



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

4 OCTOBER 2012

OUR VISION

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

OUR MISSION

"To deliver affordable and quality Local Government services."

CORE VALUES OF THE SHIRE

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

Communication

Integrity

Respect

Innovation

Transparency

Courtesy

DISCLAIMER

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

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SHIRE OF BROOME
ORDINARY COUNCIL MEETING
4 OCTOBER 2012
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NOTICE OF MEETING

Dear Council Member,

The next Ordinary Meeting of the Shire of Broome will be held on Thursday 4 October 2012, in the Council Chambers, Corner Weld and Haas Streets, Broome, commencing at 5.00pm.

Regards



K.P. DONOHOE
Chief Executive Officer

27 September 2012

John Mulheron
 Bob Grimes
 Matt Anderson
 Hillary Wilkins Landcorp
 Peter Harris PPR
 Kim Gorey Pathwest
 Katie Tyson
 Marilyn Tabatznik
 Carmel Leahy
 Lisa Trenorden
 Chris Grimes
 Robert Grimes
 Ian Perdrisat
 Patricia Gauci
 Amanda Walsh
 Alex Weiladt
 Natasha Nasso
 Daniel Cavanagh

3. DECLARATIONS OF FINANCIAL INTEREST

Councillor	Item No	Page No	Item	Nature of Interest
Cr D M Male	9.2.6	66	Event Proposal – Broome Beach Polo 2013 – Competing Applications	Financial – I have an association with one of the applicants.

4. PUBLIC QUESTION TIME

The Shire received a question from Carmel Leahy on 4 October as follows:

Question 1:

The Monsoon Vine Thicket ecosystem of the Dampier Peninsula are listed as a Vulnerable Threatened Environmental Community under State legislation. The Shire is no doubt aware the Federal government is currently assessing the Monsoon Vine Thickets for listing as Endangered under the EPBC Act (1999).

What impacts will the Manari Rd upgrade have on the Monsoon Vine Thickets this road passes through?

Answer 1– Director Engineering Services:

The proposed maintenance works have been planned so there will be no impact to the Monsoon Vine Thickets in the area. (3 sections: Section 1 - 14km, Section 2 - 25km and Section 3 - 28km along Manari Road). MVT has been located only in Section 3, however we are treating all 3 sections the same to ensure protection of the roadside vegetation and fauna during and after the works.

Question 2:

On what research are these assessments based?

Answer 2 – Director Engineering Services:

Key environmental considerations need to be highlighted for Section 3, which the proposed maintenance works have addressed:

- There are areas of sensitive vegetation that border Manari Rd. Most importantly the drainage basin vegetation and Monsoon Vine Thicket (MVT) which is State listed Threatened Ecological Community (so it is protected from direct and indirect impacts). A change to the structure of the road could impact on the MVT for example if the windrows are removed or reduced in height in some areas then the surface water runoff may run into the MVT carrying sediment then smothering the vegetation.

At the moment the road acts as a drainage channel routing the water away from the MVT. There has been a need to demonstrate that the new designs proposed act in a same or similar way by channelling and routing the water away and/or has capacity to infiltrate to the ground and also need to demonstrate minimisation and management of sedimentation after a rainfall event towards these communities;

- If water is required for the construction upgrade, then this will need to be managed carefully to ensure that any excess water is pumped into a truck or routed away from the MVT; and
- The windrows are full of weeds which should not be spread into the MVT/drainage basin communities. If the windrows are to be moved then this soil should not be pushed into the MVT. Need to demonstrate an understanding and management of weeds in this area.

Question 3:

Which independent environmental auditor has the Shire engaged for the works?

Answer 3 – Director Engineering Services:

The West Kimberley District Department of Environment and Conservation officers offered verbal comment that the proposed works would not breach any Western Australian environmental legislation if the works were carried out as discussed at meeting on the 26th September with Shire Staff. The Shire has the ability to commission advice from a number of professional environmental firms should the need arise.

However this work is similar to other maintenance works carried out by the Shire, so the Works crew has the ability to complete works satisfactorily. The Shire has engaged a Site Manager specifically for this project to ensure the works are contained within the existing road area. There will not be any widening or change of the road alignment, only reinstating the road formation to improve all weather access.

The Chairperson permitted Carmel Leahy to ask one additional question as follows:

Question 4:

Why is this road being upgraded when a new road will be built if the James Price Point Gas Hub goes ahead?

Answer 4 – Chief Executive Officer:

Manari Rd has been identified by the Regional Road Group as part of the Roads 2020 Regional Road Development Strategy as an important secondary road for access to coastal areas of the Dampier Peninsular.

A copy of the Roads 2020 Regional Road Development Strategy is available via the Shire of Broome website.

Manari Rd is vested with the Shire and has been identified as a key regional road.

* * *

The Shire received questions from Paul Higgins on 4 October as follows:

Question 1:

Is it not part of the shire’s own strategic plan that; the shire build partnerships with the community and other agencies to recognise, protect and enhance the natural environment and cultural heritage. And to engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy? Does this not then apply to the residents of the 12 mile precinct?

Answer 1 – Director Development Services:

Yes, this is within the Shire of Broome Strategic Plan. The planning framework consists of two documents, the Town Planning Scheme and Local Planning Strategy. Officers are currently working on improving the planning framework to consider ways to better incorporate these aspects of the Strategic Plan. Officers are currently developing relevant policies and a new Scheme and Strategy to provide land use planning tools for all members of the community.

Question 2:

Is the shire aware that there is already a site on the western perimeter of the 12 mile with an existing aerial and tower and had this been considered? If so why was it rejected?

Answer 2:

There is a site 11 kilometres away that was considered by NBN Co in their application, and due to the distance was not considered appropriate. It does however support the argument that towers have been allowed within a rural setting previously and that the visual impact was considered appropriate.

The site you are referring to did not form part of the application made by NBN Co and so was not considered as part of the process.

* * *

The Shire received questions from Dan Cavanagh on 4 October as follows:

Question 1:

I own and live on the property at the rear of Lot 300, the site of the proposed tower. Is Derik contractually able to take his property off NBN’s proposed site list and if he does so, will that put an end to the tower being placed on any other residential properties in 12 Mile?

Answer 1 – Director Development Services:

Your question relates to a private contract that the Shire is not privy to so I am unable to comment.

The Shire has received a valid Development Application signed by the owner which must be assed and will be considered in the course of this meeting.

Question 2:

The proposed tower will be highly visible from my house and completely out of character in regards to the visual amenity of the area. Apart from health concerns, this tower has the potential to cost myself and some others big dollars.
I would like to know why your Shire Officers have completely disregarded the strong response from us as ratepayers objecting to this large ugly piece of metal infrastructure.

Answer 2 – Director Development Services:

Towers within a rural landscape are not uncommon. Whilst the tower will be visible, the nature of the equipment requires the tower to be unobstructed in order for it to function effectively. In considering the application officers must try to balance if the visual impact is appropriate or inappropriate.
The application should be considered in accordance with the provisions set out in the Town Planning Scheme. This requires Council to consider the application based purely on its planning merits. The level of public concern itself is not a relevant planning consideration.

Answer 2 – Chairman:

Staff are professionals and must offer their opinions in a professional capacity. Councillors are able to consider matters more subjectively and I can assure you your comments will be taken into account.

* * *

The Shire received questions from April Booth on 4 October as follows:

Question 1:

All submissions to the Shire based on 12 Mile residents’ concerns for the visual amenity have been rejected by the Planning Department. Of course it will affect visual amenity. Are the councillors in agreement with the Planning Department on this issue particularly? But also on all other submission objections made by 12 Mile people that were rejected by the Planning Department?

Answer 1 - Chairman

You will have to wait until the item is considered in due course of the meeting tonight. Councillors will take into account your comments and concerns.

Question 2:

Does Council recognise that even though the Planning Department has rejected the health and emissions concerns of the NBN tower placement based on Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and Australian Communication and Media Authority (ACMA) standards, that 12 Mile residents are still frightened and concerned with the health issues? No amount of reassurance from these bodies will change these fears for people, be it truth or not.

Answer 2 - Chairman

If we weren’t aware, we are now.

* * *

The Shire received questions from Gavin Booth on 4 October as follows:

Question 1:

Is the Shire aware that NBN has claimed in the past that if local residents do not want the tower, then NBN won't proceed, but would instead provide satellite?
Based on this, is it not clear from the number of submissions against NBN's application that 12 Mile residents do not want the tower?
This being the case, why are some Councillors even contemplating the approval of NBN's application?

Answer 1 – Chairperson:

Yes, we are aware.
You will need to wait for the deliberation of the item, for Council's decision.
As Councillors we are required to assess all applications that come before Council, which will happen in the course of this meeting.

Question 2:

What benefit would approval of the NBN tower application be to the Shire, over the concerns and objections of the local 12 Mile residents and ratepayers?

Answer 2 – Chairperson:

The provision of service, and the affordability of service in comparison to the cost of satellite service could be considered as benefits.
In the assessment of the application we will take into account the concerns of residents.

* * *

The Shire received questions from Gemma Stewart on 3 October 2012, as follows:

Question 1:

My family and I reside at Cotter Court and have been following the progress of the Palmer Road Development via the local newspaper. Recently, we received a letter from the developers about their plans. Specifically, the plans include connecting Palmer Road with Brown and Cotter Courts with a new road. We are concerned about the significant increase in local traffic past our home and have concerns about the safety of young children (particularly ours who regularly runs out onto the road).

Would the Council consider asking the developers of the Palmer Road Development to create the proposed new road as a Loop that connects from the North of Palmer Road back to the East of Palmer Road rather than opening up the existing cul-de-sacs of Brown and Cotter Courts?

Answer 1 – Director Development Services

We are currently in the process of receiving submissions and I urge you to make a formal submission. The submissions will be presented to the applicant for response, and alterations may be considered.

Question 2:

If the development goes ahead as per the current proposal to open Cotter Court up, would the Shire install a footpath on Cotter Court and on which side of the road?

Answer 2 – Director Development Services:

I have had a brief discussion with the Manager of Asset and Design as to the possibility of a path. There is currently no footpath on Cotter Court, but it is a possibility and Council may consider seeking a developer contribution.

At this stage I am not sure which side it would be on.

* * *

The Shire received a question from Robert Grimes on 4 October as follows:

Question 1:

How is it possible that your shire officers consider a 40 metre tower is not regarded as having an effect on the visual amenity of the rural landscape. Are we not entitled to say it does since we live there and know it will?

Answer 1 – Director Development Services

We realise that there will be some visual impact. Towers within a rural setting are not uncommon and whilst the tower will be visible, the nature of the equipment requires it to be unobstructed to function appropriately. From a professional prospective, officers recommended that the visual impact would not be inappropriate.

Question 2:

Does council believe that the proposed site for the NBN tower is the best option or is it just the easiest option for NBN as they do not have to address issues such as land tenure, example native title?

Answer 2 – Director Development Services

NBN Co’s investigation identified this as the site most likely to work.

* * *

The Chairman called for any further questions.

Amanda Walsh asked questions as follows:

Question 1

Will turning around areas for graders, rollers, water carts, semi trailers, concrete trucks etc be cleared at either end of the 3 proposed work sites?

Answer 1 – Director Engineering Services

No. Works are planned to be carried out using smaller vehicles. Materials are to be dropped off on the corner of Manari Rd and Cape Leveque Rd in larger vehicles where they will be transferred to smaller vehicles. There is enough room within the project for 3 point turns and turn-arounds for these smaller vehicles.

Question 2:

Will a Shire or independent environmental and civil engineer inspector be on site at all times during the construction phases? If so will this put pressure on the Shire resources?

Answer 2 – Director Engineering Services:

I will be on site everyday, but not for the entire day. There will be a Site Manager on site at all times. He has controlled many similar sites before and is quite experienced.

Question 3:

Will shift work be carried out to complete the works within the time schedules? If so how many lighting plants will be on site?.

Answer 3 – Director Engineering Services:

All work is planned to be carried out during daylight hours. We plan to work a 10hr day, 6 days a week. Work will be re-assessed in October to ensure it is on schedule. If needed we will increase the number of contractors working during the day to get the job done. No night works are planned.

Lisa Trenorden asked the following questions:

Question 1:

What is the definition of the ‘windrow’?

Answer 1 – Director Engineering Services:

The windrow is the dirt that has built up at the sides of the road. Overtime maintenance of the road has caused silt to be moved to the side of the road and form a peak.

Question 2:

Is it up to the discretion of the Superintendent for the removal of existing vegetation?

Answer 2 – Director Engineering Services:

I will be acting as the superintendent. We plan to operate within the existing windrows and leave them as they are.

We do plan to tidy up the inside (roadside) of the windrows by removing weeds as required.

* * *

Patricia Gauci asked the following questions:

Question 1:

Will all the trees outside the windrow, according to the tender document, be tagged and documented?

Answer 1 – Director Engineering services:

No we will not be tagging trees as all works will be contained within the existing windrows. We have maps from Traditional Owners showing significant trees, and this will form part of the site induction and management of works.

Question 2:

Are Shire Ratepayers paying for the works? If not, who is?

Answer 2 – Chief Executive Officer:

Ratepayers will not be paying for the works. The funds are coming from Woodside. The Shire are doing the works ourselves to ensure that the works are up to our standards.

Question 3:

Are the Shire paying for an independent environment and engineer auditor? If not, why not?

9.

**REPORTS
OF
OFFICERS**

9.1

OUR PEOPLE



PRIORITY STATEMENT

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

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

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

9.1.1 LEASE DISPOSAL – KIMBERLEY INDIVIDUAL AND FAMILY SUPPORT ASSOCIATION INC AUSTRALIA	
LOCATION/ ADDRESS:	Portion Reserve 8656
APPLICANT:	Kimberley Individual & Family Support Association Inc Australia
FILE:	LSS186
AUTHOR:	Property Management Leasing Coordinator
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Deputy Chief Executive Officer
DISCLOSURE OF ANY INTEREST:	Nil.
DATE OF REPORT:	20 September 2012
SUMMARY: Kimberley Individual and Family Support Association Inc are requesting to lease Tenancy 9 at the Kimberley Regional Offices for a term of three (3) years with a further three (3) year option.	

BACKGROUND

Previous Considerations

Nil

COMMENT

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

Kimberley Individual and Family Support Association Inc, have enquired to lease the office space of Tenancy 9 at Kimberley Regional Offices. The current tenant, Department of Treasury have vacated this space and are seeking to terminate their lease. Kimberley Individual and Family Support Association Inc are available to commence in the tenancy on termination of Department of Treasury.

The Kimberley Individual and Family Support Association (KIFSA) is a not for profit contracted service provider for the Disability Services Commission (DSC).

Operating within the Kimberley region of Western Australia, KIFSA is responsible for providing services to people with disabilities such as respite, holiday programs, intensive family support as well as alternatives to employment and accommodation support programs.

Based in Broome with offices in Derby, Fitzroy Crossing and Kununurra, KIFSA have an ongoing commitment to enhance the wellbeing of people with disabilities living in the Kimberley and look to maximise the social, recreational and cultural opportunities for clients and members.

Estimated net rental based on approximately 157.70m² tenancy is \$49,959.36 p.a. plus outgoings of \$28,859.10 p.a. These figures are exclusive of GST.

