



Special Council Meeting Minutes 1 December 2016

CONFIRMATION OF MINUTES

These minutes were confirmed by the Council on 15 December 2016 as a true and accurate record of the Special Council Meeting held on 1 December 2016.

A handwritten signature in black ink, appearing to read 'Cr (Turk) Shales', is positioned above a dotted line.

.....
Cr (Turk) Shales
Shire President

All attachment items referred to in these minutes are available for public perusal at the Shire Office

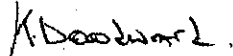
DISCLAIMER

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

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

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

Signed at Exmouth



(K Woodward), Acting Chief Executive Officer Shire of Exmouth

INDEX OF MINUTES

1.	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS.....	4
2.	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	4
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	5
4.	PUBLIC QUESTIONS TIME.....	5
5.	DECLARATIONS OF INTEREST	6
6.	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS.....	7
7.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS	7
8.	APPLICATIONS FOR LEAVE OF ABSENCE	7
9.	ANNOUNCEMENTS BY THE PRECEDING PERSON WITHOUT DISCUSSION	8
10.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING.....	9
10.1	PROPOSED DWELLING, RETAINING WALL, JETTY AND SWIMMING POOL - LOT 311 (30) GNULLI COURT, EXMOUTH.....	9
10.2	APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER	26
11.	ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	28
12.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING.....	28
13.	MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS.....	29
13.1	MC LEODS LEGAL OPINION REGARDING THE CCC TRANSCRIPT, SHIRE POLICY AND CONTRACTS OF EMPLOYMENT.....	29
14.	CLOSURE OF MEETING.....	31

SPECIAL COUNCIL MEETING MINUTES

Our Vision

To support and develop a vibrant, welcoming community that embraces its past, values its present and plans for a sustainable future

Our Purpose

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

Our Strategic Objectives

- To provide sustainable management of the organisation
- To consistently apply the principles of Good Governance
 - To communicate effectively
 - To promote socioeconomic development
 - To value our environment and heritage

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President welcomed the gallery and declared the meeting open at 4.08 pm.

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Councillor C (Turk) Shales	Shire President
Councillor S McHutchison	
Councillor J Roscic	
Councillor G Jones	
Mrs S O'Toole	Executive Manager Corporate Services
Mrs J Kox	Executive Manager Aviation Services
Mr R Manning	Executive Manager Health & Building
Mr R Kempe	Executive Manager Community Engagement
Mr R Mhasho	Executive Manager Town Planning
Mr K Woodward	Executive Manager Engineering Services
Mrs M Head	Minute Clerk

GALLERY

Visitors 19

APOLOGIES

Mr B Price

Chief Executive Officer

Councillor M Hood

Deputy Shire President

LEAVE OF ABSENCE

Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

A question was taken on notice from Ken Downes at the Special Council Meeting held on the 18 November 2016.

Question

Why did the Councillors that knew about the signing of the contract do nothing? They should step down. There is now broken trust issues.

Response

The Acting Chief Executive Officer advised that we still do not have an answer to this question at this time and will respond in due course.

4. PUBLIC QUESTIONS TIME

In accordance with section 5.24 of the Local Government Act 1995, a 15 minute public question time is made available to allow members of the public the opportunity of questioning Council on matters concerning them.

Council Consideration Towards Public

When public questions necessitate resolutions of Council, out of courtesy and at the President discretion the matter is to be dealt with immediately to allow the public to observe the determination of the matter (obviates the need for the public to wait an undetermined period of time).

When a matter is listed on the Agenda and member/s of the public are in attendance to observe the determination of the matter, out of courtesy and at the discretion of the President the matter is to be brought forward on the agenda and dealt with immediately to allow the public to observe the determination of the matter (again this obviates the need for the public to wait an indeterminate period of time).

In accordance with section 11 of the *Local Government (Administration) Regulations 1996*:

11 . Minutes, content of (Act s. 5.25(1)(f))

The content of minutes of a meeting of a council or a committee is to include —

- (e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question;**

Question by Barry Sullivan

Will the President give an explanation of the outcome of the in camera discussions and its outcome at the resumption?

Yes; the Behind Closed Doors agenda item is confidential, however the resolution is public information.

Question by Helen O'Meagher

Is anyone going to resign?

The Crime and Corruption Commission (CCC) investigation is ongoing. Regarding possible resignations, Council awaits the advice from our lawyers and will act on the advice given regarding Councillors, CEO and Officers.

Question by Ken Downes

In the minutes of the Special Council Meeting of the 18th November 2016 published on the Shire website I notice that some questions and answers from that meeting are in whole or part are missing. Prior to publishing on the website are Council minutes verified &/or edited and if so by whom?

Acting Chief Executive Officer is responsible for the minutes of the 18 November 2016 Council meeting. Three officers recorded a summary of responses to the best of their recollection.

It is not good enough that two questions were not answered and the minutes were not correct, it was deceptive.

The Acting Chief Executive Officer refuted this comment and stated that it's not the intent of officers to deceive. We are here to provide good governance.

The minutes indicated that this is a summary of responses only and it is the decision of Council to accept these minutes.

To be more accurate Council may consider recording the minutes in the future.

Ken Downes stated that the missing question was, "Can we see the leave application form?"

Acting Chief Executive Officer responded no, because the form is with the CCC.

Question by Margrit Swhwengeler

What is happening with the recycling (glass, paper, cardboard etc)?

Executive Manager Health and Building answered this question. Currently on board with the Regional Group. The recycling site is getting ready and housing receptacles. Work has commenced at the Bring Centre site to build a structure. A tender will be out next year to build a Shed at the tip site.

Question by Jackie Brooks on behalf of Ann Sigley

When did the CEO apply for recent leave who signed off on then?

This question has been answered previously.

5. DECLARATIONS OF INTEREST

Item/Description	Name	Detail of Interest	Extent of Interest
Nil			

6. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

In relation to Report 10.1 (Proposed Dwelling Lot 311 (30 Gnulli Court, Exmouth) Grant Bennett (landowner and proponent) and Trent Will (Town Planning Consultant) presented the deputation to Council.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

That the Minutes of the Ordinary Meeting of the Shire of Exmouth held on the 27 October 2016 and the Special Council Meeting held on the 18 November 2016 be confirmed as a true and correct record of proceedings.

