



# Minutes

## Ordinary Council Meeting

25 October 2023

Confirmation of Minutes

I hereby certify that the Minutes and Attachments of the Ordinary Council Meeting held on 25 October 2023 are a true and accurate record of the proceedings contained therein.

A handwritten signature in black ink, appearing to be 'M. H. ...', is written over a horizontal line.

Shire President

A handwritten date '14/12/2023' in black ink is written over a horizontal line.

Date

## 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.

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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.

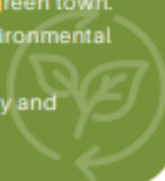
- Increase opportunities for smart and sustainable business ideas.
- Establish Exmouth as a vibrant, welcoming and environmentally aware destination.
- Promote Exmouth as a thriving economy based on its regional strength as a global environmental hotspot.



## 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.



## MINUTES INDEX

1.	DECLARATION OF OPENING AND ANNOUNCEMENTS.....	5
2.	ATTENDANCE, APOLOGIES AND APPROVED LEAVE OF ABSENCE .....	5
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	5
4.	PUBLIC QUESTION TIME .....	5
5.	DECLARATIONS OF INTEREST.....	6
6.	APPLICATIONS FOR LEAVE OF ABSENCE .....	6
8.	ANNOUNCEMENTS/ REPORTS OF ELECTED MEMBERS.....	7
9.	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION .....	7
10.	PETITIONS/ DEPUTATION/PRESENTATIONS/ SUBMISSIONS .....	7
11.	MATTERS ARISING FROM COMMITTEES OF COUNCIL.....	7
12.	REPORTS OF OFFICERS.....	8
7.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS.....	9
12.1.1	AFFIXING COMMON SEAL UNDER DELEGATED AUTHORITY .....	10
12.1.2	SHIRE CHRISTMAS/NEW YEAR CLOSURE .....	13
12.1.3	APPOINT REPRESENTATIVES – INTERNAL COMMITTEE .....	17
12.1.4	APPOINT REPRESENTATIVES TO EXTERNAL COMMITTEES.....	22
12.3.1	CONSIDERATION OF DEVELOPMENT APPLICATION (DA55/23) FAST FOOD OUTLET – LOT 30 (15) LEARMONTH STREET EXMOUTH.....	29
12.3.2	AWARD OF TENDER - RFT 04/2023 DESIGN AND CONSTRUCTION OF SKATEPARK BOWL AND LANDSCAPING .....	43
12.4.1	FINANCIAL STATEMENT FOR PERIOD ENDING 30 SEPTEMBER 2023 .....	47
12.4.2	LIST OF ACCOUNTS FOR PERIOD ENDING 30 SEPTEMBER 2023 .....	49
13.	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	51
14.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING ...	51
15.	MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS.....	51
16.	CLOSURE OF MEETING .....	51

## 1. Declaration of Opening and Announcements

The Shire President declared the meeting open at 4.01pm.

The Shire President welcomed Merome Beard MLA, Shadow Minister for Local Government; Tourism; Commerce; Women's Interest and Tim Niikkula, Justice of the Peace.

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 offence 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 to compile an accurate record of the minutes only; and the recording and will be erased once they are confirmed.

## 2. Attendance, Apologies and Approved Leave of Absence

Shire President M (Mathew) Niikkula

Councillor D (Darlene) Allston

Councillor J (Jackie) Brooks

Councillor D (David) Gillespie

Councillor T (Todd) Bennett

Councillor K (Kristy) Devereux

Mr Ben Lewis

Chief Executive Officer

Mr Chris McNamara

Deputy CEO/Community and Economic Growth

Mr Mike Richardson

Executive Manager Infrastructure Services

Ms Michelle Head

Minute Taker

### Apology

Councillor Elect K (Kai) Broedner

### Invited Guests

Heather Lake

Mark Lucas

Tim Niikkula, Justice of the Peace

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

Nil

## 4. Public Question Time

Public question time opened: 4.02 pm

### Question received from Blake Ladhams

*Will anything be done about improving safety of Reid St., this street is becoming increasingly busier for pedestrians and cyclists during the day and night, there needs to be a proper verge/path laid down to keep pedestrians separated from traffic, at the very least ,especially at night with minimal to no lighting along the stretch from Whalebone brewery to Nimitz St. Solar lighting or more reflective material would be good, maybe a grant would help, let's not wait for an accident.*

Shire response:

The Shire recognises Reid St is a popular route linking Murat Rd to Nimitz St especially for some patrons accessing Whalebone Brewery.

Unfortunately, the upgrade of Reid St to accommodate pedestrians and cyclists is not only problematic but expensive due to the lack of width on the road shoulder, steep road batters through floodway's and inadequate street lighting.

However, Shire staff are investigating an alternative alignment of equal distance linking Patterson St to Nimitz St which would run along Carter Rd and continue on an existing pathway at the back of the old Horizon power station.

Early investigation suggests that this route will be a safer option because of less traffic, wider road reserves and existing street lighting. If this route proves to be a viable project, it can be presented to Council for consideration in a future Shire works program.

A footpath/cycleway along Reid St from Nimitz St to Patterson St is also a possibility as an inclusion in the future Nimitz St residential subdivision.

Question received from Alan Duncan

*Is the shire involved in the 1080 in town?*

No just a warning to community and visitors.

*Why did the shire refuse to put our advertising of the referendum of the general public?*

The Shire President advised the question will be taken on notice.

Public question time closed 4.11pm.

## 5. Declarations of Interest

Nil

## 6. Applications for Leave of Absence

Nil

The Shire President requested Agenda item **7 – Confirmation of Minutes of Previous Meetings** be moved and dealt with after the election of the Deputy Shire President, as per Schedule 2.3 (7)(1) of the *Local Government Act 1995*.