These variable outgoings are audited on an annual basis.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Functions and General) Regulations 1996

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

concerned and gave details of the proposed disposition including —

- (i) the names of all other parties concerned;
 - (ii) the consideration to be received by the local government for the disposition; and
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; 31Mar 2005 p. 1055-6.]

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Estimated net rental based on approximately 157.70m² tenancy is \$49,959.36 p.a. plus outgoings of \$28,859.10 p.a. These figures are exclusive of GST.

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.

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:

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.

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

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

Review and analyse strategic and operational plans.

Manage resource allocation.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Absolute Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

That Council supports, in accordance with Local Government (Functions and General) Regulations 1996, Section 30(2)(b)(i) the request from Kimberley Individual and Family Support Association Inc Australia to enter into lease arrangements for Tenancy 9 at the Kimberley Regional Offices, and delegates authority to the Chief Executive Officer to negotiate terms and conditions of the lease arrangement subject to:

1. *the new Lease to be entered into with the term of three (3) year with a further three (3) year option;*
2. *the gross rental to be \$316.80m² per annum plus GST plus Outgoings at \$183m² per annum plus GST;*
3. *Rental increases to be based on annual CPI increases and market review every three years on the anniversary of the commencement date;*
4. *Kimberley Individual & Family Support Association Inc Australia being responsible for all associated costs, including preparation of lease documents;*
5. *Legal fees and Disability access to be procured and costs borne by Department of Treasury;*
6. *Outgoings based on tenancy area to include but not limited to:*
 - a) *Council Rates or equivalent including Fire Service Levy*
 - b) *Water Rates and Consumption*
 - c) *Building Insurance*
 - d) *Gardening*
 - e) *Emergency Equipment Service*
 - f) *Telstra Lines*
 - g) *Pest Control*
 - h) *Electricity for Common Area*
 - i) *Pressure Cleaning Roof*
 - j) *Pressure Cleaning Building External*
 - k) *Cleaning of Common Foyer Area*
 - l) *Building Maintenance*
 - m) *Air Conditioning Maintenance, Service and Repairs*
 - n) *Painting maintenance*

Moved: Cr A Poelina

Seconded: Cr E Yu

CARRIED BY ABSOLUTE MAJORITY 5/0

Attachment: [1 page](#)

9.1.2 REQUEST TO COUNCIL TO ADOPT THE BROOME MULTIPURPOSE ARTS AND COMMUNITY VENUE MANAGEMENT PLAN AND UPDATE ON THE OPENING PROGRAM	
LOCATION/ADDRESS:	Broome Multipurpose Arts and Community Venue
APPLICANT:	N/A
FILE:	CSP001
AUTHOR:	Arts and Venue Coordinator
CONTRIBUTOR/S	Manager Community Development, Manager Special Projects, Events Coordinator, Property Management & Leasing Coordinator, Asset Coordinator, Manager Building Services, Acting Building Maintenance Officer, Health & Safety/ Risk Coordinator.
RESPONSIBLE OFFICER:	Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	20 September 2012
SUMMARY: Construction of the Broome Multipurpose Arts and Community Venue will be finalised on 28 September 2012. This report includes an update on the opening program as well as a proposed Management Plan, which outlines the operating procedures, staff resources and budget as well as the marketing and promotional aspects of the venue for Councils consideration.	

BACKGROUND

Previous Considerations

OMC 12 July 2012 Item 9.1.3

The Broome Multipurpose Arts and Community Venue (BMACV) will be handed over by the building contractors on 28 September 2012 and is scheduled to be officially opened on Sunday 21 October 2012. This opening will be preceded by a Community Open Day and venue testing week, where community members are invited to test the facility under staff supervision.

A Management Plan, identifying resources, procures and marketing and promotional aspects is required to be endorsed by Council as a condition of funding from Lotterywest before the venue is officially opened.

COMMENT

The opening program of the venue has been progressed by the BMACV Opening Working Group. The pre-testing week will include participation by local dancing schools, theatre groups, musicians, primary school choirs and other singers, bands and both high schools. A visual art display will include works from Broome Senior High School and the Shinju Art Awards. Memorabilia has been collected from various community sources and includes film, photographs, oral histories and historical mementos which will be arranged during the pre-testing week and displayed to the public for the Community Open Day as well as the official opening.

The Community Open Day will include a program of entertainment between the hours of 10am and 4pm selected from the pre-testing week. Volunteer hosts from the Broome Lionesses will be on hand to provide customer service and information. Food vendors have been invited to set up on the grassed area on the west side of venue.

The Honourable John Day MLA, WA Minister for Planning, Arts and Culture, Science and Innovation will officially open the venue at an event to be held on Sunday 21 October. A plaque has been prepared for unveiling. The event will include a Welcome to Country, speeches by the Shire President and the Minister, with George Manning as the Master of Ceremonies. St Mary's College students, Theatre Kimberley and the Pigrims will demonstrate the venue's many uses during the opening ceremony.

Due to a clash with the St Mary's College school camp, the inaugural performance season of *"Staircase to the Moon"* will now take place 1-3 November. This is in line with Council's agreed 14 days free public access to the venue to celebrate the opening. The season will include a Gala Evening to which Councillors will be invited.

Officers have prepared a Management Plan for the new Broome Multipurpose Arts and Community Venue for Council's consideration. The Plan is related to Council's strategic priorities and includes the approved venue budget, approved hire fees and charges, staff allocation, operating procedures and marketing and promotion strategy. It is intended that further information will be added to the Plan once the venue is operational.

The Management Plan also includes 13 appendices relating to equipment registers, fees and charges, processes etc. Not all of these are finalised as some require feedback which will not be available until after practical completion. At this time, the building will be handed over to the Shire of Broome and Shire officers will become responsible for the site.

The index of appendices and their status is as follows:

	TITLE	STATUS
1	Assets Register (non fixed)	To be completed as fit out orders are processed
2	Checklists for Facility users	To be completed when access to the building allows
3	Customer Service Guidelines	Completed
4	Fees and Charges, Conditions of Hire; Hire Forms	Completed
5	Floor plans for users/hires	Completed
6	Friends of the Civic Centre scheme	Completed
7	Keys register	To be completed by contractor
8	Marketing and promotions plan	Completed
9	Occupational Health and Safety	To be completed
10	Preventative Maintenance Schedule	To be completed
11	Procedures and access	To be completed
12	Technical specifications	To be completed by contractor
13	Emergency and Evacuation Procedures	To be completed

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

- 1.3.1 Media Policy
- 2.4.1 Asset Management Policy
- 4.2.5 Alcohol Management Policy

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.

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:

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

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:

Encourage community engagement.

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

That Council:

1. *Endorses the Management Plan and its appendices for the Broome Multipurpose Arts and Community Venue.*
2. *Notes the update on the opening program and thanks the community members involved for their contribution.*
3. *Agrees that the inaugural performance season will now take place from 1-3 November 2012 (retaining Council's agreed 14 days free public access during the opening).*

Moved: Cr D M Male

Seconded: Cr J Bloom

CARRIED UNANIMOUSLY 5/0

Attachments: [13 pages](#)

9.2

OUR PLACE



PRIORITY STATEMENT

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

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

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

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

With regard to item 9.2.1 Cr E Yu disclosed that *“I have an association as an ordinary member with Yawuru Native Title Registered Body Corporate (not for profit organisation), that participate in Park Council Matters. 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 PROPOSED ROAD CLOSURE – REDUNDANT ROAD RESERVES - WATERBANK

LOCATION/ADDRESS: Waterbank
APPLICANT: Yawuru Park Council
FILE: NAT55
AUTHOR: Executive Manager Strategic Development
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Executive Manager Strategic Development
DISCLOSURE OF INTEREST: Nil
DATE OF REPORT: 18 September 2012

SUMMARY: The Yawuru Park Council has requested Council to consider initiating the formal road closure process for portions of redundant road reserves in the Waterbank area of the Yawuru Conservation Estate.

This report recommends advising the Yawuru Park Council that Council does not support the proposal in its current form but would consider a proposal which included all redundant road reserves in the area, the dedication of new road reserves to cover the existing Broome Cape Leveque Road and to provide access to key recreation areas in the Willie Creek and Cable Beach intertidal areas when identified in the proposed management plan.

BACKGROUND

Previous Considerations

Nil

Following the determination of the native title claim the State Government and Yawuru negotiated indigenous land-use agreements which were signed in February 2010 and registered in August 2010. The agreements included provision for a conservation estate including the area between the townsite and Willie Creek west of the Broome Cape Leveque Road that was previously part of the Waterbank pastoral lease. It is intended that this area will initially be jointly vested in Yawuru Registered Native Title Body Corporate (Yawuru) and the Conservation Commission but ultimately it is intended for transfer in fee simple to Yawuru with a lease or agreement for the Department of Environment and Conservation (DEC) to manage the area.

DEC has written to Council on behalf of the Yawuru Park Council requesting formal closure of certain redundant road reserves in the area (as identified in Attachment 1) and incorporation in the conservation estate. These road reserves do not contain any constructed roads or tracks and traverse culturally and ecologically sensitive areas including wetlands and intertidal areas of Willie Creek.

COMMENT

The road reserves in question are redundant and unlikely to ever serve a useful purpose as they are completely surrounded by conservation estate and do not connect to any destinations. They are local roads and are legally the responsibility of the Shire which is not practical. It is considered logical for these areas of road reserve to be incorporated into the conservation estate for clarity of responsibility.

There are other areas of redundant road reserve traversing the area, including the southern extension of one of the identified roads and approximately eight kilometres of the Broome Cape Leveque Road reserve, as identified in attachment 1. It is considered preferable to resolve all of these road reserve issues in the area at the one time rather than continue to revisit the process.

The Broome Cape Leveque roadway does not have a dedicated reserve from its divergence from the reserve approximately one kilometre south of the Manari Road turnoff until the junction with McGuigan Road. It is important for this road to have a reserve.

There is another road reserve issue of concern; the conservation area in question abuts the intertidal areas of Willie Creek and Cable Beach which have been vested in Yawuru, Conservation Commission and the Shire in accordance with the Yawuru agreements but there is no formal access to these areas. It is considered that sections of these intertidal areas will become increasingly important recreation areas for the growing population of Broome. The management plan for the area will need to identify key recreation sites with access to the intertidal areas and formal road access will be desirable to these key sites.

It is recommended the Yawuru Park Council be advised Council does not support the proposal in its current form but would consider a proposal which included all redundant road reserves in the area, the dedication of new road reserves to cover the existing Broome Cape Leveque Road and to provide access to key recreation areas in the Willie Creek and Cable Beach intertidal areas when identified in the proposed management plan.

CONSULTATION

The *Land Administration Act 1997* requires 35 days public notice prior to a request for permanent road closure.

STATUTORY ENVIRONMENT***Land Administration Act 1997***58. *Closure of roads*

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

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

Land Administration Regulations 1998

9. Preparation and delivery by local government of request to close a road permanently
- For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request —
- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require;
 - (b) sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed;
 - (c) copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government's comments on those submissions;
 - (d) a copy of the relevant notice of motion referred to in paragraph (c);
 - (e) any other information the local government considers relevant to the Minister's consideration of the request; and
 - (f) written confirmation that the local government has complied with section 58(2) and (3) of the Act.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Permanent road closures require advertising for public objections and road dedications require survey diagrams.

STRATEGIC IMPLICATIONS

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

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.

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

That Council advises the Yawuru Park Council that it does not support this proposal in its current format but would be prepared to consider initiating the necessary formal processes for a proposal incorporating the following elements:

1. *All redundant road reserves including portion of the Broome Cape Leveque Road and a portion of Road No 6863 south of McGuigan Road are included in the closure process;*
2. *A dedicated road reserve is created for the Broome Cape Leveque Road; and,*
3. *Dedicated road reserves created to the yet to be determined key recreation sites with access to the tripartite intertidal areas of Willie Creek and Cable Beach.*

Moved: Cr J Bloom

Seconded: Cr A Poelina

CARRIED UNANIMOUSLY 5/0

Attachment: [1 page](#)

A Councillor workshop was held on 19 September 2012.

This report is for Council to consider a request to the Minister for Lands to reissue the MO for these reserves to include the power to lease, seek discussions with Yawuru regarding an agreement over the use of the conservation reserves and for organised use of the reserves to cease pending a suitable agreement.

COMMENT

There are a number of development/activity areas in these reserves that would be more easily managed if they are able to be leased to a third party. Examples are the *Minyirr Park Youth Camp*, and *Minyirr Park Base Camp*. If these areas are able to be leased to a Yawuru entity the activities, assets, insurance etc would be more easily managed than through the Department of Environment and Conservation (DEC) and the Park Council.

There may be further proposals in the future such as community centres, tourist information centres, and commercial activities that would also benefit from provision for a lease arrangement.

As these reserves are under joint management the request for the reissue of the MO needs to come from both the Shire and Yawuru.

The reserves are able to be used for traditional and customary aboriginal use but it is recognised there are organised activities taking place in the conservation reserves which are in effect a carry over from when the reserve was unvested. Now that care control and management has been placed with Yawuru and the Shire it is necessary for these activities to be properly managed. There needs to be an agreement on the issue of organised activities in the reserves and the use of the reserves for organised activities should not be permitted until there is a suitable agreement in place.

It is recommended Council requests Yawuru to join in an approach to the Minister for Lands to include the power to lease in the MO for the reserves in the In Town Conservation Estate, to enter into discussions to reach an agreement on the control of organised activities in the reserves, and to agree that organised activities should not be permitted until a suitable agreement is in place.

CONSULTATION

This matter has been discussed at the Yawuru Park Council Working Group.

STATUTORY ENVIRONMENT

Land Administration Act 1997

41. *Minister may reserve Crown land*

Subject to section 45(6), the Minister may by order reserve Crown land to the Crown for one or more purposes in the public interest.

42. *Class A reserves*

(1) *The Minister may by order classify a reserve as a class A reserve.*

(2) *A class A reserve retains a purpose specified in the relevant order made under section 41 until that purpose is changed under this section.*

Chairman.....Date.....