The Shire President advised confirmation of the previous minutes would be dealt with separately rather than enbloc.

COUNCIL RESOLUTION

ITEM 7

Res No: 01-1216

MOVED: Cr Jones
SECONDED: Cr Roscic

That the Minutes of the Ordinary Meeting of the Shire of Exmouth held on the 27 October 2016 be confirmed as a true and correct record of proceedings.

CARRIED 3/1

Councillor McHutchison voted against.

COUNCIL RESOLUTION

ITEM 7

Res No: 02-1216

MOVED: Cr Jones
SECONDED: Cr Shales

That the Minutes of the Special Council Meeting held on the 18 November 2016 be confirmed as a true and correct record of proceedings.

MOTION TIED 2/2

The Shire President exercised his casting vote.

MOTION LOST 1/3

Councillors McHutchison, Shales and Rosic voted against.

8. APPLICATIONS FOR LEAVE OF ABSENCE

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

Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for leave of absence.

Nil.

9. ANNOUNCEMENTS BY THE PRECIDING PERSON WITHOUT DISCUSSION

Nil

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

10.1 PROPOSED DWELLING, RETAINING WALL, JETTY AND SWIMMING POOL - LOT 311 (30) GNULLI COURT, EXMOUTH

File Reference:	PA127/16; A1425
Responsible Officer:	Executive Manager Town Planning Services
Date of Report:	15 November 2016
Applicant/Proponent:	DMG Australia (Architecture)
Disclosure of Interest:	Nil
Attachment(s):	<ol style="list-style-type: none">1. Proposal Plans2. Cover Letter and Attachments3. Further Justification Letter4. Net Developable Area and Conditional Developable Area Plan5. Figure 5, 6, 7 and 8 of Council's 6.16 – Design Guidelines for Exmouth Marina Village Precinct 'A'

PURPOSE

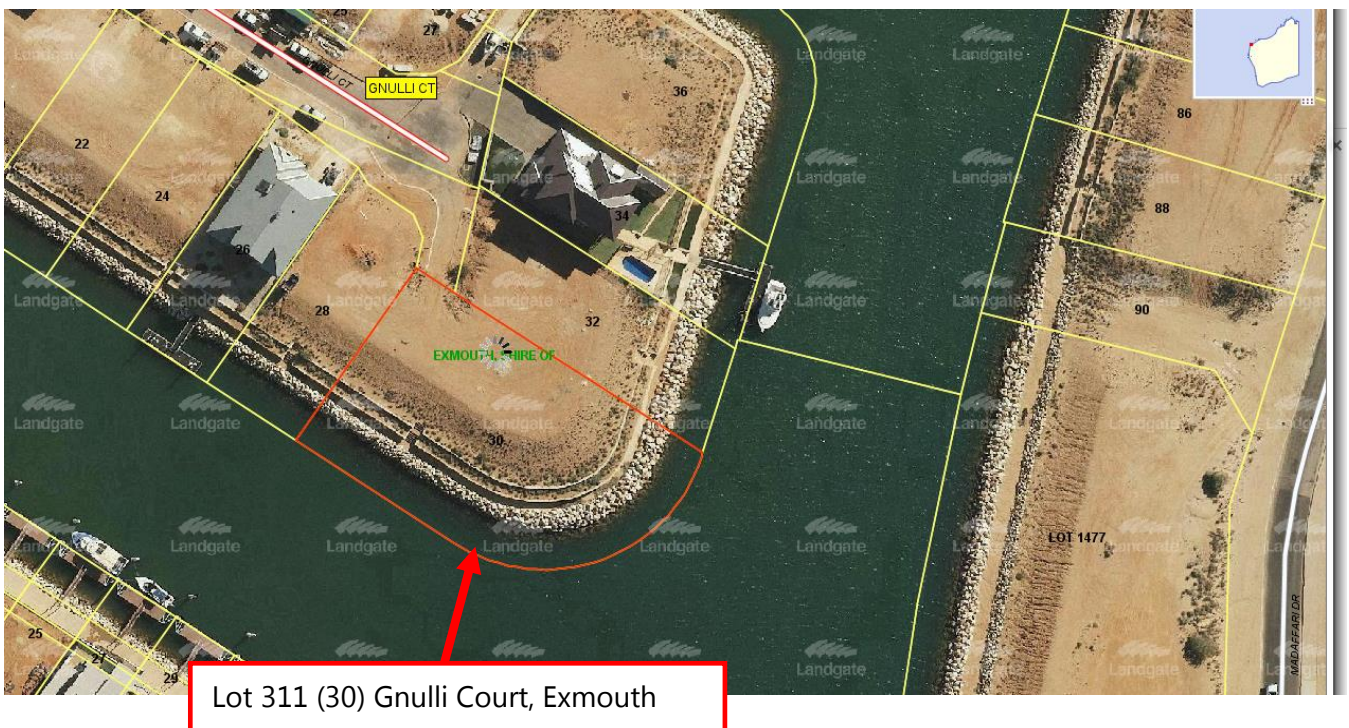
That Council consider a development application for a proposed dwelling, retaining wall, jetty and swimming pool at Lot 311 (30) Gnulli Court, Exmouth.

BACKGROUND

The property is currently a vacant canal fronting lot within the Exmouth Marina Village Estate. The applicant is seeking approval for the development of a dwelling, retaining wall, jetty and swimming pool (refer Attachment 1). The application substantially varies Council's Policy No. 6.16 – Design Guidelines for Exmouth Marina Village Precinct 'A' and cannot be determined under delegated authority. Please see the following list of all the proposed variations:

- Proposed 1.5m front boundary setback to the garage in lieu of the prescribed 5.5m setback.
- Proposed 1.792m northern side boundary setback to the play room in lieu of the prescribed 2m setback based on the 6.35m wall length and average 4.5m wall height from natural ground level.
- A nil western side boundary setback to the garage in lieu of the prescribed 1.5m setback based on the 14.5m wall length and average 3.76m wall height from natural ground level.
- A nil northern side boundary setback to the patio wall adjacent the pool in lieu of the 1.5m prescribed setback based on the 11.85m wall length and average 3.54m wall height above natural ground level.
- Walls, enclosed rooms and screening substantially protrude into the Conditional Development Area which are not open structures. The Guidelines only permit open structures with no walls within the Condition Development Area.
- Open structures within the Conditional Development Area with a finished floor level of 5.00AHD or less protrude into the prescribed 4m setback from canal side of the upper existing retaining wall to a minimum setback of 1.16m.

