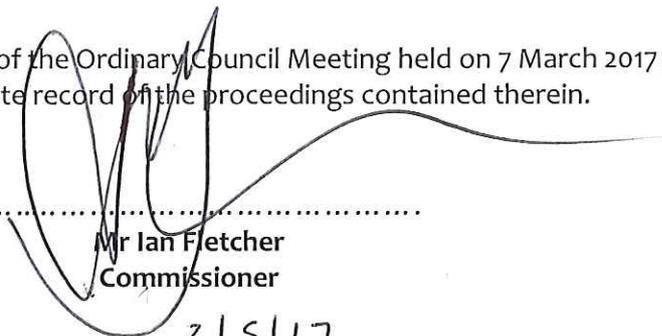


Ordinary Council Meeting
Minutes
7 March 2017

CONFIRMATION OF MINUTES

I hereby certify that the Minutes of the Ordinary Council Meeting held on 7 March 2017 are a true and accurate record of the proceedings contained therein.


.....
Mr Ian Fletcher
Commissioner

.....
21/3/17
.....

Dated

DISCLAIMER

The advice and information contained herein is given by and to the Council without liability for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

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Signed at Exmouth

(K Woodward), Acting Chief Executive Officer Shire of Exmouth

INDEX OF MINUTES

1.	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	5
2.	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	5
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	6
4.	PUBLIC QUESTIONS TIME	6
5.	DECLARATIONS OF INTEREST	6
6.	APPLICATIONS FOR LEAVE OF ABSENCE	6
7.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS	7
8.	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION	7
9.	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS	7
10.	MATTERS ARISING FROM COMMITTEES OF COUNCIL	7
11.	EXECUTIVE SERVICES	8
11.1	LOCAL GOVERNMENT ORDINARY ELECTIONS - 2017	8
11.2	SHIRE OF EXMOUTH STRATEGIC COMMUNITY REFERENCE GROUP	11
11.3	DISCONTINUATION OF VEHICLE LICENCE CONCESSION	14
11.4	BITUMEN ROAD SEALING ASSET PRESERVATION	16
12	CORPORATE SERVICES	19
12.1	LIST OF ACCOUNTS FOR PERIOD ENDING 28 FEBRUARY 2017	19
12.2	ENGAGEMENT OF SELECTION PANEL AND APPOINTMENT OF AN EXECUTIVE RECRUITMENT AGENCY	21
13	COMMUNITY ENGAGEMENT	24
14	HEALTH & BUILDING SERVICES	25
15	TOWN PLANNING SERVICES	26
15.1	SEA CONTAINERS – LOT 862 (15) MCLEOD STREET, EXMOUTH	26
15.2	RETROSPECTIVE SEA CONTAINER – LOT 854 (66) MURAT ROAD, EXMOUTH	34
15.3	RETROSPECTIVE SEA CONTAINER – LOT 858 (160) MCLEOD STREET, EXMOUTH.....	42
16	ENGINEERING SERVICES	50
17.	ITEMS FOR INFORMATION ONLY	51
17.1	REGISTER OF DOCUMENTS STAMPED WITH THE SHIRE OF EXMOUTH COMMON SEAL	52
17.2	CONCESSIONS ON FEES FOR COUNCIL FACILITIES FOR FEBRUARY 2017	53
17.3	BUILDING DECISIONS ISSUED UP TO 28 FEBRUARY 2017	54
17.4	PLANNING DECISIONS ISSUED UP TO 28 FEBRUARY 2017	55
18.	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	57
19.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	57
20.	MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS	58
20.1	LEGAL OPINION REGARDING EXECUTIVE MANAGEMENT AND THE CCC INVESTIGATION, SHIRE POLICY AND CONTRACTS OF EMPLOYMENT	58

21. CLOSURE OF MEETING..... 59

ORDINARY COUNCIL MEETING MINUTES

Our Vision

To support and develop a vibrant, welcoming community that embraces its past, values its present and plans for a sustainable future

Our Purpose

To responsibly provide governance for the whole community in the best interest of current and future generations

Our Strategic Objectives

- To provide sustainable management of the organisation
- To consistently apply the principles of Good Governance
 - To communicate effectively
 - To promote socioeconomic development
 - To value our environment and heritage

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Commissioner opened the meeting at 4.30 pm.

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Mr I Fletcher AM JP	Commissioner
Mr K Woodward	Acting Chief Executive Officer
Mrs S O'Toole	Executive Manager Corporate Services
Mr R Kempe	Executive Manager Community Engagement
Mr R Manning	Executive Manager Health and Building
Mr R Mhasho	Executive Manager Town Planning
Ms T Ryan	Minute Clerk

GALLERY

Visitors 6

APOLOGIES Nil

LEAVE OF ABSENCE Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

The following question by James Roscic was taken on notice at the Ordinary Council Meeting held on the 14 February 2017.

Question

Can you please tell me the total expenditure on alcohol for the 16/17 & 15/16 financial years? Will the answer include credit card expenditure as well as accounts?

Answer

- *A review of expenditure on alcohol has highlighted \$33,830 has been spent over the last two years.*
- *\$4,675 alone had been spend at the Duxton Hotel in Perth.*
- *To put into perspective, this expenditure for alcohol equates to approximately \$18.36 over the 2 years, per ratepayer.*

With the recent introduction of a new council policy making the workplace alcohol free, such expenditure will not occur in the future.

4. PUBLIC QUESTIONS TIME

In accordance with section 5.24 of the Local Government Act 1995, a 15 minute public question time is made available to allow members of the public the opportunity of questioning Council on matters concerning them.

Council Consideration Towards Public

When public questions necessitate resolutions of Council, out of courtesy and at the President discretion the matter is to be dealt with immediately to allow the public to observe the determination of the matter (obviates the need for the public to wait an undetermined period of time).

When a matter is listed on the Agenda and member/s of the public are in attendance to observe the determination of the matter, out of courtesy and at the discretion of the President the matter is to be brought forward on the agenda and dealt with immediately to allow the public to observe the determination of the matter (again this obviates the need for the public to wait an indeterminate period of time).

5. DECLARATIONS OF INTEREST

Item/Description	Name	Detail of Interest	Extent of Interest
Nil			

6. APPLICATIONS FOR LEAVE OF ABSENCE

The Local Government Act 1995 (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council.

Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for leave of absence.

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

That the Minutes of the Ordinary Meeting of the Shire of Exmouth held on the 14 February 2017 be confirmed as a true and correct record of proceedings.

COUNCIL RESOLUTION

ITEM 7

Res No: 01-0317

That the Minutes of the Ordinary Meeting of the Shire of Exmouth held on the 14 February 2017 be confirmed as a true and correct record of proceedings.

Moved: Keith Woodward

Seconded: Sue O'Toole

CARRIED 1/0

8. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

The Commissioner was in Albany last week. The purpose of the visit was to meet with the City of Albany to discuss the National ANZAC Centre which they operate. This was with a view to gaining an insight into its functions, staffing and business model because at this stage there is not one for the Ningaloo Centre.

The Commissioner also advised that the Director/CEO of the WA Museum, Mr Alec Coles and Mr James Dexter were in Exmouth to advise on appropriate uses of and planning for the occupation of the Ningaloo Centre. It was Mr Coles first visit to Exmouth.

9. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil

10. MATTERS ARISING FROM COMMITTEES OF COUNCIL

Nil

11. EXECUTIVE SERVICES

11.1 LOCAL GOVERNMENT ORDINARY ELECTIONS - 2017

File Reference:	GV.CM.0
Responsible Officer:	Chief Executive Officer
Date of Report:	21 February 2017
Applicant/Proponent:	WA Electoral Commission
Disclosure of Interest:	Nil
Attachment(s):	1. WAEC Letter dated 24 November 2016

PURPOSE

This report recommends that Council authorise the Western Australian Electoral Commission (WAEC) to conduct the 2017 ordinary local government elections.

BACKGROUND

2017 is the year for biennial elections for all local governments throughout the State, with the election date being 21 October 2017. For the Shire of Exmouth, two (2) Councillor positions will become vacant, with the third already vacant due to the previous resignation of Councillor Todd in 2016. Those Councillors, whose term expires on 21 October, 2017 are:-

1. Cr Hood
2. Cr Shales

The option exists for a postal election through the WAEC to be conducted for this 2017 election. This has been the basis for elections for some years in Exmouth, instead of conducting the election as an in-person election.

COMMENT

The total voter response for postal elections is approximately 50% in comparison to the average response rate of between 10-40% for an in-person election.

CONSULTATION

Western Australian Electoral Commission

STATUTORY ENVIRONMENT

The *Local Government Act 1995* provides for Council to resolve to conduct elections by postal voting and if so, for the WAEC to undertake that task on Council's behalf. The WAEC therefore has to appoint a Returning Officer to conduct the election.

Before the Council can appoint the Electoral Commissioner (EC) as being responsible for the conduct of the election, the Council must first obtain the written agreement of the EC; this has been pre-empted by the Commissioner and has been received in a letter dated 24 November 2016 (Attachment 1).

The process for Council to follow in terms of appointing the EC to be responsible for the conduct of elections and for the elections to be postal elections is as follows:

- Council must resolve in the first instance to request the EC to conduct the 2017 biennial elections (Sect 4.20(4) of the *Local Government Act*); and
- Council in the second instance, must resolve that the method of conducting the election will be as a postal election (Sect 4.61(2) of the *Local Government Act*).

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The cost estimate provided by the WA Electoral Commission to conduct the 2017 election is \$17,500.00 including GST. This is based on 1,750 electors, a voter response rate of approximately 50%, three (3) vacancies with counting to be conducted in Exmouth. The cost estimate does not include non-statutory advertising, one local government staff member involved in polling on election day or any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns.

The cost per elector equates to approximately \$10.30.

A provision will be made in the 2017/2018 budget for this expenditure.

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

- Civic Leadership: 4 To work together as custodians of now and the future.
- 4.1 *To be a collaborative community with the capacity to manage the current and future direction of Exmouth.*
- 4.2 *A local government that is respected, professional, trustworthy and accountable.*

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

ITEM 11.1

That Council:

1. Declare, in accordance with section 4.20 (4) of the *Local Government Act 1995*, the WA Electoral Commissioner to be responsible for the conduct of the 2017 ordinary elections together with any other elections or polls which may also be required; and
2. Decide, in accordance with section 4.61 (2) of the *Local Government Act 1995*, that the method of conducting the 2017 election will be as a postal election.

The Commissioner added the postal votes would be sent to a Post Office Box in Perth.

COUNCIL RESOLUTION**ITEM 11.1****Res No: 02-0317****That the Commissioner:**

- 1. Declare, in accordance with section 4.20 (4) of the *Local Government Act 1995*, the WA Electoral Commissioner to be responsible for the conduct of the 2017 ordinary elections together with any other elections or polls which may also be required; and**
- 2. Decide, in accordance with section 4.61 (2) of the *Local Government Act 1995*, that the method of conducting the 2017 election will be as a postal election.**

CARRIED 1/0

11.2 SHIRE OF EXMOUTH STRATEGIC COMMUNITY REFERENCE GROUP

File Reference:	CR.CO.0
Responsible Officer:	Chief Executive Officer
Date of Report:	24 February 2017
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

PURPOSE

This report discussed the establishment of a Strategic Community Reference Group to advise Council on matters of significant community interest and reflect on Shire integrated planning documents.