### COUNCIL RESOLUTION

**Res No:** 01-1023

**MOVED:** SP Niikkula

**SECONDED:** Cr Gillespie

**Agenda item 7 – Confirmation of Minutes of Previous Meetings will be moved and dealt with after the election of the Deputy Shire President, as per Schedule 2.3 (7)(1) of the Local Government Act 1995.**

**CARRIED 6/0**

For: SP Niikkula, Cr Allston, Cr Bennett, Cr Brooks, Cr Devereux, Cr Gillespie

**8. Announcements/ Reports of Elected Members**

Councillor Allston	22/09	Triple MMM Interview: Childcare Centre Agenda Item
	4/10	Comments prepared for various press releases including: Horizon Power EV Charging Station. Food Truck Fiesta End-of-Life Support in Exmouth
	6/10	ABC Radio Interview: Beachside Delight Food Truck Fiesta
	18/10	ABC Radio: Kelly Gudgeon Pink Floyd Documentary Eclipse.
	20/10	Attendance at Business News Sector Briefing the Future of Aged Care in WA.
Councillor Brooks	23/10	Local Government Grants Commission Public Hearing
Councillor Gillespie	23/10	Local Government Grants Commission Public Hearing

**9. Announcements by the Presiding Person without Discussion**

The Shire President read the following to the gallery:

*"I would first like to thank and acknowledge the massive 58% involvement from Exmouth voters, in our first "Publicly Elected Presidential Race". It is certainly nice to be back in this chair and I am humbled by the level of faith the community has put in me as the new Shire President.*

*I would like to sincerely thank and congratulate Cr Darlene Allston who has spent the last 2 years in the role. It is a tough gig, and one you have done yourself proud with.*

*To our two newly sworn in members, Cr Bennett and Cr Devereux, Welcome to the team. You have a wild ride ahead, but one that I believe you will get great personal satisfaction through your new role representing your community and making strategic decisions for the town's future.*

*It would be remiss of me to not publicly acknowledge our 2 outgoing Councillors, Heather Lake and Mark Lucas, who have both dedicated the last 6 years of their lives to the Shire. Your selfless time giving and valuable input have been especially appreciated by myself and the rest of the organization. Your knowledge and opinions will be sorely missed at all of our meetings and briefings.*

*I would like to present you both with a Certificate of appreciation from the Shire, acknowledging the outstanding efforts you have made for your community.*

*Now, it is back to work, there is lots to be done, and I am confident that this new look council will work in harmonious and respectful partnership with TEAM EXMOUTH, taking great strides in delivering the best outcomes for our community".*

**10. Petitions/ Deputation/Presentations/ Submissions**

Nil

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

Nil

## 12. Reports of Officers

### ELECTION OF DEPUTY SHIRE PRESIDENT

The Shire President advised the following two nominations were received prior to the meeting for the role of Deputy Shire President:

- Cr Darlene Allston
- Cr Jackie Brooks

The Shire President called for further nominations for the role of Deputy Shire President; no further nominations were received.

The Shire President declared nominations closed, then declared the ballot open.

The Shire President declared the results of the ballot and declared Jackie Brooks the Deputy Shire President.

Results	
Cr Darlene Allston	2 votes
Cr Jackie Brooks	4 votes

Newly elected Deputy Shire President made the Declaration of Office before Justice of the Peace, Mr Tim Niikkula.

#### Form 7

#### Declaration by elected member of council [r. 13(1)(c)]

*Local Government Act 1995  
Local Government (Constitution) Regulations 1998*

#### Declaration by elected member

I Jackie Brooks  
Of 14 Lyf & Emvokk.

having been elected to the office of **Deputy Shire President** of the Shire of Exmouth, declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the code of conduct adopted by the Shire of Exmouth under section 5.104 of the *Local Government Act 1995*.

Declared at Exmouth on <sup>25</sup>23 October 2023

By J Brooks  
Before me Niikkula JP  
**Tim Niikkula JP 4955**



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

That the Minutes and associated attachment of the Ordinary Council Meeting of the Shire of Exmouth held on 21 September 2023 be confirmed as a true and correct record of proceedings.

<b>COUNCIL RESOLUTION</b>	<b>ITEM 7</b>
<b>Res No:</b> 02-1023	
<b>MOVED:</b> Cr Gillespie	
<b>SECONDED:</b> Cr Brooks	
<b>That the Minutes and associated attachments of the Ordinary Council Meeting of the Shire of Exmouth held on 21 September 2023 be confirmed as a true and correct record of proceedings.</b>	
<b>CARRIED 6/0</b>	
For: SP Niikkula, Cr Allston, Cr Bennett, Cr Brooks, Cr Devereux, Cr Gillespie	

**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	11 October 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 21 September 2023.

**Background**

2. There have been three documents that have had the Shire’s common seal affixed under delegated authority since the last Council meeting.

**Comment**

- 3.

Document	Details	Parties
Contract	Purchase and Trade of Wheel Loader	Shire of Exmouth and Porter Equipment Australia Pty Ltd
Deed	Confidentiality Deed	CPB Contractors Pty Ltd and Shire of Exmouth for Department of Defence.
Memorandum of Understanding	Extension – Use of Tulki Meeting Room	Shire of Exmouth and Department of Local Government, Sport and Cultural Industries

**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	Purchase and Trade of Wheel Loader	Shire of Exmouth and Porter Equipment Australia Pty Ltd
Deed	Confidentiality Deed	CPB Contractors Pty Ltd and Shire of Exmouth for Department of Defence.
Memorandum of Understanding	Extension – Use of Tulki Meeting Room	Shire of Exmouth and Department of Local Government, Sport and Cultural Industries

**COUNCIL RESOLUTION**

**ITEM 12.1.1**

**Res No: 03-1023**

**MOVED: Cr Gillespie**

**SECONDED: Cr Brooks**

**That Council ACCEPT that the common seal has been affixed under delegated authority to the following documents:**

<b>Document</b>	<b>Details</b>	<b>Parties</b>
<b>Contract</b>	<b>Purchase and Trade of Wheel Loader</b>	<b>Shire of Exmouth and Porter Equipment Australia Pty Ltd</b>
<b>Deed</b>	<b>Confidentiality Deed</b>	<b>CPB Contractors Pty Ltd and Shire of Exmouth for Department of Defence.</b>
<b>Memorandum of Understanding</b>	<b>Extension – Use of Tulki Meeting Room</b>	<b>Shire of Exmouth and Department of Local Government, Sport and Cultural Industries</b>

**CARRIED by SIMPLE MAJORITY 6/0**

For: SP Niikkula, Cr Allston, Cr Bennett, Cr Brooks, Cr Devereux, Cr Gillespie

## 12.1.2 SHIRE CHRISTMAS/NEW YEAR CLOSURE

File Reference	GV.CM.0
Reporting Officer	Executive Secretary
Responsible Officer	Chief Executive Officer
Date of Report	11 October 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	Nil

### Purpose

1. That Council consider the closing period for Shire departments during the annual Christmas and New Year period.

### Background

2. In previous years Council has resolved to close the Shire Office over the Christmas and New Year period. Shire staff will take annual or accumulated leave for the days on which the office is closed.
3. This year, the days in question are Wednesday, 27 December, Thursday, 28 December and Friday, 29 December 2023.
4. Generally, the town is very quiet at this time of the year, and previous closure periods of this nature have not been an inconvenience to the community. A senior officer of the Shire will be in town during this period should an emergency arise.
5. It is anticipated that the Shire Administration Office, Ningaloo Centre and Depot will be closed from 2.00 pm Friday, 22 December 2023.

