Statement of Planning Policy No. 3.1, together with any amendments thereto.*

5.2.2 *A copy of the Residential Design Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.*

5.2.3 *Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the Residential Design Codes shall conform to the provisions of those Codes.*

5.2.4 *The Residential Design Code density applicable to land within the Scheme Area shall be determined by reference to the Residential Design Codes density number superimposed on the particular areas shown on the Scheme maps as being contained within the solid black line borders or where such an area abuts another area having a Residential Design Code density, as being contained within the centre-line of those borders.*

5.2.5 *The height of buildings within the Residential zone must not exceed a wall height of six and a half (6.5) metres and a building height of ten and a half (10.5) metres. This replaces the Acceptable Development provision A1 .1 - Category B of Table 3 of the Residential Design Codes*

8.4 *Unauthorised Existing Developments*

8.4.1 *The Council may grant planning approval to a development already commenced or carried out regardless of when it was commenced or carried out.*

8.4.2 *Development which was unlawfully commenced shall not be rendered lawful by the occurrence of any subsequent event except the granting of planning*

approval and the continuation of the development unlawfully commenced shall be deemed to be lawful development upon the grant of planning approval.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

Create community spaces.

Encourage recreational activity.

Facilitate a safe environment.

Nurture and build social capital to increase community capacity.

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

Engage with local community by presenting realistic and sustainable land use strategies for the Shire within the state and national frameworks.

Ensure that our planning processes result in a built environment that reflects arid tropical climate design principles and historical built form.

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome’s iconic tourism assets and reputation.

Implement best practice asset management plans to optimise Shires’ infrastructure whilst minimising life cycle costs.

As required under the Commonwealth Government’s Bi-lateral Agreement, Council is able to mobilise resources to deliver municipal services to Indigenous communities that are compliant, effective and within Council’s capacity.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

Encourage the provision of affordable land for residential, industrial, commercial and community use.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.

Encourage community engagement.

Manage staff attraction and retention.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council pursuant to clause 8.4 and 10.3. of TPS4 approves the application for retrospective planning approval PA 2010/158 submitted by Francis and Anna Kenna for two single storey one bedroom Dwellings on Lot 1302 (No12) Bardwell Street subject to the following condition:

- 1. Development must be carried out in accordance with the plans dated 09 November 2010, which were submitted with the application, and endorsed by the Shire.*

COUNCIL RESOLUTION:

That Council pursuant to clause 8.4 and 10.3. of TPS4 approves the application for retrospective planning approval PA 2010/158 submitted by Francis and Anna Kenna for two single storey one bedroom Dwellings on Lot 1302 (No12) Bardwell Street subject to the following condition:

- 1. Development must be carried out in accordance with the plans dated 9 November 2010, which were submitted with the application, and endorsed by the Shire.*
- 2. All vehicles, including boats and trailers must be accommodated within the confines of the lot.*

Moved: Cr E Yu

Seconded: Cr Peter D Matsumoto

CARRIED UNANIMOUSLY

[Attachment: 3 pages](#)

Cr C R Mitchell returned to the Chambers at 5.35pm.

**9.4.3 APPLICATION FOR PLANNING APPROVAL – SHOWROOMS - LOT 1343 (NO 154)
FREDERICK STREET, BROOME**

LOCATION/ ADDRESS: Lot 1343 (No 154) Frederick Street Broome
APPLICANT: Maya Design Architects on behalf of Northrose Holdings Pty Ltd.
FILE: FRE – 1/154
AUTHOR: Neels Pretorius
CONTRIBUTOR/S: Manager Planning Services
RESPONSIBLE OFFICER: Director Development Services
DISCLOSURE OF ANY INTEREST: Nil
DATE RECEIVED: 29 March 2011

SUMMARY: An application for planning approval has been received for a Showroom development on Lot 1343 (No 154) Frederick Street, Broome.

This matter is referred to Council as the access to the development is from Jewell Street, a private road. The applicant has obtained an agreement with the Frederick Street Strata Company which has specified as part of the agreement a 'condition' that Council agree to Jewell Street becoming a public road.

This report recommends approval.

BACKGROUND

Previous Considerations

OCM 5 November 2003 –	Item 9.2.11
OCM 18 January 2005 –	Item 9.3.4
OCM 24 May 2005 –	Item 9.3.1
OCM 30 September 2010 –	Item 9.3.3

Site and Surrounds

The land, has an area of 10,393sqm. The site contains an existing single storey building used for offices which contains 8 rooms. To the south-west of the site a number of single storey showrooms have been built these accommodate such outlets as Kimberley Camping, Auto One, NW Communications and others. To the north-west is a large Veterinary Clinic. The Broome Fire & Rescue Service building is located to the north-east of the site.

Attachment 1: Locality Plan

Description of the Proposal

It is proposed to develop showrooms with a total leasable area of 3,720sqm. This will be contained to two buildings with 8 tenancies varying in size from 361sqm to 504sqm. One building is located to the west end (rear of the lot) having 4 tenancies and the other building is located to the north east side of the lot with four tenancies.

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

The wall height of the buildings is 5.9m and the ridge height is 6.7m.

The two buildings are oriented to face into a common car park. To ensure a commercial presence to Frederick Street Tenancy No 8 has a window façade facing Frederick Street is set back 2.5m with pedestrian access along the frontage. A 1.5m footpath along the front of both buildings provides a pedestrian access to all tenancies.

Vehicular access to the lot from Frederick Street is via Jewell Street with two 7m wide dual carriageway crossovers.

There is landscaping indicated along the SE boundary (Frederick Street) and within the parking area. The size of the areas provided varies in width from 2m to 6m.

Attachment 2:

- 1/6 – Site plan
- 2/6 – Floor plan tenancy 1 to 4.
- 3/6 – Floor plan tenancy 5 and 6.
- 4/6 – Floor plan tenancy 7 and 8.
- 5/6 – Elevations tenancy 1 to 4.
- 6/6 – Elevations tenancy 5 to 8.

Planning Provisions

This land is zoned 'Special Use (Showroom, Office, Consulting Rooms, Restaurant, Veterinary Clinic)' and contains the following requirements:

- *for the purposes of this site "showroom" shall be interpreted to mean any building or part of a building used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive spare parts, camping equipment, carpets, electrical light fittings, equestrian supplies, large electrical appliances, floor coverings, furnishings, furniture, hardware, household appliances, party supplies, swimming pools, trade supplies, or goods of a bulky nature which require a large area for handling, storage or display or easy and direct vehicular access to enable the goods to be collected by customers after sale, but does not include the sale by retail of footwear, foodstuffs, liquor or beverages, items of clothing or apparel, magazines, medicinal or pharmaceutical products, newspapers, books or paper products, china, glassware, items of personal adornment, and generally items of a cash and carry nature related to daily household and recreation needs and consumption.*
- *When considering any application for planning approval Council shall have regard for the traffic impact study prepared for MRWA dated April 2005.*

TPS Part 5 – General Development Provisions sets out requirements for car parking, service areas, height of buildings, Broome style architecture, and landscaping.

TPS Clause 10.2 – Matters to be considered by Council.

Policy 4.1.8 – Car Parking and draft Local Planning – Car, Motorcycle, Bicycle Parking.

COMMENT

The development complies with the provisions of TPS4 except the following matters that warrant further consideration.

Matter - as shown in proposed development	Scheme Provisions	Comment
<p>Access to the development.</p> <p>Ingress to and egress from the property has been proposed from Jewell Street to Frederick Street.</p>	<p><u>TPS4</u></p> <p>Access arrangements need to have regard of the Traffic Impact study prepared by MRWA dated April 2005. This traffic study states that Jewell Street should be used as access road to developments in the Jewell street precinct.</p>	<p>Development complies.</p>
<p>Parking</p> <p>75 car bays which includes 7 accessible bays. Two loading bays provided.</p>	<p><u>LPP 4.1.8</u></p> <p>$3720/50 = 74.4$ thus 75 single parking bays are required. No provision made for motorcycle or bicycle parking</p>	<p>Development generally complies.</p>
<p>Service Areas</p> <p>Loading bays provided in front of tenancies Drive ways enable all service trucks to manoeuvre safely Rubbish bin storage area provided to the rear of each tenancy</p>	<p><u>TPS4</u></p> <p>Adequate service areas and manoeuvring space that does not conflict with customers</p>	<p>Development complies subject to conditions</p>
<p>Landscaping</p> <p>Landscape areas have been provided in the parking area.</p>	<p><u>TPS4</u></p> <p>Landscaping plan for development and abutting road reserve required</p>	<p>Development complies subject to conditions</p>
<p>Building Form</p> <p>Proposed development of a low scale and form.</p> <p>Skillion roof with a suspended verandah provided over pedestrian way</p>	<p><u>TPS4</u></p> <p>Low scale building bulk. Have regard for local climatic considerations</p> <p>Hipped form of roof and specified materials to be used</p>	<p>Generally complies</p>

The traffic impact study prepared for MRWA dated April 2005 requires that access from the site to and from Frederick Street should be via Jewell Street. Jewell Street is a private road associated with the Commercial (Strata Development) to the south-west of the proposed development. The Strata Company has passed a resolution that the proposed development can use Jewell Street for access purposes to the proposed development on the 'conditions' that Council:

- *Agree to support the conversion of the properties currently included in this Strata Plan to separate Green Freehold Titles; and*
- *That Jewell Street be converted to a Gazetted Public Road vested in the Shire*

The change of tenure from Strata Plan to Green Freehold title requires that the owners initiate the process. At this time the Shire would require Jewell Street to be upgraded to Shire standards. On this basis the proposal to convert Jewell Street from a private road to a public road can be supported.

The proposed Showroom development is strategically positioned in Frederick Street between the Broome Boulevard and the Jewell Street 'showroom node'. The development is designed to be orientated towards Jewell Street and forms an appropriate extension and edge to the small showroom precinct.

The assessment of the relevant TPS4 provisions has identified a number of matters that warrant further consideration.