BACKGROUND

On the 4 January 2017 Her Excellency the Honourable Kerry Sanderson AC, Governor of Western Australia approved the suspension of the Council of the Shire of Exmouth for 6 months and appointed a Commissioner to assume the duties and discharge the function of Council. This was published in Western Australian Government Gazette No. 3. In accordance with section 2.38(1) of the *Local Government Act 1995*, the role of a Commissioner '*...is to exercise the powers and discharge the duties of the council of the local government and its mayor or president.*'

The appointed Commissioner is Mr Ian Fletcher AM, JP. Commissioner Fletcher is a retired former chief executive officer of the City of Kalgoorlie-Boulder and has more than 45 years' experience in both the private and public sectors including holding the position of the executive chairman of the WA Regional Development Council.

In view of the Crime and Corruption Commission (CCC) inquiry, subsequent events and the status of the governance, management and operations of the Shire, the Commissioner has commenced a series of reviews and other initiatives necessary for the short and medium benefit of the Shire. This includes reviewing the Shire's Strategic Community Plan (2011 - 2021). Under the Local Government (Administration) Regulations 1996 Division 3, 19C (4) *A local government is to review the current strategic community plan for its district at least once every 4 years.* This review falls due in 2017.

The establishment of a Strategic Community Reference Group aims to open dialogue with the community and gather valuable feedback for Council that would assist in the review of the Shire of Exmouth's Strategic objectives as outlined in the Strategic Community Plan.

There are a number of examples of Local Governments who use Community Reference Groups to provide feedback and input to Council. These groups can be issue specific (ie waste education, FIFO employment) or have a broader scope to consider issues of particular strategic relevance or with significant community importance. The City of Joondalup's Strategic Community Reference Group provides advice to Council on "*matters of significant community interest; strategic initiatives; as determined by the Council*". A 12 month workplan is developed by Council to support these aims and guide the group's discussions.

COMMENT

Establishing a Shire of Exmouth Strategic Community Reference Group (SESCRG) is seen as an important step towards restoring trust in the Shire of Exmouth and opening channels of communication with the community following the recent CCC inquiry and public hearings.

The SESCRG should bring together key community stakeholders with a view to establishing a working relationship based on two-way communication and respect for a diversity of views.

It also provides a formalised process for the Shire to gauge community opinion and get input into the review of the Strategic Community Plan (2011-2021). The SESCRG would also help the Shire engage the broader community in identifying priorities and considering the strategic direction of the Shire.

To guide the operations of the SESCRG the proposed aims, representation, membership, meeting requirements, agendas, management, tenure and other relevant matters should be set out in a terms of reference document to be endorsed by Council at a future date.

As the SESCRG is a new initiative, there should be consultation with the group on the Terms of Reference. However the Terms of Reference should clearly reflect key principals that the SESCRG has no formal decision making powers, delegated powers or authority to:

- represent the Shire of Exmouth;
- Implement SESCRG recommendations without Council authority; or
- Commit Council to the expenditure of funds.

It should also reflect the aims of the group to provide advice to Council on matters of significant community interest and strategic initiatives as determined by Council.

To establish the first SESCRG the Commissioner in consultation with the Acting Chief Executive Officer and Executive Managers of Corporate Services and Community Engagement have identified a number of community leaders and representatives to be directly approached to be part of the group. These nominees were suggested based on their ability to:

- provide valuable feedback to the group;
- represent Exmouth's four economic pillars (tourism, defence, primary production, oil and gas); and
- reflect the views of the community on matters concerning seniors, youth and families, education, health, community safety, environment, culture and recreation.

In order to ensure a diversity of views continue to be represented by the SESCRG in the future, it is proposed that future vacancies are filled by Council inviting nominations from the community. Council will then select candidates based on nominations received.

CONSULTATION

Exmouth Chamber of Commerce and Industry
Exmouth Senior Citizens Association
Freeman of the Shire of Exmouth – Kerry Graham

STATUTORY ENVIRONMENT

Local Government (Administration) Regulations 1996 (Act s.5.56), Division 3 19C states:

(4) A local government is to review the current strategic community plan for its district at least once every 4 years.

Section 1.3(2) of the *Local Government Act 1995* states:

This Act is intended to result in –

- (a) Better decision making by local governments;
- (b) Greater community participation in the decisions and affairs of local government;
- (c) Greater accountability of local governments to their communities; and
- (d) More efficient and effective local government.

POLICY IMPLICATIONS

Policy 4.1 Volunteering and Volunteer Management

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

- Civic Leadership: 4 To work together as custodians of now and the future.
- 4.1 *To be a collaborative community with the capacity to manage the current and future direction of Exmouth.*
- 4.2 *A local government that is respected, professional, trustworthy and accountable.*
- 4.3 *To be strong advocates representing the region's interests.*

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

ITEM 11.2

That Council authorise the establishment of the Shire of Exmouth Strategic Community Reference Group to advise on matters of significant community interest and strategic initiatives, in particular the Strategic Community Plan (2011-2021) review.

The Commissioner and the Acting Chief Executive Officer noted that Ms Fuery had been instrumental in the organisation of the Strategic Community Reference Group and thanked her for her contribution.

COUNCIL RESOLUTION

ITEM 11.2

Res No: 03-0317

That the Commissioner authorise the establishment of the Shire of Exmouth Strategic Community Reference Group to advise on matters of significant community interest and strategic initiatives, in particular the Strategic Community Plan (2011-2021) review.

CARRIED 1/0

11.3 DISCONTINUATION OF VEHICLE LICENCE CONCESSION

File Reference:	PL.FL.0
Responsible Officer:	Acting Chief Executive Officer
Date of Report:	27 February 2017
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. Letter from Department of Transport – Discontinuation of Vehicle Licence Concessions

PURPOSE

To advise Council that the Government of Western Australia is discontinuing the vehicle licence concession. The estimated annual cost increase to the Shire will be \$20,000.

BACKGROUND

On the 30 December 2016 and the 13 February 2017 the Department of Transport advised that the vehicle licence concession for local government will be discontinued (Attachment 1).

COMMENT

Vehicle licensing and stamp duty will cost Exmouth ratepayers more than \$20,000 annually from 1 July 2017 when the Department of Transport will discontinue vehicle licence concessions for local governments.

It will be difficult for the Shire to absorb these additional costs and in our situation rates may need rise to offset the licence cost.

The Acting Chief Executive Officer is currently assessing what the impact would be on its budget and how it can be funded. Our estimates put the annual figure in the range of \$20,000 a year, or about \$200,000 over the next 10 years. When you consider the cumulative impact of this recurrent cost, it certainly will have a significant impact on our longer term financial capacity.

CONSULTATION

The Western Australian Local Government Association (WALGA) is lobbying on behalf of local government.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The discontinuance of the concessional licensing for local government is estimated to cost the Shire an additional \$20,000 per year based on current vehicle and plant numbers.

Provision will need to be made in the 2017/18 and future budgets to allow for this unexpected additional operational expense. The Shire will have to fund the shortfall through increased rates or diminished services to our community.

STRATEGIC IMPLICATIONS

This item is relevant to the Council's approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016 - 2020.

- Civic Leadership: 4 To work together as custodians of now and the future.
- 4.1 *To be a collaborative community with the capacity to manage the current and future direction of Exmouth.*
 - 4.2 *A local government that is respected, professional, trustworthy and accountable.*
 - 4.3 *To be strong advocates representing the region's interests.*

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

ITEM 11.3

The Council endorses the following statement:

The Shire of Exmouth objects strongly to the State Government discontinuing the vehicle licence concession for Western Australian Local Governments.

The Commissioner strongly endorsed writing to the State Government objecting to the discontinuance of the vehicle licence concession. The Commissioner noted that he did not want to see any increase to the Shire rates in the 2017/2018 financial year, however this initiative by the State Government is an external factor passed onto the Shire and outside its' control.

COUNCIL RESOLUTION

ITEM 11.3

Res No: 04-0317

That the Commissioner endorses the following statement:

The Shire of Exmouth objects strongly to the State Government discontinuing the vehicle licence concession for Western Australian Local Governments.

CARRIED 1/0

11.4 BITUMEN ROAD SEALING ASSET PRESERVATION

File Reference:	RDMA.0
Responsible Officer:	Acting Chief Executive Officer
Date of Report:	27 February 2017
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

PURPOSE

The purpose of this report is to obtain approval to change the 2016/2017 Roads Capital Program.

The proposal is to not asphalt seal Murat Road and Madaffari Drive but to redirect the associated funds to roads asset preservation works interrelated to hot bitumen resealing of the town streets.

BACKGROUND

Prior to 2011, resurfacing or resealing roads was part of the Council's asset preservation program which was funded by the Federal Governments Roads to Recovery Program. The preservation goal was to improve and restore the road surface and to prevent water ingress into the road foundation.

COMMENT

Bitumen seal hardens with age, cracks, looses stone and under such conditions progressively allows water into the road foundation. Bitumen spray seals provide a cost effective flexible layer over existing road surfaces or new foundations. This treatment involves spraying hot bitumen over the existing surface, quickly tipping a layer of stone on top and rolling the stone into the bitumen.

Bitumen based treatments are also known as flexible pavements because they can move and spring back under stress without cracking. This is essential to prevent traffic damage, to stop water undermining the road foundation and to provide a long road life. If the bitumen maintenance practice does not preserve the road foundation, then the road will slowly deteriorate until it has to be completely rehabilitated or reverts back to an unsealed road.

This matter has been discussed with Main Roads and there is support to reallocate the grant funds from asphalt to bitumen. There is also provision within the Federal Government's Roads to Recovery Program to cancel and resubmit programs.

CONSULTATION

Main Roads Western Australia
Regional Road Group
Federal Government Roads to Recovery
Golders and Associates, ROMANS and surface design

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Policy 7.2 - Sealing of Roads

FINANCIAL IMPLICATIONS

This proposal if fully funded as accounted for in the 2016/2017 Shire Budget. There is not proposed budget variation.

Program	Main Roads 70%	Shire 30%	Roads to Recovery	Total	Comment
A125235 Madaffari Drive Asphalt	98,412	49,206		147,618	Transfer to asset preservation works, bitumen 2016/2017
A125232 Maidstone Upgrade	66,700	36,346		103,046	Transfer to asset preservation works, bitumen 2016/2017
R122700 Murat Road Asphalt			447,404	447,404	Transfer to asset preservation works, bitumen 2016/2017
Total				698,068	

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016 - 2020.

