

Shire of Exmouth

ORDINARY COUNCIL MEETING

AGENDA



24 March 2022

NOTICE OF MEETING

Notice is hereby given that the next Ordinary Council Meeting of the Shire of Exmouth will be held on **Thursday 24 March 2022**, in the Mandu Mandu Function Room, Ningaloo Centre, 2 Truscott Crescent, Exmouth, commencing at 4.00 pm.



Ben Lewis
Chief Executive Officer

18 March 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.](#)

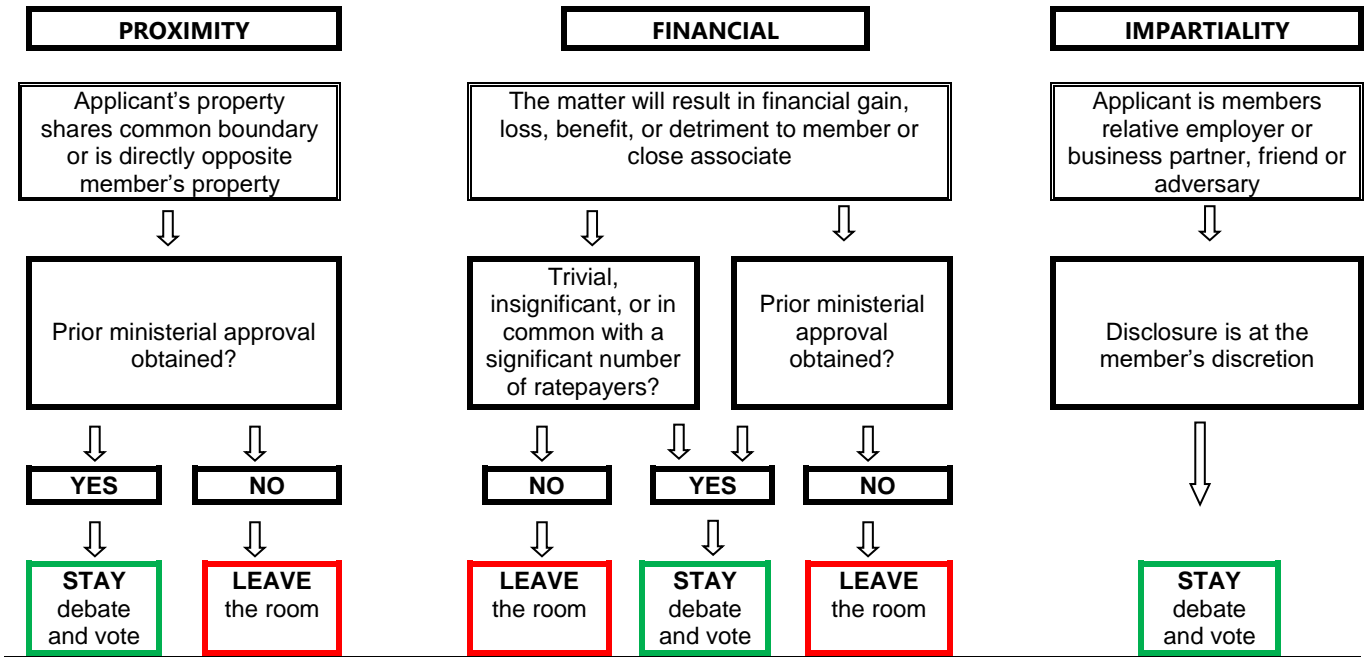
Signed: _____ Date: [Click here to enter text.](#)

- **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.

INDEX OF AGENDA

1.	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS	6
2.	RECORD OF ATTENDANCE, APOLOGIES AND APPROVED LEAVE OF ABSENCE	6
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	7
4.	PUBLIC QUESTIONS TIME.....	7
5.	DECLARATIONS OF INTEREST	7
6.	APPLICATIONS FOR LEAVE OF ABSENCE	7
7.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS	7
8.	ANNOUNCEMENTS/REPORTS OF ELECTED MEMBERS	7
9.	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION	7
10.	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS.....	8
11.	MATTERS ARISING FROM COMMITTEES OF COUNCIL	9
11.1.1	AUDIT COMMITTEE MEETING – 17 MARCH 2022	9
12.	REPORTS OF OFFICERS.....	10
12.2.1	PROPOSED SCHEME AMENDMENT NO.9 TO LOCAL PLANNING SCHEME NO.4 – INITIATION AND ADOPTION FOR ADVERTISING	10
12.2.2	PROPOSED SCHEME AMENDMENT NO.6 TO LOCAL PLANNING SCHEME NO.4 – SUPPORT FOR FINAL ADOPTION	17
12.2.3	PROPOSED SCHEME AMENDMENT NO.7 TO LOCAL PLANNING SCHEME NO.4 – SUPPORT FOR FINAL ADOPTION	27
12.2.4	PROPOSED SCHEME AMENDMENT NO.8 TO LOCAL PLANNING SCHEME NO.4 – ADOPTION FOR ADVERTISING SUBJECT TO MODIFICATIONS.....	35
12.3.1	COMMUNITY SPORTING AND RECREATION FACILITIES FUND (CSRFF)– SMALL GRANTS APPLICATION – EXMOUTH BOWLING CLUB.....	49
12.4.1	FINANCIAL STATEMENTS FOR PERIOD ENDING 28 FEBRUARY 2022.....	53
12.4.2	LIST OF ACCOUNTS FOR PERIOD ENDING 28 FEBRUARY 2022	55
13.	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	57
14.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING.....	57
15.	MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS.....	57
16.	CLOSURE OF MEETING.....	57

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 M (Mark) Lucas	
Councillor A (Anne) McCarrol	
Councillor D (David) Gillespie	
Mr B Lewis	Chief Executive Officer
Mr M Richardson	Executive Manager Development Services
Mr G Coetzee	Executive Manager Corporate Services
Ms M Head	Minute Clerk

GALLERY
APOLOGIES
LEAVE OF ABSENCE

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).

5. DECLARATIONS OF INTEREST

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.

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 24 February 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

The Chief Executive Officer has approved a deputation request from Minderoo Foundation Exmouth Research Lab, to be presented by Michaela Dommissie, Research and Infrastructure Manager.

11. MATTERS ARISING FROM COMMITTEES OF COUNCIL

11.1.1 AUDIT COMMITTEE MEETING – 17 MARCH 2022

A complete version of the unconfirmed minutes and attachments of the Audit Committee meeting are available on the Shire of Exmouth website.

AUDIT COMMITTEE AND OFFICER RECOMMENDATIONS

ITEM 11.1.1

That Council:

1. RECEIVES the unconfirmed minutes of the Audit Committee held on the 17 March 2022.
2. ADOPTS Audit Committee Resolution **(02/0322)** to ADOPT the statutory Compliance Audit Return for the Shire of Exmouth for the period 1 January 2021 to 31 December 2021 and AUTHORISE the Chief Executive Officer to submit the return to the Department of Local Government, Sport and Cultural Industries by 31 March 2022.
3. ADOPTS Audit Committee Resolution **(03/0322)** and RECEIVES the Review of Financial Management, Risk Management, Legislative Compliance, and Internal Controls, and REQUIRES staff to provide recommendations and updates on progress for the findings identified in the review.

12. REPORTS OF OFFICERS

DEVELOPMENT SERVICES

12.2.1 PROPOSED SCHEME AMENDMENT NO.9 TO LOCAL PLANNING SCHEME NO.4 – INITIATION AND ADOPTION FOR ADVERTISING

File Reference:	LP.PL.4.9
Reporting Officer:	Senior Planning Officer
Responsible Officer:	Executive Manager Development Services
Date of Report:	12 February 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. Scheme Amendment Report

PURPOSE

1. That Council consider adopting Scheme Amendment No. 9 to the Shire of Exmouth Local Planning Scheme No.4 (LPS 4) for public advertising, pursuant to the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.

BACKGROUND

2. Shire Officers have prepared a scheme amendment request to LPS 4, which seeks to insert a Figure into LPS 4 to define the Skipjack Circle area.
3. Clause 4.17.1 of LPS 4 reads as follows:
"Holiday Accommodation and Holiday House shall not be permitted in the Skipjack Circle Subdivision."
4. Currently the Skipjack Circle Subdivision refers to all coloured lots shown in figure 1 below.



Figure 1 - Skipjack Circle Subdivision Area

5. The boundary is not currently implemented through an appropriate planning document. This area was identified in the Shires previous Local Planning Policy 6.12 – Holiday Accommodation. The LPP 6.12 was rescinded by Council at the Shires 28 February 2019 Ordinary Council Meeting, as the provisions of the existing policy were included in LPS 4, however the map was not.
6. There are currently 16 lots outside of the current area on the north side of Skipjack Circle. The proposed amendment seeks to amalgamate these lots into and define the Skipjack Circle area (refer Figure 2 Skipjack Circle Area), whereby restricting un-hosted holiday houses and holiday accommodation from being approved.



Figure 2 - Proposed Skipjack Circle Area

7. The subject land is almost entirely built out with dwellings.
8. The subject land is currently zoned 'Residential' under LPS 4, with a predominant r-code density of R17.5, with the exception of an R30 pocket to south of the existing park on Snapper Loop.

COMMENT

9. LPS 4 was gazetted on 12 March 2019 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses

and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones.

10. The *Planning and Development Act 2005 (Act)* and *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)* set out the statutory process for adopting and amending a local planning scheme. The Act allows a local government to resolve to amend a local planning scheme.
11. In addition, the resolution must specify whether the amendment is a complex, standard or basic amendment as defined by the Regulations, including reasons for the specification. The different amendment types incur different statutory timeframes for the following processes to occur. The proposed amendment is considered a 'standard amendment'.
12. Regulation 35(2) and 47(1) of the Regulations allows Council to adopt a standard scheme amendment for advertising and referral to relevant public authorities.
13. Should Council resolve to proceed, the amendment is required to be forward to the Western Australian Planning Commission (WAPC) and Minister for Planning for final approval.
14. The permanent residential population within Exmouth is approximately 3,000 people. Anecdotal evidence suggests that during peak times, visitor numbers have swelled to approximately 15,000 in 2020-21, which has also been due to the travel restrictions and increased visitations during the COVID-19 pandemic.
15. Exmouth is currently experiencing a housing crisis which has been exacerbated by visitor numbers. Land sales have significantly increased and property constraints have delayed new land releases.
16. There is high demand for holiday homes within the Shire of Exmouth, from both visitors and landowners alike. This needs to be balanced with the amenity of neighbouring properties. If not properly managed, holiday homes may result in excessive noise late in the evening, excessive vehicles and trailers being parked on the road verge and excess rubbish in bins from large numbers of guests.
17. The town relies heavily on temporary seasonal workers to support the tourism industry. These seasonal workers require access to housing, but the increasing popularity of the town as a tourist destination has proven problematic for the supply housing. The high number of dwellings now rented on a short-term basis has contributed towards a shortage for seasonal workers, and for local residents who rely on rental accommodation. This has given rise to large occupant numbers in shared accommodation, people living in cars or camping illegally, which in turn has given rise to environmental and other issues. Some long-time residents have had to relocate.
18. A number of approvals have been granted for Holiday House and/or Holiday Accommodation for lots on the southern portion of Skipjack Circle (outside of the current boundary). There have been a number of complaints relating to the use of these properties as short term accommodation.
19. The Shire's Local Planning Strategy (Strategy) recognises the importance of tourism in Exmouth, however, notes that the type of accommodation, location and impacts need to be considered as conflicts relating to land use inevitably occur.

