



# AGENDA

Dear Hon. Fredrick Riebeling AM JP

I respectfully advise that an ORDINARY COUNCIL MEETING will be held in the Civic Centre, McGregor St, Port Hedland, on Wednesday, 24 June 2020, commencing at 5:30pm.

MEETING AGENDA ATTACHED

Yours faithfully

A handwritten signature in black ink, appearing to read "Carl Askew".

Carl Askew  
Chief Executive Officer

18 June 2020

**DISCLAIMER**

No responsibility whatsoever is implied or accepted by the Town of Port Hedland for any act, omission, statement or intimation occurring during Council Meetings. The Town of Port Hedland disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, and statement of intimation occurring during Council Meetings.

Any person or legal entity that acts or fails to act in reliance upon any statement, act or omission occurring in a Council Meeting does so at their own risk. The Town of Port Hedland advises that any person or legal entity should only rely on formal confirmation or notification of Council resolutions.

**DISCLOSURE OF FINANCIAL/ IMPARTIALITY/ PROXIMITY INTERESTS**

*Local Government Act 1995 – Section 5.65, 5.70 and 5.71*

*Local Government (Administration) Regulation 34C*

<i>This form is provided to enable members and officers to disclose an Interest in a matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act and Local Government (Administration) Regulation 34C</i>			
Name			
Position			
Date of Meeting			
Type of Meeting (Please circle one)	Council Meeting/ Committee Meeting/ Special Council Meeting Workshop/ Public Agenda Briefing/ Confidential Briefing		
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Important Note:** Should you declare a **Financial or Proximity Interest**, in accordance with the Act and Regulations noted above, you are required to leave the room while the item is being considered.

For an **Impartiality** Interest, you must state the following prior to the consideration of the item:

*“With regard to agenda item (read item number and title), I disclose that I have an impartiality interest because (read your reason for interest). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”*

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## Item 1 Opening of Meeting

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The Commissioner is to declare the meeting open at [Enter Time](#).

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## Item 2 Acknowledgement of Traditional Owners and Dignitaries

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The Commissioner acknowledges the Kariyarra people, on whose lands we are meeting, and pays his respects to Elders past, present and emerging.

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## Item 3 Recording of Attendance

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### 3.1 Attendance

**Scheduled Present:** Commissioner Fredrick Riebeling AM JP  
**Scheduled for Attendance:** Carl Askew (Chief Executive Officer)  
Anthea Bird (Director Corporate Services)  
Craig Watts (Director Regulatory Services)  
Lee Furness (Director Infrastructure Services)  
Josephine Bianchi (Director Community Services)  
Angelique Cook (Senior Governance Advisor)  
Nicki Thomas (Governance Officer / Minute Taker)

### 3.2 Attendance by Telephone / Instantaneous Communications

### 3.3 Apologies

### 3.4 Approved Leave of Absence

### 3.5 Disclosure of Interests

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## Item 4 Applications for Leave of Absence

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## Item 5 Response to Previous Questions

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**Item 6 Public Time**

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*Important note:*

*'This meeting is being recorded on audio tape and streamed live online as an additional record of the meeting and to assist with minute-taking purposes which may be released upon request to third parties. If you do not give permission for recording your participation please indicate this at the meeting. The public is reminded that in accordance with Section 6.16 of the Town of Port Hedland Local Law on Standing Orders nobody shall use any visual or vocal electronic device or instrument to record the proceedings of any meeting unless that person has been given permission by the chairperson to do so. Members of the public are also reminded that in accordance with section 6.17(4) of the Town of Port Hedland Local Law on Standing Orders mobile telephones must be switched off and not used during the meeting.'*

*In accordance with section 6.7(3) of the Town of Port Hedland Local Law on Standing Orders, members of the public are required to complete a question form and place the completed form in the tray provided.*

*If the Presiding Member determines that questions and statements are out of order due to the use of an offensive or objectionable expression or are defamatory, they will not be recorded or responded to.*

**6.1 Public Question Time**

**6.2 Public Statement Time**

**6.3 Petitions/Deputations/Presentations/Submissions**

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**Item 7 Questions from Members without Notice**

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## Item 8 Announcements by Presiding Member without Discussion

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The Commissioner's meetings for the month of May 2020:

Date	Meeting	Topic
05/05/20	Meeting with Minister MacTiernan	Discussions around Spoilbank Marina and Buy Back Scheme
05/05/20	Weekly Talk of Town radio segment	Weekly Radio Interview
06/05/20	Meeting with Minister Templeman	Discussions around Rates and changes to the LG Act
06/05/20	Meeting with Minister Ellery	Discussions around old TAFE site
12/05/20	Weekly Talk of Town radio segment	Weekly Radio Interview
18/05/20	Official Opening Port Hedland Library	Official Opening
19/05/20	Weekly Talk of Town radio segment	Weekly Radio Interview
21/05/20	RCAWA Meeting	General catch up meeting
22/05/20	Meeting with Roy Hill	General catch up meeting
27/05/20	May Ordinary Council Meeting	As per agenda on the Town's website
28/05/20	Meet with Hedland Mobile Windscreens	On-site meeting - general catch up
28/05/20	Hedland Collective meeting	General business
29/05/20	Department of Communities meeting	General update meeting
29/05/20	Hedland Community Road Safety meeting	General discussions around road safety matters in Port Hedland

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## Item 9 Declarations of All Members to Have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting

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## Item 10 Confirmation of Minutes of Previous Meeting

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### *Disclaimer*

*Members of the public are cautioned against taking any action on Council decisions, on items on this evening's Agenda in which they may have an interest, until formal notification in writing by the Town has been received. Decisions made at this meeting can be revoked, pursuant to the Local Government Act 1995.*

### OFFICER'S RECOMMENDATION

That Council confirm that the Minutes of the Ordinary Council Meeting held on Wednesday 27 May 2020 are a true and correct record.

***SIMPLE MAJORITY VOTE REQUIRED***

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**Item 11 Reports of Officers**

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**11.1 Corporate Services**

<b>11.1.1 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) - REQUEST FOR A VARIATION TO THE TRUST DEED FOR THE LOCAL GOVERNMENT HOUSE TRUST</b>
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**Author:** Senior Governance Advisor  
**Authorising Officer:** Director Corporate Services  
**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

**OFFICER'S RECOMMENDATION**

That Council:

1. Advise the Local Government House Trust Board of Management that the Town of Port Hedland, as a holder of eight (8) Local Government House Trust units, consents to the Deed of Variation, as detailed in Attachment 1; and
2. Authorises the Chief Executive Officer to communicate this consent in writing to the Western Australian Local Government Association (WALGA).

*SIMPLE MAJORITY VOTE REQUIRED*

**PURPOSE**

The purpose of this report is for Council to consider consenting to a variation to the Trust Deed for the Local Government House Trust.

**DETAIL**

The Local Government House Trust (the Trust) is a unit trust that was created in 1980, for the purpose of housing the Western Australian Local Government Association (WALGA). The Town of Port Hedland (Town) is a unit holder and beneficiary to the Local Government House Trust, holding eight (8) units, as advised in WALGA's recent Quarterly Report Q4 2019.

