



SHIRE OF ASHBURTON

ORDINARY COUNCIL MEETING

MINUTES

(Public Document)

**RM Forrest Memorial Hall, Second Avenue,
Onslow**

18 April 2012

MINUTES - ORDINARY MEETING OF COUNCIL 18 APRIL 2012

SHIRE OF ASHBURTON ORDINARY COUNCIL MEETING

Dear Councillor

Notice is hereby given that an Ordinary Meeting of the Council of the Shire of Ashburton will be held on 18 April 2012 at RM Forrest Memorial Hall, Second Avenue, Onslow commencing at 3:00 pm.

The business to be transacted is shown in the Agenda.

Jeff Breen
CHIEF EXECUTIVE OFFICER

DISCLAIMER

The recommendations contained in the Agenda are subject to confirmation by Council. The Shire of Ashburton warns that anyone who has any application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Ashburton for any act, omission or statement or intimation occurring during a Council meeting.

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1. **DECLARATION OF OPENING**

Shire President declared the meeting open at 3.05 pm.

2. **ANNOUNCEMENT OF VISITORS**

Hamid Mohsenzadah	Regional Manager, Department Water
Kerrie Chapman	Regional Manager, Water Corporation
Yasmine Hajlovac	Project Manager, Dampier Port Authority
Peter King	Port Development Manager, Dampier Port Authority

3. **ATTENDANCE**

3.1 **PRESENT**

Cr K White	Shire President, Onslow Ward
Cr L Rumble	Deputy Shire President, Paraburdoo Ward
Cr I Dias	Paraburdoo Ward
Cr L Thomas	Tableland Ward
Cr L Shields	Tom Price Ward
Cr C Fernandez	Tom Price Ward
Cr A Eyre	Ashburton Ward
Cr D Wright	Pannawonica Ward
Mr F Ludovico	Executive Manager, Corporate Services
Ms A O'Halloran	Executive Manager, Strategic & Economic Development
Mr G Brayford	Executive Manager, Technical Services
Ms D Wilkes	Executive Manager, Community Development
Mr R Paull	Principal Town Planner
Ms J Smith	Executive Assistant CEO
Ms J Brayford	CEO & Councillor Support Officer

3.2 **APOLOGIES**

Cr Peter Foster	Tom Price Ward
Jeffrey Breen	Chief Executive Officer
Fiona Keneally	A/Executive Manager, Operations

3.3 **APPROVED LEAVE OF ABSENCE**

There were no Leave of Absences for this meeting.

Rob Paull left the meeting at 3.09 pm

Rob Paull re-entered the meeting at 3.10 pm

4. QUESTION TIME

4.1 PUBLIC QUESTION TIME

At the Ordinary Meeting of Council held on 18 April 2012 the following correspondence was tabled. The questions were taken on notice and a written response will be prepared.

Cameron McGurk from Onslow tabled the following correspondence.

"I am writing to express my concern at the Shire of Ashburton's recent decisions regarding the closure of free to air television signal broadcast within the town of Onslow.

Once again it appears that Onslow residents are getting the short end of the stick.

As of mid-2013 the free to air analogue signal to Onslow will be switched off. The Shire of Ashburton has had years to plan for this occurrence, as we know the Federal Governments advertising campaign has been running for over 5 years, informing the public that this was going to occur.

At the February 15th Shire Council meeting the councillors voted that, instead of outlaying funds to upgrade the town's tower from analogue to digital, they would divorce all responsibility for providing this service to the community. We understand that the other main communities within the Shire will receive an upgrade to digital broadcasting.

The decision was made with no community consultation (or if there was it was very limited). The item was raised under the meeting section 16 'New Business of an Urgent Nature Introduced by Decision of Meeting' therefore the public was not even privy to it being an agenda item for the upcoming meeting. I fail to see how this can be business of an urgent nature considering how long they have had to plan for this.

The result of this decision is that each household and business in town will have to provide their own means of receiving the digital signal, at significant cost, as soon as the analogue signal is switched off if they wish to receive free to air television every Onslow household will be required to have a satellite dish and signal convertor box installed at their own expense minus a federal government rebate. The cost of which will be between \$200 and \$350 for household's (after the federal rebate). Not all householders in town are home owners and therefore may not have permission to do the install or simply won't be able to afford it.

The broadcast tower also contains the radio broadcast equipment. Therefore the tower (structure) maintenance cost cited in the minutes must surely remain the same assuming that the Shire intends to maintain radio broadcast in town, or do they intend to shut that as well? I also note that the Shire claims in these minutes that it pays the licence for the JJJ radio broadcast – I know this is not true

Surely this decision is short sighted and contradictory to the Shire's aspirations for Onslow. In the minutes for this agenda item under the heading 'Strategic Implications', strategic plan-2 is quoted as being- Include and Engage our Community-"Ensure community facilities are developed and maintained to a standard commensurate with community expectations and affordability". This

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decision seems to contradict this plan. The community was not included or engaged, the first we knew was a small article in the local news letter stating the decision had been made. The facility is not being developed or maintained, it is being removed. In a town that is growing and supposedly expanding its community services it is hard to believe that it is also having them removed.

The Shire of Ashburton has received tens of millions of dollars in grants from Chevron and BHP to go towards local infrastructure due to the well-publicised gas projects on the out skirts of town. Further we are sure there is state and federal grants available for this, has the Shire explored all avenues?

It is inconceivable that a small portion of these grants (150,000 as quoted in the minutes) could not be put towards the upgrade of the broadcast tower rather than imposing the cost on the community.

Or does the Shire just not want the responsibility of maintaining the broadcast signal?

Onslow is located within a cyclone area and every year we have cyclonic events. The Onslow residents will now be faced with an option when a cyclone is bearing down on us.

- Leave the dish on the roof so that you can continue to receive cyclone updates and risk the dish becoming a flying missile when it gets ripped off your roof (much worse than an antenna). After which the cost of replacing the dish will be substantially larger than replacing an antenna.*
- Get up on your roof with a cyclonic wind and rain to remove the dish. With every household in Onslow doing this it is only a matter of time before an injury or worse occurs.*

I would like the Shire of Ashburton to consider its decision in regards to this matter taking into consideration its own policies, alternative ways to fund the tower upgrade and the welfare of all Onslow residents. Any assistance you can provide in this matter would be greatly appreciated.

I am circulating this letter to all the Onslow residents I know and encouraging them to respond to their local councillors and other political representatives”.

- a) Has the Council considered importing the VAST satellite signal and transmitting to the community/ Tower equipment upgrade costs remain the same. Initial license set up cost approx \$200 per channel. Annual fee of approx \$40 per channel. Figures quoted by ACMA.*
- b) Has the council considered that the satellite scheme is only for one television? Given that most households have more than one TV there will be additional costs for satellite cable splitters and additional set top boxes for any additional TV's. Estimates approximately \$800 (quoted by the wheat belt development commission).*
- c) I understand there is money in this year's budget for the upgrade of the broadcast tower. What happened to this?*

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4.2 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Ordinary Meeting of Council held on 21 March 2012, the following questions were taken on notice and a written response has been provided.

Steele and Jasmin McDermott from Paraburdoo tabled the following questions:

Q1a. In regards to the Sporting Complex on the main oval we would like to know where and what planning stage are we at.

Response:

Community consultation has been carried out and Council's architects have been briefed to develop concept plans. It is expected that concept plans will be available in late May for community and Council endorsement with construction to commence in late 2102 assuming that funding is available.

Q1b. Questions around town suggest that Shire is questioning Qantas fares to Paraburdoo. Any truth to that?

Response:

Airfares between Perth and Paraburdoo are set at a level the operator believes is commercially acceptable. The Shire and others have advised the operator that the cost of fares is too high.

Recent advice from the operator is that the prices have been reviewed and that an adjustment will be made to make them more comparable with fares from similar airports (eg Newman). A general decrease in fares is expected.

Binnie O'Dwyer – Occupational Therapist tabled the following question:

Q2a. I would like a correction from previous minutes that it is agreed to have a total of 6 disabled car parks not 5 in the shopping complex at Tom Price.

Response:

Note: The Agenda for the Ordinary Meeting of Council 21 March 2011 was rectified in the Agenda Item 7.1 Confirmation of Minutes of Previous Meeting.

There will be a total of six disabled car parking spots in the Tom Price shopping complex. Two being located at the western end near the Westpac Bank and four at the eastern end (two near Muzzy's Hardware and a further two near the Bakery).

Q2b. I would like to ask as to when the Paraburdoo car park outside the shops will have the disabled parking updated to current AS2890.

Response:

There are extensive works to be completed in the Paraburdoo car parks in the coming months, this includes sewer works by Rio Tinto and storm water works by the Shire of Ashburton. These works have to be carried out prior to resurfacing of the car parks, the standards are only applicable to newly designed car parks and are not intended that old car parks are retrofitted. Once the car park have been resurfaced it will then be redesigned and will include disabled spaces that reflect the new standard (AS/NZS 2890.6:2009). It is hard to give a definite date on this

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because it involves work which is outside the Shire's control (Rio Tinto Sewer relay) but we are striving to complete these upgrades as soon as possible.

Q2c. Is it possible to know who owns the buildings in Tom Price Video store, Hairdresser and private car park?

Response:

This information is available from the Executive Manager, Technical Services at the Shire of Ashburton. Enquires can be made at the Shire offices.

Peter Foster tabled the following emailed question on behalf of Michelle Dudfield:

Q3. *"Thank you for providing the opportunity to contact you directly about community issues/concerns.*

I am emailing you in relation to the lack of adequate pathways in the central area of town, particularly behind the main oval. I live in Hibiscus St and have two boys under the age of 4. We go for daily walks/bike rides and cannot safely get out of the street and then make our way to the pool, shops or parks as there are no consistent pathways to follow.

I would like the Council to strongly consider pathways at the following locations.

East Rd and around the corner of Willow Rd (traffic has got significantly busier, particularly with the very large buses going to and from the camp and the RIO busses). The corner is very dangerous.

Along the front of the pool car park (we have to go through the car park)

Jacaranda Drive

Stadium Rd behind the Moon Palace Chinese car park and alongside the village green area.

Thank you in anticipation!"

Response:

Refer to the response in Question 4 below.

Cr Foster tabled the following question on behalf of Michelle Laylan:

Q4. *"I have lived in Palm Street for just over 4 years now and in this time I have seen many footpaths put around town, even the road that leads to nowhere has a footpath. I would like to know if there are any plans to extend a footpath along South Street all the way to the end. There are many children who walk/ride to school and they are faced with danger every day with busses, cars and trucks. As a parent I walk with my child to school but when we reach the blind corner it is very daunting as we have to watch what is coming and find ourselves walking on the loose gravel to avoid contact with cars, which is common sense but a footpath would make it so much easier and safer. After that there, there is the Shire's parking bays to cross as well. It does seem that the further you are away from the town centre the less gets done; there is plenty of room for a footpath along the side of the road. Many*

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people run this road in the late afternoon as it leads to the lookout for an extra challenge at that time of day there are buses, people returning home from work and everyone is in a rush, a footpath/cycleway would make the pedestrians, young and old using this road a lot safer”

Response:

The Shire has a forward capital works program for footpaths and shared bike pathways.

Construction of many of the inner town footpaths, particularly along Stadium Road and Jacaranda Road, will be delayed pending the completion of a number of major projects over the next few years.

Exact projects need to be confirmed for next year, however part of Willow Road is included with high priority. East Road and South Road have been prioritised towards the latter part of the 5 year program. Cul-de-sacs or dead end roads are not currently within the footpath priorities.

In South Road particularly, however, a drainage design is being considered that will review the adjacent open drain. When this work has been completed some rationalisation of the drain, the recreation area and the parking bays on South Road may enable the priority of this work to be lifted.

Cr Foster tabled the following question from Nahdene Sealey:

Q5. “I would like to bring your attention to the lack of a safe playground area for children who live in Area W.

Presently all outdoor free activities for the children of Tom Price are located in Central. The only available place for children to play in Area W is on the North Tom Price PS playgrounds which not only is a liability issue for the school, but is a safety and vandalism risk.

Sure there are places available to play in Central. But to put it plainly Central is too far from Area W for a child to be afforded some independence and responsibility safely. These are virtues that can easily and safely developed in our children through the accessibility of a safe playground within their immediate neighbourhood, where they can be monitored in a shared manner among residents.

In addition to teaching our children to cross the bridge and roads safely, there is the concern of drivers not paying attention. The current underpass is dark, smelly and uninviting to the average adult let alone a child.

Therefore I propose that Council look into the possibility of a combined project possibly incorporating companies such as Rio Tinto, Lotteries West, FMG, Royalties for Regions and other local businesses and the Shire of Ashburton. There are many alternatives available today to create a fun and safe play environment for the children as per the children in Perth. I understand that Rio Tinto has recently contributed a large amount of funds and manpower to build an alternative playground in Kings Park. Wouldn't it be fantastic if we could create a smaller version of that here in Tom Price, in the space available around the Area W community oval?”

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Response:

Refer to the response in Question 6 below.

Cr Foster tabled the following letter on behalf of Anne Gordon:

Q6. *"I want to ask you or the Council if a playground or something similar can be added to the Area 'W' oval. My son got a warning at school today that the police will be called if he and his friends play on the school playground again out of school hours. I have spoken to the school and apparently it is trespassing, although in the past (and I have been here for 13 years it has never been a problem. I am not blaming the school, they are having a lot of issues with damage to school property at the moment, but where do the Area 'W' Primary school children go to play?"*

My children are 8 and 11 and old enough to go to the playground by themselves, but we live in Pindari Place and I don't want my children going over the bridge to the Lyons Park, which I believe is too far away from our house.

I have spoken to other parents in this area, and they feel the same way. They have mentioned that all the towns play areas are in the Central area; the Bird Park, Lions Park, Main Oval playground, cricket nets, Swimming pool and the Skate Park.

If we wrote a letter to the council and had the Area 'W' families sign it, would that help? Or what do you suggest.

I spoke to Michelle McGregor (who also has a child that was warned today) and she told me that the Early Years Group applied to the Shire to put a playground on the grassed area in front of the Civic Centre, but they were denied when the Area 'W' oval redevelopment plan was on the drawing board.

I know that kids today should be able to entertain themselves or take a cricket bat and ball to the oval, but the weather here is not very inviting for that type of sport and a covered playground is much more inviting. This is the 21st century and electronic toys are in every home. I do not like seeing my kids at home on electronic toys and insist that they go down to the park, but if there is nothing for them to play on, they get bored very quickly and come back home.

I feel very strongly about this issue and would like your help and support on this matter. Thankyou."

Response:

The Education Minister has publicly supported sharing of education department facilities. The Executive Manager, Community Development has a proposal for the North Tom Price School to upgrade and maintain playground facilities on a share basis. Failing this, the Area W master plan identifies a number of enhancements around the oval and Civic centre for community use including a small playground, seating and BBQ facilities.

A final decision and plans are expected by June 2012 for community and council endorsement.

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Cr Foster tabled the following question from Jay Elkind:

Q7. *"I do a lot of driving round this town and have noticed the very sad state of street signs in some areas. This is the older out of the way signs, with the green sticker. They are peeling off the signs and looking very sad and there are some that have actually lost all the stickers (yiluk). So I was wondering if with this town upgrade there is a chance that they could also be looked at".*

Response:

Replacement signs are on order and works will commence in early May.

Cr Fernandez tabled the following questions:

Q8a. I was appointed by Council as representative to the P.D.C. Can I be informed on why I have not received any information of when to start or what is the process in this matter?

Response:

Nominations towards a number of committees was resolved at the Ordinary Meeting of Council held on the 19 October 2011. Your nomination was received by the Pilbara Development Commission in November 2011.