20. The objectives of the Western Australian Planning Commissions (WAPC) Planning Bulletin 99 – Holiday Homes Guidelines (PD 99) is to establish clear guidelines for residential homes being used for tourism accommodation, to ensure that they occur in appropriate locations and that all new holiday home rental accommodation is in accordance with relevant legislation, local planning schemes, policies, and managements plans.
21. The WAPC has prepared Draft Position Statement: Planning for Tourism and guidelines, and are currently seeking comments. The draft policy also provides guidance on the location and use of un-hosted (where guests have exclusive use of an entire house or unit) short-term accommodation. These should be in high tourism amenity areas (close to social, cultural and leisure attractions), while minimising impacts and interface issues between residential and short-term accommodation uses.
22. Currently, residents on the southern portion of Snapper Loop are directly impacted to the rear of their properties by the use of dwellings on Skipjack Circle for holiday houses/accommodation.
23. It is considered that in the current climate of the housing crisis, it would be beneficial to reduce the number of dwellings available for short-stays/holiday rentals and to increase opportunities for longer term rentals.
24. Extending the area to include all lots to the north of Skipjack Circle via the proposed amendment will be orderly and proper planning and will alleviate some of the tensions surrounding holiday homes and residents. The area is in the northern most part of town, and there are other areas available closer to the town centre, Town Beach and Marina with access to services that are more suitable for un-hosted short-term accommodation.
25. Under the proposed amendment, the closest possible interaction will be separated by more than 20m, across the Skipjack Circle Road reserve.
26. Holiday home approvals are limited for a period of one year. Landowners must apply to Council each year to renew their approval. Should the proposed amendment ultimately be supported by Council and the Minister for Planning, any current holiday house approvals that expire, would not be renewed.
27. Notwithstanding the proposed amendment, landowners would still be able to provide hosted bed and breakfast accommodation. Accommodation for up to four adults (or one family) in a maximum of two guest bedrooms. This is considered low-scale as the host resides on the property and can manage guests and deal with any issues.
28. Based on the above it is considered that the proposal achieves consistency with the state and local planning framework. It is recommended that Council resolves to proceed to advertise the amendment without modification, as outlined in the Officer's Recommendation.

CONSULTATION

29. The Regulations require that a local planning scheme amendment be adopted by a resolution of Council prior to the proposal being advertised for public comment. Consequently, no consultation has been undertaken at this stage.

30. If Council resolves under regulation 35 to adopt an amendment to a local planning scheme, the local government must then advertise the amendment in accordance with regulation 47.

31. Section 81 of the Act requires a local government to refer an amendment to the Environmental Protection Authority to determine if it should be assessed.

STATUTORY ENVIRONMENT

32. *Planning and Development Act 2005*

33. *Planning and Development (Local Planning Scheme) Regulations 2015*

34. *Local Planning Scheme No. 4*

35. *Environmental Protection Act 1986*

POLICY IMPLICATIONS

36. *State Planning Policy 6.3 - Ningaloo Coast*

37. *Tourism Planning Guidelines*

38. *Planning Bulletin 99: Holiday Homes Guidelines*

39. *Draft Position Statement: Planning for Tourism and 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 – The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.	Unlikely	Moderate	Moderate	In the unlikely event the request is not supported by the DPLH the Shire may be required to make modifications. Alternate options will need to be explored.
Reputational – The proposal may attract objections from members of the public or other public authorities.	Possible	Moderate	Moderate	Widely consulting with all parties in the Skipjack Circle area and other landowners who may be affected and all relevant public authorities should mitigate any risk in this regard. If necessary, further information can be provided as part of the amendment process. It is considered that this is based on sound planning principals. Landowners would still be able to apply for B&B accommodation.

ALTERNATE OPTIONS

42. Council may consider alternate options in relation to this item, such as:

- To resolve to adopt the amendment to the local planning scheme with modifications; or
- To resolve not to adopt the amendment to the local planning scheme.

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, pursuant to section 75 of the *Planning and Development Act 2005* and Part 5, r.35 (1 and 2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

1. PREPARE and adopt Amendment No. 9 to amend Shire of Exmouth *Local Planning Scheme No. 4* by:
 - (i) Modifying clause 4.17.1 for Holiday Accommodation / Holiday House to the following:
Holiday Accommodation and Holiday House shall not be permitted in the Skipjack Circle area as defined in Figure 11: Skipjack Circle Area.
 - (ii) Inserting a new 'Figure 11: Skipjack Circle Subdivision Area' into the Table of Figures.
 - (iii) Amending the Table of Contents accordingly.

Classify the amendment as a 'Standard amendment' under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:

- The amendment is consistent with the relevant objectives of the Scheme and Local addressed by the Shire of Exmouth Local Planning Strategy;
- The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
- The amendment is not a basic or complex amendment.

Refer the amendment to the Environmental Protection Authority to determine if formal environmental assessment is required.

2. ADVERTISE the amendment in accordance with Part 5, r.47 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

12.2.2 PROPOSED SCHEME AMENDMENT NO.6 TO LOCAL PLANNING SCHEME NO.4 – SUPPORT FOR FINAL ADOPTION

File Reference:	LP.PL.4.6
Reporting Officer:	Senior Planning Officer
Responsible Officer:	Executive Manager Development Services
Date of Report:	17 March 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. Scheme Amendment Report 2. Agency submissions 3. Schedule of Submissions and Recommendations 4. Proposed final modifications and provisions

PURPOSE

1. That Council give final approval and SUPPORT Scheme Amendment No. 6 to the Shire of Exmouth Local Planning Scheme No.4 (LPS 4), and forward the amendment to the Western Australian Planning Commission (WAPC) with the request for the Minister for Planning to grant final consent.

BACKGROUND

2. Council has prepared Scheme Amendment No.6 which seeks to insert 'Major Event' as a definition into Schedule 1, insert 'Local Reserve Additional Use (AR1)' into Section 2.3 (additional Uses in Local Reserves), insert 'Additional Use (A9)' into Schedule 2 of LPS 4 and amend the scheme maps accordingly.
3. At the Shire's 25 November 2021 Ordinary Council Meeting, Council resolved to initiate and advertise proposed Scheme Amendment 6 (Item 12.2.2, Resolution No: 05-1121).
4. The Amendment is intended to provide temporary options in and around the Exmouth townsite to cater for and facilitate the Total Solar Eclipse (TSE) event in 2023.
5. The TSE is an extraordinary and rare astronomical event and it is anticipated that the North West Cape and surrounding towns will experience extremely high visitation numbers.
6. The proposed new definition, 'Major Event', is intended to be applied temporarily (2 weeks either side of the Solar Eclipse event) into both section 2.3 'Additional uses in local reserves' (AR1) and into Schedule 2 – 'Additional Uses' (A9).
7. The proposed Amendment will allow for the 'Major Event' land use to be applied to a number of strategic and relatively unconstrained land parcels as outlined in the Scheme Amendment Report (refer Attachment 1) and listed in the Officers Recommendation below.

8. The Amendment was referred to the Environmental Protection Agency (EPA), who advised that the amendment did not warrant a formal assessment under Part IV Division 3 of the *Environmental Protection Act 1986*. The WAPC also provided consent to advertise.
9. Scheme Amendment No.6 was advertised for public comment in accordance with Part 5, r.38 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Advertising was undertaken via direct mail out to landowners, notices placed on the Shire's website and Local Notice Boards.
10. In addition to public advertising and formal referral to the EPA, Scheme Amendment No.6 was also referred to relevant state agencies and utility providers for comment.

COMMENT

11. The proposal has been assessed against the relevant legislative requirements and has taken into consideration comments received as a result of advertising and consultation, resulting in some modifications (refer Attachment 4).
12. The following agencies provided comment:
 - *Water Corporation*
 - *Department of Fire and Emergency Services (DFES)*
 - *Department of Biodiversity, Conservation and Attractions (DBCAs)*
 - *Department of Health (DoH)*
13. A total of 4 non-agency submissions were received in relation to the proposal. The non-agency submissions provided some concerns and recommended modifications to the scheme amendment and provisions.
14. The key concerns raised from the public are outlined below:
 - *Minimising impacts on the environment*
 - *Servicing impacts;*
 - *Amendments to scheme provisions; and*
 - *Removal of sites, primarily for environmental reasons.*
15. As mentioned above, the scheme provisions have been updated to address the concerns received, including the key issues of minimising the impacts on the natural environment and site rehabilitation.
16. It is important to note the proposed scheme amendment has identified a number of lots that can be considered to provide flexibility in the planning process for the event. There are many complex factors influencing the coordination of the event, of which, environmental impact is a significant consideration. A number of the matters raised in the submissions will be considered as part of the future necessary development, health and other approval processes. The amendment does not remove the requirement for any proposal, development or site to comply with any other Federal, State or Local Law.
17. It is noted that not all of the lots included in the Amendment may be used during the TSE, it is more than likely the majority will not. However, they remain within the Amendment such that a full range of options can be considered to enable the best outcome for the whole town. Removing lots from the Amendment removes any contingency in planning for the event.

18. The town's capacity and services are also being considered as part of the larger planning and preparation for the event by a number of stakeholders and agencies as part of the working and interagency committee groups.
19. In addition to the above matters, the following have been identified by Shire planning officers as key considerations for the determination of the proposal, and are discussed in detail below:
- *Local Planning Strategy*
 - *Local Planning Scheme No. 4*
 - *Amendment proposal and justification*

Shire of Exmouth Local Planning Strategy

20. The proposed Amendment is consistent with the Strategy as it intended to enable the Shire to coordinate and cater for the expected tourist numbers resulting from the TSE, whilst managing the impacts on the environment.

