

Shire of Exmouth

ORDINARY COUNCIL MEETING

AGENDA



26 May 2022

NOTICE OF MEETING

Notice is hereby given that the next Ordinary Council Meeting of the Shire of Exmouth will be held on **26 May 2022**, in the Mandu Mandu Function Room, Ningaloo Centre, 2 Truscott Crescent, Exmouth Commencing at 4.00 pm.



Ben Lewis
Chief Executive Officer
26 May 2022

Disclaimer

The advice and information contained herein is given by and to the Council without liability or responsibility 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.

Please note this agenda contains recommendations which have not yet been adopted by Council.

No responsibility whatsoever is implied or accepted by the Shire of Exmouth for any act, omission, statement or intimation occurring during the Council/Committee meetings or during formal/informal conversations with staff. The Shire of Exmouth disclaims any liability for any loss whatsoever and however caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broader disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation of approval made by a member or officer of the Shire of Exmouth during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Exmouth. The Shire of Exmouth warns that anyone who has an application lodged with the Shire of Exmouth must obtain and should only rely on written confirmation of the outcome of the application, and any conditions attached to the decision made by the Shire of Exmouth in respect of the application.

Disclosure of Interest Form

(Elected Members/Committee Members/Employees/Contractors)

Local Government Act 1995 (Section 5.65, 5.70, 5.71 & 5.71(B))

To: Chief Executive Officer

Name [Click here to enter text.](#)

Elected Member Committee Member Employee Contractor

Ordinary Council Meeting held on [Click here to enter text.](#)

Special Council Meeting held on [Click here to enter text.](#)

Committee Meeting held on [Click here to enter text.](#)

Other [Click here to enter text.](#)

Report No [Click here to enter text.](#)

Report Title [Click here to enter text.](#)

Type of Interest (*see overleaf for further information)

Proximity Financial Impartiality

Nature of Interest

[Click here to enter text.](#)

Extent of Interest (if intending to seek Council approval to be involved with debate and/or vote)

[Click here to enter text.](#)

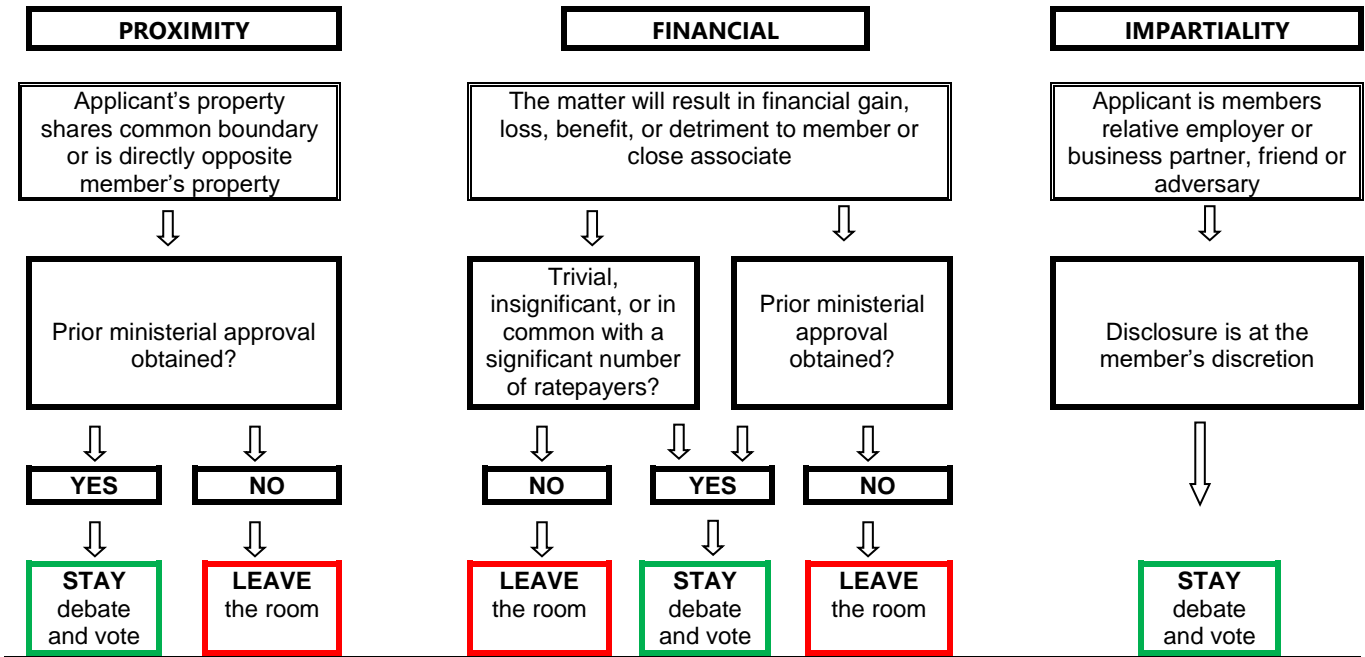
Signed: _____ Date: [Click here to enter text.](#)

- **Note 1** - Elected Members/ Committee Members/Employees refer to the Disclosure of Interest Declaration card when disclosure is being read out at Council or Committee Meeting.
- **Note 2**: For Ordinary meetings of the Council, elected members and employees are requested to submit this completed form to the Chief Executive Officer prior to the meeting. Where this is not practicable, disclosure(s) must be given to the Chief Executive Officer prior to the matter being discussed.
- **Note 3**: Employees or Contractors disclosing an interest in any matter apart from at meetings, where there is a conflict of interest including disclosures required by s5.71 are required to submit this form to the CEO as soon as practicable.

CEO: _____ Signed: _____ Date: _____

OFFICE USE ONLY	
<input type="checkbox"/> Particulars recorded in Minutes	<input type="checkbox"/> Particulars recorded in Register

*** Declaring an Interest**



Local Government Act 1995 – Extract

s.5.60A - Financial Interest

A person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

s.5.60B – Proximity Interest

A person has a proximity interest in a matter if the matter concerns —

- (a) a proposed change to a planning scheme affecting land that adjoins the person's land; or
- (b) a proposed change to the zoning or use of land that adjoins the person's land; or
- (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.

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

(1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest:

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

5.70 - Employees to disclose interests relating to advice or reports.

(1) In this section: 'employee' includes a person who, under a contract for services with the local government, provides advice or a report on a matter.

(2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.

(3) An employee who discloses an interest under this section must if required to do so by the council or committee, as the case may be, disclose the extent of the interest. (Penalties apply).

5.71 - Employees to disclose interests relating to delegated functions.

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

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter. (Penalties apply)

5.71A. - CEOs to disclose interests relating to gifts in connection with advice or reports

(1) A CEO who has an interest relating to a gift in a matter in respect of which the CEO proposes to provide advice or a report, directly or indirectly, to the council or a committee must disclose the nature of the interest in a written notice given to the council.

(2) A CEO who makes a disclosure under subsection (1) must not provide the advice or report unless the CEO is allowed to do so under section 5.71B(2) or (6).

(3) A CEO who has an interest relating to a gift in a matter in respect of which another employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when the advice or report is provided.

Local Government (Administration) Regulations 1996 – Extract - In this clause and in accordance with Regulation 19AA "Interest" means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an association.

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AGENDA

Our Vision To be a prosperous and sustainable community living in harmony with our natural environment.

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

Our Strategic Objectives

- Diversify and grow our economy in a manner that provides year round employment opportunities
- To protect and value our unique natural and built environment as we grow our economy.
- To be a vibrant, passionate and safe community valuing our natural environment and unique heritage
- To provide open transparent, accountable leadership working in collaboration with our community.

1. **DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

The Shire President declared the meeting open at XX

The Shire President acknowledged the Traditional Owners of the land on which we meet, and paid respect to Elders past, present, and emerging.

The Shire President advised the gallery in adhering to both the *Local Government Act 1995*, and the Shire of Exmouth Meeting Procedures Local Law 2015, it is an offense to record the proceedings of this meeting and asked the gallery to switch off any recording devices, including phones.

The Shire President advised the gallery the meeting will be recorded by the Executive Secretary for the purpose of compiling an accurate record of the minutes only; and the recording will be erased once they are confirmed.

2. **RECORD OF ATTENDANCE, APOLOGIES AND APPROVED LEAVE OF ABSENCE**

Councillor D (Darlene Allston)	Shire President
Councillor J (Jackie) Brooks	Deputy Shire President
Councillor H (Heather) Lake	
Councillor D (David) Gillespie	
Mr B Lewis	Chief Executive Officer
Mr M Richardson	Executive Manager Development Services
Ms M Head	Minute Clerk

GALLERY

APOLOGIES

Mr G Coetzee, Executive Manager Corporate Services

LEAVE OF ABSENCE

Councillor M (Mark) Lucas

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

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 Presidents 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).

Question received from David Tsangaris via email

It has been brought to my attention after 1 of our members narrowly missed a child running across the road and I have noticed it myself. With the amount of children crossing the road from the oval going into the Caltex fuel station that an accident involving vehicles and children may eventually occur.