The Pilbara Development Commission has advised that the Minister for Regional Development, Hon Brendon Grylls MLA, will make the final appointments which will then be endorsed by state cabinet.

Once a candidate's nomination has been accepted and approved by state cabinet the Pilbara Development Commission will notify applicants.

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Q8b. Can Shire tell me what is the position of Keith Pearson, as in the Aboriginal Forum he was having a tag as CEO of Ashburton Shire. What is his salary? What is his Job description or duties if he is in a contract with the Shire when this is to expire?

The previous CEO – Mr Keith Pearson never has an advisor, therefore we do not need or why we need one? Is the CEO (actual) not capable by himself why?

Response:

This question contravenes policy ELM04, Code of Conduct for Councillors and Staff, Clause 5.1(a)iv *"Make no allegations that are improper or derogatory"*

This question is at odds with Clause 5.7(b)i policy ELM04, Code of Conduct for Councillors and Staff *"Accept that their role is a leadership, not a management or administrative one;"*

This question contravenes policy ELM07, Procedure for the Conduct of Public Question Time and Deputations, Inappropriate Questions, *"The question relates to the competency of elected members or employees"*.

Q8c. Why Councillors can not write articles in our newsletter especially if we want to give information to our residents about issues of their interest.

Response:

There is no exclusion on providing articles for the Inside Ashburton, however as with all publications there is a deadline and there may be editing for reasons of accuracy of content, space available, etc.

Q8d. Can Shire tell me if Council sell a property or land, or approve a project to be developed. What time frame can the Shire give to the applicant to complete the project or to build.

If this is not achieved does the Shire claim or close the negotiation? If not why not?

Response:

Depending on the nature of the project or type of land transaction a timeframe may be negotiated into the contract.

With regard to the residential and industrial subdivisions in Tom Price that were auctioned in February & March 2011, settlement of these sales is subject to the issue of titles upon completion of the subdivisions. No development clauses were included in the sale contracts requiring purchasers to build within a certain timeframe as this was not perceived to be an issue (ie the purchasers have all indicated their intent to build on their lots as soon as possible in order to meet their accommodation and business needs). Generally the sale of vacant land does not have a deadline for development attached unless there is a concern that the purchaser may be 'landbanking' or the proposed project and its delivery is vital to the Shire.

Other projects or developments that are approved by Council via a planning or development application all have a timeframe attached to this approval. The

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developer is normally given a deadline to apply for the relevant building licence, and a date by which the development must have substantially commenced. The Planning Approval may be extended by application to the Shire.

Q8e. Can Shire tell me of any action taken from Shire towards the sealing of the road to Karratha. Can the Shire give me an estimation of the cost they consider realistic of the sealing of the Karratha Tom Price road?

Response:

As previously advised a report is being prepared by Pracsys. In order to present a compelling business case the collection of data needs to be comprehensive. Data has been sought from government agencies, the resource sector and the public via traveller interviews.

Information regarding patient numbers, accident statistics, maintenance costs, etc are being assembled.

Interviews have been conducted with the travelling public in Tom Price, Paraburdoo and Karratha.

The report is slowly coming together as there is reliance on third party information. It is expected that a well constructed cost-benefit business case will be available by the end of May 2012.

Q8f. Aboriginal T.P. Kids Playgroup - Can Shire approve the installation of 2 water drinking fountains in Lions Park ASAP? I have quotes if required.

Response:

The Shire will put this into the plan of works for action of installing one water fountain at Lions Park. It is difficult to give time estimation but the Shire will strive to complete as soon as it is possible.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Council Decision

MOVED: Cr L Rumble

SECONDED: Cr C Fernandez

That Council accept the applications for leave of absence from Cr Ann Eyre & Cr Ivan Dias for the Ordinary meeting of Council being held on 16 May, 2012.

CARRIED 8/0

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6. PETITIONS / DEPUTATIONS / PRESENTATIONS

6.1 PETITIONS

There were no petitions presented to Council.

6.2 DEPUTATIONS

There were no deputations presented to Council.

6.3 PRESENTATIONS

Hamid Mohsenzadah, Regional Manager, Department of Water and Kerrie Chapman, Northwest Regional Manager, Water Corporation presented a Waterwise Certificate to Council.

The Shire is now recognised as setting the standard for the Pilbara in creating water saving programs.

Megan Walsh was acknowledged for the work she has done to achieve this award.

Peter King, Port Development Manager, Dampier Port Authority made a presentation to Council on the Dampier Port Authority role within the Port of Ashburton.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 ORDINARY MEETING OF COUNCIL HELD ON 21 March 2012

Council Decision

MOVED: Cr A Eyre

SECONDED: Cr L Shields

That the Minutes of the Ordinary Meeting of Council held on 21 March 2012, as previously circulated on 2 April 2012, be confirmed as a true and accurate record with the following correction:

Agenda Item No 16.1 Donation to North Tom Price and Paraburdoo Primary School for the Purchase of IT Equipment change the wording from "Crs Fernandez, Dias and Thomas voted against the motion" to "Crs Fernandez, Dias and Thomas voted for the motion".

CARRIED 8/0

8. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

There were no announcements made by the presiding person without discussion.

9. DECLARATION BY MEMBERS

Cr White, Cr Rumble, Cr Dias, Cr Thomas, Cr Shields, Cr Eyre, Cr Dias, Cr Fernandez and Cr Wright have given due consideration to all matters contained in the Agenda presently before the meeting.

9.1 DECLARATION OF INTEREST

A member who has a Financial Interest in any matter to be discussed at a Council or Committee Meeting that will be attended by the member must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (c) Preside at the part of the Meeting, relating to the matter or;
- (d) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the Local Government Act 1995.

NOTES ON FINANCIAL INTEREST (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have a Financial Interest in a matter.

I intend to include these notes in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the Local Government Act 1995 but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:

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- 6.1 Where the Councillor discloses the extent of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the Local Government Act; or
- 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the Local Government Act, with or without conditions.

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10. CHIEF EXECUTIVE OFFICER REPORTS

10.1 AFFORDABLE HOUSING - NATIONAL AUSTRALIA BANK PROPOSAL

MINUTE: 11166

FILE REFERENCE: OR.IG.03.08

AUTHOR'S NAME AND POSITION: Jeffrey Breen
Jeff Breen
Chief Executive Officer

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 6 April 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in the proposal.

PREVIOUS MEETING REFERENCE: Not Applicable

Summary

The Pilbara Regional Council, on behalf of its member council's, has been liaising with the National Australia Bank over the past 18 months to provide affordable housing in the Pilbara. A business case has been produced by the NAB and its endorsement is recommended.

Background

A significant limiting factor to the development of the Pilbara is the availability of affordable housing. This is particularly evident in the service industry sector which cannot compete with the resource sector in the housing rental market.

This lack of affordable housing results in a much lower than the state average number of small businesses in the Pilbara and therefore a lack of services found in "normal" communities.

To date, no solution has been available.

This proposal is to build 180 affordable beds in Tom Price and Onslow.

Land is to be made available at no cost to the developer; a 30 year concession is to be provided.

This land may be serviced or unserviced and will likely come from the "lazy lands" project being undertaken with the Department of Regional Development and Lands or from land held under lease by Council.

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Disposal of property requirements of the Local Government Act will need to be observed. The housing will be constructed, managed and maintained by the developer, and on completion of the concession period, will be returned to the Council either as a cleared site or with housing intact.

Rents will be set at a maximum of 30% of the income of the tenant.

ATTACHMENT 10.1

Comment

The affordable housing project is a large project in terms of the number of residential dwellings that will be constructed, and in terms of the impact of allocating these houses to essential workers will have on the community.

One of Australia's largest banks, the National Australia Bank, has been secured as the financier, and a consortium of the Pilbara's mining companies have agreed to underwrite the project as part of their commitment to the sustainability of the community. The particular features of the business case are:

- No upfront cost to Councils (except approvals)
- No requirement to provide serviced land if it is not available
- Almost all other risk is transferred to the private sector
- Councils retain control over rents to ensure affordability for essential workers
- Councils retain ownership of the land under a concession arrangement

The investment consortium has assembled a broad array of financiers, underwriters, developers, facilities managers and others to present this business case. Each of these faces their own commercial pressures in an uncertain global economic environment. Each of these is continuously evaluating their cost and allocation of capital. This situation will not be able to be sustained for a lengthy period. If the business case is not endorsed, then there will not necessarily be an opportunity to revisit it at a later date.

The PRC have presented a similar business case to each of the other member Councils (with individualised budgets/beds) for consideration.

Councils that endorse the business case will be introduced to the National Australia Bank consortium team and the project will commence with a full Information Memorandum and capital raising proposal.

The responsibility for final development and building approvals remains with Council; no construction can proceed without these approvals being in place.

The proposal is risk free to Council and provides an opportunity to establish housing stock for the service sector and lower income earners in the Shire of Ashburton.

Consultation

The proposal has been considered by the Pilbara Regional Council.
Executive Managers

Statutory Environment

Local Government Act 1995 Section 3.58

Financial Implications

None apparent

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Strategic Implications

Nil

Policy Implications

Nil

Voting Requirement

Simple Majority Required

Council Decision

MOVED: Cr C Fernandez

SECONDED: Cr I Dias

That Council:

1. Endorses the business case proposed by the National Australia Bank for the construction of affordable housing in Onslow and Tom Price with consideration for opportunities for Paraburdoo in the future.
2. Directs the CEO to negotiate, in consultation with the Shire President, minor changes to the business case.
3. Directs the CEO to negotiate the provision of land with relevant government agencies.
4. Directs the CEO to report back to Council for final approval of the project.

CARRIED 6/2

Reason for change

The Councillors wished the Shire President to be involved in the negotiations.

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Declaration of Interest

Prior to consideration of this Agenda Item Crs Wright, Rumble and Dias declared an interest in Agenda Item 10.2 in accordance with Sections 5.60A / 5.61 of the Local Government Act. The interest being that Cr Wright is an employee of Rio Tinto, Cr Rumble owns shares in Rio Tinto and Cr Dias is an employee of Rio Tinto and has shares in the company.

Crs Wright, Rumble and Dias left the meeting at 3.57 pm.

Council Decision

MOVED: Cr C Fernandez

SECONDED: Cr L Thomas

That Council allow under Section 5.68 (1) (b) (ii) (1) of the Local Government Act 1995 for Crs Wright, Rumble and Dias to discuss but not vote in the matter of the MoU between the Shire of Ashburton and the Pilbara Iron Company (RIO).

CARRIED 5/0

Crs Wright, Rumble and Dias re-enter the meeting at 3.58 pm.

10.2 MoU BETWEEN THE SHIRE OF ASHBURTON AND THE PILBARA IRON COMPANY (RIO)

MINUTE: 11167

FILE REFERENCE:

CORP4

AUTHOR'S NAME AND POSITION:

Jeffrey Breen
Chief Executive Officer

NAME OF APPLICANT/RESPONDENT:

Not Applicable

DATE REPORT WRITTEN:

10 April 2012

DISCLOSURE OF FINANCIAL INTEREST:

The author has no financial interest in the proposal.

PREVIOUS MEETING REFERENCE:

Not Applicable

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Summary

RTIO and the Shire of Ashburton have been negotiating a Partnership Agreement which will provide an opportunity to jointly improve and sustain the liveability of the Communities of Tom Price, Paraburdoo and Pannawonica.

The Community Infrastructure and Services Partnership establish the relationship and is recommended for endorsement by Council.

Background

In March 2011 an Engagement Framework was formulated between the Shire and RTIO.

This framework has been the impetus for a much closer and fruitful relationship between the parties and has enabled the delivery of a number of solutions to issues including the development of the townsite strategies for Tom Price, Paraburdoo and Pannawonica.

The Community Infrastructure and Services Partnership derives from, and is an extension of, this process.

ATTACHMENT 10.2

Comment

The Community Infrastructure and Services Partnership and the associated Community Infrastructure and Services Plan provide a platform for the provision of improved, sustainable facilities for Paraburdoo, Tom Price and Pannawonica.

Coupled with the recent Town Strategy documents the MoU and accompanying plan will enable a clear direction for the towns.

Following endorsement of the MoU, terms of reference will be established for the Partnership Governing Committee and the Partnership Management Team. The team members will endorse the terms of reference.

Endorsement of the MoU by the Council will also trigger the immediate funding of a Partnership Manager and a Communications Officer (0.5FTE) to assist with the process and ensuing projects.

The Partnership will recognise not only the need for new facilities, but also maintenance and operational costs that accrue. It is expected that funding will be provided on a project by project basis and may be direct, contributory to the Shire, leveraged through the Shire for third party funding, etc.

Consultation

Developed through partnership meetings.

Statutory Environment

Not applicable

Financial Implications

Outcomes will have an unquantifiable, but positive effect on Council's finances through provision of contributory funding for capital projects and operational costs.

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Strategic Implications

Include and Engage our Community 2007-2011 Strategic Plan.
Project 2

Policy Implications

Nil

Voting Requirement

Simple Majority Required

Amanda O'Halloran left the meeting at 4.08 pm.

Amanda O'Halloran re-entered the meeting at 4.11 pm.

Cr Rumble left the meeting at 4.13 pm.

Council Decision

MOVED: Cr C Fernandez

SECONDED: Cr A Eyre

That Council:

- 1. Approves the Community Infrastructure and Services Partnership Memorandum of Understanding with the Pilbara Iron Company; and**
- 2. Subject to the CEO negotiating any minor changes, in consultation with the Shire President if necessary , to the MoU prior to sign off.**

CARRIED 4/1

Reason for Change

Councillors wished the President to be involved in the negotiations.

11. CORPORATE SERVICES REPORTS

Declaration of Interest

Prior to consideration of this Agenda Item Crs Wright, Rumble and Dias declared an interest in Agenda Item 11.1 in accordance with Sections 5.60A / 5.61 of the Local Government Act. The interest being that Cr Wright is an employee of Rio Tinto, Cr Rumble owns shares in Rio Tinto and Cr Dias is an employee of Rio Tinto and has shares in the company.

Crs Wright and Dias left the meeting at 4.16 pm

Council Decision

MOVED: Cr C Fernandez

SECONDED: Cr A Eyre

That Council allow under Section 5.68 (1) (b) (ii) (1) of the Local Government Act for Crs Wright, Rumble & Dias to discuss this item but not vote in the matter Debtors Write Off – Hamersley iron Pty /Pilbara Iron Company (Services).

CARRIED 4/1

Cr Rumble re-entered the meeting at 4.16 pm.
Crs Wright and Dias re-enter the meeting at 4.17 pm.

Geoff Brayford left the meeting at 4.17 pm.

11.1 DEBTORS WRITE OFF - HAMERSLEY IRON PTY/ PILBARA IRON COMPANY (SERVICES)

MINUTE: 11168

FILE REFERENCE: FI.RE.00.00

AUTHOR'S NAME AND POSITION: Frank Ludovico
Executive Manager, Corporate Services

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 3 April 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in the proposal.

PREVIOUS MEETING REFERENCE: Agenda item 16.12.18 Ordinary Meeting of Council
16 December 2008

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Summary

Staff has been reviewing outstanding debtors and a number of items associated with Normalisation Agreements now need to be written off

Background

Finance staff have slowly been reviewing debtors and clarifying outstanding debts applicable to various debtors. With the change over from the Authority to Quickbooks (2005) and the transfer of Quickbooks to Synergy (2007) a number of debtor balance were simply transferred to the new system without detailed review.