Shire of Exmouth Local Planning Scheme No.4 (LPS 4)

21. The following aim of LPS 4 is relevant to the proposal:

- *To facilitate planning for the appropriate balance between economic and social development, public health, conservation of the natural environment, and improvements in lifestyle and amenity.*

22. The proposal supports the balance of the above considerations by enabling the economic growth of Exmouth whilst ensuring that public health and the natural environment are not compromised.

23. The lots nominated for inclusion within the proposal are covered by a range of zones and reserves. As such, they may be subject to other provisions of LPS4, however, as the Amendment is for temporary uses, it will not have any material impact on other provisions.

Proposal and Justification

24. The proposed amendment seeks to:

- Insert 'Major Event' as a term into Schedule 1 in LPS 4, being:
 - **Major event**– means an event and/or activity that attracts more visitors than the settlement and/or its surrounds can normally cater for. The use includes the temporary approval of camping, caravan parks, bed and breakfast, car parks, civic use, community purpose, fast food outlet, lunch bar, holiday accommodation, holiday house and market. Other temporary uses may be considered by the local government if they facilitate the major event."
- Insert an 'Additional Use' (A9) in Schedule 2 of LPS4 for a number of lots (refer Attachment 1) and listed in the Officers Recommendation below.

25. Under proposed Additional Use 9 (A9) and Additional Use for Local Reserves (AR1), the land use permissibility for 'Major Event' will be a 'D' use. This means that the use is not permitted unless the Local Government has exercised its discretion by granting development approval. This also means the Local Government can refuse an application, for instance on adverse environmental grounds.

26. A number of conditions are also proposed for both A9 and AR1 (see proposed amendment text). These conditions broadly cover requiring development to facilitate the TSE, as well as measures to address servicing, occupancy management, the environment, site rehabilitation and strategies to manage the interaction between surrounding areas. Given that the TSE will take place on the 20 April at 11.30 am and is only expected to last around 3 hours, the amendment proposes to limit approvals to the period of time between the 6th of April 2023 and the 4th of May 2023. Once this period has passed, the Additional Uses and Local Reserve Additional Uses will cease.
27. Past eclipse events have indicated that the population of centres within the totality path can swell well past usual peaks. This proposed amendment will provide options for accommodating the requirements for facilitating the TSE by:
- Providing a variety of site options across the townsite and surrounds;
 - Providing certainty in regards to allowable uses on proposed sites; and
 - Using temporary additional use provisions to provide development control and ensure that development is of a temporary nature.
28. Given the impact of the 2021 season with regard to increased numbers of visitors, reduced accommodation opportunities (i.e. closure of the Lighthouse Caravan Park), and the occurrence of illegal camping; providing an opportunity for the TSE event to be managed and controlled is beneficial to the Shire and community of Exmouth.
29. It is recommended that Council resolve to support proposed Scheme Amendment 6, subject to modifications and forward the amendment to the WAPC, with the request for the Minister for planning to grant final consent.

CONSULTATION

30. As mentioned above, Scheme Amendment No.6 was advertised in accordance with Part 5, r.38 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
31. In addition to public consultation, the proposal was also referred to the following state agencies and utility providers:
- Department of Biodiversity, Conservation and Attractions (DBCA)
 - Department of Fire and Emergency Services (DFES)
 - Department of Water and Environmental Regulation (DWER)
 - Horizon Power
 - Water Corporation
 - Main Roads Western Australia
 - Department of Health (DoH)
 - Tourism Western Australia
32. A response was received from DFES, DBCA, DoH, and the Water Corporation and included in Attachment 2.
33. A 'Schedule of Submissions and Recommendations' has been prepared to summarise and respond to the matters raised during the public advertising and consultation period (refer Attachment 3). The matters raised are broadly addressed above in the comment section of this report. A copy of each government agency submission is also available (refer Attachment 2).

34. Modifications to the proposed scheme amendment are recommended as a result of the consultation process (refer Attachment 4).

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Planning and Development (Local Planning Scheme) Regulations 2015

Local Planning Scheme No. 4

Environmental Protection Act 1986

POLICY IMPLICATIONS

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

State Planning Policy 6.3 – Ningaloo Coast

Government Sewerage Policy

FINANCIAL IMPLICATIONS

35. Nil.

RISK MANAGEMENT

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Financial – An unmanaged TSE event will likely result in the Shire being financially responsible for required clean ups and rehabilitation of the environment.	Likely	Moderate	High	Approving Scheme Amendment No.6 will enable the TSE event to be controlled and for financial burden to be mitigated. It will also provide financial opportunity through transactions with event providers.
Environmental – An unmanaged TSE event is likely to result in wide spread environmental damage due to illegal camping amongst other activities.	Almost certain	Minor	High	Approving Scheme Amendment No.6 will enable the TSE event to be managed and will mitigate likely environmental damage.
Reputational – The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.	Unlikely	Moderate	Moderate	If the request is not supported by the DPLH the matter will not be progressed and the Shire may be required to make modifications.
Reputational – The proposal may attract objections from members of the public or other public authorities.	Possible	Moderate	Moderate	Widely consulting with all parties who may be affected and all relevant public authorities should mitigate any risk in this regard. If necessary, further information can be provided or modifications made as part of the amendment process. This includes removing sites/areas from the amendment.

ALTERNATE OPTIONS

37. Council may consider alternate options in relation to this item, such as:

- To resolve to support the scheme amendment with additional modifications; or
- To resolve not to support the scheme amendment and advise the WAPC, in writing, of the reasons for doing so.

STRATEGIC ALIGNMENT

38. 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
 - 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.
 - 3.2 Promote facilities/services that enhance public health and safety.
- 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

39. Simple Majority

OFFICER'S RECOMMENDATION

ITEM 12.2.2

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and Part 5, r.41 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

1. SUPPORT with modifications (as outlined in Attachment 4) Scheme Amendment No.6 to amend Shire of Exmouth *Local Planning Scheme No.4* by:
 - (i) Inserting the following definition for 'Major Event' into Schedule 1 – Terms referred to in Scheme:

Major event – means an event and/or activities that attract more visitors than the settlement and/or its surrounds can normally cater for. The use includes the temporary approval of camping, caravan parks, bed and breakfast, car parks, civic use, community purpose, fast food outlet, lunch bar, holiday accommodation, holiday house and market. Other **temporary** uses may be considered by the local government if they facilitate the major event."
 - (ii) Inserting 'Additional Use (A9)' into Schedule 2 – Additional Uses.

No	Description of Land	Additional Use	Conditions
A9	Lot 9510 on DP5557, Lot 1 on DP47770, Lot 848 on DP175175, Lot 715 on DP173019, Lot 112 on DP182633, Lot 220 on DP192031, Lot 101 on DP180602, Lot 1403 on DP192085, Part Lot 1419 on DP219750, Lot 1586 on DP72986, Lot 166 on DP238089, Lot 1 on DP 85354, Lot 389 on DP 210127, Lot 1 on DP 77755, Lot 392 on DP210127, Lot 393 on DP 210127, Lot 2 on SP 12562, Lot 388 on DP210127, Lot 2 on DP 92275, Lots 376, 377, 378, 379, 380, 382,383 on DP 210127 Lot 1381 on DP 408201, Lot 1375 on DP 408201, Lot 374 on DP 210127, Part Lot 5000 on DP 55568, Lot 1436 on DP 220338 and 510 on DP 408201, Lot 20 on DP 209501	As a 'D' use: <ul style="list-style-type: none"> • Major Event Use 	<ol style="list-style-type: none"> 1. The purpose of the additional use is to facilitate a 'major event' within the Shire. 2. In considering an application for development approval, the local government may, consider the following matters in addition to those which it may have regard to under the Scheme: <ul style="list-style-type: none"> • Whether the use is connected to and will facilitate the major event within the Shire; • The need, considering the capacity in local housing and current tourism accommodation; • Vehicular access arrangements and internal vehicle and pedestrian movements; • Occupancy limitations; • Provision of suitable setbacks and siting of development in the manner that considers surrounding land uses; • Measures to manage visual amenity impacts; • The impacts on the natural environment; • Site rehabilitation plans; • Transitioning plans; • Rubbish disposal; • Servicing including wastewater disposal, water, drainage and power; and • Toilet and other facilities. 3. The local government is to be satisfied that the proponent has identified appropriate strategies to manage issues by siting of land use in the context of surrounding existing and proposed land uses;

			<p>and providing adequate screening measures such as fencing.</p> <p>4. The additional use shall [effectively] start from 06 April 2023.</p> <p>5. The additional use shall cease on after the 04 May 2023.</p> <p>6. Any development approval issued by the local government for the additional use shall be no later than 04 May 2023.</p> <p>7. Non-conforming use rights do not apply to the additional use.</p> <p>8. After 04 May 2023, any buildings and/or structures that had been used for the additional use shall be remove unless separate development approval is granted for uses consistent with the zoning.</p>
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(iii) Modifying Section '2.3 Additional Uses for Local Reserves' to the following:

2.3 Additional Uses for local reserves

2.3.1 The below table sets out –

- (a) classes of use for specified land located in local reserves that are additional to classes of use determined in accordance with the objectives of the reserve; and
- (b) the conditions that apply to that additional use.

Specified additional uses for land in local reserves in Scheme area:

No	Description of Land	Additional Use	Conditions
AR1	Lot 1455 and 1456 on DP32358 (LR3128/451 & LR3128/452), Lot 300 on DP40872 (R52730), Part Lot 1419 on DP 219750 (R50807),	As a 'D' use: <ul style="list-style-type: none"> • Major Event 	<p>1. The purpose of the additional use is to facilitate a 'major event within the Shire.'</p> <p>2. In considering an application for development approval, the local government may, consider the following matters in addition to those</p>

<p>Lot 303 on DP408720 (R 50807), Lot 1493 on DP39344 (R51970), Lot 1391 on DP217782 (Reserve 51970), Lot 1030 on DP 188475, Lot 500 on DP 76589, Lot 1400 on DP 191674, Lot 102 on DP 180508 Lot 77 on DP 174803 (R 50740) Lot 98 and 99 on DP 180507 Lot 66 on DP 173147 Lot 49 and 50 on DP 169590 Lot 60 on DP 172891 Lot 84, 85 & 86 on DP 212281 Lot 30 on DP 205429 Lot 115 on DP 183578 Lot 32 on DP 161583 Lot 37 & 38 on DP 166410 Lot 39 on DP 208441 Lot 31 on DP 161582 Lot 28 and 29 on DP 205429 Lot 500 on DP 69582</p>		<p>which it may have regard to under the Scheme:</p> <ul style="list-style-type: none"> • Whether the use is connected to and will facilitate the major event within the Shire; • The need, considering the capacity in local housing and current tourism accommodation; • Vehicular access arrangements and internal vehicle and pedestrian movements; • Occupancy limitations; • Provision of suitable setbacks and siting of development in the manner that considers surrounding land uses; • Measures to manage visual amenity impacts; • The impacts on the natural environment; • Site rehabilitation plans; • Transitioning plans; • Rubbish disposal; • Servicing including wastewater disposal, water, drainage and power; and • Toilet and other facilities. <p>3. The local government is to be satisfied that the proponent has identified appropriate strategies to manage issues by siting of land use in the context of surrounding existing and proposed land uses; and providing adequate screening measures such as fencing.</p> <p>4. The additional use shall [effectively] start from 06 April 2023.</p> <p>5. The additional use shall cease on after the 04 May 2023.</p> <p>6. Any development approval issued by the local government for the additional use shall be no later than 04 May 2023.</p>
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			<p>7. Non-conforming use rights do not apply to the additional use.</p> <p>8. After 04 May 2023, any buildings and/or structures that had been used for the additional use shall be remove unless separate development approval is granted for uses consistent with the zoning.</p>
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2.3.2 Despite anything contained in clause 2.2, land that is specified in the Table to subclause 2.3.1 may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

2.3.3 Despite anything contained within clause 2.2, a reserve may be used by the local government for the purpose of developing or maintaining public infrastructure.