On 19 February 2020, the Chief Executive Officer of WALGA corresponded with every Local Government holding Trust units. The purpose of the correspondence was to advise that the Trust's Board of Management are seeking to vary the Trust Deed in order to assist the Trust's income exempt status. As stipulated by the Deed, the Trust requires consent of at least 75 per cent of all beneficiaries in order to execute this variation. As a beneficiary, the Town is requested to consent to the Deed of Variation (Attachment 1) supported by a resolution of Council.

Further details on the particular Deed Variations and objectives to be achieved by this variation are outlined below.

*Background on the Local Government House Trust*

The Trust exists primarily to provide building accommodation for the Western Australian Local Government Association. Since January 2014, the Trust has provided WALGA with accommodation at 170 Railway Parade West Leederville.

The current Trust Deed commenced in 1993 and was amended in 2002 to reflect the merger of the metropolitan and country associations into WALGA. The current Trust Deed pronounces WALGA as Trustee and unit holders as Beneficiaries, with the Trustee holding property and associated monies “upon Trust” and in proportion to the units provided.

Commencement date of the current deed is 17 February 1993, with a vesting date 79 years from commencement - which means that the Trust ends in 2072.

The Trust is exempt from income tax on the basis of being a State / Territory Body (STB) pursuant to Division 1AB of the Income Tax Assessment Act 1936.

*Trust Deed Variation*

Trust Deed amendments set out in the Deed of Variation are based on legal advice and are intended to assist the Trust’s income tax exempt status by strengthening the position that the Trust is a State / Territory Body (STB).

Legal advice identified that the Trustee’s ability to retire and appoint a new Trustee might affect the Trust’s classification as a State or Territory Body (STB). This view, while based upon highly technical grounds, is a risk nonetheless.

Subsequently the Deed of Variation aims to strengthen the position that the Trust is a STB through the following amendments:

1. removing the existing Trustee’s power to retire and appoint a new Trustee (Clause 2.1 and 2.2 (22.3) of the Deed of Variation);
2. enabling the beneficiaries to appoint and remove a Trustee (Clause 2.2 (22.4) of the Deed of Variation); and
3. ensuring that the Board of Management is the ‘governing body’ of the Trust (Clause 2.3 of the Deed of Variation).

The three proposed amendments when applied to the relevant clauses inserted by the Deed of Variation dated 5 June 2002 will subsequently read as follows (proposed amendments shown in red text):

1.	<p><u>Variation 2.1 amends clause 22.1 to point to additional clause:</u></p> <p>22.1 Any Trustee of the Trust may retire as Trustee of the Trust. <del>The Subject to clause 22.3, the</del> right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.</p>
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2.	<p><u>Variation 2.2 inserts two new clauses:</u></p> <p>22.3 The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.</p> <p>22.4 The Beneficiaries may at any time by Special Resolution:</p> <p>(a) remove a Trustee from the office as Trustee of the Trust; and</p> <p>(b) appoint such new or additional Trustee.</p>
3.	<p><u>Variation 2.3 insert a new clause 13A</u></p> <p><b>13A Delegation to the Board of Management</b></p> <p>Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.</p>

*Comment*

The first two amendments outlined above remove powers granted to the Trustee in the 2002 Deed Variation resulting from the merger to a single Association representing WA Local Governments. These amendments which previously facilitated the transfer of trusteeship to the then new Western Australian Local Government Association are removed, but with the clarification that any appointment must be with the consent of the beneficiaries.

The final amendment intends to confirm that power rests with the Board of Management. As the Board of Management comprises Local Governments, this satisfies the requirements of a STB for tax purposes. This amendment reflects the actual operation of the Trustee in implementing the decisions of the Board of Management whilst retaining sufficient operational discretion to place and renew investments and pay suppliers.

These amendments provide greater power to beneficiaries through the Board of Management, and as such it is anticipated they will be considered acceptable.

**LEVEL OF SIGNIFICANCE**

In accordance with Policy 4/009 ‘Significant Decision Making’, this matter is considered to be of low significance, because it will not significantly impact the community or have any significant financial implications at present.

**CONSULTATION**

*Internal*

- Executive Leadership Team

### *External Agencies*

- This report was written in consultation with the Western Australian Local Government Association (WALGA) Chief Executive Officer.

### *Community*

- Nil

## **LEGISLATION AND POLICY CONSIDERATIONS**

The *Local Government Act 1995* enables the Town of Port Hedland to exist as an entity.

WALGA is the peak representative body for Western Australian Local Government and is funded by Western Australian Local Governments.

## **FINANCIAL AND RESOURCES IMPLICATIONS**

There are no financial and resource implications associated with this agenda item.

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

There are no relevant sections of the Town's Strategic Community Plan applicable to this item.

There are no significant identifiable environmental, social or economic impacts relating to this item.

## **RISK MANAGEMENT CONSIDERATIONS**

There is a reputational risk associated with this item because of the public's perception if the Town chooses not to consent to the variation to the Trust Deed, as the amendments provide greater power to the beneficiaries through the Board of Management. The risk rating is considered to be low (1), which is determined by a likelihood of rare (1) and a consequence of insignificant (1). This risk will be eliminated by the adoption of the officer's recommendation.

## **OPTIONS**

*Option 1 – Adopt officer's recommendation*

*Option 2 – Amend officer's recommendation*

*Option 3 – Do not adopt officer's recommendation*

## **CONCLUSION**

It is recommended that the Town consent to a variation to the Trust Deed for the Local Government House Trust (The Trust) as detailed in the Attachment 1. The Trust Deed amendments as proposed are based on legal opinion and are designed to fortify the Trust's position of income tax exempt status by removing any questionable matters from the Trust Deed.

## **ATTACHMENTS**

1. Deed of Variation (under separate cover)
2. Clause 12 of Trust Deed 1994 (under separate cover)

**11.1.2 PORT HEDLAND YACHT CLUB AND T.S. PILBARA LEASES**

**Author:** Legal Advisor  
**Authorising Officer:** Director Corporate Services  
**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

**OFFICER'S RECOMMENDATION**

That Council:

1. Request the CEO or his delegate to enter into a community lease agreement in accordance with s3.58 of the *Local Government Act 1995* with Port Hedland Yacht Club for a revised portion of Lots 5178, 5550 and 5751 Sutherland Street, Port Hedland, as depicted in Attachments 2 and 3, commencing 1 July 2020 for a term of three years, with two one year options or until such time as the marina development is substantially completed and surveyed; and
2. Request the CEO or his delegate enter into a community lease agreement in accordance with s3.58 of the *Local Government Act 1995* with Unit Committee T.S. Pilbara Incorporated for a revised portion of Lots 5178 and 5550 Sutherland Street, Port Hedland, as depicted in Attachment 4, commencing 1 July 2020 for a term of three years, with two one year options or until such time as the marina development is substantially completed and surveyed.

***SIMPLE MAJORITY VOTE REQUIRED***

**PURPOSE**

The purpose of this report is for Council to consider entering new leases incorporating revised lease areas with the Port Hedland Yacht Club (PHYC) and Unit Committee T.S. Pilbara Incorporated (T.S. Pilbara) to enable the Spoilbank marina development.

**DETAIL**

Crown Reserve 30768 is placed under the care, control and management of the Town, by way of a management order, with the purpose of recreation. The Town has the power to lease any portion of the reserve, for any term not exceeding 21 years, subject to the Minister's approval.

PHYC and T.S. Pilbara currently have leasehold interests on portions of Lots 5178, 550 and 5751, located on Reserve 30768. Both associations' objectives are consistent with the purpose of the reserve.