- (3) Subject to subsection (5), the Minister may by order —
- (a) add Crown land to a class A reserve;
 - (b) amend a class A reserve for the purpose of correcting one or more unsurveyed boundaries of the class A reserve in such a manner that the area of the class A reserve, if reduced at all, is reduced by not more than 5%;
 - (c) excise 5% or one hectare, whichever is the less, of the area of a class A reserve for the purpose of public utility services;
 - (d) redescribe locations or lots, or adjust the areas of locations or lots, in a class A reserve if the external boundaries of the class A reserve remain unchanged; or
 - (e) amalgamate 2 or more class A reserves which have similar purposes and the same management body.
- (4) Subject to subsection (5) and section 45, if the Minister proposes —
- (a) to reduce the area of, or excise an area from, a class A reserve for a purpose other than a purpose referred to in subsection (3)(b) or (c);
 - (b) to excise an area from a class A reserve for the purpose of creating a road; or
 - (c) to cancel, or change the purpose or classification of, a class A reserve,
- the Minister must cause that proposal to be laid before each House of Parliament and section 43(1) then applies.
- (5) The Minister must, not less than 30 days before acting under subsection (3) or (4) in relation to a class A reserve, advertise his or her intention so to act in a newspaper circulating throughout the State.
43. Special procedure in relation to certain changes to class A reserves and conservation reserves
- (1) If, after a proposal is laid before each House of Parliament under section 42(4), 44(1) or 45(4) notice of a resolution disallowing the proposal —
- (a) is not given in either House of Parliament within 14 sitting days of that House after the proposal was laid before it, the proposed reduction, excision, cancellation, change, grant or permission may be implemented by order after the last day of the later of those periods of 14 sitting days;
 - (b) is given in either or both of the Houses of Parliament within 14 sitting days of that House, or each of those Houses, after the proposal was laid before it, but that resolution is not lost in that House or each of those Houses within 30 sitting days after the proposal was laid before it, the proposed reduction, excision, cancellation, change, grant or permission lapses; or
 - (c) is given in either or both of the Houses of Parliament within 14 sitting days of that House, or each of those Houses, after the proposal was laid before it, but that resolution is lost in that House or each of those Houses within 30 sitting days after the proposal was laid before it, the proposed reduction, excision, cancellation, change, grant or permission may be implemented by order after that loss or after the later of those losses, as the case requires.
- (2) It does not matter whether or not the period of 14 sitting days referred to in subsection (1) or some of them occur during —

- (a) the same session of Parliament; or
- (b) the same Parliament,

as that in which the relevant proposal is laid before the House of Parliament concerned.

- (3) If the notice of a resolution referred to in subsection (1) is given to a House and that resolution is not lost but, before the period of 30 sitting days mentioned in subsection (1)(b) and (c) expires, Parliament is prorogued or that House is dissolved or expires —
- (a) the relevant proposal does not lapse but, subject to paragraph (b)(iii), it cannot be implemented; and
 - (b) on the commencement of the next session of Parliament —
 - (i) the Minister may cause the proposal to be laid before that House again;
 - (ii) notice of a resolution disallowing the proposal may be given again in that House; and
 - (iii) subsection (1) applies again but as if the references in subsection (1)(b) and (c) to the period of 30 sitting days after the proposal was laid were references to the remaining sitting days after notice of a resolution disallowing the proposal is given under subparagraph (ii).
- (4) In subsection (3)(b)(iii) —
- remaining sitting days means the number of sitting days equal to the portion of the period of 30 sitting days mentioned in subsection (1)(b) and (c) that remained unexpired when Parliament was prorogued, or the relevant House was dissolved or expired, as referred to in subsection (3).

46. Placing of care, control and management of reserves

- (1) The Minister may by order place with any one person or jointly with any 2 or more persons the care, control and management of a reserve for the same purpose as that for which the relevant Crown land is reserved under section 41 and for purposes ancillary or beneficial to that purpose and may in that order subject that care, control and management to such conditions as the Minister specifies.
- (2) The Minister may, with the consent of the management body of a reserve and of the holders of any interests within the reserve, by order vary any condition to which the care, control and management of the reserve is subject.
- (3) The Minister may —
 - (a) by order confer on a management body power, subject to section 18, to grant a lease or sublease or licence over the whole or any part of the Crown land within the reserve in question for the purposes referred to in subsection (1); and
 - (b) approve a mortgage of any such lease.
- (3a) The Minister may by order —
 - (a) without the consent of the management body of a reserve, vary —
 - (i) an order made under subsection (3)(a); or

- (ii) an order made under section 33 of the repealed Act or section 42 or 43 of the Land Act 1898 ⁷ that subsists as an order made under subsection (3)(a),
- in relation to whether or not prior approval in writing of the Minister is required to a grant of a lease, sublease, or licence; or
- (b) with the consent of the management body of a reserve, vary any other condition to which —
- (i) an order made under subsection (3)(a); or
- (ii) an order made under section 33 of the repealed Act or section 42 or 3 of the Land Act 1898 ⁷ that subsists as an order made under subsection (3)(a),
- is subject.
- (3b) The Minister's approval under section 18 is not required for the exercise of a power conferred under subsection (3)(a) unless —
- (a) the person on whom the power is conferred is —
- (i) a body corporate that is constituted for a public purpose under an enactment and is an agency of the Crown in right of the State; or
- (ii) a person referred to in subsection (10)(b),
- and the order provides that the Minister's approval under section 18 is required; or
- (b) the person on whom the power is conferred is a person other than a person referred to in paragraph (a).
- (4) If an unmanaged reserve is the subject of —
- (a) a lease granted under section 47; or
- (b) a licence, or a lease or profit à prendre, granted under section 48,
- or of any other interest in the unmanaged reserve, the Minister may under subsection (1) place the care, control and management of that reserve with a management body subject to that licence, lease or profit à prendre or other interest, the term of which continues unbroken by that placing.
- (5) An order made under subsection (1), (2), (3) or (3a) does not create any interest in Crown land in the relevant reserve in favour of the management body of that reserve.
- (6) If Crown land reserved under section 41 for the purpose of recreation is leased or subleased under a power conferred under subsection (3), the lessee or sublessee may, unless the terms of the management order or the lease or sublease otherwise provide, restrict public access to the area leased.
- (7) A person with whom the care, control and management of a reserve is placed by order under subsection (1) has, by virtue of this subsection, the capacity, functions and powers to hold and deal with the reserve in a manner consistent with the order, any order conferring power on that person under subsection (3)(a) and this Act to the extent that the person does not already have that capacity or those functions and powers.
- (8) Subsection (7) does not authorise a management body to perform a function or exercise a power if another enactment expressly prevents the person from

performing that function or exercising that power, or expressly authorises another person to perform that function or exercise that power.

- (9) Any instrument in relation to the care, control and management of a reserve entered into or given by a person holding an office referred to in subsection (10)(b)(i) or (iii) is taken to have been entered into or given by the person for the time being holding that office.*
- (10) In subsection (1), a reference to a person is a reference to —*
 - (a) a person having perpetual succession;*
 - (b) a person not having perpetual succession who is —*
 - (i) a Minister to whom the Act specified in the relevant order is for the time being committed by the Governor;*
 - (ii) the Marine Parks and Reserves Authority established under section 26A of the Conservation and Land Management Act 1984; or*
 - (iii) a person holding a prescribed office.*
- (11) If an order made under section 33 of the repealed Act subsists under clause 16(1) of Schedule 2 as if it were a management order under section 46(1), the Minister may by order vary that order to place the care, control and management of the reserve the subject of the order with a person referred to in subsection (10).*
- (12) An order made under section 46(1) before the coming into operation of section 12 of the Land Administration Amendment Act 2000 ¹ may be varied by the Minister by order to place the care, control and management of the reserve the subject of the order with a person referred to in subsection (10).*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

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

Encourage recreational activity.

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.

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION: **(REPORT RECOMMENDATION)**

That Council:

1. *Acknowledges that reserves have now been created for most of the In Town Conservation Estate in accordance with the Yawuru Indigenous Land Use Agreements and Management Orders issued jointly to the Yawuru Native Title Holders Aboriginal Corporation Registered Native Title Body Corporate and the Shire of Broome.*
2. *Notes the Management Orders provide for the land to be used for conservation, recreation and traditional and customary Aboriginal use and enjoyment only but do not provide the power to lease.*
3. *Notes there is no agreement or framework in place between the joint management bodies covering organised use of areas of the conservation estate.*
4. *Requests Yawuru Registered Native Title Body Corporate to join in an approach to the Minister for Lands to reissue the Management Orders for the In Town Conservation Estate reserves including the power to lease.*
5. *Seeks discussion with Yawuru Registered Native title Body Corporate with a view to reaching an agreement covering the organised use of areas of the estate excepting traditional and customary aboriginal use.*
6. *Seeks agreement from Yawuru Registered Native Title Body Corporate that the organised use of areas of the estate excepting traditional and customary aboriginal use should not be permitted until a suitable agreement is in place.*
7. *Advises Yawuru Registered Native Title Body Corporate and Yawuru Park Council accordingly.*

Moved: Cr E Yu

Seconded: Cr J Bloom

CARRIED UNANIMOUSLY 5/0

Attachment: [5 pages](#)

9.2.3 PROPOSED LOCAL DEVELOPMENT PLAN STAGE 2 – BROOME NORTH, BILINGURR

LOCATION/ADDRESS: Lot 503 Bilingurr and Lot 2605, 2658 and 2659 Fairway Drive Bilingurr
APPLICANT: LandCorp
FILE: PLA 88
AUTHOR: Director Development Services
CONTRIBUTOR/S: Roberts Day on behalf of LandCorp and Manager Planning Services
RESPONSIBLE OFFICER: Director of Development Services
DISCLOSURE OF INTEREST: Nil
DATE OF REPORT: 10 September 2012

SUMMARY: A Local Development Plan has been prepared for the next stage of development within that area subject to the Broome North District Development Plan (DDP).

The Local Development Plan Stage 2 elaborates and enhances on the detail of the DDP as it relates to the subject area, providing more detail to enable the consideration of subdivision and development applications

In accordance with the Shire of Broome Town Planning Scheme No 4 a Development Plan when prepared is required to be publically advertised for a period of time not less than 28 days.

This report recommends that Council adopts the Local Development Plan Stage 2 for the purposes of advertising for public comments for a 42 day period from 11 October 2012 to 23 November 2012.

BACKGROUND

Previous Considerations

OMC 4 August 2009 -	Item 9.3.2
OMC 29 October 2009 -	Item 9.3.2
OMC 26 November 2009 -	Item 9.3.2
SMC 22 February 2010	Item 9.3.1 and 9.3.2
OMC 18 March 2010	Item 9.3.1

History

Council adopted Broome North District Development Plan and a Local Development Plan for the first stage of development at a Special Council Meeting, 22 February 2010.

Site and Surrounds

The subject area is that land bounded by Fairway Drive (north), Broome Road (east) a 150m wide Ecological Cultural Corridor (south) and an unconstructed portion of Magabala Road (west). The subject site comprises an area of approximately 65.7ha.

Planning provisions

Chairman.....Date.....

Under TPS4 the site is zoned 'Development'. 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*. Specifically the Scheme provides that development will not be permitted and subdivision will not be supported unless in accordance with an adopted Development Plan. Clause 4.25 of the Scheme describes the requirement and procedure for the development and approval of a Development Plan.

Part One Clause 4.0 of the Broome North District Development Plan (DDP) identifies that Council or the WAPC may require the preparation of a Local Development Plan prior to approving the subdivision and/or development of land within the DDP area.

TPS4 Clause 6.1.5.3 identifies a Land Use Buffer around Lot 2605 (the former poultry farm site) south of Fairway Drive. The objective of this buffer is *to control development within close proximity of a site which may be considered a nuisance or offensive by virtue of noise odour, health concerns and visual amenity*. The former poultry farm use ceased operation in 2007.

Description of the Proposal

The DDP is a high order, diagrammatic plan for guiding development in the Broome North area. The DDP is designed as a flexible instrument to be refined at the Local Development Plan stage in response to the unique characteristics of individual sites and their requirements. This process of refinement results in some variations to the structure proposed at the district level, however the underlying principles continue to be incorporated into further design.

The DDP is organised around the guiding principle of the 'Transect' which is used to coordinate the design of public spaces, streets and buildings within each transect zone. Each transect zone is able to be developed with a defined character which ensures that the development as a whole is not a homogenous rollout of housing but a series of unique spaces and urban environments.

As established in the DDP, the LDP2 area contains 'Neighbourhood Living' (R12.5 – 25) and 'Urban Living' (R25 – 40) residential areas.

The 'Neighbourhood Living' transect zone equates to what is traditionally understood to be a "suburban" style of development and provides a range of medium to large lot sizes (350 sqm to 700sqm), set in an open space network of multiple-use corridors and parklands.

The 'Urban Living' transect zone is intended to maximise the number of households adjacent to or within walking distance of higher amenity areas such as parks, community facilities or even bus stops. In contrast to the 'Neighbourhood Living' zone it is characterised by more urban elements such as smaller lots (350sqm – 200sqm), reduced front setbacks to buildings and more formal landscaping in streets and parks. This zone facilitates the development of smaller, more affordable housing, key worker accommodation and live-work opportunities.

In both transect zones the design of the open space, roads and buildings seek to translate the character of "Old Broome". The orientation of lots, width of road reserves (18 -25 metres) and associated setbacks are intended to facilitate the movement of cooling

breezes. This is further enhanced by the provision of shaded streets and paths for pedestrians and cyclists and the retention of the natural landscape in the multiple-use corridors. Building forms and materials will interpret the Broome vernacular building style, including the more compact areas of development around the street parks.

The design approach is also informed by the outcomes of the Housing Analysis prepared for the DDP. This found that the two most important factors in housing and subdivision design in Broome are access to breeze and the provision of shade, which has implications for the street orientation, road width and lot layouts. This is interpreted within the plan by use of a cardinaly oriented grid to enable standard eaves projections for effective shading, and the orientation of roads to run North/South to allow the majority of lots to be oriented East/West to provide access to prevailing cooling winds come from the north-west/west/south-west.

This climate responsive design will also be extended to the detail of the built form of the houses to ensure that house design responds to the seasonal variations of Broome's climate and provides future residents with living spaces that celebrate the unique Broome climate and lifestyle.

The LDP2 design applies these design principles to the particular characteristics of the site. The key physical and structural elements that have been accommodated include:

- Incorporation of an existing east/west depression through the middle of the site into open space as a natural drainage corridor and setting for the two neighbourhood parks;
- Incorporating drainage in a network of multiple-use corridors, streets and parklands designed to accommodate stormwater flows while still fulfilling their respective transport and recreation requirements. As successfully applied in Januburu and LDP1, by accommodating stormwater throughout the catchment the outflows are reduced and prolonged over a longer time period. This reduces the size of detention basins required at the end of the catchment and assists in mitigating the detrimental environmental effects of large volume runoff;
- Consideration of the concept plans for the private school site being prepared by the Anglican Schools Commission (ASC) for the construction of a new private primary and secondary school and playing fields. The ASC's preferred design requires a squarer lot to enable separation of the primary and secondary schools by the playing fields. This has required the relocation of the school site from the orientation depicted in the DDP which showed a rectangular lot running parallel to Fairway Drive. The relocation has resulted in improved connectivity between the residential areas to Fairway Drive;
- Inclusion of the 1ha Horizon Power site in the northwest corner of the site;
- Ensuring safe, legible and pleasant access through the open space and road network to the local centre located in Stage 1. No local centre is provided in Stage 2 consistent with the commercial hierarchy set out in the DDP;
- Providing good pedestrian access to the future bus route along Magabala Road and Fairway Drive depicted in the DDP.

LDP2 interprets these various requirements into a modified grid design which ensures pedestrian legibility and ease of movement, a logical vehicle movement network and the correct orientation of lots and roads to access breezes and facilitate shading. The inclusion of the street parks further assists in the control of vehicle speeds throughout the development, minimising long through streets (for vehicles not pedestrians) and avoiding the need for speed control devices being installed in the road.

The LDP2 makes provision for approximately 580 dwellings, comprising a range of residential lot sizes and housing types, from medium sized lots to medium-high density grouped/multiple housing adjacent to the street parks and other areas of open space. All lots are within a short walking distance (typically less than 200 metres) of some form of open space.