- Economic:
- 1 To be a diverse and innovative economy with a range of local employment opportunities.
 - 1.5 *Maintain and improve Shire infrastructure.*

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

ITEM 11.4

The Council authorises:

1. The asphalt works on Murat Road and Madaffari Drive are cancelled.
2. The associated grants from the Roads to Recovery and Main Roads programs are redirected into bitumen asset preservation works.
3. The bitumen works are directed to town streets and the resealing program is identified via the ROMANS data and reassessed road condition ratings.
4. The acquisition of the bitumen and stone will be managed via the WALGA preferred supply panel and the bitumen works will not exceed the budget allocation.

The Commissioner noted that the preservation of Shire assets is a prerequisite.

COUNCIL RESOLUTION

ITEM 11.4

Res No: 05-0317

That the Commissioner authorises:

- 1. The asphalt works on Murat Road and Madaffari Drive are cancelled.**
- 2. The associated grants from the Roads to Recovery and Main Roads programs are redirected into bitumen asset preservation works.**

- 3. The bitumen works are directed to town streets and the resealing program is identified via the ROMANS data and reassessed road condition ratings.**
- 4. The acquisition of the bitumen and stone will be managed via the WALGA preferred supply panel and the bitumen works will not exceed the budget allocation.**

CARRIED 1/0

12 CORPORATE SERVICES

12.1 LIST OF ACCOUNTS FOR PERIOD ENDING 28 FEBRUARY 2017

File Reference:	FM.FI.0
Responsible Officer:	Executive Manager Corporate Services
Date of Report:	28 February 2017
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. List of Accounts for period ending 28 February 2017.

PURPOSE

To advise Council of payments made since the previous Ordinary Council Meeting.

BACKGROUND

It has been a customary practice that whilst being a leader in the community, we meet our terms of credit as established between suppliers and aspire to obtain discounts where practicable. Payments have been approved by authorised officers in accordance with agreed delegations and policy frameworks.

COMMENT

Council has given delegated authority that allows the Chief Executive Officer to approve payments from Council's bank accounts either via cheque or through electronic lodgement.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Payments are to be made in accordance with Part 6, Division 4 of the *Local Government Act 1995* and as per the *Local Government (Financial Management) Regulations 1996*. Payments are to be made through the municipal fund, trust fund or reserve funds. Payments are to be in accordance with approved systems as authorised by the CEO.

POLICY IMPLICATIONS

Staff are required to ensure that they comply under Council Policy 2.10 – Purchasing Policy and 2.17 - Regional Price Preference Policy (where applicable) and that budget provision is available for any expenditure commitments.

FINANCIAL IMPLICATIONS

Payments are made under delegated authority and are within defined and approved budgets. Payment is made within agreed trade terms and in a timely manner.

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

- Civic Leadership: 4 To work together as custodians of now and the future.
4.2 *A local government that is respected, professional, trustworthy and accountable*

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

ITEM 12.1

That Council pursuant to Sections 6.7 and 6.9 of the *Local Government Act 1995* resolves to accept accepts payments being made up of:

1. Municipal Fund – February 2017 \$2,318,309.06 incorporating of cheques 13398 - 13404 and direct debits; and
2. Trust Fund – February 2017 \$3,912.35 incorporating direct debits

with Outstanding Creditors as at 27 February 2017 being \$236,684.56

COUNCIL RESOLUTION

ITEM 12.1

Res No: 06-0317

That Council pursuant to Sections 6.7 and 6.9 of the *Local Government Act 1995* resolves to accept accepts payments being made up of:

1. **Municipal Fund – February 2017 \$2,318,309.06 incorporating of cheques 13398 - 13404 and direct debits; and**
2. **Trust Fund – February 2017 \$3,912.35 incorporating direct debits**

with Outstanding Creditors as at 27 February 2017 being \$236,684.56

CARRIED 1/0

12.2 ENGAGEMENT OF SELECTION PANEL AND APPOINTMENT OF AN EXECUTIVE RECRUITMENT AGENCY

File Reference:	PE.RE.14
Responsible Officer:	Executive Manager Corporate Services
Date of Report:	27 February 2017
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

PURPOSE

This report recommends Council endorse engagement of a selection panel and appoint an executive recruitment agency to assist with the process of recruiting a new CEO.

BACKGROUND

Following Ordinary Council meeting held 14 February 2017, whereby Council resolved to:

- 1. Commence the recruitment a new Chief Executive Officer.**
- 2. Authorise the expenditure of up to \$50,000 for the recruitment for a Chief Executive Officer; and**
- 3. Outsource the recruitment process.**

A request for quotation was called on 15 February 2017 seeking assistance with the recruitment process of selecting a Chief Executive Officer. Three quotations were received from:

- Bielby Recruitment
- Lester Blades Pty Ltd
- WALGA Recruitment Services

To work with the successful recruitment agency, a selection panel will be established that will be responsible for the selection process for the Chief Executive Officer. It will make recommendations to Council on the most meritorious candidate for the position and to ensure that the recruitment and selection process is fair and robust.

COMMENT

For the appointment of the recruitment agency, quotations were assessed by Ian Fletcher, Commissioner and Steve Tweedie, a representative from the Public Sector Commission (PSC).

Bielby Recruitment were recommended to undertake this service and they will work closely with the Selection Panel, comprising of 3 members:

- Chair – Ian Fletcher, Commissioner,
- Community Representative – Kerry Graham (Hon. Freeman)
- Karen Dickinson – PSC nominee

The Selection Panel will work with Bielby Recruitment to conduct an assessment process which ensures the applicant's suitability is based on merit selection principles, also taking into account knowledge, skills, qualifications and experience, and make a recommendation on the preferred applicant for Council consideration.

CONSULTATION

Bielby Recruitment
Lester Blades Pty Ltd
WALGA Recruitment Services
Kerry Graham
Public Sector Commission
Karen Dickinson

STATUTORY ENVIRONMENT

Section 5.36 – 5.40 Local Government Act 1995
Part 4 section 18A-18G Local Government (Administration) Regulations 1996
Local Government Operational Guideline No. 10-Appointing a CEO

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

An allocation of costs associated with the recruitment of a Chief Executive Officer has been included in the forecast financial position as at 30 June 2017 of \$50,000. Savings have been identified through the mid-year budget review to offset this cost.

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

- Civic Leadership: 4 To work together as custodians of now and the future.
- 4.1 *To be a collaborative community with the capacity to manage the current and future direction of Exmouth.*
- 4.2 *A local government that is respected, professional, trustworthy and accountable.*
- 4.3 *To be strong advocates representing the region's interests.*

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION**ITEM 12.2**

That Council:

1. Endorse the engagement of the Selection Panel who will consider CEO applicants' suitability, and will comprise of 3 members:
 - a. Chair – Ian Fletcher, Commissioner;
 - b. Community Representative – Kerry Graham (Hon. Freeman); and
 - c. Karen Dickinson – PSC nominee.
2. Appoint Bielby Recruitment as the provider of recruitment services for the Chief Executive Officer.

COUNCIL RESOLUTION**ITEM 12.1**

Res No: 07-0317

That the Commissioner:

1. **Endorse the engagement of the Selection Panel who will consider CEO applicants' suitability, and will comprise of 3 members:**
 - a. **Chair – Ian Fletcher, Commissioner;**
 - b. **Community Representative – Kerry Graham (Hon. Freeman); and**
 - c. **Karen Dickinson – PSC nominee.**
2. **Appoint Bielby Recruitment as the provider of recruitment services for the Chief Executive Officer.**

CARRIED 1/0

13 COMMUNITY ENGAGEMENT

Nil

14 HEALTH & BUILDING SERVICES

Nil

15 TOWN PLANNING SERVICES

15.1 SEA CONTAINERS – LOT 862 (15) MCLEOD STREET, EXMOUTH

File Reference:	A298; PA39/17
Responsible Officer:	Executive Manager Town Planning Services
Date of Report:	22 February 2017
Applicant/Proponent:	J Howse
Disclosure of Interest:	Nil
Attachment(s):	1. Site Plan

PURPOSE

That Council consider granting development approval for one (1) retrospective and two (2) proposed Sea Containers at Lot 862 (15) McLeod Street, Exmouth.

BACKGROUND

Recently the Shire of Exmouth has undertaken a substantial compliance action regarding the requirements for development and building approval for sea containers and transportable buildings within the local government area. As a result a number of retrospective development applications have been lodged with the Shire of Exmouth for sea containers, such as the subject application.

Shire records indicate that the property has leased from the Department of Lands and lawfully used for the purpose of 'paddocking horses and grazing' since 1982 and a stable has been developed. The applicant has developed a sea container at the property in conjunction with that use for which retrospective development approval is being sought. The proposal (refer Attachment 1) is as follows:

- One 6m long, 2.4m wide and 2.8m high sea container exists at the property and is proposed to be relocated in accordance with the Attachment 1.
- One 6m long and one 12m long, both being 2.4m wide and 2.8m high, sea containers are proposed to be developed at the site.
- Minimum proposed setbacks to all sea containers are 60m to any street, 60m to the rear and 130m to the side property boundary.
- Sea containers used for storage of goods associated with the existing land use.



COMMENT

Town Planning Scheme No. 3

The property is zoned 'Residential Development' by the Shire of Exmouth *Town Planning Scheme No. 3* (TPS3). The use of the land for the paddocking horses and grazing is considered most consistent with the 'Hobby Farm' land use defined by TPS3 as follows:

hobby farm: means the use of land for the agistment of horses, the growing of vegetables, fruit and flowers and the keeping of domestic poultry for private use only and not for commercial purposes or sale and shall include any buildings normally associated therewith.

TPS3 allows for the continuation of land uses operating lawfully prior to its commencement, therefore development consent is in place for the Hobby Farm land use. The application is for works under that land use.

TPS3 does not prescribe the permissibility of any land uses, including works under those uses, within the Residential Development zone as the purpose of this zone is to implement the requirement for a structure plan (referred to as Outline Development Plan in TPS3) which allocates permissible land uses through further amendment to the Scheme. Therefore, there is no delegation to determine the subject application. The development requirements of TPS3 only outline the requirement for the preparation and adoption of a structure plan in the event that development is associated with subdivision. As subdivision is not proposed as a part of the application it can be determined without the adoption of a structure plan.

Where the permissibility of a land use is not prescribed TPS3 outlines the following:

3.2.4 If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the definition of one of the use categories the Council may:

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted; or*
- (b) determine that the proposed use may be consistent with the objectives of the zone and thereafter follow the "SA" advertising procedures of clause 8.3 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

The objectives of the Residential Development zone are as follows:

- (a) to provide for residential development for expansion of Exmouth.*
- (b) to provide for diversity of lifestyle choice with a range of residential densities.*
- (c) to achieve a high standard of residential development having regard to the economic importance of tourism to the town.*
- (d) to allow for the establishment of non-residential uses which are compatible with the predominant residential use and which will not adversely affect local amenities.*
- (e) To promote development consistent with the planning objectives and recommendations of the Exmouth-Learmonth (North West Cape) Structure Plan.*

The development is not considered to undermine the objectives of the zone. Structure planning of residential development in the immediate area for the purpose of subdivision has not been undertaken. The works the subject of this application will not prevent structure planning from occurring in the future if land constraints are rectified. The land use already has development consent and is considered compatible with the existing use of the area.