- Open structures within the Conditional Development Area with a finished floor level above 5.00AHD protrude into the prescribed 6m setback from canal side of upper existing retaining wall with a minimum setback of 3.23m.
- Retaining walls within the Conditional Development Area with a finished floor level of 4.75AHD setback 2.6m from the canal side of the upper existing retaining wall in lieu of 3.33m.
- Retaining walls within the Conditional Development Area with a finished floor level of 5.25AHD setback 3.35m from the canal side of the upper existing retaining wall in lieu of 4.66m.
- Retaining walls within the Conditional Development Area with a finished floor level of 5.507AHD setback 3.4m from the canal side of the upper existing retaining wall in lieu of 5.35m.
- The proposed Jetty is not fully contained within the existing Jetty Envelope.



COMMENT

The subject property is zoned 'Marina' by Town Planning Scheme No. 4. The objectives of the Marina zone are as follows:

5.5.1 Objectives

- to provide for residential, tourist, commercial, and marine industrial development with waterfront access adjacent to the Exmouth small-boat harbour.*
- to integrate with other land uses, particularly tourist and town centre related, to benefit the whole community.*
- to complement and not compete with the town centre for civic, cultural, and commercial uses.*
- to provide for marine research educational facilities to an appropriate scale and character.*
- to provide for visitors and pedestrian movements.*
- to create an attractive and viable project.*

- (g) promote and safeguard health, safety, convenience, environmental quality and the general welfare and amenity of the locality.*
- (h) to encourage a high standard of development within the zone.*
- (i) to promote a high standard of maintenance of artificial waterways and other waterways through cooperation with the Waterways Manager and the Department for Planning and Infrastructure.*

The proposal is not considered to undermine the objectives of the zone. However, as stated above, the proposal substantially varies Council's Policy No. 6.16 – Design Guidelines for Exmouth Marina Village Precinct 'A' which Council has adopted to guide the development of the area. Any variations to the Guidelines should be consistent with the objectives and setback considerations contained within the document. These are as follows:

5.1 Objectives

- To ensure a consistently high standard of development is maintained within the Marina Village with quality dwelling elevations that highlight and provide visual interest to the detail and scale of the design, and positively contribute to the streetscape and canal environment.*
- To facilitate a harmonious and attractive living environment which can be appreciated by both residents of the Precinct and the wider community.*
- To promote high quality and attractive dwellings with a consistency of more uniformed setbacks while allowing flexibility for innovative design.*

6.2 Setbacks

The Guidelines seek to apply consistent setbacks to both the street frontage and the rear canal frontage to:

- Provide some uniformity and continuity of the streetscape and view of lots from public areas, such as the canal.*
- Encourage dwellings to actively address available street, canal and open space frontages.*
- Provide a visual setting whilst allowing a transition zone between public areas and the private dwelling.*
- Provide a buffer to the street and canal with sufficient space for landscaping, privacy, parking and outdoor living areas.*
- Maximise views of the canal, residential amenity and avoid extensive solid walls within the Conditional Development Area (CDA) to maintain an open and pleasant environment.*
- Ensure that any significant works being undertaken in the CDA does not adversely affect the ability of the Waterways to sufficiently accommodate a 1:100 year flood event for the functional life of the structure.*
- Ensure that any significant works being undertaken in the CDA does not adversely affect the stability and structural integrity of the lot in a 1:100 year flood event for the functional life of the structure.*
- To provide for a positive interface between the CDA of adjacent residential lots.*
- To prevent pollution/contamination of the Exmouth Marina waterways.*
- To ensure a reasonable level of visual privacy for adjoining residents by consistently applying side setbacks within the CDA.*

6.2.5 General Setback Considerations

In considering setback to allow development in the CDA, Council will have regard that;

- *It is desirable to maintain an open 'waterway/coastal' environment adjacent to the canals to prevent the 'boxing' in of neighbours dwellings and allow for casual surveillance / interaction between the dwelling and the canal.*
- *Any development within the CDA should be open sided and visually permeable to provide a scenic environment and high level of amenity without significantly interrupting the open vista.*
- *Consistent setbacks along the canal are encouraged for the main dwelling – refer Figure 6 (refer Attachment 5).*

The following provides the Officer's assessment and recommendation regarding the different variations proposed.

Lot Boundary Setbacks within Net Developable Area (NDA)

A 1.5m front boundary setback to the garage is proposed in lieu of the prescribed 5.5m setback within the NDA (refer Attachment 4). The lot has a very peculiar access arrangement with the road reserve being similar to a battle-axe type access. In addition, the property frontage is very small, being 8.6m long, the width of the battle-axe road reserve. The access arrangement makes it difficult to achieve the appropriate front setback in designing the Dwelling given the layout and orientation of the NDA. Therefore, it is considered acceptable to assess the frontage as part of the northern side boundary. The Guidelines outline that side setbacks in the NDA are to be in accordance with State Planning Policy 3.1 Residential Design Codes (R-Codes) for the R20 density code. The proposal complies with the prescribed minimum 1.1m setback given the 8m long wall and 4.65m average wall height. The wall has no major openings.

A 1.792m northern side boundary setback to the play room in lieu of the prescribed 2m setback based on the 6.35m wall length and average 4.5m wall height from natural ground level. A play room is within the definition of a habitable room, therefore the subject wall possesses a major opening. Where development does not comply with the deemed-to-comply provisions of the R-Codes, which prescribes the nominal site and development requirements, it can still be in accordance with the R-Codes if Council considers the development consistent with all the relevant design principles which are as follows:

5.1.3 Lot boundary setback

P3.1 Buildings set back from lot boundaries so as to:

- *reduce impacts of building bulk on adjoining properties;*
- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

The proposed setback variation is considered negligible. It is not considered to increase the impact of building bulk on the adjoining property. The orientation of the sun is considered from directly north of proposed buildings for the purpose of the R-Codes, therefore the variation will not overshadow the affected property. There is a sufficient setback for ventilation. Furthermore, the proposal complies with the overlooking requirements of the R-Codes.