(iv) Amend the Scheme Maps accordingly.

2. Note the submissions received as detailed in the Schedule of Submissions and Recommendations (Attachment 3).
3. Forward the amendment documentation, to the Western Australian Planning Commission with a request that the Minister for Planning grant approval to the amendment.

12.2.3 PROPOSED SCHEME AMENDMENT NO.7 TO LOCAL PLANNING SCHEME NO.4 – SUPPORT FOR FINAL ADOPTION

File Reference:	LP.PL.4.7
Reporting Officer:	Senior Planning Officer
Responsible Officer:	Executive Manager – Development Services
Date of Report:	17 March 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. Scheme Amendment Report 2. Agency submissions 3. Schedule of Submissions and Recommendations 4. Proposed final modifications and provisions

PURPOSE

1. That Council given final approval and SUPPORT Scheme Amendment No. 7 to the Shire of Exmouth Local Planning Scheme No.4 (LPS 4), and forward the amendment to the Western Australian Planning Commission (WAPC) with the request for the Minister for Planning to grant final consent.

BACKGROUND

2. Council has prepared Scheme Amendment No.7 which seeks to apply an 'Additional Use (A10)' in Schedule 2 of LPS 4 on a number of residential areas in the municipality.
3. At the Shire's 25 November 2021 Ordinary Council Meeting, Council resolved to initiate and advertise proposed Scheme Amendment 6 (Item 12.2.3, Resolution No: 06-1121).
4. Similar to proposed Scheme Amendment No. 6, the amendment is intended to provide temporary options in and around the Exmouth townsite to cater for and facilitate the Total Solar Eclipse (TSE) event which is set to occur on 20 April 2023. The temporary use is proposed to apply for four weeks in total between 6 April 2023 and 4 May 2023, being either side of the TSE.
5. The key areas that this amendment applies to can be broadly described as:
 - Area 1, 'Residential' zoned land north-west and south-west of Maidstone Cres.
 - Area 2, 'Residential' area abutting Crevalle Way.
 - Area 3, 'Special Use 6' zoned area adjacent Murat Rd and Madaffari Drive.
 - Area 4, 'Rural Residential' zoned area connecting to Preston Street.
 - Area 5, 'Special Use 9' zoned area adjacent to Minilya-Exmouth Road.

Refer to the Scheme Amendment Report for further details (Attachment 1).

6. The Amendment was referred to the Environmental Protection Agency (EPA), who advised that the amendment did not warrant a formal assessment under Part IV Division 3 of the *Environmental Protection Act 1986*. The WAPC also provided consent to advertise.

7. Scheme Amendment No.7 was advertised for public comment in accordance with Part 5, r.38 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Advertising was undertaken via direct mail out to landowners, notices placed on the Shire's website and Local Notice Boards.
8. In addition to public advertising and formal referral to the EPA, Scheme Amendment No.7 was also referred to relevant state agencies and utility providers for comment.

COMMENT

9. The proposal has been assessed against the relevant legislative requirements and has taken into consideration comments received as a result of advertising and consultation, resulting in some modifications (refer Attachment 4).
10. The following agencies provided comment:
 - *Water Corporation*
 - *Department of Fire and Emergency Services (DFES)*
 - *Department of Biodiversity, Conservation and Attractions (DBCA)*
 - *Department of Health (DoH)*
11. A total of 5 non-agency submissions were received in relation to the proposal. With the exception of one submission who raised no objections, the non-agency submissions provided some concerns and recommended modifications to the scheme amendment and provisions.
12. The key concerns raised from the public are outlined below:
 - *Minimising impacts on the environment;*
 - *Servicing impacts;*
 - *Amendments to the scheme provisions; and*
13. The concerns received are primarily in response to Amendment 6, as a number of the submissions were grouped together.
14. As mentioned above, the scheme provisions have been updated to address the concerns received, included key issues of minimising the impacts on the natural environment and site rehabilitation plans.
15. It is important to note the proposed scheme amendment has identified a number of residential lots that can be considered to provide flexibility in the planning process for the event for temporary accommodation. There are many complex factors influencing the coordination of the event, of which, environmental impact is a significant consideration. A number of the matters raised in the submissions will be considered as part of the future necessary development, health and other approval processes. The amendment does not remove the requirement for any proposal, development or site to comply with any other Federal, State or Local Law.
16. It is noted that not all of the lots included in the Amendment may be used during the TSE, however, they remain within the Amendment such that a full range of options can be considered to enable the best outcome for the whole town. Removing lots from the Amendment removes any contingency in planning for the event.

17. The towns capacity and services are also being considered as part of the larger planning and preparation for the event by a number of stakeholders and agencies as part of the working and interagency committee groups.

18. In addition to the above matters, the following have been identified by Shire planning officers as key considerations for the determination of the proposal, and are discussed in detail below:

- *Local Planning Strategy*
- *Local Planning Scheme No. 4*
- *Amendment proposal and justification*

Shire of Exmouth Local Planning Strategy

19. Although the purpose of the proposed Amendment is not specifically addressed in the Strategy, it does broadly align with the following main objectives:

“Encourage the sustainable growth of tourism and tourism related opportunities throughout the Shire and balance growth against the conservation values of the environment upon which the area’s tourism industry is based.”

Shire of Exmouth Local Planning Scheme No.4 (LPS 4)

20. The following aim of LPS 4 is relevant to the proposal:

- *To facilitate planning for the appropriate balance between economic and social development, public health, conservation of the natural environment, and improvements in lifestyle and amenity.*

21. The amendment will apply to areas zoned 'Residential', 'Rural Residential', 'Special Use 6' and 'Special Use 9' under LPS 4. Some of these areas are also subject to other provisions in LPS4, however as this amendment is proposed for temporary uses, it is considered to have minimal impact on the other scheme provisions. The other provisions include:

- Additional Use A5 - The Additional use allows for an Office to be a 'D' use;
- Special Control Area 4 – Exmouth Aerodrome Special Control Area 4;
- Special Control Area 5 – Floodplain Special Control Area 5; and
- Special Control Area 6 – Minilya – Exmouth Road Special Control Area.

22. There are a number of development conditions proposed for A10, which are listed below in the Officers Recommendation. These include:

- The need, considering the capacity in local housing and supply markets.
- Whether the use is connected to and will facilitate the major event within the Shire;
- The need, considering the capacity in local housing and current tourism accommodation;
- Occupancy limitations;
- Provision of suitable setbacks and siting of development in the manner that considers surrounding land uses;
- Measures to manage visual amenity impacts;
- Environmental impacts;

- Site and rehabilitation and transitioning plans;
- Rubbish disposal;
- Servicing including wastewater disposal, water, drainage and power; and
- Toilet and other facilities.

23. The conditions include the period for which the additional use is applicable for, being from 6 April 2021 and ending on 4 May 2021.
24. A local planning policy (LPP) will be prepared to further guide proposals. A LPP can also list exemptions from the requirement to obtain development approval.
25. The proposed amendment enables the consideration of multiple site options and temporary permissibility for uses that will facilitate additional short stay accommodation for the event across the townsite and surrounds.
26. It is recommended that Council resolve to support proposed Scheme Amendment 7, subject to modifications and forward the amendment to the WAPC, with the request for the Minister for planning to grant final consent.

CONSULTATION

27. As mentioned above, Scheme Amendment No.7 was advertised in accordance with Part 5, r.38 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
28. In addition to public consultation, the proposal was also referred to the following state agencies and utility providers:
- Department of Biodiversity, Conservation and Attractions (DBCA)
 - Department of Fire and Emergency Services (DFES)
 - Department of Water and Environmental Regulation (DWER)
 - Horizon Power
 - Water Corporation
 - Main Roads Western Australia
 - Department of Health (DoH)
 - Tourism Western Australia
29. A response was received from DFES, DBCA, DoH and the Water Corporation and included in Attachment 2.
30. A 'Schedule of Submissions and Recommendations' has been prepared to summarise and respond to the matters raised during the public advertising and consultation period (refer Attachment 3). The matters raised are broadly addressed above in the comment section of this report. A copy of each government agency submissions is also available (refer Attachment 2).
31. Modifications to the proposed scheme amendment are recommended as a result of the consultation process (refer Attachment 4).

STATUTORY ENVIRONMENT

32. *Planning and Development Act 2005*
33. *Planning and Development (Local Planning Scheme) Regulations 2015*

34. *Local Planning Scheme No. 4*
 35. *Environmental Protection Act 1986*

POLICY IMPLICATIONS

36. *State Planning Policy 3.7 – Planning in Bushfire Prone Areas*
 37. *State Planning Policy 6.3 – Ningaloo Coast*
 38. *Government Sewerage Policy*

FINANCIAL IMPLICATIONS

39. Nil.

RISK MANAGEMENT

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Financial – An unmanaged TSE event will likely result in the Shire being financially responsible for required clean ups and rehabilitation of the environment.	Likely	Moderate	High	Approving Scheme Amendment No.6 will enable the TSE event to be controlled and for financial burden to be mitigated. It will also provide financial opportunity through transactions with event providers.
Environmental – An unmanaged TSE event is likely to result in wide spread environmental damage due to illegal camping amongst other activities.	Almost certain	Minor	High	Approving Scheme Amendment No.6 will enable the TSE event to be managed and will mitigate likely environmental damage.
Reputational – The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.	Unlikely	Moderate	Moderate	If the request is not supported by the DPLH the matter will not be progressed and the Shire may be required to make modifications.
Reputational – The proposal may attract objections from members of the public or other public authorities.	Possible	Moderate	Moderate	Widely consulting with all parties who may be affected and all relevant public authorities should mitigate any risk in this regard. If necessary, further information can be provided or modifications made as part of the amendment process. This includes removing sites/areas from the amendment.