The Exmouth-Learmonth (North West Cape) Structure Plan adopted in 1998, which acts as a strategic document and not a subdivisional structure plan, outlines that the property should be for long term residential development. Therefore, it is considered acceptable for the existing use and works to continue on the land until local structure planning is carried out in accordance with TPS3 and/or TPS3 is amended or superseded. The development of sea containers does not impact the local amenity if developed in accordance with Council's planning framework.

Therefore, it is recommended that Council determines that the use is consistent with the objectives of the particular zone and the subject works are therefore permitted. The Scheme outlines that siting and development requirements are at the discretion of Council and are normally designated through the structure plan process. More guidance is provided through Council's local planning policy framework.

Draft Local Planning Scheme No. 4 and Local Planning Strategy

Council is currently in the process of adopting draft Local Planning Scheme No. 4 (LPS4) and Local Planning Strategy (Strategy) which have been seriously entertained through completion of the advertising process. Pursuant to deemed provision 67 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, planning instruments which the local government is seriously considering adopting are to be given due regard to the extent that they are considered relevant.

LPS4 and the Strategy classify the subject property as the 'Rural' zone due to the Exmouth Townsite Structure Plan, another strategic and not subdivisional structure plan, which was adopted during 2011. This document identifies additional land constraints, being severe drainage issues and floodways, on the land the subject of long term residential development under the Exmouth-Learmonth (North West Cape) Structure Plan. Therefore, the classification of the land is proposed to be returned to the 'Rural' zone (retitle of the 'Pastoral zone in TPS3) to allow the continuation of horse paddocking and grazing until such time as substantial drainage remediation is conducted.

The siting and development requirements provided in LPS4 for sea containers in the Rural zone is the same as the *Policy No. 6.9 – Use of Sea Containers*, which allows an unlimited number of any size sea containers as long as they meet the other requirements which are outlined under the assessment against the Policy.

Policy No. 6.9 – Use of Sea Containers

The development of sea containers within the Shire of Exmouth is subject to compliance with Council's *Policy No. 6.9 – Use of Sea Containers* as follows:

General Provisions	Officer Comment
Sea Containers are not listed in Scheme and may be permitted within 'Light Industry', 'Industry', 'Special Use- Composite Industry', 'Strategic Industry', Mixed Use' & 'Pastoral', 'Special Rural' and shall be subject to planning approval from the Shire.	The subject property is zoned 'Residential Development' which is not listed.

All sea containers require a building licence.	Enforced by the Building Code of Australia. An advice note is recommended advising accordingly.
During the planning application stage, where there may be amenity issues, adjoining landowners may be invited to comment on the proposal.	The proposed sea containers are setback well into the centre of the property. Substantial landscaping exists through remnant natural vegetation, screening the development from view. Therefore, it is considered not to pose an amenity issue requiring referral.
Sea containers shall not be used for any form of accommodation.	The application is for sea containers used for storage purposes for a Hobby Farm. A standard condition of approval is recommended to ensure future compliance with this provision.
Where sea containers have fallen into disrepair or become unsightly, Council shall require they be removed from the property or suitably upgraded.	A standard condition of approval is recommended to ensure future compliance with this provision.
Development Requirements	Officer Comment
All sea containers shall be located behind the building line and adequately screened from the street, including the provision of landscaping where Council considers it necessary. Sea containers shall not be stacked vertically.	Substantial landscaping exists through remnant natural vegetation, screening the development from view. In addition, the sea containers are sited relatively central in the property. Vertical stacking of the sea containers is not proposed. Standard conditions of approval are recommended to achieve on-going compliance.
Where a sea container can't be adequately screened from the street or adjoining properties, Council shall require external modifications, which may include the addition of a pitched roof and/or cladding so as to protect the amenity of Exmouth.	Refer to assessment above.
Sea Containers shall accord with the relevant provisions of the Shire of Exmouth Town Planning Scheme No. 3	Refer to assessment above.
Sea Containers shall be painted externally in accordance with the Shire of Exmouth Colour Palette.	No details have been provided regarding the colour of the sea containers. A standard condition is recommended requiring the colour of the sea containers to be consistent with Council's <i>Policy No. 6.2 – Colour Palette for Developments</i> .
The use of sea containers shall relate directly to and be ancillary to the predominant use of the land as approved by Council.	The use of the sea containers is for the storage of goods required for the Hobby farm land use. Therefore, their use is directly related to the predominate use of the land. A standard condition of approval is recommended to ensure on-going compliance.
Sea containers shall be located within normal building setbacks in accordance with the R-Codes.	The property zoning does not entail setbacks prescribed by the R-Codes at this point in time due to no structure plan being adopted.
Sea containers shall not be located over existing utilities and services.	No details provided. A standard condition is recommended to achieve on-going compliance.

The Policy does not list the Residential Development zone as a zone where sea container may be permitted. Pursuant to deemed provision 67 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, local planning policies are to be given due regard to the extent that they are considered relevant.

Given that the development is minor works for the continuation of a land use which has operated lawfully for over thirty years the Policy is considered less relevant than LPS4 which supports the development. Therefore, it is considered that the development should be supported subject to standard conditions that achieve compliance with Council's planning framework, particularly Policy No. 6.9 – Use of Sea Containers.

State Planning Policy 3.7 Planning in Bushfire Prone Areas

The subject property is located within a bushfire prone area as determined by an order made by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998*. For development in a bushfire prone area State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP3.7) requires a Bushfire Attack Level (BAL) Assessment demonstrating a maximum BAL of 29 and a report demonstrating compliance with the Bushfire Protection Criteria contained in the Guidelines for Planning in Bushfire Prone Areas. Recently the Western Australian Planning Commission released Planning Bulletin 111/2016 Planning in Bushfire Prone Areas which provides further guidance on when SPP3.7 should be applied. The Bulletin outlines that where developments do not:

- result in the intensification of development (or land use);
- result in an increase of residents or employees;
- involve the occupation of employees on site for any considerable amount of time; or
- result in an increase to the bushfire threat.

they may be exempt from the provisions of SPP3.7. Pursuant to deemed provision 67 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, state planning policies are to be given due regard to the extent that they are considered relevant.

The proposal is not considered to fall within any of the criteria above as it is simply for the storage of items used through the Hobby Farm use at the property so that they are protected from the weather. It does not result in any additional residents or employees at the site or increase the length of time anyone staying at the site as the same level of activity would occur without the sea containers. The structure is not considered to increase the threat of bushfire given the non-flammable materials it is constructed of and the existing property and building have not been mitigated against this risk. Therefore, the requirements of SPP3.7 are not considered relevant.

A standard advice note is recommended outlining that the property is in a designated bushfire prone area.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Town Planning Scheme No. 3

Fire and Emergency Services Act 1998

POLICY IMPLICATIONS

Policy No. 6.2 – Colour Palette for Developments

Policy No. 6.9 – Use of Sea Containers

State Planning Policy 3.7 Planning in Bushfire Prone Areas

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

- Economic: 1 To be a diverse and innovative economy with a range of local employment opportunities.
 1.2 *Planned and balanced economic growth.*
- Civic Leadership: 4 To work together as custodians of now and the future.
 4.1 *To be a collaborative community with the capacity to manage the current and future direction of Exmouth.*
 4.2 *A local government that is respected, professional, trustworthy and accountable.*
 4.3 *To be strong advocates representing the region's interests.*

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

ITEM 15.1

That Council grant development approval for three (3) Sea Container at Lot 862 (15) McLeod Street, Exmouth subject to the following conditions:

1. The development shall be carried out in accordance with the stamped approved plans (PA39/17), and the Shire of Exmouth *Town Planning Scheme No. 3* together with any annotations detailed thereon by the Shire;
2. The Sea Containers shall not be used for any habitable purpose;
3. The external colour of the Sea Containers shall be generally in accordance with Councils Policy No. 6.2 – Colour Palette for Developments;
4. Should the Sea Containers fall into disrepair or become unsightly, they shall be removed from the property or suitably upgraded to the satisfaction of Council Officers;
5. The use of the Sea Containers shall relate to and be ancillary to the lawful predominant use of the land;
6. The Sea Containers shall not be located over any existing utilities or services;
7. The Sea Containers shall not be stacked vertically; and

8. The existing landscaping at the property shall be maintained in a manner which screens the Sea Containers from view of the street at all times;

Advice

- i. A building permit approval from the Shire of Exmouth is required to be obtained. For further information please contact the Shire's Building Surveyor by telephone on 9949 3000.
- ii. The approval granted is not to be construed as approval granted under the *Building Act 2011*, *Building Regulations 2012* or any other relevant statutory approval.
- iii. The property is located within a Bushfire Prone Area as designated by an Order made by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998*. Development in the future may be subject to the requirement for a Bushfire Attack Level Assessment and corresponding additional building standards.
- iv. The Applicant is advised that the property and development is located within a flood plain and may experience severe flooding and drainage issues in heavy rainfall events and cyclones.
- v. Any additional development or substantial variation from the stamped approved plans, will require separate development approval from the Shire.
- vi. This approval is not an authority to ignore any constraint or additional requirement to development on the land, which may exist through contract or on title, such as an easement, encumbrance, restrictive covenant or any other limitation. It is the responsibility of the applicant and not the Shire to investigate any such constraints before commencing development.
- vii. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

COUNCIL RESOLUTION

ITEM 12.1

Res No: 08-0317

That the Commissioner grant development approval for three (3) Sea Container at Lot 862 (15) McLeod Street, Exmouth subject to the following conditions:

- 1. The development shall be carried out in accordance with the stamped approved plans (PA39/17), and the Shire of Exmouth *Town Planning Scheme No. 3* together with any annotations detailed thereon by the Shire;**
- 2. The Sea Containers shall not be used for any habitable purpose;**
- 3. The external colour of the Sea Containers shall be generally in accordance with Councils Policy No. 6.2 – Colour Palette for Developments;**
- 4. Should the Sea Containers fall into disrepair or become unsightly, they shall be removed from the property or suitably upgraded to the satisfaction of Council Officers;**

5. **The use of the Sea Containers shall relate to and be ancillary to the lawful predominant use of the land;**
6. **The Sea Containers shall not be located over any existing utilities or services;**
7. **The Sea Containers shall not be stacked vertically; and**
8. **The existing landscaping at the property shall be maintained in a manner which screens the Sea Containers from view of the street at all times;**

Advice

- i. **A building permit approval from the Shire of Exmouth is required to be obtained. For further information please contact the Shire's Building Surveyor by telephone on 9949 3000.**
- ii. **The approval granted is not to be construed as approval granted under the *Building Act 2011*, *Building Regulations 2012* or any other relevant statutory approval.**
- iii. **The property is located within a Bushfire Prone Area as designated by an Order made by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998*. Development in the future may be subject to the requirement for a Bushfire Attack Level Assessment and corresponding additional building standards.**
- iv. **The Applicant is advised that the property and development is located within a flood plain and may experience severe flooding and drainage issues in heavy rainfall events and cyclones.**
- v. **Any additional development or substantial variation from the stamped approved plans, will require separate development approval from the Shire.**
- vi. **This approval is not an authority to ignore any constraint or additional requirement to development on the land, which may exist through contract or on title, such as an easement, encumbrance, restrictive covenant or any other limitation. It is the responsibility of the applicant and not the Shire to investigate any such constraints before commencing development.**
- vii. **If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.**