- Building form - while not replicating the specified hipped roof of TPS4 5.10 the building form is considered appropriate. It is noted that additional shading is provided for pedestrians with a suspended veranda over all pedestrian ways.
- Pedestrian access - is provided along the showrooms frontages and conditions can be applied that ensure safe connections are provided to the external footpaths and to access points from the car park.
- Landscaping - will provide addition shade and the preparation of a landscaping plan will ensure that suitable species are provided.
- Parking - no provision has been made for motorcycle or cyclists facilities. Conditions can be applied that require the provision of bicycle bays being provided in front of each of the buildings
- Services - rubbish bins are to be retained to the rear of each tenancy. The location identified on the south-western boundary only indicates where bins are placed temporarily for collection

The proposed showroom/warehouse complex is considered to be suitable and appropriate and it is recommended for approval

CONSULTATION

There is no requirement under TPS 4 or any other legislation to consult.

STATUTORY ENVIRONMENT

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

5.5 *Car Parking*

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

5.5.1 *Car Parking for all development and land uses within the Scheme area shall refer to the relevant policy.*

5.11 *Landscaping and Existing Trees*

10.2 *Matters to be considered by Council*

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

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

- (v) *the comments or submissions received from any authority consulted under clause 10.1.1;*
- (w) *the comments and submissions received from the representative Aboriginal group and people on matters of heritage and cultural importance and Native Title;*
- (x) *whether adequate provision is made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
- (y) *any social issues which have an effect on the amenity of the locality; any other matter which in the opinion of the Council has planning relevance.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS:

Once Jewell Street has become a Public Road the Shire of Broome will have a maintenance responsibility towards Jewell Street.

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

Create community spaces.

Encourage recreational activity.

Facilitate a safe environment.

Nurture and build social capital to increase community capacity.

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

Engage with local community by presenting realistic and sustainable land use strategies for the Shire within the state and national frameworks.

Ensure that our planning processes result in a built environment that reflects arid tropical climate design principles and historical built form.

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome’s iconic tourism assets and reputation.

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

Implement best practice asset management plans to optimise Shires' infrastructure whilst minimising life cycle costs.

As required under the Commonwealth Government's Bi-lateral Agreement, Council is able to mobilise resources to deliver municipal services to Indigenous communities that are compliant, effective and within Council's capacity.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

Encourage the provision of affordable land for residential, industrial, commercial and community use.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.

Encourage community engagement.

Manage staff attraction and retention.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

<p><u>COUNCIL RESOLUTION:</u> (REPORT RECOMMENDATION)</p> <p>A. That Council pursuant to clause 10.3 of Town Planning Scheme No.4 approves the application for Planning Approval 2011/54 submitted by Maya Designs Broome on behalf of North Rose Holdings for an Showroom/Warehouse Development on Lots 1343 (No 154) Frederick Street Broome be approved subject to the following conditions:</p> <p>1. Development must be carried out in accordance with the plans stamped received dated 6 October 2011 submitted with the application as approved by the Shire.</p>

2. *Prior to occupation of the development, areas set aside for parked vehicles and access lanes, as shown on the approved plans, must be:*
 - a) *Constructed to the satisfaction of the Shire.*
 - b) *properly formed to appropriate levels.*
 - c) *surfaced with an all-weather seal coat to the satisfaction of the Shire.*
 - d) *drained and maintained to the satisfaction of the Shire.*
 - e) *line-marked to indicate each car bay and all access lanes to the satisfaction of the Shire, in accordance with the Building Code of Australia and AS 1428.1:*
 - I) *- 2001 Design for Access and Mobility, Part*
 - II) *- General Requirements for Access*
 - III) *Buildings. Car parking bays must be line marked with car bays being at a minimum width of 2.7m x 5.5m and accessible bays being a minimum width of 3.2m x 5.5m. be kept available for these purposes at all times.*
3. *A minimum of seventy five (75) car parking bays which include 9 accessible bays must be provided for the development.*
4. *One bicycle bay each is to be provided in front of each building containing tenancies 1 – 4 and tenancies 5 – 8.*
5. *Prior to the submission of an application for Building Licence and prior to any construction or works commencing on site, a drainage plan must be prepared and submitted to the Shire. The design and documentation for the drainage plan must be certified by an appropriately qualified professional, using recognised and accepted hydrological, soils, hydraulic and design methodologies. The applicant should consult with the Shire in order to properly integrate the design and documentation of the proposed drainage system for the site, with the Shires existing drainage system, and show:*
 - a) *the existing storm water drainage system, easements and legal points of discharge.*
 - b) *the location of all development, including finished floor levels, and grades of all hard-stand areas.*
 - c) *the layout of the proposed stormwater drainage system.*
 - d) *methods for on-site detention, if required.*
6. *Drainage and any filling of the site must be carried out in accordance with the approved Drainage Plan and then maintained to the satisfaction of the Shire.*
7. *Prior to any construction or works starting on-site, a Landscaping Plan must be submitted to and approved by the Shire. For the purpose of this condition, a detailed Landscaping Plan should include a range of suitable endemic plants, be of an appropriate scale and show the following:*
 - a) *The location and type of existing and proposed trees and shrubs.*
 - b) *Any lawns to be established.*
 - c) *Any natural landscape areas to be retained.*
 - d) *Those areas to be reticulated or irrigated.*
 - e) *A minimum of one (1) metre wide deep root planting zone is to be*

provided
 f) *Where impervious materials surround existing or proposed tree trunks a minimum area of one (1) metre be kept clear.*

8. *Landscaping of the Frederick Street road verge must be in accordance with the approved Landscaping Plan and must be completed prior to the occupation of the development and then maintained to the satisfaction of the Shire.*

9. *All roadways, including the proposed main entry access to the complex, must be constructed in accordance with detailed engineering plans and specifications, and give consideration to pedestrian movements and connections to road infrastructure. All plans and specifications must be approved prior to the commencement of works.*

10. *A safe and appropriate pedestrian connection is to be provided from the eastern end of the commercial footpath to the Frederick Street footpath to the satisfaction of the Shire.*

11. *The proponent make a contribution towards the provision of road reserve works (Footpath) not present at the site or that have been constructed within five (5) years of the application date in line with Shire policy. Payment must be paid prior to occupation of the development.*

12. *All rubbish bins are to be stored permanently to the rear of each tenancy.*

B. *That the Frederick Street Strata Company be advised subject to Jewell Street being upgraded to the Shire standards a change of tenure from Strata Plan to Green Freehold would be supported.*

Moved: Cr C Mitchell

Seconded: Cr D Male

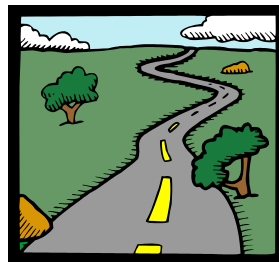
CARRIED UNANIMOUSLY

[Attachment: 7 pages](#)

9.5

ENGINEERING

SERVICES



OUTCOME

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

With regard to Item 9.5.1 Cr Peter D Matsumoto disclosed that *“I have had an association with Native Title. 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”*.

Amended at Ordinary Meeting of Council 24 November 2011

With regard to Item 9.5.1 Cr E Yu disclosed that *“I have had an association with Yawuru NTHAC RNBT as an ordinary member. 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”*.

9.5.1 CLIFF EROSION ISSUE - TOWN BEACH TO CATALINA’S - BUDGET REVISION

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: RES 31340
AUTHOR: Director Engineering Services
CONTRIBUTOR/S: N/A
RESPONSIBLE OFFICER: Director Engineering Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 22 September 2011

SUMMARY: This report advises Council of its success in an application to the Coastal Protection Grants Scheme for the amount of \$60,000.00, on a \$ for \$ basis, for investigations and design of shoreline protection works from Town Beach to Catalina’s.

As this grant must be matched by an equal amount of Shire funding, this report recommends on a budget revision which results in a surplus of funds.

BACKGROUND

Previous Considerations

OCM 17 February 2011 - Report entitled *“Cliff Erosion Issue - Town Beach to Catalinas”*. Council resolved:-

“That Council considers at its 2011/2012 budget meetings, the funding of a Coastal Engineering Study to assess pindan cliff erosion between Town Beach and Catalina’s and to recommend to Council the most practicable and cost effective means of erosion control.”

Although the matter was considered, no allowance was included in the 2011/12 budget as it was not known at that stage whether the grant submission would be successful or not.

COMMENT

Council considered a report on the erosion of the pindan cliffs from the Town Beach groyne to Catalina’s at the Ordinary Meeting of Council held on 17 February 2011. A budget allocation of \$100,800 was included but no recognition of potential income from a grant due to the uncertainty that an application for the grant would be successful.

By Letter dated 22 September 2011, the Minister for Transport advised the Shire of its success in the amount of \$60,000. This amounts to 50% of the cost with an equivalent amount of \$60,000 to be funded by Council.

The Grant is for the production of Engineering Construction drawings suitable for the calling of Tenders. The work is to include all necessary marine engineering criteria studies, geotechnical investigations, concept development, detailed design and cost estimate for a coastal protection revetment extending from a short distance out on the existing groyne at Town Beach, wrapping around the re-entrant corner and progressing along the coastline to the drain near Catalina's Residential Development.

It is anticipated that the revetment will in part, be composed of concrete "steps" or "seating" similar to a small grandstand arrangement extending from ground level down to a level at which satisfactory large scale public (tourist) viewing is available for the Stairway to the Moon event. This will include safety railings, drainage and beach access. The remainder of the revetment will be a minimum cost revetment to provide for erosion protection of the remaining pindan cliffs.

The Final Design will include a section of concrete pathway for the extent of the constructed revetment. This pathway will form part of the future Jetty to Jetty concept, a pathway/boardwalk linking from Town Beach to Streeter's Jetty in Chinatown. The documentation produced will enable construction to be staged over appropriate periods to facilitate funding.