Boundary Walls

Two walls are proposed to be built up side boundaries with a nil setback within the NDA. One wall is the western side of the garage which is 14.5m long with an average height of 3.76m from natural ground level. The prescribed setback is 1.5m as the wall has no major openings. The second wall is the northern side of the patio proposed over the pool which is 11.85m long and has an average height of 3.54m above natural ground level. The prescribed setback is 1.5m as the wall has no major openings.

The R-Codes does contain deemed-to-comply provision 5.1.3(C3.2) which allows certain walls to be built up to property boundaries, other than street boundaries. This provision prescribes a maximum wall length of 9m with a maximum height of 3.5m and average height of 3m above natural ground level, which may be built to one side boundary only. The proposal also does not comply with this provision, therefore the following design principles apply:

5.1.3 Lot boundary setback

P3.2 Buildings built up to boundaries (other than the street boundary) where this:

- *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*
- *does not compromise the design principle contained in clause 5.1.3 P3.1 (see above);*
- *does not have any adverse impact on the amenity of the adjoining property;*
- *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*
- *positively contributes to the prevailing development context and streetscape.*

The proposal is considered to result in building bulk on adjoining properties which adversely impacts the amenity of those properties. The proposed walls are substantially larger than other walls which have been built up to boundaries within 'Precinct A'. Therefore, they are not consistent with the prevailing development context. Given that it is not consistent with all the design principles it is not considered consistent with the R-Codes and should not be supported. As a precedent, currently there are no boundary walls within Precinct 'A' on multiple boundaries within the NDA which exceed the criteria set out by 5.1.3(C3.2). Given the ability of boundary walls to impact existing and future adjoining landowners and out of consistent decision making, it is considered that any boundary walls should be consistent with the previous development in order to be consistent with the design principles regarding bulk and prevailing development context.

Given the proposed boundary walls are considered too bulky the proposal is not considered compatible with the surrounding development. Therefore, pursuant to deemed provision 67(m) of the *Planning and Development (Local Planning Scheme) Regulations 2015* it is recommended that the walls should not be supported. Deemed provision 67(m) is a matter to be considered as follows:

- (m) *the compatibility of the development with its setting including 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;*

Enclosed Structures and Walls within Conditional Development Area (CDA)

Walls, enclosed rooms and screening substantially protrude into the CDA (refer Attachment 4) which are not open structures. The Guidelines only permit open structures with no walls within the CDA through the setback requirements contained in provisions '6.2.4', '6.2.5.1(i)' and '6.2.5.1(ii)' as follows:

- 6.2.4 Rear (Dwelling setback to C.D.A.):

May have a nil setback to the Conditionally Developable Area (CDA) for the main dwelling (including building pad, enclosing walls of the dwelling etc) from the rear Net Developable Area (NDA) as depicted in Appendix C. This does not include detached open structures such as pergolas, patios or gazebo – refer Figure 5) (refer Attachment 5).

- 6.2.5.1 Specific Setback Requirements for all Development within the CDA

Notwithstanding the above, Council may allow development within the Conditional Developable Area (CDA) where reasonable privacy and view lines to the canal from neighbouring properties are maintained and the development maintains protection of the 1.6 metre wide Nutrient Retention Area (NRA) at all times;

(i) Open structures, such as verandahs, balconies, decks, porticos, and outdoor living areas attached to the main dwelling which are open on all sides shall have a minimum setback of 6 metres from the canal side of the secondary retaining wall. An example plan is included in Figure 7 (refer Attachment 5).

OR

(ii) The setback for open structures attached or detached to the main dwelling (such as verandahs, alfresco areas, pergolas, decks, patios and gazebos) can be reduced to 4 metres from the canal side of the secondary retaining wall if the maximum FFL is 5.00m AHD. An example plan is included in Figure 8 (refer Attachment 5).

The proposed protrusion of walls and screening into the CDA is not considered consistent with the setback considerations of the Guidelines. The considerations are primarily to provide uniformity and continuity of the view from the canal, a buffer between the canal and the building, an open canal waterway, consistent setbacks to the canal, open side and visually permeable structures, prevent the boxing out of adjoining property owners and to avoid solid obstructions, such as walls and screening within the CDA.

Based on the above it is considered that the proposal should not be supported as there is ample space within the NDA which has been used for landscaping and open structures instead of the enclosed portions of the Dwelling.

Rear Setbacks in the CDA

The following open structures are proposed within the CDA which do not comply with the rear setback requirements.

- Open structures within the Conditional Development Area with a finished floor level of 5.00AHD or less protrude into the prescribed 4m setback from canal side of the upper existing retaining wall to a minimum setback of 1.16m.
- Open structures within the Conditional Development Area with a finished floor level above 5.00AHD protrude into the prescribed 6m setback from canal side of upper existing retaining wall with a minimum setback of 3.23m.

Similar to the enclosed structures outlined above, it is consider that the rear setback variations for the open structures within the CDA should not be supported. The variations are not considered to be consistent with the setback considerations in that they result in the adjoining properties being boxed out by rooflines, inconsistent canal setbacks and no development uniformity and continuity.

In addition, where the protrusion is as little as 1.16m from the canal side of the upper existing retaining wall the transition zone is almost removed completely.

There is ample room within the NDA which has been used for landscaping which could be used for the proposed enclosed structures. Resultantly, moving the entire structure further back into the NDA would increase the rear setbacks within the CDA. Therefore, it is recommended that the proposed rear setback is not supported.

Retaining Walls within CDA

The Guidelines require that retaining within the CDA is a maximum of 0.75m above natural ground level. On average this results in the retaining wall being 0.75m high above the height of the upper existing retaining wall (3.50AHD) when setback 2m from the canal side of this wall and an additional 0.75m high for every 2m increase in this setback. A retaining wall has been proposed within the Conditional Development Area with a finished floor level of 5.507AHD setback 3.4m from the canal side of the upper existing retaining wall in lieu of 5.35m. The proposal is not considered consistent with the setback considerations of the Guidelines as it does not provide uniformity and continuity as viewed from the canal and consistent setbacks with retaining walls developed in the area under the current Guidelines considering its height. Therefore, it is recommended that this retaining wall is not supported.

