



# Agenda

## Ordinary Council Meeting

21 September 2023

### Notice of Meeting

Notice is hereby given that the next Ordinary Council Meeting of the Shire of Exmouth will be held on 21 September 2023, in the Mandu Function Room, Ningaloo Centre, 2 Truscott Crescent, Exmouth commencing at 4.00 pm.

A handwritten signature in black ink, appearing to be 'Ben Lewis', written in a cursive style.

Ben Lewis  
CHIEF EXECUTIVE OFFICER

## Disclaimer

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The advice and information contained herein are 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 that 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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**SNAPSHOT**

# Strategic Community Plan 2023-2033



**Your Choice. Our Future.**

**VISION**

A globally recognised community of guardians for our unique environment and culture as we pursue innovations for sustainable growth.

**GOALS**

The goals are organised in five strategic pillars: Social, Natural Environment, Built Environment, Economy, and Governance and Leadership.

## SOCIAL

Nurture a friendly, safe and inclusive community spirit.

- Improve local community and visitor experiences.
- Ensure a full suite of services to meet the needs of families and individuals at all ages and stages of life.
- Build community cohesion and connectedness.



## GOVERNANCE & LEADERSHIP

Foster open, transparent & accountable leadership, working collaboratively & in partnership with our community & stakeholders.

- Forward-thinking leadership for efficient & sustainable operations.
- Continued focus on transparent, accountable leadership & community & stakeholder engagement.
- Council & administration plan & lead with good governance.



## ECONOMY

Enhance a robust, resilient & diversified economy that champions innovation.

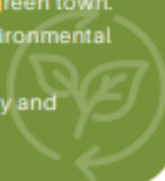
- Increase opportunities for smart and sustainable business ideas.
- Establish Exmouth as a vibrant, welcoming and environmentally aware destination.
- Promote Exmouth as a thriving economy based on its regional strength as a global environmental hotspot.



## NATURAL ENVIRONMENT

Embrace natural sensitivities and promote positive change.

- Establish Exmouth as a clean and green town.
- Prepare Exmouth for changing environmental conditions.
- Increase awareness of sustainability and environmental issues.



## BUILT ENVIRONMENT

Enable sustainable development and infrastructure that meets the needs of the community, visitors and industry.

- Infrastructure and assets are well-managed and maintained.
- Plan and cater for increased population growth.
- Revitalisation and expansion of airport services.



## 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.](#)

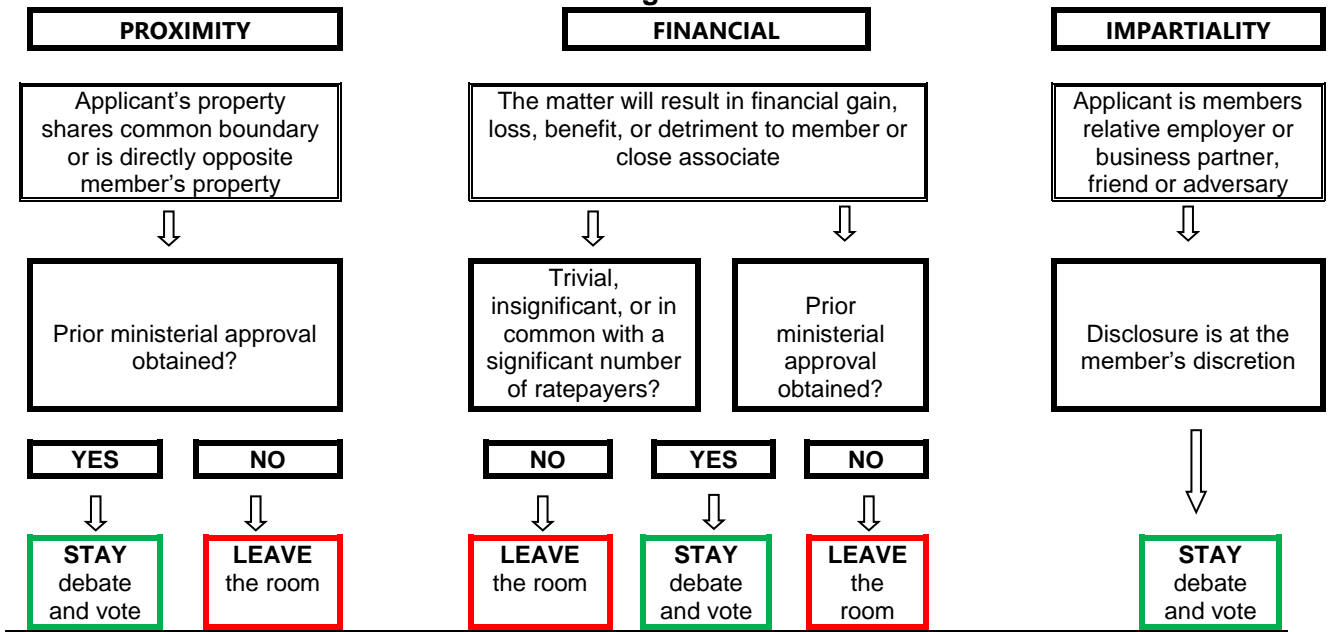
- **Note 1** - Elected Members/ Committee Members/Employees refer to the Disclosure of Interest Declaration card when disclosure is being read out at Council or Committee Meeting.
- **Note 2:** For Ordinary meetings of the Council, elected members and employees are requested to submit this completed 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

Particulars recorded in Minutes                       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 interest arising from kinship, friendship or membership of an association.

## AGENA INDEX

TO:	CHIEF EXECUTIVE OFFICER.....	4
1.	DECLARATION OF OPENING AND ANNOUNCEMENTS.....	7
2.	ATTENDANCE, APOLOGIES AND APPROVED LEAVE OF ABSENCE.....	7
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	7
4.	PUBLIC QUESTION TIME .....	7
5.	DECLARATIONS OF INTEREST.....	7
6.	APPLICATIONS FOR LEAVE OF ABSENCE .....	7
7.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS.....	8
8.	ANNOUNCEMENTS/ REPORTS OF ELECTED MEMBERS.....	8
9.	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION .....	8
10.	PETITIONS/ DEPUTATION/PRESENTATIONS/ SUBMISSIONS .....	8
11.	MATTERS ARISING FROM COMMITTEES OF COUNCIL.....	8
12.	REPORTS OF OFFICERS.....	9
12.1.1	AFFIXING COMMON SEAL UNDER DELEGATED AUTHORITY .....	9
12.2.1	APPLICATION TO KEEP MORE THAN 2 DOGS – LOT 124 (43) SKIPJACK CIRCLE .....	11
12.3.1	RESTRICTED TENDER – LOT 320, (24) MAIDSTONE CRESCENT .....	14
12.3.2	AMENDMENTS TO LOCAL PLANNING POLICY - ADVERTISING SIGNS, TOWN CENTRE .. PUBLIC SPACE & OUTDOOR EATING PERMITS.....	18
12.3.3	CONSIDERATION OF DEVELOPMENT APPLICATION (DA55/23) FAST FOOD OUTLET – LOT 30 (15) LEARMONTH STREET EXMOUTH.....	21
12.4.1	FINANCIAL STATEMENT FOR PERIOD ENDING 31 AUGUST 2023.....	34
12.4.2	LIST OF ACCOUNTS FOR PERIOD ENDING 31 AUGUST 2023 .....	36
13.	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	38
14.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING ...	38
15.	MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS.....	38
15.1.1	CHIEF EXECUTIVE OFFICER ANNUAL PERFORMANCE REVIEW .....	38
15.1.2	EXMOUTH BUSINESS CENTRE – EXMOUTH CHAMBER OF COMMERCE AND INDUSTRY LEASE - LOT 863 (22) MAIDSTONE CRESECENT .....	38
16.	CLOSURE OF MEETING .....	38