There were a number of balances transferred from Pilbara Iron Co (Services) Pty Ltd (Debtor 185) and Hamersley Iron Pty Ltd (Debtor 91)

Debtor	Date	Invoice	Description	Amount
185	17/06/05	40397	New Bin at 1101 Eungella Place, TP	120.00
	6/08/05	36688	One Third Costs of Re-surfacing TP Tennis Courts	19,999.46
	7/06/05	40319	Purchase Order:4300472667	240.00
	24/05/05	40244	Purchase Order: 4300467490	360.00
	28/01/05	39505	Purchase Order: 4300410399	120.00
	21/01/05	39446	TP Waste Site Dumping	60.00
	8/11/04	39050	2004/2005 Normalisation Payment	38,500.00
	7/10/04	38786	Purchase Order:4500108388	194.00
	7/10/04	38787	Purchase Order: 4700182302	130.00
	7/10/04	38785	Purchase Order: 4700177004	492.00
	7/10/04	38784	Purchase Order - Greg Willis	1,147.11
			LESS Unallocated payments totalling \$	(5,256.96)
91	4/9/04	2677	Building Fees #20080355	2,616.15
	4/3/08	1670	Building Fees #20080204	(41.83)
Total Outstanding				58,679.93

As can be see a number of the transaction associated with Debtor 185 are extremely old and the unallocated credit more than cancels most of the invoices (except those associated with Normalisation and Tennis Courts resurfacing).

At Councils 16 December 2008 meeting at item 16.12.18 Council agreed to the Final Transitional Agreement between Hamersley Iron Pty Ltd and the Shire of Ashburton concerning the Tom Price and Paraburdoo Normalisation Agreement.

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That Agreement said in part:

“notwithstanding any outstanding credit amounts owed..... on or from this letter the outstanding obligation under the agreement will be satisfied by Hamersley Iron providing funds for mutually agreed projects in Tom Price and Paraburdoo by way of reimbursement to the Shire for expenditure occurred in relation to services to an aggregate amount of \$750,000 on the terms set out in this letter”.

In effect this means that any outstanding obligations concerning Normalisation issues were cleared. Council now needs to formally write off these amounts, putting into action the terms of the agreement made in 2008.

In respect to Debtor 91 the amounts are made up of an outstanding Building License Fee from 24 September 2008 and an overpayment on a Building License Fee from 14 March 2008. A payment was mis-receipted to this outstanding amount. This error was not picked up until 2009. In the meantime approval was given to proceed with the building. Subsequent efforts to recover this amount have proven fruitless.

Comment

If staff apply the credits associated with both Debtors and excluding the Normalisation payments the net write off requested is \$180.47.

As we need to seek Councils approval for the write off for Normalisation payments all the issues have been bought before Council.

Consultation

Chief Executive Officer

Statutory Environment

Section 6.12 Local Government Act 1995 enables a local government to make write offs

Financial Implications

It is important that outstanding balances fairly represent the funds payable to Shire of Ashburton. It is also important that we review all our outstanding balances thoroughly to ensure they are collectable or not, or whether subsequent events have affected their collectability. In this case negotiations outside the financial process, that are of greater benefit to the Council occurred. The consequential adjustments now need to be made.

Council has provide at account 040042 “Sundry Debtors Write Offs” an amount of \$50,000 to accommodate this write off.

Strategic Implications

Strategic Objective 6 applies. A well managed and contemporary corporation (action 6 implement a transparent equitable and financially sustainable finance and rates strategy).

Policy Implications

FIN3 - Accounts Receivable Recovery applies

The requested write off exceeds staff’s Delegated authority - DA008 Writing off Debts

Voting Requirement

Absolute Majority Required

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Council Decision

MOVED: Cr C Fernandez

SECONDED: Cr A Eyre

That Council:

- 1. Write off Invoice 39050 "2004/2005 Normalisation payment" \$38,500 and Invoice 36388 "One third cost of resurface Tom Price Tennis Courts" \$19,999.46 with funds coming from account 040042 "Sundry Debtors Write Offs"; and**
- 2. Apply the unallocated credits associated with Debtor 185 and Debtor 91 to the other amounts outstanding within those debtors and writing off the remaining \$180.47.**

CARRIED BY ABSOLUTE MAJORITY 5/0

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11.2 2010/2011 ANNUAL REPORT AND ANNUAL GENERAL MEETING OF ELECTORS

MINUTE: 11169

FILE REFERENCE: FI.RE.00.00

AUTHOR'S NAME AND POSITION: Frank Ludovico
Executive Manager, Corporate Services

NAME OF APPLICANT/RESPONDENT: Not applicable

DATE REPORT WRITTEN: 4 April 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in the proposal.

PREVIOUS MEETING REFERENCE: Not Applicable

Summary

The Local Government Act requires that Council accept the draft Annual Report for 2010/2011, including the Financial and Auditors Reports within two months of the Auditor's Report becoming available.

The Audit Committee has review the Annual Report and has met with the Auditors.

The Council is also required to select a date, time and venue for the Annual General Meeting of Electors.

Background

Under Section 5.53 of the *Local Government Act* 1995, the Shire is required to prepare an Annual Report for each financial year. The report is to contain:

- A report from the Shire President and Chief Executive Officer;
- An overview of the plan for the future, including any major initiatives that are proposed to commence or continue in the next financial year;
- The 2010/2011 Financial Report;
- The 2010/2011 Auditor Report;
- Prescribed information in relation to payments made to employees; and
- Any other prescribed information.

The draft Annual Report for 2010/2011 is attached.

ATTACHMENT 11.2A

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Council is also requested to give consideration to determining the date, time and location of the Annual General Meeting. The meeting must be held within 56 days from the date Council accepts the Annual Report and Financial Statements. If Council accepts the Annual Report at this meeting, the latest date for the next meeting is 13 June 2012.

Comment

The Audit Committee meeting will be held on Wednesday 11 April 2012 and a report from that Committee is attached.

ATTACHMENT 11.2B

Last year the Annual Electors meeting was held on Wednesday 16 March 2011 at the Ashburton Hall in Paraburdoo in conjunction with the Ordinary Meeting of Council.

It is recommended that the Annual Report be considered by the electors of the Shire at the Annual General Meeting to be held in the Tom Price Council Chambers on 16 May 2012 commencing at 7.00pm, which is within the 56 day period from the date of Council adopting the draft Annual Report.

Consultation

Internal consultation between the CEO and Executive Management Team.

Statutory Environment

Sections 5.27, 5.53 and 5.54 of the *Local Government Act* 1995.

Financial Implications

There is a governance cost associated with travel and accommodation for Councillors to attend the Annual General Meeting and possibly for the subsequent Elector Information meeting.

Strategic Implications

Strategic Plan 2007-2011 (Plan for the Future)

Objective 6 – A Well Managed and Contemporary Corporation: Deliver effective and accountable governance, widely recognisable for high calibre staff, services, processes and interactions with key stakeholders.

Policy Implications

There is no Council Policy relative to this issue.

Voting Requirement

Absolute Majority required for the acceptance of the Annual Report.

Simple Majority required for the selection of date, times and venue for the Annual General Meeting of Electors.

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Council Decision

MOVED: Cr L Shields

SECONDED: Cr I Dias

That Council:

- 1. Accepts the Shire of Ashburton Annual Report for 2010/2011 as tabled; and**
- 2. Council hold an Annual General Meeting of Electors at the Tom Price Council Chambers on 16 May 2012 commencing at 7.00pm.**

CARRIED BY ABSOLUTE MAJORITY 7/1

Geoff Brayford re-entered the meeting at 4.21 pm.

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11.3 RECEIPT OF FINANCIALS AND SCHEDULE OF ACCOUNTS FOR MONTHS OF FEBRUARY AND MARCH 2012

MINUTE: 11171

FILE REFERENCE: FI.RE.00.00

AUTHOR'S NAME AND
POSITION: Leah M John
A/Finance Manager

NAME OF APPLICANT/
RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 5 April 2012

DISCLOSURE OF FINANCIAL
INTEREST: The author has no financial interest in the proposal

PREVIOUS MEETING
REFERENCE: Not Applicable

Summary

In accordance with Regulation 34 of the Local Government (Financial Management) Regulations, the Shire is to prepare a monthly Statement of Financial Activity for consideration by Council.

Background

Regulation 34 of the Local Government (Financial Management) Regulations requires the Shire to prepare a monthly statement of Financial Activity for consideration by Council.

Comment

This report presents a summary of the financial activity for the following month:

February 2012

- Statements of Financial Activity and associated statements for the Month of February 2012.

ATTACHMENT 11.3A

March 2012

- Credit Card Statements for Chief Executive Officer, Executive Managers of Engineering Services, Corporate Services, Community Development, Strategic & Economic Development, and Managers of Building Services and Human Resources.

ATTACHMENT 11.3B

- Schedule of Accounts paid under delegated authority.

ATTACHMENT 11.3C

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Consultation

Executive Manager Corporate Service
Other Executive managers
A/Finance Manager
Finance Officers
Consultant Accountant

Statutory Environment

Section 6.4 Local Government Act 1995, Part 6 – Financial Management, and regulation 34 Local Government (Financial Management) Regulation 1996.

Financial Implications

Financial implications and performance to budget are reported to Council on a monthly basis.

Strategic Implications

There are no strategic implications relevant to this issue.

Policy Implications

Nil

Voting Requirement

Simple Majority Required

Council Decision

MOVED: Cr L Shields

SECONDED: Cr A Eyre

That Council receive the Financial Reports for February 2012 and Schedule of Accounts and Credit Card Statements for March 2012.

CARRIED 6/2

Cr Shields left the meeting at 4.38 pm

Cr Shields re-entered the meeting at 4.39 pm.

12. STRATEGIC & ECONOMIC DEVELOPMENT REPORTS

12.1 PROPOSAL TO CHANGE PURPOSE OF LOTS 394, 396, 397 ON RESERVE 41970 THIRD AVENUE ONSLOW, TO STAFF ACCOMMODATION

MINUTE: 11172

FILE REFERENCE: ON.TH.0394.00

AUTHOR'S NAME AND POSITION: Megan Walsh
Project Manager

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 2 April 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in the proposal.

PREVIOUS MEETING REFERENCE: Not Applicable

Summary

Lots 394, 396 and 397 on Reserve 41970 Third Ave Onslow are currently vested in the Shire of Ashburton for the purpose of Emergency Services Centre. Council support is sought to change the purpose of the reserve to Staff Accommodation.

Background

Lots 394, 396 and 397 make up the Reserve 41970. It is noted that lot 395 which houses the St John Ambulance Service does not form part of the reserve and is not part of this application.

Any future emergency services land requirements will and are being catered for at the proposed sporting precinct site, FESA building and Multi Purpose Centre.

Reserve 41970 is situated in an attractive location for staff accommodation as it is close to the Shire office, town centre and recreational facilities.

The reserve has been vacant for many years and is zoned under the Shire's planning scheme and would be immediately suitable for a residential dwelling/s. It is proposed to build 6 villa-style residences within this area for staff accommodation.

ATTACHMENT 12.1

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Comment

Development in Onslow has and will triggered the need for increased Shire housing.

In Onslow the Shire currently has a housing stock of eight dwellings which are occupied and six private rentals at an approximate cost of \$6000 each per month.

The current shortage of rental accommodation in Onslow has dramatically increased the rental rates the shire is required to pay. It is economically cheaper in the future for Council to build more staff accommodation as budgets allow.

Changing the purpose of the Reserve to Staff Accommodation will alleviate the need for Council to purchase any land.

Council's endorsement of the proposed change is required so that it can be advertised for 14 days and signage placed on the lot advertising this intention. Following the consultative period any submissions must be considered by Council. If approved by Council the resolution will then be forwarded to Department of Regional Development and Lands (RDL) for approval and amendment of the Management Order.

Prior to any development taking place the appropriate planning and building approvals will be required.

Consultation

CEO

Land Development and Marketing Manager

Executive Manager, Strategic & Economic Development

Manager, Organisational Development

Statutory Environment

Local Government Act 1995 s3.55

Land Administration Act

Financial Implications

Capital expenditure and maintenance of proposed dwellings will be dealt with through the budget process. This item incurs no direct cost.

Strategic Implications

Strategic Plan 2007-2011:

"6. A well managed and Contemporary Corporation – 1. Implement Strategy to optimise leadership, performance and staff retention: Develop a staff accommodation strategy to aid recruitment and retention; plan for future housing needs and upgrades as required;"

Policy Implications

Nil

Voting Requirement

Simple Majority Required

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Council Decision

MOVED: Cr L Shields

SECONDED: Cr A Eyre

That Council endorses the change of purpose of lots 394, 396 and 397 on Reserve 41970 from '*Emergency Services Centre*' to '*Staff Accommodation*' and advertise the proposal

CARRIED 8/0

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12.2 APPLICATION BY SHIRE OF ASHBURTON TO VEST RESERVE 42094 WATSON DRIVE ONSLOW FOR THE PURPOSE OF AFFORDABLE HOUSING

MINUTE: 11173

FILE REFERENCE: RE.WS.R.42094

AUTHOR'S NAME AND POSITION: Megan Walsh
Project Manager

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 3 April 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in the proposal.

PREVIOUS MEETING REFERENCE: Not Applicable

Summary

Reserve 42094 located on Watson Drive Onslow is currently reserved for 'Drainage' purposes and is an unmanaged reserve. Council support is sought to obtain a management order over the land and change the purpose of the reserve to affordable housing.

Background

Reserve 42094 currently has no Management order over it.

The reserve is located on the corner of Watson Drive and Laphorn Ave and has an area of 2123m². The reserve has never been developed or utilised and carries a residential zoning under the Shire's planning scheme and would be immediately suitable for a residential dwelling/s.

ATTACHMENT 12.2

Comment

The development in Onslow has triggered the need for increased Shire housing and affordable housing for service workers. The current shortage of rental accommodation in Onslow has dramatically increased the rental rates the Shire and service workers are required to pay. The Pilbara Regional Council is working with the National Australia Bank to facilitate affordable workers accommodation in the Shire and this land is seen as a significant opportunity with positive outcomes for both the Community and the Shire.

Reserve 42094 is situated in an attractive location and provides many development opportunities due to the size of the lot and location. It is proposed that a minimum of 7 mixed dwellings could be accommodated on the lot with the option of the power to lease.

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Obtaining a Management Order over the reserve with a power to lease and changing the purpose to Affordable Housing will alleviate the need for Council to purchase any land.

Council's endorsement of the application by the Shire of Ashburton to obtain a Management Order and change the purpose of Reserve 42094 is required by the Department of Regional Development and Lands. Once this is received the Proposal can be advertised for 14 days and signage placed on the Lot advertising this intention. Following the consultative period any objections must be considered by Council and resolution to proceed endorsed.

The resolution will then be forwarded to Department of Regional Development and Lands (RDL) for approval and vesting of the Management Order.

Consultation

CEO

Land Development and Marketing Manager

Executive Manager, Strategic and Economic Development

Executive Manager, Technical Services

Statutory Environment

Local Government Act 1995 s3.55

Land Administration Act

Financial Implications

Advertising and administration costs - \$3,500.00 which has been allocated for under Residential Development in the 2011/12 budget.

Strategic Implications

Strategic Plan 2007-2011

“Diversify and Strengthen the Economy: Facilitate Land Development throughout the region; Facilitate the land for accommodation and housing to support economic development.”

Policy Implications

Nil

Voting Requirement

Simple Majority Required

Council Decision

MOVED: Cr C Fernandez

SECONDED: Cr A Eyre

That Council agrees to proceed with the application to obtain a Management Order Reserve 42094 and endorses the change of purpose from 'Drainage' to 'Affordable Housing' and advertise the proposal.

CARRIED 8/0

13. TECHNICAL SERVICES REPORTS

13.1 STATE COASTAL PLANNING POLICY DECISION STATEMENT TO DETERMINE SHIRE RESPONSE DRAFT SPP 2.6.

MINUTE: 11174

FILE REFERENCE: PS.TP.07.00

AUTHOR'S NAME AND POSITION: Geoffrey Brayford
Executive Manager, Technical Services

NAME OF APPLICANT/
RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 30 March 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in this matter.