In addition the applicant has proposed the following unroofed decking within the CDA:

- with a finished floor level of 4.75AHD setback 2.6m from the canal side of the upper existing retaining wall in lieu of 3.33m.
- with a finished floor level of 5.25AHD setback 3.35m from the canal side of the upper existing retaining wall in lieu of 4.66m.

The decking is technically subject to the 4m and 6m prescribed setbacks above based on its finished floor level. However, the decking has been considered under the above retaining wall provisions. This does allow a slightly smaller setback than the prescribed 4m and 6m. Given that it is unroofed it is considered more reasonable to treat the decking as a retaining wall as it effectively has the same visual impact.

The proposed decking is still not consistent with the prescribed retaining wall setback for its height. Furthermore, it is not considered consistent with the setback considerations of the Guidelines for the reasons outlined for the retaining wall above. Therefore, it is recommended that this decking wall is not supported.

Proposed Jetty

The jetty structure protrudes 3.6m outside of the Jetty Envelope to the east. The Guidelines require the jetty structure to be fully contained within the Jetty Envelope. Only detached mooring pylons are permitted to be located within the Mooring Envelope. These requirements have been put in place in conjunction with the Department of Transport who share the same requirement through their license requirement process. Therefore, it is recommended that the proposed Jetty should not be supported.

Draft Local Planning Scheme No. 4 (LPS4)

Council is currently in the process of adopting draft Local Planning Scheme No. 4 (LPS4) to replace Town Planning Scheme No. 3. Council has completed the advertisement of this document and it is therefore a seriously entertained planning instrument. Pursuant to deemed provision 67(b) of the *Planning and Development (Local Planning Scheme) Regulations 2015* Council is required to have

due regard to orderly and proper planning which includes any proposed local planning scheme which Council is seriously considering adopting. Draft LPS4 includes all of the same provisions provided in the Guidelines. Therefore, the proposal is not consistent with LPS4 and should not be supported out of orderly and proper planning.

Applicant's Justification

A cover letter was provided with the application in support of the proposal (refer Attachment 2).

The Officer provides the following comments in regard to the cover letter:

- The matter of predominant wind is not considered sufficient justification to depart from the Guidelines. This is something that should have been considered prior to purchasing the property as there are numerous corner properties which result in the dwelling blocking wind coming from the south east when built in the NDA. If the pool must remain in the current location the Dwelling can still be designed in a manner which still complies with the Guidelines. In addition, developing the house into the CDA to position landscaping within the NDA is not considered sufficient justification to vary the setback requirements when such landscaping can easily be contained in the CDA.
- The nominal area of the NDA and CDA is larger than almost all other properties within Precinct A of the Exmouth Marina Village. The only thing unique about the property is the property frontage and it being a corner canal lot. The front setback variation is supported for this reason. The property being a corner canal lot provides a larger CDA frontage where nil setbacks are permitted to enclosed rooms at the rear of the NDA. Therefore, the unique aspects of this property actually make compliance with the Guidelines easier than other properties which are subject to the Guidelines as the development potential is much greater within the NDA. The percentage of the total property area that the NDA and CDA comprise is not considered relevant as this is something that could have been considered prior to purchasing the property.
- The storage of an oversized boat is not a justification to develop an oversized garage. The onus is on landowners to develop residential properties in a manner that meets the site and development requirements which allows the lawful storage of their belongings and achieves the necessary privacy. There is ample opportunity to do this at the subject property without substantial variation to the Guidelines, especially considering the increased development potential of the NDA.

The Applicant has engaged a planning consultant to provide further justification for the proposal based on preliminary discussion with Council Officers (refer Attachment 3). The Officer provides the following comments in regard to the letter:

- It is considered that the on boundary walls are consistent with some of the design principles, hence they have not been discussed above. However, to be determined as being consistent with the R-Codes development needs to be considered consistent with *all* the applicable design principles. The applicant's justification is not considered sufficient to determine that adjoining properties will not be impacted by building bulk on shared property boundaries. It cannot be assumed that there is a guarantee that adjoining Dwellings will be developed in a manner that will not be impacted by the bulk of the proposed boundary walls. The walls are considered too bulky.

- The applicant has failed to note setback requirements 6.2.5.1(i) and 6.2.5.1(ii) which are provisions of the Guidelines clearly stating that structures are to be open sides. These setback requirements are based on general setback considerations within the Guidelines, some of which the applicant has identified. However the applicant has failed to identify the following consideration which outline that development should be open sided:
 - Provide some uniformity and continuity of the streetscape and view of lots from public areas, such as the canal.
 - Maximise views of the canal, residential amenity and avoid extensive solid walls within the Conditional Development Area (CDA) to maintain an open and pleasant environment.
 - Any development within the CDA should be open sided and visually permeable to provide a scenic environment and high level of amenity without significantly interrupting the open vista.
 - Consistent setbacks along the canal are encouraged for the main dwelling.
- Although the proposed CDA development is consistent with some of the setback considerations of the Guidelines it is not consistent with all of the considerations. If the property was developed in accordance with the site and development requirements of the Guidelines it is considered that the development would achieve consistency with all the setback considerations. Therefore, based on the merits and outcome performance of the proposal it is considered that proposal should not be supported as it still undermines some of the setback considerations.
- Local planning policies are not afforded the statutory powers of a local planning scheme to maintain their flexibility. Resultantly, Council does have the ability to approve the application considering the referral process has been conducted. However, the adoption of a local planning policy results in Council adopting a position on a matter, such as the development of Dwelling's within 'Precinct A' of the Exmouth Marina Village Estate. Consequently, subsequent development approvals are determined in accordance with that position. Therefore, there should be an exceptional circumstance to warrant the significant variation of a local planning policy as this would result in a departure from consistent decision making and precedence. The subject property is not considered to pose an exceptional circumstance which would warrant the proposed variations. The outcomes of the subject proposal that the applicant has used as justification for the proposed variations can be achieved through a development which complies with Council's Guidelines.
- The proposal does set a precedent for similar development in the future. Boundary walls have been proposed on normal side boundaries possessed by every property within 'Precinct A'. In addition, every canal fronting property possesses a Nett Developable Area and CDA. The only unique aspects of this property is the access and street frontage and it being a corner canal lot. As outlined above these aspects actually increases development potential which is justification that the significant variations should not be supported.