A draft Consultants Brief is now with the Department of Transport for approval prior to tenders being called. This Design Project completion date is expected to be May 2012.

External funding for construction will need to be sourced prior to inclusion in the next budget.

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.

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

* Absolute majority required.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Council has budgeted \$100,800 for this Design Project in the 2011/12 Budget with no allowance having been made for this grant income.

The successful grant application provides \$60,000, to be matched by Council, to give \$120,000.

Department of Transport advise that they expect the cost of the proposed work not to exceed a total amount of \$120,000 (\$60,000 plus \$60,000). It is therefore expected that some funds can be saved and transferred back into reserves.

Receipts of the grant funding (\$60,000) are to go to account A/C 113316 - Grants & Other Income for Parks & Oval Const - Op Inc.

Expenses shall be charged against job A/C 113681 - Town Beach to Catalina’s New Infra Const - Cap Exp.

The impact on the budget is therefore expected to be a surplus of funds and can be summarised as follows. (All Figures are Exclusive of GST).

Amount budgeted by Council	\$100,800 (into A/C 113681)
Coastal Protection Grant	\$60,000 (into A/C 113316)
Estimated Project Cost	\$120,000
 Total Funds available	 \$40,800

STRATEGIC IMPLICATIONS

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

Identify affordable services and initiatives to satisfy community needs.

Create community spaces.

Encourage recreational activity.

Facilitate a safe environment.

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

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

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

Retain and build on Broome's iconic tourism assets and reputation.

Implement best practice asset management plans to optimise Shires' infrastructure whilst minimising life cycle costs.

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

Work with agencies and others 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:*
 - a) *GL account 113681 – "Town Beach to Catalina's New Infra Const Cap Exp." increase the budgeted amount of \$100,800 by \$19,200 to give a total Budget amount of \$120,000;*
 - b) *GL account 113316 – "Grants & Other Income for Parks & Oval Const - Op Inc." Increase by receipt of \$60,000 from the Coastal Protection Grant monies, and*
 - c) *Transfer \$60,000 from GL account 113316 to GL account 113681 to give a total of \$160,800;*
 - d) *Transfer \$40,800 from GL account 113681 to reserves; and*
2. *Authorises the Chief Executive Officer to sign the Grant Funding Agreement with Department of Transport.*

Moved: Cr D Male

Seconded: Cr C Mitchell

CARRIED BY ABSOLUTE MAJORITY 7/0

[Attachment: 3 pages](#)

9.5.2 TOURIST ATTRACTION SIGNAGE POLICY

LOCATION/ ADDRESS: Various
APPLICANT: N/A
FILE: ENR03
AUTHOR: Engineering Administration Officer
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Director Engineering Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 7 October 2011

SUMMARY: This report seeks Council endorsement of a draft new policy covering Tourist Attraction Signage (Brown and White Tourism signs) located on Shire Roads for the purpose of advertisement for public comment.

BACKGROUND

Previous Considerations

Nil

Tourism Western Australia (Tourism WA) advised that as from 1 December 2010 they would no longer process Tourism signage policy or assessment matters due to the closure of their regional offices and changes to operations. The responsibility for handling these requests would be arbitrarily handed to Main Roads WA (MRWA) and Local Government to assess and process requests for signage on roads controlled by the appropriate entity.

Currently the Shire of Broome has only two (2) brown & white tourism signs located on roads under Shire control and these were both inherited under the previous arrangement when Tourism WA assessed and approved signs and were then subsequently installed by MRWA.

The Shire has now been requested to approve and install new tourism signage so it is timely that Council adopt a new policy to guide the process for assessment of applications together with managing existing signage.

COMMENT

A new draft Policy is proposed at Attachment "A" entitled "Tourist Attraction Signage"

This policy sets out the methods and conditions under which applications for Tourist Attraction Signage will be assessed and processed.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Under the Road Traffic Code 2000 the Commissioner of Main Roads has powers to erect, display, alter or remove all road signs on all public roads throughout Western Australia. In respect to non-regulatory signs on roads owned and managed by Local Governments outside of the metropolitan area, the Commissioner has delegated these powers to the applicable Local Government Chief Executive Officer.

References are:-

Australian Standards AS1742 (signs)

Council Policy 3.1.11 – Advisory Signs - MRWA Delegation and

Policy 3.1.8 – Business Direction Signs – MRWA Delegation

POLICY IMPLICATIONS

This is a proposed new policy.

FINANCIAL IMPLICATIONS

Increased revenue will be generated from implementation of Establishment fee and Annual Maintenance fee to cover the cost of necessary installation, maintenance and replacement costs.

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

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

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome’s iconic tourism assets and reputation.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION:

That Council;

1. *Endorses the draft " Tourist Attraction Signage Policy" for the purpose of being advertised in the local newspaper for public comment ;*

2. *Requests that the draft policy and any public comments received be brought back for further consideration to the next appropriate Council meeting;*

COUNCIL RESOLUTION:

That Council;

1. ***Endorses the draft " Tourist Attraction Signage Policy" for the purpose of being advertised in the local newspaper for public comment, for a period of 42 days***

2. ***Requests that the draft policy and any public comments received be brought back for further consideration to the next appropriate Council meeting;***

Moved: Cr D M Male

Seconded: Cr E Yu

CARRIED UNANIMOUSLY

[Attachment: 4 pages](#)

9.5.3 REVIEW OF POLICY 3.1.8 - BUSINESS DIRECTION SIGNS - MAIN ROADS WESTERN AUSTRALIA (MRWA) DELEGATION

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: ENR03
AUTHOR: Engineering Administration Officer
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Director Engineering Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 10 October 2011

SUMMARY: This report seeks Council adoption of changes to existing policy 3.1.8 - Business Direction Signs – Main Roads Western Australia (MRWA) Delegation.

BACKGROUND

Previous Considerations

- OCM 08 July 2010 - item 9.4.1
- OCM 17 March 2011 – item 9.4.1
- SCM 17 August 2011 – item 9.1.5

The Shire has been delegated responsibility for some time for approving, installing and maintaining Blue & White Business Direction Signs on Shire controlled roads. Refer to Policy 3.1.8 - Business Direction Signs - MRWA Delegation.

Main Roads WA (MRWA) is responsible for signs on Main Roads such as Broome Highway, Gubinge Road and Port Drive (south of Golf Club turnoff).

MRWA has now approved a delegation for the Shire now also manage the Blue & White Business Direction signs on Main Roads controlled roads; eg, Gubinge Road, Port Drive and Broome Highway up to and inclusive of the 12 Mile community.

As an additional condition for accepting responsibility of these existing signs, MRWA has requested that where there is an existing chevron sign at an intersection indicating "Light / Industrial Area" that any individual Blue and White Business Direction signs also in evidence are to be removed as MRWA considers these signs to be in contravention of their policy and delegation to the Shire.

The Shire charges an annual fee for those signs on Shire roads. However, signs on MRWA roads were previously not charged for, which created an inequity between "sponsors" of signs on Shire and on Main Road's controlled roads.

Eighteen (18) signs fitting the criteria have been identified and the respective business owners will be written to advising of the need to remove their signs.

Some of these signs may be able to be relocated to an alternate conforming intersection.

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

In accepting the expanded delegation the Shire will inherit from MRWA an additional 80 signs for control and maintenance. These signs will be subject to the imposition of the Shire annual maintenance fee as set in the Fees and Charges Schedule.

The breakdown of the 80 signs is as follows:

- 50 – various Caravan park names and distance indicators,
- 11 - various accommodation businesses/services
- 15 – various businesses
- Seven (7) of these are to be removed under the chevron Industrial signage criteria and a further 2 either no longer exist or have moved premises.
- Four (4) community-branded signs such as: rodeo, speedway, motocross and Broome Bird Observatory may be considered exempt from fees under the existing policy.

Therefore approximately 67 signs are eligible to be charged the annual maintenance fee and the business owners will be written to advising of the change in delegation circumstances as well as detailing the fees to be paid. The businesses will have the option of removing or reducing the number of their signs, particularly as some of the caravan parks have up to 14 signs.

The above process will ensure that only those Blue and White signs which have a specific purpose and value will be allowed to remain on Local and Main roads around Broome.

COMMENT

The Policy 3.1.8 - Business Direction Signs - MRWA Delegation requires amendment to reflect the following

In the Guidelines section, "dot point 9".

Delete MRWA responsibility from the following intersections:

- Cable beach Road east/Gubinge Road
- Cable Beach Road west/Gubinge Road
- Gubinge Road/Jigal Drive
- Gubinge Road/Port Drive
- Gubinge Road/Fairway drive
- Gubinge Road/Old Broome Road

CONSULTATION

Not Applicable

STATUTORY ENVIRONMENT

Local Government Act 1995

POLICY IMPLICATIONS

This is an existing policy which requires amendment.

FINANCIAL IMPLICATIONS

Increased revenue through additional sign fees, although offset by maintenance costs and the cost of removal of some signage.

STRATEGIC IMPLICATIONS

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

Identify affordable services and initiatives to satisfy community needs.

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

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

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

That Council adopts the amendments to the Engineering Services Policy 3.1.8 – “Business Direction Signs - MRWA Delegation” as set out in this Agenda Item and in the Policy 3.1.8 Guidelines section at “dot point 9”:-

Delete reference to MRWA responsibility from the following intersections:

- *Cable Beach Road East/Gubinge Road*
- *Cable Beach Road West/Gubinge Road*
- *Gubinge Road/Jigal Drive*
- *Gubinge Road/Port Drive*
- *Gubinge Road/Fairway drive*
- *Gubinge Road/Old Broome Road*

Moved: Cr C R Mitchell

Seconded: Cr Peter D Matsumoto

CARRIED UNANIMOUSLY

[Attachment: 2 pages](#)

10.