The diverse network of open space types is a significant feature of the development, including naturalistic multiple use corridors, more urban style street parks, neighbourhood parks based on the 'Sunset Park' model and the active playing fields provided on the private school site. This network of open space enables residents to move through the development almost wholly within a parkland setting to visit friends or do the shopping at the local centre in Stage 1, or for school children to walk to school at either the primary school in Stage 1 or the secondary school in Stage 2.

The use of the road, landscape and building controls provided in the LDP2 report, will ensure that each space within the development is correctly calibrated to its transect location, resulting in a highly diverse and pleasant environment. As consequence, it is anticipated this new stage of the Broome North development will have a high 'walk appeal' (characterised by the interest and pleasantness of the urban environment). It is likely residents will take advantage of the opportunities provided to be more active and this of course will have flow on effects to lifestyle outcomes.

The Local Development Plan No 2 report comprises the following:

Part 1 Statutory Section

- o Clauses 1 -5 set out the necessary provisions for the Development Plan to operate and establish the relationship with TPS4
- o Clause 6 – Specifies the requirement relating to residential density, including the requirement for approval of a residential Density Code as a requirement of applications for subdivision and specification of locational criteria for density designation. This is in line with WAPC Structure Plan (Development Plan) Preparation Guideline August 2012 (see below).
- o Clause 7 – Identifies the specific development requirement in the form of typologies. These include roads, landscape (open space) and built form (predominately setbacks for breezes and shading). The characteristic and requirement of each typology are detailed in plan form with accompanying specifications.

7.1 – Road Typologies

- Major Access Street
- Local Access Street
- Street Park

7.2 – Landscape Typologies

- Multiple Use Corridors
- Environmental Cultural Corridor
- Neighbourhood Park
- Street Park
- Urban Square

7.3 Built Form Typologies

- Residential Building (R12.5 – R20)
- Residential Building (R25 – R30)
- Group Dwellings/Multiple Dwellings (R40).

- o Clause 8 comprises the Local Development Plan and two control plans depicting the application of the development standards set out at Clause 7:

Plan 1: Local Development Plan 2

Plan 2: Thoroughfare Typologies

Plan 3: Landscape Typologies

Part 2 – Explanatory Section (non-statutory)

This includes various plans, diagrams, images and text to explain the design rationale used within LDP2:

- o How the transect zones from the DPP have been applied through the location of residential density
- o Dwelling yield
- o Explanation and justification of proposed amendment to the R-Codes Ancillary Accommodation provisions to allow for ancillary accommodation being made available for non-family members and on lots less than 450m²
- o Description of the Movement Network – pedestrian, road and future public transport routes
- o A Public Open Space schedule demonstrating the calculation and allocation of POS (including drainage)
- o Detailed explanation of each open space type identifying:
 - o The function and role of the open space
 - o Who will use the space and how; and
 - o What the space will look like
- o Description of the Private School site and Electrical Substation in terms of location, size and key elements.

Technical Appendices (non statutory)

- A. Planning Report – overview of relevant statutory and strategic frameworks
- B. Engineering and Servicing Report
- C. Traffic Assessment
- D. Landscape Report
- E. Local Water Management Strategy
- F. Bushfire Management Plan

COMMENT

The Shire of Broome Town Planning Scheme No.4 (TPS 4) under clause 4.25.3.2 provides for the Council to advertise a development where it has been prepared to the Council's satisfaction. Clause 4.25.3.1 provides guidance to the Council to consider when determining whether or not the development plan has appropriately addressed the relevant planning elements. The following section sets out the various considerations for Council to determine whether the LDP has been prepared to its satisfaction.

Topography and vegetation of the area and distinctive features:

The topography of the site has been considered in the Broome North District Development Plan (DDP) and within Technical Appendix B Engineering and Servicing Report. The report sets out that the grade is generally between 0.5% and 0.1% and slopes generally towards the south west.

The site vegetation is mainly uncleared Pindaan Woodland apart from the lots to the north which have been subjected to previous development. The only distinctive feature on the site is a lot in the north-east which was previously used as a chicken farm. This site is intended to form part of the proposed School site and will require site works to modify the drainage design.

It is considered that LDP 2 addresses the topography and vegetation satisfactorily.

The existing major road system:

Major road connection to the site has been considered in the Broome North District Development Plan (DDP) and within Technical Appendix B Engineering and Servicing Report and Technical Appendix C Traffic Assessment. These reports consider the context of the LDP 2 area within the overall Broome North development and its connection to the major road system. LDP 2 in accordance with the DDP provides access from Fairway Drive in the North and Magabala Drive in the West. No direct access from Broome Road will be provided.

The Traffic Assessment report estimates a maximum of 3,000 to 7,000 vehicles per day on Fairway Drive, and between 10,000 and 15,000 vehicles per day on Magabala Road at full development of Broome North, based on modelling done by Sinclair Knight Merz. Whilst no direct access into private lots will be provided from Fairway Drive there are still particular concerns relating to the number of access points onto Fairway Drive as a major distributor, and the number of expected vehicles. The increased traffic volumes will also have a significant impact on these roads and will require an improved level of service.

Accordingly it is recommended that a notation be placed on the LDP that outlines the requirement for developer contributions towards the upgrading of the broader road and infrastructure network to cater for the expected increased levels of service required.

The location and width of proposed roads, pedestrian and bicycle routes:

The Traffic Assessment report considers the internal road layout. In particular the report aims to design the local roads to a 30km/h travel speed through the use of a short street network. The report recommends incorporating on-street parking to assist in slowing traffic and narrow pavement widths commensurate with drainage needs. The report further recommends that cyclist share the road with motorists whilst the pedestrian footpaths are

to be positioned under shade trees.

The layout incorporates three street typologies including:

- Major Access Streets
- Local Access Streets and
- Street Parks.

Whilst the Major Access Streets provide for more mobility the Local Access streets have been designed particularly with accessibility in mind. These streets are shorter and have been broken up by the incorporation of the Street Parks. This design has been deliberate to minimise traffic calming devices and to allow for the creation of amenity within areas where higher densities are being proposed.

Particular concerns with the local street layout and typologies relate to:

- the location of footpaths is closer to the carriage way than previously considered in LDP 1;
- the potential costs associated with the maintenance of the Street Parks.
- *the widths/setbacks and breeze flow.*

These concerns require further consideration which should be addressed during the public submission period.

The approximate location and area of the recreation and open space areas proposed:

LDP 2 incorporates a Landscape Report as Technical Appendix D which provides for an integrated network of open spaces. These consist of bushland and parks of varying sizes and functions addressing the requirements of Liveable Neighbourhoods and the Shire's Local Planning Policy for the Provision and Development of Open Space Reserves Managed by the Shire of Broome and other relevant stakeholders as set out below:

District Open Space / Active Recreation – is proposed to be provided in conjunction with the School, as provided for in Liveable Neighbourhoods provision Element 4 R19 and Element 8 R12. It is expected that this area will be developed as Reticulated Active Parks in accordance with LPP 8.1.

The collocation provides the possibility of a management agreement between the School and the Shire for that enables joint use and maintenance of the active recreation area.

Two neighbourhood parks – are provided in accordance with Liveable Neighbourhoods provision Element 4 R15, which requires neighbourhood parks of between 3,000m² and 5,000m² within 400m of all dwellings that provide for about 600-800 dwellings. These parks will be developed as Reticulated Passive Parks in accordance with LPP 8.1. The parks in accordance with the local policy is intending to incorporate drainage swales as part of the reticulated lawn area and may provide for more formal landscape elements such as BBQ facilities, active recreation opportunities and shelter. It is anticipated that on street parking will provide for general public to be able to park and access the parks.

Concerns have been raised that the maintenance costs of two neighbourhood parks could be considered excessive for the number of houses being served. It may be more appropriate to provide a single larger and more central neighbourhood park, as originally considered in the DPP to provide for the about 520 lots.

Two street parks – are provided in accordance with Liveable Neighbourhoods provision Element 4 R14 requiring local parks of up to 3,000m² within 150m to 300m of all dwellings

that may include special purpose parks and squares that add to the sense of place. The intention of these parks is therefore to provide intimate community spaces framed by medium density residential development - a shared space for adjoining residents with formal tree planting over turf, on-street parking and narrow roads to calm local traffic movements.

The treatment of these parks requires further consideration and may provide for areas that are developed as Reticulated Passive Parks and areas that are developed as Un-reticulated Parks in accordance with LPP 8.1.

An 'urban square' – provided in accordance with Liveable Neighbourhoods provision Element 4 R14 and R27 provides for possible facilities of the adjacent private school site that may be accessible to the broader community. Such facilities might include the library, chapel and/or a performing arts space, which provide for an exchange of events between the school and the community.

The site is however considered quite small being only 300m². Further consideration needs to be given for the intended community services to be provided and may require a larger site to be considered in this location. Input from the community consultations process will assist to consider the potential of this site.

Multiple Use Corridors - drainage in a natural setting with 'break out' areas and paths for passive recreation and safe pedestrian movement. These corridors will be developed to a bushland and drainage standard in accordance with LPP 8.1. The 'break out' areas provide opportunity for smaller local parks to be developed to as Reticulated Passive Parks or Un-reticulated cleared areas that to provide for the open space requirements in appropriate locations in accordance with Liveable Neighbourhoods Element 4 R14. This could if sited appropriately be developed instead of providing two full size neighbourhood parks which may reduce maintenance costs, whilst still providing opportunity for some active recreation activities.

The ECC - is included as a typology despite also being shown in LDP1 as it incorporates necessary drainage infrastructure servicing the Stage 2 area and provides an important pedestrian connection through to the Stage 1 local centre. The ECC will therefore be 'developed' as a Natural Park in accordance with LPP 8.1 and Liveable Neighbourhoods Element 4.

It is recommended that the size and level of service to all parks be further considered during the public comment period and in particular the potential to only provide one neighbourhood park that is central to the Multiple use Corridor or the school site and smaller local parks provided as 'break outs' along the corridor to address open space provision as considered in the Liveable Neighbourhoods Element 4 R14. This should form part of further considerations during the public comment period and the incorporation of costs included in the current and draft Open Space Review.

Community facilities and commercial centres:

LDP 2 provides a twelve (12) hectare site for a Primary and Secondary School and playing fields in the north east in accordance with Liveable Neighbourhoods Provision Element 8 R10. The school site has been consolidated into a 'squarer' shape and 'moved to the east' of the original location in the DDP to facilitate preliminary design provided by the Anglican School's Commission. This will allow for a better separation of the primary and secondary school components, as well as the inclusion of a full size north/south oriented AFL oval.

The departure from the DDP for the purposes of the School site is considered appropriate as it will provide a more functional site for the design of the schools. The provision for District Open Space to be at the school site is considered an appropriate solution in accordance with Liveable Neighbourhoods Element 4 R19 as discussed above.

It is recommended that the intention of joint use and maintenance of the active open space on the School site be indicated by way of a notation on the LDP to ensure this intention is clear.

The neighbourhood will provide minimal community facilities and will therefore be dependent on the community services and facilities provided elsewhere in Broome. As such it is recommended that a Developer Contributions Schedule be developed in accordance with State Planning Policy 3.6 Developer contributions for Infrastructure for this development area, The Schedule should outline the community facilities and services required to accommodate the expected population growth resulting from this development.

It is recommended that a notation be included on the LDP that requires a Developer Contributions Schedule be developed prior to subdivision.

The population, lot layout and the location of appropriate "Residential Planning Code" densities:

LandCorp has a commitment to provide 10% of the potential dwellings for social housing in all its estates. In keeping with this approach it is anticipated that up to 10% of the potential dwellings will be allocated to the Department of Housing for social housing. In addition, LandCorp also provides land to community housing providers to assist in the delivery of affordable housing. In LDP 1 this amount was capped at 20% of dwellings, and it is anticipated that a similar allocation will be made in LDP2 in addition to the social housing allocation.

LDP 2 provides for approximately 522 lots which will yield around 580 dwelling units. The lots range in density to provide a mix of low density (R12.5-R25) to medium density (R30-R60). Whilst the DDP does not consider the development of R60 lots the increased densities surrounding open space areas such as the Street Parks does provide for more diversification in the mix of lots and housing products available to Broome. This housing mix is provided through three different transects:

- o Neighbourhood Living 61% are coded between R12.5 – R25
- o Urban Living 32% are coded R25 – R40
- o Urban Living 7% are coded R40 – R60

It is recommended that the variation to the DDP be supported for the purpose of seeking public comment and that this be considered in light of submissions received prior to adoption of the LDP.

In addition to the increased densities surrounding the Street Parks the LDP proposes to amend the R-Codes provisions by removing the occupation restriction placed upon Ancillary Accommodation for lots greater than 450m². This effectively means that the lots within the Neighbourhood Living transect may have the opportunity to construct an additional dwelling or independent accommodation that is a maximum of 60m². This measure creates an opportunity for residents to secure rental income which can assist with making the purchase of house and land for that landowner more affordable and further provides an additional form of housing choice for key workers, singles or transient population who might struggle to rent or buy in Broome.

The R-code review currently being considered by the WAPC does consider the removal of this restriction in general. However other local governments within Western Australia have adopted local development plans that remove this restriction for specific neighbourhoods. It is recommended that this variation be supported.

The LDP sets out specific housing typologies for each of these transects to guide future design of build form. These typologies aim to ensure that whilst increased densities are proposed a certain character and amenity is retained within the neighbourhood. It is recommended that these housing typologies be further developed into specific Design Guidelines that may modify the Residential Design Codes (R-Codes) and form part of the Development Plan and should address but is not limited to the following:

- Climatic Responsive Sustainable Design
- Crime Prevention through Environmental Design
- Height, Bulk and Scale
- Access and Streetscape including verge treatments

It is recommended that a notation be placed on LDP 2 that provides for Design Guidelines to be adopted by Council that may vary the provisions of the R-codes in order to strive to retain local character and ensure climatic responsive design as far as possible.

All existing and proposed land uses:

There are no existing land uses on the site that are relevant, however the Speedway is currently located across Broome Road and poses a significant constraint on the development of the LDP 2 area. Noise contours would need to be developed by a suitably qualified person along with an acoustic report to determine what area of the site can be developed. It is likely that the development will be significantly constrained until the relocation of the speedway occurs.

It is recommended that Council qualifies that although the LDP 2 area may satisfactorily address other aspects of the relevant Scheme provisions, this aspect has to be resolved during the comment period and should it not be able to be appropriately addressed may result in the LDP not being adopted.

Provision for water supply, sewerage, drainage and public utilities:

A one hectare site for an Electricity Substation in accordance with the requirements of Horizon Power (and as depicted in the DDP) located at the intersection of Magabala Road and Fairway Drive. This is a prominent, high visibility location and as such condition no.6 of Plan No 1 requires the provision of a landscape plan prior to development demonstrating how the facility can be screened from public view. The screening was agreed with Horizon Power at the Broome North Planning Design Forum and is documented in the DDP. To facilitate landscaping and screening an additional 70 metre buffer was provided around the whole of the substation site in addition to the requirements for the substation itself (which only requires an area 30 x 30 metres). Horizon Power is expected to provide formal comment on the specific requirements proposed in the LDP during the statutory advertising period.