Conclusion

Given the substantial variations outlined in this Comment section it is considered that the application cannot be approved in a manner which would achieve an acceptable outcome outlined by Policy No. 6.16 – Design Guidelines for Exmouth Marina Village Precinct 'A', even through the application of conditions. The proposal requires substantial amendment to achieve an acceptable outcome.

Therefore, it is recommended that Council refuse to grant development approval for the proposal for the reasons outlined in the Officer's Recommendation.

CONSULTATION

Given the proposal varies Council's Policy No. 6.16 – Design Guidelines for Exmouth Marina Village Precinct 'A' it was referred to the affected surrounding landowners to provide comment in accordance with the Policy and the *Planning and Development (Local Planning Scheme) Regulations 2015*. The proposal was referred with a minimum 14 day submission period from the 3 November 2016 to the 18 November 2016. One submission was received as follows:

Property Referred	Submitters Response	Officer Comments
Lot 310 (28) Gnulli Court, Exmouth	I am the western neighbour. The intrusions into the Conditional Development Area are seriously obstructive. The garage wall is too high. There needs to be normal setbacks on the western boundary and southern CDA.	Noted. The protrusions in the CDA are considered to undermine the setback considerations of <i>Policy No. 6.16 – Design Guidelines for Exmouth Marina Village Precinct 'A'</i> . In addition, the proposed garage wall is considered too bulky which is not consistent with all the applicable design principles of the R-Codes. Therefore, it is recommended that the proposal is not supported.

The applicant has provided a letter of support from the owners of Lot 312 (32) Gnulli Court, Exmouth with the cover letter (refer Attachment 2). Support from the adjoining landowner is still not considered sufficient justification for the proposed variations given the reasons outlined in the comment section above and the precedence that approval of the application would result in.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Planning and Development (Local Planning Scheme) Regulations 2015

Town Planning Scheme No. 3

POLICY IMPLICATIONS

Policy 6.2 – Colour Palette for Developments

Policy 6.16 – Design Guidelines for Exmouth Marina Village Precinct 'A'

State Planning Policy 3.1 Residential Design Codes

Draft Local Planning Scheme No. 4

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

- Economic:
- 1 To be a diverse and innovative economy with a range of local employment opportunities.
 - 1.1 *To increase the number of local businesses, industries and services that will provide a range of employment opportunities for the people of Exmouth.*

- Civic Leadership: 4 To work together as custodians of now and the future.
- 4.1 *To be a collaborative community with the capacity to manage the current and future direction of Exmouth.*
- 4.2 *A local government that is respected, professional, trustworthy and accountable.*

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

ITEM 10.1

That Council refuse to grant development approval for a proposed dwelling, retaining wall, jetty and swimming pool at lot 311 (30) Gnulli Court, Exmouth for the following reasons:

1. The proposal does not comply with Council's Policy No. 6.16 – Design Guidelines for Exmouth Marina Village Precinct 'A' as follows:
 - a. The proposal is not consistent with the design principles of State Planning Policy 3.1 Residential Design Codes regarding lot boundary setbacks within the Net Developable Area;
 - b. Walls, enclosed rooms and screening substantially protrude into the Condition Development Area;
 - c. Open structures within the Conditional Development Area do not meet the rear setbacks;
 - d. Retaining walls within the Conditional Development Area do not meet the maximum height and/or setback requirements;
 - e. The Jetty is not fully contained within the Jetty Envelope;
 - f. The proposal is not considered consistent with all the setback considerations outlined in the Policy; and
2. Pursuant to deemed provision 67(b) of the *Planning and Development (Local Planning Scheme) Regulations 2015*, approval of the proposal would not be orderly and proper planning as it is not consistent with draft Local Planning Scheme No. 4;
3. Pursuant to deemed provision 67(m) of the *Planning and Development (Local Planning Scheme) Regulations 2015*, the proposed boundary walls within the Net Development Area are not compatible to development on adjoining land given their height, bulk and scale; and
4. Approval of the application would set an undesirable precedence for similar development in the future.

Advice

- i. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within twenty eight (28) days of the determination.

The Shire President called for a mover and seconder to the officer's recommendation. Councillor Roscic proposed a Councillor recommendation as below.

COUNCILLOR RECOMMENDATION**ITEM 10.1**

Council grant development approval for a dwelling at Lot 311 (30) Gnulli Court, Exmouth, subject to the following conditions:

1. The development being carried out in accordance with the stamped approved plans (PA127/16), and the Shire of Exmouth Town Planning Scheme Number 3 together with any annotations detailed thereon by the Shire;
2. All water draining from roofs, driveways and other surfaces shall be managed on site and/or discharged into the Shire's road drainage system;
3. External rubbish bins, clothes lines, pool pumps, air conditioners and all service fittings and fixtures shall not be visible from any public road and public waterway;
4. A minimum of 2 parking spaces shall be provided for the dwelling in accordance with AS2890.1 (as amended);
5. Any external lighting and fixtures shall be non reflective or situated in such a position so as to prevent pilot blinding to the satisfaction of the Executive Manager of Aviation Services.

Advice

- i. Any additional development or substantial variation from the stamped approved plans, will require separate development approval from the Shire.
- ii. This approval is not an authorization to commence construction. Prior to any construction, a Building Permit approval from the Shire must be obtained. For further information please contact the Shire's Building Surveyor by telephone on 9949 3000.
- iii. This approval is not an authority to ignore any constraint or additional requirement to development on the land, which may exist through contract or on title, such as an easement, encumbrance, restrictive covenant or any other limitation. It is the responsibility of the applicant and not the Shire to investigate any such constraints before commencing development.
- iv. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.

Considerations

1. Council considers the proposed development is consistent with the relevant design principles of State Planning Policy 3.1 – Residential Design Codes, with regard to the proposed lot boundary setbacks.
2. Council considers the proposed development is consistent with the objectives detailed in Section 5.1 of Local Planning Policy 6.16 – Design Guidelines for Exmouth Marina Village Precinct A.