## 1. Declaration of Opening and Announcements

## 2. 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	
Councillor M (Matthew) Niikkula	
Mr Ben Lewis	Chief Executive Officer
Mr Chris McNamara	Deputy CEO/Community and Economic Growth
Mr Mike Richardson	Executive Manager Infrastructure Services
Mr Gollie Coetzee	Executive Manager Corporate Services
Ms Michelle Head	Minute Taker

Gallery

Apologies

## 3. Response to Previous Public Questions Taken on Notice

Nil

## 4. Public Question 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 Shire President's 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 Shire 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

Nil

## 6. Applications for Leave of Absence

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

Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The

leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for a leave of absence.

**7. Confirmation of Minutes of Previous Meetings**

That the Minutes and associated attachments of the Ordinary Council Meeting of the Shire of Exmouth held on 24 August 2023 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/ Deputation/Presentations/ Submissions**

**11. Matters Arising from Committees of Council**



## 12. Reports of Officers

### EXECUTIVE SERVICES

#### 12.1.1 AFFIXING COMMON SEAL UNDER DELEGATED AUTHORITY

File Reference	GV.AU.1
Reporting Officer	Chief Executive Officer
Responsible Officer	Chief Executive Officer
Date of Report	12 September 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	Nil

#### Purpose

1. To advise Council of the documents that have had the Shire of Exmouth common seal affixed under delegated authority since the last council meeting on the 24 August 2023.

#### Background

2. There has been 1 document that has had the Shire's common seal affixed under delegated authority since the last Council meeting.

#### Comment

3.

Document	Details	Parties
Contract	Supply and Construction of Cricket Nets	Shire of Exmouth and Norcape Building Company

#### Consultation

4. Nil

#### Statutory Environment

5. Local Government Act 1995, Part 9, Division 3, s9.49A (1)(2) Execution of Documents
  - (1) A document is duly executed by a local government if —
    - (a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or
    - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.
  - (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.
    - (3) The common seal of the local government is to be affixed to a document in the presence of —
      - (a) the mayor or president; and
      - (b) the CEO,each of whom is to sign the document to attest that the common seal was so affixed.

#### Policy Implications

6. Nil

#### Financial Implications

7. Nil

### Risk Management

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Performance (operational) – That executed documents would be void if the common seal was not affixed in accordance with the requirements of the Local Government Act 1995	Almost Certain	Major	High	Council to endorse the use of the common seal

### Risk Matrix

Consequence \ Likelihood	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (5)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

### Alternate Options

8. Nil.

### Strategic Alignment

9. This item is relevant to the Council's approved Strategic Community Plan and Corporate Business Plan 2023 – 2033.

Governance & Leadership

**Foster open, transparent & accountable leadership, working collaboratively and in partnership with our community and stakeholders**

- 5.1 Forward-thinking leadership for efficient and sustainable operations
- 5.2 Continued focus on transparent, accountable leadership and community stakeholder engagement
- 5.3 Council and administration plan and lead with good governance

### Voting Requirements

10. Simple Majority

Officers Recommendation		Item 12.1.1
That Council ACCEPT that the common seal has been affixed under delegated authority to the following documents:		
Document	Details	Parties
Contract	Supply and Construction of Cricket Nets	Shire of Exmouth and Norcape Building Company

## INFRASTRUCTURE SERVICES

### 12.2.1 APPLICATION TO KEEP MORE THAN 2 DOGS – LOT 124 (43) SKIPJACK CIRCLE

File Reference	A1640
Reporting Officer	Coordinator Compliance and Emergency Services
Responsible Officer	Executive Manager Infrastructure Services
Date of Report	6 September 2023
Applicant/Proponent	Shani Collins
Disclosure of Interest	Nil
Attachment(s)	1. Property Inspection Report

#### Purpose

1. That Council consider an application to keep more than two dogs at Lot 124 (43) Skipjack Circle, Exmouth.

#### Background

2. Section 26 of the *Dog Act 1976* allows a local government to limit the number of dogs kept on a property by a local law.
3. On 23 January 2015, the Shire of Exmouth gazetted a local law limiting the number of dogs allowed to be kept on a property within the townsite to two dogs (Section 3.2 (2)(a)). The local law came into effect on 6 February 2015.

#### Comment

4. Council received an application on 14 August 2023 to keep more than two dogs (Section 26 Exemption) at Lot 124 (43) Skipjack Circle Exmouth.
5. The applicant has stated they have a new roommate at the premises who owns a dog which will bring the total number of dogs at the premises to three.
6. As per Council policy IS001 – Multiple Dogs, a request for comment was sent to all adjoining land owners allowing them to either support or oppose the application.
7. There were two opposed responses and two in support responses from adjoining land owners.
8. In summary the main concerns raised by the residents opposed to the application are:
  - Claimed issues with dogs at another neighbouring property.
  - The volume of faeces from larger dogs.
  - Opposition to more than two dogs at any property especially near their address.
  - Neighbouring dogs often bark at them.
9. While the opposing comments raised genuine concerns relevant to potential dog management issues, there was no specific comment received which implied the nominated property or residents were unsuitable to keep a third dog.
10. The Shire has received no formal complaints regarding the applicants current two dogs kept at the premises.
11. Rangers have met with the applicant and undertook a property inspection on the 28 August 2023 (Attachment 1).

12. The officer recommendation is based on the findings contained within the report which indicate the property is conducive to providing appropriate conditions to support three dogs at the premises.
13. Council policy IS001 – Multiple Dogs does not allow for shire staff to approve multiple dog applications when an opposed response has been received and must be referred to Council for determination.
14. Any application approved by Council shall be an approval only for:
  - The dogs named in the application
  - The property named in the application
15. Council retains the authority to revoke any approval to keep three (3) to six (6) dogs on a property if it is considered that a breach or offence against the Shire of Exmouth Dogs Local Law 2015 or the *Dog Act 1976* has been committed. In this circumstance, Council may require that the number of dogs on the property be reduced to a maximum of two (2) within 14 days.