CARRIED 1/0

15.2 RETROSPECTIVE SEA CONTAINER – LOT 854 (66) MURAT ROAD, EXMOUTH

File Reference:	A49; PA42/17
Responsible Officer:	Executive Manager Town Planning Services
Date of Report:	24 February 2017
Applicant/Proponent:	H Dellar
Disclosure of Interest:	Nil
Attachment(s):	1. Site Plan

PURPOSE

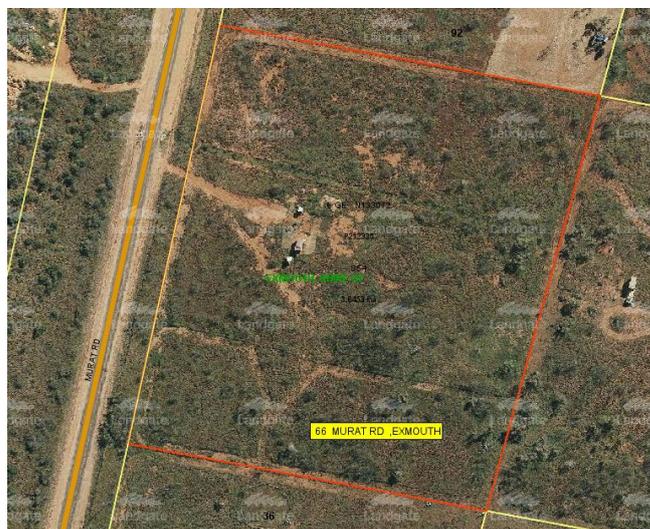
That Council consider granting retrospective development approval for two (2) Sea Containers at Lot 854 (66) Murat Road, Exmouth.

BACKGROUND

Recently the Shire of Exmouth has undertaken a substantial compliance action regarding the requirements for development and building approval for sea containers and transportable buildings within the local government area. As a result a number of retrospective development applications have been lodged with the Shire of Exmouth for sea containers, such as the subject application.

Shire records indicate that the property has leased from the Department of Lands and lawfully used for the purpose of 'paddocking horses and grazing' since 1994 and a stable has been developed. The applicant has developed two (2) sea containers at the property in conjunction with that use for which retrospective development approval is being sought. The development (refer Attachment 1) is as follows:

- Two 6m long, 2.4m wide and 2.8m high sea containers.
- Minimum setbacks to the sea containers are 26m to the street, 120m to the rear and 80m to the northern side property boundaries.
- Sea containers used for storage of goods associated with the existing land use.



COMMENT

Town Planning Scheme No. 3

The property is zoned 'Residential Development' by the Shire of Exmouth Town Planning Scheme No. 3 (TPS3). The use of the land for the paddocking horses and grazing is considered most consistent with the 'Hobby Farm' land use defined by TPS3 as follows:

hobby farm: means the use of land for the agistment of horses, the growing of vegetables, fruit and flowers and the keeping of domestic poultry for private use only and not for commercial purposes or sale and shall include any buildings normally associated therewith.

TPS3 allows for the continuation of land uses operating lawfully prior to its commencement, therefore development consent is in place for the Hobby Farm land use. The application is for works under that land use.

TPS3 does not prescribe the permissibility of any land uses, including works under those uses, within the Residential Development zone as the purpose of this zone is to implement the requirement for a structure plan (referred to as Outline Development Plan in TPS3) which allocates permissible land uses through further amendment to the Scheme. Therefore, there is no delegation to determine the subject application. The development requirements of TPS3 only outline the requirement for the preparation and adoption of a structure plan in the event that development is associated with subdivision. As subdivision is not proposed as a part of the application it can be determined without the adoption of a structure plan.

Where the permissibility of a land use is not prescribed TPS3 outlines the following:

3.2.4 If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the definition of one of the use categories the Council may:

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted; or*
- (b) determine that the proposed use may be consistent with the objectives of the zone and thereafter follow the "SA" advertising procedures of clause 8.3 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

The objectives of the Residential Development zone are as follows:

- (a) to provide for residential development for expansion of Exmouth.*
- (b) to provide for diversity of lifestyle choice with a range of residential densities.*
- (c) to achieve a high standard of residential development having regard to the economic importance of tourism to the town.*
- (d) to allow for the establishment of non-residential uses which are compatible with the predominant residential use and which will not adversely affect local amenities.*
- (e) To promote development consistent with the planning objectives and recommendations of the Exmouth-Learmonth (North West Cape) Structure Plan.*

The development is not considered to undermine the objectives of the zone. Structure planning of residential development in the immediate area for the purpose of subdivision has not been undertaken. The works the subject of this application will not prevent structure planning from occurring in the future if land constraints are rectified. The land use already has development consent and is considered compatible with the existing use of the area.

The Exmouth-Learmonth (North West Cape) Structure Plan adopted in 1998, which acts as a strategic document and not a subdivisional structure plan, outlines that the property should be for long term residential development. Therefore, it is considered acceptable for the existing use and works to continue on the land until local structure planning is carried out in accordance with TPS3 and/or TPS3 is amended or superseded. The development of sea containers does not impact the local amenity if developed in accordance with Council's planning framework.

Therefore, it is recommended that Council determines that the use is consistent with the objectives of the particular zone and the subject works are therefore permitted. The Scheme outlines that siting and development requirements are at the discretion of Council and are normally designated through the structure plan process. More guidance is provided through Council's local planning policy framework.

Draft Local Planning Scheme No. 4 and Local Planning Strategy

Council is currently in the process of adopting draft Local Planning Scheme No. 4 (LPS4) and Local Planning Strategy (Strategy) which have been seriously entertained through completion of the advertising process. Pursuant to deemed provision 67 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, planning instruments which the local government is seriously considering adopting are to be given due regard to the extent that they are considered relevant.

LPS4 and the Strategy classify the subject property as the 'Rural' zone due to the Exmouth Townsite Structure Plan, another strategic and not subdivisional structure plan, which was adopted during 2011. This document identifies additional land constraints, being severe drainage issues and floodways, on the land the subject of long term residential development under the Exmouth-Learmonth (North West Cape) Structure Plan. Therefore, the classification of the land is proposed to be returned to the 'Rural' zone (retitle of the 'Pastoral zone in TPS3) to allow the continuation of horse paddocking and grazing until such time as substantial drainage remediation is conducted.

The siting and development requirements provided in LPS4 for sea containers in the Rural zone is the same as the Policy No. 6.9 – Use of Sea Containers, which allows an unlimited number of any size sea containers as long as they meet the other requirements which are outlined under the assessment against the Policy.

Policy No. 6.9 – Use of Sea Containers

The development of sea containers within the Shire of Exmouth is subject to compliance with Council's Policy No. 6.9 – Use of Sea Containers as follows:

General Provisions	Officer Comment
Sea Containers are not listed in Scheme and may be permitted within 'Light Industry', 'Industry', 'Special Use- Composite Industry', 'Strategic Industry', Mixed Use' & 'Pastoral', 'Special Rural' and shall be subject to planning approval from the Shire.	The subject property is zoned 'Residential Development' which is not listed.

All sea containers require a building licence.	Enforced by the Building Code of Australia. An advice note is recommended advising accordingly.
During the planning application stage, where there may be amenity issues, adjoining landowners may be invited to comment on the proposal.	The sea containers are quite prominent from the street. However, they are setback far from the two adjoining properties. Therefore, it is considered development only affects the land across the road from the property which is not privately owned or leased. Referral is considered unnecessary.
Sea containers shall not be used for any form of accommodation.	The application is for sea containers used for storage purposes for a Hobby Farm. A standard condition of approval is recommended to ensure future compliance with this provision.
Where sea containers have fallen into disrepair or become unsightly, Council shall require they be removed from the property or suitably upgraded.	A standard condition of approval is recommended to ensure future compliance with this provision.
Development Requirements	Officer Comment
All sea containers shall be located behind the building line and adequately screened from the street, including the provision of landscaping where Council considers it necessary. Sea containers shall not be stacked vertically.	The sea containers are prominent from the street. Vertical stacking of the sea containers has not occurred. A condition requiring landscaped screening and standard conditions of approval are recommended to achieve on-going compliance with this provision.
Where a sea container can't be adequately screened from the street or adjoining properties, Council shall require external modifications, which may include the addition of a pitched roof and/or cladding so as to protect the amenity of Exmouth.	Refer to assessment above.
Sea Containers shall accord with the relevant provisions of the Shire of Exmouth Town Planning Scheme No. 3	Refer to assessment above.
Sea Containers shall be painted externally in accordance with the Shire of Exmouth Colour Palette.	No details have been provided regarding the colour of the sea containers. A standard condition is recommended requiring the colour of the sea containers to be consistent with Council's <i>Policy No. 6.2 – Colour Palette for Developments</i> .
The use of sea containers shall relate directly to and be ancillary to the predominant use of the land as approved by Council.	The use of the sea containers is for the storage of goods required for the Hobby farm land use. Therefore, their use is directly related to the predominate use of the land. A standard condition of approval is recommended to ensure on-going compliance.
Sea containers shall be located within normal building setbacks in accordance with the R-Codes.	The property zoning does not entail setbacks prescribed by the R-Codes at this point in time due to no structure plan being adopted.
Sea containers shall not be located over existing utilities and services.	No details provided. A standard condition is recommended to achieve on-going compliance.

The Policy does not list the Residential Development zone as a zone where sea containers may be permitted. Pursuant to deemed provision 67 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, local planning policies are to be given due regard to the extent that they are considered relevant.

Given that the development is minor works for the continuation of a land use which has operated lawfully for over twenty years the Policy is considered less relevant than LPS4 which supports the development. Therefore, it is considered that the development should be supported subject to standard conditions that achieve compliance with Council's planning framework, particularly Policy No. 6.9 – Use of Sea Containers.

State Planning Policy 3.7 Planning in Bushfire Prone Areas

The subject property is located within a bushfire prone area as determined by an order made by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998*. For development in a bushfire prone area *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP3.7) requires a Bushfire Attack Level (BAL) Assessment demonstrating a maximum BAL of 29 and a report demonstrating compliance with the Bushfire Protection Criteria contained in the *Guidelines for Planning in Bushfire Prone Areas*. Recently the Western Australian Planning Commission released *Planning Bulletin 111/2016 Planning in Bushfire Prone Areas* which provides further guidance on when SPP3.7 should be applied. The Bulletin outlines that where developments do not:

- result in the intensification of development (or land use);
- result in an increase of residents or employees;
- involve the occupation of employees on site for any considerable amount of time;
- result in an increase to the bushfire threat,

they may be exempt from the provisions of SPP3.7. Pursuant to deemed provision 67 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, state planning policies are to be given due regard to the extent that they are considered relevant.