REPORTS

OF

COMMITTEES

10.1 COMMUNITY SPONSORSHIP ASSESSMENT WORKING GROUP – MINUTES

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: FIS06
AUTHOR: Project and Administration Officer
CONTRIBUTOR/S: Community Sponsorship Assessment Working Group
RESPONSIBLE OFFICER: Director Corporate and Community Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 12 October 2011

SUMMARY: The Community Sponsorship Assessment Working Group seeks Council's support for the recommendations for successful and unsuccessful projects assessed under Round 1 of the Community Sponsorship Program 2011/12.

BACKGROUNDPrevious Considerations

Nil

The Community Sponsorship Assessment Working Group (CSAWG) meets annually to assess the Community Sponsorship Program applications and make recommendations to Council for successful projects.

COMMENT

The Community Sponsorship Assessment Working Group met on 10 October 2011 to assess applications for Round 1 of Community Sponsorship Program 2011/12.

The minutes of this meeting are attached as a confidential to Councillors and Directors only as comments are included for the assessment of each Community Sponsorship Application.

CONSULTATION

Community Sponsorship Assessment Working Group

STATUTORY ENVIRONMENT

Local Government Act 1995

POLICY IMPLICATIONS

The recommendations from the Community Sponsorship Assessment Working Group include updating the Community Sponsorship Program Policy 5.1.5

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

FINANCIAL IMPLICATIONS

Council allocated \$85,500 to the Community Sponsorship Program in 2011/12 financial year.

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

Create community spaces.

Encourage recreational activity.

Facilitate a safe environment.

Nurture and build social capital to increase community capacity.

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

Engage with local community by presenting realistic and sustainable land use strategies for the Shire within the state and national frameworks.

Ensure that our planning processes result in a built environment that reflects arid tropical climate design principles and historical built form.

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome’s iconic tourism assets and reputation.

Implement best practice asset management plans to optimise Shires’ infrastructure whilst minimising life cycle costs.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.

Encourage community engagement.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

<u>COUNCIL RESOLUTION:</u> (REPORT RECOMMENDATION)	
<i>That Council;</i>	
1.	<i>Receives the minutes from the Community Sponsorship Assessment Working Group meeting 10 October 2011; and</i>
2.	<i>Endorses the recommendations minuted 3.4, 3.5 and 4.1 to 4.10 inclusive.</i>
<i>Moved: Cr C Mitchell</i>	<i>Seconded: Cr D Male</i>
CARRIED UNANIMOUSLY	

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

9.1

LEADERSHIP/GOVERNANCE

AND

ORGANISATION



OUTCOME

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

9.1.1 KIMBERLEY DEVELOPMENT COMMISSION - NOMINATIONS

LOCATION/ ADDRESS:	Kimberley Region
APPLICANT:	Kimberley Development Commission
FILE:	ORL21
AUTHOR:	Chief Executive Officer
CONTRIBUTOR/S:	N/A
RESPONSIBLE OFFICER:	Chief Executive Officer
DISCLOSURE OF ANY INTEREST:	Nil
DATE OF REPORT:	10 October 2011

SUMMARY: The Kimberley Development Commission (KDC) is seeking nominees for a Board Member of the Commission as a local government representative.

BACKGROUNDPrevious Considerations

Nil

The Kimberley Development Commission (KDC) has written (attached) to the Shire of Broome seeking nominations for one (1) local government representative on its Board.

Invitations are being sought from the four (4) Kimberley Local Governments.

The Commission advises that in accordance with the Regional Development Commission's Act 1993, nominees must be elected members and those persons are to be nominated by local governments in the region.

COMMENT

The Kimberley Development Commission is a State Government authority administered pursuant to the Regional Development Commission Act 1993.

Elected members will find additional information in relation to the Kimberley Development Commission on the Commission's Website <http://www.kdc.wa.gov.au> should elected members wish to seek additional information other than that supplied by the Commission in its request for nominations.

The Development Commission has submitted an attached pro forma that is to be completed by the nominated elected member and sent with curriculum vitae to the Kimberley Development Commission for consideration by the Minister for Regional Development et al. Appointment is a competitive process and selection remains at the Minister's discretion.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Regional Development Commission's Act.

Some excerpts of the Act are included in this item for elected member reference.

7. Kimberley Development Commission established

- (1) *There is established by this section a body called the Kimberley Development Commission.*
- (2) *The Kimberley Development Commission is to perform its functions in respect of the region described in Part D of Schedule 1.*

Part D — Kimberley region

The local government districts of Broome, Derby-West Kimberley, Halls Creek and Wyndham-East Kimberley.

Division 2 — Functions and powers of a commission**23. Objects and functions of a commission**

- (1) *The objects of a commission are to —*
 - (a) *maximize job creation and improve career opportunities in the region;*
 - (b) *develop and broaden the economic base of the region;*
 - (c) *identify infrastructure services to promote economic and social development within the region;*
 - (d) *provide information and advice to promote business development within the region;*
 - (e) *seek to ensure that the general standard of government services and access to those services in the region is comparable to that which applies in the metropolitan area; and*
 - (f) *generally take steps to encourage, promote, facilitate and monitor the economic development in the region.*
- (2) *For the purposes of achieving those objects a commission is to —*
 - (a) *promote the region;*
 - (b) *facilitate coordination between relevant statutory bodies and State government agencies;*
 - (c) *cooperate with representatives of industry and commerce, employer and employee organizations, education and training institutions and other sections of the community within the region;*
 - (d) *identify the opportunities for investment in the region and encourage that investment;*
 - (e) *identify the infrastructure needs of the region, and encourage the provision of that infrastructure in the region; and*
 - (f) *cooperate with —*
 - (i) *departments of the Public Service of the State and the Commonwealth, and other agencies, instrumentalities and statutory bodies of the State and the Commonwealth; and*

- (ii) *local governments, in order to promote equitable delivery of services within the region.*

[Section 23 amended by No. 14 of 1996 s. 4.]

24. Powers of a commission

- (1) *Subject to subsection (2), a commission has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.*
(1a) *Without limiting subsection (1), a commission may, for or in connection with the performance of its functions, provide financial support in the form of a grant.*
- (2) *Subsection (1) does not empower a commission —*
(a) *subject to Part 5, to enter into any business undertaking either directly or indirectly;*
(b) *to acquire land or any estate or interest in land other than a tenancy to provide office premises for the commission; or*
(c) *to borrow money or obtain financial accommodation.*
- (3) *In performing its functions, a commission may act in conjunction with —*
(a) *any person; or*
(b) *any department of the Public Service, or other agency or instrumentality, of the State or the Commonwealth.*
- (4) *The requirement of disclosure in section 28(2) applies to a person referred to in subsection (3).*

[Section 24 amended by No. 5 of 2003 s. 4(1).]

25. Minister may give directions

- (1) *The Minister may give directions in writing to a commission with respect to the performance of its functions, either generally or in relation to a particular matter, and the commission is to give effect to any such direction.*
- (2) *The text of any direction given under subsection (1) is to be included in the annual report submitted by the accountable authority of the relevant commission under Part 5 of the Financial Management Act 2006.*
- (3) *Subsection (1) has effect subject to the Statutory Corporations (Liability of Directors) Act 1996 so far as it applies to the Mid West Development Commission or the South West Development Commission.*

[Section 25 amended by No. 41 of 1996 s. 3; No. 77 of 2006 s. 17.]

26. Minister to have access to information

- (1) *The Minister is entitled —*
(a) *to have information in the possession of a commission; and*
(b) *where the information is in or on a document, to have, and make and retain copies of, that document.*
- (2) *For the purposes of subsection (1) the Minister may —*
(a) *request a commission to furnish information to the Minister;*

- (b) request a commission to give the Minister access to information;
- (c) for the purposes of paragraph (b) make use of the staff and facilities of a commission to obtain the information and furnish it to the Minister.

(3) A commission is to comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of subsection (2)(c).

(4) In this section —
document includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, or electronically or otherwise;

information means information specified, or of a description specified, by the Minister that relates to the functions of a commission.

POLICY IMPLICATIONS

Once appointed, the elected members operate independent of the Shire of Broome. However, as Councillors of the Shire, the Shire of Broome’s Code of Conduct and other statutory provisions apply in relation to confidentiality of Shire of Broome information whilst in the role of an elected member of a local government on the Development Commission’s Board.

In seeking to syllogise the possible conflicts between the two (2) organisations it would be fair to conclude that once appointed to a Development Commission Board as a local government member there is very little feedback to the local government due to the nature of the Board and confidentiality requirements of the Development Commission.

FINANCIAL IMPLICATIONS

No supplementary information has been supplied to the Shire of Broome at the time of writing this agenda that details the sitting fees or costs attributable to the elected member.

The Shire of Broome does not contribute financially to this position.

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

Create community spaces.

Encourage recreational activity.

Facilitate a safe environment.

Nurture and build social capital to increase community capacity.

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

Engage with local community by presenting realistic and sustainable land use strategies for the Shire within the state and national frameworks.

Ensure that our planning processes result in a built environment that reflects arid tropical climate design principles and historical built form.

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome’s iconic tourism assets and reputation.

Implement best practice asset management plans to optimise Shires’ infrastructure whilst minimising life cycle costs.

As required under the Commonwealth Government’s Bi-lateral Agreement, Council is able to mobilise resources to deliver municipal services to Indigenous communities that are compliant, effective and within Council’s capacity.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

Encourage the provision of affordable land for residential, industrial, commercial and community use.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.

Encourage community engagement.

Manage staff attraction and retention.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION:

That Council nominates Councillor to be candidate for appointment to the Kimberley Development Commission in accordance with the Development Commission's pro forma.

COUNCIL RESOLUTION:

That Council nominates Cr J Bloom and Cr A Poelina, to be candidates for appointment to the Kimberley Development Commission in accordance with the Development Commission's pro forma.