Water and sewer services are to be reticulated and provided by Watercorp. A Local Water Management Strategy (LWMS) has been prepared for the area and is included in the LDP as Technical Appendix E. A number of concerns have been raised regarding the LWMS:

- The main drainage outlet under Broome Highway and adjacent to the pony club does currently appear to be performing a drainage into a small dam. Landcorp will

need to gain all heritage and environmental approvals required to be allowed to discharge at this location.

- The strategy outlines that the developer will promote on site infiltration at lot scale and detention at a development scale for the 1:1 year event, as per Department of Water objectives. This strategy is not considered feasible due to climatic conditions and is not reflected in current design concepts. Although it is being promoted it requires no further action.
- The report provides for decreased swale grades that are not consistent with current practice of 1:700. It is recommended that swale grades be modified to provide for a grade of 2% (1:50) so as to prevent ponding and silt build-up which inhibits turf development.
- The current swales in LPD 1 have been well vegetated on the batters but are poorly vegetated on the swale and basin floors. The Shire is currently working with Landcorp to rectify this situation in LDP 1 and therefore the LWMS for LDP 2 needs to clearly define that the basin floors require revegetation with native grass. The overall design should take this into account when applying roughness coefficients and overall storage volumes required thereby not assuming a completely flat floor.

It is recommended that a number of amendments be undertaken to address concerns regarding the LWMS as outlined above and set out in the recommendation below.

The development proposed, the method of carrying out the development and the projected times of completion of each stage of development:

There has been a very positive public response to the Broome North Stage1 land release with demand exceeding previous expectations. As such LandCorp is seeking to bring forward the release of Stage 2. The proposal for Stage 2 does not currently consider the sub-staging of development. This may become a required depending on the outcomes of the acoustic report and noise contours to be developed for the area regarding the speedway and motocross noise. More detailed staging plans will be prepared as part of the subdivision stage which will consider the roll out of relevant sub-stages included in LDP 2 area.

Consideration of Aboriginal heritage and cultural sites and matters and how these aspects are incorporated into the development plan:

Native Title has been extinguished over the site. Landcorp is required to fulfil its responsibilities in relation to the Aboriginal Heritage Act 1972 during construction.

Further clearances and approvals may be required to be obtained prior to the commencement of construction to allow for the discharge of water into Dampier Creek. This will be the responsibility of Landcorp and should be clearly articulated in the Local Water Management Strategy.

Environmental Cultural Corridors within the area and/or the allocation of land for conservation purposes in the area:

The LDP 2 provides for a Cultural and Environmental Corridor to the south of the site in accordance with the Broome North District Development Plan. This corridor is discussed in more detail above under the open space provisions.

Environmental protection consideration and pollution prevention measures:

The local water management strategy as discussed above considers a number of measures to reduce risks associated with water pollution and sediment runoff. At subdivision stage it will be appropriate to condition particular methods for the control of runoff during construction.

Landcorp or the Anglican Schools commission will be responsible for the rehabilitation of the proposed School site which has been highlighted as a potentially contaminated site having been used previously as a poultry farm. This site will also need to be considered in the LWMS for the area as outlined above.

In order to provide for wildlife movement under Tanami Drive it is recommended that dedicated fauna culverts are included in the subdivision design. It is recommended that a notation to this extent be included on the LDP.

Such other matter or information as is required by Council.

The DDP puts in place the key structural elements of the LDP2 area and specifies the prevailing statutory framework for development in Local Development Plans. Details of the relevant DDP provisions are set out in the LDP2 Technical Appendix A - Planning Report. As required in the DDP, the LDP2 provides additional detail at a local level to guide subdivision and development applications, including consideration of specific requirements for the development of roads, open space and built form to accord with the transect approach to development adopted for Broome North.

Conclusion

LDP2 has been prepared with regard to the requirements of the WAPC's Liveable Neighbourhoods, the recently released Structure Plan (Development Plan) Preparation Guideline (SPG) (August 2012) and the anticipated amendment to Clause 6.11.1 of the Residential Design Codes relating to ancillary accommodation. As outlined above it is recommended that amendments be made to the LDP to better reflect the provisions and requirements as set out in State Planning Policy 3.6 - Development Contributions for Infrastructure, Development Control Policy 2.3 - Public Open Space in Residential Areas and the Shire's Local Planning Policy 8.1 Provisions and Development of Open Space Reserves Managed by the Shire of Broome.

LDP 2 has been prepared in accordance with the requirements of the provisions set out in Town Planning Scheme 4, relevant State Planning Policies and Local Planning Policies. There are a number of issues that will need to be addressed during the advertising period as outlined above and incorporated into the recommendation.

On the basis that these amendments are made or considerations be made during the public comment period it is recommended that Council endorses the Plan for advertising. In line with Council practice this should be for a period of 42 days during which time the outstanding matters be further discussed, resolved with the applicant and reported back to Council.

- Attachment 1 – Liveable Neighbourhoods – Application Requirements Checklist
- Attachment 2 – Structure Plan Guidelines – Applications requirements Checklist
- Attachment 3 – Broome North Local Development Plan Stage 2 (*provide link to electronic version*)
- Attachment 4 – Broome North Community Engagement Strategy

CONSULTATION

A Development Plan is required to be advertised for public comment and submission prior to its consideration and adoption by Council and subsequently WAPC. The period of public display is specified as being a minimum of 28 days.

The preparation of the LDP2 has been informed by:

Chairman.....Date.....

- 1) The extensive community engagement LandCorp undertook during the preparation of the DDP and LDP1, which included:
 - o Liaison with government agencies, utility and service providers, community groups and local Broome residents
 - o Formation of a Community Reference Group
 - o Four day Planning Design Forum
 - o Community Open Day at Broome Boulevard
 - o 42 day statutory public consultation process
- 2) Preliminary meetings with Native Title holders, servicing authorities and the Community Reference Group

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Shire of Broome Town Planning Scheme No 4

Broome North Development Plan

4.25.3 *Development Plan*

4.25.3.1 *A Development Plan shall address the following;*

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

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

- (a) *notify in writing all servicing authorities and each owner of land affected by the Plan; and*

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

Broome North District Development Plan -

4.0 REQUIREMENT FOR LOCAL DEVELOPMENT PLANS TO BE PREPARED

Further to clause 4.25.2.1 of the Scheme, the local government or the Commission may require the preparation of a Local Development Plan prior to approving the subdivision and/or development of land within the District Development Plan area.

The Local Development Plan is to be prepared in accordance with the requirements of clause 4.25 of the Scheme and is to elaborate and enhance the detail contained in this District Development Plan as the basis for subdivision and development.

5.0 STATEMENT OF ROLES AND RESPONSIBILITIES

The Statement of Roles and Responsibilities for Broome North agreed between LandCorp, the Shire of Broome, The Department of Planning and the Commission, identifies that the objective of the development is to endeavour to deliver where possible the range of benefits detailed at Figure 1.

Local Development Plans prepared in accordance with the requirements of clause 3.3.4 are to detail the means by which the Local Development Plan delivers the objectives described at Figure 1.

Figure 1 – Broome North Statement of Roles and Responsibilities

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

6.0 DEVELOPMENT REQUIREMENTS

6.1 Local Development Plans require to be prepared at Part One clause 4.0 are to incorporate specific standards for the development of

Thoroughfares, Landscape and Built Form within the relevant Local Development Plan are in accordance with the objectives set out at Part One clause 6.3 for each of the zones identified on Plan No.1.

6.2 Pursuant to clauses 4.2.25.5.3(e) and notwithstanding clause 5.2.3 of the Scheme, a Local Development Plan may contain standards and requirements different from those in the Residential Design Codes and the provisions in the Local Development Plan shall prevail over an inconsistent provision in the Residential Design Codes.

6.3 OBJECTIVES OF ZONES

The objectives for each of the zones identified on Plan No.1 is described below.

The objectives will guide the exercise of discretion where:

- (a) It is proposed to vary a provision or standard relevant to the zone, including the development requirements required to be prepared in accordance with clause 6.1 above; and/or
- (b) Where a variation to the intent of the District Development Plan is proposed via a Local Development Plan.

6.3.1 Transect – Nature (Reserve)

Description: Consists of land in a natural condition, including land set aside for reserves, and/or land that is otherwise unsuitable for development for reasons of topography or conservation value.

Objectives:

- Preserve ecological qualities, landscape character, landforms and cultural significance;
- Provide an edge to neighbourhoods and a connection between neighbourhoods;
- Offer walking, cycling and passive recreational opportunities in a natural setting;
- Provide a vegetated buffer to busy roads;
- Facilitate better urban water management through the incorporation of drainage where it is not harmful to the natural values of the zone;
- Allow for the development of low key amenities (including public buildings, paths and fencing) that blends with the natural landscape and is not detrimental to the natural values of the zone.

6.3.3 Transect - Neighbourhood Living (Residential R12.5-25)

Description: Consists of areas of low-medium density residential development adjacent to areas of higher density residential development and some mixed-use activity.

Objectives:

- Develop residential areas reflecting the characteristics of the traditional neighbourhoods of “Old Broome”;
- Allow for the application of residential density codes between R12.5-R25;

- Provide for a range of recreational opportunities and open space types in the form of local and neighbourhood parks;
- Promote semi-formal landscaping in streets and parks, with a focus on providing shaded streets and paths for pedestrians and cyclists;
- Highly connected streets comprising regular or modified grids;
- Enable the provision of breezeways through the development;
- Contain primary schools and high schools.

6.3.4 *Transect - Urban Living (Residential R25-40)*

Description: Consists of areas of medium density residential development and mixed use activity adjacent to areas of higher density and local commercial centres.

Objectives:

- *Develop more urban and compact neighbourhoods that continue to reflect the "Broome style";*
- *Increase the number of households located within walking distance of shops, other commercial and community services and areas of higher amenity;*
- *Provide a transition from local centre zones and areas of high amenity to adjoining residential neighbourhoods ;*
- *Allow for smaller, more affordable housing and live-work opportunities;*
- *Allow for the application of residential density codes between R25-R40;*
- *Allow for reduced front setbacks to buildings and more formal landscaping in streets and parks;*
- *Provide a high quality, shaded pedestrian and cyclist environment.*

POLICY IMPLICATIONS

SPP 1 – State Planning Framework Policy (Variation No 2)

SPP 3 - Urban Growth and Settlement

Liveable Neighbourhoods is an operational policy for the design and assessment of structure plans and new urban areas.

Structure Plan Preparation Guidelines - The objective of the Guidelines is to standardise the scope, format and content of structure plans, Define the statutory and non-statutory elements of structure plans and detail the information required to be provided for each type of structure plan.

SPP 3.1 – Residential Design Codes (Variation 1)

The anticipated amendment will lift the restriction of occupancy to family members and enabling ancillary accommodation to be provided on lots less than 450sqm

SPP – 3.6 Development Contributions for Infrastructure

DC Policy 2.3 – Public Open Space in Residential Areas
LPP 8.1 – Provision and Development of Open Space Reserves Managed by the Shire of Broome

FINANCIAL IMPLICATIONS

The financial implications of the proposed development and asset management / maintenance once the area has been developed is not considered in detail at this stage. However an exercise will be undertaken during the public comment period that will consider the total expected rates against rudimentary calculations of expected maintenance costs. This will be presented to Council when the submissions are to be considered.

STRATEGIC IMPLICATIONS

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

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.

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION:

It is recommended that Council:

1. *Considers, pursuant to Shire of Broome Town Planning Scheme No 4 Clause 4.25.3 the Broome North Local Development Plan – Stage Two September 2012 / Revision B has been prepared to its satisfaction subject to the following amendments to the satisfaction of the Director of Development Services:*
 - a.) notations be included on the plan that:
 - i.) outlines the requirement for developer contributions towards the upgrading of the broader road and infrastructure network to cater for the expected increased levels of service required;
 - ii.) clearly articulates the intention of joint use and maintenance of the active open space on the School;
 - iii.) requires a Developer Contributions Schedule for Community Services to be developed prior to subdivision;
 - iv.) provides for Design Guidelines to be adopted by Council that may vary the provisions of the R-codes in order to strive to retain local character and ensure climatic responsive design as far as possible;
 - v.) provides for wildlife movement under Tanami Drive it is recommended that dedicated fauna culverts are included in the subdivision design;
 - b.) the Local water management strategy be amended as follows:
 - i.) Clarification be included that Landcorp will be responsible to obtain all heritage and environmental approvals required to allow the main drainage outlet under Broome Highway and adjacent to the pony club to be used.
 - ii.) Technical assessment reports are to be included as part of the LWMS;
 - iii.) The strategy should consider and where appropriate refer to the Shire of Broome Stormwater guidelines;
 - iv.) The poultry farm site proposed to form part of the school site has to be incorporated and considered in the LWMS including groundwater monitoring requirements;
 - v.) Water quality, sediment discharge, flood management and off site impacts should be considered in more detail and should incorporate monitoring plans for a minimum of three years;
 - vi.) swale grades should be modified to provide for a grade of 2% (1:50) so as to prevent ponding and silt build-up which inhibits turf development;
 - vii.) the overall design should take into account the roughness coefficients for swale basins and overall storage volumes required thereby not assuming a completely flat floor.

2. *Requires the Community Engagement Strategy be amended to provide for the further consideration of the following elements during the public submission period:*
- a.) The size and level of service of all parks and in particular the potential to provide only one neighbourhood park which is to be central to the Multiple use Corridor or adjoining the school site and with smaller local parks provided as 'break outs' along the corridor to address open space provision as considered in the Liveable Neighbourhoods Element 4 R14 and the incorporation of costs included in the current and draft Open Space Review.
 - b.) street typologies to ensure shaded footpaths are located closer to the property boundaries and considerations regarding the widths/setbacks and breeze flow
 - c.) Ensure the design details of the major access streets particularly the southern most east -west street address any potential length/speed issues;
 - d.) The issue of noise impacts from the Speedway to the satisfaction of the Department of Environment and Conservation

Council Resolution:

That Council:

1. ***Defers consideration of the Broome North Local Development Plan – Stage Two September 2012/Revision B.***
2. ***Requests the CEO to convene a workshop of Councillors and staff regarding the Broome North Local Development Plan – Stage Two September 2012/Revision B as a matter of urgency.***
3. ***That Council considers the Broome North Local Development Plan – Stage Two September 2012/Revision B at a meeting of council at the earliest possible convenience.***

Moved: Cr J Bloom

Seconded: Cr D M Male

CARRIED UNANIMOUSLY 5/0

Attachment: [72 pages](#)

9.2.4 PROPOSED LOCAL PLANNING POLICY – TELECOMMUNICATIONS INFRASTRUCTURE

LOCATION/ ADDRESS: Scheme Area
APPLICANT: N/A
FILE: PLA22
AUTHOR: Manager Planning Services
CONTRIBUTOR/S: Nil
RESPONSIBLE OFFICER: Director Development Services
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 18 September 2012

SUMMARY: Council at its meeting of 16 February 2012 resolved to adopt for public comment Local Planning Policy – Telecommunications Infrastructure.

The policy was advertised and three submissions were received.

The report recommends adoption of the policy with modifications.