As the community is well aware, last year the WA State Government committed funding to the Spoilbank Marina Development. Further, in December 2019 the Town adopted the Port Hedland Marina and Waterfront Masterplan. In order to relocate marine vessels and equipment, allow land access and enable the physical works associated with the marina development the current leased areas (depicted at Attachment 1) require adjusting.

The Town most recently met with PHYC and T.S Pilbara on 18 May 2020, where revised lease areas were agreed between the parties (see Attachments 2, 3 and 4). The PHYC leased area

will include, a reduced portion in respect of the existing PHYC facility, a new laydown area to the west, a new area for the purposes of its sailing club to the north east, and a licence over the shared access area, to allow access and egress to the new laydown area. The T.S. Pilbara leased area has been reduced to allow shared access of the driveway, over which it will hold a licence in conjunction with the PHYC, but otherwise, remains the same. It was also agreed that the new leases would be for a term of three years, with two, one year options, or until such time as the marina development is substantially completed and surveyed.

This item requires Council consideration of the above revised lease arrangements which have the in principle support of both lessees.

## LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of low significance, because all parties are in agreement – with the beneficial result of both minimal disruption to the services both lessees offer the community, and assisting the progression of the marina development.

## CONSULTATION

### *Internal*

- Executive Committee, Town Planning and Development team and Legal Advisor.

### *External Agencies*

- None

### *Community*

- Port Hedland Yacht Club (PHYC), T.S. Pilbara and Port Hedland Game Fishing Club

## LEGISLATION AND POLICY CONSIDERATIONS

Section 3.58(5) of the *Local Government Act 1995* and regulation 30(2)(b) of the *Local Government (Functions and General) Regulation 1996* exempt both leases from the ordinary requirements of the disposal of land as both lessees are not for profit organisations with benevolent and recreational objects.

## FINANCIAL AND RESOURCES IMPLICATIONS

There are no financial implications. Similar to the current lease arrangements, the rent for leases will be charged in accordance with the Town's Community Leasing Policy, which references the Fees and Charges for community leases currently set at \$200 per annum.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 1.a.6 Town-wide health, safety, recreation and sporting activities and services
- 1.d.2 Facilities and community infrastructure are revitalised across the Town

### *Environmental*

There are no significant environmental impacts relating to this item.

### *Economic*

There are no significant economic impacts relating to this item.

### *Social*

The revised lease areas enable both the PHYC and T.S. Pilbara to continue to operate their valuable community services during the development of the marina.

### *Corporate Business Plan*

The following actions of the Town's Corporate Business Plan 2018-2022 apply in relation to this item:

- 1.a.4.1 – support stakeholders to deliver sport and recreation activities;
- 1.d.3.1 – liaise with industry, developers, business and community to provide advice from planning, building and land use matters.

## **RISK MANAGEMENT CONSIDERATIONS**

There is a service interruption, reputational and social risk associated with this item because the marina development may be somewhat delayed if revised lease areas are not negotiated, and failure to enter leases may result in the delivery of these community services being compromised. The risk rating is considered to be medium (9), which is determined by a likelihood of possible (3) and a consequence of moderate (3).

This risk will be eliminated by the adoption of the officer's recommendation.

## **OPTIONS**

*Option 1 – Adopt officer's recommendation*

*Option 2 – Amend officer's recommendation*

Amend the officer's recommendation to change the lease areas, term of lease, or conditions attached to those leases.

*Option 3 – Do not adopt officer's recommendation*

## **CONCLUSION**

The adoption of this item will allow for the relocation of marine vessels and equipment, allow for access and the physical works associated with the marina development, whilst also allowing both PHYC and T.S Pilbara to continue to operate their valuable community services.

## **ATTACHMENTS**

1. Existing leased areas (under separate cover)
2. PHYC proposed leased areas - facility and laydown (under separate cover)
3. PHYC leased areas - sailing club (under separate cover)
4. T.S.Pilbara leased area (under separate cover)

**11.1.3 STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDED 30 APRIL 2020**

**Author:** Senior Financial Accountant  
**Authorising Officer:** Director Corporate Services  
**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

**OFFICER'S RECOMMENDATION**

That Council, pursuant to section 6.4 of the *Local Government Act 1995*:

1. Receive the Statement of Financial Activity for the period ended 30 April 2020;
2. Receive the Material Variance Report;
3. Note the Accounts paid under delegated authority for period ended 30 April 2020; and
4. Receive the Credit Card Statements for period ended 30 April 2020.

*SIMPLE MAJORITY VOTE REQUIRED*

**PURPOSE**

The purpose of this report is to present to Council the Statement of Financial Activity for the period ended 30 April 2020. Supplementary information is also presented to Council to provide further information regarding the Town's activities.

**DETAIL**

The information provided in this report is for the period ended 30 April 2020, with financial results included in *Attachment 1. Statement of Financial Activity Notes 1-11* prepared by the Town of Port Hedland (Town).

The Town's financial activity reports use a materiality threshold to measure, monitor and report on financial performance and position of the Town.

As part of the 2019/20 original budget, Council adopted the following thresholds as levels of material variances for financial reporting.

1. With regards to expenditure classified as capital projects, a variance of 10% or \$10,000, whichever is greater, of the year to date budget, with individual project as the level that requires explanation; and
2. With regards to all other items, excluding capital projects identified above, a variance of 10% or \$50,000, whichever is greater, of the year to date budget, with Nature and Type as the level that requires explanation.

Commentary is provided on variances, as detailed above, as per *Attachment 2 NOTE 12. Explanation of Material Variances.*

The opening funding surplus of \$2.5M presented in audited annual financial statements and presented in the 27 November 2019 Ordinary Council Meeting.

The net current funding position as at 30 April 2020 was \$21.1M. The breakdown of the cash position is displayed below:

	2019/20 Actuals
Current Assets: Cash and Investments (including trust)	\$237.8M
Restricted Cash – Reserves	238.1M
Unrestricted Cash Position as at 30 April 2020	(\$767K)

### *Previous Decisions*

The Statements of Financial Activity are presented to Council each month for noting.

### **LEVEL OF SIGNIFICANCE**

In accordance with Policy 4/009 ‘Significant Decision Making’, this matter is considered to be of low significance, because this report is presented to Council for information purposes only.

### **CONSULTATION**

#### *Internal*

- All consultation and engagement is conducted internally.

#### *External Agencies*

- Nil

#### *Community*

- Nil

### **LEGISLATION AND POLICY CONSIDERATIONS**

Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996* detail the form and manner in which a local government is to prepare its statement of financial activity.

### **FINANCIAL AND RESOURCES IMPLICATIONS**

The statement of financial activity is to be supported by such information, as is considered relevant by the local government, containing:

- an explanation of the composition of the net current assets of the month, to which the statement relates, less committed assets and restricted assets;
- an explanation of each of the material variances referred to in sub-regulation (1)(d); and
- supporting information, as is considered relevant by the local government.

Reserves:

Ensure compliance will section 6.11 of the *Local Government Act 1995* when reserve accounts are utilised.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following section of the Council's *Strategic Community Plan 2018-2028* is applicable in the consideration of this item:

- 4.b.1 Sound long-term financial planning is implemented
- 4.b.2 Transparent and regular financial reporting and communication to the community is undertaken
- 4.b.3 Transparent and regular governance reporting and communication to the community is undertaken

There are no significant identifiable environmental, social or economic impacts relating to this item.