This community sporting precinct is a huge asset to both the local and tourism sector for our town, and is gathering more visitations than ever before. It would be tragic to have something done to make this very busy section of road safer for crossing after an accident between a vehicle and a child has occurred.

Could this issue please be addressed at the next council meeting to try and nut out a solution?

Shire Response:

The intersection referred to is a complex section of road to manage as it incorporates traffic flows in and out of the service station and also vehicles heading in and out of the town centre on Maidstone Crescent. The section of road is also complicated by the slip lane heading north and turning left into the service station and by the turning lane heading south and turning right into the same location. These turning lanes and the close proximity to the Maidstone Cres intersection prevent a safe pedestrian crossing opposite the service station complying with the technical specifications required for construction. Road safety specifications require crossings to be constructed at specified distances from intersections and also provide for a pedestrian refuge in the centre of the road. In this situation, a pedestrian crossing in this location would be non-compliant.

However, a pedestrian crossing compliant with road safety guidelines is located 30 metres to the north of the intersection and purposely links to the skatepark. While ergonomically not the shortest distance from the service station it is the safest crossing point.

The Shire can assess if signage adjacent to the service station will be useful to promote the use of the existing crossing and can investigate if fencing on the east side of the road is a viable measure to dissuade pedestrian access from the skate park to the service station by directing pedestrians to the designated pathway.

5. DECLARATIONS 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 a leave of absence.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

That the Minutes and associated attachments of the Ordinary Meeting of the Shire of Exmouth held on the 28 April 2022 be confirmed as a true and correct record of proceedings.

8. ANNOUNCEMENTS/REPORTS OF ELECTED MEMBERS

9. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

10. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil.

11. MATTERS ARISING FROM COMMITTEES OF COUNCIL

Nil.

12. REPORTS OF OFFICERS

EXECUTIVE SERVICES

12.1.1 CHANGE OF ORDINARY COUNCIL MEETING DATE – JUNE 2022

File Reference:	GV.CM.0
Reporting Officer:	Chief Executive Officer
Responsible Officer:	As Above
Date of Report:	18 May 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

PURPOSE

1. That Council approve to change the published date for the June Ordinary Council meeting from Wednesday 22 June 2022 to Thursday 30 June 2022.
2. The meeting will be held at the usual place (Ningaloo Centre, Mandu Function Centre) and commencement time (4.00 pm).

BACKGROUND

3. At the ordinary Council meeting held on 16 December 2021, council approved changing the already set date for the June 2022 meeting from Thursday 23 June 2022 to Wednesday 24 June 2022. This change was due to a conflict with the scheduled June WALGA Zone meeting in Shark Bay.

COUNCIL RESOLUTION

ITEM 12.1.2

Res No: 06-1221

That Council approve to change the published date for the June Ordinary Council meeting from Thursday 23 June 2022 to Wednesday 22 June 2022.

CARRIED 6/0

4. Exmouth is a finalist of the highly coveted, GWN7 Top Tourism Town Awards, which will be announced at the WA Tourism Conference on the evening of 22 June 2022 in Perth. Councillor representation at the Conference will reduce Councillor numbers available for the June Council meeting, and a quorum will not be attainable.
5. The Officer recommends that Council approve postponing the June Ordinary Council Meeting to Thursday 30 June 2022 commencing at 4.00 pm.

COMMENT

6. Nil

CONSULTATION

7. Executive Management Team

STATUTORY ENVIRONMENT

8. *Local Government Act 1995, s.5.25(1)(g)*

5.25. Regulations about council and committee meetings and committees

(1) Without limiting the generality of section 9.59, regulations may make provision in relation to —

(g) the giving of public notice of the date and agenda for council or committee meetings;

9. *Local Government (Administration) Regulations 1996,*

12. Publication of meeting details (Act s. 5.25(1)(g))

g) Any change to the meeting details for a meeting referred to in sub regulation (2) must be published on the local government's official website as soon as practicable after the change is made.

POLICY IMPLICATIONS

10. Nil.

FINANCIAL IMPLICATIONS

11. Nil.

RISK MANAGEMENT

12. Identified risks implications

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational - Shire would develop a reputation of not attending face to face conferences and meetings.	Possible	Minor	Low	Moving the OCM date will allow staff and Council reps to represent the shire at both the conference and meeting face to face.

ALTERNATE OPTIONS

13. Council do not support the second change to June Ordinary Council Meeting and Councillor representatives will be an apology to the GWN Top Tourism Awards.

STRATEGIC ALIGNMENT

14. This item is relevant to the Councils approved Strategic Community Plan 2030 and Corporate Business Plan 2018-2022

Leadership: To provide open transparent, accountable leadership working in collaboration with our community.

4.1 To provide proactive, collaborative and transparent leadership

4.2 A local government that is respected and accountable.

4.3 To be a champion for our community

VOTING REQUIREMENTS

15. Simple Majority

OFFICER'S RECOMMENDATION

ITEM 12.1.1

That Council approve to change the published date for the June Ordinary Council meeting from Wednesday 22 June 2022 to Thursday 30 June 2022.

DEVELOPMENT SERVICES

12.2.1 DEVELOPMENT APPLICATION – GROUPED DWELLING X 3 AT LOT 59 (19) INGGARDA LANE, EXMOUTH

File Reference:	A1864 (DA90/21)
Reporting Officer:	Senior Planning Officer
Responsible Officer:	Executive Manager Development Services
Date of Report:	16 May 2022
Applicant/Proponent:	P Dellar J Spiteri – Rowe Group
Disclosure of Interest:	Nil
Attachment(s):	1. Planning report 2. Development Application Plans 3. Architectural Drawings 4. R-codes Assessment

PURPOSE

1. That Council consider a development application for three (3) grouped dwellings at lot 59 (19) Inggarda Lane, Exmouth.

BACKGROUND

2. The Shire of Exmouth has received a development application (DA90/21) for three (3) grouped dwellings at Lot 59 (19) Inggarda Lane, Exmouth (the subject site) which is shown in Figure 1 below. The subject site is located on the eastern corner of canal arm 4 and the northern finger canal.



Figure 1 - The subject site

3. The subject site is currently vacant without any vegetation.

4. Each dwelling is three storeys and will be accessed via a shared crossover on Inggarda Lane. A copy of the drawings is included in Attachment 2.
5. The subject site is 1602m² in area and zoned 'Special Use 6 – Area B – Precinct 4, Icon Site A and B' with a residential density code of R70 under Local Planning Scheme No.4 (LPS 4). The site was anticipated to be developed with (eight) 8 dwellings.
6. There are three icon sites in Area B of the Exmouth Marina Village, and this is the first to be developed.
7. The subject site is connected to the Water Corporations' reticulated water and sewerage networks.
8. Prior to lodging a formal development application, the applicant submitted concept plans for three (3) grouped dwellings to the Shire for review. The Shire responded by outlining the density requirements and recommending additional dwellings be proposed for the site.

COMMENT

9. The objectives of the Special Use Zone 6 under LPS 4 are:
 - (a) *To provide for public marina uses, tourist, commercial and residential components for the local and visiting community, which has strong links to the existing cultural and town precincts, in recognition of the strategic location of the site in its local regional context.*
 - (b) *To ensure a consistently high standard of development with quality design that provides visual interest through detail and scale, and positively contributes to the streetscape and canal environments.*
 - (c) *To complement and not compete with other zones for civic, tourist and commercial use.*
10. The surrounding built form is generally two storeys. The three storey heights proposed meet the building height requirements and intent for the site as identified as Icon Site B. The proposed development has a number of interesting facades and external elements. The Architectural Drawings (Attachment 3) provide a context of the proposed development in relation to surrounding developments.
11. The proposed buildings will be clad with a range of materials, colours and textures over the site, consistent with the Shires Local Planning Policy 6.2 – *Colour Palette for Developments*. The materials include the following:
 - Standing seam steel wall/roof cladding – Surfmist.
 - Colorbond wall cladding – Surfmist and Mangrove.
 - Concrete block walls/ paint finish – Taubmans Athena.
 - Concrete block walls face work – Parchment.
 - Weatherboard cladding/ paint finish – Blue (Mamala bay).
12. Two-way vehicle access is provided via the shared crossover. Each dwelling includes a double garage. There is sufficient manoeuvring for vehicles to enter the street in forward gear.
13. The development is compliant with the relevant design, setback and built form requirements listed under LPS 4, with the exception of density requirements under condition 14, which states:

"Density shall be R70 calculated as an average of the R60 and R80 Density Codes."

