

Shire of Exmouth

# ORDINARY COUNCIL MEETING

## AGENDA



28 April 2022

## NOTICE OF MEETING

Notice is hereby given that the next Ordinary Council Meeting of the Shire of Exmouth will be held on **28 April 2022**, in the Mandu Mandu Function Room, Ningaloo Centre, 2 Truscott Crescent, Exmouth Commencing at 4.00 pm.



**Ben Lewis**  
**Chief Executive Officer**  
**14 April 2022**

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### 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.

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## 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.](#)

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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.](#)

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

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

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Type of Interest (\*see overleaf for further information)

Proximity                       Financial                       Impartiality

Nature of Interest

[Click here to enter text.](#)

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

[Click here to enter text.](#)

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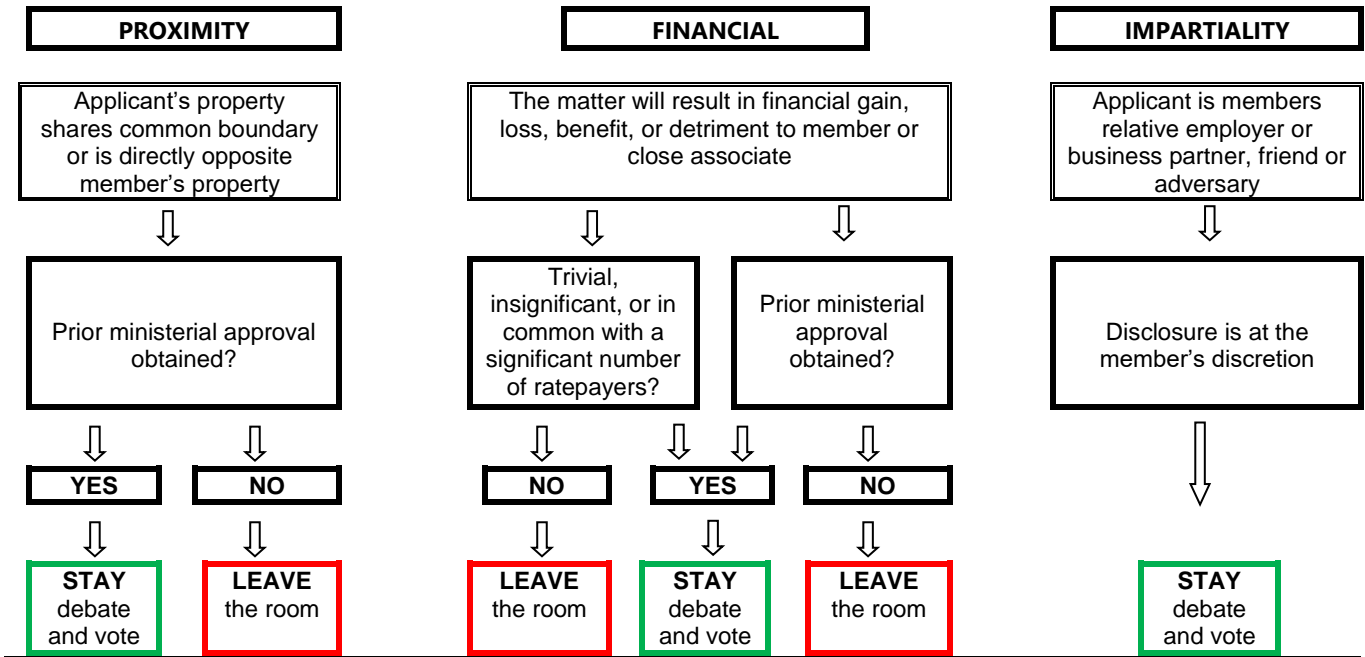
Signed: \_\_\_\_\_ Date: [Click here to enter text.](#)

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

CEO: \_\_\_\_\_ Signed: \_\_\_\_\_ Date: \_\_\_\_\_

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

**\* Declaring an Interest**



**Local Government Act 1995 – Extract**

**s.5.60A - Financial Interest**

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

**s.5.60B – Proximity Interest**

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

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

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

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

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

(3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

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

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

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

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

**5.71 - Employees to disclose interests relating to delegated functions.**

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

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

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

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

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

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

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

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# AGENDA

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

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

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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.

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## **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 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 28 March 2022 be confirmed as a true and correct record of proceedings.

**8. ANNOUNCEMENTS/REPORTS OF ELECTED MEMBERS**

**9. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**

**10. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

Nil

**11. MATTERS ARISING FROM COMMITTEES OF COUNCIL**

Nil



## 12. REPORTS OF OFFICERS

### EXECUTIVE SERVICES

#### 12.1.1 ELECTED MEMBER RESIGNATION

Reporting Officer:	Chief Executive Officer
Responsible Officer:	As above
Date of Report:	12 April 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

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#### **PURPOSE**

1. That Council considers the two options presented in relation to the vacant office created.

#### **BACKGROUND**

2. In accordance with section 2.31 of the *Local Government Act 1995*, the Chief Executive Officer received written notice of resignation from Councillor Anne McCarrol, taking immediate effect.

#### **COMMENT**

3. Below are two options for Council's consideration:
  - Extraordinary Election under section 2.32 of the *Local Government Act 1995*; or
  - Apply to the Electoral Commissioner under section 4.17(3) of the *Local Government Act 1995* to keep the vacant office unfilled until the next ordinary election of Council (21 October 2023).

#### Extraordinary Election

4. The minimum number of days required in the lead up to an extraordinary election is 80, making Friday 22 July the earliest date possible, as advised by the Western Australian Electoral Commission (WAEC).
5. The WAEC has advised the estimated cost to conduct the extraordinary election would be \$19,000.

#### Unfilled Vacancy

6. Under section 4.17(3) of the *Local Government Act 1995*, the Council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled until the next ordinary election of Council providing section 4.17(4A)(b) is complied with. Clause 4A(b) requires that at least 80% of the number of offices of the Council remain filled.
7. Following the resignation of Councillor McCarrol, Council has 5 of 6 offices filled providing coverage of 83.33%.