PREVIOUS MEETING REFERENCE: Not Applicable

Summary

The Western Australian Planning Commission (WAPC) has prepared a draft revised SPP 2.6 - State Coastal Planning Policy. It replaces an earlier policy gazetted in 2003 and amended in 2006. The draft has been released for comment by the 31st May 2012. There are serious impacts for Onslow in this revision and it is appropriate and necessary that Council make comment on the draft.

Background

Society cannot afford to be risk averse, nor risk ignorant. Risk evaluation and acceptance is the key to any society making informed decisions and moving forward. Any risk to loss of life must be carefully considered, however there is always a level of residual risk that must be accepted. Not everyone however is able to make informed risk decisions. Gambling that an event will not occur is not the same as risk acceptance.

In the area of natural hazard risk it is generally accepted that decisions must involve a level of "parental control" or oversight. Some people must be protected from themselves, particularly where the public purse is expected to be used to aid in recovery or compensation. Councils also have a duty of care to meet reasonable public expectations with regard to risk, when setting planning controls. Where loss of life is not the main driver however investment risks against future loss can be considered relative to the benefits that may be enjoyed by a development that might otherwise be prohibited.

These decisions should be and can be financial considerations of the proponent providing:

- Financial risk is accepted by the proponent.
- No one is ambushed by any unknown risks.
- There is continual transparency of the risk to any particular property, for the benefit of future purchasers.

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- The public purse is not required to bail out any person who has taken a financial risk and suffered loss.
- There is intergenerational equity in any risk acceptance and future communities are not unnecessarily burdened by costs or risks, whilst benefits are only enjoyed today.

STATUS OF A STATE POLICY

The review of the Coastal policy is comprehensive and has resulted in two documents: - the policy itself, and a separate guideline to aid in its interpretation.

Section 77 of the Planning and Development Act 2005, **requires** local governments, when **preparing or amending** a local planning scheme, to have regard to State Policies.

State policies themselves generally *“require that local and regional planning strategies, structure plans, subdivisions, strata subdivisions and **development applications** should comply with the policy measures.”*

Councils own planning scheme also requires consideration of certain matters in planning applications, including (Clause 5.9) *“any approved statement of planning Policy of the commission, and any relevant policy or strategy of the Commission or any other relevant planning policy adopted by the Government of Western Australia or the Commonwealth of Australia.”*

A State Policy therefore has a significant bearing on any future planning decisions of the Shire and Council should take every opportunity to comment on its direction or content.

THE POLICY

The Coastal policy addresses many issues associated with Coastal development across the State and applies to sandy and rocky shorelines coastal lowlands, tidal reaches, near shore marine waters, all islands within the State and land use and development abutting the coast.

The objectives of the coastal policy are to ensure:

- The location of coastal facilities and developments take into account the coastal process, coastal hazards climate change and biophysical criteria.
- The identification of areas for sustainable use of coastal housing , tourism, recreation ocean and foreshore access, maritime industry, commercial and other activities.
- The protection, conservation and enhancement of coastal values, particularly landscape, nature conservation, indigenous and cultural significance.

The coastal policy requires that sound planning should be undertaken with a time frame of 100 years in mind. That means that the impacts from environmental changes, such as sea level rise, over the next 100 years must be allowed for.

The policy considers such matters as water resource and management, building height limits, coastal hazard management and adaptation planning, Coastal protection works, public interest, coastal foreshore reserves, coastal strategies and management plans.

The primary area of importance for the Shire resides in the area of coastal hazard management.

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COASTAL HAZARD MANAGEMENT

Coastal hazards include the impacts from erosion and undermining of the coast edge to storm surge and inundation.

- Erosion is assessed by understanding the impacts of (in sandy locations such as Onslow) :
 - S1- Acute erosion from storms
 - S2 - chronic erosion trends
 - S3- erosion by sea level change

These figures result in a distance of coastal hazard set back distance within which development should not occur. Set back distances can be reduced by armouring of any fragile regions.

- Surge inundation is assessed by understanding the low pressure rise in sea level, together with the effects of wave set up and run up. A water level is determined above which development should be located. High water levels may be able to be dealt with by coastal levees which may provide some protection from inundation.

Both of these affects are normally examined by complex modelling of the storms that take into account the material properties and the topography of the coast line. This is an appropriate approach. The area open for discussion however is the storm event that should be considered, and guarded against, and how to deal with climate change and sea level rise. The storm event is the area where the draft policy manifestly differs from the current version.

STORM EVENTS

Storms are more generally defined by describing the apparent frequency or interval between storm events of a certain size – an Average Return Interval in years or ARI. A regular, lower impact storm might be described as likely to occur as often as once in 20 years, on average. There is a 5% chance of this event in any one year. A less common, higher impact storm might be describes as likely to occur as often as once in 100 years. There is a 1% chance of this event in any one year.

These terms do not mean that there is a standard interval between events of the same size. The definition is talking about the average interval between occurrences. A 100 year ARI storm could, for instance, occur twice in one year, or not at all for 150 years. Generally however within any 70 year period there is a 50/50 or heads or tails chance of a 100 year ARI event occurring. More normally Australia has looked at the design storm event for mainstream flooding (and storm surge inundation) as being the 100 year ARI, unless special land uses need to be protected such as hospitals or evacuation centres or essential infrastructure. The 100 year ARI is often describes as a once in a life time experience.

The exceptions are where failure could be virtually instantaneous and catastrophic, rather than gradual, such as in retained water structures. The Australian National Committee on Large Dams (ANCOLD) will often look at the Probable Maximum Flood (PMF) which could have an ARI of up to 10,000 years. Similarly the design level of protection for flood levees is often up to a 200 year ARI because levees are high risk features and are prone to failure by a number of mechanisms. There is a trend to also require floor levels to be above the flood event, notwithstanding that levees may have been built to protect against inundation.

DEFINED STORM EVENTS

The current coastal policy requires a “100 year planning time frame to consider ocean forces and coastal processes which have a statistical recurrence interval of once in 100 years.” This is the

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defined storm event. Similarly an allied state policy SPP 3.4 – “NATURAL HAZARDS AND DISASTERS” states that the “100 year average recurrence interval flood should be used as the defined flood event.” And that “All habitable, commercial and industrial buildings should have their floor levels above the level of the defined flood event.”

The Draft coastal policy however proposes that:

“These guidelines are based on a 100-year time frame from when a subject proposal is being assessed. For erosion and accretion, consideration is given to ocean forces and coastal processes which have a (100 year ARI) probability of being equalled or exceeded in any given year over the planning timeframe. For storm surge inundation, consideration is given to ocean forces and coastal processes that have a (500 year ARI) probability of being equalled or exceeded in any given year over the planning time frame.”

The requirement for protection against storm inundation has risen **significantly** to a 500 year ARI, but erosion or set back has remained at the same level of protection of 100 year ARI. These impacts appear to be reversed in safety or risk considerations. The impact or consequences of erosion and entire loss of land and buildings will be much greater than simple, though potentially tragic and damaging, water inundation, which can in part be considered in the design.

RECENT MODELLING RESULTS

Recent modelling in Onslow has identified that a 100 year ARI storm would have a control level of RL 5.0 AHD today. We have no current modelling of a 500 year ARI storm event, but it could be expected to have a level of RL 6.25. Adding Sea level to rise to this figure could yield a level of RL 7.15 AHD. Ground levels in Second Avenue, in the main commercial area, are generally in the vicinity of RL 3.5. In Third Avenue they are as low as RL 2.0 – which would require a floor level to be over 5.0 metres above ground level to provide a 500 year ARI level of protection.

HISTORICAL CYCLONE EVENTS – IN CONTEXT

The Bureau of meteorology records a number of significant cyclone events in Onslow. - www.bom.gov.au/cyclone/history/wa/onslow.shtml

Tropical cyclone Vance passed 80 km to the west of Onslow in 1999. Many members of the Onslow community may recall it. It was a 50 year ARI event with an estimated 4 m storm surge at Onslow and 5m surge further to the west near the centre. In 1965 a severe cyclone made landfall at Onslow. Hurricane force winds demolished several buildings and storm surge inundated the town with 1.8 metres of water. In 1880 a cyclone passed near Yammadery Creek, between Onslow and Fortescue River, where the tidal surge was **eight** metres over the high-water mark.

HAZARD RESPONSE AND ADAPTATION

The draft Policy identifies the need to articulate any discovered Coastal Hazard through a notification on title:

“VULNERABILITY COASTAL AREA – This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years.”

This must be contrasted against a section in Council's current Planning scheme which alludes to the potential for a notification on title (Clause 7.3.8(e)) saying:

“The developer undertakes to absolve the State and the Local Government Authority from liability and hence financial relief in the event of damage caused by natural events.”

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It has generally been settled (in court) that regulatory authorities **can not** absolve themselves from the responsibility to provide effective planning decisions by seeking an indemnity from litigation from the applicant, future landowners, or others.

The draft also identifies Hierarchy of Hazard responses. These are in order of preferential treatment.

- Avoid
Define areas where there shall be no development.
- Planned or Managed Retreat
Prevent further development and arrange to relocate or remove assets at intolerable risk over the course of the planning time frame.
- Accommodation
Allow development, where justified, but require design or management strategies that render the risks acceptable.
- Protection
Where necessary and justified, and where design or management strategies are insufficient then essential assets may have to be protected against damage or loss.

There is a **general presumption against** protection works and where they are required they should be in the general public interest rather than private interest. They must be able to be funded in the longer term, including monitoring, care control and maintenance.

This is a normal hierarchy approach in response to Natural Hazard management, and is supported, although some modification is recommended. It is agreed that protective measures are a solution of last resort.

INFILL

The guidelines attached to the draft policy acknowledge the need, at times, to continue with existing established developments and to not sterilise existing communities. However infill is tightly designated and applies to **minor gaps** or vacancies between existing developments. It does not apply to land adjacent to existing areas or fringing development, nor to major gaps or breaks between developments.

EXEMPTIONS and VARIATIONS

The current policy has a section titled "Possible exemptions" and includes such facilities as public purposes with limited life (< 30 years), temporary and relocatable structures that are coastal dependent, maritime industries, etc. The draft does not directly deal with exemptions, although it does use the word "variations". Public recreation facilities with finite lifespans are discussed and a need for them to occur is acknowledged, but these are considered to be BBQ, ablutions and amenities, surf lifesaving clubs, pathways, etc.

Temporary, easily relocatable structures need to be demonstrably coastal dependent, and are described as fencing, sun shade and facilities for public events. It should be noted that Caravan Parks may not fall into the general exemptions of either the current or the draft policy.

NEW CLIMATE CHANGE – SEA LEVEL RISE IMPACTS

The Current SPP 2.6 (2003) considers a sea level rise of 0.38 m between the year 2000 and 2100.

The WAPC has subsequently produced two documents that address sea level rise. These are:

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- an undated position statement (not a policy) titled WAPC Position Statement – SPP 2.6 Sea Level Rise, and
- a Feb 2010 discussion document (also not a policy) titled “*Sea Level Change in Western Australia – Application to Coastal Planning*”.

Both of these documents discussed the inadequacy of the original projection of 0.38m for sea level rise to the year 2100 and recommended that an allowance of 0.9 m should be adopted for sea level rise between 2010 and 2110, and a rate of 0.010m/year thereafter.

The draft policy confirms the need to use a sea level rise of 0.9 m to the year 2110. The original value of 0.38m was based on the mean of the median models, whereas the new value of 0.9m refers to the upper envelope of the various climate change impact models.

The Shire is not able to comment on the appropriateness of either of these two values, except that it may note that the latter figure is conservative and this can be taken into consideration when assessing other parameters that may need to be used in establishing a coastal risk. There is an inherent risk of aggregating conservative parameters to arrive at a risk event more unlikely than originally intended and decision makers need to be mindful of this risk. Sea level change is therefore to be taken as 0.9 m up to 2110.

It must be noted that, generally, current Mean High Water Spring Tide (MHWS) at Onslow is RL 1.0 AHD and Highest Astronomical Tide (HAT) is RL 1.5 AHD. The lowest road levels in Onslow are at RL 1.9 (near Third Avenue and McGrath Avenue) which means that if 0.9 m is added to tidal levels then MHWS will be equal to some road levels in the year 2110. Some roads may then be almost flooded twice a day, every day, by high tide, depending upon the sand substrata permeability. This will be a significant planning constraint and an important consideration for the future. This will be the subject of a future report to Council.

COMBINED EFFECTS OF SEA LEVEL CHANGE AND RECURRENCE INTERVAL

There is no current modelling of the 500 year ARI event, but the Shire has been able to interpret and extrapolate the likely outcome. This is a gross extrapolation of the risk assessment, but it is reasonable for the purpose of this review and commentary. Different storm heights will be more accurately determined over time.

But generally:

RL 5.9	A design event 100 year ARI storm that will occur after 0.9 m sea level rise in 100 years time means that the ARI of that storm today is approximately a 350 year ARI, and
RL 7.15	A design event 500 year ARI storm that will occur after a 0.9 m sea level rise in 100 years time means that the ARI of that storm today is approximately a 1800 year ARI.

These are significant changes. The risk of the storm event starts out very low and gradually increases to the design event only in the last year of the 100 year planning horizon. It is very conservative, and has extreme impacts on Onslow, particularly for the required 500 year ARI design event.

However, in the alternative, if sea level change is not considered then the risk of a 100 year ARI control level today will increase to approximately a 60 year ARI event by 2040 and a 30 year ARI event by 2110. Those future levels of protection are very low.... too low for a perpetual suburb, but there may be solid planning reasons for the Shire to need to need to consider a different planning horizon, or different risk events, otherwise any Onslow development or redevelopment may become impractical or impossible.

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ASSESSMENT & CONCLUSION

Onslow is at risk to coastal hazards. The Coastal policy is a well thought out document but it is ideally targeted at perpetual communities, infrastructure and developments.

Onslow, as a **resource based coastal development node**, is a different circumstance to mainstream suburban or town development and greater flexibility than the code implies may be required to define a way forward. Land Use and Development in parts of Onslow may be able to be assessed with lives substantially different to the 100 year planning horizon and/or using different risk events than those prescribed in the policy. This may include developments, of a more temporary nature, that must be removed or converted (the adaptation approach) when the risk is no longer acceptable and/or the defined planning horizon expires. The coastal policy does not presently allow these considerations.

It is doubtful that the Shire will be able to argue a simple case of, "Onslow is different and must have different rules". It will be difficult to argue a different planning horizon, or a different risk level, if the Shire is firmly of the opinion that developments will be expected to continue past the chosen time frame. This would be simple intergeneration risk transfer. Where a different planning horizon is sought it can be expected that WAPC will require a future removal or adaptation strategy that will deal with the risk property or land use at risk in the future. This can be part of our submission on the draft SPP 2.6.

The Shire will need to undertake a number of studies to be able to inform Council of an appropriate planning response against the Coastal hazard risk, but if flexibility is not available this may not be possible, or practical. If risk control is either impossible or impractical then other decisions for Onslow may be required.

It is anticipated that a scheme adjustment is required to incorporate any response to the coastal hazard determined by the Shire. It is likely that SPP 2.6 may be in place before a scheme amendment can be presented to the Planning Commission. The content of SPP 2.6 and also SPP 3.4 is therefore critical to the planning decisions that need to be made by the Shire.

It is recommended Council is encouraged to make the following representations to Draft SPP 2.6, but to similarly request the WAPC to consider modifying SPP 3.4 to align the two state policies.