**Consultation**

16. Resident 41 Skipjack Circle
17. Resident 45 Skipjack Circle
18. Resident 37 Snapper Loop
19. Resident 39 Snapper Loop

**Statutory Environment**

20. *Dog Act 1976*  
*Part V — The keeping of dogs*  
26. Limitation as to numbers  
 (1) *A local government may, by a local law under this Act —*
  - (a) *limit the number of dogs that have reached 3 months of age that can be kept in or at premises in the local government's district; or*
  - (b) *limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government's district.*
21. Shire of Exmouth Dog Local Law 2015

**Policy Implications**

22. IS001 Multiple Dogs

**Financial Implications**

23. Nil

**Risk Management**

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Environmental - Too many dogs approved within the town boundary could create noise and hygiene impacts	Possible	Minor	Moderate	Rangers to complete inspection of the property to deem appropriate before approval then continue to monitor and cancel the section 26 exemption if the situation changes or it is warranted.
Reputational - Council perceived as not being adaptable to community values	Possible	Minor	Moderate	Council to consider exemption applications and approve where appropriate

**Risk Matrix**

Consequence \ Likelihood	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (5)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

**Alternate Options**

24. Council can resolve to not approve the application to keep more than two dogs at the property.

**Strategic Alignment**

25. This item is relevant to the Council’s approved Strategic Community Plan and Corporate Business Plan 2023 – 2033.

Social	<p><b>Nurture a friendly, safe and inclusive community spirit</b></p> <p>1.1 Improve local community and visitor experiences.</p> <p>1.3 Building Community cohesion and connectedness</p>
Governance & Leadership	<p><b>Foster open, transparent &amp; accountable leadership, working collaboratively and in partnership with our community and stakeholders</b></p> <p>5.2 Continued focus on transparent, accountable leadership and community stakeholder engagement</p>

**Voting Requirements**

21. Simple Majority

<b>Officers Recommendation</b>	<b>Item 12.2.1</b>
That Council approve the third dog application at Lot 124 (43) Skipjack Circle, Exmouth.	

## COMMUNITY AND ECONOMIC ENGAGEMENT

### 12.3.1 RESTRICTED TENDER – LOT 320, (24) MAIDSTONE CRESCENT

File Reference	CM.EX.01.2023, A2142, A7541
Reporting Officer	Community Development Officer
Responsible Officer	Deputy CEO/Community and Economic Growth
Date of Report	12 September 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	Nil

#### Purpose

1. That Council approve:
  - moving to a restricted tender and authorise the Chief Executive Officer to enter into a lease agreement with the successful tenderer for the premise at Lot 320 (24) Maidstone Crescent Exmouth.
  - the continuance of a month by month peppercorn lease for the current provider One Tree-Bernice McLeod Day Care until the new operator at Lot 320 (24) Maidstone Crescent commences.

#### Background

2. In April 2012 the Shire of Exmouth received the final Town Centre and Foreshore Revitalisation Plan (Hassel Report), these two projects were initiated by the Shire of Exmouth to improve the way these areas function.
3. The town centre revitalisation plan is required to provide an approach to the expansion of the retail floor space to meet the demand for future population growth.
4. A number of items within the plan have already been redeveloped including Federation Park, Maidstone Crescent enhancement and Kennedy Street Mall.
5. To continue to develop the recommendations within the plan, and to allow for future retail growth, the current day care site of Lot 1027 (29) Payne Street is identified as the preferred site for short to medium term future retail development and for this development to go ahead current buildings on the site will be required to be demolished.
6. The peppercorn lease for the current provider expired on 31 August 2017 and since then, they have been on a periodical lease.
7. Lot 320 (24) Maidstone Crescent was identified by shire officers as a preferred option for a day care premises due to the larger space which could offer increased child care spaces, along with its central location.
8. Shire staff over the last three years have engaged with the current day care provider in Exmouth to re-locate to other premises including Lot 320 (24) Maidstone Crescent. The current provider has not shown interest in a lease on commercial terms and have advised that the recent Expression of Interest (EOI) process was not a viable option for One Tree and therefore did not make a submission.

### **Comment**

9. The Shire has received numerous requests over the last 18 months for commercial premises for lease in the town centre of Exmouth.
10. Due to the recent interest in commercial property, Shire of Exmouth officers opened an EOI for the lease of Lot 320 (24) Maidstone Crescent on 17 July and closed it on 11 August 2023.
11. The EOI process was to provide a fair and equitable approach for the lease of the premises rather than limit the respondents.
12. Two EOI were received to refurbish, license and operate a long day care and after evaluation officer's recommendation is both respondents will be given the opportunity through a restricted tender process.
13. There is a current shortage of available spaces for day care in Exmouth.
14. Lot 320 (24) Maidstone Crescent will offer increased child care spaces after refurbishment.
15. The Exmouth Toy Library currently operate from Lot 320 (24) Maidstone Crescent, should the tenderer not offer a viable option for the Toy Library to stay in their current premises Shire staff will work with Exmouth Toy Library to co-locate them to the current playgroup premise.
16. The current lease for One Tree to be continued on a month by month basis until Lot 320 (24) Maidstone Crescent is licensed and operational, the lease will then be terminated.

### **Consultation**

17. Nil

### **Statutory Environment**

18. *Local Government Act 1995*
  - 3.57. Tenders for providing goods or services
    - 1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
    - 2) *Regulations may make provision about tenders*
  - 3.58. Disposing of property
    - 1) *In this section — dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not; property includes the whole or any part of the interest of a local government in property, but does not include money.*
    - 2) *(2) Except as stated in this section, a local government can only dispose of property to — (a) the highest bidder at public auction; or (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
19. *Local Government (Functions and General) Regulations 1996 (Regulations)*  
Division 2 — Tenders for providing goods or services (s. 3.57)

### **Policy Implications**

20. CS001 Procurement

### **Financial Implications**

21. Possible capital investment subject to the outcome of the restricted tender process.

### Risk Management

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Financial - Vacant venue, shire continue to pay out goings and maintenance costs	Almost Certain	Minor	High	Enter into a lease on commercial terms for the premises.
Reputational - The waitlist for day care would continue to increase as the population increases	Likely	Moderate	High	Lease 24 Maidstone Crescent to one of the EOI proponents.
Reputational - Adverse response from One Tree to no offer of a long-term lease and existing families who maybe concerned about the transition	Likely	Moderate	High	Continue to work with One Tree until the new business is licensed and operational

### Risk Matrix

Consequence \ Likelihood	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (5)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

### Alternate Options

22. Council decides not to proceed with the restricted tender process.
23. Find alternate tenants for Lot 320 (24) Maidstone Crescent.