**CONSULTATION**

8. Western Australian Electoral Commission

**STATUTORY ENVIRONMENT**

9. *Local Government Act 1995*

- Section 2.31 – Resignation
- Section 4.17 – Cases in which vacant offices can remain unfilled

**POLICY IMPLICATIONS**

10. Nil

**FINANCIAL IMPLICATIONS**

11. Conducting an extraordinary election would be an unbudgeted expenditure requiring a budget amendment of \$19,000.

**RISK MANAGEMENT**

12. Insert identified risks implications

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
The performance of Council or service levels could be reduced as a result of operating with one vacancy	Unlikely	Insignificant	Very Low	That council still functions within the guidelines of the Act and operates within the meeting procedures achieving quorum and absolute majority as required.
There will be a financial impact for council to conduct an extraordinary election	Almost certain	Moderate	Very Low	To ensure there are no additional Councillor resignations
Council’s reputation could be tarnished as a result of an elected member not completing a full term of office	Unlikely	Insignificant	Very Low	Implement a communication plan in consultation with the Shire President

**ALTERNATE OPTIONS**

13. Council have two alternate recommendations for consideration.

**STRATEGIC ALIGNMENT**

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

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

- 4.1 To provide proactive, collaborative and transparent leadership
- 4.2 A local government that is respected and accountable.
- 4.3 To be a champion for our community

**VOTING REQUIREMENTS**

15. Absolute Majority

Recommendation 1 – Extraordinary Election

That Council:

1. Acknowledge Councillor McCarrol's resignation;
2. Thank Councillor McCarrol for her contribution to the Shire of Exmouth as Councillor since October 2019;
3. Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2022 Extraordinary Election;
4. Determine, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the extraordinary election will be as a postal election.; and
5. Include an election expense of \$19,000 in the 2022/23 budget.

OR

Recommendation 2 – Unfilled Vacancy

That Council:

1. Acknowledges Councillor McCarrol's resignation;
2. Thank Councillor McCarrol for her contribution to the Shire of Exmouth as a Councillor since October 2019; and
3. In accordance with section 4.17(3) of the *Local Government Act 1995*, requests the Chief Executive Officer seek the approval of the Electoral Commissioner to allow the Councillor vacancy to remain vacant until the October 2023 ordinary election.

## **DEVELOPMENT SERVICES**

### **12.2.1 PROPOSED SCHEME AMENDMENT NO.4 TO LOCAL PLANNING SCHEME NO.3 ADOPTION FOR ADVERTISING SUBJECT TO MODIFICATIONS**

File Reference:	LP.PL.4.3
Reporting Officer:	Senior Planning Officer & Strategic Planning Officer
Responsible Officer:	Executive Manager – Development Services
Date of Report:	23 March 2022
Applicant/Proponent:	P Cunningham – Rowe Group
Disclosure of Interest:	Nil
Attachment(s):	1. Scheme Amendment Report 2. Indicative Concept Plan 3. Land use terms used LPS 4 4. Schedule of Modifications

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#### **PURPOSE**

1. The purpose of this report is:
  - To formally re-present to Council the draft Scheme Amendment 3 proposal;
  - For Council to determine whether or not it supports adopting Scheme Amendment 3 with modifications as recommended by Shire Officers (refer Attachment 4)

#### **BACKGROUND**

2. Council is in receipt of a scheme amendment request (SAR) to Local Planning Scheme No.4 (LPS 4) over the following four (4) land parcels, hereafter referred to as the 'subject site':
  - Lot 1 on Deposited Plan 47770 Kailis Road, Learmonth;
  - Lot 101 on Deposited Plan 180602;
  - Lot 112 on Deposited Plan 182633, Minglya-Exmouth Road, Learmonth; and
  - Lot 220 on Deposited Plan 192031.
3. At its Ordinary Council Meeting of 23 September 2021, Council considered the Proposal and provided the Proponent with support subject to a series of modifications to the SAR. Further discussion has ensued, in consultation with the Proponent and Officers from the Department Planning Lands and Heritage (DPLH) and as a result a general consensus on an alternative approach to proceed is now reflected in the Officer Recommendation of this Report.
4. MG Kailis Group (MGK) are generally the landowner (albeit noted as separate entities on title) and leaseholder of the subject site.
5. The SAR seeks to rezone the subject site from 'General Industry' to a 'Special Use' zone (SU10) and assigning a series of permissible land uses and development conditions (in Schedule 4 – Special Use Zones) to the subject site.

6. The subject site has a total area of approximately 27.84 hectares and located approximately 20km south from the Exmouth Town Centre and 13km north of the Learmonth Airport. The subject site is located east of the Minilya-Exmouth Road at the intersection of Charles Knife Road. Exmouth Gulf is located directly east of the subject site.
7. The land directly to the north and on the opposite side of Minilya-Exmouth Road is zoned 'Rural'. Further to the north and directly to the south and east of the subject site is land reserved for 'Foreshore' under LPS 4.
8. The subject land is generally flat and predominantly cleared, and contains a number of buildings and structures associated with the former Kailis Prawn Processing Facility.
9. The figure below shows the zoning of the subject site and location of Special Control Area 6 – Minilya-Exmouth Road (SCA 6).



10. Prior to the gazettal of LPS 4, the Shire of Exmouth previous Town Planning Scheme No.3 (TPS 3) was in operation. Under TPS 3, the subject site was zoned 'Industrial' and identified as a 'Strategic Industrial Area'.
11. It is understood that MGK have been in possession of the subject site since the 1970s (except for leasehold lot 112, which was secured in the early 1980s). The SAR provides a summary of the historical uses and background of each of the lots.
12. MGK's intention for the subject site is to create a unique "fishing village" tourist facility. An indicative Tourism Concept Plan has been provided (refer Attachment 2).

13. The SAR seeks to apply the below permissible uses to the subject site (refer Attachment 3 for the land use definitions in LPS 4):

**Tourism Uses** – ‘Camping Ground’, ‘Caravan Park’, ‘Holiday Accommodation’, ‘Nature Based Park’, ‘Motel’, ‘Serviced Apartment’, ‘Tourist Development’, ‘Bed and Breakfast’ and ‘Holiday House’.

**Residential Uses** – ‘Caretaker’s Dwelling’, ‘Grouped Dwelling’, ‘Multiple Dwelling’, ‘Repurposed Dwelling’, ‘Residential Building’ and ‘Second-hand Dwelling’.

**Commercial Uses** – ‘Restaurant/Café’, ‘Tavern’, ‘Small Bar’, ‘Convenience Store’, ‘Fast Food Outlet’, ‘Shop’ and ‘Lunch Bar’.

**Industrial Uses** – ‘Warehouse/Storage’, ‘Marine Filling Station’, ‘Service Station’ and ‘Industry – Primary Production’.

**Other** – ‘Cinema/Theatre’, ‘Club Premises’, ‘Exhibition Centre’, ‘Car Park’, ‘Reception Centre’ and ‘Recreation – Private’.

## 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.
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 for the relevant processes to occur. The proposed amendment is considered a ‘complex amendment’.
17. Overall, tourism (caravan and tent sites, glamping, cabins and uses as indicated on the Indicative Concept Plan) and other incidental uses are considered appropriate on site. Further planning studies will be progressed in the event that the scheme amendment is successful as now indicated by the requirement for a precinct structure plan to be prepared prior to development at the site.
18. The Shire officers recommend support of the SAR for the tourism (refer to preceding paragraph) and incidental uses, subject to modifications as required and reflected in the Officer recommendation.
19. Once the modifications are suitably addressed, the Shire, subject to Council endorsement can refer the SAR to the Western Australian Planning Commission (WAPC) to consider the SAR suitable to advertise as a complex scheme amendment proposal.
20. 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.