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OBJECTION	RATIONALE
Objecting to a universal prescribed 100 year planning time frame.	<p>A resource based nodal community may need to consider different land uses having different planning horizons.</p> <p>A different planning horizon may require exit or adaptation strategies for some future point in time.</p> <p>Flexibility in SPP 2.6 will be required to achieve this outcome.</p> <p>This may be best achieved by specific land use conditions or requirements embodied in the scheme, rather than simply by development condition.</p> <p>Notations on title would also make the development/ownership risk real and apparent to current and future land owners.</p> <p>A change in the planning horizon will allow the Shire to deal with sea level rise with a more reflective and accurate view as to the life of the development being considered in Onslow.</p>
Objecting to the hierarchy of adaptive measures not specifically considering a hybrid approach with ability to approve, but eventually require removal or adaptation of certain land uses.	<p>The hierarchy of treatments does not specifically consider a hybrid approach wherein developments may be approved today, but are required to be removed or adapted by a certain date in the future. This flexibility is required.</p>
Objecting to the need to consider the risk event and sea level rise immediately, but instead being able to deal with today's risk event and identifying a contingency or adaptation plan that must be applied in the future.	<p>The intention is to avoid excessive levels of protection today, but recognising that at some point in the future the risk may not be palatable.</p> <p>This may involve the need to identify protective measures to be applied in the future, rather than allow for all future risks today – notwithstanding that protective measures should be avoided as a general rule.</p> <p>Any protective contingency plan will need to be well founded and able to be delivered with certainty. This will not be an easy task; however the opportunity to allow the development of such a strategy must be available.</p>
Objecting to the prescribed minimum level of protection of 500 year ARI against storm surge inundation, for all land uses.	<p>It is reasonable for the Commission to nominate a minimum level of protection for certain land uses, but it should not be the 500 year ARI. This is abnormal in the Australian environment.</p> <p>A 100 year ARI level is considered reasonable for habitable floor levels; especially in resource based coastal development nodes such as Onslow. This is</p>

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	<p>especially the case where conservative sea levels rises are assumed.</p> <p>Non habitable development floor levels should also be able to be considered for different levels of protection based on a suitable risk evaluation and appropriate public awareness and title notifications.</p> <p>Some development and land uses may be able to be considered as sacrificial, in part, and able to be re-established should a hazard event occur. Providing mitigation controls are in place.</p>
Suggest that the risk events for erosion and loss of land compared to surge inundation are transposed in the draft, and counterintuitive.	<p>The loss of land and building is the greater consequence and should be assessed against the less frequent event.</p> <p>Inundation risk is of lesser impact on the community.</p>
Request that SPP 2.6 and SPP 3.4 should be aligned	To remove doubt about the design event to be considered.

Consultation

Executive Managers

Statutory Environment

Comment on SPP2.6 will influence the future statutory environment

Financial Implications

Nil at this stage.

Strategic Implications

Critical for the future of Onslow.

Policy Implications

Development Policy will flow on from this decision.

Voting Requirement

Simple Majority Required

Council Decision

MOVED: Cr C Fernandez

SECONDED: Cr A Eyre

That Council requests the Chief Executive Officer to prepare a submission on the Draft SPP 2.6 Coastal Hazard Policy to the Western Australian Planning Commission on the matters identified in this report.

CARRIED 8/0

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13.2 NEW BUILDING ACT 2011 - NEW DELEGATIONS

MINUTE: 11175

FILE REFERENCE: LE.AC.21.00

AUTHOR'S NAME AND POSITION: Bernard Smith
Manager, Building Services

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 3 April 2012

DISCLOSURE OF FINANCIAL INTEREST: Not Applicable

PREVIOUS MEETING REFERENCE: Not Applicable

Summary

The new Building Act 2011 (the Building Act) came into effect on 2 April 2012.

The new Building Act substantially replaces those provisions in the Local Government (Miscellaneous Provisions) Act 1960 which are concerned with the regulation of building and associated activities. As the new Building Act comes into effect, those provisions in the Local Government Miscellaneous Provisions Act will cease to have effect.

Accordingly, the delegations currently in place in line with the Local Government (Miscellaneous Provisions) Act 1960 and Building Regulations 1989 need to be replaced with new delegations made under the new Building Act and Building Regulations 2011.

Background

The Building Act is part of the State Government's Building Regulation Reform Package which replaces the existing building approvals process which was established under the *Local Government Act 1960* and the *Building Regulations 1989*.

The Act was passed by Parliament on 23 June 2011 and commenced operation on 2 April 2012. Historically, Western Australian building control has been administered wholly by local government. The new Building Act will allow this function (in part) to be undertaken by private organisations and practitioners.

The changes to the current building legislation are aimed at bringing WA building control in line with national reforms, to increase efficiency in the WA building system and to improve the standard of construction of buildings within the state.

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The key elements of reform include:

- All buildings are captured by the legislation, including those owned by the Crown;
- A competitive building assessment service may be offered by the private sector;
- Mandatory inspections of all classes of buildings may be required (either by the local government or the certifier);
- Owners will have to take prima facia responsibility for the design, construction and operation of buildings;
- Nominated Licence Issuing Authorities (local authorities, state government or special authorities) are to manage risk, audit processes, and issue building permits and occupancy approvals;
- A risk-based approach will be applied to assessment of applications and inspection requirements;
- Requirements for obtaining compliance certification for all types of buildings prior to occupancy will be introduced;
- Registration requirements for a range of industry practitioners will be introduced;
- A nationally agreed accreditation framework for building surveyors will be introduced; and
- A process for the assessment and approval of building works carried out without approval will be introduced.

Pursuant to section 127 of the new Building Act, a local government may delegate its powers under the Act to employees of the local government who are appropriately qualified to exercise those powers.

As with the existing delegations under the *Local Government (Miscellaneous Provisions) Act 1960*, the extent to which the power may be exercised is limited by position and is set out in a schedule attached to the instrument of delegation.

The proposed delegations under the provisions of the Building Act 2011 are no different to the existing delegations previously confirmed by Council when the same delegations were under the Local Government (Miscellaneous provisions) Act 1960.

ATTACHMENT 13.2

The Building Act reforms the building approval process and will introduce significant changes for local governments. The major change is to separate the process of certifying compliance with building standards from the administrative process of issuing permits. Private certification having been introduced, removing the sole role of local government as the building licence assessor.

The provisions of the Building Act 2011 allow local governments to provide a building certification service [which it already carries out under the current Act] that is essentially a continuation of the building assessment role that has traditionally been undertaken by local governments. It is proposed that the Shire establishes a building certification service, in addition to its required role as a permit authority, so that this service can continue to be offered to ratepayers and the community.

Pursuant to Section 3.18 of the Local Government Act 1995, a local government may provide services and facilities. In providing those services, a local government is to satisfy itself that services and facilities that it provides integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body, do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and are managed efficiently and effectively.

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The provision of a building certification service by the Shire under the Building Act 2011 will be a continuation of the current service that the Shire provides in assessing building applications and issuing approval for construction of, or occupation of buildings.

Comment

It is recommended that Council delegates its powers under the Act to ensure the administrative efficacy of the Shire as a permit authority under the Act to allow for the continuation of the Shires service to the community.

Consultation

Not Applicable

Statutory Environment

Local Government Act 1995, Building Act 2011 and Interpretation Act 1984.

Financial Implications

There is uncertainty at this stage in regard to the exact budgetary implications the new Building Act will have on the Shire. The provision of a building certification service will allow the Shire to charge a market rate for this service and these additional funds can be applied to support the building control function of the Shire.

Strategic Implications

Not Applicable

Policy Implications

If Council does not approve the delegations all building approvals would need to be sent out externally for certification.

"Building Act 2011

127. Delegation: special permit authorities and local governments

- 1) A special permit authority or a local government may delegate any of its powers or duties as a permit authority under another provision of this Act.*
- 2) A delegation of a special permit authority's powers or duties may be only to an employee of the special permit authority, or to an employee of one of the legal entities that comprise the special permit authority.*
- 3) A delegation of a local government's powers or duties may be only to a person employed by the local government under the Local Government Act 1995 section 5.36.*
- 4) The delegation must be in writing executed by or on behalf of the special permit authority or by the local government.*
- 5) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.*
- 6) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.*
- 7) Nothing in this section limits the ability of the permit authority to perform a function through an officer or agent."*

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Voting Requirement

Absolute Majority Required

Council Decision

MOVED: Cr C Fernandez

SECONDED: Cr A Eyre

That Council:

1. In accordance with Section 127 of the *Building Act 2011* delegates the local government's powers as a permit authority under the *Building Act 2011* to those employees and to the extent set out in the instruments of delegation as detailed in ATTACHMENT 13.2; and
2. Council supports the Shire providing a Building Certification Service, in addition to its required role as a permit authority in accordance with the *Building Act 2011*.

CARRIED BY ABSOLUTE MAJORITY 8/0

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13.3 SHIRE OF ASHBURTON INLAND LEMC EMERGENCY MANAGEMENT ARRANGEMENTS

MINUTE: 11176

FILE REFERENCE: CS.ES.05.00

AUTHOR'S NAME AND POSITION: Morgwn Jones
Senior Ranger

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 3 April 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in this matter.

PREVIOUS MEETING REFERENCE: Not Applicable

Summary

The purpose of this report is to seek Councils endorsement of the Shire of Ashburton Inland LEMC Emergency Management Arrangements for the Inland parts of the Shire of Ashburton which includes the towns of Tom Price, Paraburdoo and the Indigenous Communities of Wakathuni, Bellary Springs, Youngaleena and Ngurrwana.

Background

The purpose of this report is to seek Councils endorsement of the Shire of Ashburton Inland LEMC Emergency Management Arrangements for the Inland parts of the Shire of Ashburton which includes the towns of Tom Price, Paraburdoo and the Indigenous Communities of Wakathuni, Bellary Springs, Youngaleena and Ngurrwana.

ATTACHMENT 13.3

Comment

Research of other Local Governments and communications with FESA Regional Director, WALGA EM and EMWA show that other Local Governments have adopted this approach to having the Local Emergency Management Arrangements endorsed by the relevant Council and that this is an acceptable practice until such time that community consultation is carried out. This is planned to occur by June 2013.

The plan has been reviewed and is supported by the Local Emergency Management Committee (LEMC), the District Emergency Management Committee (DEMC) and is written in consultation with Fire and Emergency Services Authority (FESA) and prepared in accordance with the *Emergency Management Act 2005*.

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Consultation

Shire of Ashburton Inland LEMC members
Local Emergency Coordinators WAPOL Tom Price and Paraburdoo
Pilbara District Emergency Management Committee
FESA Regional Director
WALGA EM
EMWA

Statutory Environment

Emergency Management Act 2005
SEMC Policy 2.5

Policy Implications

Nil at this stage.

Financial Implications

Nil at this stage.

Strategic Implications

Shire of Ashburton 10 year Strategic Community Plan

Voting Requirement

Simple Majority Required

Council Decision

MOVED: Cr L Shields

SECONDED: Cr I Dias

That Council endorses the Shire of Ashburton Inland Local Emergency Management Committee, Local Emergency Management Arrangements and these Local Emergency Arrangements be submitted to the State Emergency Management Committee (SEMC).

CARRIED 8/0

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13.4 SHIRE OF ASHBURTON INLAND LOCAL EMERGENCY MANAGEMENT COMMITTEE (LEMC) EVACUATION PLAN

MINUTE: 11177

FILE REFERENCE: CS.ES.05.00

AUTHOR'S NAME AND POSITION: Morgwn Jones
Senior Ranger

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: March 2011

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in this matter.

PREVIOUS MEETING REFERENCE: Not Applicable

Summary

The purpose of this report is to seek Councils endorsement of the Shire of Ashburton Inland LEMC Local Evacuation Plan for the Inland subdistricts of the Shire which encompasses the towns of Tom Price and Paraburdoo and the Indigenous Communities of Wakathuni, Bellary Springs, Youngaleena and Ngurrwana..

Background

The Shire of Ashburton is required under legislation to have an Evacuation Plan as part of the requirements of the *Emergency Management Act 2005* and the *State Emergency Management Policy 4.7 – Community Evacuation*. As the Shire had no such plan in place this document was produced. This plan is a sub plan under the Shire of Ashburton Inland LEMC Emergency Management Arrangements.

ATTACHMENT 13.4

Comment

The plan has been reviewed and is supported by the Local Emergency Management Committee (LEMC), the District Emergency Management Committee (DEMC) and is written in consultation with the Fire and Emergency Services Authority (FESA) and prepared in accordance with the Emergency Management Act 2005.

Consultation

Shire of Ashburton Inland LEMC members
Local Emergency Coordinators WAPOL Tom Price and Paraburdoo
Pilbara District Emergency Management Committee
FESA Regional Director
WALGA EM

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EMWA

Statutory Environment

Emergency Management Act 2005
SEMC Policy 2.5

Financial Implications

Nil at this stage, however, funding will be required in the 2012/13 Budget for community consultation.

Strategic Implications

Nil at this stage.

Policy Implications

Shire of Ashburton 10 year Strategic Community Plan

Voting Requirement

Simple Majority Required

Council Decision

MOVED: Cr C Fernandez

SECONDED: Cr A Eyre

That Council endorses the Shire of Ashburton Inland Local Emergency Management Committee, Local Emergency Management Arrangements and these Local Emergency Arrangements be submitted to the State Emergency Management Committee (SEMC).

CARRIED 8/0

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13.5 DRAFT LANDCORP ANSIA INDUSTRIAL DEVELOPMENT PLAN AND DRAFT AMENDMENTS NO. 17 AND 18 TO PLANNING NO. 7 FOR ADVERTISING

MINUTE: 11163

FILE REFERENCE: PS.TP.7.17
PS.TP.7.18

AUTHOR'S NAME AND POSITION: Rob Paull
Principal Town Planner

NAME OF APPLICANT/RESPONDENT: LandCorp

DATE REPORT WRITTEN: 9 April 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in the proposal.

PREVIOUS MEETING REFERENCE: Agenda Item 13.01, Minute: 11090 Ordinary Meeting of Council 14 December 2011

In addition to Agenda Item 13.01 above, the following Items were associated with the ANSIA Strategic Industrial Area:

Agenda Item 16.03.04 Ordinary Meeting of Council 16 March 2011

Agenda Item 13.02.02 Ordinary Meeting of Council 16 February 2011

Agenda Item 13.12.74 Ordinary Meeting of Council 15 December 2010

Agenda Item 14.12.20 Ordinary Meeting of Council 16 December 2008

Agenda Item 13.03.03 Ordinary Meeting of Council 17 March 2009

Agenda Item 13.10.63 Ordinary Meeting of Council 27 October 2009

Agenda Item 13.12.89 Ordinary Meeting of Council 15 December 2009

Agenda Item 13.07.38 Ordinary Meeting of Council 21 July 2010

Agenda Item 13.10.61 Ordinary Meeting of Council 20 October 2010

MINUTES - ORDINARY MEETING OF COUNCIL 18 APRIL 2012

Summary

At the Council meeting of 14 December 2011, Council resolved to:

- initiate draft Amendments No. 17 and No. 18 and to refer the Amendments to the EPA for assessment and once the EPA has responded, the matter be referred back to Council for consideration; and
- advise LandCorp that subject to the submission of a '*LandCorp ANSIA Industrial Development Plan*' (*Development Plan*) prepared to the satisfaction of the Chief Executive Officer that Council is willing to accept the draft ANSIA Industrial Development Plan as a draft structure plan pursuant to the provisions of the Scheme and more specifically, (draft) Amendments No. 17 and No. 18.