### Strategic Alignment

24. This item is relevant to the Council's approved Strategic Community Plan and Corporate Business Plan 2023 – 2033.

Social	<p><b>Nurture a friendly, safe and inclusive community spirit</b></p> <p>1.2 Ensure a full suite of services to meet the needs of families and individuals at all ages and stages of life</p>
Built Environment	<p><b>Enable sustainable development and infrastructure that meets the needs of the community, visitors and industry</b></p> <p>3.1 Infrastructure and assets are well-managed and maintained</p> <p>3.2 Plan and cater for increased population growth</p>
Economy	<p><b>Enhance a robust, resilient and diversified economy that champions innovation</b></p> <p>4.1 Increase opportunities for smart and sustainable business ideas</p>

### Voting Requirements

25. Simple Majority

Officers Recommendation	Item 12.3.1
That Council:	
<ol style="list-style-type: none"> <li>1. Approve moving to a restricted tender and authorise the Chief Executive Officer to enter into a lease agreement with the successful tenderer for the premise at Lot 320 (24) Maidstone Crescent for a term of five (5) years with a five (5) year option.</li> </ol>	



2. Approve the continuance of a month by month peppercorn lease for the current provider, One Tree-Bernice McLeod Day Care, until the new operator at Lot 320 (24) Maidstone Crescent commences.
3. Formally advise Department of Planning, Lands and Heritage that the site is ready to be developed.

### 12.3.2 AMENDMENTS TO LOCAL PLANNING POLICY - ADVERTISING SIGNS, TOWN CENTRE PUBLIC SPACE & OUTDOOR EATING PERMITS

File Reference	CM.PO.13
Reporting Officer	Senior Planning Officer
Responsible Officer	Deputy CEO /Community and Economic Growth
Date of Report	8 September 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	1. Current Local Planning Policy 6.8 – Advertising Signs, Town Centre Public Space & Outdoor Eating Permits (and associated Guidelines) 2. Proposed Policies: <ul style="list-style-type: none"><li>• Local Planning Policy - 5 – Advertisement Signs</li><li>• Council Policy CEG013 - Town Centre Public Space and Outdoor Eating Permits.</li></ul> 3. Schedule of Submissions

#### Purpose

1. That Council, in accordance with Schedule 2, Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* consider amendments to the Local Planning Policy - 6.8 – Advertising Signs, Town Centre Public Space & Outdoor Eating Permits (and associated Guidelines) and to determine whether to proceed with final adoption of the amended policy.

#### Background

2. Current Local Planning Policy 6.8 – Advertising Signs, Town Centre Public Space & Outdoor Eating Permits (and associated Guidelines) were originally adopted by Council on 28 May 2020 and are included as Attachment 1.
3. A review of Local Planning Policy 6.8 was undertaken to improve clarity and its application.
4. Local Planning Policy 6.8 (and associated Guidelines) applies to three elements; advertising signs, town centre public spaces and outdoor eating permits. It is recommended that the policy be split into:
  - Local Planning Policy -5 - Advertisement Signs Local Planning Policy; and
  - Council Policy CEG013 - Town Centre Public Spaces and Outdoor Eating Permits Council Policy.
5. At its Ordinary Meeting on 27 July 2023, as part of resolution number 05-0723, Council resolved to:

*AMEND draft Local Planning Policy 5 – Advertisement Signs (as set out in Attachment 2 of this item) and in accordance with clause 87 of the Planning and Development (Local Planning Schemes) Regulations, ADVERTISE the draft Policy to seek public comment.*
6. The draft Local Planning Policy 5 – Advertisement Signs (Attachment 2) was advertised for public comment and one letter of support was received.
7. The objectives of Local Planning Policy 5 – Advertisement Signs are:
  - Ensure that the display of advertising signs on properties complements the surrounding area without impacting on public safety and access.
  - Ensure that advertisement signs are appropriate for their location and site and do not adversely impact on the amenity of the surrounding area.

- Guide the design, materials and siting of advertising structures and signs in the local government area.
- Provide improved opportunities and clear guidelines for local community and sporting groups to advertise events and activities. Decrease bureaucratic procedures, restrictions, and constraints, as well as legal and jargonistic guidelines.

**Comment**

8. The main amendments to the Policy are:
  - Splitting the policy into an Advertisement Signs Local Planning Policy and a Town Centre Public Spaces and Outdoor Eating Permits Council Policy and updating the name.
  - The content has been updated to reflect legislative planning requirements.
  - Inserting the previous guidelines into the Policy itself and updating the diagrams.
  - Inclusion of requirements relating to tower Signs.
9. As mentioned above, one letter of support was received during the advertising period.
10. Council is now required to determine whether to proceed with final adoption of the amended policy.
11. It is recommended that Council resolve to approve and proceed with the draft Local Planning Policy 5 – Advertisement Signs and Council Policy CEG013 - Town Centre Public Space and Outdoor Eating Permits (Attachment 2).

**Consultation**

12. Draft Local Planning Policy 5 was advertised for public comment for 21 days between 4 and 26 August 2023 in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*, via the Shires website and local notice boards.
13. One letter of support was received. Refer to the ‘Schedule of Submissions’ for details on the submission including Shires Officers’ comments.

**Statutory Environment**

14. Shire of Exmouth Local Planning Scheme No.4
15. *Planning and Development Act 2005*
16. *Planning and Development (Local Planning Schemes) Regulations 2015*
17. Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law
18. *Land Administration Act 1997*

**Policy Implications**

19. Nil

**Financial Implications**

20. Nil

**Risk Management**

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational – The amendments may have an implication on owners and businesses.	Unlikely	Minor	Low	The modifications do not materially affect the Policies and provide clarity and improve their application.
Compliance – Policies are not adhered to.	Moderate	Possible	Moderate	The Shire will publish notice on its website if and when the Policies are adopted to ensure the Town is educated and supported to understand the Policies.

**Risk Matrix**

Consequence \ Likelihood	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (5)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

**Alternate Options**

21. Council has the following alternative options in relation to this item, which are:
- To resolve to proceed with the Policies with further minor modifications; or
  - To resolve to not proceed with amending Local Planning Policy 6.8 – Advertising Signs, Town Centre Public Space & Outdoor Eating Permits (and associated Guidelines)

**Strategic Alignment**

22. This item is relevant to the Council’s approved Strategic Community Plan and Corporate Business Plan 2023 – 2033.

Social	<p><b>Nurture a friendly, safe and inclusive community spirit</b></p> <p>1.1 Improve local community and visitor experiences.</p>
Built Environment	<p><b>Enable sustainable development and infrastructure that meets the needs of the community, visitors and industry</b></p> <p>3.1 Infrastructure and assets are well-managed and maintained</p>
Economy	<p><b>Enhance a robust, resilient and diversified economy that champions innovation</b></p> <p>4.2 Establish Exmouth as a vibrant, welcoming and environmentally aware destination</p>
Governance & Leadership	<p><b>Foster open, transparent &amp; accountable leadership, working collaboratively and in partnership with our community and stakeholders</b></p> <p>5.1 Forward-thinking leadership for efficient and sustainable operations</p> <p>5.2 Continued focus on transparent, accountable leadership and community stakeholder engagement</p> <p>5.3 Council and administration plan and lead with good governance</p>

**Voting Requirements**

23. Simple Majority

<b>Officers Recommendation</b>	<b>Item 12.3.2</b>
<p>That Council, in accordance with Schedule 2, Division 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, RESOLVES to:</p>	
<p>1. AMEND and PROCEED with Local Planning Policy 5 – Advertisement Signs (as included in Attachment 2).</p>	
<p>AND</p>	
<p>2. Insert new CEG013 – Town Centre Public Space and Outdoor Eating Permits (as included in Attachment 2) into the Shires Council Policy Manual.</p>	