BACKGROUND

Previous Considerations

OMC 16 February 2012 Item 9.2.4
 SCM 28 June 2012 Item 9.2.3

History

At the Special Meeting of Council 28 June 2012 Council resolved as follows:

“That Council defers this item until such time as a workshop is held to clarify issues raised.”

COMMENT

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

At the OMC of 6 February 2012 Council resolved to adopt for public comment LPP – Telecommunications Infrastructure.

TPS4 clause 2.5(a) requires that Local Planning Policies be advertised for two consecutive weeks in a local newspaper circulating within the Scheme area. The draft policy was advertised in the Broome Advertiser on 15 March 2012 and 22 March 2012 and open for submissions up to 29 March 2012.

Three submissions were received as a result of advertising. The issues raised included:

- Concerns that the electromagnetic fields are carcinogenic to human health.
- The distance proposed for the location of telecommunications towers away from sensitive areas should be increased from 100m to 1000m.

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- The definition for 'sensitive area' be expanded to incorporate sporting grounds, education facilities, health facilities, childcare facilities and recreational facilities.
- A request that safety signage should be erected on such infrastructure to identify the risk of Electromagnetic Radiation.
- An application for planning approval should be:
 - o required for all telecommunications facilities including 'low impact facilities'
 - o be advertised in local and state newspapers for month
 - o have a sign be erected on site
 - o be advertised for a period of 8 weeks
 - o and should only be approved by a unanimous decision from Council
- Any rent received from telecommunications infrastructure should go into a trust fund for Shire to pay compensation to affected residents and workers.

Details of the submissions and recommended responses are set out in Schedule 2.

Research undertaken by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) has reported that environment radiofrequency levels near base stations for the digital mobile phone network are extremely low. The ARPANSA study reported the highest daily average level was well below one per cent of the Australian Communications Authority's public exposure limits and concluded that given the very low levels recorded and the relatively low power of these types of transmitters, it is unlikely that the radiofrequency radiation from base stations would cause any adverse health effects, based on current medical research. See Attachment 3 - Fact Sheet 4 Mobile Telephone Communication Antennas and Health Effects.

All carriers are required to comply with the Australian Communications Authority's Radio Communications (Electromagnetic Radiation - Human Exposure) Standard (2003). This incorporates substantial safety margins to address concerns for potentially sensitive groups in the community such as children, pregnant women, the infirm and aged.

The Industry Code ACIF C564:2004 Deployment of Mobile Phone Network Infrastructure does not specify a distance at which infrastructure must be sited from community sensitive locations. Industry Code C564:2011 Mobile Phone Base stations Deployment which came into operation in July 2012 requires carriers to meet minimum consultation requirements when consulting with local communities about installation of radio communications facilities at new sites that do not require a planning approval. The notification to Council must set out information including the carrier's proposed community consultation strategy for the site.

The draft LPP was prepared in line with the State Planning Policy 5.2 – Telecommunications Infrastructure and the associated Guidelines for the Location Siting and Design of Telecommunications Infrastructure.

In considering the submissions and the matters raised the draft policy has been modified as follows

Modification	Comments
<p>New objective inserted</p> <p><i>To ensure compliance with all relevant health and safety standards in the provision of telecommunication infrastructure</i></p>	<p>This is an overarching objective that seeks to ensure the consideration of any such facility applies current health and safety standards.</p>
<p>Adverting of Applications – extended to include....(see bolded text)</p> <p>Applications for new mobile phone towers/monopoles which do not comply with the requirements of the above policy, or which in the opinion of the Council likely to adversely impact the amenity of the locality or are within 100 metres of a child care facility, aged persons home, will be advertised in accordance with the provisions of the Town Planning Scheme.</p>	<p>It is recognised that young children and older people are more sensitive or susceptible to incurring adverse health impacts. Should any new facility be proposed this will ensure people within a close location to such facilities are advised and have the opportunity to make a submission</p>

This policy will provide guidance on how to control and co-ordinate development of telecommunications infrastructure (i.e. towers, antennas, equipment shelters/compounds and cabling), whilst being aware of the need to protect the amenity of the surrounding areas.

It is recommended that Council considers the schedule of submissions and adopts the modified policy in accordance with Clause 2.5 of TPS4.

Attachment 1 - Local Planning Policy – Telecommunications Infrastructure.

Attachment 2 - Schedule of Submissions.

Attachment 3 - Fact Sheet 4 Mobile Telephone Communication Antennas and Health Effects.

CONSULTATION

TPS4 clause 2.5(a) requires that Local Planning Policies be advertised for two consecutive weeks in a local newspaper circulating within the Scheme area.

The draft policy was advertised in the Broome Advertiser on 15 March 2012 and 22 March 2012 and open for submissions up to 29 March 2012.

Three submissions were received as a result of advertising.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Town Planning Scheme No. 4

2.3 Local Planning Policies

2.3.1 The Council may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme Area so as to apply:

- (a) generally or for a particular class or classes of matters; and
- (b) Throughout the Scheme Area or in one or more parts of the Scheme Area; and may amend or add to or rescind a Policy so prepared.

2.3.2 Any Local Planning Policy prepared under this Part must be consistent with the Scheme.

2.4 Local Planning Policy not part of the Scheme

A Local Planning Policy is not part of the Scheme and shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of any such Policy and the objectives which the Policy is designed to achieve before making its decision.

2.5 Procedures for Making and Amending Local Planning Policy

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

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

Telecommunications Act 1997

POLICY IMPLICATIONS

State Planning Policy 5.2 – Telecommunications Infrastructure and associated Guidelines for the Location, Siting and Design of Telecommunications Infrastructure.

Local Planning Policy – Telecommunications Infrastructure shall apply to the whole of the Shire.

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS**Place**

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

VOTING REQUIREMENTS*Simple Majority***COUNCIL RESOLUTION:**
(REPORT RECOMMENDATION)*That Council:*

1. *Having considered the submissions received during the advertising period adopts the recommendations listed against each submission in the Schedule of Submissions attached to this report.*
2. *Pursuant to clause 2.5(6) of Shire of Broome Scheme No 4 adopts the Local Planning Policy – Telecommunications Infrastructure, with modifications as set out in this report and attachment 1.*
3. *In accordance with Shire of Broome Scheme No 4 Scheme No 4 Clause 2.5 (c) publish notice of the adoption of the policy in the local paper.*

*Moved: Cr A Poelina**Seconded: Cr J Bloom***CARRIED UNANIMOUSLY 5/0**Attachment: [10 pages](#)

9.2.5 PROPOSED FIXED WIRELESS BROADBAND FACILITY: 40 METRE HIGH MONOPOLE AND ASSOCIATED INFRASTRUCTURE – LOT 300 (NO.117) KANAGAE DRIVE, TWELVE MILE, DAMPIER

LOCATION/ ADDRESS: Lot 300 (No. 117) Kanagae Drive, Dampier
APPLICANT: Daly International Pty Ltd
FILE: KAN-1/117
AUTHOR: Planning Officer - Dawie Jansen van Rensburg
CONTRIBUTOR/S: Manager Planning Services
RESPONSIBLE OFFICER: Director Development Services
DISCLOSURE OF ANY INTEREST: Nil
DATE RECEIVED: 2 May 2012

SUMMARY: As a result of NBN Co identifying the need for a fixed wireless transmission site to provide high speed wireless broadband coverage to the 12 Mile precinct and its surrounds, an application for planning approval was submitted.

The proposed use is a Use not Listed in terms of the Shire of Broome Town Planning Scheme No. 4 (TPS 4) and is referred to Council for consideration as it is considered as contentious.

This report recommends conditional approval.

BACKGROUND

Previous Considerations

Nil

Site and Surrounds

The proposed locality of the telecommunications facility is Lot 300 (No. 117) Kanagae Drive in the 12 Mile Rural Agriculture precinct, approximately 17 km north-east of Broome. The rectangular, almost square shaped site measures approximately 1.8 ha and gains access from Kanagae Drive to its east.

The relatively flat site is heavily vegetated with trees and shrubs and is currently occupied by a dwelling, some sheds and a water tank. A fire track runs parallel to Kanagae Drive approximately 20 m inside the property.

The surrounding area consists of similarly zoned sites varying in size roughly between 1.5ha and 4 ha. The predominant land use in the area is agricultural (mainly mango plantations) There is also a small number of small scale tourist related activities located in the 12 Mile precinct, one of which – The Mango Place – is located directly opposite the subject site across the road.

Attachment 1 – Locality Plan

Description of Proposal

Equipment

The proposed development comprises a 40 m high monopole and ancillary components including two outdoor units (meter box and outdoor cabinet – 2.4m long x 1m wide x

1.46m high) enclosed within a 10m X 10m compound which is to be secured by a 2.4m high chain link fence with 3m wide access gates. The compound will be set back 20m from the street and 30m from the southern boundary.

The facility will be powered by a proposed underground power cable from the existing meter located at the entrance of the property. The Fixed Wireless Network (FWN) is a licensed radio network subject to national safety standards for the transmission of radiofrequency signals. The standards relating to EME exposure levels are set by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and administered by the government agency Australian Communications and Media Authority (ACMA). These are based on the standards sanctioned by the World Health Organisation.

Vegetation

Screening will be provided by existing vegetation (double row of trees on both sides of the fire track) which will surround the proposed compound.

Access and Parking

The NBN compound will be accessed via the existing site entrance from Kanagae Drive. Once operational the facility will function without staff requirements and only require maintenance visits for approximately one day per year.

Construction and Noise

Noise and vibration emissions will be limited to the construction phase and in accordance with the standards outlined in the Environmental Protection (Noise) Regulations 1997. Construction will only occur between 7am and 7pm.

Once operational, there will be some low level noise from the ongoing operation of air conditioning equipment associated with the equipment shelter. This will be at a comparative level to a domestic air conditioning installation and will generally accord with the background noise levels prescribed by AS 1055.

The proponent has advised:

- The location was chosen to avoid significant tree removal.
- The proposed development will not generate significant traffic – once annual maintenance visits being the only requirement.
- During the construction phase minimal impact on normal traffic to the area is foreseen and will be of short term duration - a truck is to deliver the equipment and a crane will be utilised to lift most of the equipment place.
- A total construction period of ten weeks is anticipated which will include civil works, network integration and equipment commissioning.

Attachment 2 – Site Plan

Attachment 3 – Site Set-out Plan

Attachment 4 - Elevations

COMMENT

The proposal has been assessed against the relevant provisions of the scheme – refer Attachment 7.

Advertising and Submissions

The application was required to be advertised, this was done by inserting a notice in the local newspaper and letters sent to all 12 Mile residents. The application was also posted

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on the Shire's website and on the external notice board outside the Shire's Administration office. A total of 21 submissions were received and are summarised in the schedule of submissions attached. Three of the 21 submissions also contained messages of support to the delivery of the NBN service to 12 Mile. The main issues of concern were:

- o Alternative sites: There are other alternative locations further away from people and crops - surrounding dwellings are too close and it is opposite a tourism facility.
- o Unnecessary service: Community already has adequate internet access and speed NBN would not provide any additional benefits. Other options are available including fibre optic cables or individual dishes.
- o Health hazard: It poses as yet unknown health risks to 12 Mile residents. Concern being expressed about whom monitors the cumulative impact, when and the accuracy of ARPANSA standards.
- o Visual amenity: It will be unsightly/aesthetic degrading of rural setting.
- o Life style: The proposal will damage the rural amenity and lifestyle.
- o Inadequate consultation: Lack of communication and consultation with the community.
- o Property value: There will be a negative impact on resale value of surrounding properties.

Location and Service

NBN Co stated that it has extensively investigated all available options within the search area and considers that the current proposal will provide the best possible outcome. The criteria used include factors such as radiofrequency objectives, planning and environmental issues, community sensitive areas and engineering criteria. Three other sites were considered but did not meet the requirements due to mainly acquisition issues and it being located outside the search ring and therefore not being able to meet the coverage objectives.

If the FWN is not provided to 12 Mile, NBN Co indicated that they will provide a satellite service which will be available within the next three years. Alternative sites that were considered to provide a fixed wireless service to the Twelve Mile precinct were not deemed viable by the proponent.

Health and Monitoring

The proponent also advised that the NBN's FWN will operate at very low levels of radio power, sending relatively weak, localised signals to fixed points in the immediate surrounds. A compliance report for the proposed facility has been provided that demonstrates its maximum possible signal strength (See attachment 6). The predicted maximum EME level for the proposed facility at Twelve Mile operating at full capacity is 0.0083%, which is 12,000 times less than the allowable safety standard.

To be able to compare EME levels and to show compliance with the Australian Safety Standards, NBN Co have indicated that they are prepared to appoint at their own cost, a NATA accredited independent EME expert to undertake live on site readings in the Twelve Mile precinct before the facility is constructed and also after construction of the monopole (if approved by Council).

Amenity and Visual Impact

The original Pindan Woodland of the area has a general canopy height which ranges from 3 m to 8 m. Many of the properties in 12Mile have been planted with mango trees. A mature mango tree can have a height of 15 – 40m dependant on rainfall and age. Within Yamashita Drive the trees are estimated to be 15 – 25m high while the less mature trees in other areas are 6 – 10m high. It is estimated the majority of trees would be substantially higher than the security compound fence and, apart from the tower, all other structures. The base of the proposed facility will be screened with existing vegetation but the 40m monopole will be visible above the trees. Manmade vertical structures already exist as visual elements in the local landscape in the form of numerous power poles.

All metal surfaces of the lattice tower are to be muted tones (grey in colour) to minimise the visual impact of the tower.

Draft LPP Telecommunication Infrastructure

A Draft Local Planning Policy (LPP) - Telecommunications Infrastructure has been advertised and is subject to separate consideration by Council. While recognising this LPP is still a draft the proposal generally meets the general location and design criteria:

- o Such facilities are to be located within existing rural, industrial and commercial areas, large recreation grounds (e.g. playing fields, golf courses) in order to provide network coverage.
- o Such facilities are not to be sited on land zoned or proposed to be zoned 'Residential', or within a 100 metre radius of residential areas and 'sensitive areas'. ('Sensitive areas' are defined as 'existing and proposed residential areas'. Note that this definition refers to residential areas as opposed to residential dwellings).
- o The structure will be unpainted (grey in colour) and while visible may at times blend in with most sky conditions. The lower part of the structure, including associated equipment, will not be visible.
- o The proposed 40m monopole is the minimum size capable of meeting coverage and operational objectives and has been chosen as it is a simpler visual element than a tower.

SPP 5.2: Telecommunications Infrastructure

In accordance with SPP 5.2 – Telecommunications Infrastructure and associated Guidelines, proposals of this nature, when determining a suitable site, Council should have regard (amongst other matters) to:

- o The reasonable service objectives of the carrier including the area the planned service must cover and the amount of usage the planned service must handle.
- o Minimisation of EME exposure to the public by avoiding community sensitive locations, which may include residential zones; childcare centers; schools; aged care centres, and hospitals.
- o The heritage significance (built, cultural and natural).