3. Council considers the proposed development warrants approval, having regard to the matters to be considered in accordance with Clause 67 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Scheme) Regulations 2015.
4. Council considers the proposed development is consistent with the Scheme Objectives detailed in Clause 1.7 of Town Planning Scheme No. 3.
5. Council considers Draft Planning Scheme No. 4.
6. Council considers the proposed development will make a positive contribution to the amenity of the locality.
7. Council considers possible precedence having already been set on multiple lots within the Exmouth Marina Village Estate.
8. Council considers the Local Government Act 1995 Section 1.3 (3) "In carrying out it's functions a Local Government is to use its best endeavours to meet the needs of current and future generations through integration of environmental.

COUNCIL ALTERNATIVE MOTION

That the Councillors recommendation be considered as an alternate to the Officers recommendation.

MOVED: **Cr Roscic**
SECONDED: **Cr Jones**

COUNCIL RECOMMENDATION

The mover has requested to suspend the meeting procedures to speak freely about this report with Executive Managers and Council.

RESOLUTION

The mover has requested to suspend the meeting procedures to speak freely about this report with Executive Managers and Council.

Res No: **03-1216**

MOVED: **Cr Roscic**
SECONDED: **Cr McHutchison**

COUNCIL RESOLUTION**ITEM 10.1****Return to the normal meeting procedures.****Res No: 04-1216****MOVED: Cr McHutchison****SECONDED: Cr Jones****CARRIED 4/0**

AMENDMENT

That Council grant development approval for a dwelling at Lot 311 (30) Gnulli Court, Exmouth subject to the following conditions:

- 1. The development being carried out in accordance with the stamped approved plans (PA127/16), and the Shire of Exmouth Town Planning Scheme Number 3 together with any annotations detailed thereon by the Shire;**
- 2. All water draining from roofs, driveways and other surfaces shall be managed on site and/or discharged into the Shire's road drainage system;**
- 3. Exterior cladding, walls and roof shall be of an as new standard to the satisfaction of the Shires Executive Manager Town Planning. Zincalume is not a permitted building material;**
- 4. External colours shall be generally in accordance with Councils adopted Colour Palette for Developments;**
- 5. External rubbish bins, clothes lines, pool pumps, air conditioners and all service fittings and fixtures shall not be visible from any public road and public waterway;**
- 6. The driveway and crossover shall be sealed and of colour(s) and material that complement the development;**
- 7. The minimum finished floor level of all habitable rooms shall be 5.25m AHD;**
- 8. Any canal frontage fencing shall be open style (minimum of 90% visually permeable) and not exceed 1.2 metres in height above natural ground level. The minimum canal setback for fencing is on top of the Secondary (Upper) Retaining Wall;**
- 9. Boundary fencing in the Net Developable Area where not located within the primary street setback area shall not exceed 1.8 metres in height;**
- 10. Boundary fencing within the Conditional Development Area shall be a maximum height of 1.5 metres and open style with a minimum 90% visual permeability above 0.9 metres;**
- 11. Swimming Pool fencing within the Condition Development Area shall be a minimum 90% visually permeable;**

- 12. The swimming pool pump, filtration system and associated infrastructure shall be enclosed in appropriate housing with noise attenuation materials and/or dampeners. The housing shall:
 - a. have external colour/s which blend the structure into its surroundings to the satisfaction of the Executive Manager Town Planning; and**
 - b. have a height less than 0.75 metres above natural ground level if not located within the Conditional Development Area or Net Developable Area;****
- 13. All construction in the Conditional Development Area requires certification from a structural engineer that the building does not impose any surcharge load contrary to the global stability of the canal wall;**
- 14. Water from landscape areas abutting the canal shall be directed to the Nutrient Retention Area. Clean rainwater from roofed areas may be directly discharged via fully controlled drainage systems to the waterway;**
- 15. The Nutrient Retention Area shall be used for landscaping or covered with permeable materials that allow for nutrient run off to be contained on-site. No fertilizers shall be used in the Nutrient Retention Area;**
- 16. No obstructions shall be placed so as to restrict or hinder access along any canal edge or street side footpath, or the shared stairway providing access to the canal side footpath;**
- 17. All balustrades within the Conditional Development Area shall be a minimum 90% visually permeable;**
- 18. Doors within the Conditional Development Area shall be designed and constructed such that in the event of a flood, the door will remain in the closed position;**
- 19. Any boats moored at the property shall be fully contained in the approved mooring envelope, as shown on the stamped approved plans (PA127/16);**
- 20. The applicant shall obtain a permit for a barge vessel to enter Local Government Property, to carry out construction works in the public waterway;**
- 21. The jetty design shall be approved by the Department of Transport (DoT), prior to submission of an application for a building permit with the Shire. A copy of this approval shall be submitted with an application for a Building Permit;**
- 22. A maximum of one (1) vessel is permitted to be moored at the property with the maximum permitted length being 15m for powered vessels and 10m for sail vessels;**
- 23. If the development which is the subject of this approval is not substantially commenced within a period of 2 years, the approval will lapse and be of no further effect.**
- 24. A minimum of 2 parking spaces shall be provided for the dwelling in accordance with AS2890.1 (as amended);**

25. Any external lighting and fixtures shall be non reflective or situated in such a position so as to prevent pilot blinding to the satisfaction of the Executive Manager of Aviation Services.

Advice Notes

- i. This approval is not an authorisation to commence construction. Prior to any construction, a building permit approval from the Shire must be obtained.**
- ii. The approval granted is not to be construed as approval granted under the Building Act 2011, Building Regulations 2012 or any other relevant statutory approval.**
- iii. All fencing shall be of adequate structural design to meet cyclone requirements and may require a building permit approval from the Shire.**
- iv. Should you wish to remove, replace or install a dividing fence, it is recommended that you come to a satisfactory arrangement with the adjoining property owner(s). Please refer to the Dividing Fences Act 1961 and the 'Dividing Fences a Guide' published by the Department of Commerce.**
- v. Any additional development or substantial variation from the stamped approved plans, will require separate development approval from the Shire.**
- vi. This approval is not an authority to ignore any constraint or additional requirement to development on the land, which may exist through contract or on title, such as an easement, encumbrance, restrictive covenant or any other limitation. It is the responsibility of the applicant and not the Shire to investigate any such constraints before commencing development.**
- vii. The applicant/owner is advised of the requirements of the Exmouth Marina Village Canal Boat Mooring Management Plan, Exmouth Marina Village Local Law and Standard Operating Procedures.**
- viii. Mooring piles and associated envelope areas not being roofed or having structures built on, around, adjacent to, or within the approved jetty area.**
- ix. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.**