### 12.3.3 CONSIDERATION OF DEVELOPMENT APPLICATION (DA55/23) FAST FOOD OUTLET – LOT 30 (15) LEARMONTH STREET EXMOUTH

File Reference	A531 (DA55/23)
Reporting Officer	Planning Officer
Responsible Officer	Deputy CEO – Community and Economic Growth
Date of Report	07 September 2023
Applicant/Proponent	Bee Hong Teoh & Andrew McCalman
Disclosure of Interest	Nil
Attachment(s)	1. Plans & Documents 2. Schedule of Submissions

#### Purpose

1. That Council consider a development application for a fast-food outlet at Lot 30 (15) Learmonth Street, Exmouth.

#### Background

2. The Shire has received a development application (DA55/23) at Lot 30 (15) Learmonth Street, Exmouth (the subject site), which proposes the following key elements:
  - The location and operation of the We Wok n Roll van on the subject site.
  - Four (4) vehicle parking bays for customers.



Figure 1 – The Subject Site

3. The subject site is 875m<sup>2</sup> and is located to the west of the town centre (Ross Street Mall and Kennedy Street). The subject site is shown in Figure 1 above.
4. The subject site has an existing single house on the lot. The Shire understands non-conforming use rights apply to the existing single house.

5. The subject site is zoned 'Commercial – C2' under the Shire of Exmouth Local Planning Scheme No.4 (LPS4).
6. The proposal is not considered to be consistent with the objectives and development requirements of the zone.
7. The application was advertised to surrounding landowners for comment. A total of 2 submissions were received, both raising objections.
8. As a result of the objections received the application is required to be determined by Council.

**Comment**

Description of the site and existing context

9. The current built form along the street is predominantly single storey dwellings. The dwellings along this street, where lawful, have non-conforming use rights.
10. A 'Non-conforming use' is the use of a property that was allowed under previous versions of the planning framework, however, with subsequent changes is no longer permitted. For non-conforming use rights to be valid, the use of the land must not be discontinued for a period of 6 months or longer.
11. When Local Planning Scheme No.4 (LPS4) was created the houses along Learmonth Street were rezoned to Commercial, meaning that, whilst the residential use can continue (non-conforming), any development moving forward must be commercial in nature.
12. The proposed Fast Food Outlet, being a food van, does not meet the requirements of a commercial development.
13. The dwellings along the street predominantly have a front setback of between 6m and 8m. Most lots have a single crossover to provide vehicle access. The front setback areas are generally landscaped, open and large with vegetation or garden areas.
14. This portion of Learmonth Street, between the Thew Street junction and the right-angle turn towards Maidstone Crescent is relatively short, approximately 100m, which may cause an issue for vehicle movement in the street if parking occurs.
15. In contrast to other lots along the street, the existing house on the subject site is oriented at 45 degrees to the lot boundary, creating a slightly smaller front setback area than is available on other lots. This can be seen in Figure 1.
16. The proposal is for the We Wok n' Roll food van to be parked and operated from the front of the subject site, with parking for customers proposed within the front setback area. A copy of the site plan is shown in Figure 2 below. Refer to Attachment 1 for the full set of plans and documents.

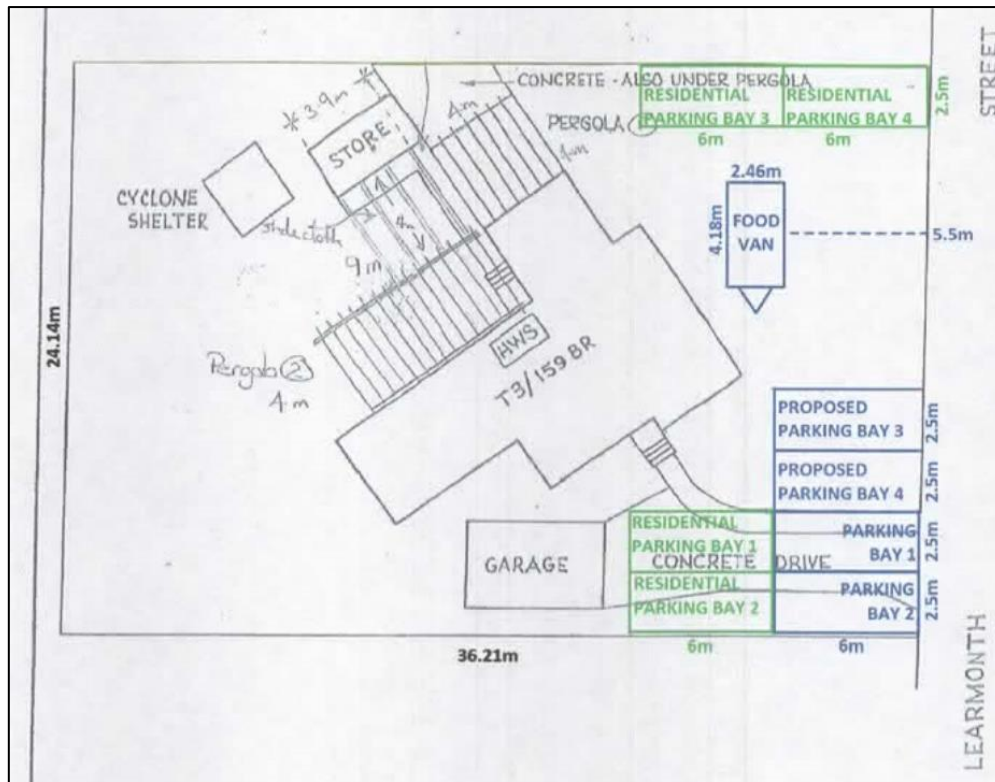


Figure 2 – Site Plan

17. Proposed hours of operation are from 11am – 2pm and from 5pm – 9pm. All work is proposed to be completed by 10pm. Days of operation are proposed to be Thursday to Monday. It is proposed that two or three staff members will be working at a time.
18. Four parking bays for residential vehicles, and four parking bays for customers are proposed. Popular food vans can result in high-turnover and large parking demands.
19. The applicant has suggested that signage will be used to encourage parking at Thew Street carpark and to discourage parking on the verge and surrounding properties. Further details of signage have not been included in the application; however, it is anticipated that signage would not be effective in this instance.
20. It is proposed that the two existing residential bins on the lot will be used and will be adequate for the disposal of waste produced by the food van.

Applicable Framework

21. In 2013, the Exmouth Town Centre and Foreshore Revitalisation Plan (the Revitalisation Plan) was adopted by Council. The Revitalisation Plan sets out the vision and intent for the Town Centre. It notes that *'development will contain a sense of quality and permanence...all buildings require high level of detailing given their public prominence...providing visual interest and an appropriate edge to activity.'* It also states that *'development will be contemporary in architectural expression and address adjacent streets and the surrounding public realm through window placement, balconies, terraces and entrance designs.'*
22. In 2019, the Shire of Exmouth Local Planning Strategy (LPS) was adopted by Council. The LPS notes that along Learmonth Street, new built form should be promoted to create an activated urban edge consistent with the desired mixed-use character of the precinct.