### Comment

6. The following table identifies the specific dates Shire departments will be closed during the Christmas period.

Day/Date	Shire Office	Ningaloo Visitors Centre	Library	Swimming Pool	Waste Facility	Depot	Airport
Fri - 22/12	8.30 – 2.00	8.30 – 2.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	8.00 – 2.00	Normal operating hours will apply during this period.
Sat - 23/12	CLOSED	CLOSED	CLOSED	12.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Sun - 24/12	CLOSED	CLOSED	CLOSED	12.00 – 6.00	CLOSED	CLOSED	
Mon - 25/12*	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	
Tue - 26/12*	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	
Wed - 27/12	CLOSED	8.30 – 1.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Thu - 28/12	CLOSED	8.30 – 1.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Fri - 29/12	CLOSED	8.30 – 1.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Sat - 30/12	CLOSED	8.30 – 1.00	CLOSED	12.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Sun - 31/12	CLOSED	CLOSED	CLOSED	12.00 – 6.00	CLOSED	CLOSED	
Mon - 01/01*	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	
Tue - 02/01	All departments return to normal operating hours.						

(\* denotes a Public holiday)

- No early morning swimming (6 am –7.30 am) Wed 27/12 or Fri 29/12
- Minimal depot staff will continue to operate during this time, including Amenities Officer and Rubbish Truck driver, who will run as normal.

### Consultation

7. Executive Management Team

### Statutory Environment

8. Nil

### Policy Implications

9. Nil

### Financial Implications

10. Nil

### Risk Management

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Service Interruption	Almost certain	Minor	High	A senior staff member in town and contactable. Skelton depot crew for town amenities and waste collection.
Financial Impact	Almost Certain	Minor	High	Reviewed previous years' income vs expenses while being open during this period is insignificant.

### 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

11. The Shire Offices only close for the public holidays, Monday 25 December 2023, Tuesday 26 December 2023 and Monday 1 January 2024.

### Strategic Alignment

12. 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

13. Simple Majority

**Officers Recommendation**

**Item 12.1.2**

That Council APPROVE the closing period for Shire departments during the annual Christmas and New Year period as listed below:

Day/Date	Shire Office	Ningaloo Visitors Centre	Library	Swimming Pool	Waste Facility	Depot	Airport
Fri - 22/12	8.30 – 2.00	8.30 – 2.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	8.00 – 2.00	Normal operating hours will apply during this period.
Sat - 23/12	CLOSED	CLOSED	CLOSED	12.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Sun - 24/12	CLOSED	CLOSED	CLOSED	12.00 – 6.00	CLOSED	CLOSED	
Mon - 25/12*	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	
Tue - 26/12*	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	
Wed - 27/12	CLOSED	8.30 – 1.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Thu - 28/12	CLOSED	8.30 – 1.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Fri - 29/12	CLOSED	8.30 – 1.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Sat - 30/12	CLOSED	8.30 – 1.00	CLOSED	12.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Sun - 31/12	CLOSED	CLOSED	CLOSED	12.00 – 6.00	CLOSED	CLOSED	
Mon - 01/01*	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	
Tue - 02/01	All departments return to normal operating hours.						

(\* denotes a Public holiday)

**COUNCIL RESOLUTION**

**ITEM 12.1.2**

**Res No: 04-1023**

**MOVED: Cr Gillespie**

**SECONDED: Cr Devereux**

That Council APPROVE the closing period for Shire departments during the annual Christmas and New Year period as listed below:

Day/Date	Shire Office	Ningaloo Visitors Centre	Library	Swimming Pool	Waste Facility	Depot	Airport
Fri - 22/12	8.30 – 2.00	8.30 – 2.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	8.00 – 2.00	Normal operating hours will apply during this period.
Sat - 23/12	CLOSED	CLOSED	CLOSED	12.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Sun - 24/12	CLOSED	CLOSED	CLOSED	12.00 – 6.00	CLOSED	CLOSED	
Mon - 25/12*	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	
Tue - 26/12*	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	CLOSED	
Wed - 27/12	CLOSED	8.30 – 1.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	
Thu - 28/12	CLOSED	8.30 – 1.00	CLOSED	11.00 – 6.00	8.00 – 12.00 1.00 – 3.00	CLOSED	

<b>Fri - 29/12</b>	<b>CLOSED</b>	<b>8.30 – 1.00</b>	<b>CLOSED</b>	<b>11.00 – 6.00</b>	<b>8.00 – 12.00 1.00 – 3.00</b>	<b>CLOSED</b>	
<b>Sat - 30/12</b>	<b>CLOSED</b>	<b>8.30 – 1.00</b>	<b>CLOSED</b>	<b>12.00 – 6.00</b>	<b>8.00 – 12.00 1.00 – 3.00</b>	<b>CLOSED</b>	
<b>Sun - 31/12</b>	<b>CLOSED</b>	<b>CLOSED</b>	<b>CLOSED</b>	<b>12.00 – 6.00</b>	<b>CLOSED</b>	<b>CLOSED</b>	
<b>Mon - 01/01*</b>	<b>CLOSED</b>	<b>CLOSED</b>	<b>CLOSED</b>	<b>CLOSED</b>	<b>CLOSED</b>	<b>CLOSED</b>	
<b>Tue - 02/01</b>	<b>All departments return to normal operating hours.</b>						

(\* denotes a Public holiday)

**CARRIED by SIMPLE MAJORITY 6/0**

For: SP Niikkula, Cr Allston, Cr Bennett, Cr Brooks, Cr Devereux, Cr Gillespie



### 12.1.3 APPOINT REPRESENTATIVES – INTERNAL COMMITTEE

File Reference	GV.CM.0
Reporting Officer	Executive Secretary
Responsible Officer	Chief Executive Officer
Date of Report	9 October 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	1. Terms of Reference – Audit Committee

#### Purpose

1. That Council:
  - a) Revoke Council decision 06-1021 from the Special Council Meeting held 21 October 2019 - *Appoint Representative to Internal Committee*; and
  - b) Authorise the appointment of Councillors as representatives to the Shire of Exmouth Audit committee.