## RISK MANAGEMENT CONSIDERATIONS

As per the risk matrix contained in Policy 1/022 'Risk Management', the level of risk is considered to be Medium (6) .

There is a risk rating of medium (6) assigned in 2019/20 Budget to the risk that a reduction in income or increase in expense throughout the 2019/20 financial year, is likely to have an impact on the Town's ability to meet service levels or asset renewal funding requirements. The risk action plan is to monitor revenue and expenditure on a regular basis, ensure in line with budget and amend as needed.

## OPTIONS

### *Option 1 – Adopt officer's recommendation*

- Note the Statement of Financial Activity and reports for the period ended 30 April 2020 in accordance with regulation 34(1) of the Local Government (*Financial Management) Regulations 1996*.

### *Option 2 – Amend officer's recommendation*

- That Council receive the Statement of Financial Activity for the period ended 30 April 2020 and request further information or clarification.

### *Option 3 – Do not adopt officer's recommendation*

- That Council do not note or receive the Statement of Financial Activity for the period ended 30 April 2020.

**CONCLUSION**

The opening funding surplus of \$2.5M presented in YTD Actual on the Statement of Financial Activity, is as per the closing surplus presented in the FY2019 audited financial statements. The net current funding position was \$21.1M.

Variances in operating revenue and expenditure are addressed in detail in *Attachment 2 NOTE 12. Explanation of Material Variances*. The net current asset position will decrease as operating and capital budgets are expended throughout the year.

**ATTACHMENTS**

1. List of payments under delegated authority (under separate cover)
2. Credit Card Statement (under separate cover)
3. Material Variance Report (under separate cover)
4. Monthly Financial Statements - April (under separate cover)

## 11.2 Community Services

### 11.2.1 MARAPIKURRINYA 'POP UPS' (FOOD CONTAINERS)

**Author:** Manager Community Development  
**Authorising Officer:** Director Community Services  
**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

#### OFFICER'S RECOMMENDATION

That Council:

- 1 Acknowledge BHP Billiton Iron Ore Pty Ltd (BHP) for their contribution of \$631,064.94 (ex GST) towards the design, construction, fit-out and installation of pop-up food outlets (upcycled sea containers) at Marapikurrinya Park;
- 2 Note the outcome the community consultation undertaken to inform the project;
- 3 Request that the CEO or his delegate to proceed with the procurement of pop-up food outlets (upcycled sea containers) at Marapikurrinya Park; and
- 4 Request that the CEO or his delegate commence an Expression of Interest or similar process to determine the lease options for the pop-up food outlets.

*SIMPLE MAJORITY VOTE REQUIRED*

#### PURPOSE

The purpose of this report is for Council to formally acknowledge the receipt of funds from BHP that will be utilised by the Town for the procurement, fit-out, delivery and installation of a number of 'pop-up' food containers (upcycled sea containers) at Marapikurrinya Park.

#### DETAIL

BHP and the Town have been working on a joint partnership project to enhance the West End through the establishment of semi-permanent structures to accommodate local food vendors and community groups at Marapikurrinya Park (the Park). The project intent is to deliver a number of benefits including:

- an enhanced experience for residents and visitors to the Park;
- complementing the popular food markets and other events that are currently hosted at the Park;
- providing a venue to support fundraising endeavours of local community and sporting clubs; and
- providing options to purchase food and drink outside of current operating hours of existing hospitality traders.

*Consultation*

The community consultation was undertaken via two (2) surveys (one targeting community members who will purchase from the pop-ups, and one targeting food vendors who will operate from the pop-ups). In addition, existing West End food businesses and food vendors were approached for their feedback in relation to the project.

The 'community' survey focussed on how community members would utilise the pop-ups including, how (dine-in vs takeaway), when (breakfast, lunch, dinner, or throughout the day), what (coffee, full meals or snacks) and with whom (family and/or friends). Key data included the following:

- 53.61% of respondents preferred a dine-in experience;
- 81.52% of respondents would like dedicated tables/chairs to use at the pop-ups;
- Respondents were most likely to visit the pop-ups with their family (52.58%) and their partner (27.84%);
- Respondents were most likely to visit the pop-ups at dinner time (44.33%) or at any time of the day (42.27%);
- 58.76% of respondents would patronise the pop-ups throughout the whole week; and
- The following food/drink options rated the highest:
  - Full meal options (75.26%);
  - Snack foods and/or 'grab and go' items (70.10%); and
  - Desserts (62.89%).

The 'food vendor' survey focussed on how the pop-ups would be utilised and what were important fit-out considerations. Key data from this survey included:

- 70.59% of respondents preferred the pop-ups to be 12m (as opposed to 6m);
- Respondents mostly preferred to hire the pop-ups for a single day (47.06%) or consider a long term lease (23.53%);
- 82.35% of respondents would hire the pop-ups on a recurring basis;
- Respondents would mostly trade at the pop-ups throughout the whole day (41.18%) or at dinner time (29.41%);
- 88.24% of respondents would cook fresh onsite at the pop-ups;
- The following items rated highest as requested features of the fit out:
  - Temporary tables and chairs for patrons (94.12%);
  - General cleaning items (88.24%);
  - Bain marie (88.24%);
  - Bench/shelf space (88.24%);
  - Chalkboard, whiteboard or document frame for menu (82.35%);
  - Deep fryer (82.35%); and
  - Fridge (82.35%).
- Responses were evenly spread over the type of power required;
- Responses were evenly spread over why respondents would utilise the pop-ups; and
- Responses were evenly spread over how respondents described themselves.

Feedback from existing west end food businesses was obtained via email, personal calls and face to face contact. Key feedback from this group included the following:

- Pop-ups would be in direct competition with existing dedicated food businesses in West End (regardless of what was on offer);
- Established businesses have high overheads to deal with; and
- Would support other activations of the area ie. market events and retail opportunities, which would increase their patronage through foot traffic.

This feedback has been circulated to BHP, and will be utilised by the Town to inform the progress of the project to ensure it complements food/dining options already offered in the West End.

### *Project Details*

Whilst BHP will fund the project, the Town will be responsible for administering both the delivery of the project and the management of the 'pop-ups', once installed. The management of the pop-ups will include, consulting with local food vendors to establish design requirements and the hire/leasing arrangements.

The project will entail the installation of two up-cycled sea containers, with internal fit out, to support food vendors and/or other suitable community and commercial ventures, after a formal Expression of Interest process is completed.

BHP has committed \$631,064.94 in funding to the project, with current high level estimates of the costs indicating an estimated cost breakdown of:

- \$31,000 for project management and delivery;
- \$375,000 for design, engineering, construction, delivery, installation, connection, licences/permits, signage and externals works;
- \$225,000 for interior fit-out including, fryers, fridges/freezers, grills, range-hoods, benches & shelving and dishwashers; and
- remaining items to be funded include, covered seating, paths and other park infrastructure.

When determining the hire arrangements for the pop-ups, there are a number of issues that need to be considered to ensure the project contributes to the objective of activating the West End. These include the duration of each lease, hours of operation (to be considered along with current trading times of local businesses) and the mix of community versus commercial use.

Hire arrangements will be regularly reviewed, to ensure the use of the containers is optimised.

The estimated project timeline is as follows:

2019/2020	Q4	Community consultation and concept design
2020/2021	Q1	Detailed design and procurement
2020/2021	Q2	Construction

## LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of medium significance, because the project is externally funded and is not complex in nature. The project has required consultation with community and food vendors.