The two Scheme Amendments associated with the draft *Development Plan* are as follows:

- Draft Amendment No 17 seeks to zone land in accordance with the ANSIA Structure Plan to 'Strategic Industry' zone and 'Other Purposes – Infrastructure' reserve (Stage 1B). Draft Amendment No. 17 provides an additional area for an additional LNG plant ('Scarborough') and a site for Transient Workforce Accommodation (TWA) in the ANSIA which adjoins the Chevron TWA. Under draft Amendment No. 17, the 'LandCorp' TWA site is proposed to be zoned 'Special Use 2', which is the same as Chevron's TWA site. The provision limiting the use of the site for constructions workers only would also apply. The draft Amendment also includes a statutory linkage to the draft *Development Plan* which ensures that any proponent that develops in Stage 1B must first achieve environmental approval and address social infrastructure contributions associated with Onslow.
- Draft Amendment No. 18 seeks to zone land (Stage 1C) to 'Industry' zone.

The draft *Development Plan* was prepared in accordance with the Council resolution and draft Amendments No. 17 and No. 18 were referred to the EPA. The EPA is yet to formally respond however LandCorp advise that it has been in discussion with EPA officers and that EPA approval is likely to issue shortly. LandCorp has requested that Council agree to move to advertising the *Development Plan* and draft Amendments No. 17 and No. 18 subject to EPA consent being received. This is to allow the opportunity to undertake the 42 day advertising period and community consultation process.

Also in accordance with the December 2011 Council resolution, LandCorp has prepared a draft Social Impact Assessment (SIA) that seeks to address the necessary community infrastructure arrangements for Onslow that proponents will need to undertake for Stage 1B. However, LandCorp suggest that Stage 1C in itself provides a community benefit for Onslow as it will provide much needed land for light industrial purposes. In addition, LandCorp commits to developing an expanded residential area for Onslow. In this regard, neither LandCorp nor proponents within Stage 1C would be required to contribute to community infrastructure for Onslow unless it was associated with a wide reaching Scheme Amendment for 'developer contributions'.

It would be appropriate for Council to consider an Amendment to the Scheme for 'developer contributions' specifically associated with community infrastructure for Onslow.

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It is also considered appropriate to review the Scheme Amendment Map for draft Amendment No 17 to delete the site included for the proposed 'Scarborough' LNG site. The Shire considers it appropriate to have the 'Scarborough' LNG addressed in a site specific amendment to the Scheme. This would ensure a consistent approach to the rezoning of LNG sites at the ANSIA.

It is recommended that subject to a formal response from the EPA as to the level of environmental assessment and modifications to the *Development Plan* and Amendment No. 17 as identified in the this Report, that Council:

- adopt draft Amendments No. 17 and No. 18 and advertise the Amendment for 42 days in accordance with the in accordance with the Town Planning Regulations 1967; and
- adopt draft '*LandCorp ANSIA Industrial Development Plan*' in accordance with provisions of the Scheme and advertising it in concert with draft Amendments No. 17 and No. 18.

Background

Council, at its Special Meeting of 5 October 2011 meeting gave final approval to the Ashburton North Strategic Industrial Area (ANSIA) Structure Plan and draft Amendment No. 10 to the Shire's Town Planning Scheme No 7 ('Scheme'). The ANSIA Structure Plan facilitates the development of an industrial hydro-carbon precinct south west of the town of Onslow and Amendment 10 essentially provides the opportunity to develop the Wheatstone LNG plant, access road and Chevron's Transient Workforce Accommodation (TWA) camp for the construction workforce (only). The ANSIA Structure Plan and Amendment No. 10 have been approved by the Western Australian Planning Commission (WAPC) and the Minister for Planning respectively.

The ANSIA covers an area of approximately 8000 hectares and represents a possible hydro-carbon gas hub of both state and national significance. More specifically, the location is the site for its Wheatstone Liquid Natural Gas (LNG) project and is being considered by the Exxon-Mobil/BHP-Billiton consortium for its Scarborough LNG project.

It is also proposed that that additional land be developed for use by, as yet to be identified, hydro carbon related industries. The whole of the ANSIA will be serviced by a common port facility, managed by the Dampier Port Authority, and by a Multi User Access and Infrastructure Corridor (MUAIC) a shared transport and infrastructure corridor.

Council has granted development approval for the first development within the ANSIA, being BHP-Billiton's Macedon Domestic Gas Plant, which has commenced construction. This project is relatively small in the context of the overall development of the precinct but will still have significant impact on a town the size of Onslow. It was however able to be assessed within the framework of the planning scheme, as it presently exists. Council placed conditions on BHP-Billiton's planning approvals to address the potential negative outcomes from the development. A requirement for Macedon as part of the Planning Approval was that the proponent would seek to have the land zoned accordingly.

The ANSIA Structure Plan divides the ANSIA into several stages. Stage 1 consists of a Future Industry Area (FIA) incorporating downstream gas processing industries and other uses. Land with no current development intention in the short to medium term and therefore set aside for future strategic industrial expansion is referred to as Stage 2.

Stage 1 is further divided into sub-stages with Stage 1A comprising the Wheatstone project, a common port facility, a Multi User Access and Infrastructure Corridor (MUAIC) for the purpose of shared transport and infrastructure and Chevron's TWA camp.

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Stage 1B comprises the potential development site of the Scarborough LNG and the Macedon Domestic Gas Projects, portions of land associated with the FIA and TWA. Stage 1C comprises the balance of Stage 1 identified for 'Industry' development.

Comment

The draft Development Plan was prepared in accordance with the Council resolution and draft Amendments No. 17 and No. 18 were referred to the EPA. The EPA is yet to formally respond however LandCorp advise that it has been in discussion with EPA officers and that EPA approval is likely to issue shortly. LandCorp has requested that Council agree to move to advertising the Development Plan and draft Amendments No. 17 and No. 18 subject to EPA consent being received. This is to allow the opportunity to undertake the 42 day advertising period and community consultation process.

Also in accordance with the December 2011 Council resolution, LandCorp has prepared a draft Social Impact Assessment (SIA) that seeks to address the necessary community infrastructure arrangements for Onslow that proponents will need to undertake for Stage 1B. However, LandCorp suggest that Stage 1C in itself provides a community benefit for Onslow as it will provide much needed land for light industrial purposes. In addition, LandCorp commits to developing an expanded residential area for Onslow. Specifically, LandCorp in its draft Social Impact Statement has advised as follows:

"Heavy Industry proponents locating in the Strategic Industrial Area (Stage 1B), are expected to engage with the Department of State Development in relation to negotiating a social infrastructure contribution.

Planning for the General Industrial Area is being undertaken with the intention to create freehold lots, to accommodate support service operators such as transport and logistics, and other relevant businesses for the construction and operation of the Strategic Industrial Area. Lot sizes in this area are anticipated to be between 2ha and 10ha however if the market demands a size more than or less than this range, adjustments will be made in lot sizes to accommodate this demand.

No contributions are required for the LandCorp General Industrial Area development due to the work LandCorp is undertaking in the town site for residential growth. The Shire of Ashburton would like to receive a social contribution from purchasers of freehold lots within the GIA. The Scheme Amendment to affect this will be submitted at some time in the future by the Shire of Ashburton."

In this regard, neither LandCorp nor proponents within Stage 1C would be required to contribute to community infrastructure for Onslow unless it was associated with a wide reaching Scheme Amendment for 'developer contributions'. In any case, it would be appropriate for Council to consider an Amendment to the Scheme for 'developer contributions' specifically associated with community infrastructure for Onslow.

However, it is also considered appropriate to review the Scheme Amendment Map for draft Amendment No. 17 to delete the site included for the proposed 'Scarborough' LNG site. The Shire considers it appropriate to have the 'Scarborough' LNG, which is only other defined LNG site in the ANSIA (apart from Wheatstone) to be addressed in a site specific amendment to the Scheme. This would ensure a consistent approach to the rezoning of LNG sites at the ANSIA. In this regard, the draft *Development Plan* will need some modification to ensure that it makes reference to the 'Scarborough' LNG and that it will require a site specific amendment to the Scheme.

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Proposal

The development of land reflected by Amendments No. 17 and 18 has already been identified in the approved ANSIA Structure Plan.

The role of the '*LandCorp ANSIA Industrial Development Plan*' (*Development Plan*) is to provide detailed information associated with the development of the land associated with the above Amendments.

A draft *Development Plan* is proposed and provides the strategic planning direction and development provisions for Stages 1B and 1C.

ATTACHMENT 13.5 A

The draft *Development Plan* shows potential development of Ammonia and Ammonia nitrate plants outside of the ANSIA, which potentially can be pursued. However, these two sites are located within a 'buffer' area and positioned closer to Old Onslow than originally intended. It is considered that these be removed from the draft *Development Plan*. LandCorp also seeks two Scheme Amendments associated with the draft *Development Plan*:

- Draft Amendment No 17 seeks to zone land in accordance with the ANSIA Structure Plan to 'Strategic Industry' zone and 'Other Purposes – Infrastructure' reserve (Stage 1B). Draft Amendment No. 17 provides an additional area for an additional LNG plant ('Scarborough') and a site for Transient Workforce Accommodation (TWA) in the ANSIA which adjoins the Chevron TWA. Under draft Amendment No. 17, the 'LandCorp' TWA site is proposed to be zoned 'Special Use 2', which is the same as Chevron's TWA site. The provision limiting the use of the site for constructions workers only would also apply. The draft Amendment also includes a statutory linkage to the draft *Development Plan* which ensures that any proponent that develops in Stage 1B must first achieve environmental approval and address social infrastructure contributions associated with Onslow.

ATTACHMENT 13.5 B

- Draft Amendment No. 18 seeks to zone land (Stage 1C) to 'Industry' zone.

ATTACHMENT 13.5 C

Consultation

Chief Executive Officer
Executive Manager, Technical Services
Executive Manager, Western Operations

Referral of draft Amendments No. 17 and 18 along with draft *LandCorp ANSIA Industrial Development Plan* to the following Agencies:

Department of State Development
Department of Planning
Dampier Port Authority
Department of Environment and Conservation
Environment Protection Authority
Main Roads WA
Department of Water
Department of Mines and Petroleum
Department of Transport
Water Corporation

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Horizon Power
Department of Indigenous Affairs
Department of Health
Chevron Australia Pty Ltd

Advertising under the Planning and Development Act and Regulations is a minimum of 42 days. It is anticipated that the statutory advertising requirements would be as follows:

1. One notice in the Western Australian newspaper (the first day of advertising).
2. Three notices in the Pilbara News (the first day of advertising).
3. One notice in the Onslow Telegraph (preferably on the day advertising starts).
4. A3 notice in the Onslow and Tom Price Shire offices, with all reports etc made available (immediately before the day advertising starts).
5. Notice on the Shire's Website, including links to all documentation.
6. Correspondence to be prepared and then sent to all agencies and land owners/leaseholders (e.g. Pastoral Lease holders, Onslow Salt, Mining Lease holders etc) advising them of the draft Amendment and draft Development Plan along with a copy of the documentation (posted before the day advertising starts).

Statutory Environment

Planning and Development Act 2005
Shire of Ashburton Local Planning Scheme No. 7.

Town Planning Scheme amendments are processed in accordance with the Planning and Development Act (2005) and Town Planning Regulations. The decision on whether to initiate an amendment is solely that of Council. Upon adoption by Council the amendment is referred to the Environmental Protection Authority (EPA) after which public advertising of the proposal occurs. After public advertising, Council will consider whether to adopt the amendment for final approval with or without modifications. The final decision on whether to grant final approval to an amendment rests with the Minister for Planning & Infrastructure, acting upon recommendation from the Western Australian Planning Commission.

Environmental Protection Act

Referral to the Environmental Protection Authority (EPA) is required to determine the level of environmental assessment under Part IV Division 3 of the Environmental Protection Act 1986. The EPA can determine that proposed scheme amendments should not be assessed under (EP Act) but nevertheless provided advice and recommendations.

The intent of Amendment No. 17 is that the linkage to the draft LandCorp ANSIA Industrial Development Plan to provide the opportunity for EPA to have surety that the development of the land will be in accordance with the Development Plan even though the area to be zoned Strategic Industry is far greater than the developable area of the Development Plan. In addition, the proposed provisions of Amendment No 17 ensure that no proposed use and development can be considered for planning approval until EPA consent under Section 38 of the EP Act has been granted.

Under the Section 41 of EP Act, decision-making authorities (including the Shire or a JDAP) are not to make any decision that would allow the proposal to be implemented until the EPA's assessment of the proposal and the Minister for the Environment's decision making is complete.

Section 41 of the EP Act would not prevent the advertising or referral of a planning application however it would prevent a decision on an application until the Minister for the Environment determines the environmental assessment. Advertising of Amendments No. 17 and 18 can only commence once the EPA has determined the level of environmental assessment. It is noted that

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should the EPA require modification to Amendment No's 17 or 18, this would require the matter to be referred back to Council for consideration.

Financial Implications

The Shire has calculated the fees charged for assessing the planning scheme amendment and structure plan fees in accordance with those set out in the Planning Regulations, in order to meet the administrative and other costs it incurs as a result of it processing LandCorp's draft amendments and draft *Development Plan*.

Strategic Implications

A new Strategic Industrial Area at Ashburton North will have significant impact upon the Shire and in particular, the strategic direction for Onslow. The Shire supports the direction of the Federal and State governments.

The Shire's Strategic Plan 2007-2011 (Incorporating Plan for the Future) seeks to:

- "1. Diversify & Strengthen the Economy
2. Encourage new industry investment within the Shire."

Also, under the heading "Diversify and Strengthen the Economy" of the Council's Strategic Plan, the following objective is noted:

"New Industry

Measures and Targets

- » Increase in major investment enquiries
- » Increase in building activity
- » Community satisfaction with economic development
- » Increased employment opportunities."

Policy Implications

There are no policy implications relevant to this matter.

Voting Requirement

Simple Majority Required

Council Decision

MOVED: Cr D Wright

SECONDED: Cr A Eyre

That Council:

(A) LANDCORP ANSIA INDUSTRIAL DEVELOPMENT PLAN

1. Subject to:

- i The receipt of comments from the Environmental Protection Authority (EPA) whereby no objection is offered to the draft LandCorp ANSIA Industrial Development Plan; and**
- ii modifications as addressed in the Report along with any other modifications identified by the Chief Executive Officer as being appropriate;**

Council adopts draft LandCorp ANSIA Industrial Development Plan for the purpose of advertising in accordance with sub clauses 5.7.3 and 5.7.4 of the Shire of Ashburton Local Planning Scheme No.7 ('Scheme'). Advertising will be for a minimum period of 42 days and reflect the advertising requirements as outlined in the 'Consultation' section of the Shire Report.

2. Request LandCorp to undertake the modifications as required in 1 (ii) above and that advertising will not commence until the modifications are provided to the Shire and are to the satisfaction of the Chief Executive Officer.

(B) DRAFT LOCAL PLANNING SCHEME AMENDMENT NO. 17

3. In pursuance of Part V of the Planning and Development Act 2005 ("Act"), adopt for community consultation purposes draft Amendment No. 17 ("draft Amendment") to Shire of Ashburton Local Planning Scheme No.7 ("Scheme") that proposes:

- a) Rezoning portion of Lot 152 and portion of Lot 153 Onslow Road and portion of Lots 350, 505, 508, 518, 530, 535 and 536 and Lots 500, 506, 507, 520, 548 and 541 from 'Rural' zone and 'Conservation, Recreation and Natural Landscapes' reserve to 'Strategic Industry' zone and 'Other Purposes – Infrastructure' reserve (excluding the area identified in the draft LandCorp ANSIA Industrial Development Plan as 'Scarborough LNG plant').

- b) Rezoning Portion of Lot 152, Onslow Road from 'Rural' zone to 'Special Use – Transient Workforce Accommodation' zone.