#### Background

2. The *Local Government Act 1995* Section 5.8, 5.9 and 5.10 empowers Council to establish committees and elect persons to serve on those committees.
3. Previously Council passed the following resolution at the Special Council Meeting held 19 October 2021 held, Council Decision 06-1021:

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#### **COUNCIL RESOLUTION**

**ITEM 12.1.2**

**Res No: 06-1021**

#### ***That the Council:***

- 1. Revoke Council decision 01-1019 from the Special Council Meeting held 21 October 2019 - Appoint Representative to Internal Committee; and***
- 2. Appoint the following Councillors to the following Shire of Exmouth Committees:***
  - a) Audit Committee***
    - ***Cr Lucas***
    - ***Cr Gillespie***
    - ***Cr Brooks***
    - ***Proxy - Cr McCarrol***
  - b) Chief Executive Officer Performance Review Committee***
    - ***Shire President Allston***
    - ***Cr Lake***
    - ***Cr Gillespie***
    - ***Proxy - Cr Brooks***
  - c) Ningaloo Tourism Advisory Group Committee***
    - ***Shire President or nominee – Cr Lucas***
    - ***Proxy - Cr McCarrol***

## Comment

4. In accordance with provisions of section 5.8 & 5.9 of the *Local Government Act 1995* Council establishes the following committees, comprising of 3 or more representatives. Each Committee is to comprise of members from a number of combinations including council members, employees and other persons.

a) Audit Committee

The Audit Committee's role in accordance with Regulation 16 of the *Local Government (Audit) Regulations 1996* (the Regulations) is to provide assistance and guidance to Council on the discharge of its duties under Part 6 of the *Local Government Act 1995*.

The Audit Committee assists Council to monitor the integrity of the Shire's financial reporting, external audit, risk management, internal controls and compliance with legislative requirements.

At least three of the members, and the majority of the members are to be elected members.

b) CEO Performance Review Committee

The Committee is established to fulfil the following functions:

- Undertake an annual assessment of the CEO's performance in accordance with the provisions of the CEO's contract of employment as well as relevant statutory requirements;
- In conjunction with the CEO, develop key performance indicators deliver Council's key strategic priorities including those reflected in the Shire's Corporate Business Plan;
- Review the CEO's Total Reward Package annually and make recommendations to Council in relation to remuneration in accordance with the relevant terms of the contract of employment, taking into consideration the CEO's performance, the existing level of remuneration, and the applicable Salaries and Allowances Tribunal Determination;
- Provide positive communication opportunities between Council and the CEO; and
- Provide guidance to Council in assessing the CEO's performance.

It is noted that no selection of members is required as all Councillors will become members of this Committee.

## Consultation

5. Executive Management Team

## Statutory Environment

6. *Local Government Act 1995*

5.8. Establishment of committees

*A local government may establish\* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees*

5.9. Committees, types of

(1) *In this section —*

**other person** means a person who is not a council member or an employee.

(2) *A committee is to comprise —*

- (a) *council members only; or*
- (b) *council members and employees; or*
- (c) *council members, employees and other persons; or*

- (d) *council members and other persons; or*
- (e) *employees and other persons; or*
- (f) *other persons only*

5.10 Committee members, appointment of

(1) *A committee is to have as its members —*

- (a) *persons appointed\* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
- (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

*\* Absolute majority required.*

(2) *At any given time each council member is entitled to be a member of at least one committee referred to in [section 5.9\(2\)\(a\)](#) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*

(3) *[Section 52](#) of the [Interpretation Act 1984](#) applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under [section 52\(1\)](#) of that Act can only be exercised on the decision of an absolute majority of the council.*

(4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*

(5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*

- (a) *to be a member of the committee; or*
- (b) *that a representative of the CEO be a member of the committee, the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.*

7. *Local Government (Audit) Regulations 1996 Regulation 16*

16. Functions of audit committee

An audit committee has the following functions —

- (a) to guide and assist the local government in carrying out —
  - (i) its functions under Part 6 of the Act; and
  - (ii) its functions relating to other audits and other matters related to financial management;
- (b) to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act;
- (c) to review a report given to it by the CEO under regulation 17(3) (the **CEO's report**) and is to —
  - (i) report to the council the results of that review; and
  - (ii) give a copy of the CEO's report to the council;
- (d) to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under —
  - (i) regulation 17(1); and
  - (ii) the *Local Government (Financial Management) Regulations 1996* regulation 5(2)(c);

- (e) to support the auditor of the local government to conduct an audit and carry out the auditor’s other duties under the Act in respect of the local government;
- (f) to oversee the implementation of any action that the local government —
  - (i) is required to take by section 7.12A(3); and
  - (ii) has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and
  - (iii) has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and
  - (iv) has accepted should be taken following receipt of a report of a review conducted under the *Local Government (Financial Management) Regulations 1996* regulation 5(2)(c);
- (g) to perform any other function conferred on the audit committee by these regulations or another written law.

### Policy Implications

8. Nil

### Financial Implications

9. Nil

### Risk Management

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Council fails to appoint elected members to Committees of Council preventing committees performing required purposes.	Unlikely	Minor	Moderate	Council agree to the appointment of the required number of elected members to each Committees of Council.

### 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

10. Nil

### Strategic Alignment

11. 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

12. Absolute Majority

**Officers Recommendation**

**Item 12.1.3**

That the Council:

1. Revoke Council decision 06-1021 from the Special Council Meeting held 21 October 2019 - *Appoint Representative to Internal Committees*; and
  - a) Appoint the following Councillors to the following Shire of Exmouth Audit Committee
    - Cr Gillespie
    - Cr Bennett
    - Cr Brooks
    - Proxy Cr Devereux

**COUNCIL RESOLUTION**

**ITEM 12.1.3**

**Res No: 05-1023**

**MOVED: Cr Gillespie**

**SECONDED: Cr Allston**

**That the Council:**

1. **Revoke Council decision 06-1021 from the Special Council Meeting held 21 October 2019 - *Appoint Representative to Internal Committees*; and**
  - a) **Appoint the following Councillors to the following Shire of Exmouth Audit Committee**
    - **Cr Gillespie**
    - **Cr Bennett**
    - **Cr Brooks**
    - **Proxy Cr Devereux**

**CARRIED by ABSOLUTE MAJORITY 6/0**

For: SP Niikkula, Cr Allston, Cr Bennett, Cr Brooks, Cr Devereux, Cr Gillespie

## 12.1.4 APPOINT REPRESENTATIVES TO EXTERNAL COMMITTEES

File Reference	GV.CM.0
Reporting Officer	Executive Secretary
Responsible Officer	Chief Executive Officer
Date of Report	1 October 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	1. Elected Member Prospectus – Becoming a Zone Delegate or State Councillor 2. Gascoyne Regional Road Group – Reference Information for Elected Members on a Regional Road Group 3. Terms of Reference – North West Defence Alliance

### Purpose

That Council:

1. Revoke Council decision 07-1021 from the Special Council Meeting held 21 October 2019 - *Appoint Representative to External Committees*; and
2. Authorise the appointment of Councillors as representatives to the Shire of Exmouth external committees to exercise the power and discharge the duties of the local government:
  - WALGA Zone Regional Committee and Regional Road Group Meeting,
  - Development Assessment Panel (DAPS) and
  - North West Defence Alliance Committee.