## CONSULTATION

### *Internal*

- Executive Leadership Team
- Project Manager – Infrastructure and Services
- Manager Financial Services
- Manager Marketing, Communication and Events
- Manager Environmental Health and Community Safety

### *External Agencies*

- BHP Billiton Iron Ore Pty Ltd

### *Community*

- The community and local food vendors have been consulted to inform both management arrangements and design requirements for the pop-ups.

## LEGISLATION AND POLICY CONSIDERATIONS

Provisions associated with the *Local Government Act 1995* and the *Local Government Act Functions and General Regulations 1996* will apply in relation to the procurement of the structures.

Provisions associated with the *Local Government Act 1995* will apply in relation to the future lease of the structures.

Environmental Health legislation will apply in relation to the approvals required for the operation of the structures.

## FINANCIAL AND RESOURCES IMPLICATIONS

The project is to be funded through a grant from BHP which has been submitted through a purchase order to the value of \$631,064.94 (excl GST) and will not impact the 2019-2020 projected budget surplus.

In future years, a budget allocation will be required for insurance, repairs/maintenance and utilities. Once determined, this will be considered through the Town's budget process.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 1.c.2 Events and activities to celebrate the Town's cultural heritage, arts and Pilbara lifestyle are consistently programmed and delivered
- 1.c.3 Partnerships with industry and government to support events and activities are enhanced
- 2.a.2 Partnerships with private enterprises and government to fund projects and create jobs are pursued

4.c.4 Efficiency strategies across the Town's infrastructure and amenity assets are implemented

#### *Environmental*

The project will involve the use of upcycled sea containers.

#### *Economic*

The project will provide increased business opportunities for local food vendors and also fundraising opportunities for local sporting community groups.

#### *Social*

The project will enhance the experience of residents and visitors to Marapikurrinya Park and result in increased utilisation of the Park

#### *Disability Access and Inclusion Plan*

The following outcomes of the Town's Disability Access and Inclusion Plan 2017-2022 apply in relation to this item:

- Outcome 1 – Services and Events
- Outcome 2 – Buildings and Facilities
- Outcome 4 – Quality of Service
- Outcome 6 - Consultation Process

#### *Corporate Business Plan*

Nil

### **RISK MANAGEMENT CONSIDERATIONS**

There is a reputational risk associated with this item because the Town has significantly progressed the project and has also committed to improving the amenity of the West End. The risk rating is considered to be medium (9), determined by a likelihood of possible (3) and consequence of moderate (3).

There is a financial risk because BHP has already committed to the funding. The risk rating is considered to be high (12) determined by a likelihood of possible (3) and a consequence of major (4).

These risks will be eliminated by the adoption of the officer's recommendation.

### **OPTIONS**

#### *Option 1 – Adopt officer's recommendation*

As the Town has been working with BHP on this project and the funds have already been committed by BHP, adoption of the officer's recommendation is considered the only viable option at present.

**CONCLUSION**

The Marapikurrinya Park pop-up project will add to the experience of residents and visitors attending the Park, as well as provide benefits to local food vendors and community groups who operate the pop-ups.

The project provides another valuable opportunity to strengthen the Town's relationship with BHP who are funding the infrastructure components of the project.

**ATTACHMENTS**

1. Feedback from food vendors and west end food businesses (under separate cover)
2. Community and food vendor survey results (under separate cover)

## 11.3 Regulatory Services

## 11.3.1 DEVELOPMENT APPLICATION 2020/055 - TELECOMMUNICATION INFRASTRUCTURE - LOT 5769 (150) ANDERSON STREET

Author: Graduate Planner  
Authorising Officer: Director Regulatory Services  
Disclosure of Interest: The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

## OFFICER'S RECOMMENDATION

That Council pursuant to *Clause 74 of Schedule 2 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015* approves Development Application 2020/055 for the erection of a Telecommunications Tower and associated Security Fencing on Lot 5769 (150) Anderson Street, Port Hedland subject to the following Conditions and Advice Notes:

## Conditions:

1. The approved development shall be in accordance with the stamped approved plans (DWG2020/055/1 – DWG2020/055/3) and details submitted with the application, and these shall not be altered without the prior written consent of the Town of Port Hedland;
2. This decision to approve shall expire if the development has not substantially commenced within two (2) years of the decision date;
3. Stormwater shall not be directed onto the adjacent car park or abutting property for the duration of the development to the specification and satisfaction of the Town of Port Hedland;
4. Kerbing shall be provided as indicated on DWG2020055/1 to all areas not designed for stormwater discharge (minimum 200mm height) to prevent the escape of stormwater and sediment onto adjoining lots, prior to the occupation of the development and to the satisfaction of the Town of Port Hedland;
5. The approved development shall not result in the removal or damage of any car parking bays on Lot 5769;
6. All piped, ducted and wired services, air conditioners, service metres must be located and/or screened to mitigate any visual and noise impact on the occupants of nearby properties and screened from view from the street and the adjacent car park to the satisfaction of the Town of Port Hedland;

7. A schedule of the colour and texture of the construction materials shall be submitted to and approved by the Town of Port Hedland, prior to the lodging of a Building Permit. The development must be finished with the approved colours and materials prior to the occupation of the development, and thereafter maintained to the satisfaction of the Town of Port Hedland;
8. Prior to lodging an application for a Building Permit, the applicant must submit, have approved by the Town of Port Hedland, and thereafter implement to the satisfaction of the Town of Port Hedland a construction management plan addressing the following matters:
  - a) How construction materials and equipment will be delivered and removed from the site;
  - b) How construction materials and equipment will be stored on-site;
  - c) Parking arrangement for contractors;
  - d) Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction; and
  - e) Other matters likely to impact on surrounding properties and existing infrastructure;
9. Existing trees identified on the approved site plan (DWG2020/055/1) must be relocated and replanted in such a way that compliments the proposed development to the satisfaction of the Town of Port Hedland prior to use of the development;
10. Alterations or relocations of existing infrastructure within the road reserve and car parking area shall be carried out and reinstated at the landowner's cost to the specification and satisfaction of the Town of Port Hedland prior to use of the development; and
11. Dust and sand both during and after construction shall be contained on-site with the use of suitable dust suppression techniques.
12. Prior to lodging an application for a Building Permit, a detailed landscaping plan shall be submitted to the specification and satisfaction of the Town of Port Hedland for approval, and must include, but not limited to:
  - a) The location, number, size and species of proposed shrubs and trees;
  - b) Mulched areas;
  - c) Screening of the base of the development fronting Anderson Street and the abutting carpark with dense plantings;
  - d) Existing landscaped areas to be impacted by the development to be replanted; and
  - e) The areas to be updated and reticulated.Prior to use of the development, the landscaping plan must be fully implemented, and maintained thereafter, to the satisfaction of the Town of Port Hedland.

**Advice Notes:**

1. The approved development requires a Building Permit in accordance with the *Building Act 2011* prior to the commencement of construction.
2. This approval constitutes development approval only and does not obviate the responsibility of the landowner / developer to comply with all relevant health, building, and engineering requirements.
3. Prior to the application of a Building Permit, a licence must be granted through the Australian Communications and Media Authority.
4. The development must comply with the *Environmental Protection (Noise) Regulations 1997* at all times to the satisfaction of the Town of Port Hedland.
5. It is the responsibility of the landowner / developer to search the title of the property to ascertain the presence of any title encumbrances that may apply.
6. It is the responsibility of the landowner / developer to ensure building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Town of Port Hedland will take no responsibility for incorrectly located structures.
7. If you object to this decision or any of the conditions imposed, you may request the Town of Port Hedland reconsiders the decision. The right to request reconsideration is separate and does not impinge upon any right of appeal under the *Planning and Development Act 2005*.