ALTERNATE OPTIONS

41. Council may consider alternate options in relation to this item, such as:
- To resolve to support the scheme amendment with additional modifications; or
 - To resolve not to support the scheme amendment and advise the WAPC, in writing, of the reasons for doing so.

STRATEGIC ALIGNMENT

42. 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
- 1.2 Facilitate the strengthening and growth of our visitor experience.

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.

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.

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

43. Simple Majority

OFFICER'S RECOMMENDATION

ITEM 12.2.3

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and Part 5, r.41 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

1. SUPPORT with modifications (as outlined in Attachment 4) Scheme Amendment No.7 to amend Shire of Exmouth *Local Planning Scheme No.4* by:
 - (i) Inserting 'Additional Use (A10)' into Schedule 2 – Additional Uses as follows:

No	Description of Land	Additional Use	Conditions
A10	Areas as per scheme maps	As a 'D' use: <ul style="list-style-type: none"> • Holiday house • Holiday Accommodation • Camping ground • Caravan park • Car Park 	<ol style="list-style-type: none"> 1. The purpose of the additional use is to facilitate a 'major event' within the Shire. 2. In considering an application for development approval, the local government may, consider the following matters in addition to those which it may have regard to under the Scheme: <ul style="list-style-type: none"> • Whether the use is connected to and will facilitate the major event within the Shire;

			<ul style="list-style-type: none"> • The need, considering the capacity in local housing and current tourism accommodation; • Occupancy limitations; • Provision of suitable setbacks and siting of development in the manner that considers surrounding land uses; • Measures to manage visual amenity impacts; • The impacts on the natural environment; • Site rehabilitation plans; • Transitioning plans; • Rubbish disposal; • Servicing including wastewater disposal, water, drainage and power; and • Toilet and other facilities. <p>3. The local government is to be satisfied that the proponent has identified appropriate strategies to manage issues by siting of land use in the context of surrounding existing and proposed land uses; and providing adequate screening measures such as fencing.</p> <p>4. The additional use shall [effectively] start from 06 April 2023.</p> <p>5. The additional use shall cease on after the 04 May 2023.</p> <p>6. Any development approval issued by the local government for the additional use shall be no later than 04 May 2023.</p> <p>7. Non-conforming use rights do not apply to the additional use.</p> <p>8. After 04 May 2023, all structures that had been used for the additional use shall be removed unless separate development approval is granted for uses consistent with the zoning.</p>
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- (ii) Amending the Scheme Maps accordingly;
- 2. Note the submissions received as detailed in the Schedule of Submissions and Recommendations (Attachment 3).
- 3. Forward the amendment documentation, to the Western Australian Planning Commission with a request that the Minister for Planning grant approval to the amendment.

12.2.4 PROPOSED SCHEME AMENDMENT NO.8 TO LOCAL PLANNING SCHEME NO.4 – ADOPTION FOR ADVERTISING SUBJECT TO MODIFICATIONS

File Reference:	LP.PL.4.8
Reporting Officer:	Senior Planning Officer
Responsible Officer:	Executive Manager – Development Services
Date of Report:	16 March 2022
Applicant/Proponent:	Planning Solutions/Horizon Power
Disclosure of Interest:	Nil
Attachment(s):	1. Scheme Amendment Report 2. Indicative Renewable Concept Plan 3. Environmental Report 4. Schedule of Modifications

PURPOSE

1. The purpose of this report is:
 - To formally present to Council the draft Scheme Amendment 8 proposal; and
 - For Council to determine whether or not it supports adopting Scheme Amendment No.8 to the Shire of Exmouth Local Planning Scheme No.4 (LPS 4) for public advertising, pursuant to the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*, with modifications as recommended by Shire Officers (refer Attachment 4).

BACKGROUND

2. The town of Exmouth is currently supplied by a compressed natural gas power station with fuel trucked to the facility daily. The existing power station is located at lot 1467 Welch Street. Horizon Power secures the electricity from a third party under a power purchase contract which is current to 2024.
3. As part of its Integrated Resource Planning (IRP) Horizon Power is exploring opportunities that will shape Exmouth's future energy solution, including available options for procuring a long-term electricity supply solution for Exmouth, commencing in 2024. A feasibility study has shown that a power supply of 80 percent renewable energy (currently 4 per cent renewable generation) is achievable for less than the current cost of supplying town with power, representing financial and environment benefits for the State (Renewable Energy Target). Horizon Power are aiming for a transition to 100% renewables when key technology enablers are met. This would displace approximately 9,000 tons or 67% of existing carbon emissions per year.
4. An increase in renewable energy generation to 80% requires the introduction of solar, additional batteries and potentially wind generation to the power system. Operationally, it is likely that the system will run primarily either:

- Scenario 1: solar during the day converting to battery stores in the evening, with thermal providing any remaining balance of energy as and when required.
- Scenario 2: solar during the day, wind predominantly in the evening and battery stores, with thermal to providing any remaining balance of energy as and when required.

In both scenarios there will be significant periods throughout the year when all of Exmouth's energy will be supplied only by renewable energy sources. The remaining 20% will be produced by thermal (likely gas or diesel) to ensure a reliable energy supply, during peak periods or contingency events.

5. An assessment of the suitability of sites was undertaken by the proponents which resulted in the subject site being selected. A number of options were explored and the following sites were shortlisted:
 - Lot 505 on DP64832 (site subject of this Amendment)
 - Lot 550 on DP72929
 - Lot 284 on DP29719 (Exmouth Gun Club site)
 - Reserve 51970 (Corner of Welch Street, Reid Street and Murat Road)
6. Shire Officers were not supportive of the use of Reserve 51970 given the site has been earmarked for urban development and its prominent location. Reserve 51970 is currently constrained from the noise buffer from the existing power station. Lot 284 was not progressed due to foreseeable delays in project delivery. It is understood that the Department of Defence were not supportive of the use of their land (Lot 44 on DP209741 and Lot 284 on DP29719) to the north of the townsite. For further information refer to pages 6 - 8 of the Scheme Amendment Report (Attachment 1).
7. Shire Officers have been involved in project discussions with Horizon Power, however, until recently, these were focused on the wind and solar renewable energy components.
8. Horizon Power identified Lot 505 on DP 72929 (the subject land) as their preferred site, which is currently unallocated Crown Land.
9. The subject land is currently zoned 'Rural', 'Light Industrial' and 'Urban Development' under LPS 4. The subject land is approximately 271.8ha, located approximately 1.5km south from the Exmouth Town Centre, and directly west of Koolinda Way Light Industrial Area. The lot extends south to approximately adjacent to the Preston Street Rural Residential area.
10. Figures 1 and 2 below show the zoning of the land and the location of the special control areas (SCA) under LPS 4 and figure 3 shows the site context.