### Background

3. The *Local Government Act 1995* Section 5.8, 5.9 and 5.10 empowers Council to establish committees and elect persons to serve on those committees.
4. Previously Council passed the following resolution at the Special Council Meeting held 19 October 2021 held, Council Decision 07-1021:

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### **COUNCIL RESOLUTION**

**ITEM 12.1.3**

**Res No: 07-1021**

#### ***That the Council:***

1. ***Revoke Council decision 02-1019 from the Ordinary Council Meeting held 21 October 2019 - Appoint Representative to External Committees; and***
2. ***Authorise the appointment of the following councillors to be appointed as representative for the Shire of Exmouth on the following Committees.***
  - a) ***WALGA Zone Regional Committees and the Regional Road Group Meeting***

***That the Council of the Shire of Exmouth:***

- i. ***In accordance with provisions of Sections 5.8 of the Local Government Act 1995 establishes a WALGA Gascoyne Zone and Regional Road Group Committee;***
- ii. ***In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors and Staff;***
- iii. ***In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall have the Chief Executive Officer and the following Councillors as its members:***

***WALGA Gascoyne Zone Meeting***

***Member: Cr McCarrol***

***Proxy: Cr Brooks***

***WALGA Regional Road Group Meeting***

***Member: Cr McCarrol***

***Proxy: Cr Brooks***

**b) Development Assessment Panels (DAPS)**

***That the Council of the Shire of Exmouth:***

- i. ***In accordance with provisions of Sections 5.8 of the Local Government Act 1995 establishes a Development Assessment Panel (DAPS);***
- ii. ***In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors;***
- iii. ***In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall have as its members the following Councillors:***

***Member 1: Cr Lucas***

***Member 2: Cr Lake***

***Proxy 1: Cr Gillespie***

***Proxy 2: Cr McCarrol***

***CARRIED by ABSOLUTE MAJORITY 6/0***

**Comment**

5. Councillors and Officers are required to be appointed as representatives for the Shire of Exmouth on the following external committees:

a) WALGA Zone Regional Committee and the Regional Road Group Meeting

The WA Local Government Association (WALGA) is working for Local Government in Western Australia. As the peak industry body, WALGA advocates on behalf of 138 WA Local Governments and negotiates service agreements for the sector. WALGA is not a government department or agency.

The WA Local Government Association was formed on 6 December 2001 to provide a truly representative and united voice for Local Government in WA. Prior to this, a number of membership-based representative structures existed to represent Local Government in WA.

The WALGA operational structure is comprised of a number of internal business units who undertaken either policy and advocacy work on behalf of the Local Government sector or offer services to assist Local Governments to perform their duties.

Our Governance structure comprises of our State Council and Zones. The structure of WALGA is designed to ensure we remain representative of our Member Councils. The structure also enables us to work efficiently and effectively in meeting our goals.

The WALGA operational structure is comprised of a number of internal business units who undertake both policy and advocacy work on behalf of the Local Government sector or offer services to assist Local Governments to perform their duties.

WALGA State Council is the decision-making representative body of all Member Councils, who are responsible for sector-wide policy making and strategic planning on behalf of Local Government.

Zones are groups of geographically aligned Member Councils who are responsible for direct elections of State Councillors, providing input into policy formulation and providing advice on various matters.

b) Development Assessment Panels (DAPS)

As a key component of planning reform in Western Australia, Development Assessment Panels (DAPs) are intended to enhance planning expertise in decision making by improving the balance between technical advice and local knowledge.

Each DAP consists of five panel members, three being specialist members and two local government Councillors.

Local representation is a vital component of the DAP. Two Councillors will be local members and two deputy local members to be called on if an issue of quorum arises. The Minister will appoint the local government representative in accordance with the local government's nomination.

Under the DAP regulations, each DAP will determine development applications that meet set type and value thresholds as if it were the responsible authority under the relevant planning instrument, such as the local planning scheme or region planning scheme. The DAP regulations state that DAP applications cannot be determined by local government or the Western Australian Planning Commission (WAPC).

The role of DAP members is to determine development applications within a certain type and value threshold through consistent, accountable, and professional decision-making.

A Mandatory DAP application is type of development application for the approval of a development outside the City of Perth with an estimated value of \$10 million or more.



c) North West Defence Alliance Committee

The North West Defence Alliance Committee is represented by nine local governments (eight with coastlines on the Indian Ocean) between the Shires of Exmouth in the south and Wyndham/East Kimberley in the north.

These local governments are in agreement that an alliance would assist in lobbying the Federal and State Governments to increase their investment in defence-related infrastructure and personnel in the northern half of Western Australia.

The Alliance will be represented by two members from each local government which shall nominally include the CEO and generally but not necessarily the Mayor/Shire President or otherwise a councillor. Councils are encouraged to have a second councillor to act as proxy where necessary.

Each local government will have only one vote<sup>1</sup>.

### Consultation

6. Western Australian Local Government Association
7. Development Assessment Panels
8. North West Defence Alliance

### Statutory Environment

9. *Local Government Act 1995*

5.8. Establishment of committees

*A local government may establish\* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees*

5.9. Committees, types of

(1) *In this section —*

**other person** means a person who is not a council member or an employee.

(2) *A committee is to comprise —*

- (a) *council members only; or*
- (b) *council members and employees; or*
- (c) *council members, employees and other persons; or*
- (d) *council members and other persons; or*
- (e) *employees and other persons; or*
- (f) *other persons only*

5.10 Committee members, appointment of

(1) *A committee is to have as its members —*

- (a) *persons appointed\* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
- (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

*\* Absolute majority required.*

(2) *At any given time each council member is entitled to be a member of at least one committee referred to in [section 5.9\(2\)\(a\)](#) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council*

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<sup>1</sup> North West Defence Alliance Terms of Reference

member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.

(3) [Section 52](#) of the [Interpretation Act 1984](#) applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under [section 52\(1\)](#) of that Act can only be exercised on the decision of an absolute majority of the council.

(4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.