#### Environmental considerations

21. An Environmental Assessment Report has been submitted with the SAR (refer Attachment 1). The report outlines the environmental features of the subject site, potential environmental impacts considering the design and management actions to address these impacts. The report concludes that, subject to further investigations being undertaken for future planning and development application (DA) stages, development of the site as proposed, would be unlikely to result in any unacceptable environmental outcomes.
22. The Environmental Protection Authority (EPA) has recently completed its cumulative impact study into the current and proposed pressures on the Exmouth Gulf and delivered its advice to the Hon. Minister for Environment. Should the SAR be adopted by Council, the local government must refer the SAR to the EPA to determine if it should be assessed.

#### Coastal considerations

23. A Coastal Hazard Risk Management Adaption Report (CHRMAP) is included with the SAR (refer Attachment 1). The CHRMAP concludes:

*The completion of the coastal hazard risk assessment for this site has shown that there is a risk of coastal hazards adversely impacting the site, however over the 50-year planning horizon to 2071 the risk is deemed to be at a tolerable level. Despite the level of risk being tolerable, the 'as low as reasonably practical' (ALARP) approach has been adopted for the development and additional risk mitigation strategies have been proposed.*

*This includes both a built form response for newly constructed assets as well as an overall management approach. Beyond the initial planning horizons, a risk mitigation strategy of planned or managed retreat informed by coastline monitoring and revised coastal hazard assessments will be implemented. Finally, this plan was developed on the basis that the risk to public safety as a result of cyclone inundation is already managed within the Kailis Properties and by DFES. It is recommended that Kailis review its existing evacuation and cyclone event management plan for appropriateness for the development.*

Provisions have been included in the required modifications that refer specifically to the requirements for development in the Report.

#### Traffic and transport considerations

24. Vehicular access between the site and Minilya-Exmouth Road will ultimately need to meet the requirements of Main Roads WA.
25. A Transport Impact Statement (TIS) has been prepared (refer Attachment 1) to demonstrate the capability of the site for the development, and its impact on the surrounding road network. Overall, the TIS concludes that no significant adverse impact on the capacity or safety of the surrounding road network is envisaged. However, it suggests an upgrade to the Kailis Road/Minilya-Exmouth Road T-intersection to safely accommodate the increased demand for turning movements and a review of posted speed limit on Minilya-Exmouth Road may be required.

### Bushfire

Most of the subject site has been declared bushfire prone by the Commissioner for Fire and Emergency Services, pursuant to s. 18P of the *Fire and Emergency Services Act 1998*. A Bushfire Hazard Level (BHL) Assessment accompanies the SAR (refer Attachment 1). The BHL concludes:

*The subject site will be exposed to BHLs of moderate and low that can be maintained through the implementation of bushfire management measures documented in bushfire management plans supporting future planning applications.*

### Local Planning Strategy

25. The purpose of the Local Planning Strategy (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 for land use and development controls.
26. The Strategy reiterates the subject site's existing 'General Industry' zoning and identifies the subject site as Existing Industry Area 5. The Strategy states:

*The land use intent for this area is to provide the opportunity for land based general industrial activity servicing the resource sector as well as to accommodate the relocation of existing industrial activity from the townsite which generate nuisance and/or have a larger land take requirement.*

27. It is noted that the proposed SAR is inconsistent with the Strategy given the current intended industrial use of the property.
28. The Strategy includes a number of objectives and strategies with respect to tourism land uses.
29. Although the site is not identified as 'Tourism Area' in the Strategy, the use of the site for tourism and other incidental related purposes is generally supported. The subject site has a number of positive tourism attributes given the location and landscape. Further, it will provide an economic benefit to other tourist businesses and operators, and opportunities to bring new employment into the area.

### Local Planning Scheme No.4

30. As mentioned above, the subject site is zoned 'General Industry'. An 'Additional Use' A4 also applies to the subject site. It allows for a 'Caravan Park' as a 'D' (discretionary) use and 'Caretaker's Dwelling' as an 'I' (incidental) use, however a 'Caravan Park' is currently restricted to Lot 112 only.
31. The western portion of the site is included within the Special Control Area 6 – Minilya-Exmouth Road (SCA 6).
32. The intent of SCA 6 Minilya-Exmouth Road is to maintain the view sheds, environmental and landscape qualities of Minilya-Exmouth Road when entering the Exmouth Townsite by ensuring there is no encroachment of inappropriate development within 100 metres on either side of the road. This is consistent with the Ningaloo Coast Regional Strategy Carnarvon to Exmouth and the Exmouth South Structure Plan.
33. The subject site has a mostly open landscape with views to the gulf. Scattered vegetation including moderate to large palms are located throughout the site. An existing storage building is within SCA 6, however this was constructed prior to the adoption of LPS 4.



34. The proponents have requested the removal of the subject site from SCA 6 for the following reasons:
- The imposition of a visual amenity plan was intended to be a visual amenity policy (and not a statutory scheme provision); and
  - The intent of the visual amenity plan/policy was to guide development and landscaping rather than preclude development.
35. As part of the adoption of LPS 4, a policy was not considered appropriate as local governments are only required to have due regard to local planning policies in the decision-making process. The incorporation of SCA 6 into LPS 4 was to give weight to the provisions and overall implementation.
36. Notwithstanding the above, SCA 6 does not specifically state that development is not permitted within the 100 metre wide visual protection corridor. It does, however, require any development to be supported by a Visual Landscape Assessment in line with the WAPC's Visual Landscape Planning in Western Australia a manual for evaluation, assessment, siting and design, of which provision has been made in the required modifications.
37. Additionally, State Planning Policy 5.4 – Road and Rail Noise applies to the subject site. The impacts of road traffic noise and mitigation measures will need careful consideration and design of which can be considered in the required structure plan.
38. The removal of a small section of SCA 6 is considered a piecemeal approach and is not supported by Shire officers. It may undermine the intent of SCA 6, prejudice its application, and could set an undesirable precedent for other properties. This matter, will be considered in the structure planning process whereby a visual assessment will assist in determining built form, landscaping and view sheds within the SCA 6.