23. The intent set out in the above documents is captured by the objectives and development requirements of the Commercial zone in LPS4 (adopted in 2019), as below:
- a) *To provide for a range of shops, offices, restaurants and other commercial outlets in defined town sites or activity centres;*
  - b) *To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades or improve the existing streetscape;*
  - c) *To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality;*
24. Provisions 3.10.3.3 (a) to (d) of LPS4 set out the general development requirements for the Commercial Zone and read as follows:
- a) *Wherever development abuts public areas, including roads and car parks it shall be designed to address the space and establish an 'urban edge' to provide natural surveillance and allow casual interaction between the development and the public space.*
  - b) *Development shall have entries addressing the street through elements such as verandahs or other design features.*
  - c) *Building design shall provide a clear expression of the architectural style envisaged for the overall site including height, colour, texture, external material, roof pitch and character as defined by the Exmouth Town Centre and Foreshore Revitalisation Plan. Buildings must provide one or more of the following elements in the street elevation —*
    - i. *Variation in roof form;*
    - ii. *Horizontal articulation of the façade; and*
    - iii. *Verandas.*
  - d) *Formal modulation shall be sought through placement of windows and openings, balconies and material changes to the street and open spaces.*

Existing and Desired Built Form:

25. The desired built form for this area is double-storey, mixed-use development with an activated ground floor and residential uses on the upper floor. The idea being that an attractive façade is provided, and service areas and parking provided to the rear, or configured to enable vehicles to enter the street in forward gear. Buildings should include multiple building materials and articulation through architecture to make the space interactive and interesting and improve the streetscape.
26. As such, development within this area should be of a permanent nature. Temporary development, such as a food van does not meet the intent of the scheme or the development requirements for the following reasons:
- a) The proposed food van will not establish an 'urban edge' or an interactive and interesting facade. It has a small awning which folds out during operation; however, it does not provide for a permanent element or design feature which addresses the street.
  - b) The proposed food van does not express any architectural style or building design; it does not include any variation in roof form or articulation of the façade (such as verandahs), or a range of building materials.



- c) The proposed food truck does not present any formal modulation (awnings, balconies, entrance points) to the street. When closed it is rectangular in shape and when open has only a small section that folds open.
  - d) The proposal also relies on parking occurring within the front setback area of the lot, rather than being hidden to the rear.
  - e) Whilst the proposal would provide a food outlet within the town site, the food van already operates as a mobile food vendor in town, so it does not result in a new food outlet or increase the diversity of options available in the town.
27. In addition, the proposed food van is not consistent with the existing built form along this section of Learmonth Street. It does not match the existing residential nature of the street and the way the street setback areas are used (predominantly the parking of private vehicles and landscaping).



**Figure 3 – Photo from applicant of proposed food truck in location**

Detrimental Impacts on Amenity

28. Whilst it is acknowledged that other large vehicles may be present on residential lots (i.e. boats and caravans), these are typically parked perpendicular to the street and within the carport, or an enclosed outbuilding, alongside or to the rear of a dwelling/structure. This means that the visual impact of these vehicles is reduced.
29. The proposed food truck differs in that it will be oriented parallel to the street, directly in front of the dwelling and as a result will be a prominent feature on the subject site and along the street.
30. The proposal is likely to result in detrimental amenity impacts for the surrounding properties and street. In particular, officers have concerns relating to vehicular movements.

31. The proposal includes 4 parking bays oriented perpendicular to the street. This results in potential for a number of vehicles to be manoeuvring at any time, with a high turnover of vehicles likely, especially during peak times. Additional vehicles could sprawl onto the footpath and road. The additional vehicle numbers, in combination with reversing movements onto the street, present a traffic hazard noting the short length of the road and public long vehicle parking area to the south.



Photo taken 23/06/23



Photo taken 07/09/23

**Figure 4 – Photos of subject site with up to 7 residential vehicles, and the food van parked onsite**

32. Considering the above, the proposal is considered not to be consistent with the objectives and development requirements of the zone
33. The application was referred to surrounding landowners for comment with two objections being received, raising the following:
- Inconsistency of the proposal with the objectives of the zone;
  - Inconsistency of the proposal with the development requirements for the lot; and
  - Concerns relating to the impact of the proposal on the amenity of the surrounding properties and streetscape, noting impacts on traffic, noise, odour and privacy.

34. The matters raised are discussed further below and a response to all of the items is included in the consultation section of this report.

**Consultation**

35. The application was referred to surrounding landowners seeking public comment for a period of twenty-one (21) days. In closing of the advertising period, 2 submissions were received, both objections.

36. The objections, along with summarised Officer comments are outlined in the table below.

37. The full Schedule of Submissions is included in Attachment 2.

<b>Submitters Response</b>	<b>Officer Comments</b>
<p>My clients have received notification of a development application seeking planning approval for a fast-food outlet at 15 Learmonth Street, Exmouth (subject site).            My clients have several concerns regarding the proposed fast food outlet as follows:</p> <p><u>1. The proposal does not meet the objectives of the LPS4 Commercial zone</u></p> <p>While my clients recognise the commercial zoning of this street and the intent for future development to be commercial/residential mix (C2/R40), there still remains at this point, a surrounding primarily residential amenity. A food van parked and operating from an existing residential property front lawn is not compatible or consistent with the existing residential streetscape and amenity nor consistent with the intent of this zone according to LPS4 Zone objective “ to provide for a range of shops, offices, restaurants...’.</p> <p>The proposed ‘appropriate’ signage for parking direction is also not consistent nor does it compliment the predominant existing residential amenity of this part of Learmonth St.</p> <p><u>2. The proposal does not meet several of LPS4 general development requirements of the Commercial zone</u></p> <p>LPS4 Commercial zone general and Mixed Use zone development requirements are directed at and intended for future development of buildings/structures and their associated uses. This proposal is for a fast food van parked and operating from the subject site containing a dwelling and as such cannot satisfy development requirements in LPS4 Part 3.10.3.3(b), (c), (d). Further, specific development requirements of Mixed Use C2 zone in Part 3.10.3.7 cannot be satisfied.</p> <p><u>3. The proposed parking &amp; hours of operation</u></p> <p>While my clients appreciate the proposed efforts to reduce carparking at the subject site by online ordering and encourage carparking at Thew St, realistically, people will want to park as close as possible to the food van and not walk from Thew St. My clients are concerned the carparking at 12 Learmonth Street will be used due to its proximity especially during the evening hours of operation. The increased traffic flow in the vicinity as a result of the fast food operations will</p>	<p>Officers agree that the proposal is not consistent with objectives for the zone:            The street within which the food truck is proposed, predominantly consists of dwellings with non-conforming use rights. The intended streetscape for the zone is one of double storey, mixed use buildings. The proposed food van is not consistent with either of these built forms. It is not aligned with the current residential nature of the lots but also does not bring the lot closer to the intended architectural style for the area as outlined in the Exmouth Town Centre and Foreshore Revitalisation Plan.</p> <p>Officers are of the view that the proposal will detrimentally effect the amenity of the street. In particular, in relation to traffic flow on the street, access to parking and manoeuvring.</p> <p>Officers agree that the proposed food van is not consistent/compliant with the requirements of Clause 3.10.3.3 (a) – (d). The food van does not present with an architectural style or generate an ‘urban edge’ through appropriate built form. It does not provide an entry statement for the site, have a roof form or contribute a ‘clear expression of architectural style envisaged for the overall site’.</p>