***ABSOLUTE MAJORITY VOTE REQUIRED***

**PURPOSE**

The purpose of this report is for Council to consider Development Application 2020/055 which proposes the erection of a 27.4m tall Telecommunication tower and associated Security Fencing on Lot 5769 (150) Anderson Street, Port Hedland.

**DETAIL**

Development Application was submitted to the Town of Port Hedland on 30 March 2020. The proposed development comprises a 25.6m monopole, six (6) panel antennas and three (3) proposed future 5G panel antennas, to be mounted on a triangular headframe on the monopole. The site will also include one (1) equipment shelter at ground level and one (1) GPS antenna mounted on the equipment shelter, together with cabling and ancillary equipment including six (6) tower mounted amplifiers and three (3) radio units.

The proponent (Telstra) states the development is required to provide improved mobile phone depth coverage and capacity in the Port Hedland Town Site. The Telecommunications Tower is to provide support and ease the current demand on Telstra's existing facilities at Clark Street, Keesing Street and Sutherland Street (Attachment 2 – Site Context). The Tower is expected to provide enhanced in-building coverage, mobile phone and wireless data services to the community, businesses, emergency services and travellers in the area and form an integral part of Telstra's mobile telecommunications network.

Pursuant to Clause 64, Schedule 2 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the development was advertised as it had potential to adversely impact landowners in the proximity of the proposed Telecommunications Tower. The application was referred to thirteen (13) landowners within 75m of the development and a notice of the development was published in the North West Telegraph and on the Town of Port Hedland website.

The proposed development is consistent with the following provisions of the Local and State Planning Framework:

#### Pilbara's Port Town Growth Plan

The Pilbara's Port Town Growth Plan is a strategic blueprint to facilitate the sustained growth of Port Hedland. A key initiative under Clause 5.2.2 is to: *"Allow flexibility in business location through provision of quality telecommunications infrastructure, while promoting clustering of business, personal and industrial servicing businesses."* According to Telstra, there are identifiable deficiencies in the existing mobile phone coverage and wireless data services and capacity to the residential and business communities in the locality. Accordingly, it is deemed the proposed development will provide an improved telecommunications service for the community.

#### Town of Port Hedland Local Planning Scheme No. 5

The proposed development is consistent with Sub Clause 4.1.2h the Town of Port Hedland Local Planning Scheme No.5 (Scheme). The Scheme states, *"Consolidate the existing civic and community function of the precinct having particular regard for the cohesive location of buildings, structures and open space."* The proposed location of the facility will provide improved mobile phone and wireless data coverage to surrounding business and residential communities not currently adequately covered. In addition, the sites location being adjacent to the shopping centre car park will not impede access to the site, intrude upon the existing use of the area or impact on the civic and community function of the precinct.

The proposed development is consistent with Clause 5.5.4 of the Scheme, which states, *"In determining applications for planning approval within Commercial, Tourism and Mixed Business Zones, Council may take into consideration any relevant policy adopted in accordance with the scheme."* The site of the Telecommunications Tower is contained within the Spinifex Hill Commercial/Community Precinct and zoned Commercial under the Scheme. The proposed Telecommunications Tower is setback approximately 115m from Wilson Street. The height of the monopole has been restricted to 25m metres to reduce the impact on the visual amenity of the areas, and its location adjacent to the shopping centre car park minimises the impact on the function of the Precinct.

The proposed development is inconsistent with Item 29 of Appendix 4 – Car Parking Standards of the Scheme. However, Clause 5.8.8 of the Scheme states, “Where a proposed development is located adjacent to a constructed public carpark, the local government may, where it is satisfied there would be no lowering of safety standards, reduce the amount of required on-site car parking for that development by the amount which it considers the public carpark serves the development.” The local government may also require a cash-in-lieu payment to the value referred to in subclause 5.8.3”. The facility will be contained within a garrison style fenced compound measuring 12m x 6m and will be unmanned except for maintenance visits two (2) to three (3) times a year. There is sufficient car parking spaces available adjacent to the facility to accommodate a service vehicle during such maintenance periods. Accordingly, there is no requirements for additional on-site parking as per the Scheme.

The proposed development is inconsistent with Clause 5.9 and 5.9.4 of the Scheme, which states, “All applications for Development Approval, except those in residential development involving three (3) dwellings or less shall indicate the landscaping elements of the proposal and in particular a plan showing:

- 1) The percentage of the site devoted to landscaping;
- 2) The areas subject to landscaping works;
- 3) Location of species and plants;
- 4) Other materials imported, arranged and/or constructed on the site; and
- 5) The proposed staging, if any, of works.

*Within the Town Centre, Commercial, Tourism, and Mixed Business zones, any outside area which the local government considers detrimental to the amenity of the locality or adjoining lots shall be screened by a wall, fence or planting, including gates where access is required, to the satisfaction of the local government.”*

The area leased by Telstra is approximately 12m x 6m and abuts a carpark to the south, an approved rectory to the west, and unallocated crown land to the north. As a result, incorporating a landscaping plan is inherently restricted due to the physical restraints of the land tenure and the type of development. It should be noted that previous plans for the development indicated a chain link mesh fence and barbed wire. The Town requested that this was removed and replaced with 1.8m garrison fencing. In lieu of a landscaping plan, a condition has been imposed to replant the existing trees that are proposed to be removed for the development.

Should the applicant be aggrieved by this condition, the Town has grounds to enforce the development of a landscaping plan pursuant to Clause 6.9 of the Scheme. In addition, the lot owner and lesser to Telstra, Sentinel Countrywide Retail Ltd, have existing infrastructure, in the form of tree guards, that enables trees to be replanted in the existing car park that not only enhances the visual aesthetics of the Telecommunications Tower, but the shopping centre.

The proposed development is consistent with Sub Clause 5.10.1 of the Scheme, which states, “No development within the height restriction areas indicated on the Obstacle Limitation Surfaces map (OLS) in the Local Planning Policy Manual shall exceed the height restrictions indicated in the manual.” The subject site is located outside the ‘Horizontal Surface’ area applicable to Port Hedland International Airport and is also outside aircraft approach and take-off flight path splays. It’s therefore not subject to the OLS restrictions.

#### State Planning Policy 5.2 Telecommunications Infrastructure

The proposed development is consistent with Clause 5.1.1 of State Planning Policy 5.2 – Telecommunications Tower (SPP 5.2). The Clause states “*Telecommunications facilities should be sited and designed to minimise visual impact and wherever possible:*

- a) *Be located where it will not be prominently visible from significant viewing locations such as scenic routes, lookouts and recreation sites;*
- b) *Be located to avoid detracting from a significant view of a heritage item or place, a landmark, a streetscape, vista or panorama, whether viewed from a public or private land;*
- c) *Not be located where environmental cultural heritage, social and visual landscape values maybe compromised;*
- d) *Display design features, including scale, materials, external colours and finishes that are sympathetic to the surrounding landscape;*
- e) *Telecommunications infrastructure should be located where it will facilitate continuous network coverage and/or improve telecommunications services to the community; and*
- f) *Telecommunications infrastructure should be located where it will facilitate continuous network coverage and/or improve telecommunications services to the community.”*

The proposed facility will be located on established commercial land, removed from general residential development and significant viewing locations. There is a prominent viewing location located north east of the development, however it’s designed to face north and not south, thus is unlikely to impact on views from the location. The site is not located in an area of environmental cultural heritage. The structure is proposed to be a non-reflective concrete finish with the equipment shelter colour matched to the surrounding built form (refer to Attachment 3 – Visual Render). Telstra confirmed a detailed investigation of the locality revealed no other opportunities to co-locate telecommunications infrastructure that would satisfy the coverage objectives for the area.