Land uses

39. Overall, most of the tourism (as outlined in Attachment 4) and other incidental uses are considered appropriate for this site. Refer Attachment 3 for the land use terms defined in LPS 4. Based on the current information Shire officers do not consider the following uses suitable for the site:

*Nature based park*  
*Motel*  
*Serviced Apartment*  
*Bed and Breakfast*  
*Cinema/Theatre*  
*Club premises*  
*Fast Food Outlet*  
*Holiday House*  
*Lunch Bar*  
*Grouped Dwelling*  
*Multiple Dwelling*  
*Repurposed Dwelling*  
*Residential Building*  
*Second-hand Dwelling*

40. The subject site does not appear to meet the definition of 'Nature based park' under LPS 4 and in *the Caravan Parks and Camping Grounds Regulations 1997*, when considering the existing and likely proposed development and associated impacts of noise and artificial light. A caravan park would (as shown as the predominant use on Attachment 2 – Indicative Concept Plan) more appropriately fall under the uses proposed of 'Camping Ground' and/or 'Caravan Park'. A 'Holiday House' refers to a dwelling on one lot being used for short-term accommodation, which is not the intent behind the SAR.
41. 'Lunch Bar' (which are only permitted within industrial or commercial areas) and 'Fast Food Outlet' are not considered appropriate. The sale of food and beverages would be better aligned with the uses proposed for 'Restaurant/Café', 'Small Bar' and/or 'Tavern'. Subject to this element being incidental, the sale and consumption of take away food could be considered under the above uses.
42. The SAR and Concept Plan includes reference to permanent residential component (park homes). Despite requests to the proponent, little justification has been provided to support these uses. The Strategy does not recommend permanent residential in tourism areas outside of the townsite. Residential development should be generally located closer to the townsite and adequately serviced. The scheme provisions as proposed, could potentially allow for unrestricted permanent residential, including a range of designs and forms of houses, units and apartments.
43. The proponents have proposed 'Industry – Primary Production' as a land use, which they have advised to allow for a small seafood processing use to be reinstated in historical buildings to pay homage to the historical use of the site. To avoid potential land use conflicts, it is recommended that this be an incidental and small operation tied directly to the tourism uses in the SAR and scheme provisions.
44. Given the various and diverse range of land uses proposed, to ensure uses and development are appropriately coordinated and planned, it is recommended that a structure plan, in accordance with the Regulations, be prepared.

#### Scheme provisions

45. There is a need to review and update the proposed scheme amendment provisions, as outlined in Attachment 4.

#### Next steps

46. Should Council support Scheme Amendment 3 (with or without modifications), the suggested next steps are:
  - Subject to the proponent appropriately modifying the SAR as and should Council agree to adopt the scheme amendment, Shire officers will seek environmental clearance from the EPA and consent to advertise from the WAPC;
  - Provided the above occurs, the scheme amendment will be widely publicly advertised, inviting submissions from adjoining/nearby landowners, the local community, relevant government agencies and other stakeholders. The comment period will be a minimum of 60 days;
  - Following the advertising period, the Shire officers will assess and consider all submissions and seek to address relevant issues with the proponent and other stakeholders as

appropriate. Then Shire officers will prepare a report on the submissions received and referred to Council to determine whether or not it wishes to request final adoption (approval) to the scheme amendment; and

- The WAPC then makes its assessment on the scheme amendment and provides a recommendation to the Minister for Planning. The Minister makes the final decision on whether or not to grant final approval of the scheme amendment. If the Minister grants final approval, the scheme amendment will, in time, be published in the Government Gazette, at which point it legally comes into effect.

47. In summary, the tourism (caravan and tent sites, glamping and cabins as indicated on the Indicative Concept Plan) and other incidental uses of Amendment 3 is supported, in principle, by the Shire officers.
48. The Proponent has also requested that staff accommodation is included as an incidental land use for which Shire officers' support.

### **CONSULTATION**

49. 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.
50. Section 81 of Act requires a local government to refer an amendment to the EPA to determine if it should be assessed.
51. If Council resolves under regulation 35(1) to adopt an amendment to a local planning scheme, the local government must, after receiving consent from the WAPC, advertise the amendment in accordance with regulation 37(1).
52. Should a SAR be initiated by Council, the full report and appendices will be referred to a number of government agencies and utility providers for further comment.

### **STATUTORY ENVIRONMENT**

53. *Planning and Development Act 2005*
54. *Planning and Development (Local Planning Scheme) Regulations 2015*
55. Local Planning Scheme No. 4
56. *Environmental Protection Act 1986*
57. Exmouth South Structure Plan
58. *Caravan Parks and Camping Grounds Regulations 1997*

### **POLICY IMPLICATIONS**

59. The following policies have been given due consideration in relation to this proposal:
  - *State Planning Policy 1 – State Planning Framework*
  - *State Planning Policy 2.6 – Coastal Planning*
  - *State Planning Policy 3.7 - Planning in Bushfire Prone Areas*
  - *State Planning Policy 5.4 – Road and Rail Noise*
  - *State Planning Policy 6.3 - Ningaloo Coast*
  - *Government Sewerage Policy*

### **FINANCIAL IMPLICATIONS**

60. Nil

## RISK MANAGEMENT

61. 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	If the request is not supported by 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	If initiated in the future, 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 as part of the amendment process.

## ALTERNATE OPTIONS

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

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

## STRATEGIC IMPLICATIONS

63. 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.

2.2 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.

4.3 To be a champion for our community

## VOTING REQUIREMENTS

64. Simple Majority

**OFFICER'S RECOMMENDATION**

**ITEM 12.2.1**

That Council, advise the proponent (Rowe Group) that subject to the modifications being undertaken, as outlined in Attachment 4 of this Report, to the satisfaction of the Shire's Chief Executive Officer, pursuant to section 75 of the *Planning and Development Act 2005* and Part 5, r.35(2) and 37(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, it will;

1. Initiate the proposal to;

1.1. Rezone Lot 1 on Deposited Plan 47770 Kailis Road, Learmonth, Lot 101 on Deposited Plan 180602, Lot 112 on Deposited Plan 182633, Minilya-Exmouth Road, Learmonth; and Lot 220 on Deposited Plan 192031 from 'General Industry' zone to 'Special Use' zone to facilitate tourism and related uses as outlined in Attachment 4 and referred to as SU10;

1.2. Delete Additional Use A4 from Schedule 2, clause 3.4, of the Local Planning Scheme No.4 as follows;

A4	Lot 1 and Lot 101 Kailis Road, Lot 112 and Lot 220 Minilya-Exmouth Road Learmonth	As a 'D' use: <ul style="list-style-type: none"> <li>• Caravan Park</li> </ul> As an 'I' use <ul style="list-style-type: none"> <li>• Caretakers Dwelling</li> </ul>	1. The local government may only consider the use 'Caravan Park' on Lot 112 Minilya-Exmouth Road only. 2. Caretakers dwelling as stated in clause 4.16 and may only be permitted as approved by the local government.
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1.3 Amend the Scheme Maps accordingly.

2. Resolve, in accordance with r35 (1) & (2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* that the amendment is a complex amendment due to;

2.1. The scheme amendment area is currently zoned for Industry in the Shires Local Planning Scheme No.4 and is not identified for tourist land uses in the Shires Local Planning Strategy.