14. Generally, a density code applies to a maximum density, for example landowners may elect to develop below the assigned density code. However, Shire Officers are of the opinion that the inclusion of 'shall be' in condition 14 removes any ambiguity. This is similar to other local planning schemes which specify a minimum R-code and density to be developed.
15. Based on the subject site's lot size, the proposed development represents a density of only R17.5.
16. The proponents have provided justification for the density, including:

We note that all the unit sites satisfy the minimum and average lot size requirements for R70. This is due to a range of factors, including:

- *The need to meet market expectations with regard to the size and layout of the proposed future dwellings, which are typically to accommodate a minimum dwelling size of 3-4 bedrooms and 2 bathrooms, with a double garage.*
- *The configuration of the proposed lots provides sufficient articulation and separation to each other enhancing landscaping opportunities within the private realm, and connection to the Exmouth Canal system. If more dwellings were proposed this would not be sufficiently achieved.*
- *The proposed Grouped Dwellings are three (3) storeys in height, providing a prominent bulk, scale and size to the surrounding development, which is all currently only two (2) storeys in height.*

17. The subject site is identified within Precinct B of the *Exmouth Marina Village Outline Development Plan (the ODP)*. Precinct B is described as:

Canal based and dry lot residential, commercial/mixed use (café/restaurant/tourist), short stay accommodation and landmark development (tourist complex, holiday accommodation, etc) site.

18. The intent of the development of the icon sites under the Shires previous Local Planning Policy 6.20, Precinct B Exmouth Marina Village -Modified Outline Development Plan August 2011 (LPP 6.20) are detailed below.

"4.2 Descriptive Design Character – Precinct B

4.2.1 Proposed Land Configuration

Canal arm 4 is constructed and is retained by an existing revetment wall and forms the northern boundary to Precinct B. The land abutting the canal will be developed as single residential, Icon (multi) residential and grouped residential or tourist accommodation."

4.2.2 Development Density

The modified outline development plan depicts 3 "icon" sites designated for apartment development (multiple dwellings) to a density of R70 based upon the averaging principles established above. For all design criteria specified in the R Codes, other than density, refer to the provisions of R60."

"4.4 Precinct 4 – Icon Sites A and B (Revetment & Vertical Wall Canal Frontage) Use

The precinct will be multiple dwelling residential use. Residential built form in this precinct shall contribute to the maritime theme.”

19. LPP 6.20 was the basis for and informed the scheme provisions of LPS 4 for Special Use 6 – Area B. It is Shires officers’ opinion that it is clear the intent of the icon sites was to be developed as Multiple Dwellings at a density of R70.
20. Special Use Zone SU6 Marina – Area B1 is included as Figure (7) in LPS 4 (which was directly taken from previous LPP 6.20). This shows the icon sites with reference to dwelling numbers represented by ‘DX*’. As shown in Figure 2 below, the subject site is intended to contain 8 dwellings.

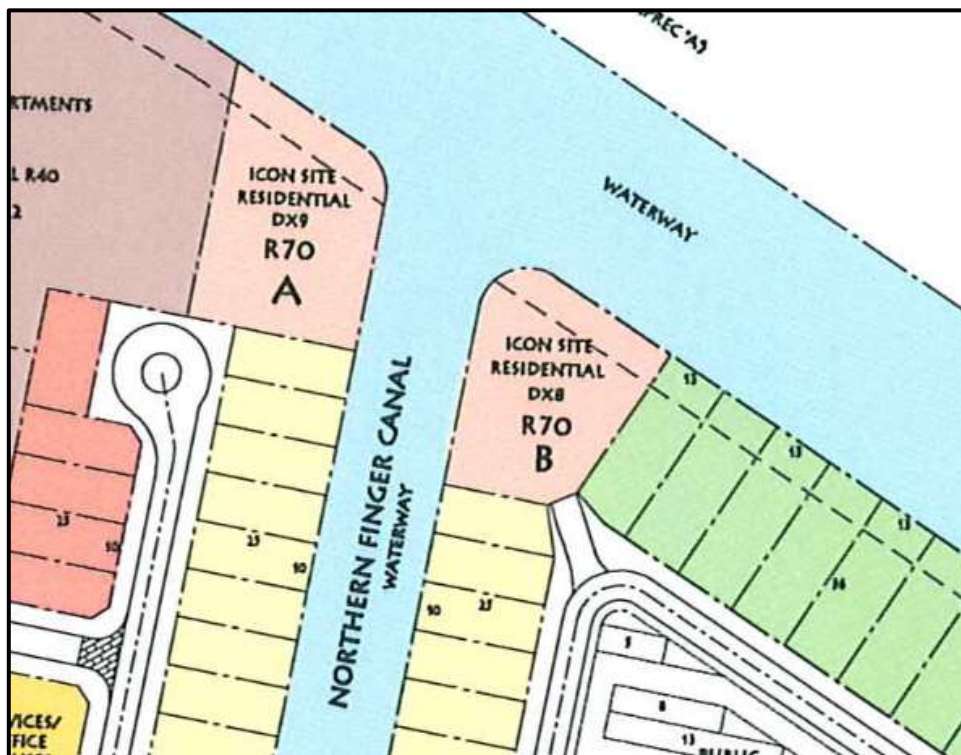


Figure 2 –Extract of Special Use Zone SU6 Marina – Area B1 of LPS 4

21. Based on the above, it is the Shire Officers view that the site is intended for development in the form of 8 dwellings at a density of R70.
22. Increasing the number of dwellings on site would ultimately assist with the accommodation and housing crisis.
23. During the assessment process Shire Officers recommended that the proposal be redesigned to include a minimum of 4 dwellings (multiple or grouped), which would go some way in achieving the intended outcome for the site, whilst creating a design outcome which would be appropriate for the surrounding location. Four (4) dwellings could give the appearance of eight (8) multiple dwellings developing the site to 50% of what was intended. The applicant did not wish to redesign, and requested a determination of the application based on the proposed design (Attachment 2).
24. Shire Officers are concerned with the precedent that this application could set for the remaining 2 icon sites. With the potential for the other two larger sites of approximately 1700m² and 2400m² being developed with only 2 dwellings the minimum number, which in the opinion of

Shire Officers would be an under development of what have been identified as high-density sites.

25. As a decision maker it is critical to ensure that decisions are made consistently. There is a distinct risk that if variations to the scheme provisions are granted against limited planning grounds, that the Shire of Exmouth will prejudice its position in being able to apply the scheme provisions consistently in the future.
26. The application was advertised to surrounding landowners in the area seeking comment. In closing of the advertising period, no public submissions were received.
27. As mentioned above, with the exception of density, the development is generally compliant with the relevant planning requirements of the LPS 4.
28. The development is also generally compliant with the deemed-to-comply provisions of *State Planning Policy 7.3 – Residential Design Codes (R-codes)*, with the exception of the following elements:
 - Outdoor living areas*
 - Visual privacy*
29. Shire Officers consider the outdoor living areas adequately satisfy the relevant design principles.
30. With regards to privacy, the development has been designed to minimise overlooking onto neighbouring properties through the design and the use of screening measures on balconies and windows. Views and sight lines are generally directed towards the street, canal and the lower terrace. The visual privacy variations are primarily from the cones of vision extending onto neighbouring properties, rather than the occurrence of direct overlooking, and are considered relatively minor.
31. Given the reasoning in the above paragraphs, after considering the matter against the statutory framework, Shire Officers are of the view that the proposal does not represent proper and orderly planning and should be refused.

CONSULTATION

32. As mentioned above, the application and variations were referred to surrounding landowners seeking public comment, for a period of twenty-nine (29) days. No public submissions were received.

STATUTORY ENVIRONMENT

33. Shire of Exmouth Local Planning Scheme No.4
34. *Planning and Development (Local Planning Schemes) Regulations 2015.*
35. *Planning and Development Act 2005*

POLICY IMPLICATIONS

36. Local Planning Policy 6.2 Colour Palette for Developments
37. State Planning Policy 7.0 – Design of the Built Environment
38. State Planning Policy 7.3 – Residential Design Codes (Volume 1)
39. Exmouth Marina Village Outline Development Plan Including Broad Design Guidelines

FINANCIAL IMPLICATIONS

40. Nil.

RISK MANAGEMENT

41. The risk identification and categorisation rely on the Shires Policy 2.13 – *Risk Management Policy*.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational – Supporting the development could be used to set a precedent for other developments.	Likely	Moderate	High	The application has been assessed against the relevant statutory framework. Not supporting the development would uphold the Shires position on the application of the provisions of LPS 4.

ALTERNATE OPTIONS

42. Council has the following alternate options in relation to this item, which are:

- To resolve to refuse the proposal with additional reasons; or
- To resolve to approve the proposal subject to conditions and/or modifications.

STRATEGIC ALIGNMENT

43. This item is relevant to the Councils approved Strategic Community Plan 2030 and Corporate Business Plan 2018-2022.

Economic: Diversify and grow our economy in a manner that provides year-round employment opportunities

1.1 A diverse and environmentally aware local economy that can attract business investment and provide employment opportunities.

Environment: To protect and value our unique natural and built environment as we grow our economy.

2.2 Strive to achieve a balance between the preservation of our unique environment and the delivery of sustainable economic growth.

Social: To be a vibrant, passionate and safe community valuing our natural environment and unique heritage

3.1 Explore opportunities to deliver services and facilities that attract and retain people living in the Shire.

Leadership: To provide open transparent, accountable leadership working in collaboration with our community.