<p>generate increased noise from vehicles and patrons at my clients property boundaries and surrounding areas. This is of great concern to my clients given the proposed night-time hours of operation, there being no noise buffering between these properties and my clients and no visual privacy from these carparks into my clients' property. My clients' property/occupants already suffer a significantly reduced residential amenity from the Froth premises in the form of site noise (drunken patrons, bands) and visual privacy.</p> <p><u>4. No detailed information</u> has been provided as to the holding/disposal of grey water/cooking oils/fats etc, water and electricity supply for the cooking associated with supply of food from the van and unsatisfactory details as to rubbish disposal for the proposed commercial operation separate from the residential site use have been provided.</p> <p>Given the concerns raised above and lack of satisfaction of LPS4 zone objectives and development requirements, my clients are against/not supportive of this proposal.</p>	<p>Officers acknowledge the small likelihood that people will park at Thew Street, over 80m away from the lot and walk to collect their food.</p> <p>It is noted that the applicant has advised the Shire that wastewater is to be disposed of at the local waste facility. They have also noted that rubbish will be placed in the existing residential bins (2) and if this is not enough, an additional bin will be sought. The food van will be plugged into the mains power source at the property.</p>
<p>I refer to the Shire of Exmouth's letter dated 5 July 2023 titled "Notice of Public Advertisement of Planning Proposal' reference number DA55/23 for a proposed Fast Food Outlet at 15 Learmonth St, Exmouth. I write to provide my objections to the Planning Proposal.</p> <p>I understand 15 Learmonth is within a Commercial zone and district 'Mixed Use - C2'. I am concerned about the Planning Proposal and in particular, consider it is inconsistent with the objectives in section 3.10.3.2 of the Shire of Exmouth Local Planning Scheme 4.</p> <p>3.10. 3. 2 The objectives of the Commercial zone are as follows--</p> <ul style="list-style-type: none"> <li>(a) To provide for a range of shops, offices, restaurants and other commercial outlets in defined town sites or activity centres:</li> <li>(b) To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades to improve the existing streetscape:</li> <li>(c) To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.</li> </ul> <p><u>Compatibility with general streetscape:</u></p>	<p>As above, Officers agree that the proposal is not consistent with objectives for the zone.</p>

A large Fast Food Truck at 15 Learmonth completely changes the character of the section of Learmonth. Even if the Truck is set back from the street and is temporary in nature, it is still clearly visible and is not in alignment with the residential streetscape. It is not clear why the owners would seek to operate from a residential area, instead of the nearby business hub.

Detriment to Amenity:

A Fast Food Truck at 15 Learmonth will have numerous detrimental impacts to all the residential properties in the section of Learmonth, including my own, in particular:

Traffic:

I note increased traffic will likely result from the operation of the Fast Food Truck, from commercial supplier vehicles, delivery vehicles and customers.

I am concerned any increase in traffic as a result of people coming to the Fast Food Truck could result in:

- significant traffic hazards;
- increase in traffic volumes; and
- impacts on road safety.

This narrow street serves as a thoroughfare for people accessing the business hub and additional cars parked on Learmonth or reversing from the 4 proposed car bays onto Learmonth, will have an adverse impact on the traffic flow into Maidstone Crescent.

In addition, while I note the Planning Proposal includes 4 parking spaces on 15 Learmonth (which look like they are located on part of the footpath and obstructing pedestrians),

I am concerned that people will park on the verge of neighbouring properties or possibly block driveways, obstructing residents' use of their own property including my own.

I do not consider signage or requesting people use Thew Street would be adequate to deter people.

Noise and Odour Emissions:

I note the Planning Proposal suggests the operation of the Fast Food Truck is unlikely to cause any noise disturbance or odour emissions. This is plainly incorrect. A Fast Food Truck at 15 Learmonth

Officers acknowledge concerns regarding traffic hazards, road safety and adequacy of access.



will increase the current noise levels for the streetscape, both from customers attending the Fast Food Truck and from the business' operations, including before and after opening hours.

Instead of leaving after their purchases, the Fast Food Trucks customers could decide to consume their purchases on 15 Learmonth verge or on the verge of neighbouring properties, including my own. This could lead to a loss of privacy for my property.

I consider the Planning Proposal will cause a significant loss of amenity to my property. I look forward to the Shire deciding to refuse to grant the relevant Planning approval.

Officers acknowledges concerns regarding patrons eating at the site. The applicant has advised that no tables or chairs will be place on the lot, service will be takeaway only.

## Statutory Environment

38. Shire of Local Planning Scheme No.4

39. *Planning and Development (Local Planning Schemes) Regulations 2015*

40. *Planning and Development Act 2005*

## Policy Implications

41. Nil

## Financial Implications

42. Nil

## Risk Management

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational The development may generate unacceptable impacts on the amenity of the area including vehicle movements and streetscape impacts	Likely	Moderate	High	Not support the development.
Reputational Supporting the development could be used to set a precedent for other developments	Likely	Moderate	High	The application has been assessed against the relevant statutory framework. Not supporting the development would uphold the Shires position on the application of the provisions of LPS 4.
Performance The development does not meet the intent of the scheme.	Almost Certain	Major	Extreme	Not approve the development

## Risk Matrix

Consequence \ Likelihood	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (5)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

## Alternate Options

43. Council has the following alternate options in relation to this item:

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

## Strategic Alignment

44. This item is relevant to the Council's approved Strategic Community Plan and Corporate Business Plan 2023 – 2033.

Social | **Nurture a friendly, safe and inclusive community spirit**

1.1 Improve local community and visitor experiences.

1.3 Building Community cohesion and connectedness

Built Environment | **Enable sustainable development and infrastructure that meets the needs of the community, visitors and industry**

3.1 Infrastructure and assets are well-managed and maintained

3.2 Plan and cater for increased population growth

Economy | **Enhance a robust, resilient and diversified economy that champions innovation**



Governance & Leadership	4.2	Establish Exmouth as a vibrant, welcoming and environmentally aware destination
	<b>Foster open, transparent &amp; accountable leadership, working collaboratively and in partnership with our community and stakeholders</b>	
	5.2	Continued focus on transparent, accountable leadership and community stakeholder engagement
	5.3	Council and administration plan and lead with good governance