Moved: Cr D M Male

Seconded: Cr M Manado

CARRIED UNANIMOUSLY

[Attachment: 11 pages](#)

9.1.2 REVIEW LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW - 2011

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: BYL11
AUTHOR: Consultant
CONTRIBUTOR/S: Shire Staff and Councillors
RESPONSIBLE OFFICER: Chief Executive Officer
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 6 October 2011

SUMMARY: The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the proposed Shire of Broome Local Government Property and Public Places Local Law 2011, for Council to make the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

BACKGROUND

Previous considerations

- OCM 28 March 2002
- OCM 22 July 2003 – Item 9.1.8
- OCM 14 October 2003 – Item 9.1.5
- OCM 18 January 2005 – Item 9.4.4
- OCM 14 June 2005 – Item 9.4.1

To meet the requirements of the Local Government Act 1995 Council had approved funds for a review of the Shires Local Laws. Submissions were sought from qualified consultants and Mr John Gilfellon was engaged to undertake the review.

The Local Government Property and Public Places Local Law was made by Council on 14 October 2003 and published in the Government Gazette on 28 November 2003.

The WA Parliament Joint Standing Committee on Delegated Legislation raised concerns with the Shire in regards to the determination powers contained in the local law and sought assurances from the Shire that amendments would be made.

The Committee in its August 2004 Report, in relation to the Shire of Broome stated:

4 DETERMINATION MAKING POWERS

- “4.1 *The problems associated with local laws that provide the local government with ‘determination making powers’ has been explored in the Committee’s Fourth Report at pages 49 to 51, and the Committee maintains the position espoused in that Report.*
- 4.2 *In summary, the Committee considers that determinations are an unlawful sub-delegation of local government law making power that avoid parliamentary and*

ministerial scrutiny, contrary to the Act and the Interpretation Act 1984. The Committee will continue to recommend the disallowance of local laws that:

- add to, and expand upon, the heads of power listed in clauses 2.7 and 2.8 of the Western Australian Local Government Association (WALGA) pro forma Local Government Property Local Law; and/or*
- extend the use of determinations to local laws other than local government property local laws.*

4.3 During this reporting period, each of the following local laws was found to have transgressed the Committee’s position on determination making powers:

- Clause 5.1 of the Shire of Broome Local Government Property and Public Places Local Law 2003.*

4.4 All of these local laws either added to or expanded upon the ‘heads of power’ that are acceptable to the Committee.

4.5 The Committee noted, in the case of the Shire of Broome Local Government Property and Public Places Local Law 2003, that the local laws did not provide for a procedure for making determinations. Clause 2.2 of the WALGA pro forma Local Government Property Local Law provides such a procedure, which, if adopted, would ensure that the local government consults the public when proposing to make or amend a determination. Clause 2.5 of the pro forma, if adopted, would oblige the local government to keep a register of the determinations that it makes, and to provide the public with a copy of that register upon request. Both clauses 2.2 and 2.5 are contained in Part 2 Division 1 of the pro forma. The Committee considers that these obligations should accompany any powers to make determinations.

4.6 All three local governments provided the Committee with written undertakings to make the necessary changes to their respective local laws.”

Council resolved on 14 June 2005 to make an amendment to the local law and the amendment was published in the Government Gazette on 5 July 2005. The amendment included the incorporation of the clauses of the WALGA model local law that set out the determination making process.

The review of the Local Government Property and Public Places Local Law 2003 identified that given recent Reports there are a number of clauses in the local law that the Joint Standing Committee would now require amending or seek to disallow the local law.

These include:

Clause 4.2:

This provides for Council, by resolution, to prohibit activities on local government property and indicate the prohibition by a sign. Penalties can be imposed for breach of the prohibition. Given the Joint Standing Committees stance on this “unlawful sub-delegation of a local government law making power” it is considered that the Committee would not permit the local law.

Clauses 12.2 and 13.3 (which the local government and staff from any liability):

The Joint Standing Committee regards these as "ouster" clause and will not allow them. The Committee in its May 2006 Report stated -

"The Council shall not be liable to pay compensation or damages of any kind to the ... [person served with the notice] ... in relation to any action taken by the Council under this Section."

9.6:

Such provisions have in the past been considered by the Committee to be 'ouster clauses'. These clauses by their character seek to oust the jurisdiction of courts to hear claims or review decisions of inferior courts or tribunals. The clauses purport to prevent an owner or occupier of private land from bringing an action in tort for damages or making a claim for compensation against the Shire for any loss, damage or injury that they may sustain. That is, they seek to oust the liability of the Shire.

9.7 Section 9.56 of the Local Government Act 1995:

This section protects councillors, council employees and agents from personal liability in tort who perform actions or omissions in good faith. However, this protection does not extend to the entity known as 'the local government'. The above mentioned clauses are therefore void for inconsistency with s 9.56(4) of the *Local Government Act 1995*.

9.8:

The liability of public authorities in tort is well established and governed by the same principles that apply to private individuals. A public authority such as a local government can be liable, as if it were a private individual, for the torts of negligence, nuisance, trespass and breach of a statutory duty. However, the fundamental common law right to bring an action in tort or otherwise against a local authority may be abrogated or modified by statute. Subsidiary legislation may only permit abrogation in circumstances where the empowering Act permits it, either expressly or by necessary implication.

Apart from these clauses there are many other changes required in relation to updated terminology and for changes the Joint Standing Committee has required other local governments to make.

COMMENT

An amendment local law would be extensive and the Consultant has suggested that the Shire *"start with a clean slate"* and adopt a new local law, Local Government Property and Public Places Local Law 2011, and repeal the previous local law and the amendment made.

The new local law is based on the WALGA model local law but incorporates some clause from the Shires current local law which relate specifically to the circumstances in Broome. The new local law also incorporates provision for the control of advertising signs on local government property. These provisions are transferred from the Shire's Signs Local Law which is to be repealed. That repeal is the subject of a separate Agenda Item.

The adoption by Council of determinations for those matters permitted under the local law will allow for prohibited and approved uses of local government property, the erection of signs prohibiting or approve a use and the imposition of infringement notices for offences breaches of those uses.

The proposed local law incorporates the following significant items that have been suggested at Council Workshops or by Shire staff –

Clause 3.4 – Factors relevant to the determination of an application added.
Factors to be taken into account by the local government as suggested at Council Workshop.

Clause 3.11(4) amended to include the situation where the application is refused.

Cause 3.14(q) added so that to land an aircraft or helicopter on local government property requires a permit.

Clause 3.15(3), (5), (6) & (7) added to allow an authorised person to impound a vehicle parked on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle to be impounded by wheel clamping. When impounded by wheel clamping the authorised person is to attach a notice to the vehicle stating that the vehicle will be released upon payment of impounding costs. The notice is also to advise that if cost not paid within 24 hours the vehicle may be removed to local government pound.

Council would need to set impounding costs and ensure that it has a pound.

Clauses relating to a person not entering local government property while under the influence of liquor or prohibited drug and a person not taking prohibited drug onto or consuming prohibited drug on local government property have been deleted.

Problems with determining when a person is under the influence (how do we measure it) and what is prohibited drug are too difficult for Shire staff to have to administer.

Clause 6.1(d) amended to require “suspension for a minimum period of one week” who has committed breach of the local law in relation to pool premises.

Clause 6.1 “water park” included in the definition of pool premises.

Clause 8.3 Permissible verge treatments.
Clause has been amended to align it with the Councils Verge Treatment Policy.

Part 9 – Advertising Signs on Thoroughfares
It was suggested that this Part be deleted as a head of power to regulate these signs exists in the Local Planning Scheme. As no confirmation of this was received the Part has not been deleted.

Schedule 2 – Determinations

Part 4
Activities which may be pursued on specified local government property.
Clause 4.1 that relates to camel rides on Cable Beach has been included with the conditions taken from Council Policy.

Although the Governor’s Order extends the application of this local law 200m into the sea at Cable Beach the area is under the care and control of the Port Authority and not the Shire as required in the definition of local government property.

The purpose and effect of the Shire of Broome Local Government Property and Public Places Local Law 2011 are –

Purpose:

To regulate the care, control and management of all property under the care and control of the local government and the erection and placing of advertising signs on local government property.

Effect:

To control the use of local government property. Some activities are permitted only under a permit or under a determination and some activities are restricted or prohibited.

Offences are created for inappropriate behaviour in or on local government property.

CONSULTATION

The local law is advertised for public comment for a period of 42 days. Any submission received must be considered by Council before making the local law.

STATUTORY ENVIRONMENT

Section 3.16(1) of the Local Government Act 1995 requires a local government to review each of its local laws within an eight year period since its adoption or last review.

The process for the review and making of Local laws is prescribed in section 3.12 of the Local Government Act 1995. The section states —

1. *At a Council meeting the person presiding is to give notice of the purpose and effect of the proposed local law by ensuring that:-*
 - (a) *the purpose and effect of the proposed local law is included in the agenda for that meeting; and*
 - (b) *the minutes of the meeting of the Council include the purpose and effect of the proposed local law.*

2. *A local government is to -*
 - (a) *give Statewide public notice stating that -*
 - (i) *the local government proposes to make a local law, the purpose and effect of which is summarised in the notice;*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed local Law may be made to a local government before a date to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - (b) *as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice is to be forwarded to the relevant Minister.*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The local law is then published in the Government Gazette and a copy sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

The local law comes into effect 14 days after publication in the Government Gazette.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The proposed local law needs to be advertised in a newspaper circulating throughout the State and once made by Council is required to be advertised in the Government Gazette.

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

Create community spaces.

Encourage recreational activity.

Facilitate a safe environment.

Nurture and build social capital to increase community capacity.

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

Engage with local community by presenting realistic and sustainable land use strategies for the Shire within the state and national frameworks.

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome's iconic tourism assets and reputation.

Implement best practice asset management plans to optimise Shires' infrastructure whilst minimising life cycle costs.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.