4.1 To provide proactive, collaborative and transparent leadership

4.2 A local government that is respected and accountable.

VOTING REQUIREMENTS

44. Simple Majority.

OFFICER'S RECOMMENDATION

ITEM 12.2.1

That Council resolves to ISSUE a notice of determination refusing development approval for Grouped Dwellings x 3 at Lot 59 (19) Inggarda Lane for the following reason:

1. The proposal does not comply with the R70 density requirement under condition 14 of Special Use 6 – Area B – Precinct 4, Icon Site A and B of Local Planning Scheme No.4.

12.2.2 PROPOSED LICENCE AND LEASE REFERRALS FROM DEPARTMENT OF PLANNING LANDS AND HERITAGE FOR PORT AND ASSOCIATED LAND USES

File Reference:	LP.PL.4.8
Reporting Officer:	Strategic Planning Officer
Responsible Officer:	Executive Manager – Development Services
Date of Report:	17 April 2022
Applicant/Proponent:	Department Planning Lands and Heritage Gascoyne Gateway Limited
Disclosure of Interest:	Nil
Attachment(s):	1. Proposal from Department Planning Lands and Heritage 2. Site Plan submitted by Gascoyne Gateway Limited 3. Correspondence from Gascoyne Gateway Limited

PURPOSE

1. The State Government, namely the Department of Planning Lands and Heritage (DPLH) has requested comments from Council (and other state agencies) prior to considering a request to issue a section 91 Miscellaneous Licence and Leasehold to Gascoyne Gateway Ltd (GGL) to develop a port facility and industrial/renewable energy land use and on crown land in the Shire of Exmouth.
2. A Section 91, Miscellaneous Licence is issued by State Government, to enable a Proponent to access crown land, which is ultimately in control of the Minister for Lands. In this case, the Proponent (GGL) wishes to access land for further investigations/studies related to the proposed development. The below table identifies the land included in the request for such access.

TENURE TABLE – LAND DESCRIPTION OF LICENCE AREA

	Land Description of Licence Area	Extent	Volume	Folio
1.	Portion of unallocated Crown land PIN: 701158	Part	N/A	N/A
2.	Portion Lot 560 on Deposited Plan 68726 subject to Reserve 51512 currently held for the purpose of 'Gravel'	Part	3016	991
3.	Portion Lot 550 on Deposited Plan 72929 subject to Reserve 34055 currently held for the purpose of 'Water Supply'	Part	3022	878
4.	Unallocated Crown land PIN: 11913822	Whole	N/A	N/A
5.	Unallocated Crown land PIN: 701007	Part	N/A	N/A
6.	Portion Lot 81 on Deposited Plan 180895 subject to Reserve 33047 currently held for the purpose of 'Motor Racing Track'	Part	3010	285
7.	Lot 56 on Deposited Plan 210437, portion Reserve 36475, currently held for the purpose of 'Government Requirements'	Whole	3151	4
8.	Portion of unallocated Crown land PIN: 701012	Part	N/A	N/A
9.	Road PIN: 11742627	Whole	N/A	N/A

10.	Lot 118 on Deposited Plan 184984 subject to Reserve 37664 currently held for the purpose of 'Animal Protection Facility and Youth Camp'	Part	3150	223
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3. The proposed Option to Lease, for a period of 4 years, is to facilitate three proposed Section 79 leases, for a term of 50 years, under the provisions of the Land Administration Act 1997 of which a lease agreement is between the State Government and a Proponent. In this case, the proposed land uses include industrial and renewable energy land use on the west side on Minilya-Exmouth Road. The Table below indicates the land the subject of the proposed leasehold.

TENURE TABLE – LAND DESCRIPTION OF OPTION TO LEASE AREAS

	Land Description of Option to Lease Areas	Extent	Volume	Folio
1.	Portion of unallocated Crown land PIN: 701158	Part	N/A	N/A
2.	Portion Lot 560 on Deposited Plan 68726 subject to Reserve 51512 currently held for the purpose of 'Gravel'	Part	3016	991
3.	Portion Lot 550 on Deposited Plan 72929 subject to Reserve 34055 currently held for the purpose of 'Water Supply'	Part	3022	878
4.	Unallocated Crown land PIN: 11913822	Whole	N/A	N/A

4. Correspondence from DPLH is included as Attachment 1.
5. A Site Plan supplied by GGL is included as Attachment 2.
6. Additionally, GGL seeks Councils consideration to revoke management orders on three crown reserves at the site, which are on the east side of Minilya-Exmouth Road, however only two are currently under the care and control of the Shire.
7. The request for consideration of revocation of management of crown reserves from GGL is included as Attachment 3.

BACKGROUND

8. The Proposal from GGL is to locate a port, with onshore and offshore facilities supported by industrial and renewable energy land use. The project broadly includes:
- Offshore and onshore facilities (east-side of Minilya-Exmouth Road)
 - Renewable energy generation facility (west side of Minilya-Exmouth Rd, between Exmouth Aerodrome and the Qualing Scarp Landfill site; and
 - A liquids storage facility and longer-term renewable energy generation facility (west side of Minilya-Exmouth Road, north of the Qualing Scarp landfill site.
9. A timeline of the project and general discussion of key matters is outlined below:
- On 12/12/2008 the then Shire President indicated in-principle support for a port development in the vicinity to Oropesa Port Management Pty Ltd.
 - Shire Officers are also aware the proponents have had in-principle support by a previous Chief Executive Officer for a port development in the area.
 - In June of 2020, the Department of Jobs, Tourism, Science and Innovation was allocated lead agency status for the project from the State Government.
 - GGL has indicated that the Port would be used for cruise ships, Defence and commercial use. It will regulate current marine traffic in the Gulf and provide opportunities for import and export.
 - GGL advise the Jetty would provide regulatory oversight to ensure vessels are taking care to protect the coastline and marine life.

- GGL has indicated the port would be powered by renewable energy and water supplied by desalination for community use also.
- In June 2021, a scheme amendment request was lodged by planning consultants – Taylor Burrell Barnett for land east of Minilya-Exmouth Road to rezone the land to 'Special Use' land side and 'Strategic Infrastructure' reserve foreshore and water side.
- Also in June 2021, the Minister Transport, Planning and Ports issued correspondence to Noel Hart, Chair of Mid-West Port Authority (MWPA) indicating support for the port facility being under the governance of MWPA. Advice is also provided to the extent that new commercial ports are created under the *Port Authorities Act 1999*, therefore if any port proposal in Exmouth is deemed viable the MWPA will need to obtain Ministerial approval for the declaration of a new port with the placement of the port under the governance of the MWPA. Given this, the above scheme amendment has not been further progressed.
- GGL are currently having the Proposal considered by the Environmental Protection Authority (EPA) under s38 of the EPA Act. On 30 June 2021, the EPA published its extract of determination with respect to the level of environmental assessment required resulting in a Public Environmental Review and listed the key environmental factors and the potential significant environmental impacts.
- In response to the EPA Public Environmental Review, the Proponent (GGL) prepared a scoping document for which comments closed on 13 December 2021.
- As identified in the Scoping Document the Proponent indicates that the EPA review may be finalised by approximately March 2023. (all reference material re EPA can be accessed online at www.epa.wa.gov.au)
- EPA documents refer to the GGL proposing to fund, build and operate the facility.
- On 3/11/2021, Staff from MWPA advises Shire Staff in respect of the reservation process that;
 - *The MPWA needs to initiate the process of defining the port and its associated port lands with a letter to the Minister*
 - *Department of Transport then draft the boundaries of the Port area and provide Ministerial review*
 - *The Executive Council of Parliament then review the proposal prior to the Minister declaring the port*
- Land defined as a 'Port' circumvents ordinary planning processes undertaken on most land holdings/zones whereby the reservation of the Port removes the land from the general provisions of the Shire's Local Planning Scheme requirements (albeit the scheme map would need to be amendment to show the reservation for "Strategic Infrastructure-Port" reserve).
- In December 2021, the Premier advised that "Qualing Pool" located at the site is proposed to become an "A" Class reserve, however boundaries for that Reserve have not been defined at this time.
- The Shires Local Planning Strategy (2019) designates the land, to the east of Minilya – Exmouth Rd for conservation. This conflicts directly with the proposal at this time albeit the Western Australian Planning Commission Structure Plan (2013) allocates the vicinity for industrial land use generally.
- The Shires Strategic Community Plan 2030 (SSCP) states "*The consideration of a deep-water wharf would also attract additional investment in existing and new industry in Exmouth. The growth in investment expected in the medium term has the potential to underpin future economic growth in the region, providing employment, supply chain opportunities, training and economic engagement opportunities during both construction and operational phases. Expansion of Exmouth's existing harbour would assist recreational and commercial services, the*

burgeoning cruise ship industry through improved suitable berthing facilities, recreational use, tourism, fisheries and mining activity within the precinct”.