(5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —

(a) to be a member of the committee; or

(b) that a representative of the CEO be a member of the committee, the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

#### 10. Local Government (Administration) Regulations 1996 Reg 12(1)(2)

(1) In this regulation —

**meeting details**, for a meeting, means the date and time when, and the place where, the meeting is to be held.

(2) The CEO must publish on the local government's official website the meeting details for the following meetings before the beginning of the year in which the meetings are to be held —

(a) ordinary council meetings;

### Policy Implications

11. Nil

### Financial Implications

12. Nil

### Risk Management

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Council fails to appoint elected members to external committees reducing Exmouth's ability to benefit for these activities and creating reputational damage the Shire.	Unlikely	Minor	Low	Council agree to the appointment of the required number of elected members to each external committee.

#### 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	<b>Foster open, transparent &amp; accountable leadership, working collaboratively and in partnership with our community and stakeholders</b>
	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

15. Absolute Majority

### Officers Recommendation

### Item 12.1.4

That the Council:

1. Revoke Council decision 07-1021 from the Ordinary Council Meeting held 19 October 2021- *Appoint Representative to External Committees*; and
2. Authorise the appointment of the following Councillors to be appointed as representative for the Shire of Exmouth on the following Committees:
  - a) WALGA Zone Regional Committees and the Regional Road Group Meeting  
WALGA Gascoyne Zone Meeting  
Member: Shire President Niikkula  
Proxy: Cr Brooks  
  
Regional Road Group Meeting  
Member: Shire President Niikkula  
Proxy: Cr Brooks
  - b) Development Assessment Panels (DAPS)  
Member 1: Cr Devereux  
Member 2: Cr Gillespie  
  
Proxy 1: Cr Bennett  
Proxy 2: Cr Brooks
  - c) North West Defence Alliance  
Member 1: Shire President Niikkula  
Proxy 1: Cr Gillespie

**COUNCIL RESOLUTION**

**ITEM 12.1.4**

**Res No: 06-1023**

**MOVED: Cr Gillespie**

**SECONDED: Cr Allston**

**That the Council:**

**1. Revoke Council decision 07-1021 from the Ordinary Council Meeting held 19 October 2021- *Appoint Representative to External Committees*; and**

**2. Authorise the appointment of the following Councillors to be appointed as representative for the Shire of Exmouth on the following Committees:**

**a) WALGA Zone Regional Committees and the Regional Road Group Meeting**

**WALGA Gascoyne Zone Meeting**

**Member: Shire President Niikkula**

**Proxy: Cr Brooks**

**Regional Road Group Meeting**

**Member: Shire President Niikkula**

**Proxy: Cr Brooks**

**b) Development Assessment Panels (DAPS)**

**Member 1: Cr Devereux**

**Member 2: Cr Gillespie**

**Proxy 1: Cr Bennett**

**Proxy 2: Cr Brooks**

**c) North West Defence Alliance**

**Member 1: Shire President Niikkula**

**Proxy 1: Cr Gillespie**

**CARRIED by ABSOLUTE MAJORITY 6/0**

For: SP Niikkula, Cr Allston, Cr Bennett, Cr Brooks, Cr Devereux, Cr Gillespie

## COMMUNITY AND ECONOMIC ENGAGEMENT

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

File Reference	A531 (DA55/23)
Reporting Officer	Senior Planning Officer
Responsible Officer	Deputy CEO – Community and Economic Growth
Date of Report	16 October 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. This application was sent to the Shires previous 21 September 2023 Ordinary Council Meeting (item 12.3.3, Resolution No:06-0923), where Council resolved:

***To defer the decision on this application until the next council meeting to allow for further consultation between the two parties.***

4. Shire Officers met with the proponents to discuss and explore options, this included changing the business model to deliveries only (no customer attendance on site) and relocating the food van to behind the residence with screening in front. This would address the Shire Officers concerns with parking and the built form.
5. Administratively, Council resolved to lay the item on the table to allow for further discussion between the proponent and Shire Officers and therefore Council is yet to determine that same application. Procedurally this does not allow the item to be amended, as such Council will need to determine the application based on the current information provided. This will enable the pending matter to be closed off from Council's perspective. If the application is refused, the proponents can then lodge a new application with the agreed changes (alternative location for the food van and deliveries only etc) which may not require Council consideration.
6. 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.
7. The subject site has an existing single house on the lot. The Shire understands non-conforming use rights apply to the existing single house.
8. The subject site is zoned 'Commercial – C2' under the Shire of Exmouth Local Planning Scheme No.4 (LPS4).
9. The propose food van is classified as "development" under the *Planning and Development Act 2005* and requires an application for planning (development) approval.
10. The proposal is not considered to be consistent with the objectives and development requirements of the zone.
11. The application was advertised to surrounding landowners for comment. A total of 2 submissions were received during the advertising period, both raising objections.
12. As a result of the objections received the application is required to be determined by Council.

### **Comment**

#### Description of the site and existing context

13. The current built form along the street is predominantly single storey dwellings. The dwellings along this street, where lawful, have non-conforming use rights.
14. 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.
15. 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.
16. The proposed Fast Food Outlet, being a food van, does not meet the requirements of a commercial development.

17. 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.
18. 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.
19. 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.
20. 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.