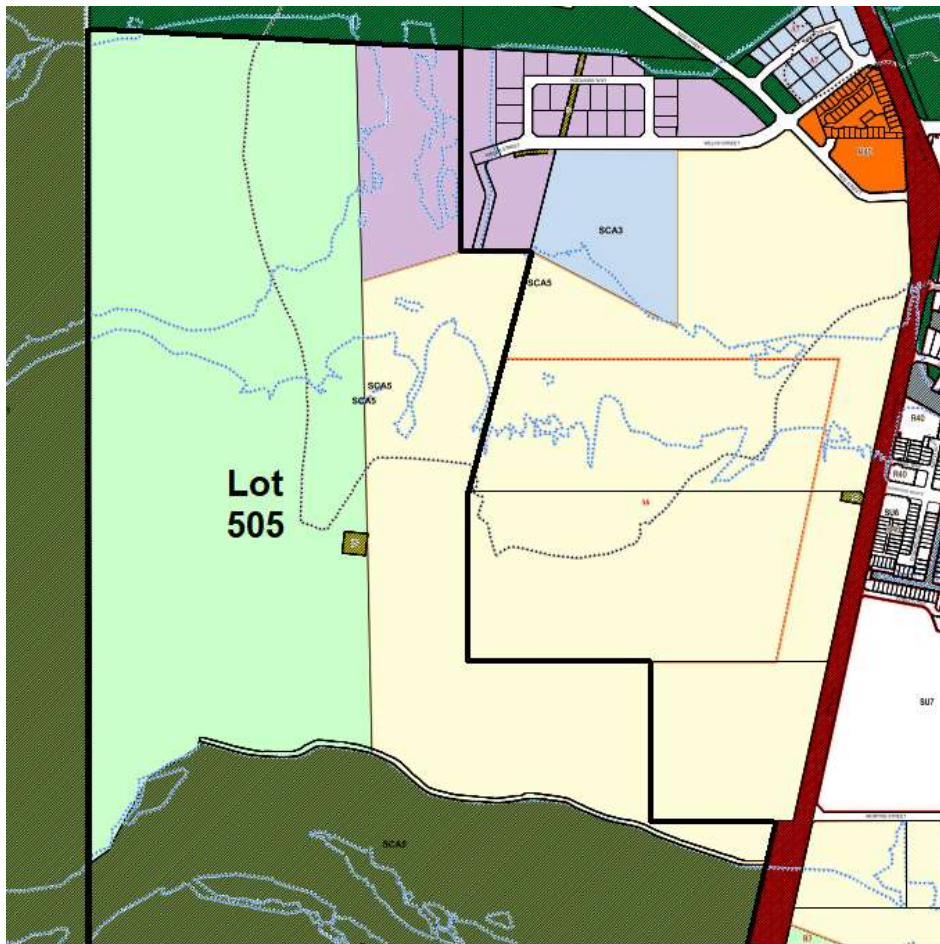


Figure 1 – Northern portion of Lot 505



Figure 2 – Southern portion of Lot 505

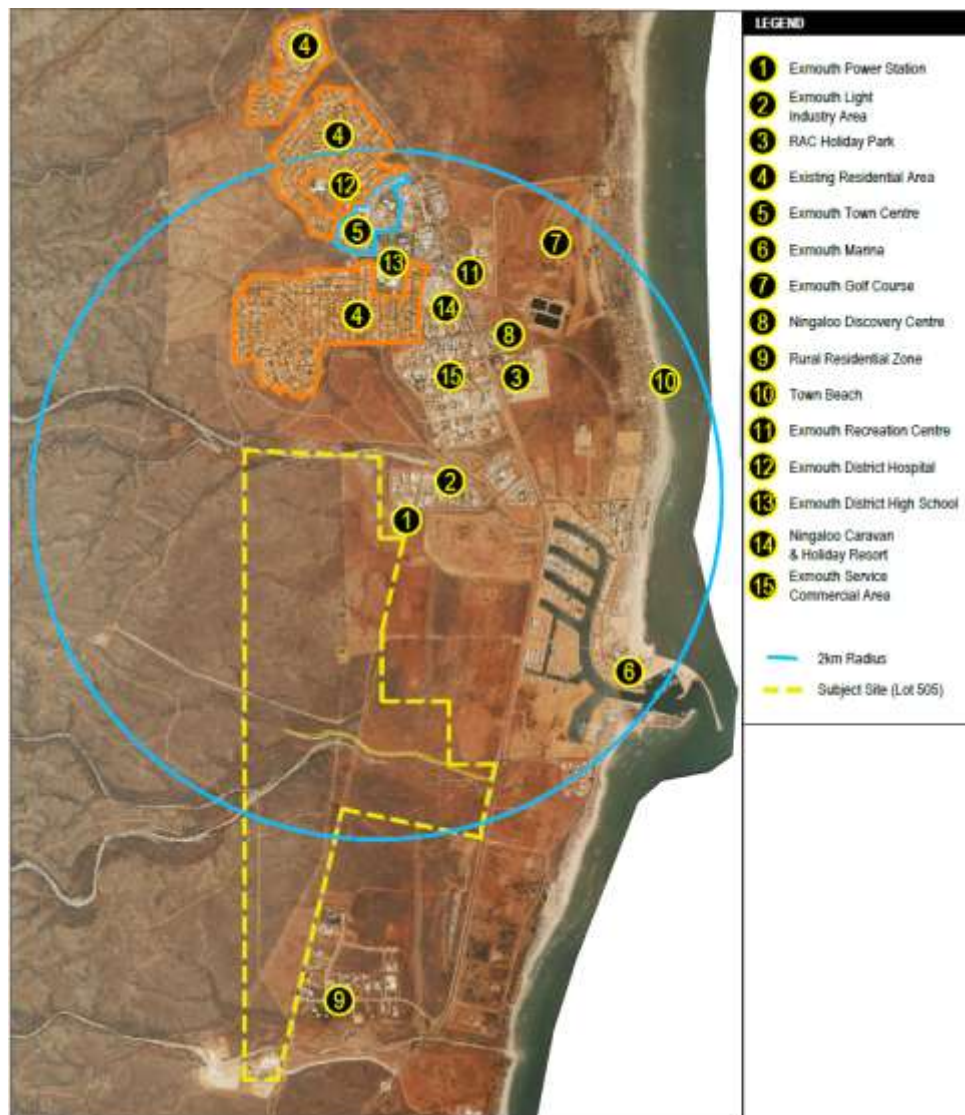


Figure 3 – Site context

11. Planning Solutions, on behalf of Horizon Power, have prepared a scheme amendment request to LPS 4, which seeks to:
 - a. Rezone the 'Light Industry' portion of Lot 505 on DP64832 to 'Rural';
 - b. Modify Schedule 2 – Additional Uses of LPS4 to include a 'Industry' land use under 'Additional Use (A11); and
 - c. Amend the Scheme maps accordingly.

12. It is noted that this scheme amendment relates only to Lot 505, however, the proposal for power generation facilities will also include Lot 550 on DP72929. It is proposed that Lot 550 could contain a wind power generation system. A scheme amendment is not required to enable this land use on Lot 550. This would be considered under a separate development application process.

13. The proponents have advised the delivery of the project will be in three planning stages:
 - (1) A scheme amendment to allow for the uses to be considered on the lot.
 - (2) Lodgement of development application for the new power solution/s.
 - (3) Consolidation of the power station noise buffer special control area.

COMMENT

14. LPS 4 was gazetted on 12 March 2019 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones.
15. The *Planning and Development Act 2005* (Act) and *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) set out the statutory process for adopting and amending a local planning scheme. The Act allows a local government to resolve to amend a local planning scheme.
16. In addition, the resolution must specify whether the amendment is a complex, standard or basic amendment as defined by the Regulations, including reasons for the specification. The different amendment types incur different statutory timeframes. Following discussions with the applicant the proposal is consistent with the definition of a 'complex amendment' for those reasons outlined below.
17. The Shire of Exmouth Local Planning Strategy (the Strategy) identifies the land for future Residential and Light Industry. The proposed scheme amendment seeks to rezone the subject land to 'Rural' with an Additional Use of 'Industry'. For these reasons, the Shire considers the scheme amendment to be inconsistent with the Strategy, and therefore a complex amendment.
18. Regulation 35(2) and 38(1) of the Regulations allows Council to adopt a complex scheme amendment for advertising and referral to relevant public authorities and agencies.
19. Regulation 37(1) of the Regulations requires that where a complex amendment is prepared, Council must resolve to;
 - a. Proceed to advertise the amendment without modification; or
 - b. Proceed to advertise the amendment with modifications; or
 - c. Not proceed to advertise the amendment.
20. Should Council resolve to proceed with the amendment with modifications, the amendment is required to be forwarded to the Western Australian Planning Commission (WAPC) and Minister for Planning for final approval.
21. Lot 505 is unallocated Crown Land with the primary interest holder being the State of Western Australia. The proponent is currently in discussions with the Department of Planning, Lands and Heritage in relation to the use of the site for the proposal.
22. The subject land is vacant with portions of the lot vegetated. It is undulating east to west, with a high point of 30m AHD near the western boundary and a low point of 10m AHD in the eastern portion of the site. The site features a number of deep gullies created by low lying creek lines. A drinking water pipe and a raw water pipe traverse the centre of the lot.
23. As shown in Figures 1 and 2 above, Lot 505, currently has a split zoning of 'Rural' in the north western portion, 'Light Industry' in the north eastern portion, 'Urban Development' in the eastern portion, and 'Rural' and 'Environmental Conservation Reserve' in the southern portion. The amendment seeks to rezone a portion of the 'Light Industry' zone to 'Rural and to apply an Additional Use (A11) over a portion of the site.

24. Whether new thermal generation is required, or the existing power station is used, will be determined in 2022 through commercial processes. If the existing facility were to remain or a new station built it would be run at a reduced capacity, given renewables would be the main power component.
25. Site installation could be between 15-30 hectares depending on the size of the solar array and whether wind turbines are in the final solution. This would be further assessed and considered as part the subsequent development applications stages when further details and the design are known.
26. Overall, progressing towards a renewable energy solution is supported and is listed as a priority under the Shires Strategic Community Plan 2030. A solar farm can be considered in the current rural zoned portions of lot 505, while noting there are a range of matters to be considered as part of the development application process.
27. Shire Officers have concerns relating to the location of the initially proposed additional use A11, for the following reasons:
 - A potential new power station within 150m of the existing station does not address our long-term strategic planning documents which have sought to see it relocated.
 - A rezoning from 'Light-Industry' to 'Rural' would reduce the Shires overall future industrial land supply. Further, retaining the Light Industry zone would serve as an interface between the facility and sensitive uses and zones.
 - The impacts (from associated buffers, setbacks and emissions) on existing uses and dwellings in the locality, and our future identified residential land supply.
28. Shire Officers have requested that any potential thermal power station be located further west into the site. Following discussions with the proponents, a revised Indicative Concept Plan has been submitted considering the Shire Officers initial feedback (Attachment 2). It is noted that this is a concept, and the final locations could be subject to change, depending on the topography, surveys and land capability.
29. Shire Officers have recommended updated scheme maps being prepared to refine and limit the location of a potential power generation facility to the west of the site. This is included in the schedule of modifications (Attachment 4). This would also see a portion of the light industry zone retained.
30. Also included in the schedule of modifications are additional scheme provisions and the requirement for the proponent to also undertake relatively minor modifications to the scheme amendment documentation to the satisfaction of the Shire, including administrative 'tidy ups'.
31. The matters raised above and other relevant key considerations are discussed in further detail below.

Environmental Considerations

32. An Environmental Report including a flora and fauna survey is included in Attachment 3. The survey identified two Priority 2 taxa and two Priority 3 taxa on the subject land. While this is not a statutory restriction, this will be considered on a case-by-case basis following consultation with the Department of Biodiversity, Conservation and Attractions (DBCA) and other relevant

agencies and departments. No fauna species of Threatened or Priority significance were recorded in the survey.

Local Planning Strategy

33. The purpose of the Strategy is to provide strategic planning direction over a 10-year period within the municipality. Further, it provides the rationale for the zoning and reservation of land and the rationale for land use and development controls. It also includes the context for coordinated planning and programming of physical and social infrastructure at the local level.
34. The Strategy identifies the subject land as 'Future Residential' and 'Future Light Industry' in the northern portion and 'Conservation and Landscape Protection' and 'Future Rural Residential' in the southern portion. Accordingly, the proposed amendment is inconsistent with the Strategy.
35. The Strategy acknowledges the impacts the existing power station has on existing and earmarked development and seeks to see the Exmouth Power Station relocated to remove the impediments.
36. It is relevant to note that there is 59.03ha of future residential land currently constrained by the existing Power Station buffer.

Exmouth Townsite Structure Plan

37. Similar to the Strategy, the subject land is designated as 'Proposed Urban'. Many of the considerations in the Exmouth Townsite Structure Plan have been reviewed and included in the Strategy. The Structure Plan also:
 - Recognises the constraints the existing power station has on land;
 - Discusses the need for adequate buffers to be provided; and
 - Considers the long-term relocation of the power station.

Local Planning Scheme No.4

38. The following aims of LPS 4 are relevant to the proposal:
 - *Promote development consistent with the planning objectives and recommendations of the Local Planning Strategy.*
 - *Facilitate planning for the appropriate balance between economic and social development, public health, conservation of the natural environment, and improvements in lifestyle and amenity.*
 - *Define the uses and types of development to be permitted on land within the Scheme Area.*
 - *Control and regulate the development of land, erection and demolition of buildings and the carrying out of works.*
39. LPS 4 defines 'Industry' and a 'Renewable Energy Facility' as:

Industry:

the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes —

- (a) *the storage of goods;*
- (b) *the work of administration or accounting;*
- (c) *the selling of goods by wholesale or retail;*
- (d) *the provision of amenities for employees;*
- (e) *incidental purposes.*

Renewable Energy Facility:

“facility used to generate energy from a renewable energy source and includes any building or other structure used in, or in connection with, the generation of energy by a renewable resource, where energy is being produced for commercial gain (i.e. solar farms as opposed to solar panels).”