- It is shown that Lease area 2 and 3 are strategically placed for general industrial whereby land uses of hydrogen production, fuel storage and renewable energy generation would be generally compatible, subject to regulatory approvals process if applicable.
- Cape Wilderness Estate is located directly south of the proposal, whereby one of the residential homes is at a minimum separation distance of 200m boundary to boundary in the current format.
- The project area includes 2 crown reserves that are currently vested to the Shire being R37664 (23.43Ha) which is set aside for camping and animal rehabilitation purpose and R33047 (8.3Ha) set aside for motor racing track.
- Lot 118 or R37664 is located between the Cape Wilderness Estate and the proposed site.
- Of the 23Ha on R37664 approx. 13.5Ha is under leasehold with options for renewal and in one case until 2034.
- In May 2021 the Shire initiated a Survey in relation to the development which was then considered by Council at its Ordinary Council Meeting in August 2021 - The Shires Corporate Business Plan includes action 1.3.2 which states *“Lobby state government to fast track a cruise solution at the existing marina site and for council to initiate its own community/public consultation to determine if construction of a multi-use deep water port would be supported by current community members with the Shire of Exmouth, post the Gascoyne Gateway community engagement program for a deep water port.”* The Survey occurred between 10 May-30 May 2021 and resulted in 467 responses being achieved. This figure included 255 residents/ratepayers and 212 non residents. The results indicated that 1 in 2 were concerned in relation to environmental issues and 1 in 6 were concerned with local economy. Upon consideration of the Survey Council resolved to;
 - *Receive the report of the 2021 Community Survey conducted by Painted Dog Research;*
 - *Consider the results during the internal business planning and review process and include the raw data be attached to the main report.*
- On 21/7/2021 the Proponent requested the Shire to revoke its management orders on its reserves to provide land for the project.
- On 17 December 2021 DPLH seeks Shires comments in relation to licenses and future leases. Responses due 28 January 2022. Shire indicates it does not have sufficient information to respond. An extension was sought and granted in order for the request to be now considered by Council to provide responses appropriate at this time.
- Council considered the subject DPLH requests, the subject of this Report, at a briefing session, presented by Shire Officers in April 2022.

COMMENT

10. The subject land is crown land and is ultimately under the control of the State of Western Australia. The development envelope is stated in the EPA Scoping Document as not more than approximately 334Ha of which land uses and areas are in Table 1.

Land use	Area Ha
Open Space (buffers)	74.5
Renewables	171
Fuel Storage	28
Port land	60

Table 1 Land uses and areas

11. The marine disturbance area includes 85Ha seaward side with a 25m metre buffer around infrastructure and includes 12.63Ha for marine infrastructure and a 50.13Ha dredge footprint.
12. There are 2 crown reserves on the land the subject of management orders to the Shire of Exmouth. The reserves and location are shown in the figures below.

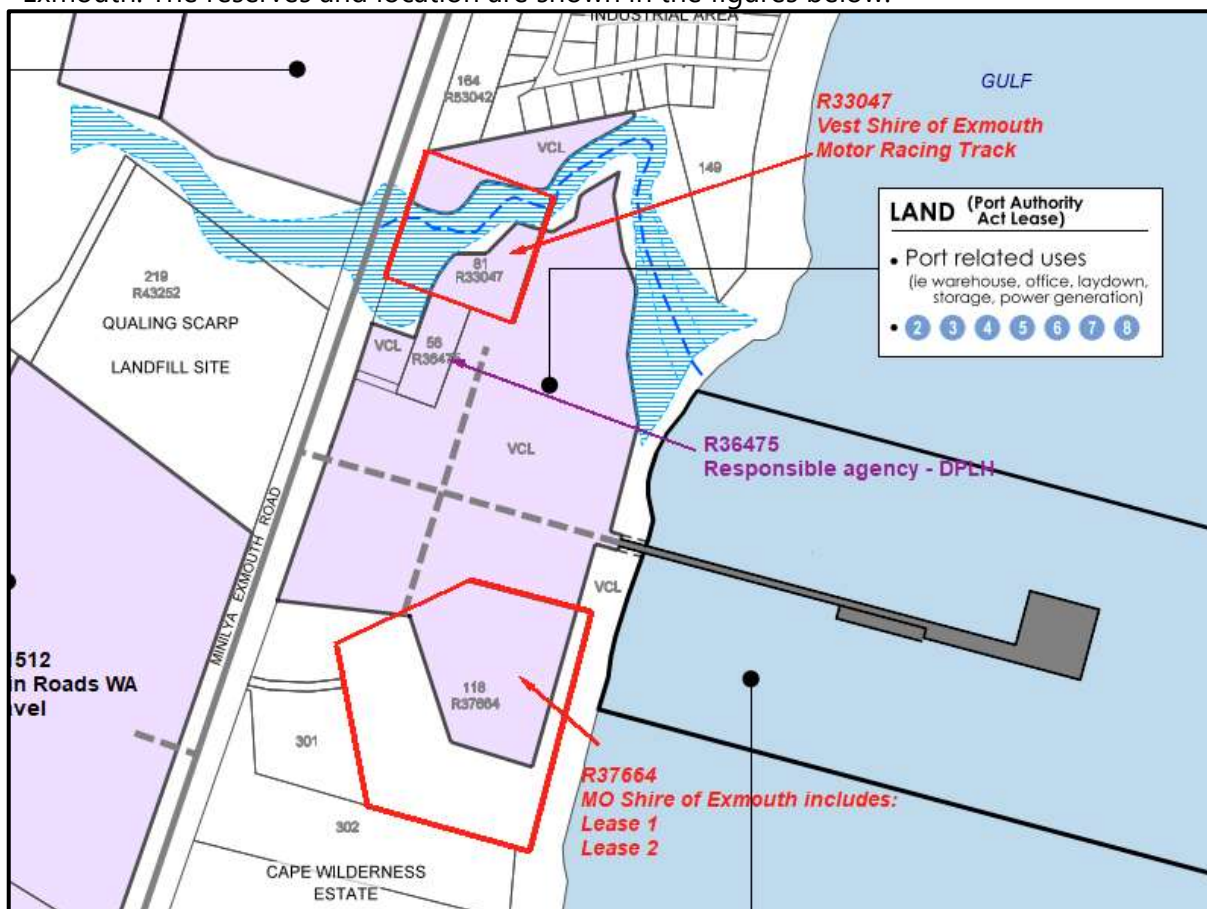


Figure 1: Excerpt from Precinct Plan from GGL with reserve locations



Figure 2: Aerial image of reserve locations

Section 91, Miscellaneous License to investigate the site

13. A licence granted over the proposed development envelope would provide legal access to the site/s to enable the further investigation of site studies to determine the project including environmental, geological, and cultural heritage surveys, geotechnical engineering investigations of ground conditions for a period of 24 months. The licence is a contractual right and not an interest in land. This is ultimately required to provide information and studies required by the EPA and other agencies, at this time.

14. Access to the site is also requested for the two crown reserves for which are under management orders of the Shire. Reserve 33047 is reserved for a motor racing track and Reserve 37664 is reserved for Animal Protection Facility and Youth Camp. It appears that R33047 is not being used however the R37664 is being leased by two separate parties. Access to that land would require liaison and permission granted by the Lessees.

Section 88, Option to Lease

15. The DPLH advise that this option is to issue a lease for a further 4 years, on the land west of Minilya-Exmouth Road, to facilitate the grant of the following;

- Lease 1 – Section 79LAA Lease for the purpose of Renewable Energy Generation (or similar) for a term of 50 years of the land shaded in Green
- Lease 2 – Section 79 LAA Lease for the purpose of "Fuel Storage and Renewable Energy Generation "or similar for a term of 50 years over the land shaded blue.

- Lease 3 – Section 79 LAA Lease for the purpose of Strategic Industry and Hydrogen Processing or similar for a term of 50 years over the land shaded in purple.
16. The Minister for Lands has the power to lease crown land for any purpose generally by public tender, offer for lease, public auctions or private treaty. Additionally, there are various types of leases of crown land and include a conditional purchase lease for which the DPLH is considering, hence requesting comments to be provided to it.
17. Shire Officers are of the view that any determination by State Government regarding leasehold may be premature in the absence of defined Port boundaries and completion of the Public Environmental Review yet to be assessed by the EPA.

Planning Matters

18. Advice can be provided to the DPLH that the project is:
- In a declared bushfire prone area.
 - That Cape Range Subterranean waterways of national environmental significance are located adjacent to and within the project area requiring referral under the *Environment Protection and Biodiversity Conservation Act 1999*.
 - Scheme amendment/s would be required for Port reservation areas on scheme maps and industrial zones in accordance with the Shire's Local Planning Scheme No.4 to be prepared at the cost to the Proponent once areas are finalised and detailed.
 - The Proposal does not indicate a regulated water service provider at the site.
 - Close to sensitive land uses and therefore the project should demonstrate that there is limited to impact on nearby residential sensitive land uses.
 - Notes, Qualing Pool is adjacent the project site and notes that the Premier considers that this will become an A class reserve of which boundaries have not been defined.
 - A portion of the land under consideration for Port development is identified as a conservation reserve under the Shires Local Planning Scheme.
19. In relation to GGL request to revoke management orders, Council should advise the Proponent, Gascoyne Gateway Ltd that it will further consider the request to revoke management orders if formally requested to do so by the DPLH, of which advice has been indicated by DPLH (May 2022) in terms of crown land process.