The development is not considered to fall within any of the criteria above as it is simply for the storage of items used through the Hobby Farm use at the property so that they are protected from the weather. It does not result in any additional residents or employees at the site or increase the length of time anyone staying at the site as the same level of activity would occur without the sea containers. The structure is not considered to increase the threat of bushfire given the non-flammable materials it is constructed of and the existing property and building have not been mitigated against this risk. Therefore, the requirements of SPP3.7 are not considered relevant.

A standard advice note is recommended outlining that the property is in a designated bushfire prone area.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Town Planning Scheme No. 3

Fire and Emergency Services Act 1998

POLICY IMPLICATIONS

Policy 6.2 – Colour Palette for Developments

Policy 6.9 – Use of Sea Containers

State Planning Policy 3.7 Planning in Bushfire Prone Areas

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

- Economic: 1 To be a diverse and innovative economy with a range of local employment opportunities.
 1.2 *Planned and balanced economic growth.*
- Civic Leadership: 4 To work together as custodians of now and the future.
 4.1 *To be a collaborative community with the capacity to manage the current and future direction of Exmouth.*
 4.2 *A local government that is respected, professional, trustworthy and accountable.*
 4.3 *To be strong advocates representing the region's interests.*

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

ITEM 15.2

That Council grant retrospective development approval for two (2) Sea Containers at Lot 854 (66) Murat Road, Exmouth subject to the following conditions:

1. The development shall be carried out in accordance with the stamped approved plans (PA31/16), and the Shire of Exmouth Town Planning Scheme No. 3 together with any annotations detailed thereon by the Shire;
2. The Sea Containers shall not be used for any habitable purpose;
3. The external colour of the Sea Containers shall be generally in accordance with Councils Policy No. 6.2 – Colour Palette for Developments;
4. Should the Sea Containers fall into disrepair or become unsightly, they shall be removed from the property or suitably upgraded to the satisfaction of the Council Officers;
5. The use of the Sea Containers shall relate to and be ancillary to the lawful predominant use of the land;
6. The Sea Containers shall not be located over any existing utilities or services;
7. The Sea Containers shall not be stacked vertically; and

8. Landscaping shall be established within six (6) months of the date of this approval and shall permanently screen the sea containers from view of the street to the satisfaction of the Council Officers;

Advice

- i. A building permit approval from the Shire of Exmouth is required to be obtained. For further information please contact the Shire's Building Surveyor by telephone on 9949 3000.
- ii. The approval granted is not to be construed as approval granted under the *Building Act 2011*, *Building Regulations 2012* or any other relevant statutory approval.
- iii. The property is located within a Bushfire Prone Area as designated by an Order made by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998*. Development in the future may be subject to the requirement for a Bushfire Attack Level Assessment and corresponding additional building standards.
- iv. The Applicant is advised that the property and development is located within a flood plain and may experience severe flooding and drainage issues in heavy rainfall events and cyclones.
- v. Any additional development or substantial variation from the stamped approved plans, will require separate development approval from the Shire.
- vi. This approval is not an authority to ignore any constraint or additional requirement to development on the land, which may exist through contract or on title, such as an easement, encumbrance, restrictive covenant or any other limitation. It is the responsibility of the applicant and not the Shire to investigate any such constraints before commencing development.
- vii. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

COUNCIL RESOLUTION

ITEM 15.2

Res No: 09-0317

That the Commissioner grant retrospective development approval for two (2) Sea Containers at Lot 854 (66) Murat Road, Exmouth subject to the following conditions:

- 1. The development shall be carried out in accordance with the stamped approved plans (PA31/16), and the Shire of Exmouth Town Planning Scheme No. 3 together with any annotations detailed thereon by the Shire;**
- 2. The Sea Containers shall not be used for any habitable purpose;**
- 3. The external colour of the Sea Containers shall be generally in accordance with Councils Policy No. 6.2 – Colour Palette for Developments;**

4. **Should the Sea Containers fall into disrepair or become unsightly, they shall be removed from the property or suitably upgraded to the satisfaction of the Council Officers;**
5. **The use of the Sea Containers shall relate to and be ancillary to the lawful predominant use of the land;**
6. **The Sea Containers shall not be located over any existing utilities or services;**
7. **The Sea Containers shall not be stacked vertically; and**
8. **Landscaping shall be established within six (6) months of the date of this approval and shall permanently screen the sea containers from view of the street to the satisfaction of the Council Officers;**

Advice

- i. **A building permit approval from the Shire of Exmouth is required to be obtained. For further information please contact the Shire's Building Surveyor by telephone on 9949 3000.**
- ii. **The approval granted is not to be construed as approval granted under the *Building Act 2011, Building Regulations 2012* or any other relevant statutory approval.**
- iii. **The property is located within a Bushfire Prone Area as designated by an Order made by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998*. Development in the future may be subject to the requirement for a Bushfire Attack Level Assessment and corresponding additional building standards.**
- iv. **The Applicant is advised that the property and development is located within a flood plain and may experience severe flooding and drainage issues in heavy rainfall events and cyclones.**
- v. **Any additional development or substantial variation from the stamped approved plans, will require separate development approval from the Shire.**
- vi. **This approval is not an authority to ignore any constraint or additional requirement to development on the land, which may exist through contract or on title, such as an easement, encumbrance, restrictive covenant or any other limitation. It is the responsibility of the applicant and not the Shire to investigate any such constraints before commencing development.**
- vii. **If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.**

CARRIED 1/0

15.3 RETROSPECTIVE SEA CONTAINER – LOT 858 (160) MCLEOD STREET, EXMOUTH

File Reference:	A246; PA31/17
Responsible Officer:	Executive Manager Town Planning Services
Date of Report:	24 February 2017
Applicant/Proponent:	T Clarke
Disclosure of Interest:	Nil
Attachment(s):	1. Site Plan

PURPOSE

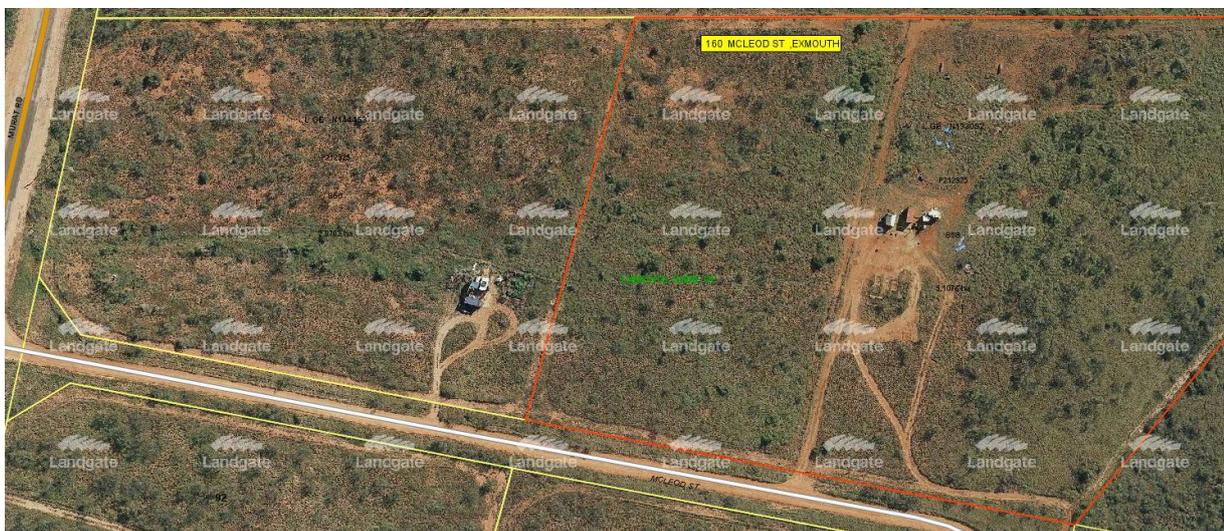
That Council consider granting retrospective development approval for a Sea Container at Lot 858 (160) McLeod Street, Exmouth.

BACKGROUND

Recently the Shire of Exmouth has undertaken a substantial compliance action regarding the requirements for development and building approval for sea containers and transportable buildings within the local government area. As a result a number of retrospective development applications have been lodged with the Shire of Exmouth for sea containers, such as the subject application.

Shire records indicate that the property has leased from the Department of Lands and lawfully used for the purpose of 'paddocking horses and grazing' since 1976 and a stable has been developed. The applicant has developed a sea container at the property in conjunction with that use for which retrospective development approval is being sought. The development (refer Attachment 1) is as follows:

- One 12m long, 2.4m wide and 2.8m high sea container.
- Minimum setbacks to the sea container are 110m to the street, 80m to the rear and 120m to the western side property boundaries.
- Sea containers used for storage of goods associated with the existing land use.



COMMENT

Town Planning Scheme No. 3

The property is zoned 'Residential Development' by the Shire of Exmouth Town Planning Scheme No. 3 (TPS3). The use of the land for the paddocking horses and grazing is considered most consistent with the 'Hobby Farm' land use defined by TPS3 as follows:

hobby farm: means the use of land for the agistment of horses, the growing of vegetables, fruit and flowers and the keeping of domestic poultry for private use only and not for commercial purposes or sale and shall include any buildings normally associated therewith.

TPS3 allows for the continuation of land uses operating lawfully prior to its commencement, therefore development consent is in place for the Hobby Farm land use. The application is for works under that land use.

TPS3 does not prescribe the permissibility of any land uses, including works under those uses, within the Residential Development zone as the purpose of this zone is to implement the requirement for a structure plan (referred to as Outline Development Plan in TPS3) which allocates permissible land uses through further amendment to the Scheme. Therefore, there is no delegation to determine the subject application. The development requirements of TPS3 only outline the requirement for the preparation and adoption of a structure plan in the event that development is associated with subdivision. As subdivision is not proposed as a part of the application it can be determined without the adoption of a structure plan.

Where the permissibility of a land use is not prescribed TPS3 outlines the following:

3.2.4 If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the definition of one of the use categories the Council may:

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted; or*
- (b) determine that the proposed use may be consistent with the objectives of the zone and thereafter follow the "SA" advertising procedures of clause 8.3 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

The objectives of the Residential Development zone are as follows:

- (a) to provide for residential development for expansion of Exmouth.*
- (b) to provide for diversity of lifestyle choice with a range of residential densities.*
- (c) to achieve a high standard of residential development having regard to the economic importance of tourism to the town.*
- (d) to allow for the establishment of non-residential uses which are compatible with the predominant residential use and which will not adversely affect local amenities.*
- (e) To promote development consistent with the planning objectives and recommendations of the Exmouth-Learmonth (North West Cape) Structure Plan.*

The development is not considered to undermine the objectives of the zone. Structure planning of residential development in the immediate area for the purpose of subdivision has not been undertaken. The works the subject of this application will not prevent structure planning from occurring in the future if land constraints are rectified. The land use already has development consent and is considered compatible with the existing use of the area.