40. As mentioned above a ‘Renewable Energy Facility’ is a use that can be considered under the current rural zoning. Under the proposed amendment, Additional Use A11 would allow for a future thermal power station to be a discretionary use on the subject land.

Special Control Area 5 – Floodplain

41. As shown in Figures 1 and 2, the eastern lower portion of the site is located within SCA 5. The objectives of the SCA 5 are:
- a. *To minimise impacts on the floodplain from inappropriate encroachment of development.*
 - b. *To avoid subdivision and development within the high hazard floodplain.*
 - c. *To ensure that proposed floodplain development has adequate flood protection and does not impact on the existing flood regime of the area.*
42. The revised Indicative Concept Plan (Attachment 2) shows some development in the floodplain; however, this is outside of the high hazard floodplain areas. Preliminary comments have been received from the Department of Water and Environmental Regulation (DWER) who advised they have no major objections to the Scheme Amendment provided the following guiding principles are followed:
- *Proposed development has adequate flood protection from a 1 in 100 (1%) Annual Exceedance Probability (AEP) flood.*
 - *Proposed development does not detrimentally impact on the existing 1% AEP flooding regime of the general area.*

Buffers and Emissions

43. The Environmental Protection Authority (EPA) *Guidance Statement No.3 – Separation Distances between Industrial and Sensitive Land Uses* (Guidance Statement 3) prescribes a generic buffer distance of 2000-3000m for a facility generating more than 10MW but less than 20MW. It is noted that any power station as part of the future energy solution would generate no more than 6MW and there are no prescribed buffers distances for power stations generating less than 10MW. It is noted that there are caretakers’ dwellings within 95m of the subject site at the Koolinda Way Light Industrial Area.
44. Given the proximity, the north-eastern corner of the site is affected by the Special Control Area 3 – Exmouth Power Station (SCA 3) – see figure above. The objectives of the SCA 3 are:

- a. *To ensure that the use and development of land is compatible with the operation of the Exmouth Power Station.*
- b. *To minimise impacts on residential and other sensitive uses.*

45. The current buffer is based on a previous noise assessment assuming the existing Power Station would operate at a full capacity of 13MW. Horizon Power have since advised that a capacity operating load of 10MW would be a more accurate figure to define a buffer, which would result in reduced buffer area.
46. The proposal is compatible with objective (a) SCA 3. Based on the applicant's reporting, it is understood that any new proposed power station would result in a reduced buffer and impacts, however the potential initial future location was only 150m west from the current power station. As mentioned above a revised Indicative Concept Plan has been submitted (Attachment 2).
47. The purpose of Draft State Planning Policy - 4.1 Industrial Interface (SPP 4.1) is to protect and provide long-term security of new industrial uses, sensitive land uses in proximity to existing industrial areas and the expansion of change in the operations of existing industry and infrastructure. SPP 4.1 outlines how to, and the importance of, defining appropriate buffers to minimise land use conflicts.
48. It is up to proponents to provide appropriate technical environmental reports to demonstrate the potential of on and off-site impacts and to determine the size/extent of buffers which are best dealt with in planning schemes under a SCA. No technical environmental and acoustic reports have been submitted by the proponents. This detail will be submitted as part of the next planning stages when the future detailed designs are known.
49. As discussed above, the location of the existing power station and the associated SCA 3 – Power Station, restricts the further development of residential land releases in the area and we are currently experience a housing crisis.
50. Included in the Officers Recommendation is the requirement for Horizon Power to provide a commitment to undertake at their cost a further scheme amendment to remove or consider a new reduced buffer to LPS 4, depending on the final power station component prior to initiating this scheme amendment.

Bushfire

51. The subject land falls within an area declared bushfire prone by the Commissioner for Fire and Emergency Services, pursuant to s. 18P of the *Fire and Emergency Services Act 1998*. State Planning Policy 3.7: *Planning in Bushfire Prone Areas* (SPP 3.7) will apply to future developments. A Bushfire Attack Level (BAL) assessment and detailed Bushfire Management Plan (where necessary) will be prepared during later planning and design stages.

Proposal and Justification

52. For those reasons outlined above, it is recommended that the additional use be focused and coordinated further west (refer Attachment 4) to minimise impacts on current and future land uses.
53. An additional use under LPS4 can include specific conditions that need to be considered when assessing development proposals on the specific site. In this instance, there are a number of

conditions relating to the following matters that are over and above the standard provisions of the Scheme, including:

- A11 is limited to the use power generation and ancillary infrastructure.
- Requirement for a number of technical studies and reports.
- Consideration of buffers and emissions.

State Planning Policy Framework

54. Pursuant to the Act, in adopting a scheme amendment, the local government is required to have due regard to any State Planning Policy which affects its district. It is considered that subject to modifications as outlined in Attachment 4, the Scheme Amendment adequately addresses and satisfies the following State planning policies:
- State Planning Policy 2.5 – *Rural Planning* – Subject to the modifications, the proposal is broadly consistent with the objectives as it will minimise land use conflicts and promote a sustainable development of the site.
 - State Planning Policy 2.7 – *Public Drinking Water* – The object is to ensure that development and land use within the Public Drinking Water Source Areas (PDWSAs) is compatible with the protection and long-term management of public water supply resources. There are no PDWSAs identified on the subject land.
 - State Planning Policy 3.7 - *Planning in Bushfire Prone Areas* - Refer to preceding sections of this report.
 - State Planning Policy 4.1 – *Draft Industrial Interface Policy* - Refer to preceding sections of this report.
 - State Planning Policy 6.3 - *Ningaloo Coast* – The proposed amendment is consistent with the intent, and broadly addresses the guiding principles to ensure the protection and sustainable use of the environment for the future.
55. Based on the above and subject to the proponent suitably addressing the relevant matters outlined in Attachment 4, it is considered that the proposal can be initiated and progress to advertising.
56. It is important to note that other issues or items may be raised by agencies, stakeholders and the community through the process that need to be suitably addressed by the proponent to the satisfaction of Shire, the EPA, the Western Australian Planning Commission (WAPC), other State Government agencies and ultimately the Minister for Planning.

CONSULTATION

57. The Regulations require that a local planning scheme amendment be adopted by a resolution of Council prior to the proposal being advertised for public comment. Consequently, no consultation has been undertaken at this stage.
58. If Council resolves under regulation 35 to adopt an amendment to a local planning scheme, the local government must then advertise the amendment in accordance with regulation 47.
59. Section 81 of the *Planning and Development Act 2005* requires a local government to refer an amendment to the EPA to determine if it should be assessed.

60. Prior to advertising a complex amendment, the local government is also required to obtain consent from the Western Australian Planning Commission (WAPC) under r.37 of the Regulations.

STATUTORY ENVIRONMENT

61. *Planning and Development Act 2005*
 62. *Planning and Development (Local Planning Scheme) Regulations 2015*
 63. *Local Planning Scheme No. 4*
 64. *Environmental Protection Act 1986*
 65. *Exmouth Townsite Structure Plan*
 66. *Fire and Emergency Services Act 1998*

POLICY IMPLICATIONS

67. *State Planning Policy 2.5 – Rural Planning*
 68. *State Planning Policy 2.7 – Public Drinking Water*
 69. *State Planning Policy 3.7 - Planning in Bushfire Prone Areas*
 70. *State Planning Policy 4.1 – Draft Industrial Interface Policy*
 71. *State Planning Policy 6.3 - Ningaloo Coast Government Sewerage Policy*

FINANCIAL IMPLICATIONS

72. Nil.

RISK MANAGEMENT

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational – The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.	Possible	Moderate	Moderate	In the unlikely event the request is not supported by the DPLH the Shire may be required to make modifications. Alternate options will need to be explored.
Reputational – The proposal may attract objections from members of the public or other public authorities.	Possible	Moderate	Moderate	Widely consulting with all parties who may be affected and all relevant public authorities should mitigate any risk in this regard. If necessary, further information can be provided or modifications made as part of the amendment process.
Performance and Reputational - Horizon Power are committed to ensuring this project is running by 2024. Not supporting the amendment could result in delays to the project and ability to provided renewable energy to the townsite.	Likely	Major	High	The proponents have advised of the possible ramifications. However, the proposal needs to be considered under orderly and proper planning and assessed against the relevant planning framework.
Environmental and Reputational - Supporting the location of a future power station within close proximity to the existing station could restrict the potential for releasing urban development in the area and could continue to cause impacts and emissions on current and future land uses.	Likely	Major	High	Modifying the extent and location of A11 as per the officer's recommendation would assist with minimising impacts on current and future land uses and development.

ALTERNATE OPTIONS

74. Council may consider alternative options in relation to this item, such as:

- To resolve to adopt the amendment to the local planning scheme with additional modifications; or
- To resolve not to adopt the amendment to the local planning scheme.

STRATEGIC IMPLICATIONS

75. 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
- 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.
- 4.3 To be a champion for our community.

VOTING REQUIREMENTS

76. Simple Majority

OFFICER'S RECOMMENDATION

ITEM 12.2.4

THAT Council, pursuant to section 75 of the *Planning and Development Act 2005* and Part 5, r.35 and 37 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

1. ADOPT Amendment No. 8 to amend Shire of Exmouth *Local Planning Scheme No. 4* by:
 - (i) Inserting 'Additional Use (A11)' into Schedule 2 – Additional Uses as follows.

No	Description of Land	Additional Use	Conditions
A11	Portion of Lot 505 on Deposited Plan 64832 as shown on the Scheme maps.	As a 'D' use <ul style="list-style-type: none"> • Industry 	<ol style="list-style-type: none"> 1. The additional use is limited to the land use of power generation facility and ancillary infrastructure within the Shire. 2. The local government may require the preparation of the following to accompany a development application: <ul style="list-style-type: none"> • Bushfire Management Plan; • Drainage Management Plan; • Acoustic Management Plan; • Environmental Management Plan; and • Technical environmental reports on the nature and extent of potential on and off-site impacts. 3. In considering an application for development approval, the local government shall consider the following matters in addition to those which it may have regard to under the Scheme: <ul style="list-style-type: none"> • Buffer separation distances as prescribed by the Environmental Protection Authority; • The level and extent of emissions likely to be generated by the proposed use; • Compatibility of uses internal and external to the site; and • Adequate provision of services.

(ii) Amend the Scheme maps accordingly.