Encourage community engagement.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

<u>COUNCIL RESOLUTION:</u>	
(REPORT RECOMMENDATION)	
<i>That Council;</i>	
1.	<i>Proposes to make the Shire of Broome Local Government Property and Public Places Local Law 2011 as attached to this report.</i>
2.	<i>Advertises the proposed Shire of Broome Local Government Property and Public Places Local Law 2011 for a period of 42 days.</i>
Moved: Cr E Yu	Seconded: Cr C R Mitchell
CARRIED UNANIMOUSLY	

[Attachment: 38 pages](#)

9.1.3 DELEGATIONS TO COMMITTEES AND WORKING GROUPS

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: ARE01
AUTHOR: Council Secretary
CONTRIBUTOR/S: Director Corporate and Community Services;
 Executive Manager Strategic Development
RESPONSIBLE OFFICER: Chief Executive Officer
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 7 October 2011

SUMMARY: Following the outcome of the Local Government elections on 15 October 2011, Council is required to consider its representation on various Council Committees, Working Groups and representation on external Committees.

The Park Council has been included in the Council Committees and Working Groups as an additional Appendix.

BACKGROUND

Previous Considerations

- OMC 22 November 2007 - Item 9.4.4
- OMC 24 May 2005 - Item 9.4.7
- OMC 26 November 2009 - Item 9.4.3

As per section 5.11 of the Local Government Act 1995, Council delegates Committees (and subsequently, Shire of Broome Working Groups and externally administered Committees) are discontinued following a local government election and as such, nominations for Council delegate representation is required.

COMMENT

Attached is a Committees Booklet containing details for all Shire of Broome Council Committees and Working Groups that require nominated representation. Currently the Shire of Broome have 18 Committees and Working Groups. Parts one (1) and two (2) outline Council Committees and Working Groups, Part three (3) outlines externally administrated organisations with Council delegate representation.

The Appendix contains the addition of the Park Council and the Declaration of Financial Interest form which is used on Shire of Broome administered Committees and Working Groups.

The Park Council is responsible for the management of the Conservation Estate and is comprised of Yawuru Registered Native Title Body Corporate (RNTBC) Representatives, Department Representatives and BBSC Representatives. The Conservation Estate is jointly managed by the Yawuru, RNTBC and the Chief Executive Officer and manages such areas as listed below:

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

- Freehold areas to be jointly managed by the Chief Executive Officer and Yawuru RNTBC;
- Roebuck Bay Intertidal Zones Reserves to be jointly managed by the Conservation Commission of Western Australia (CCWA) and Yawuru RNTBC;
- Cable Beach Intertidal Zones Reserves to be jointly managed by the CCWA, Broome Shire Council and Yawuru RNTBC;
- Townsite areas (including intertidal areas adjacent to the town) to be jointly managed by Yawuru RNTBC and BSC; and
- Marine Park to be jointly managed by the MPRA, Yawuru RNTBC and the CEO.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

Local Government Act 1995

Subdivision 2 — Committees and their meetings

5.8. Establishment of committees

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

** Absolute majority required.*

5.9. Types of committees

(1) *In this section —*

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

(2) *A committee is to comprise —*

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

5.10. Appointment of committee members

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

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

** Absolute majority required.*

(2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed*

under subsection (1)(a) to at least one of those committees as the local government decides.

- (3) Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —
- (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee,
- the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

5.11A. Deputy committee members

- (1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.

* Absolute majority required.

- (2) A person who is appointed as a deputy of a member of a committee is to be —
- (a) if the member of the committee is a council member — a council member; or
 - (b) if the member of the committee is an employee — an employee; or
 - (c) if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or
 - (d) if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.
- (3) A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.
- (4) A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.

[Section 5.11A inserted by No. 17 of 2009 s. 20.]

5.11. Tenure of committee membership

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

- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person’s membership of the committee continues until —*
 - (a) *the term of the person’s appointment as a committee member expires;*
 - (b) *the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,**whichever happens first.*

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

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

Encourage communication.

Identify affordable services and initiatives to satisfy community needs.

Facilitate a safe environment.

Nurture and build social capital to increase community capacity.

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

Nurture and protect our unique natural environment for the benefit and enjoyment of current and future generations.

Preserve and promote the unique and significant historical and cultural heritage of Broome.

Retain and build on Broome’s iconic tourism assets and reputation.

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

Work with agencies and others to ensure affordable and equitable services and infrastructure.

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

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

Develop an organisational culture that strives for service excellence.

Review and analyse strategic and operational plans.

Manage resource allocation.
Encourage community engagement.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Absolute Majority

Moved: Seconded:

That Report Recommendations 9.3.3 (1 to 18 (a and b)) be adopted.

(Absolute Majority Required)

FOR:
AGAINST:

REPORT RECOMMENDATION:

1. *That Councillor _____; _____ and _____ be nominated to the Audit Committee and Councillors _____; _____ and _____ be nominated as deputies.*

COUNCIL RESOLUTION:

1. *That Cr G T Campbell; Cr D M Male and Cr Peter D Matsumoto be nominated to the Audit Committee and that Cr E Yu; Cr C R Mitchell and Cr A Poelina be nominated as deputies.*

Moved: *Cr C R Mitchell* Seconded: *Cr E Yu*

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

2. That Councillors, _____ and _____ be nominated to the Access and Inclusion Committee and Councillors _____ and _____ be nominated as a deputies.

Moved: Yu

Seconded: Mitchell

COUNCIL RESOLUTION:

2. That Cr E Yu and Cr Philip F Matsumoto be nominated to the Access and Inclusion Committee and Cr M Manado and Cr Peter D Matsumoto be nominated as deputies.

Moved: Cr E Yu

Seconded: Cr C R Mitchell

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

3. That Councillor, _____ be nominated to the Broome Cemetery Advisory Committee and Councillor _____ be nominated as first deputy and Councillor _____ be nominated as second deputy.

COUNCIL RESOLUTION:

3. That Cr G T Campbell be nominated to the Broome Cemetery Advisory Committee and Cr Philip F Matsumoto be nominated as first deputy and Cr E Yu be nominated as second deputy.

Moved: Cr D M Male

Seconded: Cr M Manado

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

- 4. That Councillor, _____ be nominated to the Bush Fire Advisory Committee and Councillor _____ be nominated as deputy.

COUNCIL RESOLUTION:

- 4. That Cr C R Mitchell be nominated to the Bush Fire Advisory Committee and Cr G T Campbell be nominated as deputy.

Moved: Cr G T Campbell

Seconded: Cr Philip F Matsumoto

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

- 5. That Councillor, _____ be nominated to the Local Emergency Management Committee and Councillor _____ be nominated as deputy.

COUNCIL RESOLUTION:

- 5. That Cr C R Mitchell be nominated to the Local Emergency Management Committee and Cr G T Campbell be nominated as deputy.

Moved: Cr C R Mitchell

Seconded: Cr E Yu

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

- 6. That Councillors, _____; _____ and _____ be nominated to the Broome Public Art Working Group and Councillors _____, _____ and _____ be nominated as deputies.

COUNCIL RESOLUTION:

- 6. That Cr M Manado; Cr J Bloom and Cr A Poelina be nominated to the Broome Public Art Working Group and Cr E Yu; Cr C R Mitchell and Cr G T Campbell be nominated as deputies.

Moved: Cr D M Male

Seconded: Cr M Manado

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

- 7. That Councillors, _____, _____ and _____ be nominated to the Community Sponsorship Assessment Working Group and Councillors _____; _____ and _____ be nominated as deputies

COUNCIL RESOLUTION::

- 7. That Cr M Manado; Cr C R Mitchell and Cr D M Male be nominated to the Community Sponsorship Assessment Working Group and Cr E Yu; Cr Philip F Matsumoto and Cr A Poelina be nominated as deputies

Moved: Cr C R Mitchell

Seconded: Cr Peter D Matsumoto

CARRIED BY ABSOLUTE MAJORITY 7/0

COUNCIL RESOLUTION:

REPORT RECOMMENDATION:

- 8. That Councillors, _____ and _____ be nominated to the Litter Prevention Working Group and Councillors _____ and _____ be nominated as deputies

COUNCIL RESOLUTION:

- 8. That Councillors, _____ and _____ be nominated to the Litter Prevention Working Group and Councillors _____ and _____ be nominated as deputies

Moved:

Seconded:

No appointments were for the Litter Prevention Working Group, the Chairperson advised that this Working Group will be reviewed.

REPORT RECOMMENDATION:

- 9. That Councillor, _____ be nominated to the Shinju Matsuri Acquisitive Art Prize Working Group and Councillor _____ be nominated as deputy.

COUNCIL RESOLUTION:

- 9. That Cr J Bloom be nominated to the Shinju Matsuri Acquisitive Art Prize Working Group and Cr A Poelina be nominated as deputy.

Moved: Cr D M Male

Seconded: Cr C R Mitchell

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

- 10. That Councillor, _____ be nominated to the Tramway Working Group and Councillor _____ be nominated as first deputy and Councillor _____ be nominated as second deputy.

COUNCIL RESOLUTION:

- 10. That Councillor, _____ be nominated to the Tramway Working Group and Councillor _____ be nominated as first deputy and Councillor _____ be nominated as second deputy.

Moved:

Seconded:

No appointments were made for the Tramway Working Group, the Chairperson advised that this Working Group will be reviewed.

REPORT RECOMMENDATION:

11. That Councillors, _____; _____ and _____ be nominated to the Waste Management Working Group and Councillors _____; _____ and _____ be nominated as deputies.

COUNCIL RESOLUTION:

Amended at Ordinary Meeting of Council 24 November 2011

11. That Cr J Bloom; Cr G T Campbell and Cr A Poelina be nominated to the Waste Management Working Group and Cr C R Mitchell; Cr Philip F Matsumoto and Cr E Yu be nominated as deputies.

Moved: Cr D M Male

Seconded: Cr M Manado

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

12. That Councillor, _____ be nominated to the Broome Visitor Centre Board and Councillor _____ be nominated as deputy.

COUNCIL RESOLUTION:

12. That Cr D M Male be nominated to the Broome Visitor Centre Board and Cr M Manado be nominated as deputy.

Moved: Cr D M Male

Seconded: Cr E Yu

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

- 13. That Councillor, _____ be nominated to the Broome (WALGA) Roadwise Committee and Councillor _____ be nominated as Proxy.