The Exmouth-Learmonth (North West Cape) Structure Plan adopted in 1998, which acts as a strategic document and not a subdivisional structure plan, outlines that the property should be for long term residential development. Therefore, it is considered acceptable for the existing use and works to continue on the land until local structure planning is carried out in accordance with TPS3 and/or TPS3 is amended or superseded. The development of sea containers does not impact the local amenity if developed in accordance with Council's planning framework.

Therefore, it is recommended that Council determines that the use is consistent with the objectives of the particular zone and the subject works are therefore permitted. The Scheme outlines that siting and development requirements are at the discretion of Council and are normally designated through the structure plan process. More guidance is provided through Council's local planning policy framework.

Draft Local Planning Scheme No. 4 and Local Planning Strategy

Council is currently in the process of adopting draft Local Planning Scheme No. 4 (LPS4) and Local Planning Strategy (Strategy) which have been seriously entertained through completion of the advertising process. Pursuant to deemed provision 67 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, planning instruments which the local government is seriously considering adopting are to be given due regard to the extent that they are considered relevant.

LPS4 and the Strategy classify the subject property as the 'Rural' zone due to the Exmouth Townsite Structure Plan, another strategic and not subdivisional structure plan, which was adopted during 2011. This document identifies additional land constraints, being severe drainage issues and floodways, on the land the subject of long term residential development under the *Exmouth-Learmonth (North West Cape) Structure Plan*. Therefore, the classification of the land is proposed to be returned to the 'Rural' zone (retitle of the 'Pastoral zone in TPS3) to allow the continuation of horse paddocking and grazing until such time as substantial drainage remediation is conducted.

The siting and development requirements provided in LPS4 for sea containers in the Rural zone is the same as the *Policy No. 6.9 – Use of Sea Containers*, which allows an unlimited number of any size sea containers as long as they meet the other requirements which are outlined under the assessment against the Policy.

Policy No. 6.9 – Use of Sea Containers

The development of sea containers within the Shire of Exmouth is subject to compliance with Council's Policy No. 6.9 – Use of Sea Containers as follows:

General Provisions	Officer Comment
Sea Containers are not listed in Scheme and may be permitted within 'Light Industry', 'Industry', 'Special Use- Composite Industry', 'Strategic Industry', Mixed Use' & 'Pastoral', 'Special Rural' and shall be subject to planning approval from the Shire.	The subject property is zoned 'Residential Development' which is not listed.

All sea containers require a building licence.	Enforced by the Building Code of Australia. An advice note is recommended advising accordingly.
During the planning application stage, where there may be amenity issues, adjoining landowners may be invited to comment on the proposal.	The sea container is setback well into the centre of the large property. Therefore, it is considered setback far enough to not to pose an amenity issue to surrounding landowners which would require referral.
Sea containers shall not be used for any form of accommodation.	The application is for a sea container used for storage purposes for a Hobby Farm. A standard condition of approval is recommended to ensure future compliance with this provision.
Where sea containers have fallen into disrepair or become unsightly, Council shall require they be removed from the property or suitably upgraded.	A standard condition of approval is recommended to ensure future compliance with this provision.
Development Requirements	Officer Comment
All sea containers shall be located behind the building line and adequately screened from the street, including the provision of landscaping where Council considers it necessary. Sea containers shall not be stacked vertically.	The sea container is sited centrally within the property. It is visible from the street. There is only one sea container so vertical stacking of the sea containers is not proposed. A condition requiring landscaped screening and standard conditions of approval are recommended to achieve on-going compliance with this provision.
Where a sea container can't be adequately screened from the street or adjoining properties, Council shall require external modifications, which may include the addition of a pitched roof and/or cladding so as to protect the amenity of Exmouth.	Refer to assessment above.
Sea Containers shall accord with the relevant provisions of the Shire of Exmouth Town Planning Scheme No. 3	Refer to assessment above.
Sea Containers shall be painted externally in accordance with the Shire of Exmouth Colour Palette.	No details have been provided regarding the colour of the sea container. A standard condition is recommended requiring the colour of the sea container to be consistent with Council's <i>Policy No. 6.2 – Colour Palette for Developments</i> .
The use of sea containers shall relate directly to and be ancillary to the predominant use of the land as approved by Council.	The use of the sea container is for the storage of goods required for the Hobby farm land use. Therefore, its use is directly related to the predominate use of the land. A standard condition of approval is recommended to ensure on-going compliance.
Sea containers shall be located within normal building setbacks in accordance with the R-Codes.	The property zoning does not entail setbacks prescribed by the R-Codes at this point in time due to no Structure Plan being adopted.
Sea containers shall not be located over existing utilities and services.	No details provided. A standard condition is recommended to achieve on-going compliance.

The Policy does not list the Residential Development zone as a zone where sea container may be permitted. Pursuant to deemed provision 67 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, local planning policies are to be given due regard to the extent that they are considered relevant.

Given that the development is minor works for the continuation of a land use which has operated lawfully for over forty years the Policy is considered less relevant than LPS4 which supports the development. Therefore, it is considered that the development should be supported subject to standard conditions that achieve compliance with Council's planning framework, particularly *Policy No. 6.9 – Use of Sea Containers*.

State Planning Policy 3.7 Planning in Bushfire Prone Areas

The subject property is located within a bushfire prone area as determined by an order made by the Fire and Emergency Services Commissioner under the Fire and Emergency Services Act 1998. For development in a bushfire prone area State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP3.7) requires a Bushfire Attack Level (BAL) Assessment demonstrating a maximum BAL of 29 and a report demonstrating compliance with the Bushfire Protection Criteria contained in the Guidelines for Planning in Bushfire Prone Areas. Recently the Western Australian Planning Commission released Planning Bulletin 111/2016 Planning in Bushfire Prone Areas which provides further guidance on when SPP3.7 should be applied. The Bulletin outlines that where developments do not:

- result in the intensification of development (or land use);
- result in an increase of residents or employees;
- involve the occupation of employees on site for any considerable amount of time;
- result in an increase to the bushfire threat,

they may be exempt from the provisions of SPP3.7. Pursuant to deemed provision 67 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, state planning policies are to be given due regard to the extent that they are considered relevant.

The development is not considered to fall within any of the criteria above as it is simply for the storage of items used through the Hobby Farm use at the property so that they are protected from the weather. It does not result in any additional residents or employees at the site or increase the length of time anyone staying at the site as the same level of activity would occur without the sea container. The structure is not considered to increase the threat of bushfire given the non-flammable materials it is constructed of and the existing property and building have not been mitigated against this risk. Therefore, the requirements of SPP3.7 are not considered relevant.

A standard advice note is recommended outlining that the property is in a designated bushfire prone area.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Town Planning Scheme No. 3

Fire and Emergency Services Act 1998

POLICY IMPLICATIONS

Policy No. 6.2 – Colour Palette for Developments

Policy No. 6.9 – Use of Sea Containers

State Planning Policy 3.7 Planning in Bushfire Prone Areas

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

- Economic: 1 To be a diverse and innovative economy with a range of local employment opportunities.
 1.2 *Planned and balanced economic growth.*
- Civic Leadership: 4 To work together as custodians of now and the future.
 4.1 *To be a collaborative community with the capacity to manage the current and future direction of Exmouth.*
 4.2 *A local government that is respected, professional, trustworthy and accountable.*
 4.3 *To be strong advocates representing the region's interests.*

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

ITEM 15.3

That Council grant retrospective development approval for a Sea Container at Lot 858 (160) McLeod Street, Exmouth subject to the following conditions:

1. The development shall be carried out in accordance with the stamped approved plans (PA31/16), and the Shire of Exmouth Town Planning Scheme No. 3 together with any annotations detailed thereon by the Shire;
2. The Sea Container shall not be used for any habitable purpose;
3. The external colour of the Sea Container shall be generally in accordance with Councils Policy No. 6.2 – Colour Palette for Developments;
4. Should the Sea Container fall into disrepair or become unsightly, they shall be removed from the property or suitably upgraded to the satisfaction of the Council Officers;
5. The use of the Sea Container shall relate to and be ancillary to the lawful predominant use of the land;
6. The Sea Container shall not be located over any existing utilities or services;
7. The Sea Container shall not be stacked vertically; and

8. Landscaping shall be established within six (6) months of the date of this approval and shall permanently screen the sea containers from view of the street to the satisfaction of the Shires Council Officers.

Advice

- i. A building permit approval from the Shire of Exmouth is required to be obtained. For further information please contact the Shire's Building Surveyor by telephone on 9949 3000.
- ii. The approval granted is not to be construed as approval granted under the *Building Act 2011*, *Building Regulations 2012* or any other relevant statutory approval.
- iii. The property is located within a Bushfire Prone Area as designated by an Order made by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998*. Development in the future may be subject to the requirement for a Bushfire Attack Level Assessment and corresponding additional building standards.
- iv. The Applicant is advised that the property and development is located within a flood plain and may experience severe flooding and drainage issues in heavy rainfall events and cyclones.
- v. Any additional development or substantial variation from the stamped approved plans, will require separate development approval from the Shire.
- vi. This approval is not an authority to ignore any constraint or additional requirement to development on the land, which may exist through contract or on title, such as an easement, encumbrance, restrictive covenant or any other limitation. It is the responsibility of the applicant and not the Shire to investigate any such constraints before commencing development.
- vii. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

COUNCIL RESOLUTION

ITEM 15.3

Res No: 10-0317

That the Commissioner grant retrospective development approval for a Sea Container at Lot 858 (160) McLeod Street, Exmouth subject to the following conditions:

- 1. The development shall be carried out in accordance with the stamped approved plans (PA31/16), and the Shire of Exmouth Town Planning Scheme No. 3 together with any annotations detailed thereon by the Shire;**
- 2. The Sea Container shall not be used for any habitable purpose;**
- 3. The external colour of the Sea Container shall be generally in accordance with Councils Policy No. 6.2 – Colour Palette for Developments;**
- 4. Should the Sea Container fall into disrepair or become unsightly, they shall be removed from the property or suitably upgraded to the satisfaction of the Council Officers;**

5. **The use of the Sea Container shall relate to and be ancillary to the lawful predominant use of the land;**
6. **The Sea Container shall not be located over any existing utilities or services;**
7. **The Sea Container shall not be stacked vertically; and**
8. **Landscaping shall be established within six (6) months of the date of this approval and shall permanently screen the sea containers from view of the street to the satisfaction of the Shires Council Officers.**

Advice

- i. **A building permit approval from the Shire of Exmouth is required to be obtained. For further information please contact the Shire's Building Surveyor by telephone on 9949 3000.**
- ii. **The approval granted is not to be construed as approval granted under the *Building Act 2011*, *Building Regulations 2012* or any other relevant statutory approval.**
- iii. **The property is located within a Bushfire Prone Area as designated by an Order made by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998*. Development in the future may be subject to the requirement for a Bushfire Attack Level Assessment and corresponding additional building standards.**
- iv. **The Applicant is advised that the property and development is located within a flood plain and may experience severe flooding and drainage issues in heavy rainfall events and cyclones.**
- v. **Any additional development or substantial variation from the stamped approved plans, will require separate development approval from the Shire.**
- vi. **This approval is not an authority to ignore any constraint or additional requirement to development on the land, which may exist through contract or on title, such as an easement, encumbrance, restrictive covenant or any other limitation. It is the responsibility of the applicant and not the Shire to investigate any such constraints before commencing development.**
- vii. **If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.**

CARRIED 1/0

16 ENGINEERING SERVICES

Nil

17. ITEMS FOR INFORMATION ONLY

Responsible Officer: Chief Executive Officer

Disclosure of Interest: Nil

PURPOSE

To advise Council of the information items for February 2017.