3. Submit two copies of the scheme amendment to the Western Australian Planning Commission with Council Resolution for consideration to proceed to advertising.

4. In accordance with Sections 81 & 82 of the *Planning and Development Act 2005* refer the matter to the Environmental Protection Authority for consideration.

5. Subject to satisfactory referral as referenced in Point 4 above, proceed to advertise the scheme amendment for a period of not less than 60 days as referenced in the regulations.

6. Upon the completion of advertising return the matter back to Council for final consideration, with or without modification or refusal for final consideration to be that of the Western Australian Planning Commission.

## **12.2.2 PROPOSED NEW LOCAL PLANNING POLICY: TEMPORARY ACCOMMODATION – TOTAL SOLAR ECLIPSE EVENT**

File Reference:	CM.PO.13
Reporting Officer:	Senior Planning Officer
Responsible Officer:	Executive Manager Development Services
Date of Report:	19 April 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. Proposed draft Local Planning Policy - Temporary Accommodation – Total Solar Eclipse Event 2. Area maps

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### **PURPOSE**

1. This report recommends Council prepare a Temporary Accommodation – Total Solar Eclipse Event Policy (the Policy) and advertise the Policy (Attachment 1) to seek public comment.

### **BACKGROUND**

2. The objectives of the Shire of Exmouth Council's Policy Manual are:
  - To provide Council with a formal written record of all policy decisions;
  - To provide the staff with precise guidelines in which to act in accordance with Council's wishes;
  - To enable the staff to act promptly in accordance with Council's requirements, but without continual reference to Council;
  - To enable Councillors to adequately handle enquiries from electors without undue reference to the staff or the Council;
  - To enable Council to maintain a continual review of Council Policy decisions and to ensure they are in keeping with community expectations, current trends and circumstances;
  - To enable ratepayers to obtain immediate advice on matters of Council Policy.
3. At the Shire's 24 March 2022 Ordinary Council Meeting, under 12.2.3 (Resolution 08-0322) Council resolved to support with modifications Scheme Amendment No.7 to the Shires Local Planning Scheme No.4.
4. Scheme Amendments 7 allow for temporary options in and around Exmouth townsite to cater for and facilitate the Total Solar Eclipse (TSE) event which is set to occur on 20 April 2023.
5. Scheme Amendment 7 is currently with the Western Australian Planning Commission (WAPC) and the Minister for Planning for final approval.
6. The Policy seeks to provide guidance around temporary accommodation options such as short-term accommodation in existing residences and caravanning and camping for the TSE event.
7. The objectives of the Policy are:

- a. To coordinate and provide temporary accommodation options in and around the Exmouth Townsite to cater for and facilitate the Total Solar Eclipse.
- b. To minimise impacts and manage issues on the local amenity by ensuring the location and siting of the temporary accommodation in the context of surrounding land uses.
- c. To streamline approval processes for temporary accommodation during the Total Solar Eclipse Event.

## **COMMENT**

8. The Policy would apply to the following key residential areas that can be broadly described as:
  - Area 1, 'Residential' zoned land north-west and south-west of Maidstone Crescent.
  - Area 2, 'Residential' area abutting Crevalle Way.
  - Area 3, 'Special Use 6' zoned area adjacent to 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.
9. Refer to Attachment 2 for Area maps.
10. The temporary use and Policy would apply for four weeks, between 6 April 2023 and 4 May 2023 being either side of the TSE.
11. Proposals that comply with the requirements of the Policy will be exempt from requiring formal Development Approval. The intent is to streamline approvals and processes to assist landowners. Proposals will still need to be registered with the Shire, which will be used to ascertain visitor numbers and inform emergency staff.
12. The Policy will include a number of requirements to be met, including;
  - Maximum number of camp sites
  - Boundary and internal setbacks
  - Toilets and ablutions
  - Wastewater
  - Potable water
  - Rubbish
  - Fire safety
  - Management statement
  - Cyclone requirements
13. This report seeks Council approval to make and subsequently advertise the draft policy. After the expiry of the period within which the submissions may be made, the Shire of Exmouth will be required to:
  - Review the policy in light of any submissions made; and
  - Resolve to adopt the policy with or without modification, or not to proceed with the policy.

## **CONSULTATION**

14. Should Council resolve to support the Policy for formal advertising, a notice of this proposed policy will be published on the Shires website (including the Policy), giving details of:

- The subject and nature of the proposed policy; and
- The objectives of the proposed policy; and
- Where the proposed policy may be inspected; and
- To whom, in what form and during what period submissions in relation to the proposed policy may be made.

15. The period for making submissions on a local planning policy must not be less than 21 days from the date when the first notice is published.

## STATUTORY ENVIRONMENT

16. *Division 2 – Local planning policies of the Planning and Development (Local Planning Scheme) Regulations 2015* set out the requirements local planning policies (LPP), including procedures for making a LPP.

## POLICY IMPLICATIONS

17. Nil.

## FINANCIAL IMPLICATIONS

18. Nil.

## RISK MANAGEMENT

19. Insert identified risks implications

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Environmental – Unmanaged TSE event is likely to result in wide spread environmental damage due to illegal camping amongst other activities	Likely	Moderate	High	Providing temporary accommodation options in a controlled manner will assist with mitigating likely environmental damage.
Reputational - Advertising the proposed policy could give rise to objections	Unlikely	Minor	Low	Widely consulting with landowners should mitigate any risk in this regard. If necessary further modifications can be made as part of this process.

## ALTERNATE OPTIONS

20. Council has the following alternate options in relation to this item, which area

- To resolve to refuse preparing the draft policy and advertising.
- To resolve to amend the proposed policy prior to advertising.

## STRATEGIC ALIGNMENT

21. 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.

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**

22. Simple Majority

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### **OFFICER'S RECOMMENDATION**

### **ITEM 12.2.2**

That Council, in accordance with *Division 2 of the Planning and Development (Local Planning Schemes) Regulations 2015*, RESOLVES to:

1. PREPARE Local Planning Policy Temporary Accommodation – Total Solar Eclipse Event Public Art Contributions Policy (as set out in Attachment 1).
2. ADVERTISE the Local Planning Policy (Attachment 1) in accordance with clause 87 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, in order to seek public comment.

### 12.2.3 AWARD TENDERS 02-2022-TOWN BEACH ELECTRICAL UPGRADES AND 03-2022 TOWN BEACH CIVIL CONSTRUCTION WORKS

File Reference:	CM.TE.02.2022 / CM.TE.03.2022
Reporting Officer:	Executive Manager Development Services
Responsible Officer:	Executive Manager Development Services
Date of Report:	11 April 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Confidential attachments 1 and 2

#### PURPOSE

1. That Council awards Tenders 02/2022 for Town Beach Electrical Upgrades 03-2022 Town Beach Civil Construction Works as per the recommendations in the Confidential Evaluation Reports (Attachments 1 and 2) and approve the use of \$210,000 from the Community Development reserve.