CONSULTATION

20. No consultation required from the Shire as part of the DPLH requests at this time. DPLH have undertaken extensive consultation with a range of agencies and stakeholders as part of their requests.

STATUTORY ENVIRONMENT

21. The following statutory provisions apply directly to all land proposed to be included in the s.91 Licence under the provisions of the *Land Administration Act 1997*.

Land Administration Act 1997

91 .Licences and profits à prendre over Crown land, grant of

- a) *The Minister may grant a licence or profit à prendre in respect of Crown land for any purpose.*
- b) *The Minister may —*
 - a) *fix or extend the duration of; or*

- b) *determine fees and conditions in respect of; or*
- c) *review; or*
- d) *with the consent of its holder, amend the provisions of, any licence or profit à prendre granted under subsection (1).*
- c) *The Minister may on the breach of any condition to which a licence granted under subsection (1) is subject, terminate that licence.*
- d) *The Minister may accept the surrender of a profit à prendre granted under subsection (1) from its holder in respect of the whole or any part of the area to which that profit à prendre applies.*
- e) *Nothing in this Act prevents the simultaneous existence on the same area of Crown land of —*
 - (a) *a licence or profit à prendre granted under subsection (1); and*
 - (b) *a mining, petroleum or geothermal energy right, if the Minister to whom the administration of the relevant Act referred to in the definition of **mining, petroleum or geothermal energy right** in [section 3\(1\)](#) is for the time being committed by the Governor, or a public service officer of the department that is principally assisting in the administration of the relevant Act, who is authorised in writing by that Minister to do so, approves of that area being used both for the purposes of that licence or profit à prendre and the purposes of the mining, petroleum or geothermal energy right.*
- (6) *If a licence granted under subsection (1) is transferable by the licensee, in accordance with the [Personal Property Securities Act 2009](#) (Commonwealth) [section 10](#) the definition of **licence** paragraph (d), the licence is declared not to be personal property for the purposes of that Act.*
- (7) *The operation of this section is affected by the [Land Administration \(South West Native Title Settlement\) Act 2016](#) Part 4.*
[Section 91 amended: No. 35 of 2007 [s. 98\(6\)](#); No. 8 of 2010 [s. 13](#); No. 42 of 2011 [s. 81](#); No. 10 of 2016 [s. 28.](#)]

The following statutory provisions are included also in the *Land Administration Act 1997* and relate to the land proposed for industry/renewable energy under leasehold situated west side of Minilya-Exmouth Road, which would also be the subject of a scheme amendment under the *Planning and Development Act 2005*.

88 . Option to purchase or lease Crown land, grant of

- (1) *The Minister may —*
 - (a) *grant an option to purchase the fee simple in, or lease, any Crown land; and*
 - (b) *fix the consideration to be paid for any such option; and*
 - (c) *impose conditions on the exercise of any such option.*
- (2) *A purchaser or lessee under an option granted under subsection (1) may, with the permission of the Minister, offset the whole or any portion of the relevant consideration fixed under that subsection against the purchase price or rent payable in respect of the land concerned.*

79. Minister's powers as to lease of Crown land

- (1) *Subject to Part 7, the Minister may grant leases of Crown land for any purpose and may, without limiting the generality of that power —*
 - (a) *grant leases of Crown land by public auction, public tender or private treaty; and*

- (b) *fix the duration of any such lease; and*
- (c) *determine rentals, premiums, conditions and penalties in respect of any such lease; and*
- (d) *require a performance bond in respect of any such lease.*
- (2) *The Minister may pay a commission to a person acting on behalf of the Minister in the granting of leases of Crown land.*
- (3) *Without limiting the generality of conditions referred to in subsection (1)(c), those conditions include —*
 - a) *options for renewal of leases granted; and*
 - b) *options to purchase the fee simple of the Crown land leased, under subsection (1), and conditions for the variation of those conditions.*
- (4) *The Minister may at any time extend the term of a lease, other than a pastoral lease, having effect under this Act or vary the provisions of such a lease.*
- (5) *Any sublease or other interest granted under a lease —*
 - a) *the term of which is extended; or*
 - b) *the provisions of which are varied, under subsection (4) continues to have effect insofar as it is permitted to do so by that extension or variation.*

Port Authorities Act 1999

22. The following provisions included in the *Port Authorities Act 1999*, although not exhaustive, demonstrate the powers of the state government in relation to the reservation and declaration process for a port reservation on crown land.

24. Port areas defined

- 1) *A port consists of the area or areas described in relation to that port by order made by the Governor and published in the Gazette.*
- 2) *The Governor may, by order published in the Gazette, amend the description of a port so as to —*
 - f) *include an area in, or exclude an area from, that description; or*
 - g) *correct any error in that description.*
- 3) *In this section —***area** *means an area of land, water or seabed.*

25 . Port authority, property vested in

- 1) *The following property is vested in a port authority for the purposes of this Act —*
 - a) *all Crown land in the port, including the seabed and shores;*
 - b) *in the case of a port that was named in Schedule 1 before the coming into operation of the Ports and Marine Legislation Amendment Act 2003 section 4, all navigational aids that, immediately before the coming into operation of that section —*
 - i. *were in the port, or used in connection with navigation into or out of the port; and*
 - ii. *belonged to the State;*
 - c) *all fixtures on land in the port that belong to the State.*
- 2) *The property of a port authority also includes the following —*
 - a) *any improvements effected on vested land leased to another person that have been acquired on the termination of the lease concerned;*

- b) any real or personal property (other than property referred to in subsection (1) or paragraph (a)) that —
- i. is acquired by the port authority; or
 - ii. is vested in the port authority by the Governor for the purposes of this Act; or
 - iii. is vested in, or becomes the property of, the port authority under this Act.
- [Section 25 amended: No. 71 of 2003 [s. 4\(1\)¹](#); No. 2 of 2019 [s. 44.](#)]

29A. Operation of Planning and Development Act 2005 section 136 modified

A port authority does not have to obtain approval under the [Planning and Development Act 2005 section 136](#) in order to grant a lease or licence in respect of port land.

[Section 29A inserted: No. 9 of 2014 [s. 11.](#)]

- 23. Planning and Development Act 2005
- 24. Planning and Development (Local Planning Scheme) Regulations 2015
- 25. Shire of Exmouth Local Planning Scheme No. 4
- 26. Environmental Protection Act 1986
- 27. Environment Protection and Biodiversity Conservation Act 1999.

POLICY IMPLICATIONS

28. Nil

FINANCIAL IMPLICATIONS

29. Nil

RISK MANAGEMENT

30. Identified risks implications

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Legal - Access to leasehold reserves for further site investigation will require consultation with Lessees of 2 shire managed reserves.	Almost Certain	Major	Extreme	Advising DPLH of tenure present and requiring a conditional licence having regard for the Lessees terms of lease and access to site to undertake investigations.
Reputational – The proposal may attract objections from members of the public.	Likely	Moderate	High	Ensuring that all considerations regarding a proposed Port development are considered by Council and are therefore on the public record unless considered as confidential under the <i>Local Government Act 1995</i> . Note the referral request seeks comments from the Shire however the state government is the approving body of the Proposal under provisions of the <i>Land Administration Act 1997</i> and the <i>Port Authorities Act 1999</i> .

ALTERNATE OPTIONS

31. Council has the following alternate options in relation to this item, which are:
- Resolution Item 1.1: To advise the Department of Planning, Lands and Heritage it objects to the issuing of a section 91 license and provide reasons for doing so;
 - Resolution Item 1.2: To advise the Department of Planning, Lands and Heritage it has objections or no objections to the proposed land lease options outlined in Attachment 1 and provide reasons for doing so.

STRATEGIC ALIGNMENT

32. The Shires Local Planning Strategy (2019) (SLPS) indicates that proposed lease areas 2 and 3 are located in an area considered an Industrial Investigation Area referred to as "Area 4" (subject to further planning studies) and require a scheme amendment and/or structure plan prior to any development. Lease area 1 located further south appears not to be designated and remains as conservation and landscape protection. The SLPS states that the;
- h) *The LPS identifies Areas 4 as an Industrial Investigation Area consistent with the recommendations of the Exmouth South Structure Plan (2013)*
 - i) *The land use intent for this area is to provide the opportunity for land supporting a marine support facility as well as land as a lay down and general industrial area servicing the resource sector as well as accommodating the relocation of existing industrial activity from the townsite which generate nuisance and or have a large land take requirement.*
 - j) *Land contained within the Area 4 will be subject to the preparation and approval of a structure plan as a prerequisite to rezoning.....*
33. The portside proposal is located on land identified on crown land currently reserved for the purpose of conservation and landscape protection. Generally, any development on such land is to address planning matters contained within the Shires SLPS however it is noted that the reservation of a strategic port circumvents the requirements of the Planning and Development Act 2005.
34. The Shires Strategic Community Plan 2030 states "The consideration of a deep-water wharf would also attract additional investment in existing and new industry in Exmouth. The growth in investment expected in the medium term has the potential to underpin future economic growth in the region, providing employment, supply chain opportunities, training and economic engagement opportunities during both construction and operational phases. Expansion of Exmouth's existing harbour would assist recreational and commercial services, the burgeoning cruise ship industry through improved suitable berthing facilities, recreational use, tourism, fisheries and mining activity within the precinct".
35. This item is relevant to the Councils approved Strategic Community Plan 2030 and Corporate Business Plan 2018-2022. There is a major review of the above mentioned plans this year however this has not commenced at this time.
- Economic: Diversify and grow our economy in a manner that provides year round employment opportunities
- 1.1 A diverse and environmentally aware local economy that can attract business investment and provide employment opportunities
 - 1.2 Facilitate the strengthening and growth of our visitor experience.
 - 1.3 Enable the provision of essential infrastructure that will support investment and diversify our economy.
- Environment: To protect and value our unique natural and built environment as we grow our economy.
- 2.1 A strong focus on environmental conservation and sustainable management of our natural environment
 - 2.2 Strive to achieve a balance between the preservation of our unique environment and the delivery of sustainable economic growth.
 - 2.3 Advocate and promote opportunities for the development of environmentally sustainable essential infrastructure and services.