- c) Insert after Clause 6.11.8 of the Scheme the following:

LandCorp ANSIA Industrial Development Plan

6.11.9 For Lot 152 and portion of Lot 153 Onslow Road and portion of Lots 350, 505, 508, 518, 530, 535 and 536 and Lots 500, 506, 507, 520, 548 and 541 zoned 'Strategic Industry' within the Ashburton North Strategic Industrial Area, all development shall be in accordance with LandCorp ANSIA Industrial Development Plan. Works associated with the development of land shall only be undertaken with the written approval of the Local Government in accordance with Part 5 of this Scheme. All other use and development shall not be approved by the Local Government unless consent from the Minister for the Environment has been sought and received.

6.11.10 All use and development shall be in accordance with LandCorp ANSIA Industrial Development Plan.

- d) Amending the Scheme Maps accordingly (excluding the area identified in the draft LandCorp ANSIA Industrial Development Plan as 'Scarborough LNG plant').

4. That as the draft Amendment is in the opinion of the Council consistent with Part V of the Act and regulations made pursuant to the Act, that Amendment No. 17 be advertised for community consultation purposes for a period of 42 days, in accordance with the Town Planning Regulations 1967. The advertising

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is to reflect the requirements as outlined in the 'Consultation' section of the Shire Report.

5. The commencement of the advertising as referred to in 4. above is subject to the modifications as addressed in the Shire Report.
6. Advise LandCorp that it should not be construed that further changes won't required as an outcome of advertising draft Amendment No.17 and submissions received.

(C) DRAFT LOCAL PLANNING SCHEME AMENDMENT NO. 18

7. In pursuance of Part V of the Planning and Development Act 2005 ("Act"), adopt for community consultation purposes draft Amendment No. 18 ("draft Amendment") to Shire of Ashburton Local Planning Scheme No.7 ("Scheme") that proposes:
 - a) Rezoning Portion of Lot 152, Onslow Road from 'Rural' zone to 'Industry' zone.
 - b) Amending the Scheme Maps accordingly.
8. That as the draft Amendment is in the opinion of the Council consistent with Part V of the Act and regulations made pursuant to the Act, that Amendment No. 18 be advertised for community consultation purposes for a period of 42 days, in accordance with the Town Planning Regulations 1967. The advertising is to reflect the requirements as outlined in the 'Consultation' section of the Shire Report.
9. Advise LandCorp that it should not be construed that further changes won't required as an outcome of advertising draft Amendment No.18 and submissions received.
10. Request the Chief Executive Officer to provide a further Report to Council after advertising in relation to finalising draft Amendments No. 17 and 18 and the draft LandCorp ANSIA Industrial Development Plan.
11. Request the Chief Executive Officer to prepare a further Report to Council addressing an Amendment to the Scheme for 'developer contributions' specifically associated with community infrastructure for Onslow.

CARRIED 8/0

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14. OPERATIONS REPORTS

There were no Operations reports for this agenda.

15. COMMUNITY DEVELOPMENT REPORTS

15.1 TOM PRICE COMMUNITY CENTRE - AUTOMATIC DOORS AND FLOOR PLANNING

MINUTE: 11178

FILE REFERENCE: RE.CX.C.42327

AUTHOR'S NAME AND POSITION: Mabel Gough
Community Services Project Officer

NAME OF APPLICANT/
RESPONDENT: Shire of Ashburton

DATE REPORT WRITTEN: 3 April 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in the proposal.

PREVIOUS MEETING REFERENCE: Not Applicable

Summary

The Tom Price Community Centre has two (2) building maintenance requirements that require completion before June 2012 that were not budgeted for in the 2011/12 Annual Budget:

1. Installation of automatic doors (\$15 000.00)
2. Re-polishing of wooden floor boards (\$15 000.00)

It is requested that Council approve these building maintenance requirements/upgrades using funds that were allocated to the Tom Price Civic Centre in the 2011/12 budget.

Background

Staff are currently organising 'automatic doors' for the Tom Price Civic Centre and the Ashburton Hall, Paraburdoo, and we are also organising the re-polishing of the wooden floor boards in the Ashburton Hall, Paraburdoo and the RM Forrest Memorial Hall, Onslow.

There is a requirement to install automatic doors and re-polish floor boards at the Tom Price Community Centre.

Utilising one contractor to undertake similar projects in all three halls is more effective and produces economies of scale (e.g. reduced airfare costs).

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Funding is available from the Tom Price Civic Centre Budget.

Comment

Automatic doors installed the Community Centre will improve access and increase security. It is the only hall in Tom Price without an automatic door.

The Community Centre has the highest amount of use within our Shire and the floor boards need re-polishing. Repolishing the floor boards will extend the life of the floor boards and provide a fresh look to the venue.

Consultation

Consultation has taken place with:

- Shire of Ashburton - Executive Manager Community Development
- Shire of Ashburton - Maintenance Manager
- Shire of Ashburton – Building Maintenance Coordinator
- Shire of Ashburton – Executive Manager Corporate Services

Statutory Environment

Section 6.2 Local Government Act 1995

Financial Implications

The Tom Price Civic Centre has two capital expenditure accounts, Job BC327 \$40,000 and Job GE004 \$220,000.

GE004 is fully funded by a Royalties for Regions Grant and there are sufficient funds to complete the necessary works at the Civic Centre.

This means the funds from Job BC327 can be reallocated to Community Centre works. \$40 000.00 allocated to BC327 was allocated towards toilet plumbing at the Tom Price Civic Centre however these costs were consumed under GE004 and general building maintenance code B32

Strategic Implications

Strategic Objective 2 – Include and Engage our Community, Project 5 – Ensure community facilities are developed and maintained to a standard commensurate with community expectations and affordability.

Policy Implications

Nil

Voting Requirement

Absolute Majority Required

Council Decision

MOVED: Cr A Eyre

SECONDED: Cr C Fernandez

That Council reallocates \$30, 000.00 from Job BC327 to BC329 Tom Price Community Centre for the installation of automatic doors and floor re-polishing at the Tom Price Community Centre.

CARRIED BY ABSOLUTE MAJORITY 8/0

**16. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY
DECISION OF MEETING**

Council Decision

MOVED: Cr A Eyre

SECONDED: Cr I Dias

That Council considers the following New Business of an Urgent Nature:

- 16.1 DSD ADVICE – ALTERNATIVE TO HOOLEY CREEK ACCESS**
16.2 CARRYING OUT OF S.56 ('CERTIFICATE OF CONSTRUCTION COMPLIANCE') AND S58. ('GRANT OF OCCUPANCY PERMIT, BUILDING APPROVAL CERTIFICATE') OF THE *BUILDING ACT 2011*

CARRIED 8/0

**16.1 DEPARTMENT OF STATE DEVELOPMENT ADVICE - ALTERNATIVE TO
HOOLEY CREEK ACCESS**

MINUTE: 11164

FILE REFERENCE: PS.TP.7.10

AUTHOR'S NAME AND POSITION: Rob Paull
Principal Town Planner

**NAME OF APPLICANT/
RESPONDENT:** Department of State Development (DSD)

DATE REPORT WRITTEN: 12 April 2012

**DISCLOSURE OF FINANCIAL
INTEREST:** The author has no financial interest in the proposal.

**PREVIOUS MEETING
REFERENCE:** Whilst there has not been a specific report in relation to Hooley Creek, the following Items were associated with the ANSIA Strategic Industrial Area:

Agenda Item 13.10, Minute No. 11120 Ordinary Meeting of Council 15 February 2012

Agenda Item 9.1 Special Meeting of Council 5 October 2011

Agenda Item 13.07.55 Ordinary Meeting of Council 20 July 2011

Agenda Item 16.06.36 Ordinary Meeting of Council 15 June 2011

Item 16.03.04 Ordinary Meeting of Council 16 March 2011

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Agenda Item 13.02.02 Ordinary Meeting of Council 16 February 2011
Agenda Item 13.12.74 Ordinary Meeting of Council 15 December 2010
Agenda Item 14.12.20 Ordinary Meeting of Council 16 December 2008
Agenda Item 13.03.03 Ordinary Meeting of Council 17 March 2009
Agenda Item 13.10.63 Ordinary Meeting of Council 27 October 2009
Agenda Item 13.12.89 Ordinary Meeting of Council 15 December 2009
Agenda Item 13.07.38 Ordinary Meeting of Council 21 July 2010
Agenda Item 13.10.61 Ordinary Meeting of Council 20 October 2010

Summary

The community currently has access to a site near the mouth of Hooley Creek by traversing existing tracks in the south eastern corner of Urala Station.

The Shire of Ashburton Local Planning Scheme No. 7 and Ashburton North Strategic Industrial Area Structure Plan include provisions that require an equivalent access in lieu of the current informal access to Hooley Creek.

DSD has provided advice as to the progress of achieving 'unlimited' access to an alternate site. DSD propose to establish access to the western banks of the Ashburton River and to Secret Creek by way of an agreement with BHPB which would provide ongoing public access to the tracks and be immediately established. DSD recommend that there be a review in 12 months to evaluate the impact of the access, as well as the effectiveness of the signage and any fencing requirements to limit unauthorised access to other areas of Urala Station.

DSD's investigations would allow it to follow through with its community consultation process to establish whether the western banks of the Ashburton River and to Secret Creek as an alternative to Hooley Creek is acceptable to the Onslow community. Until the views of the community are established and unfettered access is confirmed, the Shire is unable to determine whether the Scheme and Structure Plan provisions have been complied.

On the basis of the DSD advice, it would not be possible for the Shire to allow closure of community access to Hooley Creek until the above is achieved.

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Background

The community currently has access to a site near the mouth of Hooley Creek by traversing existing tracks in the south eastern corner of Urala Station. Appendix 11 to the Shire of Ashburton Local Planning Scheme ('Scheme') states:

- "r) Should Hooley Creek be unavailable for the community to freely access, suitable alternative arrangements providing unlimited community access to the coast shall be determined;"*

To reinforce this requirement, the "*Ashburton North Strategic Industrial Area Structure Plan*" requires the provision of an equivalent access in lieu of the current informal access to Hooley Creek, stating:

"Prior to the issue of any planning approval that, as a result such approval, limits community access to Hooleys Creek and/or approval of a development plan(s), the Department of State Development (DSD) will provide evidence to the Shire that unlimited community access to the coast at a site similar to Hooley Creek has been established to the satisfaction of the Shire."

It is also noted that the decision of the Development Assessment Panel in 30 November 2011 in relation to Chevron Australia's 'limited' development application included the following condition and advice note:

Hooley Creek Access

- "3. Without the further written consent from the Chief Executive Officer of the Shire of Ashburton, community access to Hooley Creek will not be restricted in any form."*

"Advise the Applicant as follows:

- I. In relation to Condition No. 3, it is noted that Chevron Australia Pty Ltd has advised in correspondence to the Shire of Ashburton dated 10 October 2011 and endorsed to this Planning Approval that the development will not restrict community access to Hooley Creek."*

Clearly, the progress of the alternate site vital to the establishment of the Wheatstone LNG Plant and the Dampier Port Authority's port.

At the Council meeting of February 2012, Council addressed the "*Chevron Development Plan*" where it also addressed the issue of alternate access to Hooley Creek. Council's resolution in relation to Hooley Creek was as follows:

- "2. Request the Chief Executive Officer to:*
c) write to the Department of State Development seeking an update as to the progress of alternatives to Hooley Creek."

Proposal

DSD has provided the Shire with correspondence advising how it has addressed the requirements of the Scheme, Structure Plan and Council's resolution of February 2012.

ATTACHMENT 16.1

Essentially, DSD has undertaken community consultation where Secret Creek (the area along the western banks of the Ashburton River) was considered to be an acceptable alternate site to Hooley Creek. DSD propose to establish access to the western banks of the Ashburton River and to Secret Creek by way of an agreement with BHPB which would provide ongoing public access to the tracks and be immediately established. DSD propose that the Shire in conjunction with the Urala Station Manager, monitor the community's use of the track and ensure that rubbish and other impacts are kept to a minimum. However DSD recommend that there be a review in 12 months to evaluate the

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impact of the access, as well as the effectiveness of the signage and any fencing requirements to limit unauthorised access to other areas of Urala Station.

Comment

DSD's investigations would allow it to follow through with its community consultation process to establish whether the western banks of the Ashburton River and to Secret Creek as an alternative to Hooley Creek is acceptable to the Onslow community.

Until the views of the community are established and unfettered access is confirmed, the Shire is unable to determine whether the Scheme and Structure Plan provisions associated with an alternative to Hooley Creek has been complied.

Importantly, it would not be possible for the Shire to accept closure of community access to Hooley Creek until the above is achieved.

It would also be appropriate to advise DSD that the Shire is not willing to accept any cost in relation to establishing an alternative to Hooley Creek. In this regard, it is considered that either the State or Chevron Australia should be responsible for any costs associated with achieving and developing unfettered access to the alternative site.

Consultation

Chief Executive Officer
Executive Manager, Technical Services
Executive Manager, Western Operations

Statutory Environment

Planning and Development Act
Land Administration Act

Financial Implications

The advice from DSD doesn't necessarily lead to any financial outlay by the Shire or the Onslow community. However, the DSD correspondence does appear to open the Shire to some degree of cost in relation to road access, fencing etc. The recommendation seeks to ensure that as an outcome of finding an alternative to Hooley Creek, that the Shire should not incur any costs.

Strategic Implications

A new Strategic Industrial Area at Ashburton North will have significant impact upon the Shire and in particular, the strategic direction for Onslow. The Shire supports the direction of the Federal and State governments.

The Shire's Strategic Plan 2007-2011 (Incorporating Plan for the Future) seeks to:

- "1. Diversify & Strengthen the Economy*
- 2. Encourage new industry investment within the Shire."*

Also, under the heading "Diversify and Strengthen the Economy" of the Council's Strategic Plan, the following objective is noted:

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Council Decision

MOVED: Cr L Shields

SECONDED: Cr A Eyre

That Council:

1. With respect to correspondence received from the Department of State Development (DSD) dated 5 April 2012 in relation to its efforts in determining an alternative to Hooley Creek, request the Chief Executive officer to advise DSD as follows:
 - a) Thank DSD for its correspondence and efforts in pursuing an alternative to Hooley Creek.
 - b) That Council is not in a position to comment on the suitability of the western banks of the Ashburton River and to Secret Creek as an alternative to Hooley Creek until DSD completes its community consultation with the broader Onslow community.
 - c) Invites DSD to inform Council on the outcomes of the further community consultation.
 - d) Until the views of the community are established and (assuming the site location is confirmed) unfettered access is confirmed, the Shire is unable to determine whether the Scheme and Structure Plan provisions associate with an alternative to Hooley Creek has been complied. Until this is undertaken, it is not possible for the Shire to accept closure of community access to Hooley Creek.
 - e) That Council is not willing to accept any cost in relation to establishing an alternative to Hooley Creek. In this regard, it is considered that either the State or Chevron Australia should be responsible for any costs associated with achieving and developing unfettered access to the alternative site.
2. That the Chief Executive Officer provide Chevron Australia and Dampier Port Authority with a copy of the correspondence to DSD.

CARRIED 8/0

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Janyce Smith left the meeting at 4.57 pm.
Janyce Smith re-entered the meeting at 4.59 pm.

16.2 CARRYING OUT OF S.56 ('CERTIFICATE OF CONSTRUCTION COMPLIANCE') and S58. ('GRANT OF OCCUPYING PERMIT, BUILDING APPROVAL CERTIFICATE') OF THE BUILDING ACT 2011

MINUTE: 11165

FILE REFERENCE: LE.AC.21.00

AUTHOR'S NAME AND POSITION: Rob Paull
Principal Town Planner

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 13 April 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in the proposal.

PREVIOUS MEETING REFERENCE: Agenda Item 13.1, Minute No. 11048 Ordinary Meeting of Council 19 October 2011

Summary

The Building Act 2011 came into effect on the 2nd April 2012. Sections 56 and 58 of the Building Act place certain obligations on the Local Government with respect to issuing certificate of construction compliance certifying that a building has been constructed in accordance with the Building Permit.