#### BACKGROUND

2. Town Beach park and picnic area is a popular destination for visitors and locals with its beach front location. The bigger numbers using the site has placed pressures on its limited area, increased the conflict of vehicle versus pedestrian use and is stretching current infrastructure.
3. The Shire has been successful in attracting a \$450,000 BHP grant through Exmouth Chamber of Commerce and Industry for upgrades to Town Beach and has also applied for \$278,302 Local Roads and Community Infrastructure (LRCI) funding to be used for the same purpose.
4. Council endorsed the Town Beach Upgrade Concept Design at its June 2021 Ordinary Council meeting

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#### **COUNCIL RESOLUTION**

**ITEM 12.2.1**

**Res No: 08-0621**

**MOVED: Cr Mounsey**

**SECONDED: Cr Lake**

***That Council ENDORSE the Town Beach Upgrade Concept Design as per the accompanying Attachment 1 in the report.***

**CARRIED 6/0**

5. Following Council endorsement, RFT 08-2021 Town Beach Revitalisation was advertised in September 2021 and closed in October 2021. The tender brief was to deliver all works specified in the concept design. All tender submissions greatly exceeded the project budget.

6. To facilitate the delivery of the project and achieve the best financial outcome within its current budget, staff reviewed the scope of works and decided to stage the project delivery and split the works into separate tender parcels.
7. Stage 1A consists of the completion of the electrical installation (RFT02/2022 Town Beach Electrical Upgrades) and the construction of the concrete hardstands and block walls (RFT 03/2022 Town Beach Civil Construction Works).
8. The timing and implementation of Stage 1B will depend on the availability of additional funding and will include the landscaping, furniture refurbishment and foredune construction.

## **COMMENT**

9. Tenders 02-2022 and 03-2022 were uploaded on 25 January 2022 to the Shire of Exmouth TenderLink portal and advertised in the West Australian and Pilbara news media. The portal provides interested parties the opportunity to clarify any issues and is the mechanism for which submissions are accepted.
10. The tender period closed 1 March 2022 with one submission received for RFT 02-2022 Electrical Upgrade and two submissions received for 03-2022 Civil Works.
11. After evaluation the combined cost of the preferred submissions exceeded the project budget. To deliver Stage 1 A of the project an additional \$210,000 is required.
12. Staff are pursuing funding opportunities through Tourism WA (TWA) as part of the States support for the 2023 Total Solar Eclipse event as Town Beach has been identified as the nominated viewing point for TWA VIP guests.
13. If successful, the funding being negotiated will be sufficient to cover the shortfall required for the completion of Stage 1A as well as allowing the implementation of Stage 1B however the funding will only be available at the commencement of the 2022/23 financial year.
14. A further consideration to the project timeline is LRCI Phase 2 funding conditions requiring project completion by 30 June 2022.
15. While external funding is being negotiated and so the project can still progress, staff are recommending the shortfall amount be transferred from the Shires Community Development reserve.

## **CONSULTATION**

16. Nil

## **STATUTORY ENVIRONMENT**

17. *Local Government Act 1995* section 3.57
18. *Local Government Regulation 1996* (Function and General) Part 4, Division 2 section 14
19. *Local Government Act 1995*, Division 4, Section 6.8  
*6.8 Expenditure from municipal fund not included in annual budget*

(1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure –

- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
- (b) is authorised in advance by resolution\*; or
- (c) is authorised in advance by the mayor or president in an emergency

## POLICY IMPLICATIONS

- 20. 2.7 – Procurement Policy
- 21. 2.12 - Regional Price Preference Policy

## FINANCIAL IMPLICATIONS

- 22. Town Beach Upgrade is a capital works project in Shires 2021/22 budget.
- 23. The project has a total budget of \$728,000 made up of LRCI funding of \$278,302 and BHP Funding of \$450,000.
- 24. This item is requesting an allocation of \$210,000 to be transferred from the Shires Community Development reserve to increase the project’s budget.

## RISK MANAGEMENT

25. Identified risk implications

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Performance Site will become increasingly degraded due to the high use of the area	Almost certain	Moderate	High	Project will improve infrastructure at the site
Financial Possibility of losing funding if works not completed by 30 June 2022	Likely	Major	High	Shire allocation from reserve will allow project to be completed by 30 June 2022
Environmental Site is becoming increasingly degraded due to the high use of the area.	Likely	Moderate	High	Project will improve infrastructure at the site and help protect the surrounding environment
Reputational Community have expectations Town Beach will be upgraded	Almost certain	Moderate	High	Shire allocation from reserve will allow project to be completed by 30 June 2022

## ALTERNATE OPTIONS

- 26. Council may decide to not accept the officer’s recommendation and award the tenders to alternative submissions or refuse all presented submissions.
- 27. Council may decide not to approve additional funds to the project.

## STRATEGIC ALIGNMENT

28. 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.
- 3.2 Promote facilities/services that enhance public health and safety.
- 3.3 Champion self-supporting community clubs and associations.

## VOTING REQUIREMENTS

29. Absolute Majority

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### OFFICER'S RECOMMENDATION

**ITEM 12.2.3**

That Council:

1. AWARD the contract for Tender 02-2022 Town Beach Electrical Upgrades as per the recommendation in Confidential Attachment 1;
2. AWARD the contract for Tender 03-2022 Town Beach Civil Construction Works as per Confidential Attachment 2;
3. RECORD the recommendation for Tender 02-2022 Town Beach Electrical Upgrades and Tender 03-2022 Town Beach Civil Construction Works as provided in Confidential Attachments 1 and 2 onto the meeting minutes; and
4. APPROVE the allocation of \$210,000 from Councils Community Development reserve to increase funding for the Town Beach Upgrade capital project.

## 12.2.4 REQUEST FOR ITINERANT TRADING LICENCE – CAFÉ BUENO

File Reference:	LP.PE.0.2022
Reporting Officer:	Administrator Development Services
Responsible Officer:	Executive Manager Development Services
Date of Report:	19 April 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

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### PURPOSE

1. That Council APPROVE to enter into a new licence agreement with AM & TC PTY LT trading as Café Bueno food van to operate at the designated space at the Vlamingh Head Lighthouse precinct.

#### F. Lighthouse precinct (maximum 2 spaces)



### BACKGROUND

2. Café Bueno is an established food business initially registered in the Shire of Mundaring and operated in various locations in the South-West region.
3. Café Bueno has been operating in the Shire of Exmouth at coastal locations and community events in the town on a seasonal basis since July 2020.

4. Café Bueno have been operating under Itinerant Traders (Activity on Local Government Property) permits and are now seeking approval for a licence approach to operate the food van at the Vlamingh Head Lighthouse location under the Shires Local Planning Policy 6.9 – Itinerant Trading (the Policy).