Social: To be a vibrant, passionate and safe community valuing our natural environment and unique heritage

3.1 Explore opportunities to deliver services and facilities that attract and retain people living in the Shire.

Leadership: To provide open transparent, accountable leadership working in collaboration with our community.

4.1 To provide proactive, collaborative and transparent leadership.

4.2 A local government that is respected and accountable.

VOTING REQUIREMENTS

36. Simple Majority

OFFICER'S RECOMMENDATION

ITEM 12.2.3

Recommendation 1

That Council advise the Department of Planning Lands and Heritage:

1.1 It has no objections to the issuing of a section 91 licence under the provisions of the *Land Administration Act 1997* as requested in Appendix 1 of this Report and provides the following information and/or raises certain matters for further state government consideration;

- a) Includes R37664 of which two lease agreements are in place giving those Lessees quiet enjoyment of a portion of the subject land, which requires further consultation with Lessees to gain legal access to site. The Shire will provide Lessee details to the DPLH.
- b) Notes that R37664 is currently identified as a strategic reserve for outdoor education and animal welfare in the Shires Local Planning Strategy.
- c) The site is in close proximity to the Wilderness Estate and any consultants or their agents should have due regard to maintain the amenity of nearby residences whilst conducting any investigations.
- d) Requests that any research and investigation related to the Shires managed reserves are provided to the Shire for information purposes.
- e) The site is on land that is situated in a bushfire prone area.
- f) The area is located in Cape Range Subterranean waterways of national environmental significance are located adjacent and within the project area requiring referral under the Environmental Protection Biodiversity Conservation Act will require referral under the Act to the Commonwealth Government.
- g) The Proposal does not indicate a regulated water service provider at the site.
- h) The Proposal is currently under Public Environmental Review by the Environmental Protection Authority due to significant environmental matters raised and in this regard may/may not be approved by the Minister for Environment.
- i) Notes proposed portside development and lease area 1 are currently identified as conservation and landscape protection reservations in the Shires Local Planning Strategy.
- j) Is adjacent to Qualing Pool and notes that the Premier considers that this will become an A class reserve/s of which boundaries have not yet been defined.
- k) Ensure the Proponent undertakes all necessary actions to ensure the protection of any heritage sites including all necessary permissions required and consultations required as appropriate.

- l) Whilst undertaking any studies and investigations at the site the Proponent and or its agents to have due regard for the ecological values of the Exmouth Gulf and its associated marine and terrestrial environs to ensure best management practices to protect those values are maintained, in consultation with Department Water Environment and Regulation.
- m) Notes the land proposed as lease area 2 and 3 are included in the Shire's Local Planning Strategy 2019 as an Industrial Investigation Area and further hydraulic modelling may be required at the northern boundary to determine the 1 in 100 year floodplain boundary.
- n) Provides a copy of the Shire of Exmouth Port Community Survey for its information.

1.2 That the proposal for land lease options (identified as Lease areas 1, 2, & 3) under the *Land Administration Act 1997* is as follows:

- a) Acknowledges the lease proposal is a crown land transaction and as such is between the Minister for Lands and the Proponent.
- b) Should require a port reservation being confirmed prior to entering into leasehold given the leasehold land would be contingent to the proposed Port.
- c) May be considered premature given that the Environmental Protection Authority has not determined the Public Environmental Review for the Port proposal at this time.
- d) Any lease proposal for the land use must comply with the Shire's Local Planning Scheme provisions and should not be entered into if the land use does not comply with its Scheme, unless it is an exempt development (i.e. under *Port Authority Act 1999* and *Public Works Act 1902*). Refer to Page 167 for Planning Considerations in the Shires Local Planning Strategy.
- e) Advises the land proposed as lease area 2 and 3 are included in the Shire's Local Planning Strategy 2019 as an Industrial Investigation Area.

Recommendation 2

2. That Council, in relation to a direct request from Gascoyne Gateway Limited to revoke Shire of Exmouth Management Orders for Crown Reserves R37664 and R 33047, advise Directors of Gascoyne Gateway Limited and the Department Planning Lands and Heritage that it:

- a) Will consider the matter at a time when, and if, a formal request to do so is received by the Shire from the Department Planning, Lands and Heritage.
- b) Advises that R37664 is currently under leasehold and is being used by two separate parties and as such due consideration for Lessees rights under the leasehold on R37664 would be required in future.

COMMERCIAL AND COMMUNITY

12.3.1 2022-2027 UNIVERSAL ACCESS AND INCLUSION PLAN

File Reference:	CS.DA.2
Reporting Officer:	Manager Community, Sport and Recreation
Responsible Officer:	Chief Executive Officer
Date of Report:	16 May 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. 2022-2027 Universal Access and Inclusion Plan

PURPOSE

1. That Council give final approval and ENDORSE the Shire of Exmouth 2022-2027 Universal Access & Inclusion Plan (UAIP).

BACKGROUND

2. Section 5.28 (1) of the Western Australian *Disability Services Act 1993* (amended 2004) requires all local government agencies to develop and implement a disability access and inclusion plan.
3. Disability access and inclusion plans are required by this Act to have actions relating to seven outcome areas.
4. *Disability Services Amendment Regulations 2013* introduced the seventh outcome focusing on employment. The then Shire of Exmouth 2013 Disability Access and Inclusion Plan (DAIP) was amended to include actions relating to Outcome 7 (*People with Disability have the same opportunities as other people to obtain and maintain employment with a public authority*) and this document became the adopted 2015-2020 DAIP.
5. Consequently, a full review of the Shire's DAIP has not occurred since 2013.
6. The Shire of Exmouth 2015-2020 DAIP expired in July 2020.
7. During 2021 and 2022, the Shire conducted a full review of the Shire's DAIP.
8. In consideration of community feedback and the state-wide move towards diversity planning, the name of the Shire's next access and inclusion plan was changed to *Universal Access and Inclusion Plan*. This name direction helps to incorporate strategies and actions based on the diverse needs of those with a disability, as well as strategies and actions that will benefit all diverse Exmouth community members. Changing the name also helps to shift the stigma from one of 'disability' to one of 'ability' and consequently assists provision of universal access and inclusion principles.

9. At the February 24, 2022 Ordinary Council Meeting, Council authorised the Shire of Exmouth Draft 2022-2027 UAIP be made available for public comment.
10. Following this period of public comment, the Shire of Exmouth Draft 2022-2027 UAIP (with any recommendations for amendment) is to be presented to Council for formal adoption.

COMMENT

11. Following the period of public consultation for the Draft 2022-2027 UAIP, there were no submissions received relating to the draft plan.
12. Noting that disability access and inclusion plans required by the Western Australian *Disability Services Act 1993* (amended 2004) are to have actions relating to seven outcome areas, the Shire's 2022-2027 UAIP (Attachment 1) refers to the seven strategic outcomes which cover the area of services and events; buildings and facilities; information; quality of services; to make complaints; participate in public consultation; and employment.
13. In a discussion with the Department of Communities concerning the 2022-2027 UAIP, a wording change has been suggested from what was stated in the draft plan for the seven strategic outcomes with the words "People with a disability ..." being replaced by the words "All people ...".
14. The seven strategic outcomes in the 2022-2027 UAIP now state:
 - (i) All people have the same opportunities as other people to access the services of, and any events organised by the Shire of Exmouth.
 - (ii) All people have the same opportunities as other people to access the buildings and facilities of the Shire of Exmouth.
 - (iii) All people receive information from the Shire of Exmouth in a format that will enable them to access the information as readily as other people are able to access it.
 - (iv) All people receive the same level and quality of service from staff as other people receive from the staff at the Shire of Exmouth.
 - (v) All people have the same opportunities as other people to make complaints to the Shire of Exmouth.
 - (vi) All people have the same opportunities as other people to participate in public consultation by the Shire of Exmouth.
 - (vii) All people have the same opportunities as other people to obtain and maintain employment with the Shire of Exmouth.
15. Annually, the Shire of Exmouth, as with other local governments, is tasked with submitting a report to the Department of Communities on the achievements of its current access and inclusion plan
16. An Implementation Plan is included within the 2022-2027 UAIP to assist with achieving the seven strategic outcomes of the UAIP with possible actions outlined; measurements to identify success; timelines stated; and the Shire department responsible.