Telecommunication carriers must comply with the Australian Communications and Media Authority (ACMA) *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003*. These licence conditions make mandatory the limits in the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) Radiofrequency (RF) Standard which sets limits for human exposure to RF electromagnetic fields from all sources, including telecommunications infrastructure.

ARPANSA is the primary Commonwealth agency responsible for protecting the health and safety of people and the environment from the harmful effects of radiation. Measurement surveys undertaken by ARPANSA demonstrate that environmental radiofrequency levels near base stations for the mobile telephone network are extremely low.

This application was referred to the Town’s Senior Environmental Health Officer where they confirmed from the Department of health there was no objection to the proposed development subject to the granting of a licence with ACMA.

## **LEVEL OF SIGNIFICANCE**

In accordance with Policy 4/009 ‘Significant Decision Making’, this matter is considered to be of medium significance.

This is because Telecommunications Towers have by, in nature, been the subject of dispute in local governments from community groups ranging from visual aesthetics to perceived health impacts established from unsubstantiated studies and anecdotal evidence.

**CONSULTATION**

*Internal*

- Director Regulatory Services;
- Manager Town Planning and Development;
- Senior Planner;
- Senior Environmental Health Officer; and
- Graduate Engineer.

*External Agencies*

- Department of Health.

*Community*

The application was referred to thirteen (13) landowners in close proximity to the development, and where one (1) objection was received and summarised in the table below. The objecting landowner has been contacted and has been made aware this decision will be determined at Ordinary Council Meeting on 24 June 2020.

The application was also advertised on the Town of Port Hedland Website and the Northwest Telegraph for a period of fourteen (14) days from the 9 April to the 22 April.

Submission Comment	Officer Comment
<p>“We live at 177 Anderson street so would be close proximity to the infrastructure, we have 2 young children so my first concern would be our health and well-being and the safety of the long term effects it may have on us.</p> <p>The second is the eyesore it would create so close to residential houses and also a busy shopping centre.</p> <p>Also the potential decline in value of the property should we decide to sell in the future. I’m sure it may be a deciding factor for future buyers.”</p>	<p>Noted. The Environmental EME report prepared for the proposed site indicates that EME from this facility operating at full capacity is estimated to equate the a maximum of 4.92% (1/20<sup>th</sup>) of the Australian Communications and Media Authority mandated exposure limits.</p> <p>There are obvious challenges to screening a 27.4m Telecommunications Tower. Given the land surrounding the subject site is flat, open and is predominately cleared, a condition has been recommended requiring the replanting of trees removed because of the proposed development, to the satisfaction of the Town of Port Hedland.</p> <p>Impacts on property values is not a valid planning consideration. There is no credible research which directly links the development of a telecommunications tower to a decrease in property values.</p>

## LEGISLATION AND POLICY CONSIDERATIONS

The proposed development has been assessed in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 – Deemed Provisions for Local Planning Schemes and the following clauses of the Town of Port Hedland Local Planning Scheme No. 5 and State Planning Policy 5.2 Telecommunications Infrastructure.

Local Planning Scheme No. 5- Sub Clause 4.1.2:

- Sub Clause 5.5.2;
- Sub Clause 5.5.4;
- Item 29 of Appendix 4 – Car Parking Standards;
- Sub Clause 5.8.1;
- Sub Clause 5.8.5;
- Sub Clause 5.8.8;
- Clause 5.9;
- Sub Clause 5.9.1;
- Sub Clause 5.9.4; and
- Sub Clause 5.10.1.

State Planning Policy 5.2:

- Clause 3.1; and
- Clause 5.1

## FINANCIAL AND RESOURCES IMPLICATIONS

The Town received a development application fee of \$576.00 from the applicant. There are no other financial implications associated with this application.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 1.d.2 Facilities and community infrastructure are revitalised across the Town
- 3.b.4 Innovation and resilience of the built form are encouraged, assessed and implemented

There are no significant identifiable environmental, social or economic impacts relating to this item.

## RISK MANAGEMENT CONSIDERATIONS

There is a compliance risk associated with this item because the development could not be constructed in accordance with the approved plan, or comply with the conditions and/or advice notes. The risk rating is considered to be medium (6), which is determined by a likelihood of possible (3) and a consequence of minor (2).

This risk will be eliminated by the adoption of the officer's recommendation.

**OPTIONS**

*Option 1 – Adopt officer’s recommendation*

*Option 2 – Amend officer’s recommendation*

*Option 3 – Do not adopt officer’s recommendation*

**CONCLUSION**

Given the proposed development demonstrates compliance with the local and state planning framework, it is recommended that development application 2020/055 be approved subject to the recommended Conditions and Advice Notes.

**ATTACHMENTS**

1. Attachment 1 - Approved Plans (under separate cover)
2. Attachment 2 - Site Context (under separate cover)
3. Attachment 3 - Visual Render (under separate cover)

**11.3.2 CONSIDERATION OF RESPONSE TO WESTERN AUSTRALIAN PLANNING COMMISSION ON DRAFT PORT HEDLAND WEST END IMPROVEMENT SCHEME NO. 1**

**Author:** Senior Strategic Planner  
**Authorising Officer:** Director Regulatory Services  
**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

**OFFICER'S RECOMMENDATION**

That Council provides the following comments to the Western Australian Planning Commission (WAPC) on the draft Port Hedland West End Improvement Scheme No. 1 (IS1):

1. Council supports IS1 as it will provide land use and development controls over the IS1 scheme area, including powers for the WAPC to determine development applications, prepare Improvement Scheme Policies, structure plans, and local development plans; and
2. Delegates powers to the Chief Executive Officer to provide a detailed submission on IS1 prior to the close of the public comment period on 3 July 2020, to include:
  - a) Commentary that the consultation process undertaken by WAPC to inform residents and stakeholders, is considered inadequate given the community interest and importance of the West End.
  - b) Recommended modifications to IS1 text and IS1 maps to align with the Town's local planning framework.

*SIMPLE MAJORITY VOTE REQUIRED*

**PURPOSE**

The purpose of this report is for Council to consider and support the draft Port Hedland West End Improvement Scheme No. 1 (IS1) (refer to Attachment 1) and delegate powers to the Chief Executive Officer, to provide a detailed submission to the Western Australian Planning Commission (WAPC), prior to the closing of the public comment period on 3 July 2020.