**Voting Requirements**

Simple Majority

<b>Officers Recommendation</b>	<b>Item 12.2.3</b>
<p>That Council resolves to issue a notice of determination refusing development approval for a fast food outlet at Lot 30 (15) Learmonth Street, Exmouth for the following reasons:</p>	
<ol style="list-style-type: none"> <li>1. The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015:           <ul style="list-style-type: none"> <li>(m) <i>the compatibility of the development with its setting, including —</i> <ul style="list-style-type: none"> <li>(i) <i>the compatibility of the development with the desired future character of its setting; and</i></li> <li>(ii) <i>the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</i></li> </ul> </li> <li>(s) <i>The adequacy of:</i> <ul style="list-style-type: none"> <li>i. <i>the proposed means of access to and egress from the site; and</i></li> <li>ii. <i>arrangements for the loading, unloading, manoeuvring and parking of vehicles;</i></li> </ul> </li> <li>(t) <i>The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;</i></li> </ul> </li> <li>2. The proposal does not comply with the objectives of the Commercial Zone, under Local Planning Scheme No.4 as it is not compatible with the existing or intended streetscape and has a detrimental impact on the amenity of the adjoining owners and residential properties.</li> <li>3. The proposal does not comply with overall development requirement 3.10.3.3 (a) for the Commercial zone as it does not provide an 'urban edge' through appropriate built form.</li> <li>4. The proposal does not comply with overall development requirement 3.10.3.3 (b) as it does not provide for a permanent design element which addresses the street.</li> <li>5. The proposal does not include any variation in roof form, articulation of the façade, or include a veranda as set out in development requirement 3.10.3.3 (c) for the Commercial zone under Local Planning Scheme No.4 and does not provide an expression of architectural style envisaged for the overall site in line with the intent for the development of the area.</li> <li>6. The proposal does not include any formal modulation to the street in accordance with development requirement 3.10.3.3 (d) for the Commercial zone under Local Planning Scheme No.4.</li> </ol>	

**CORPORATE SERVICES**

**12.4.1 FINANCIAL STATEMENT FOR PERIOD ENDING 31 AUGUST 2023**

File Reference	FM.FI.0
Reporting Officer	Manager Finance
Responsible Officer	Executive Manager Corporate Services
Date of Report	12 September 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	1. Monthly Financial Report as at 31 August 2023

**Purpose**

1. That Council accepts the financial report for the financial period ending 31 August 2023.

**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 August 2023, the operating revenue is below target by \$554,000 (7.51%). It mainly relates to the timing of aviation income and the financial assistance grant being paid in advance.
4. Operating expenditure is under budget by \$947,664 (26.07%). Variances are due to the timing of maintenance, operational projects and our software licences. Employee costs are tracking under budget as a result of vacancies.
5. The capital expenditure program is under way and is tracking under budget. Council has expended \$495,379 of the proposed capital budget of \$10.5m. The timing and milestone requirements also impact our capital revenue which is tracking under budget.
6. Rate were levied on 31 July 2023. Rates collected as at 31 August 2023 were 40.3% compared to 17.2% for the same period last year.

**Consultation**

7. Nil

**Statutory Environment**

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

**Policy Implications**

10. Nil

**Financial Implications**

11. Nil

**Risk Management**

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.

**Risk Matrix**

Consequence Likelihood	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
<b>Almost Certain (5)</b>	<b>Moderate (5)</b>	<b>High (10)</b>	<b>High (15)</b>	<b>Extreme (20)</b>	<b>Extreme (25)</b>
<b>Likely (4)</b>	<b>Low (4)</b>	<b>Moderate (8)</b>	<b>High (12)</b>	<b>High (16)</b>	<b>Extreme (20)</b>
<b>Possible (3)</b>	<b>Low (3)</b>	<b>Moderate (5)</b>	<b>Moderate (9)</b>	<b>High (12)</b>	<b>High (15)</b>
<b>Unlikely (2)</b>	<b>Low (2)</b>	<b>Low (4)</b>	<b>Moderate (6)</b>	<b>Moderate (8)</b>	<b>High (10)</b>
<b>Rare (1)</b>	<b>Low (1)</b>	<b>Low (2)</b>	<b>Low (3)</b>	<b>Low (4)</b>	<b>Moderate (5)</b>

**Alternate Options**

12. Nil

**Strategic Alignment**

13. This item is relevant to the Council’s approved Strategic Community Plan and Corporate Business Plan 2023 – 2033.

Governance &  
 Leadership

**Foster open, transparent & accountable leadership, working collaboratively and in partnership with our community and stakeholders**

- 5.1 Forward-thinking leadership for efficient and sustainable operations
- 5.2 Continued focus on transparent, accountable leadership and community stakeholder engagement
- 5.3 Council and administration plan and lead with good governance

**Voting Requirements**

14. Simple Majority

<b>Officers Recommendation</b>	<b>Item 12.4.1</b>
That Council receives the financial report for the financial period ending 31 August 2023.	

## 12.4.2 LIST OF ACCOUNTS FOR PERIOD ENDING 31 AUGUST 2023

File Reference	FM.FI.0
Reporting Officer	Manager Finance
Responsible Officer	Executive Manager Corporate Services
Date of Report	12 September 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	1. List of Accounts for period ending 31 August 2023

### 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 \$1,476,522.02  
Incorporating cheques, direct debits, electronic payments and credit cards.

Trust Fund totalling \$NIL  
Incorporating electronic payments.

Total Payments: \$1,476,522.02

### 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. CS001 (Procurement)
8. CS002 (Regional Price Preference Policy)
9. CS004 (Corporate Transaction Cards)
10. CS008 (Investments)
11. CS012 (Reserve Funds)

**Financial Implications**

12. 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**

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.

**Risk Matrix**

Consequence Likelihood	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (5)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

**Alternate Options**

13. Nil

**Strategic Alignment**

14. This item is relevant to the Council’s approved Strategic Community Plan and Corporate Business Plan 2023 – 2033.

Governance & Leadership	<p><b>Foster open, transparent &amp; accountable leadership, working collaboratively and in partnership with our community and stakeholders</b></p> <p>5.1 Forward-thinking leadership for efficient and sustainable operations</p> <p>5.2 Continued focus on transparent, accountable leadership and community stakeholder engagement</p> <p>5.3 Council and administration plan and lead with good governance</p>
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**Voting Requirements**

15. Simple Majority

<b>Officers Recommendation</b>	<b>Item 12.4.2</b>
That Council receives the report of payments made from the Municipal and Trust bank accounts during the month of August 2023 (totalling \$1,476,522.02).	

**13. Elected Members Motions of which Previous Notice has Been Given**

**14. New Business of an Urgent nature introduced by Decision of Meeting**

**15. Matters to be Considered Behind Closed Doors**

**15.1.1 CHIEF EXECUTIVE OFFICER ANNUAL PERFORMANCE REVIEW**

**15.1.2 EXMOUTH BUSINESS CENTRE – EXMOUTH CHAMBER OF COMMERCE AND  
INDUSTRY LEASE - LOT 863 (22) MAIDSTONE CRESECENT**

**16. Closure of Meeting**