In summary:

- o The facility intends to service those areas that are not to be serviced by the fibre optic network.
- o Alternative sites were investigated by the proponent but the other alternatives did not meet the required coverage objectives and/or site considerations.
- o Telecommunications Infrastructure is a 'Use not Listed'. The 12 Mile area is zoned 'Rural Agriculture'. The aim of the zone is to provide for the sustainable use of land for animal husbandry, crops, horticulture and to protect the long term productive capacity of agriculture land from incompatible land uses including subdivision. Based on this the proposal is deemed to be generally in line with the aim and objectives of the zone. In terms of TPS 4 Council may determine that the use is permitted provided that the application is advertised.
- o The application was advertised as required in terms of TPS 4.
- o The predicted maximum EME level for the proposed facility is 12,000 times below the allowable safety standard.
- o The visible part of the structure will be unpainted (grey in colour) to blend in with most sky conditions. The lower part of the structure, including associated equipment, will not be visible.
- o On this basis the proposal is recommended for approval.

Attachment 5 – Schedule of Submissions

Attachment 6 – Additional information provided by proponent

Attachment 7 – Matters to be considered by Council

Planning Provisions

Telecommunications facilities constitute "development" under the *Planning and Development Act 2005*; therefore planning approval is required before development is commenced.

The proposed use is considered a 'Use not Listed' which means that Council may permit the use provided that the application is advertised in accordance with the relevant provisions of the scheme before final consideration and determination of the application.

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Lot 300 (No. 117) Kanagae Drive, Roebuck is zoned 'Rural Agriculture'.

The aims and objectives of the Rural Agriculture zone are to provide for animal husbandry, crops, horticulture and to protect the long term productive capacity of agriculture land from incompatible land uses.

SPP 5.2 identifies that there should be a co-ordinated approach to the planning and development of such infrastructure and that they should be strategically planned as per other essential infrastructure such as roads.

The Telecommunications Act 1997 requires of carriers to comply with the provisions of the Act which distinguishes between those which do not require planning approval (low impact facilities) and those which do. This proposal is not exempt from planning approval.

CONSULTATION

TPS 4 prescribes that where an application is made for planning approval to commence a Use not Listed (subclause 4.3.2) the Council shall not grant approval to that application unless notice is first given in accordance with the provisions of clause 9.4.3.

The application was initially advertised for comment by a notice in the local newspaper and letters to all adjoining owners (being the owners within 100 metres) for a 21 day period from 7 June 2012 until 28 June 2012.

Subsequently, due to strong community concerns letters were sent to all 12 Mile residents and the period for comment extended until 10 July 2012. A notice advising of the extension to advertising was then published in the local newspaper on 28 June 2012.

The application was also posted from 7 June 2012 until 10 July 2012 on the Shire's website and on the external notice board outside the Shire's Administration Building.

A total of 21 submissions were received.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Town Planning Scheme No 4

4.3 Interpretation of the Zoning Table

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

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

(a) determine that the use is consistent with the objectives and purposes of the relevant zone involved in the application, and therefore may be treated as a permitted use; or

(b) treat the use as a use not listed if the Council considers that the use may be regarded as consistent with the objectives and purposes of

the zone in which it is proposed and thereafter follow the procedures in relation to a use not listed set out hereafter; or

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

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

4.22 Rural Agriculture Zone

4.22.1 Aims and Objectives

4.22.1.1 *The aim of the zone is to provide for the sustainable use of land for animal husbandry, crops, horticulture and to protect the long term productive capacity of agriculture land from incompatible land uses (including subdivision).*

4.22.1.2 *Council's objectives will therefore be to:*

- (a) *ensure that land is maintained for productive agriculture/horticulture activities with associated rural industry activities; and*
- (b) *allow small scale tourist related activities which may be associated with a rural agriculture activity; and*
- (c) *recognise the limitation on ground water supply in the 'Twelve mile' and 'Skuthorpe' precincts along Broome Road and therefore protect the intensity of subdivision and land use.*

4.22.2 Site and Development Requirements

4.22.2.1 *Setbacks for all development in the Rural Agriculture zone shall have regard to the following:*

- (a) *primary street - 10 metres; and*
- (b) *other setbacks - at the discretion of the Council.*

4.22.2.2 *No more than one single house is permitted per lot within the Rural Agriculture zone.*

4.22.2.3 *A single house is not permitted unless an adequate water supply is provided to the satisfaction of the Council, either by connection to a reticulated water supply, or the provision of a bore or other connection to a potable water supply with a minimum storage capacity of 92,000 litres.*

4.22.2.4 *Prior to the development of any well/bores for the provision of a potable water supply or for the purpose of a rural pursuit within*

the Rural Agriculture zone, the approval and licensing by the Water and Rivers Commission and/or the appropriate government authority is required.

4.22.2.5 Community Living development is not permitted unless a Community Layout plan is prepared in accordance with Clause 4.24.3.

4.22.2.6 Where, rural agricultural activities or other approved land uses propose the sale of produce and goods from the site to the public and/or provide an associated education centre or educational tours, then public car parking shall be provided on site at the Council’s discretion.

4.22.3 Subdivision Requirements

The subdivision of land which proposes any additional lot or reduces the size of any existing lot will not be supported by Council unless:

- (a) a Development Plan or Rural Strategy has been approved for all or part of the zone; or*
- (b) the subdivision is in conformity with the subdivision in the Twelve Mile precinct as outlined below in clause 4.22.3.5.*

4.22.3.2 The Council may relax the requirement for a Development Plan or a Rural Strategy, prior to the recommendation for subdivision, where the Council considers the proposed subdivision represents minor boundary alterations.

4.22.3.3 Council may request contributions to road upgrading and drainage provisions may be required for subdivisions of lots in the Rural Agriculture zone.

4.22.3.4 A Rural Strategy is also required to be undertaken, prior to consideration by the Council to extend the Rural Agriculture zones.

*4.22.3.5 Twelve Mile
Lot sizes should not be less than 2 hectares in the Twelve Mile rural agriculture precinct. The Council may recommend a minor reduction in the lot size if the Council considers that the minor reduction will not prejudice the intent of the zone.*

9.4 Advertising of Applications

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

9.4.2 Notwithstanding the provisions of clause 9.4.1, where an application is made for planning approval for any other purpose, the Council may

require that notice is first given in accordance with the provisions of clause 9.4.3.

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

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

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

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

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

Telecommunications Act 1997

POLICY IMPLICATIONS

State Planning Policy 5.2 – Telecommunications Infrastructure and associated Guidelines for the Location, Siting and Design of Telecommunications Infrastructure

A draft Local Planning Policy - Telecommunications Infrastructure

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Place

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

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

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION

That Council:

- A. *Approves the application for the construction of the proposed fixed wireless broadband facility – 40 meter high monopole facility and associated infrastructure – at Lot 300 (No. 117) Kanagae Drive, Twelve Mile, Dampier, subject to the following:*

CONDITIONS

1. *The development is to be carried out in compliance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:*

Plans and Specifications

P1 (Site Plan), P2 (Site Set-out Plan) and P3 (Elevations), received by the Shire on 2 May 2012.

2. *All metal surfaces of the lattice tower to be muted tones (grey in colour) to minimise the visual impact of the tower.*
3. *The submission of a Landscaping Plan that includes planting designed to screen the base of the proposed telecommunications facility from view along Kanagae Drive prior to the submission of the application for a Building Licence.*
4. *The proponent is required to monitor and report to the Shire of Broome Emission Levels pre- and post development and when maintenance or additions are carried out.*

ADVICE NOTES

- a. *You are advised of the need to comply with the requirements of the following other legislation:*
 - (i) *The Building Code of Australia requires a Building Licence be obtained from the Shire before any work commences on site as per the Building Regulations 1989; an application for a Building Licence must include, with the working drawings, Structural Engineers Certification in accordance with the requirements of the Building Code of Australia;*

(ii) Health Act 1911 and Department requirements in respect to the development and use of the premises:

1. Development to be a minimum of 1.2 metres from septic tanks and 1.8 metres from leach drains.

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

B. Writes to NBN Co requesting that NBN Co meet with the Twelve Mile community to discuss issues raised through the submission process including:

1. Service Options
2. Site/ Location Choice
3. Health/Emissions Concerns
4. Visual Impact

COUNCIL RESOLUTION

That Council:

1. **Refuses to grant approval for the construction of the proposed fixed wireless broadband facility – 40 meter high monopole facility and associated infrastructure – at lot 300 (No 117) Kanagae Drive, Twelve Mile, Dampier.**
2. **Writes to NBN Co advising the level of community concern raised to the Shire by 12 Mile residents and requests that NBN Co meet with the Twelve Mile community to discuss issues raised through the submission process including:**
 - a) **Service options including satellite coverage**
 - b) **Site/location choice**
 - c) **Health/emissions concerns**
 - d) **Visual impact**

Reason:

Local Planning Policy 8.11 SATELLITE DISHES, MASTS AND ANTENNAS has an objective "To prevent satellite dishes, masts and antennas having an adverse visual impact on the streetscape and surrounding properties". The proposed 40 meter tower will have significant visual impact on the surrounding properties.

Moved: Cr J Bloom

Seconded: Cr A Poelina

CARRIED UNANIMOUSLY 5/0

Attachment: [52 pages](#)

The Chairperson advised that due to a lack of quorum, Item 9.2.6 could not be considered and the matter was deferred.

9.2.6 CONFIDENTIAL - EVENT PROPOSAL - BROOME BEACH POLO 2013 - COMPETING APPLICATIONS

LOCATION/ ADDRESS: Cable Beach and Gantheaume Point

APPLICANTS: Janek Gazecki – Polo Enterprises Australia
 Garry Grbavac – Broome Beach Polo Event Management

FILE: REE26

AUTHOR: Events Coordinator

CONTRIBUTOR/S: Manager Community Development

RESPONSIBLE OFFICER: Deputy Chief Executive Officer

DISCLOSURE OF ANY INTEREST: N/A

DATE OF REPORT: 19 September 2012

SUMMARY: The Shire of Broome (Shire) has received two (2) applications for a beach polo event to be held on Cable Beach on Saturday 18 May 2013.

Both events cannot proceed therefore Council needs to either refuse both applications or approve one of them. This agenda item outlines the process officers have undertaken to assist Council's consideration of the proposals and recommends Council approve one of the applications.

With regard to item 9.2.7 Cr E Yu disclosed that *"I have an association as an ordinary member with Yawuru Native Title Registered Body Corporate (not for profit organisation) and the lands subject of the interim development . 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"*.

9.2.7 REQUEST FOR EXTENSION OF OPERATION - INTERIM DEVELOPMENT ORDER NO 4

LOCATION/ADDRESS:	Shire of Broome excluding the Scheme Area of Town Planning Scheme No. 4
APPLICANT:	N/A
FILE:	PLA 31
AUTHOR:	Manager Planning Services
CONTRIBUTOR/S	Nil
RESPONSIBLE OFFICER:	Director Development Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	26 September 2012

SUMMARY: Interim Development Order No 4 came into effect on 28 November 2008 and will cease to have effect unless the Minister for Planning agrees to an extension.

This report recommends requesting the Minister to agree to the extension of the Interim development Order for a further 12 months.

BACKGROUND

Previous Considerations

OCM 19 December 2000 – Item 4.6 Building and Development Committee
 OCM 14 July 2005 – Item 9.3.3
 OCM 3 July 2008 – Item 12.2
 OCM 26 August 2008 – Item 9.3.1
 OCM 1 Sept 2011 – Item 9.4.1

An Interim Development Order (IDO) is a planning mechanism that provides for planning controls over land in the absence of an adopted Town Planning Scheme. Under the *Planning and Development Act 2005*, Interim Development Orders can only be used once a Council has resolved to prepare a Town Planning Scheme for an area.

Interim Development Order No 1 - Council first considered an Interim Development Order at its Ordinary Council Meeting of 16 September 1997 where the following was resolved:

"That:

- 1. Council resolves to prepare a Town Planning Scheme for the land within the Municipality of the Shire of Broome with the exception of land within current Town Planning Schemes No's 2 and 3.*
- 2. Council adopts the Interim Development Order for the land within the Municipality of the Shire of Broome with the exception of the land within current Town Planning Scheme No's 2 and 3.*
- 3. Council request the Minister for Planning to approve Interim Development Order No. 1."*

Chairman.....Date.....

This resolution resulted in Interim Development Order No. 1 being issued by the Western Australian Planning Commission from February 1998 until February 2001.

Interim Development Order No 2 - Council considered the need for an Interim Development Order at its Ordinary Council Meeting of 19 December 2000 where the following was resolved:

"That in accordance with the Town Planning & Development Act 1928 Section 7B:

- 1. Council resolves to prepare a Town Planning Scheme for the land within the Municipality of the Shire of Broome with the exception of land within current Town Planning Scheme No.4.*
- 2. Council adopts the Interim Development Order for the land of the Municipality of the Shire of Broome with the exception of the land within current Town Planning Scheme No.4.*
- 3. Council request the Minister for Planning to approve Interim Development Order No.2."*

This resolution resulted in Interim Development Order No. 2 being issued by the Western Australian Planning Commission from April 2001 until April 2004 (expiring on 6 April 2004).

Interim Development Order No 3 - At its meeting on 14 July 2005 Council resolved:

"That Council pursuant to Section 7B of the Town Planning & Development Act 1928 (as amended):

- 1. Advertises the resolution of 19 December 2000 to prepare a Town Planning Scheme in accordance with the Town Planning Regulations.*
- 2. Adopts the Interim Development Order for the land of the Municipality of the Shire of Broome with the exception of the land within current Town Planning Scheme No.4.*
- 3. Requests the Minister for Planning and Infrastructure to approve Interim Development Order No. 3."*

Interim Development Order No 4 - Council at its meeting 3 July 2008 resolved to *"request the Minister for Planning and Infrastructure to extend the operation of Interim Development Order No 3 for a further twelve months"*. This request was forwarded on 8 July 2008 due to the announcement of a State government election all government processes unexpectedly went into Caretaker Mode and IDO3 which came into operation on 19 August 2005 ceased to have effect on 19 August 2008.

Subsequently Council at its meeting 26 August 2008 resolved to:

- 1. Adopts the Interim Development Order for the land of the Municipality of the Shire of Broome with the exception of the land within current Town Planning Scheme No4.*
- 2. Requests the Minister for Planning and Infrastructure to approve Interim Development Order No 4.*

The Western Australian Planning Commission issued Interim Development Order No 4 from 28 November 2008 to 28 November 2011.

Interim Development Order No 4 – Extension – At its meeting on 1 September 2011 Council determined

That Council pursuant to Section 107 of the Planning and Development Act 2005 requests the Minister for planning to extend the operation of Interim Development Order No 4 for a further twelve months.

Subsequently the Minister for Planning approved the extension of Interim Development Order no 4 for 12 months from 28 November 2011

Council's decision to prepare Local Planning Scheme No 6 for the whole of the Shire has been advertised in accordance with Town Planning Regulations. An important consideration in obtaining an extension to the IDO will be the Shire's progress towards LPS6. WAPC has granted consent to advertise the draft Broome Local Planning Strategy subject to a range of modifications being undertaken prior to advertising. Officers are working towards submitting LPS6 to Council in November / December 2012.