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION

ITEM 17

That Council note the following information items:

- 17.1 Register of Documents Stamped with the Shire of Exmouth Common Seal
 - 17.2 Concessions on Fees for Council Facilities for February 2017
 - 17.3 Building Decisions Issued up to 28 February 2017
 - 17.4 Planning Decisions Issued up to 28 February 2017
-

COUNCIL RESOLUTION

ITEM 17

Res No: 11-0317

That the Commissioner note the following information items:

- **17.1 Register of Documents Stamped with the Shire of Exmouth Common Seal**
- **17.2 Concessions on Fees for Council Facilities for February 2017**
- **17.3 Building Decisions Issued up to 28 February 2017**
- **17.4 Planning Decisions Issued up to 28 February 2017**

CARRIED 1/0

17.1 REGISTER OF DOCUMENTS STAMPED WITH THE SHIRE OF EXMOUTH COMMON SEAL

Responsible Officer: Chief Executive Officer

Disclosure of Interest: Nil

PURPOSE

To advise Council of documents, as listed below, that have been stamped with the Common Seal of the Shire of Exmouth since the last meeting.

DATE	DOCUMENT
Nil	

17.2 CONCESSIONS ON FEES FOR COUNCIL FACILITIES FOR FEBRUARY 2017

File Reference:	CP.US.0
Responsible Officer:	Executive Manager Community Engagement
Date of Report:	27 February 2017
Disclosure of Interest:	Nil

PURPOSE

To provide Council with a summary of all concessions on fees for Council's facilities and services under Section 4.1 of the *Register of Delegations of Authority from Council to the CEO and Other Officers* since the last Ordinary Council Meeting.

NAME	REASON	AMOUNT (exc GST)
Exmouth Gymnastics Club	Hire of Shire Hall x 3 days to hold beginners coaching course open to all sports and an intermediate course specific to gymnastics	\$126.00
Exmouth Amateur Swimming Club	Activity on Local Government Property Permit to sell Raffle tickets at Ross Street Mall on 8 & 25 February and 4 March 2017.	\$261.00
Shire of Exmouth – Cruise Shipping	Activity on Local Government Property Permit for buses to park in no parking zones at front of shopping centre.	\$117.00
Youth Care Chaplain	Advert on Shire Noticeboard x 2 weeks for Youth Care Chaplaincy.	\$6.00
WA Electoral Commission	Hire of Meeting Room x 4 hours for Election Training.	\$26.00

17.3 BUILDING DECISIONS ISSUED UP TO 28 FEBRUARY 2017

File Reference:	DB.BD.0
Responsible Officer:	Executive Manager Health & Building Services
Date of Report:	27 February 2017
Disclosure of Interest:	Nil
Attachment(s):	Nil

PURPOSE

To provide Council with the building permits and building certificate applications and approvals made under Delegation pursuant to the *Building Act 2011* up to 28 February 2017.

App #	Date Received	Lot	Property Address	Description	Decision	Decision Date
16/21	22/02/16	146	10 Hunt Street	Outbuilding Extension	Approved	06/02/2017
16/132	01/12/16	1419	Willersdorf Road (Reserve 50807)	(Community Garden) - Shed & Chicken Coop	Awaiting Planning Approval	
17/03	23/01/17	360	Neale Cove	Boat Lift Facility	Approved	07/02/2017
17/05	25/01/17	165	13 Maidstone Crescent	Carport Addition	Approved	06/02/2017
17/07	25/01/17	165	13 Maidstone Crescent	Entry Portico	Approved	03/02/2017
17/12	25/01/17		Cape Range National Park - Mesa Camp (Reserve 27288)	Two Toilet Block Facilities	Approved	01/02/2017
17/13	30/01/17	62	27 Inggarda Lane	Storage Shed & Deck Extension	Approved	03/02/2017
17/15	01/02/17	18	20 Pelias Street	Steel Boundary Fence	Approved	03/02/2017
17/16	31/01/17	434	88 Madaffari Drive	Retaining Walls	Approved	15/02/2017
17/17	02/02/17	863	22 Maidstone Crescent	Communication Tower	Approved	07/02/2017
17/18	16/02/17	81	35 Kennedy Street	Shed	Processing	
17/19	20/02/17	900	5 Patterson Way	Sea Container / Caretaker Resident	Processing	
17/20	20/02/17	23	Mortiss Street	Dwelling	Processing	

17.4 PLANNING DECISIONS ISSUED UP TO 28 FEBRUARY 2017

File Reference:	LP.PL.0.2017
Responsible Officer:	Executive Manager Town Planning
Date of Report:	27 February 2017
Disclosure of Interest:	Nil

PURPOSE

To advise Council of the following planning decisions issued under delegation for the period up to 28 February 2017.

App #	Date Received	Lot	Property Address	Description	Decision	Decision Date
PA70/16	13/06/16	2	Yardie Creek Road	Additional Camping Sites	ON HOLD - Pending information from Applicant	
PA107/16	15/08/16	50	Murat Road	Barge Loading Facility	ON HOLD - Pending information from Applicant	
PA112/16	25/08/16	1586 & 1587	164 Lyndon Location	Nature Based Park - Exmouth Gulf Pastoral Station	ON HOLD - Pending information from Applicant	
PA152/16	24/11/16	2 & 1	40 Pelias Street & 1 Carter Road	Change of Use	Processing	
PA154/16	01/12/16	2	24 Nimitz Street	Sea Container	Approved	12/12/16
PA155/16	05/12/16	147	6 Hunt Street	3 x Sea Containers	Approved	06/02/16
PA161/16	19/12/16	25	11 Pelias Street	2 x Sea Containers	Approved	28/02/16
PA162/16	20/12/16	126	35 Young Street	Sea Container	Processing	
PA164/16	15/12/16		Willersdorf Road (Reserve 50807) – Community Garden	Arboretum	Approved	12/02/17
PA165/16	22/12/16	1380	37 Preston Street	Sea Container	Approved	08/02/17
PA166/16	05/01/17	101	15 Ingram Street	Sea Container & Shed Extension	Processing	
PA01/17	10/01/17	23	10 Nimitz Street	Sea Container	Approved	13/02/17
PA03/17	11/01/17	1349	40 Tambor Drive	Pergola	Approved	08/02/17
PA04/17	12/01/17	117	38 Ingram Street	Sea Container	Approved	17/02/17
PA05/17	16/01/17	1376	40 Preston Street	Sea Container	Approved	08/02/17
PA06/17	17/01/17	34	Unit 34 / 2 Welch Street	Short Stay Accommodation	Approved	15/02/17
PA07/17	17/01/17	25	Unit 41 / 2 Murat Street	Short Stay Accommodation	Approved	15/02/17
PA08/17	17/01/17	16	Unit 28 / 2 Murat Street	Short Stay Accommodation	Approved	16/02/17
PA09/17	17/01/17	32	Unit 17 / 2 Murat Street	Short Stay Accommodation	Approved	15/02/17
PA10/17	17/01/17	957	5 Griffiths Way	Sea Container	Approved	02/02/17

PA14/17	23/01/17	947	16 Griffiths Way	Sea Container	Approved	07/02/17
PA15/17	23/01/17	21	5 Kennedy Street	Alfresco Dining Area	ON HOLD - Pending information from Applicant	
PA16/17	23/01/17	326	Minilya-Exmouth Road	Dwelling	Processing	
PA17/17	31/01/17	364	2 Craft Street	Sea Container	Approved	06/02/17
PA18/17	24/01/17	21	5 Kennedy Street	Section 40 – Liquor Licence	Approved at OCM	14/02/17
PA19/17	01/02/17	18	20 Pelias Street	Shed & Fencing	Approved	23/02/17
PA23/17	08/02/17	403	20 Madaffari Drive	Holiday Accommodation	Processing	
PA24/17	14/02/17	375	22 Corella Court	Holiday Accommodation	Processing	
PA25/17	14/02/17	1155	39 Koolinda Way	Sea Container	Processing	
PA26/17	15/02/17	478	1 Osprey Way	Single Dwelling	Processing	
PA31/17	17/02/17	858	160 McLeod Street	Sea Container	Processing	
PA34/17	20/02/17	116	44 Ingram Street	2 x Sea Containers	Processing	
PA35/17	22/02/17	161	5 Maidstone Crescent	Office (St John Ambulance)	Processing	
PA37/17	22/02/17	380	32 Corella Court	Holiday Accommodation	Processing	
PA38/17	22/02/17	73	Lyndon Location (Reserve 32867/5)	Water Tank & Sea Container Insulation	Processing	
PA39/17	24/02/17	862	15 McLeod Street	3 x Sea Containers	Processing	
PA41/17	27/02/17	314	Minilya-Exmouth Road	2 x Sea Containers	Processing	
PA42/17	27/02/17	854	66 Murat Road	2 x Sea Containers	Processing	
PA43/17	27/02/17	20	Unit 24 / 2 Murat Road	Short Stay Accommodation	Processing	

Permits Issued Under the *Local Government Act 1995*, Local Government Property Local Law.

App	Date Received	Description	Date Issued
PA02/17	10/01/2017	Outdoor Gym Sessions	17/02/17
PA21/17	16/02/2017	Group Fitness Classes	28/02/17
PA22/17	07/02/2017	Exmouth Amateur Swimming Club (Fundraising Raffle Tickets)	08/02/17

18. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

Nil

20. MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS

As the following report was a matter to be considered behind closed doors the Commissioner asked the gallery and the Executive Managers to please leave the Chambers at 4.50 pm to discuss a confidential legal and financial matter.

20.1 LEGAL OPINION REGARDING EXECUTIVE MANAGEMENT AND THE CCC INVESTIGATION, SHIRE POLICY AND CONTRACTS OF EMPLOYMENT

COUNCIL RESOLUTION**ITEM 20.1****Res No: 12-0317****That the Commissioner authorises:**

- 1. The engagement of Clayton Utz.**
- 2. The ongoing expenditure of funds associated with the Corruption and Crime Commission (CCC) investigation which are not included in the annual budget and are procured outside the requirements of Council Purchasing Policy 2.10.**

CARRIED 1/0

21. CLOSURE OF MEETING

The Commissioner declared the meeting closed at 5.00 pm.