CONSULTATION

17. A public notice stating submissions to be made to the Shire’s Chief Executive Officer by Friday 6 May 2022, was advertised in the Pilbara News on 30 March 2022, Shire’s website, Shire’s Community Services Newsletter for March 2022, and various Shire noticeboards located in the Ningaloo Centre, Library and the Exmouth Town Centre.

STATUTORY ENVIRONMENT

18. *Disability Services Act 1993* (amended 2004) requires that West Australian public authorities develop and implement a disability access and inclusion plan. The Act makes these plans mandatory and prescribes their development, implementation and reporting.

19. *Disability Services Amendment Regulations 2013*

POLICY IMPLICATIONS

20. Shire of Exmouth Workforce Plan

FINANCIAL IMPLICATIONS

21. There are no direct up-front financial implications as the 2022-2027 UAIP will be implemented within existing Shire Department service area budgets.

22. If major tasks are identified through any process of the 2022-2027 UAIP, they will need to be planned and cost through the long-term financial plan and annual budgeting processes.

RISK MANAGEMENT

23.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Performance (operational) Key actions set out in the plan are not achieved	Unlikely	Minor	Low	Ensure UAIP implementation is monitored and reported on internally through the year and reported to Disability Services Commission each financial year. Introduction of an Access Advisory Network to support the consultation and communication of the plan.
Performance (operational) Outcomes, strategies or actions are not understood by staff, agents or contractors	Possible	Minor	Moderate	Provision of Disability Awareness Training to all Staff. Acceptance of contractors who respond to UAIP responsibilities in tendering process.
Financial There is insufficient resources or budget to meet the actions in the 2022-2027 UAIP.	Unlikely	Minor	Low	Ongoing communication and planning with all areas and officers responsible for implementation under the plan, including planning during budget cycles.
Reputational Level of satisfaction reported by the community in the bi-annual community survey indicates that outcomes have not been met.	Unlikely	Minor	Low	Appropriate implementation of the plan should reduce the likelihood of decreased community satisfaction
Reputational UAIP is not implemented as indicated in the implementation plan (pages 10-17 of the 2022-2027 UAIP)	Unlikely	Minor	Low	Appropriate implementation of the plan should ensure the reputation of the Shire

ALTERNATE OPTIONS

24. Council may decide to alter or not support the 2022-2027 UAIP. (Note: The Shire is required under legislation to implement a disability access and inclusion plan. Council did support at the

February 24, 2022 OCM, the Draft 2022-2027 UAIP being made available for public comment. If the 2022-2027 UAIP document is not supported, the 2015-2020 DAIP remains the active plan.)

STRATEGIC ALIGNMENT

25. This item is relevant to the Council's approved Strategic Community Plan 2030 and Corporate Business Plan 2018-2022

Economic: Diversify and grow our economy in a manner that provides year-round employment opportunities

1.2 Facilitate the strengthening and growth of our visitor experience.

Social: To be a vibrant, passionate and safe community valuing our natural environment and unique heritage

3.1 Explore opportunities to deliver services and facilities that attract and retain people living in the Shire.

3.2 Promote facilities/services that enhance public health and safety.

3.3 Champion self-supporting community clubs and associations.

Leadership: To provide open transparent, accountable leadership working in collaboration with our community.

4.1 To provide proactive, collaborative and transparent leadership

4.2 A local government that is respected and accountable.

4.3 To be a champion for our community

VOTING REQUIREMENTS

26. Simple Majority

OFFICER'S RECOMMENDATION

ITEM 12.3.1

That Council ENDORSE the Shire of Exmouth 2022-2027 Universal Access and Inclusion Plan.

CORPORATE SERVICES

12.4.1 FINANCIAL STATEMENTS FOR PERIOD ENDING 30 APRIL 2022

File Reference:	FM.FI.0
Reporting Officer:	Manager Finance
Responsible Officer:	Executive Manager Corporate Services
Date of Report:	18 May 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. Monthly Financial Report as at 30 April 2022

PURPOSE

1. That Council accepts the financial report for the financial period ending 30 April 2022.

BACKGROUND

2. The provisions of the Local Government Act 1995 and *Local Government (Financial Management) Regulations 1996* Regulation 34 requires a statement of financial activity be presented at ordinary meeting of council within 2 months of the period end date (refer Attachment 1).

COMMENT

3. As at 30 April 2022, the operating revenue is above target by \$248,532 (1.81%). Variances are mainly due to the timing of the Financial Assistance Grant, Ningaloo Visitor Centre commissions and recovery of outgoings. The Airport Security Screening Grant also affected the timing of airport fees & charges.
4. Operating expenditure is under budget by \$849,462 (6.07%). Variances are mainly due to the timing of various operational projects and current vacant positions.
5. A total of \$3,138,656 has been spent to date for capital projects within the Financial Year 2021/2022. This includes the purchase of executive housing, Murat Road and Yardie Creek road edge repairs, as well as various preparation works for the Town Beach upgrade. Building of staff housing and the plant replacement program are in progress. The Bike Park project is completed.
6. Rate notices were issued on 30 July 2021. Rates collected as at 30 April 2022 were 94% compared to 92% for the same period last year.

CONSULTATION

7. Nil

STATUTORY ENVIRONMENT

8. Section 6.4 of the *Local Government Act 1995* provides for the preparation of financial reports.
9. In accordance with *Local Government (Financial Management) Regulations 1996* Regulation 34 (5), a report must be compiled on variances greater than the materiality threshold adopted by Council of \$25,000 or 10% whichever is greater. As this report is composed at a nature/type level, variance commentary considers the most significant items that comprise the variance.

POLICY IMPLICATIONS

10. Nil

FINANCIAL IMPLICATIONS

11. Nil

RISK MANAGEMENT

12. Risks implications

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational – That Council does not receive the financial activity statements as required by S6.4 of the LG Act 1995.	Rare	Insignificant	Very Low	That Council receives the financial activity statements as required by legislation.

ALTERNATE OPTIONS

13. Nil

STRATEGIC ALIGNMENT

14. This item is relevant to the Councils approved Strategic Community Plan 2030 and Corporate Business Plan 2018-2022

- Leadership: To provide open transparent, accountable leadership working in collaboration with our community.
- 4.1 To provide proactive, collaborative and transparent leadership
- 4.2 A local government that is respected and accountable.

VOTING REQUIREMENTS

15. Simple Majority

OFFICER'S RECOMMENDATION

ITEM 12.4.1

That Council RECEIVES the financial report for the financial period ending 30 April 2022.

12.4.2 LIST OF ACCOUNTS FOR PERIOD ENDING 30 APRIL 2022

File Reference:	FM.FI.0
Reporting Officer:	Manager Finance
Responsible Officer:	Executive Manager Corporate Services
Date of Report:	18 May 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. List of Accounts for period ending 30 April 2022

PURPOSE

1. That Council receives payments made since the previous Ordinary Council Meeting.

BACKGROUND

2. *Local Government (Financial Management) Regulations 1996*, Regulation 13 (3) requires a list of payments is to be presented at the next ordinary meeting of council.
3. It has been 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

4. 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. (refer Attachment 12.4.2).

Payments

Municipal Fund totalling \$995,226.56
Incorporating cheques, direct debits, electronic payments and credit cards.

Trust Fund totalling \$NIL
Incorporating electronic payments.

Total Payments: \$995,226.56

CONSULTATION

5. Nil.

STATUTORY ENVIRONMENT

6. 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 Chief Executive Officer.

POLICY IMPLICATIONS

7. Staff are required to ensure that they comply under Council Policy 2.7 – Procurement and 2.12 – Regional Price Preference Policy (where applicable) and that budget provision is available for any expenditure commitments

FINANCIAL IMPLICATIONS

8. 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.

RISK MANAGEMENT

9. Risk implications

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational – That Council does not receive the list of payments.	Rare	Insignificant	Very Low	That Council receives the list of payments as required by legislation.

ALTERNATE OPTIONS

10. Nil

STRATEGIC ALIGNMENT

11. This item is relevant to the Councils approved Strategic Community Plan 2030 and Corporate Business Plan 2018-2022

- Leadership: To provide open transparent, accountable leadership working in collaboration with our community.
- 4.1 To provide proactive, collaborative and transparent leadership
 - 4.2 A local government that is respected and accountable.

VOTING REQUIREMENTS

12. Simple Majority

OFFICER’S RECOMMENDATION

ITEM 12.4.2

That Council RECEIVES the report of payments made from the Municipal and Trust bank accounts during the month of April 2022 (*totalling \$995,226.56*).

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

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

15. MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS

16. CLOSURE OF MEETING

The Shire President declared the meeting closed at