COUNCIL RESOLUTION:

- 13. That Cr Peter D Matsumoto be nominated to the Broome (WALGA) Roadwise Committee and Cr Philip F Matsumoto be nominated as Proxy.

Moved: Cr G T Campbell

Seconded: Cr D M Male

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

- 14. That Councillor _____ be nominated to the Kimberley Regional Road Safety Committee and Councillor _____ be nominated as deputy.

REPORT RECOMMENDATION:

- 14. That Cr G T Campbell be nominated to the Kimberley Regional Road Safety Committee and Cr C R Mitchell be nominated as deputy.

Moved: Cr D M Male

Seconded: Cr E Yu

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

15. That Councillor _____ be nominated to the Kimberley Regional Road Group and Councillor _____ be nominated as deputy.

COUNCIL RESOLUTION:

15. That Cr G T Campbell be nominated to the Kimberley Regional Road Group and Cr C R Mitchell be nominated as deputy.

Moved: Cr D M Male

Seconded: Cr E Yu

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

16. That Councillor _____ be nominated to the Kimberley Zone of WALGA and Councillor _____ be nominated as deputy.

COUNCIL RESOLUTION:

16. That Cr C R Mitchell be nominated to the Kimberley Zone of WALGA and the Kimberley Regional Collaborative Group; and Cr A Poelina be nominated as deputy.

Moved: Cr M Manado

Seconded: Cr D M Male

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

17. That Councillor, _____ be nominated to the Roebuck Bay Working Group and Councillor _____ be nominated as Deputy.

COUNCIL RESOLUTION:

17. That Cr M Manado be nominated to the Roebuck Bay Working Group and Cr A Poelina be nominated as Deputy.

Moved: Cr G T Campbell

Seconded: Cr D M Male

CARRIED BY ABSOLUTE MAJORITY 7/0

REPORT RECOMMENDATION:

18. That Council;

- a) Nominates Councillors, _____; _____ and _____ to the Park Council.
- b) Nominates Councillors _____; _____ and _____ to the Park Council as Proxy representatives.

COUNCIL RESOLUTION:

18. That Council;

- a) Nominates Cr C R Mitchell; Cr G T Campbell and Cr J Bloom to the Park Council.
- b) Nominates Cr E Yu; Cr D M Male and Cr M Manado to the Park Council as Proxy representatives.

Moved: Cr D M Male

Seconded: Cr C R Mitchell

CARRIED BY ABSOLUTE MAJORITY 7/0

[Attachment: 152 pages](#)

9.1.4 DEVELOPMENT ASSESSMENT PANEL (DAP) – NOMINATIONS OF MEMBERS AND ALTERNATIVE MEMBERS

LOCATION/ ADDRESS:	N/A
APPLICANT:	Director General Department of Planning
FILE:	PLA79
AUTHOR:	Council Secretary
CONTRIBUTOR:	Director Corporate and Community Services
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF ANY INTEREST:	Nil
DATE OF REPORT:	11 October 2011

SUMMARY: Legislation has been put in place for Development Assessment Panels (DAP) to begin operating as from 1 July 2011 and local authorities were requested to provide their nominations for members and alternate members of the panels.

With the local government elections taking place on 15 October 2011, Council is required to consider the replacement of the current Development Assessment Panel members if a vacancy occurs.

BACKGROUND

Previous Considerations

OMC 29 October 2009 - Item 9.3.1
 OMC 12 May 2011 - Item 9.1.1

The Shire received correspondence on 24 March 2011 from the Director General of the Department of Planning and advised Council that legislation for the DAP has been put in place (attachment 1).

Following the receipt of this correspondence and item was prepared for Council's consideration.

At the Ordinary Meeting of Council held on the 12 May 2011, item 9.1.1, Council resolved the following:

"COUNCIL RESOLUTION:

Moved: Cr C R Mitchell

Seconded: Cr R J Lander

- 1. Nominates Cr G T Campbell and Cr J Bloom as its Development Assessment Panel members;*
- 2. Nominates Cr C R Mitchell and Cr R de Wit as its alternate Development Assessment Panel members.*
- 3. Submits its nominations to the Minister for Planning.*

CARRIED UNANIMOUSLY"

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

The planning and Development (Development Assessment Panels) Regulations 2011 provide for local Development Assessment Panels for local government areas consisting of three (3) specialist members and two (2) local government members. All members are appointed by the Minister and local governments have been requested to provide nominations for this appointment.

The Regulations exclude certain developments from consideration by the DAP regardless of the development value. Excluded development includes single houses and associated incidental development, and grouped or multiple dwelling developments with less than 10 dwelling units.

Any application for development having a value of \$7 million or more is required to be determined by the DAP and the proponent for any development having a value of \$3 million or more can elect to have a development determined by the DAP. All development application are to be made to the local authority and where the application is to be determined by the DAP there is an additional application form and an additional application fee. The additional application form and fee is remitted to the Department of Planning.

COMMENT

In correspondence received by the Shire on 20 September 2011, the Acting Director General advised in part:

"Local government elections which are scheduled for 15 October 2011 may result in a change to JDAP membership if current councillors, who are DAP members are not re-elected. Council must consider replacement of DAP members where there is a vacancy.

Local Government nominations are subject to Cabinet consideration prior to formal appointment by the Minister. It is anticipated that this will occur sometime in late November/early December."

It is also advised that all nominations to the DAP are to be received by the Department of Planning no later that Monday 31 October 2011.

All new members will be required to complete mandatory training and local governments have been requested to make their DAP nominations are to be received by the Department of Planning no later that Monday 31 October 2011.

Please note that the appointment of Councillors Bloom, Campbell and Mitchell to the DAP will remain in place for the full two (2) year term as gazetted in Planning Bulletin 106/2011 – New Legislative provisions for development assessment panels, under regulation 29(2) of the Development Assessment Panel Regulations 2011.

CONSULTATION

N/A.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

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

*Part 11A — Development Assessment Panels and development control**Division 1 — Functions of DAPs**171A. Prescribed development applications to be determined by DAP**(1) In this section —**planning instrument means —*

- (a) a planning scheme; or*
- (b) an interim development order;*

prescribed development application means —

- (a) a development application of a class or kind prescribed for the purposes of subsection (2)(a); or*
- (b) a development application of a class or kind prescribed for the purposes of subsection (2)(ba) in respect of which an applicant has made an election in accordance with regulations made under subsection (2)(ba)(i);*

(2) The Governor may make regulations —

- (a) providing that, despite any other provision of this Act or a planning instrument, a development application of a class or kind prescribed for the purposes of this paragraph —*

- (i) must be determined by a DAP as if the DAP were the responsible authority under the relevant planning instrument in relation to the development; and*
- (ii) cannot be determined by a local government or the Commission;*

- (ba) providing that, despite any other provision of this Act or a planning instrument, if —*

- (i) an applicant for approval of development elects in accordance with the prescribed procedure to have a development application determined by a DAP; and*
- (ii) the development application is of a class or kind prescribed by the regulations for the purposes of this paragraph, the development application —*
- (iii) must be determined by a DAP as if the DAP were the responsible authority under the relevant planning instrument in relation to the development; and*
- (iv) cannot be determined by a local government or the Commission;*

- (b) providing for the duties and responsibilities of local governments and the Commission in relation to prescribed development applications;*

- (c) providing for the procedures for dealing with prescribed development applications;*

- (d) providing for the application of the provisions of this Act and planning instruments in relation to prescribed development applications;*

- (e) providing for the procedures to be followed by, and powers of, a DAP when determining a prescribed development application;*

- (f) providing for the effect of a determination of a prescribed development application;*

- (g) providing for the notification of a determination of a prescribed development application;*

- (h) providing for the review of a determination of a prescribed development application.*

- (3) *Unless otherwise provided under regulations made for the purposes of subsection (2) —*
- (a) *a determination by a DAP of a prescribed development application; and*
 - (b) *a failure by a DAP to make a determination of a prescribed development application, is to be regarded as, and has effect as if it were, a determination or failure of the responsible authority to which the application was made.*

171B. DAP to carry out delegated functions

- (1) *In addition to the functions conferred on it by regulations made under section 171A, a DAP is to perform the functions that are delegated to it by a responsible authority in accordance with regulations made under subsection (2).*
- (2) *The Governor may make regulations —*
 - (a) *prescribing the functions under this Act or a planning scheme that may be delegated by a responsible authority to a DAP; and*
 - (b) *making provision in relation to the making and effect of the delegation of functions by a responsible authority to a DAP.*

Division 2 — Development Assessment Panels: establishment and administration

171C. Establishment of Development Assessment Panels

- (1) *The Minister may, by order published in the Gazette, establish —*
 - (a) *a LDAP for a district;*
 - (b) *a JDAP for 2 or more districts.*
- (2) *The order must give the DAP a name.*
- (3) *A JDAP cannot be established for a district for which a LDAP is established.*
- (4) *A LDAP cannot be established for a district for which a JDAP is established.*
- (5) *If a JDAP is established for 2 or more districts, the districts need not be contiguous.*
- (6) *The Minister may revoke or amend an order made under subsection (1) by further order published in the Gazette.*
- (7) *The regulations may prescribe transitional provisions in relation to the revocation or amendment of an order under this section.*

171D. Constitution, procedure and conduct of DAPs

- (1) *The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or that are necessary or convenient to be prescribed, for the establishment and functioning of DAPs.*
- (2) *Without limiting subsection (1), regulations may be made about the constitution, procedure and conduct of DAPs, including but not limited to regulations about the following —*
 - (a) *the total number of persons who are to be on a DAP;*
 - (b) *the qualifications to be held by each person on a DAP;*
 - (c) *the procedure to be followed for nominating and appointing DAP members;*
 - (d) *the remuneration and allowances payable to DAP members;*
 - (e) *the term of office of DAP members;*
 - (f) *the removal of DAP members;*