Attachment 1 – Interim Development Order No 4 and map

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005 – S102 & 107

102. Local interim development orders

- (1) *Pending the consideration by the Minister of a proposed local planning scheme for a district or part of a district situated outside the metropolitan region, the Minister may make such local interim development orders as are necessary and in the public interest for regulating, restricting or prohibiting the development of any land within the district or such part of the district.*
- (2) *If a local planning scheme is already in effect in a district or part of a district and it is proposed to make a further local planning scheme for that district or part of a district, the Minister is not to make a local interim development order that has effect in that district or part of a district unless, in the opinion of the Minister, it is in the public interest to do so.*

107. Effect and duration of interim development order

- (1) *Subject to subsection (2), an interim development order —*
 - (a) *comes into operation on the day of publication of the relevant notice in the Gazette under section 105; and*
 - (b) *has effect as if it were enacted by this Act.*
- (2) *An interim development order ceases to have effect in the regional order area or local order area to which it applies —*
 - (a) *when the relevant region planning scheme or local planning scheme, as the case requires, comes into operation in respect of that area;*
 - (b) *when the interim development order is revoked under section 110; or*
 - (c) *on the expiry of 3 years from the day on which the interim development order first applied to that area, whichever is the sooner.*
- (3) *Despite subsection (2) —*

9.3

OUR PROSPERITY



PRIORITY STATEMENT

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

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

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

There are no reports in this section.

9.4

OUR ORGANISATION



PRIORITY STATEMENT

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

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

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

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

9.4.1 ACCOUNTS FOR PAYMENTS – AUGUST 2012

LOCATION/ADDRESS: N/A
APPLICANT: N/A
FILE: FRE02
AUTHOR: Finance Support Officer
CONTRIBUTOR/S Manager of Financial Services
RESPONSIBLE OFFICER: Chief Executive Officer
DISCLOSURE OF INTEREST: Nil
DATE OF REPORT: 19 September 2012

SUMMARY: This report recommends that Council adopts the listed payments made under delegated authority for August 2012.

BACKGROUND

Previous Considerations

Nil

COMMENT

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

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

Attached is a list of all payments processed under delegated authority during August 2012.

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 —*

9.4.2 AUGUST 2012 MONTHLY FINANCIAL ACTIVITY REPORT

LOCATION/ ADDRESS: N/A
APPLICANT: N/A
FILE: FRE02
AUTHOR: Accountant
CONTRIBUTOR/S: Manager of Financial Services
RESPONSIBLE OFFICER: Chief Executive Officer
DISCLOSURE OF ANY INTEREST: Nil
DATE OF REPORT: 20 August 2012

SUMMARY: This report recommends that Council adopts the Monthly Financial Activity Report of the Shire's operations for the period ended 31st August 2012, as required by Regulation 34(1) of the *Local Government (Financial Management) Regulations 1996*.

BACKGROUND

Previous 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	17%
Total Operating Expenditure	14%
Total Operating Revenue	69%
Total Capital Expenditure	12%
Total Sale of Assets Revenue	5%
Total Capital Revenue	9%

Committed infrastructure expenditure as percentage of forecast budget:

Parks and Ovals Infrastructure	27%
Drainage Infrastructure	0%
Transport Infrastructure	22%

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

FORECASTS

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

Chairman.....Date.....

No budget forecast changes were required this month.

CONSULTATION

Internal Staff.

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

34. *Financial activity statement report — s. 6.4*

1A) *In this regulation —*

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

- 1) *A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —*
 - a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
 - b) *budget estimates to the end of the month to which the statement relates;*
 - c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
 - d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - e) *the net current assets at the end of the month to which the statement relates*
- 2) *Each statement of financial activity is to be accompanied by documents containing —*
 - a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - c) *such other supporting information as is considered relevant by the local government.*
- 3) *The information in a statement of financial activity may be shown —*
 - a) *according to nature and type classification;*
 - b) *by program; or*
 - c) *by business unit.*
- 4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
 - a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
 - b) *recorded in the minutes of the meeting at which it is presented.*
- 5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

Local Government Act 1995

6.8. Expenditure from municipal fund not included in annual budget

- 1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
 - a) is incurred in a financial year before the adoption of the annual budget by the local government;
 - b) is authorised in advance by resolution*; or
 - c) is authorised in advance by the mayor or president in an emergency.
 - (1a In subsection (1) —
 - “additional purpose” means a purpose for which no expenditure estimate is included in the local government’s annual budget.

- 2) Where expenditure has been incurred by a local government —
 - c) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
 - d) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

* Absolute majority required.

POLICY IMPLICATIONS

2.1.1 Materiality in Financial Reporting

FINANCIAL IMPLICATIONS

These are detailed above and in the attachment.

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

<u>COUNCIL RESOLUTION:</u> (REPORT RECOMMENDATION)	
<i>That Council adopts the Monthly Financial Activity Report for the period ended 31st August 2012.</i>	
Moved: Cr D M Male	Seconded: Cr J Bloom
CARRIED UNANIMOUSLY 5/0	

Attachment: [17 pages](#)

9.4.3 CONTRACT 12/11 WASTE AND RECYCLABLES KERBSIDE COLLECTION PROCESSING AND/OR DISPOSAL

COUNCIL RESOLUTION:

Moved: Cr J Bloom

Seconded: Cr D M Male

That item 9.4.3 be moved in the order of business to the end of the Agenda.

CARRIED UNANIMOUSLY 5/0

10.

REPORTS

OF

COMMITTEES

10.1 AUDIT COMMITTEE MINUTES – FINANCIAL MANAGEMENT REVIEW REPORT MAY 2012

LOCATION/ADDRESS: N/A
APPLICANT: N/A
FILE: FRE02
AUTHOR: Manager Financial Services
CONTRIBUTOR/S
RESPONSIBLE OFFICER: Chief Executive Officer
DISCLOSURE OF INTEREST: Nil
DATE OF REPORT: 13 September 2012

SUMMARY: Adoption of the minutes and recommendations of the Audit Committee meeting held 27 August 2012, which advises Council of the outcome of the four yearly financial management review of operations and election of the Chairperson and Deputy Chairperson.

BACKGROUND

Previous Considerations

OCM 24 May 2005	Item 9.4.5
OCM 25 September 2008	Item 9.4.3
OCM 27 October 2011	Item 9.1.3

Financial Management Review Report

The *Local Government (Financial Management) Regulations 1996* prescribe the requirement for an extensive review of a local government’s financial management system and processes. It requires the Chief Executive Officer (CEO) to undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews. In this regard, the CEO has engaged auditor David Tomasi of UHY Haines Norton to conduct a comprehensive review.

The objective of the engagement was to test the financial management system of the Shire of Broome and receive a report on the appropriateness and effectiveness of the control environment within, as required by regulation 5(2)(c).

This report summarises the factual findings and observations of the audit examination and includes recommendations from the auditors that are considered appropriate for the Shire to improve any weaknesses in systems and controls.

Election of Chairperson and Deputy Chairperson

The Shire of Broome Audit Committee was established by Council resolution at the Ordinary Meeting of Council held on the 24 May 2005. The Department of Local Government’s guidelines on Audit Committees state:

“An amendment to the Local Government Act 1995 (the Act) in 2005 introduced a requirement that all local governments establish an audit committee. Such

Chairman.....Date.....

committees are to provide an independent oversight of the financial systems of a local government on behalf of the Council. As such, the committee will operate to assist Council to fulfil its corporate governance, stewardship, leadership and control responsibilities in relation to the local government’s financial reporting and audit responsibilities.”

The Act and Regulations provide that audit committees must consist of three members with the majority being elected members, excluding Shire officers. The current members of the Audit Committee were nominated to be appointed to the Audit Committee by Council resolution at the Ordinary Meeting of Council held on the 27 October 2011. The current members and their deputy audit committee members are:

MEMBERS	DEPUTIES
Cr Graeme Campbell	Cr Eunice Yu
Cr Desiree Male	Cr Chris Mitchell
Cr Peter Matsumoto	Cr Anne Poelina

COMMENT

Financial Management Review Report

The audit examination covered the period July 2011 to February 2012 and considered the following financial systems and procedures of Council:

- Bank Reconciliations and Petty Cash
- Trust Fund
- Receipts and Receivables
- Rates
- Fees and Charges
- Purchases, Payments and Payables (Including Purchase Orders)
- Wages and Salaries
- Fixed Assets (Including acquisition and disposal of property)
- Credit Card Procedures
- Storage of Documents/Record Keeping
- Costs Allocations
- Administration Allocations
- Minutes and Meetings
- Financial Reports
- Budget
- Plan for the Future – Long Term Financial Plan
- Registers (Including Annual & Primary Return)
- Delegations
- Audit Committee
- Insurance
- Other Matters and General Compliance issues

The auditors did not necessarily examine compliance with provisions of the *Local Government Act 1995* (the Act) or *Local Government (Financial Management) Regulations 1996* (the Regulations), which were not financial in nature. That is, Parts 2, 4, 8 and 9 of the Act, some provisions of Parts 3 and 5 as well as most regulations (apart from the Financial Management Regulations), which did not impact on the areas examined above.

It should be noted that this examination was not an assurance engagement, audit or review in accordance with the Framework for Assurance Engagements, Australian Auditing Standards (ASAs), Auditing Standards on Review Engagements (ASREs) or Standards on Assurance Engagements (ASAEs).

The role of expressing assurance on balances rests with the external audit function. Those procedures will be carried out separately from this examination with a view to forming an opinion on the financial report (consistent with the requirements of Australian Auditing Standards and the Act) subsequent to the conclusion of the current financial year (30 June 2012). The final external audit is scheduled to take place in October 2012.

The objective was to examine the appropriateness and effectiveness of the financial management systems and procedures of the Shire on behalf of the CEO, with the report intended solely to assist the CEO to prepare his review for presentation to Council as required by regulation 5 (2)(c). It is not intended to express or imply any assurance.

This review has taken the form of a limited assurance review engagement in accordance with Australian Auditing Standards, solely for the use of the CEO. It is conducted in addition to the appointed auditor's role as external auditors.

The audit examination and this report should be considered on this basis.

In reporting the results of the review to the local government, section 3.0 of the report summarises exceptions and provides auditor recommendations to address the issues raised.

Officers have noted actions against each recommendation in order to address the specific issues.

Election of Chairperson and Deputy Chairperson

Pursuant to s5.12 of the *Local Government Act 1995*, the members of the Audit Committee elected Councillor Graeme Campbell as Chairperson and Councillor Desiree Male as Deputy Chairperson.

CONSULTATION

UHY Haines Norton

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 6.5 Accounts and records

The CEO has a duty —

- (a) *to ensure that there are kept, in accordance with regulations, proper accounts and records of the transactions and affairs of the local government; and*
- (b) *to keep the accounts and records up to date and ready for inspection at any time by persons authorised to do so under this Act or another written law.*

Chairman.....Date.....

Local Government (Financial Management) Regulations 1996*Regulation 5. Financial management duties of the CEO*

- (1) *Efficient systems and procedures are to be established by the CEO of a local government —*
- (a) *for the proper collection of all money owing to the local government;*
 - (b) *for the safe custody and security of all money collected or held by the local government;*
 - (c) *for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process);*
 - (d) *to ensure proper accounting for municipal or trust —*
 - (i) *revenue received or receivable;*
 - (ii) *expenses paid or payable; and*
 - (iii) *assets and liabilities;*
 - (e) *to ensure proper authorisation for the incurring of liabilities and the making of payments;*
 - (f) *for the maintenance of payroll, stock control and costing records; and*
 - (g) *to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these regulations.*
- (2) *The CEO is to —*
- (a) *ensure that the resources of the local government are effectively and efficiently managed;*
 - (b) *assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and*
 - (c) *undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews.*

Local Government Act 1995*5.12. Election of presiding members and deputies*

- (1) *The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule —*
- (a) *to "office" were references to "office of presiding member";*
 - (b) *to "council" were references to "committee"; and*
 - (c) *to "councillors" were references to "committee members".*
- (2) *The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule —*
- (a) *to "office" were references to "office of deputy presiding member";*
 - (b) *to "council" were references to "committee";*
 - (c) *to "councillors" were references to "committee members"; and*
 - (d) *to "mayor or president" were references to "presiding member".*

POLICY IMPLICATIONS**2.1.2 Investment of Surplus Funds**

FINANCIAL IMPLICATIONS

The conduct of the four yearly financial management review is a separate and additional cost to Council's audit which was conducted by the appointed auditors.

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 of a growing community:

Develop an organisational culture that strives for service excellence.

Improve systems, processes and compliance.

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

That Council:

1. *Notes the level of significant improvement from the 2008 Financial Management Review in the occurrence of matters of non-compliance,*
2. *Acknowledges the areas of medium risk are being addressed by staff,*
3. *Adopts the Financial Management Review Report May 2012 and,*
4. *Notes the Audit Committee's election of Cr Graeme Campbell as Chairperson and Cr Desiree Male as Deputy Chairperson of the Audit Committee.*

Moved: Cr D M Male

Seconded: Cr J Bloom

CARRIED UNANIMOUSLY 5/0

Attachment: [27 pages](#)

Commercial-in-Confidence

12.2 APPOINTMENT OF DIRECTOR OF ENGINEERING SERVICES

LOCATION/ADDRESS:	Shire of Broome
APPLICANT:	N/A
FILE:	PRA 12/43
AUTHOR:	Chief Executive Officer
CONTRIBUTOR/S	Shire President – Cr Graeme Campbell
RESPONSIBLE OFFICER:	Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	2 October 2012

SUMMARY: Pursuant to section 5.37 of the Local Government Act the Chief Executive Officer is to inform Council of each proposal to employ or dismiss a senior employee.

This report seeks to inform Council of the Chief Executive Officer’s offer to employ a Director of Engineering Services.

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

That the recommended applicant as attached to this report be confirmed as the Director of Engineering Services for a contract term of up to five (5) years as negotiated with the Chief Executive Officer.

Moved: Cr J Bloom

Seconded: Cr E Yu

CARRIED UNANIMOUSLY 5/0

Attachment (Confidential to Councillors and Directors only): 17 pages

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

Nil

14. MATTERS BEHIND CLOSED DOORS

Nil

As per resolution on page 87, item 9.4.3 was discussed at the end of the Agenda.

Commercial-in-Confidence

9.4.3 CONTRACT 12/11 WASTE AND RECYCLABLES KERBSIDE COLLECTION PROCESSING AND/OR DISPOSAL

LOCATION/ADDRESS:	N/A
APPLICANT:	N/A
FILE:	12/11
AUTHOR:	Waste Coordinator
CONTRIBUTOR/S	Manager Health Services
RESPONSIBLE OFFICER:	Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	20 September 2012

SUMMARY: This report considers tenders received for the Waste and Recyclables Kerbside Collection Processing and/or Disposal Contract for the Shire of Broome and seeks adoption of the recommendation contained in the confidential tender evaluation report.

COUNCIL RESOLUTION:
(REPORT RECOMMENDATION)

That Council endorse the recommendations as contained in the Confidential Tender Evaluation Report for Contract 12/11 Waste and Recyclable Kerbside Collection and/or Disposal.

Moved: Cr D M Male

Seconded: Cr A Poelina

CARRIED BY ABSOLUTE MAJORITY 5/0

Attachments (Confidential for Councillors and Directors only): 7 pages

15. MEETING CLOSURE

The Chairman declared the meeting closed at 5:59pm.