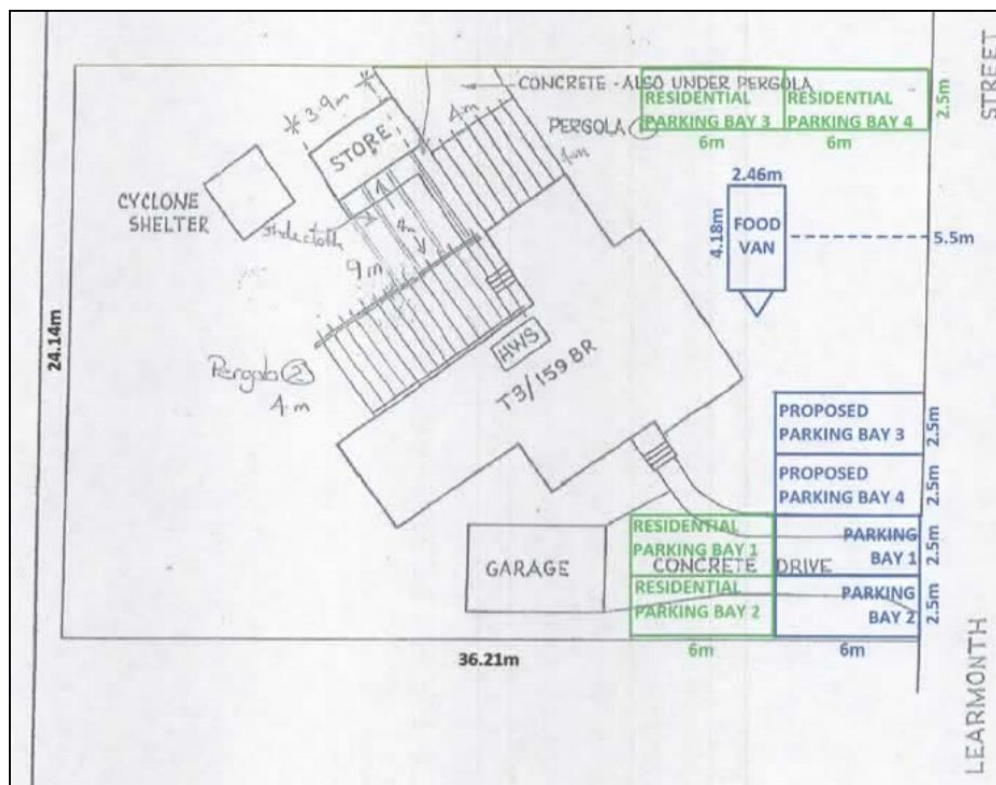


Figure 2 – Site Plan

21. 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.
22. 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.
23. 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.

24. 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

25. 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.'*
26. 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.
27. 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;*
28. 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:

29. 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.

30. 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.
31. 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

32. 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.
33. 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.
34. 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.
35. 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**

36. Considering the above, the proposal is considered not to be consistent with the objectives and development requirements of the zone
37. The application was referred to surrounding landowners for comment with two objections being received during the advertising period, 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.
38. 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**

39. 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.
40. Three late “do not object” submissions were received after the September Ordinary Council meeting and more than 2 months after the initial advertising period. Accordingly, the submissions are noted, however do not carry any weight in the decision-making process.
41. The objections, along with summarised Officer comments are outlined in the table below.
42. 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**

- 43. Shire of Local Planning Scheme No.4
- 44. *Planning and Development (Local Planning Schemes) Regulations 2015*
- 45. *Planning and Development Act 2005*

**Policy Implications**

46. Nil

**Financial Implications**

47. 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**

48. 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**

49. 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>
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	<b>Enhance a robust, resilient and diversified economy that champions innovation</b> 4.2 Establish Exmouth as a vibrant, welcoming and environmentally aware destination
Governance & Leadership	<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

50. Simple Majority

Officers Recommendation	Item 12.3.1
	<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 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>:<ol style="list-style-type: none"><li>(m) <i>the compatibility of the development with its setting, including —</i><ol 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></ol></li><li>(s) <i>The adequacy of:</i><ol 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></ol></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></ol></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> <p>AND</p> <ol style="list-style-type: none"><li>7. Recommend to the proponent that they lodge a new amended application for consideration addressing the parking and built form concerns.</li></ol>

**COUNCIL RESOLUTION**

**ITEM 12.3.1**

**Res No: 07-1023**

**MOVED: Cr Gillespie**

**SECONDED: Cr Allston**

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:

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*:

*(m) the compatibility of the development with its setting, including —*

*(i) the compatibility of the development with the desired future character of its setting; and*

*(ii) 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;*

*(s) The adequacy of:*

*i. the proposed means of access to and egress from the site; and*

*ii. arrangements for the loading, unloading, manoeuvring and parking of vehicles;*

*(t) 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;*

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.

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.

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.

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.

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.

**AND**

7. Recommend to the proponent that they lodge a new amended application for consideration addressing the parking and built form concerns.

**CARRIED by SIMPLE MAJORITY 6/0**

For: SP Niikkula, Cr Allston, Cr Bennett, Cr Brooks, Cr Devereux, Cr Gillespie

### 12.3.2 AWARD OF TENDER - RFT 04/2023 DESIGN AND CONSTRUCTION OF SKATEPARK BOWL AND LANDSCAPING

File Reference	CM.TE.04.2023
Reporting Officer	Community Development Officer
Responsible Officer	Deputy CEO/Commercial and Economic Growth
Date of Report	17 October 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	1. CONFIDENTIAL - RFT 04/2023 Recommendation Report

#### Purpose

1. That Council approve to
  - a) award RFT 04/2023 – Design and Construction of Skatepark Bowl and Landscaping to CONVIC PTY LTD for the amount of \$397,916.72 (ex gst).
  - b) Amend the project budget for 2023/24 financial year to \$625,000 (ex gst).
  - c) Approve the allocation of \$171,000 (ex gst) from the Community Development Reserve to complete the project that includes the Skate Park development.

#### Background

2. The Youth Precinct project was to be completed in 3 stages over a number of years as a result of the funding requirements for external funding and Council's contributions.
3. The three stages were designed to be as follows:
  - Stage 1 – Nature Play and Outdoor Fitness
  - Stage 2 – Reconstruction of the cricket nets and refurbishment of the Basketball half court.
  - Stage 3 – Completion of the skate bowl, landscaping and minor lighting.
4. Stages 1 and 2 have now been completed and these stages were partly funded through Santos Community Sponsorship.
5. The Request for Tender for stage 3, being the Design and Construction of Skate Park Bowl and Landscaping closed on 6 September 2023.
6. The Shire of Exmouth was successful in securing Lotterywest funding for the amount of \$300,000 to assist complete stage 3 of the Youth Precinct Project.

#### Comment

7. Stage 1 works were completed in the 21/22 financial year. Stage 2 works were scheduled to be completed in the 22/23 financial year. However, the works were delayed in commencement and as such were undertaken and completed in the 23/24 financial year.
8. As part of the budget adoption, council resolved to allocate \$430,000 to complete Stage 3 works, however with the delay of stage 2, the capital project budget will need to be increased to \$625,000 to complete stages 2 and 3 in the current financial year.
9. Total project costs for the Youth Precinct Development including works completed in prior financial years are:

PROJECT YEAR	EXPENDITURE ITEM	\$
21/22	Nature Playground and Outdoor Fitness Equipment	\$ 124,000.00
22/23	Development of grant applications	\$ 3,000.00
23/24	2023 Project Costs Youth Precinct (including skate park, cricket nets, basketball court)	\$ 625,000.00
<b>TOTAL PROJECT COSTS</b>		<b>\$ 752,000.00</b>

INCOME YEAR	INCOME SOURCE	\$
20/21	SANTOS	\$ 165,000.00
21/22	SANTOS	\$ 65,000.00
22/23	SANTOS	\$ 20,000.00
22/23	Shire of Exmouth General Revenue	\$ 7,000.00
22/23	DLGSC-CSRFF Small Grants	\$ 19,000.00
22/23	Lotterywest	\$ 300,000.00
22/23	Exmouth Cricket Association	\$ 5,000.00
22/23	Shire of Exmouth Reserve	\$ 171,000.00
<b>TOTAL PROJECT INCOME</b>		<b>\$ 752,000.00</b>

### Consultation

10. Nil

### Statutory Environment

11. *Local Government Act 1995*

#### s6.8 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.

\* Absolute majority required.