Considerations

- 1. Council considers the proposed development is consistent with the relevant design principles of State Planning Policy 3.1 – Residential Design Codes, with regard to the proposed lot boundary setbacks.**
- 2. Council considers the proposed development is consistent with the objectives detailed in Section 5.1 of Local Planning Policy 6.16 – Design Guidelines for Exmouth Marina Village Precinct A.**

- 3. Council considers the proposed development warrants approval, having regard to the matters to be considered in accordance with Clause 67 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Scheme) Regulations 2015.**
- 4. Council considers the proposed development is consistent with the Scheme Objectives detailed in Clause 1.7 of Town Planning Scheme No. 3.**
- 5. Council considers Draft Planning Scheme No. 4.**
- 6. Council considers the proposed development will make a positive contribution to the amenity of the locality.**
- 7. Council considers possible precedence having already been set on multiple lots within the the Exmouth Marina Village Estate.**
- 8. Council considers the Local Government Act 1995 Section 1.3 (3) "In carrying out its functions a Local Government is to use its best endeavours to meet the needs of current and future generations through integration of environmental.**

Res No: 05-1216

MOVED: Cr Roscic

SECONDED: Cr Jones

CARRIED 4/0

10.2 APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER

File Reference:	GV.CM.0
Responsible Officer:	Shire President
Date of Report:	1 December 2016
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

PURPOSE

That Council appoint Mr Keith Woodward, Executive Manager Engineering Services as the Acting Chief Executive Officer (Senior Employee) until notified by Council, for a term not exceeding 12 Months in accordance with the *Local Government Act 1995* Part 5 Division 4 Section 5.36, 5.42 and Section 5.69 (1a) (a).

BACKGROUND

To facilitate the functions of the Local Government Chief Executive Officer an Acting Chief Executive Officer must be appointed to carry out the duties of the *Local Government Act 1995* in accordance with Part 5 Division 5 Section 5.41.

COMMENT

Nil

CONSULTATION

Shire President and Council

STATUTORY ENVIRONMENT

Local Government Act 1995 Part 5, Division 4, Section 5.36, Section 5.41, Section 5.42, Section 5.43 and section 5.69.

POLICY IMPLICATIONS

Policy 1.24 – Acting Chief Executive Officer
Policy 1.1 – Senior Employees

FINANCIAL IMPLICATIONS

Remuneration accounted for in the 2015/2016 Shire Budget.

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

Civic Leadership:	4	<u>To work together as custodians of now and the future.</u>
	4.1	<i>To be a collaborative community with the capacity to manage the current and future direction of Exmouth.</i>

- 4.2 *A local government that is respected, professional, trustworthy and accountable.*
- 4.3 *To be strong advocates representing the region's interests.*

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

ITEM 10.2

That Council:

1. Appoint Mr Keith Woodward, Executive Manager Engineering Services as the Acting Chief Executive Officer (Senior Employee) until notified by Council for a term not exceeding 12 Months in accordance with the *Local Government Act 1995* Part 5 Division 4 Section 5.36,5.42 and Section 5.69 (1a) (a).
2. The Acting Chief Executive Officer will be compensated at a higher duties rate of 100% per hour of the current Chief Executive Officer rate.

COUNCIL RESOLUTION

ITEM 10.2

Res No: 06-1216

MOVED: Cr McHutchison

SECONDED: Cr Roscic

That Council:

1. **Appoint Mr Keith Woodward, Executive Manager Engineering Services as the Acting Chief Executive Officer (Senior Employee) until notified by Council for a term not exceeding 12 Months in accordance with the *Local Government Act 1995* Part 5 Division 4 Section 5.36,5.42 and Section 5.69 (1a) (a).**
2. **The Acting Chief Executive Officer will be compensated at a higher duties rate of 100% per hour of the current Chief Executive Officer rate.**

CARRIED 4/0

11. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

13. MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS

As the following report was a matter to be considered behind closed doors the Shire President asked the gallery and the Executive Managers and Minute Clerk to please leave the Chambers at 4.45 pm.

COUNCIL RESOLUTION**ITEM 13.1****Res No: 07-1216****MOVED: Cr Roscic****SECONDED: Cr McHutchison**

That Council move Behind Closed Doors at 4.45 pm in accordance with the Local Government Act 1995 section 5.23 (2) (A) (C) and (D).

- **Employment/Legal Issue**

CARRIED 4/0

13.1 MC LEODS LEGAL OPINION REGARDING THE CCC TRANSCRIPT, SHIRE POLICY AND CONTRACTS OF EMPLOYMENT

COUNCIL RESOLUTION**ITEM 13.1****Res No: 08-1216****MOVED: Cr Roscic****SECONDED: Cr McHutchison****That Council:**

- 1. Notes the advice from McLeods lawyers relating to Mr Price's employment with the Shire;**
- 2. Instructs McLeods lawyers to write to Mr Price, giving him an opportunity to respond as recommended in that advice;**
- 3. Advises that the matter involving Mr Price's continuing employment with the Shire will be determined by the Council at a special meeting of the Council to be held on 13 December 2016;**
- 4. Directs Mr Price not to undertake any of the functions of the Chief Executive Officer of the Shire until the council communicates to him the decision it makes on 13 December 2016.**

CARRIED 4/0

COUNCIL RESOLUTION**ITEM 13.1****Res No: 09-1216****MOVED: Cr Roscic****SECONDED: Cr Jones****That Council return from Behind Closed Doors at 5.00 pm.****CARRIED 4/0**

Prior to the meeting closing, at the request of the gallery, the Acting CEO read out the behind closed doors resolution:

That Council:

1. Notes the advice from McLeods lawyers relating to Mr Price's employment with the Shire;
2. Instructs McLeods lawyers to write to Mr Price, giving him an opportunity to respond as recommended in that advice;
3. Advises that the matter involving Mr Price's continuing employment with the Shire will be determined by the Council at a special meeting of the Council to be held on 13 December 2016;
4. Directs Mr Price not to undertake any of the functions of the Chief Executive Officer of the Shire until the council communicates to him the decision it makes on 13 December 2016.

14. CLOSURE OF MEETING

The Shire President closed the meeting at 5.00 pm.