## **COMMENT**

5. A key component of the Policy is the ability of Council to approve a licensing arrangement option for those traders seeking terms greater than 12 months. As stated in the Policy adopted in May 2020:

*“Approval to trade can be granted for periods ranging from 1 day to 12 months with terms greater than 12 months to be considered via a licensing arrangement and requiring Council approval on a case by case basis. In order to qualify for a license a trader must demonstrate that they have a proven trading history of at least 12 months (or one full tourism season ie April – September) within the Shire of Exmouth area (source General Provisions point 2 – 6.9 Itinerant Trading policy)*

6. Also stated in the Policy is:

*“A license approach is to provide greater tenure with terms and conditions negotiated on a case by case basis. A licence approach will be subject to Policy 2.4 Leases and Licences however any itinerant trader licence will require and be subject to Council review and approval. Traders will still be required to secure all required trading permits.” (source General Provisions point 11 – 6.9 Itinerant Trading policy)*

7. Café Bueno have been operating within Exmouth on a seasonal basis since 2020. As this request meets the requirements for a licence arrangement approach, the officer recommendation is to seek Council approval to enter into a licence agreement with AM & TC PTY LT (T/A Café Bueno van).

## **CONSULTATION**

8. A licence arrangement does not require public advertising under the *Local Government Act 1995* section 3.58.

## **STATUTORY ENVIRONMENT**

9. *Land Administration Act 1997*.
10. Shire of Exmouth Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
11. The leasing and licensing of Shire property is governed by the *Local Government Act 1995*, section 3.58.

## **POLICY IMPLICATIONS**

12. The granting of the proposed licence generally complies with Shire of Exmouth Policy Manual, Local Planning Policy - 6.9 Itinerant Trading and Policy 2.4 Leases and Licences. As per policy all new licences granted and any new locations approved under Itinerant Trading shall require approval of Council.

## **FINANCIAL IMPLICATIONS**

13. The approved Itinerant Trading permit fees and charges apply. Licence fees are charged at a

50% discount to approved permit fee rates.

## RISK MANAGEMENT

14. The risk identification and categorisation relies on the Shires Policy 2.13 – Risk Management Policy.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Performance - If approved, Café Bueno does not operate as per the licence agreement conditions.	Possible	Minor	Moderate	Council may revoke licence due to non-performance to licence terms and conditions

## ALTERNATE OPTIONS

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

- Not support the granting of a licence agreement to Café Bueno, they would then need to continue to operate under the annual permit approach; or
- To change the terms and conditions of the licence agreement including term and/or fees payable.

## STRATEGIC ALIGNMENT

16. 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.

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.
- 3.3 Champion self-supporting community clubs and associations.

## VOTING REQUIREMENTS

17. Absolute Majority.

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## OFFICER'S RECOMMENDATION

**ITEM 12.2.4**

That Council:

1. APPROVE Café Bueno van (AM & TC PTY LT) to operate at one designated space at the Vlamingh Head Lighthouse location under an Itinerant Trading licence; and
2. AUTHORISE the Chief Executive Officer to execute a licence agreement for a term of 13 months and to apply appropriate fees and charges each year as adopted by Council in its annual review.



## **CORPORATE SERVICES**

### **12.4.1 FINANCIAL STATEMENTS FOR PERIOD ENDING 31 MARCH 2022**

File Reference:	FM.FI.0
Reporting Officer:	Manager Finance
Responsible Officer:	Executive Manager Corporate Services
Date of Report:	19 April 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. Monthly Financial Report as at 19 April 2022

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#### **PURPOSE**

1. That Council accepts the financial report for the financial period ending 19 April 2022.

#### **BACKGROUND**

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

#### **COMMENT**

3. As at 31 March 2022, the operating revenue is below target by \$505,048 (4.05%). 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 \$1,014,492 (7.74%). Variances are mainly due to the timing of various operational projects and current vacant positions.
5. A total of \$2,716,283 has been spent to date for capital projects within the Financial Year 2021/2022. This includes the purchase of executive housing, Murat Road and Yardie Creek road edge repairs, as well as various preparation works for the Town Beach upgrade. Building of staff housing and the plant replacement program are in progress. The Bike Park and Youth Precinct projects are nearly completed.
6. Rate notices were issued on 30 July 2021. Rates collected as at 31 March 2022 were 92% compared to 88% for the same period last year.
7. General Debtors is \$2,069,295 with \$636,738 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. Risk 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 31 March 2022.

## 12.4.2 LIST OF ACCOUNTS FOR PERIOD ENDING 31 MARCH 2022

File Reference:	FM.FI.0
Reporting Officer:	Manager Finance
Responsible Officer:	Executive Manager Corporate Services
Date of Report:	19 April 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. List of Accounts for period ending 31 March 2022

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### PURPOSE

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

### BACKGROUND

2. *Local Government (Financial Management) Regulations 1996*, Regulation 13 (3) requires a list of payments is to be presented at the next ordinary meeting of council.
3. It has been customary practice that whilst being a leader in the community, we meet our terms of credit as established between suppliers and aspire to obtain discounts where practicable. Payments have been approved by authorised officers in accordance with agreed delegations and policy frameworks.

### COMMENT

4. Council has given delegated authority that allows the Chief Executive Officer to approve payments from Council's bank accounts either via cheque or through electronic lodgement. (refer Attachment 12.4.2).

#### Payments

Municipal Fund totalling \$1,065,025.04  
Incorporating cheques, direct debits, electronic payments and credit cards.

Trust Fund totalling \$NIL  
Incorporating electronic payments.

Total Payments: \$1,065,025.04

### CONSULTATION

5. Nil

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**RISK MANAGEMENT**

9. Risk implications

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

**ALTERNATE OPTIONS**

10. Nil

**STRATEGIC ALIGNMENT**

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

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

**VOTING REQUIREMENTS**

12. Simple Majority

**OFFICER’S RECOMMENDATION**

**ITEM 12.4.2**

That Council RECEIVES the report of payments made from the Municipal and Trust bank accounts during the month of March 2022 (*totalling \$1,065,025.04*).

### 12.4.3 2022/23 NOTICE OF INTENTION TO IMPOSE DIFFERENTIAL RATES

File Reference:	FM.FI.0
Reporting Officer:	Executive Manager Corporate Services
Responsible Officer:	Executive Manager Corporate Services
Date of Report:	22 April 2022
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	<ol style="list-style-type: none"><li>1. Statement of Rating Objects and Reasons for Proposed Rates</li><li>2. Public Notice – Intention to Levy Differential Rates 2022/23</li></ol>

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#### **PURPOSE**

1. That Council endorse to give public notice of its intention to impose the proposed differential rates and minimum payments for the 2022/23 financial year.