### Policy Implications

12. Council Policy - CS012 Reserve Funds

### Financial Implications

13. Community Development Fund Reserve balance as of 5 October 2023 is \$946,644

### Risk Management

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Financial Loss of funding from Santos and Lotterywest due to not completing the project	Likely	Major	High	Transfer balance from reserve to complete the project
Reputational Loss of relationship with funding partners	Possible	Minor	Moderate	Complete the project as outlined to funding partners

**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**

14. Nil

**Strategic Alignment**

15. 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>1.2 Ensure a full suite of services to meet the needs of families and individuals at all ages and stages of life</p> <p>1.3 Building Community cohesion and connectedness</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>

**Voting Requirements**

16. Absolute Majority

<b>Officers Recommendation</b>	<b>Item 12.3.2</b>												
That Council APPROVE:													
<ol style="list-style-type: none"> <li>To award RFT 04/2023 – Design and Construction of Skatepark Bowl and Landscaping to CONVIC PTY LTD for the amount of \$397,916.72 (ex gst), and</li> <li>\$171,000 (ex gst) to be allocated from the Community Development Reserve to complete the project that includes the Skate Park development, and</li> <li>Amend the capital projects budget for the Youth Precinct – Skate Park to \$625,000 (ex gst).</li> </ol>													
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #4F81BD; color: white;">Department</th> <th style="background-color: #4F81BD; color: white;">Project Name</th> <th style="background-color: #4F81BD; color: white;">Budgeted Project Cost</th> <th style="background-color: #4F81BD; color: white;">Grants &amp; Contributions</th> <th style="background-color: #4F81BD; color: white;">Reserve Transfer</th> <th style="background-color: #4F81BD; color: white;">General Revenue</th> </tr> </thead> <tbody> <tr> <td>Community &amp; Economic Growth</td> <td>Youth Precinct - Skate Park</td> <td style="text-align: center;">625,000</td> <td style="text-align: center;">447,000</td> <td style="text-align: center;">171,000</td> <td style="text-align: center;">7,000</td> </tr> </tbody> </table>		Department	Project Name	Budgeted Project Cost	Grants & Contributions	Reserve Transfer	General Revenue	Community & Economic Growth	Youth Precinct - Skate Park	625,000	447,000	171,000	7,000
Department	Project Name	Budgeted Project Cost	Grants & Contributions	Reserve Transfer	General Revenue								
Community & Economic Growth	Youth Precinct - Skate Park	625,000	447,000	171,000	7,000								

**COUNCIL RESOLUTION**

**ITEM 12.3.2**

**Res No: 08-1023**

**MOVED: Cr Gillespie**  
**SECONDED: Cr Bennett**

**That Council APPROVE:**

- 1. To award RFT 04/2023 – Design and Construction of Skatepark Bowl and Landscaping to CONVIC PTY LTD for the amount of \$397,916.72 (ex gst), and**
- 2. \$171,000 (ex gst) to be allocated from the Community Development Reserve to complete the project that includes the Skate Park development, and**
- 3. Amend the capital projects budget for the Youth Precinct – Skate Park to \$625,000 (ex gst).**

Department	Project Name	Budgeted Project Cost	Grants & Contributions	Reserve Transfer	General Revenue
Community & Economic Growth	Youth Precinct - Skate Park	625,000	447,000	171,000	7,000

**CARRIED by ABSOLUTE MAJORITY 6/0**

For: SP Niikkula, Cr Allston, Cr Bennett, Cr Brooks, Cr Devereux, Cr Gillespie

**CORPORATE SERVICES**

**COUNCIL RESOLUTION**

**ITEM 12.4.1 and ITEM 12.4.2**

**Res No: 09-0723**

**Shire President Niikkula MOVED a motion that the following Agenda items are moved enbloc:**

- **12.4.1 - Financial Statement for the Period Ending 30 September 2023**
- **12.4.2 - List of Accounts for Period Ending 30 September 2023**

**SECONDED: Cr Allston**

**CARRIED by SIMPLE MAJORITY 6/0**

For: SP Niikkula, Cr Allston, Cr Bennett, Cr Brooks, Cr Devereux, Cr Gillespie

**12.4.1 FINANCIAL STATEMENT FOR PERIOD ENDING 30 SEPTEMBER 2023**

File Reference	FM.FI.0
Reporting Officer	Manager Finance
Responsible Officer	As above
Date of Report	16 October 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	1. Monthly Financial Report as at 30 September 2023

**Purpose**

1. That Council accepts the financial report for the financial period ending 30 September 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 30 September 2023, the operating revenue is on target. The variances mainly relate to the timing of aviation income, the financial assistance grant being paid in advance and the timing of term deposits maturities.
4. Operating expenditure is under budget by \$1,265,910 (23.77%). Variances are due to the timing of maintenance and operational projects. 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 \$569,723 of the proposed capital budget of \$10.5m. The timing and milestone requirements also impact our capital revenue which is tracking under budget.
6. Rates were levied on 31 July 2023. Rates collected as at 30 September 2023 were 68.8% compared to 63% 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	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)
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**

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	<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**

14. Simple Majority

<b>Officers Recommendation</b>	<b>Item 12.4.1</b>
That Council RECEIVES the financial report for the financial period ending 30 September 2023.	



## 12.4.2 LIST OF ACCOUNTS FOR PERIOD ENDING 30 SEPTEMBER 2023

File Reference	FM.FI.0
Reporting Officer	Manager Finance
Responsible Officer	As above
Date of Report	16 October 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	1. List of Accounts for period ending 30 September 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 (Attachment 1).

### Payments

Municipal Fund	totalling \$1,655,624.25 Incorporating cheques, direct debits, electronic payments and credit cards.
Trust Fund	totalling \$NIL Incorporating electronic payments.
Total Payments:	\$1,655,624.25

### 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 September 2023 (totalling \$1,655,624.25).	

**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**

The Shire President advised the next Ordinary Council meeting is scheduled for 23 November 2023 @ 4.00 pm, declared the meeting closed at 5.12pm and thanked everyone for attending.