Subject to:

1. Horizon Power committing to a legal agreement with the Shire to undertake a further scheme amendment to remove and/or consider a new reduced buffer referred to in the Shires Local Planning Scheme No.4 currently as Special Control Area No.3 – Exmouth Power Station (SCA 3), to be considered by Council within 6 months of commissioning the final power station component and to the satisfaction of the Shire's Chief Executive Officer (the Shire to be fully reimbursed for all associated costs to construct and administer the legal documentation and scheme amendment fees); and
2. The applicant updating the scheme amendment documentation and appropriately addressing matters outlined in Attachment 4, to the satisfaction of the Shire's Chief Executive Officer.

2. Classify the amendment as 'Complex' under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
 - The amendment is inconsistent with the Shire of Exmouth Local Planning Strategy.
3. Refer the amendment to the Environmental Protection Authority to determine if a formal environmental assessment is required.
4. Refer the amendment to the Commission in accordance with Part 5, r. 37 (2) & (3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to determine if any modifications to the amendment is required prior to advertising.
5. In accordance with Part 5, r.38 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, if the Western Australian Planning Commission advise that it is satisfied that the Complex amendment is suitable to be advertised, the Shire is to ADVERTISE the amendment.

COMMERCIAL AND COMMUNITY

12.3.1 COMMUNITY SPORTING AND RECREATION FACILITIES FUND (CSRFF)– SMALL GRANTS APPLICATION – EXMOUTH BOWLING CLUB

File Reference:	GS.PR.1
Reporting Officer:	Manager Community, Sport, and Recreation
Responsible Officer:	Chief Executive Officer
Date of Report:	15 March 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. CONFIDENTIAL – Letter from Exmouth Bowling Club Inc 2. CONFIDENTIAL – CSRFF funding application: Exmouth Bowling Club Inc

PURPOSE

1. That Council supports the submission of the Exmouth Bowling Club's Community Sporting and Recreation Facilities Fund (CSRFF), Small Grant funding application to the Department of Local Government, Sport and Cultural Industries (DLGSCI).
2. That Council approves funding assistance for the Exmouth Bowling Club's from reserves, subject to a successful CSRFF Small Grant application.

BACKGROUND

3. The CSRFF is administered by the Department of Local Government, Sport and Cultural Industries and the current funding round closes on 31 March 2022.
4. DLGSCI has three funding streams including:
 - Small Grants – projects from \$7,500 to \$300,000 (ex GST);
 - Annual Grants – projects from \$301,000 to \$500,000 (ex GST); and
 - Forward Planning Grants – projects up to \$2m (ex GST).
5. Applicants must be either a local government or a not-for-profit sport, recreation, or community organisation incorporated under the *WA Associations Incorporation Act 1987* and have an Australian Business Number (ABN). Clubs must demonstrate equitable access to the public on a short term and casual basis.
6. For the CSRFF Small Grants February 2022/2023 round, the Shire of Exmouth has received just one application, being from the Exmouth Bowling Club for the replacement of both synthetic grassed greens.

7. The Exmouth Bowling Club currently has two (2) synthetic grassed greens which are 10 years old. The severe climatic weather conditions within this region, along with the popularity of usage by bowlers have contributed to significant wear and tear over time.
8. An assessment of the two greens has concluded that the 'B' Green has seams of the synthetic grass surface that have completely come apart in places which have left gaps between joins of about 20 – 25mm. In addition, birds are attacking the stitching which is contributing to surface deterioration. The 'A' Green has not deteriorated as fast as 'B' Green, but the deterioration of the stitching and the separation of the playing surface is becoming a significant issue. The Club has tried to repair these seams but unfortunately, has not result in a good permanent fix.
9. With normal usage, these greens have a life expectancy of 10 years which is now the period of time that the two greens at the Exmouth Bowling Club have been in place. The major weather events over the last couple of years have contributed significantly to the deterioration of the playing surfaces.
10. In 2012 the Club was successful in securing funding through CSRFF to install the current playing surface. This application was supported by Council who assisted the club with funding via a self-supporting loan which has been fully repaid.
11. In 2021 the club applied for CSRFF funding application through the DLGSCI to renew the playing surface. Council resolved to support the application (resolution 02-0821), but unfortunately, the application was not successful. Therefore, the club is making a second application in the current round.
12. The total project cost is \$296,485 (ex GST) with the Club seeking for the Shire of Exmouth to provide one-third of the project's costs (\$98,828 ex GST), the Club providing one-third of the project's costs, and their CSRFF Small Grants application to DLGSCI to provide the remaining one-third of the project's costs. A copy of the full application of the Exmouth Bowling Club Inc is attached (confidential).
13. It should be noted that, should the Exmouth Bowling Club not receive CSRFF Small Grants funding from DLGSCI for its project, then it would need to seek funding from other sources, including from the Shire of Exmouth, as the Club does not have sufficient finances to fully fund its project.

COMMENT

14. In assessing the Exmouth Bowling Club's CSRFF Small Grants February 2022/2023 round application, it is believed that this project is financially viable with the Club having the capacity to manage this project well, to manage the requirements for funding this project, and to continue to make contributions to its asset replacement fund over time. Additionally, the outcome of this project will enable the Club to assist its current membership, provide an incentive to attract new members, support other local groups that utilise this facility, and continue to be attractive as a facility for visiting bowlers to travel to Exmouth.
15. The Club's plans for their project involves the upgrading of their greens with the removal of their current greens' surfaces, levelling out the underneath surface, and installing new synthetic greens (and using a different seam structure that is not exposed for birds to pull at the seams.)

16. The Club’s committee believes that without these upgrades occurring, the Club runs the risk of having greens not up to standard for the surface that is required to be played on. This would then have a negative effect on retaining members, gaining new members, and a change in the outlook of the usual annual visiting bowlers’ fraternity from throughout regional WA to not come to Exmouth but to go to other townships to play bowls.
17. A decrease in usage of the Exmouth Bowling Club’s facility due to not having an appropriate standard of playing surface may result in serious financial issues for this Club. Therefore, it is critical for the viable sustainability of the club that the playing surfaces are replaced.

CONSULTATION

18. Exmouth Bowling Club Inc
 19. Department of Local Government, Sport and Cultural Industries

STATUTORY ENVIRONMENT

20. Nil.

POLICY IMPLICATIONS

21. Policy 4.2: Community Sports and Recreation Facilities Funding (CSRFF) Small Grant Policy

FINANCIAL IMPLICATIONS

22. The Exmouth Bowling Club is seeking funding assistance from the Shire of Exmouth for one-third (\$98,828 ex GST) of the total project cost being \$296,485 ex GST, which Council would need to fund from reserves.
23. The Community Development Fund Reserve’s balance as of 28 February 2022 is \$1,384.825.44

RISK MANAGEMENT

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Performance (operational)	Unlikely	Minor	Low	The club has the managerial expertise and experience at committee level to be able to undertake well the performance of this project.
Financial	Possible	Moderate	Medium	The club have in place several financial scenarios to ensure the project is able to be completed if DLGSCI approves funding. If DLGSCI does not approve funding, the project though may not be able to be undertaken until sufficient external funding is obtained.
Environmental	Possible	Moderate	Low	Due to the type of project the club is undertaking, the environmental risk analysis is expected to be low.
Reputational	Unlikely	Minor	Low	The club has a very good governance reputation in managing their facility with experienced members of the Exmouth community on their committee. It is expected that the outcome of their current CSRFF application will be able to be completed well.

ALTERNATE OPTIONS

24. The alternative options available to Council are:

- The Exmouth Bowling Club could apply to the Shire for an interest free loan for its project.
- Not support the application.

STRATEGIC ALIGNMENT

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

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. Absolute Majority

OFFICER'S RECOMMENDATION

ITEM 12.3.1

That Council:

1. SUPPORTS the submission of the Exmouth Bowling Club's Community Sporting and Recreation Facilities Fund (CSRFF), Small Grant funding application to the Department of Local Government, Sport and Cultural Industries (DLGSCI)
2. APPROVES a total of \$98,828 (ex GST) from the Community Development Fund Reserve to the Exmouth Bowling Club Inc, subject to the successful CSRFF Small Grants February 2022/23 application outcome.
3. Subject to the successful outcome of resolution number 2, notes the inclusion of funding in the 2022/23 annual budget.

CORPORATE SERVICES

12.4.1 FINANCIAL STATEMENTS FOR PERIOD ENDING 28 FEBRUARY 2022

File Reference:	FM.FI.0
Reporting Officer:	Manager Finance
Responsible Officer:	Executive Manager Corporate Services
Date of Report:	16 March 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. Monthly Financial Report as at 28 February 2022

PURPOSE

1. That Council accepts the financial report for the financial period ending 28 February 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 to be presented at an ordinary meeting of Council within 2 months of the period end date (refer Attachment 1).

COMMENT

3. As at 28 February 2022, the operating revenue is below the target by \$492,400 (4.13%). Variances are mainly due to the timing of the Financial Assistance Grant and Ningaloo Visitor Centre commissions. The Airport Security Screening Grant also affected the timing of airport fees & charges.
4. Operating expenditure is under budget by \$992,311 (8.46%). Variances are mainly due to the timing of various operational projects and current vacant positions.
5. A total of \$2,500,460 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. The building of staff housing and the plant replacement program is in progress. The Bike Park and Youth Precinct projects have commenced.
6. Rate notices were issued on 30 July 2021. Rates collected as at 28 February 2022 were 89% compared to 84% for the same period last year.
7. General Debtors is \$1,403,134 with \$440,709 being for aviation operations and \$649,309 for the Ningaloo Centre solar panel grant funding.

CONSULTATION

8. Nil.

STATUTORY ENVIRONMENT

- 9. Section 6.4 of the *Local Government Act 1995* provides for the preparation of financial reports.
- 10. 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

- 11. Nil

FINANCIAL IMPLICATIONS

- 12. Nil

RISK MANAGEMENT

- 13. 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

- 14. Nil

STRATEGIC ALIGNMENT

- 15. 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

- 16. Simple Majority

OFFICER’S RECOMMENDATION

ITEM 12.4.1

That Council RECEIVES the financial report for the financial period ending 28 February 2022.

12.4.2 LIST OF ACCOUNTS FOR PERIOD ENDING 28 FEBRUARY 2022

File Reference:	FM.FI.0
Reporting Officer:	Manager Finance
Responsible Officer:	Executive Manager Corporate Services
Date of Report:	16 March 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. List of Accounts for period ending 28 February 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 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

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 1).

Payments

Municipal Fund totalling \$792,398.35
Incorporating cheques, direct debits, electronic payments and credit cards.

Trust Fund totalling \$NIL
Incorporating electronic payments.

Total Payments: \$792,398.35

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 with 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 February 2022 (*totalling \$792,398.35*).

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

Nil.

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

Nil.

15. MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS

Nil.

16. CLOSURE OF MEETING