- (g) *compiling and maintaining a register of persons who are eligible to be DAP members;*
- (h) *the paid training of persons appointed to be DAP members;*
 - (i) *procedures at DAP meetings;*
 - (j) *the conduct of DAP members.*
- (3) *The qualifications to be held by a person on a DAP may be specified in the regulations by reference to one or more of these —*
 - (a) *an office or position;*
 - (b) *an educational qualification;*
 - (c) *a type or level of knowledge;*
 - (d) *a type or level of experience.*

171E. Administration and costs of DAPs

- (1) *The Governor may make regulations about —*
 - (a) *the administration of DAPs; and*
 - (b) *the payment of the costs and expenses of DAPs.*
- (2) *Without limiting subsection (1), regulations may be made —*
 - (a) *about the staffing, facilities and services that are to be provided to DAPs by the chief executive officer or by local governments; and*
 - (b) *about the access of the Minister to information in the possession of a DAP; and*
 - (c) *about reporting requirements in relation to —*
 - (i) *directions under the regulations; and*
 - (ii) *expenditure in relation to DAPs; and*
 - (iii) *determinations by DAPs; and*
 - (iv) *any other matter specified in the regulations.*
- (3) *A local government must comply with a direction given and requirements prescribed under subsection (2).*

171F. Review of regulations

- (1) *An appropriate Standing Committee of the Legislative Council is to carry out a review of the operation and effectiveness of all regulations made under this Part as soon as practicable after the expiry of 2 years from the day on which regulations made under this Part first come into operation.*
- (2) *The Standing Committee is to prepare a report based on the review and, as soon as practicable after the report is prepared, is to cause the report to be laid before each House of Parliament.*

Planning and Development (Development Assessment Panels) Regulations 2011

23. LDAP members

- (1) *The members of a LDAP are —*
 - (a) *2 persons appointed to the LDAP as local government members; and*
 - (b) *3 persons appointed to the LDAP as specialist members.*
- (2) *The members must be appointed in writing by the Minister.*
- (3) *Regulation 24 applies to the appointment of local government members.*
- (4) *Regulation 37 applies to the appointment of specialist members.*

24. Local government members of LDAP

- (1) *Whenever it is necessary to make an appointment under regulation 23(1)(a), the Minister must —*

- (a) *in writing, request the local government of the district for which the DAP is established to nominate a member of the council of the local government for appointment; and*
- (b) *unless subregulation (2) applies, appoint the person so nominated.*
- (2) *If, within 40 days after the date on which the Minister makes a request to a local government under subregulation (1) or such longer period as the Minister may allow, the local government fails to nominate a person for appointment in accordance with the request, the Minister may appoint under regulation 23(1)(a) a person who —*
 - (a) *is an eligible voter of the district for which the LDAP is established; and*
 - (b) *the Minister considers has relevant knowledge or experience that will enable that person to represent the interests of the local community of that district.*
- (3) *For the purposes of subregulation (2)(a) a person is an eligible voter of a district if that person is eligible under the Local Government Act 1995 section 4.29 or 4.30 to be enrolled to vote at elections for the district.*

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION:

That Council;

1. Nominates _____ as the alternative Development Assessment Panel member for Cr Bloom.
2. Submits the Council nomination to the Minister for Planning before the close of business Monday, 31 October 2011.

COUNCIL RESOLUTION:

That Council;

1. Nominates Cr D Male as the alternative Development Assessment Panel member for Cr J Bloom.
2. Submits the Council nomination to the Minister for Planning before the close of business Monday, 31 October 2011.

Moved: Cr D M Male

Seconded: Cr C R Mitchell

CARRIED UNANIMOUSLY

[Attachment: 9 pages](#)

9.1.5 COUNCIL MEETING DATES 2012

LOCATION/ ADDRESS:	N/A
APPLICANT:	N/A
FILE:	ADM01
AUTHOR:	Council Secretary
CONTRIBUTOR/S:	Director Corporate and Community Services
RESPONSIBLE OFFICER:	Chief Executive Officer
DISCLOSURE OF ANY INTEREST:	N/A
DATE OF REPORT:	6 October 2011

SUMMARY: This report recommends that Council adopt the proposed meeting dates for the Ordinary Meetings of Council to be held in 2012, to enable advertising as required under the Local Government Act 1995.

BACKGROUNDPrevious Considerations

OCM 21 December 2006 - Item 9.1.4;
 OCM 25 October 2007 - Item 9.1.4;
 OCM 20 November 2008 - Item 9.1.2;
 OCM 1 October 2009 - Item 9.1.2 (Deferred);
 OMC 29 October 2009 - Item 9.1.2; and
 OCM 15 December 2010 - Item 9.1.3.

Under the *Local Government (Administration) Regulations 1996*, local governments are to give local public notice of the date, time and location that their ordinary meetings of council are to be held, which are open to members of the public.

As a result, the Shire of Broome is required to advertise the meeting dates for its Ordinary Meetings of Council for 2012.

COMMENT

It is proposed, as in previous years, that the Ordinary Meetings of Council are to be held in the Shire of Broome Council Chambers on Thursdays, approximately every four (4) weeks commencing at 5.00pm. For 2012, it is anticipated that one (1) Council Meeting is to be held on a Tuesday to accommodate the Christmas holiday period.

Again, it is recommended that an Ordinary Meeting of Council to be held at a Community within the Shire of Broome. For 2012, it is proposed to hold a meeting at the Bidadanga Aboriginal Community, at a time suitable to members and Community representatives.

At the Shire's Ordinary Meeting of Council held on 15 December 2010, Council resolved, to hold a recess for the month of January. By holding a recess in January, there was a total of 12 Ordinary Meetings of Council held over the calendar year. This recess period for 2011 was a proven success which allowed staff and Councillors sufficient travel time

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

over the Christmas and school holiday period and releases staff from the early January Agenda preparation cycle necessary to hold a January meeting.

Council resolved the following:

"COUNCIL RESOLUTION:

Moved: Cr J Bloom

Seconded: Cr E Yu

That Council:

1. Adopts the following Ordinary Council Meeting dates for 2011, meetings commencing at 5.00pm at the Shire of Broome Council Chambers, with the exception of 1 September 2011 meeting, to be held at a Community at a time suitable to members and Community representatives:

Recess January 2011

Thursday 17 February 2011

Thursday 17 March 2011

Thursday 14 April 2011

Thursday 12 May 2011

Thursday 9 June 2011

Thursday 7 July 2011

Monday 1 August 2011

Thursday 1 September 2011 (Community to be determined)

Thursday 29 September 2011

Thursday 27 October 2011

Thursday 24 November 2011

Wednesday 14 December 2011

2. Writes to Lombadina Aboriginal Corporation requesting a meeting opportunity for September 2011.

CARRIED UNANIMOUSLY

Reason: No Ordinary Meeting to be held in January 2011."

As in 2011, the Annual Electors Meeting is proposed to be held in January in place of an Ordinary Meeting of Council.

The proposed Council Meeting dates have taken into consideration the following:

- North West Expo – 5 and 6 May
- *Local Government Week – 3 to 5 August
- *State Council – 6 August
- Ladies Day – Tuesday 14 August
- Broome Cup – Saturday 18 August
- *Shinju Matsuri Festival – 22 to 30 September
- The December meeting has been brought forward to Tuesday to allow for the minutes to be completed and distributed prior to the Christmas holiday break.

* Based on 2011 dates,(these dates are yet to be confirmed).

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

It is therefore recommended that Council adopt the meeting dates for the Shire's Ordinary Meeting of Council for 2012 as shown in attachment 1.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

Section 5.3 of the Local Government Act 1995 states:

- "5.3. Ordinary and special council meetings*
- (1) A council is to hold ordinary meetings and may hold special meetings.*
 - (2) Ordinary meetings are to be held not more than 3 months apart.*
 - (3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure."*

Section 5.25 of the Local Government Act 1995 states in part:

- "5.25. Regulations about council and committee meetings and committees*
- (1) Without limiting the generality of section 9.59, regulations may make provision in relation to:*
 - (g) the giving of public notice of the date and agenda for council or committee meetings;"*

The Local Government (Administration) Regulations 1996, regulation 12 states:

- "12. Public notice of council or committee meetings — s.5.25(1)(g)*
- (1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which —*
 - (a) the ordinary council meetings; and*
 - (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public,**are to be held in the next 12 months.*
 - (2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in sub-regulation (1).*
 - (3) Subject to sub-regulation (4), if a special meeting of a council is to be open to members of the public then the local government is to give local public notice of the date, time, place and purpose of the special meeting.*
 - (4) If a special meeting of a council is to be open to members of the public but, in the CEO's opinion, it is not practicable to give local public notice of the matters referred to in sub-regulation (3), then the local government is to give public notice of the date, time, place and purpose of the special meeting in the manner and to the extent that, in the CEO's opinion, is practicable."*

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The advertising of the Ordinary Council Meeting dates will cost approximately \$200.

Should Council resolve to hold a meeting in January, catering, staff and physical resource costs should be taken into consideration.

STRATEGIC IMPLICATIONS

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

Encourage communication.

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

Manage resource allocation.

Encourage community engagement.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

<u>COUNCIL RESOLUTION:</u>	
(REPORT RECOMMENDATION)	
<i>That Council adopts;</i>	
1.	<i>The Ordinary Council Meeting dates for 2012 commencing at 5.00pm to be held at the Shire of Broome Council Chambers as outlined in attachment 1 of this report.</i>
2.	<i>To hold one (1) Ordinary Council Meeting on Thursday 6 September 2012 at the Bidyadanga Aboriginal Community at a time suitable to members and Community representatives.</i>
3.	<i>Writes to the Bidyadanga Aboriginal Community requesting a meeting opportunity for September 2012.</i>
Moved: Cr C R Mitchell	Seconded: Cr E Yu
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 6.25pm.