#### **BACKGROUND**

2. The purpose of this report is to seek Council's endorsement to give public notice of its intention to impose the proposed differential rates and minimum payments for the 2022/23 financial year.
3. The public notice is mandatory under section 6.36 of the *Local Government Act 1995*, before imposing any differential rates or minimum payments.
4. Such notice is to be published within a period of two (2) months preceding the commencement of the new financial year, inviting public submissions on the proposed rates or minimum payments.
5. An elector or ratepayer has 21 days from date of public notice to make submissions in respect of the proposed rates and minimum payments and any related matters. Council is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.
6. Council may resolve to impose rates or minimum payments different from those published in the local public notices, and if it does so, is obliged to publish the reasons for doing so, as part of its formally adopted budget.
7. Table 1 and Table 2 below details the current 2021/22 differential rates and minimum payments. The 2021/22 budget was prepared on the basis of 4.8% rate in the dollar increase for all rating categories.

**TABLE 1: SCHEDULE OF 2021/22 DIFFERENTIAL RATES:**

8.

Rate Category	Rate in the Dollar \$	Minimum payment \$
GRV General	0.0787	950
GRV Marina Developed	0.1062	950
GRV Holiday Homes	0.1091	950
GRV Vacant Land	0.1573	750
UV Mining	0.1676	250
UV Rural	0.0838	750

**TABLE 2: SCHEDULE OF 2020/21 SPECIFIED AREA RATES:**

9.

Rate Category	Rate in the Dollar \$	Minimum payment \$
GRV Specified Area Rate	0.0140	Nil

**COMMENT**

10. Costs continue to increase at a fast pace and Council needs to cover these increases to ensure continued service delivery. The latest Consumer Price Index released by the Australian Bureau of Statistics in December 2021 is indicating that CPI rose by 3.5% nationally for the year to December 2021 and for the Perth region it increased by 5.7% for the same period. This indicates that Western Australia is currently carrying a large burden with increases to costs.
11. WALGA produces the Local Government Cost Index (LGCI) to track costs relevant to Local Governments in WA. Council utilise this information to ensure it tracks costs specific to their operations. The Shire of Exmouth has a significant property and road asset base, so we take information around these two asset classes to have a high impact on Council costs.
12. The LGCI has identified that construction has been the fastest growing sector for Local Government costs. Building construction costs has increased by 14.5% in WA in the last year and more than 5% in the December quarter alone. Another area that has a significant impact on Council's costs is road and bridge construction which grew more than 9% in the last year ending December 2021.
13. Wages WA wide have grown by 2% for the year to December, which is in line with the forecasting Council has been using to date. However, WA treasury anticipates wage growth of 2.75% in 22-23. The Super Guarantee is also increasing by 0.5% each year to 2025/26.
14. The Long-Term Financial Plan (LTFP) is a useful tool for Council to keep track of its long term financial responsibilities and requirements and should be utilised by Councillors for decision making. The impacts of the costs have been implemented into the LTFP to show the short term and long term impact these costs will have on Council and what we need to do financially to cover these increases.
15. The LTFP proposes 4.8% rates increase in 2022/23 to 2024/25 and spreading the increase over multiple financial years, rather than one large increase. The LTFP will be reviewed each financial year as Council experiences changes in economic conditions and services it provides. As Council

only derives 23% of its revenue from rates, this will not be able to close the gap on the deficiency and will require other options to be reviewed as well.

16. The Office of the Auditor General audits the Shire’s financial statements annually and has had an adverse finding on the operating surplus ratio for a number of years. This ratio measures Council’s ability to contain operating expenditure within operational revenue. For Council to address this ratio, it needs to effectively manage its finances on a net operating result of 0 or better.
17. The LTFP indicates this ratio is trending towards 0, and in 2020/21 Council set the path to get this issue addressed by 2030/31. The proposed increases allow us to continue on that path to improve Council financial position and ensure continued service delivery.
18. Council is looking at all options available to get the ratio’s down and reduce the financial impact on rate payers as much as possible. Council currently derives 53% of its operating revenue from fees and charges, which is primarily from airport operations.
19. Table 3 and 4 below details the proposed 2022/23 differential rates and minimum rates. This is an increase of 4.8% across all ratings, including the specified area rating. There has not been a GRV valuation completed this year, so the only change to property values would be if there has been a change to the property.

**TABLE 3: SCHEDULE OF PROPOSED 2022/23 DIFFERENTIAL RATES:**

20.

Rate Category	Rate in the Dollar \$	Minimum payment \$
GRV General	0.0825	995
GRV Marina Developed	0.1113	995
GRV Holiday Homes	0.1143	995
GRV Vacant Land	0.1649	785
UV Mining	0.1756	260
UV Rural	0.0878	785

**TABLE 4: SCHEDULE OF PROPOSED 2021/22 SPECIFIED AREA RATES:**

21.

Rate Category	Rate in the Dollar \$	Minimum payment \$
GRV Specified Area Rate	0.0147	Nil

22. This would result in rates being raised of \$3.87m, which accounts for 23% of the operational revenue.

## CONSULTATION

23. Nil

## STATUTORY ENVIRONMENT

24. *Local Government Act 1995* section 6.36

**POLICY IMPLICATIONS**

25. Nil

**FINANCIAL IMPLICATIONS**

26. The requirement set out in s6.36 of the *Local Government Act 1995* requires Council to give local public notice. This notice may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply and needs to provide electors and ratepayers a minimum of 21 days to make submission.

27. The local government is then required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.

**RISK MANAGEMENT**

28. Risk implications

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Performance (operational) Failure to comply with S6.36 of the Local Government Act 1995	Unlikely	Major	Medium	This report mitigates this risk

**ALTERNATE OPTIONS**

29. Alternative rate increases may be developed and reviewed as part of Council’s final budget adoption process.

**STRATEGIC ALIGNMENT**

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

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

- 4.1 To provide proactive, collaborative and transparent leadership
- 4.2 A local government that is respected and accountable.
- 4.3 To be a champion for our community

**VOTING REQUIREMENTS**

31. Simple Majority

**OFFICER’S RECOMMENDATION**

**ITEM 12.4.3**

That Council

1. ENDORSE the following proposed differential rates and minimum payments for the 2022/23 financial year, for the purpose of giving local public notice of its intention to impose differential general rates and minimum payments for the 2022/23 financial year; and

Rate Category	Rate in the Dollar \$	Minimum payment \$
GRV General	0.0825	995
GRV Marina Developed	0.1113	995
GRV Holiday Homes	0.1143	995
GRV Vacant Land	0.1649	785



UV Mining	0.1756	260
UV Rural	0.0878	785

Rate Category	Rate in the Dollar \$	Minimum payment \$
GRV Specified Area Rate	0.0147	Nil

2. INVITE submissions from electors and ratepayers on the proposed rates and minimum payments and any related matters, as required under section 6.36 of the *Local Government Act 1995*.

**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**