The Shire is concerned that a building surveyor cannot properly sign such a certificate unless he/she has directly inspected every stage of construction of the building work that the Building Surveyor knows that it complies. In practical terms, this is not possible within the operating area of the Shire of Ashburton. Preliminary legal advice received by the Shire confirms this view. Accordingly, the Shire is not willing to sign certificates of construction compliance pursuant to s.56 of the Building Act until the matter has been addressed by the State Government's Building Commission.

Background

In June 2011, the State Parliament passed the final bill (*Building Act 2011*) which came into effect on the 2nd April 2012. The *Building Act 2011* reforms the building approval process and will introduce significant changes for local governments. One of the most significant changes is the introduction of private certification of building applications. Though local government building services units continue to provide certifying services, this process is now open to private certifiers. Consumers now have the option of engaging the services of a private building certifier.

Section 56 ('Certificate of construction compliance') and S.58 ('Grant of occupancy permit, building approval certificate') of the *Building Act 2011* place certain obligations on the Local Government

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with respect to issuing certificate of construction compliance certifying that the building has been constructed in accordance with the approved plans.

ATTACHMENT 16.2

The primary purpose of the certificate of construction compliance appears to be to satisfy the Local Government as the "Permit Authority" that the building has been completed in accordance with the plans and specifications and the conditions of the building permit, and that the building is suitable for use so that it can then issue an Occupancy Permit under s.58.

Comment

The Shire is concerned that a building surveyor cannot properly sign such a certificate unless he/she has directly inspected every stage of construction of the building work that the Building Surveyor knows that it complies. In practical terms, this is not possible within the operating area of the Shire of Ashburton.

Accordingly, the Shire has sought legal advice from the Shire's solicitor on carrying out the certificate of construction compliance process required under s.56.

The preliminary legal response is as follows:

- It would be unwise for the Shire's building surveyor to sign certificates of construction compliance on the basis that it would be quite incongruous for the Shire's building Surveyor to sign that certificate so that he can then issue the Occupancy Permit.
- The object of the exercise is for the Local Government to be able to rely on evidence that the building complies with the requirements. If the building surveyor signs the certificate providing that evidence the purpose of the certificate is nullified.
- The building surveyor cannot properly sign such a certificate unless he has kept such a close eye on the building work that he knows that it complies. In practical terms, that is just fanciful.
- One of the primary purposes of the certification is to allow the public to be confident that buildings are safe and properly designed and built so that they continue to be safe over the term of their existence. The certifier must expect to be relied on by the public and therefore is at risk if the certificate turns out to be incorrect or defective – perhaps many years after the date on which it is signed. There are obvious liability issues for the Shire which has been increased by the regime enacted by the new Act.
- The Shire should give serious consideration to that issue and the cover provided by its public liability insurance (which is an industry wide issue).

The Shire has advised its insurers of the issue and depending upon its response, further legal advice may be required. Once this is determined, the Shire will air its concerns with the State Government's Building Commission requesting that it move to resolve the matter. In the meantime, the Shire is not willing to sign certificates of construction compliance pursuant to s.56 of the Building Act. Builders do have an option of seeking other qualified building surveyors to sign the certificates of construction compliance however they will face the risk of liability and not the Shire.

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Conclusion

Clearly the Building Commission will need to resolve the matter as it is understood that many other local governments have the same concerns as expressed in this Report and are also likely not to issue certificates of construction compliance. A further report will be provided to Council once both a response from the Shire's insurer is received and the Building Commission responds to future Shire correspondence (as an outcome from the insurer's position).

Consultation

Chief Executive Officer
Executive Manager, Technical Services
Shire's Solicitor
Shire's Insurer

Statutory Environment

Building Act

Financial Implications

Whilst the position of the Shire has no direct financial implications beyond the cost of legal advice, should the Shire ignore advice from the Shire's solicitor and direct the building surveyor to sign certificates of construction compliance, then it is likely that at some stage in the future some issue of liability will arise. This could be very costly depending on the issue at large.

Strategic Implications

There are no strategic implications relevant to this matter.

Policy Implications

There are no policy implications relevant to this matter.

Voting Requirement

Simple Majority Required.

Council Decision

MOVED: Cr L Shields

SECONDED: Cr A Eyre

That Council:

1. **Note the Shire Report.**
2. **Request the Chief Executive Officer (CEO) to:**
 - **advise the community via the Shire's Website of the Shire's position with respect to the signing of certificates of construction compliance under s. 56 of the Building Act 2011;**
 - **directly advise building, development and other companies as the CEO deems appropriate of the Shire's position with respect to the signing of certificates of construction compliance under s. 56 of the Building Act 2011; and**
 - **provide Council with a further report once both a response from the Shire's insurer is received and the Building Commission responds to future Shire correspondence (as an outcome from the insurer's position).**

CARRIED 8/0

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18. COUNCILLOR AGENDA ITEMS

18.1 STRATEGIC ISSUES - PILBARA REGIONAL COUNCIL (P.R.C.) 2012/2013 OPERATIONAL PLAN

MINUTE: 11182

FILE REFERENCE: OR.IG.03.08

COUNCILLOR'S NAME: Cr L Thomas

DATE REPORT WRITTEN: 8 March 2012

DISCLOSURE OF FINANCIAL INTEREST: Cr Thomas has no financial interest in this matter.

Issue

Schedule for preparation of PRC 2012-13 Operational Plan has commenced in order to coincide with Member Councils 2012-13 budget preparation.

1. The 4 Loc. Gov. CEO's review the Regional Business Plan prepared by KPMG with their Executive team and identify projects from the Regional Business Plan, plus any additional projects which could be undertaken by P.R.C. The identified projects shall be workshopped with Councillors, and ideally should align with each Council's Operational Plan.
2. *A workshop with PRC Councillors and member CEO's will be held from 11.30 am to 2 pm on Friday 30 March to review the PRC Strategic Plan and the projects suggested by the Member Councils.*
3. A draft PRC Operational Plan and budget will be prepared following the workshop. Any changes to the draft plan will be made in April, prior to going to each Member Council for approval prior to 30 June 2012.
4. Once the project and budget have been approved by each Member Council the Operational Plan and Budget will be submitted for approval at the 27 August 2012 P.R.C. meeting in order to meeting compliance requirement.

PRC Project – Pilbara Connections

Cliff Winfield and Associates (CWA) have been appointed by P.R.C. to deliver the Royalties for Regions seed-funded enhancement of nature-based day visit, camping and overnight stops at a range of coastal and inland locations across four Pilbara municipalities.

Pilbara Connections stage one is mostly funded by a \$2.7 million grant from the WA Gov's Royalties for Regions program. However, to fully implement the project, that seed funding needs to grow by at least three-fold.

CWA have applied for funds for planning a boat trailer park at the current boat launch at Cleaverville and will be applying for funds to develop interpretive trails at Cape Keraudren, Cleaverville and 40 Mile.

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Priority works for stage one, endorsed by the steering group. Port Hedland: De Grey station sites – Shellborough / Condon / Tichla. Shire of East Pilbara: Cape Keraudren. Shire of Roebourne: Cleaverville and possibly 40 Mile / Gnoorea Point. Shire of Ashburton: Information Bays at either end of Karijini Drive and Onslow turn off.

WA Planning Commission are advocating a regional coastal management strategy similar to Ningaloo, and see that P.R.C. is the ideal vehicle to seek funding.

The project steering group consist of representatives of the four LGA's plus MRWA and PDC. The representatives are:

Jenella Voitkevich – TOPH, Manager Infrastructure Development

David Pentz – Shire of Roebourne, Director Development Regulatory & Infrastructure Service

Allen Cooper – CEO SOEP

Amanda O'Halloran – SoA, Executive Manager, Strategic & Economic Development

Gary Player – Regional Manager MRWA, Pilbara

Felicity Gilbert – PDC, Assistant Direction Regional Development

Shelley Pike – PRC, CEO

Claire Ditri – Pilbara Cities, Principal Project Officer, Community Projects and Engagement.

It is an expectation that greater benefit to the Shire would result from simultaneous development of the Regions N.W. coastline. This would encourage future joint promotion of a Regional N.W. recreational / tourist attraction, which could prove popular with FI/FO employees.

Councillor Recommendation

It is an expectation that greater benefit to the Shire would result from simultaneous development of the Regions N.W. coastline. This would encourage future joint promotion of a Regional N.W. recreational / tourist attraction, which could prove popular with FI/FO employees.

Towards that initiative it is proposed that Shire of Ashburton Representative on the project steering group nomination be Cr A Eyre replacing Amanda O'Halloran, Executive Manager, Strategic and Economic Development, and Cr L Thomas as deputy.

Voting Requirement

Simple Majority Required

Council Decision

MOVED: Cr C Fernandez

SECONDED: Cr L Shields

Shire of Ashburton Representative on the project steering group nomination be Cr A Eyre replacing Amanda O'Halloran, Executive Manager, Strategic and Economic Development, and Cr L Thomas as deputy.

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Council Decision

MOVED: Cr L Shields

SECONDED: Cr A Eyre

That Council lay this item on the table until further information can be obtained regarding the committee structure for the Pilbara Connections Project.

CARRIED 8/0

17. CONFIDENTIAL REPORTS

Under the Local Government Act 1995, Part 5, and Section 5.23, states in part:

(2) If a meeting is being held by a Council or by a committee referred to in subsection (1)(b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:

- (a) a matter affecting an employee or employees;*
- (b) the personal affairs of any person;*
- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
- (e) a matter that if disclosed, would reveal:*
 - (I) a trade secret;*
 - (II) information that has a commercial value to a person; or*
 - (III) information about the business, professional, commercial or financial affairs of a person,*

Where the trade secret or information is held by, or is about, a person other than the local government.

- (f) a matter that if disclosed, could be reasonably expected to:*
 - (I) Impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
 - (II) Endanger the security of the local government's property; or*
 - (III) Prejudice the maintenance or enforcement of any lawful measure for protecting public safety;*
- (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1981; and*
- (h) such other matters as may be prescribed.*

Council Decision

MOVED: Cr A Eyre

SECONDED: Cr C Fernandez

That Council adjourn for a break at 5.30 pm.

CARRIED 8/0

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Council Decision

MOVED: Cr L Shields

SECONDED: Cr I Dias

That Council reconvened the meeting at 5.40 pm.

CARRIED 8/0

Council Decision

MOVED: Cr A Eyre

SECONDED: Cr C Fernandez

That Council close the meeting to the public at 5.40 pm pursuant to sub section 5.23 (2) (a) and (b) of the Local Government Act 1995.

CARRIED 8/0

17.3 CONFIDENTIAL ITEM - WITTENOOM LITIGATION

MINUTE: 11179

FILE REFERENCE:

OR.MT.2
AS.WI.002.00

**AUTHOR'S NAME AND
POSITION:**

Keith Pearson
Special Project Advisor

**NAME OF APPLICANT/
RESPONDENT:**

Not Applicable

DATE REPORT WRITTEN:

9 April 2012

**DISCLOSURE OF FINANCIAL
INTEREST:**

The author has no financial interest in the proposal.

**PREVIOUS MEETING
REFERENCE:**

Confidential Agenda Item 17.1. Ordinary Meeting of Council,
14 December 2011.

Council Decision

MOVED: Cr A Eyre

SECONDED: Cr C Fernandez

That Council resolve to adopt the officer's recommendation as set out in Confidential Agenda Item - Wittenoom Litigation.

CARRIED BY ABSOLUTE MAJORITY 8/0

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17.1 CONFIDENTIAL ITEM - CEO CONTRACT CORRECTION

MINUTE: 11180

FILE REFERENCE:

JA.002
OR.MT.2

AUTHOR'S NAME AND
POSITION:

Jeffrey Breen
Chief executive Officer

NAME OF APPLICANT/
RESPONDENT:

Jeffrey Breen

DATE REPORT WRITTEN:

12 March 2012

DISCLOSURE OF FINANCIAL
INTEREST:

The author has an interest in this agenda item being one party to the contract.

PREVIOUS MEETING
REFERENCE:

Agenda Item 16.07.08 Ordinary Meeting of Council 13 July 2010
Agenda Item 16.12.15 Ordinary Meeting of Council 15 December 2010
Agenda Item 16.03.05 Ordinary Meeting of Council 16 March 2011

Council Decision

MOVED: Cr L Rumble

SECONDED: Cr I Dias

That Council

1. a) Instruct Freehills to develop a new Employment Contract, in consultation with the CEO, encompassing:
 - correct terms (dates) of the Contract
 - inclusive of Performance Indicators
 - inclusive of termination clause which adheres to the Local Government (Administrations) Regulations 1996 (WA)
 - and also to address any other errors
- b) This the above mentioned consultation is conducted in a timely manner to enable the new contract to be presented at the Council Meeting of 16 May 2012.
2. Request Freehills to draft a letter for the Shire President to sign, informing WALGA's CEO of our proposed actions and timeframes.

CARRIED 8/0

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17.2 CONFIDENTIAL ITEM - CEO PERFORMANCE REVIEW

MINUTE: 11181

FILE REFERENCE: OR.MT.2

AUTHOR'S NAME AND POSITION: Jeffrey Breen
Chief Executive Officer

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 2 February 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has financial interest in the agenda item.

PREVIOUS MEETING REFERENCE: Ordinary Meeting of Council 15 February 2012
Ordinary Meeting of Council 15 December 2010
Ordinary Meeting of Council 16 March 2011
Ordinary Meeting of Council 19 October 2011

Council Decision

MOVED: Cr L Shields **SECONDED:** Cr A Eyre

That Council:

1. Raise this item from the table.
2. Accept the CEO Key performance Indicators. As Attached
3. Agrees that an interview in accordance with Clause 4 of the CEO's contract be undertaken on the 20 June 2012, at Paraburdoo with the Performance Review Panel consisting of Crs Shields and Wright, any other Councillors that wish to take part and a facilitator.
4. Requires the CEO to provide a written report in accordance with Clause 4.4 (a) to all Councilors by COB 8 June 2012.
5. Adopts appropriate process and timetable for future performance reviews as part of the midyear review in June 2012.

ACTIVITY	BY WHEN	WHO	COMMENT
Annual Review Date	15 th December		
Establish Performance Review Panel (PRP) and place and time of interview	November Council Meeting	Full Council	Review annually
Report by CEO on	December 31st each	CEO	To be provided to

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year's performance	year		all Councilors
Appoint facilitator for interview	December 31st each year	CEO, Shire president or nominee	
Conduct Interview	3 rd Wednesday of January	PRP	
Discuss KPIs for following year	3 rd Wednesday of January	CEO and PRP	
Agreement on report by PRP and CEO	January 31st		
Completion and sign off of report	January 31st	CEO and Shire President or nominee	
Report to Council	February Ordinary Meeting of Council	Shire President	
Mid Year Review	15 th June		
Review of performance against agreed KPIs	June Ordinary Meeting of Council day workshop	All councilors	Informal review with CEO and Councilors

6. Directs the Chief Executive Officer to engage an independent consultant to advise Council on the Performance Review.

CARRIED 8/0

Council Decision

MOVED: Cr A Eyre

SECONDED: Cr D Wright

That Council re-open the meeting to the public at 6.30 pm pursuant to sub section 5.23 (2) (a) and (b) of the Local Government Act 1995.

CARRIED 8/0

The meeting was re-opened to the public at 6.30 pm.

19. NEXT MEETING

The next Ordinary Meeting of Council will be held on 16 May, at the Council Chambers, Tom Price Recreation Centre, commencing at 1.00 pm.

20. CLOSURE OF MEETING

The Shire President closed the meeting at 6.30 pm.