**DETAIL**

Port Hedland is home to the largest bulk export port in the world, with a total annual throughput of 513Mt in 2018-19. Annual shipping capacity in Port Hedland increased to 617Mt in 2019, due to investment in port dredging, marine technology and other port efficiencies, cementing the Port's supply chain as the core of the Port Hedland economy for the foreseeable future. Historical urban growth in the West End (defined as west of Taplin Street) and port expansion, has resulted in land use conflict. The issue of air quality in the West End of Port Hedland, and in particular, the potential impacts from dust on human health, has been of concern to the Town, residents, business owners, the Environmental Protection Authority (EPA) and State Government agencies, for many years. Port Hedland's West End is home to about 600 residents, as well as numerous sensitive land uses. Being adjacent to the Port, the West End is the most dust affected urban area in Port Hedland, with bulk commodity exports occurring

to the south and west. Census figures indicate that 41 per cent of private dwellings in the area are unoccupied and 82 per cent of occupied private dwellings are rented.

### Dust Management Taskforce

In 2009, the EPA raised concerns about the possible impact of dust on Port Hedland residents. The Government subsequently established the Port Hedland Dust Management Taskforce (2009) to plan for and coordinate dust management in the town. The Taskforce released their Port Hedland Air Quality and Noise Management Plan in 2010. The plan proposed, amongst other recommendations, the drafting of a Health Risk Assessment to determine the impact of dust on the population. The Department of Health finalised the Port Hedland Air Quality Health Risk Assessment for Particulate Matter in February 2016. The Taskforce used the findings of the Health Risk Assessment to prepare its Report to Government, which included recommendations for managing dust in Port Hedland. In August 2017, the State Government released the 2016 Port Hedland Dust Management Taskforce's Report to Government to obtain the views of the Port Hedland community, industry and other stakeholders. Fifty (50) submissions were received. After considering the Taskforce Report and the feedback received, the State Government formalised its position in October 2018. In relation to land use planning, the following position was established for managing dust in the West End:

- The Government supports the Taskforce recommendation that appropriate planning controls be implemented to prohibit sensitive land uses and restrict population growth in the West End of Port Hedland. To give effect to this, the WAPC will consider an improvement plan and improvement scheme designed to achieve the land use outcomes described in Recommendation 5 of the Taskforce Report; and
- In response to community concerns raised in the consultation process, the Government will act to ensure that any future West End planning controls will not prevent the redevelopment of residential properties – provided that the redevelopment would not result in an intensification or expansion of nonconforming uses – should they be more than 75% damaged by a natural disaster such as fire or a cyclone.

### IS1 arrangements

Improvement Schemes are similar instruments to local planning schemes, however the WAPC is the determining authority for development applications. They contain development control provisions regarding the scheme area and are prepared in the same manner as a local planning scheme, except the WAPC is the approving authority in place of Council.

IS1 depicts the intended land use and development scenario arising out of the State Government's response to the 2016 Taskforce Report, with the WAPC confirming extensive engagement with key stakeholders from State and local government, community and industry. IS1 provides the statutory framework providing for land use planning administration and development control within the IS1 scheme area (refer to the scheme area map in Attachment 2). Key to implementing the State Government's response to the 2016 Taskforce Report, IS1 provides a definition of 'sensitive land use' in accordance with the findings of the Department of Health's Port Hedland Air Quality Health Risk Assessment for Particulate Matter, which noted that certain groups within the general population have been determined to be more vulnerable to the effects of air pollution.

These include:

- older people (over 65 years);
- people with pre-existing cardiovascular or respiratory disease;
- people with pre-existing respiratory conditions (asthma, bronchitis, chronic obstructive pulmonary disease); and
- children.

### 'West End' zone

IS1 sets out a singular West End zone across all land west of Taplin Street, excluding the Spoilbank and foreshore areas. The West End zone will apply the State Government response to the 2016 Taskforce Report within IS1 by prohibiting:

- any form of residential development which provides for permanent occupancy (for example: single, grouped and multiple dwellings, residential aged care facilities); and
- other land uses deemed to be sensitive receptors for human health impacts from dust (for example: aged persons centres, child care premises, schools, medical centres).

The provision of discretionary land use permissibility within the zoning table is intended to provide the WAPC with the ability to properly consider proposals for non-sensitive land uses on their merits against the objectives of the zone and of the aims and purposes of IS1 (among other matters). Additionally, the WAPC considers merit in establishing appropriate uses as discretionary in order to provide for planning and investment flexibility into the future, without the need for future amendments to IS1. The approach to populating the permissible uses within IS1 zoning table is specific to the West End context, having regard to the findings of the Department of Health's Port Hedland Air Quality Health Risk Assessment for Particulate Matter and the State Government's response to the 2016 Taskforce Report.

IS1 includes a 'use not listed' clause in respect of uses that do not fall within the use classes, outlined within the zoning table. Given the evolving nature of the resources sector and technological advancements, it is considered appropriate to incorporate such a clause into this Scheme, in order to 'future-proof' it and allow flexibility within the West End. The clause requires that the WAPC determine that the use is consistent, with the objectives of the zone prior to approval, providing a framework for the exercise of discretion.

### 'Landscape Interface' reserve

A 'Landscape Interface' reserve is provided within IS1 for the public open space corridor along Anderson Street to interface with adjacent industrial land uses, south of IS1 boundary. The reserve will also continue to serve town site drainage functions.

### Roads

IS1 identifies primary distributor, local distributor and local road reserves, to distinguish the main heavy vehicle route along Wilson Street, accessing the Port from local traffic routes in the West End. Further, to the road classifications detailed in IS1, there is potential for future upgrades to the intersection, and realignment of Anderson Street and Short Street. Aimed at creating a unique sense of arrival to the West End, while focusing heavy vehicle traffic along Wilson Street; and with only limited access along Anderson Street, it will minimise conflicts between visitor traffic and industrial traffic.

## Consultation

In accordance with the requirements of the *Planning and Development Act 2005*, the minimum statutory consultation requirements the WAPC is required to follow for improvement schemes, involve one (1) letter to be sent to landowners and stakeholders, allowing an opportunity for the public to view a draft improvement scheme and provide a timeframe in which the public can provide comment. Given the West End functions as a town centre, with invested community organisations, businesses and a substantial residential population, this consultation approach is considered by the Town to be inadequate. Further, as of the 9 June 2020, the Town has received four (4) submissions from residents of the West End expressing concern regarding the public consultation period falling within Covid-19 lockdown, restricting their ability to provide comment and requesting an extension of the public consultation period.

The Town has previously advocated for WAPC to extend the level of community engagement and to support opportunities for the community and landowners, to provide input into the formulation of the improvement scheme, rather than comment on a draft that has already been prepared. Given the WAPC has not initiated consultation methods beyond the minimum statutory requirements, the Town and local community have had limited opportunity for involvement in the formulation of IS1. Part two (2a) of the Officer Recommendation in this report aims to reflect this viewpoint in the Town's detailed submission.

### **LEVEL OF SIGNIFICANCE**

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of high significance, as IS1 will have significant implications for the present and future social, economic, environmental and cultural well-being of Port Hedland. It is outside the Town's control to consult on IS1 and the Town has previously recommended the WAPC dedicates sufficient resources to community engagement associated with the improvement scheme process.

### **CONSULTATION**

#### *Internal*

- Manager Town Planning & Development
- Director Regulatory Services

#### *External Agencies*

- Nil

#### *Community*

- Given the WAPC has not initiated consultation methods beyond the minimum statutory requirements, the local community have had limited opportunity for involvement in the formulation of IS1.

### **LEGISLATION AND POLICY CONSIDERATIONS**

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*

## FINANCIAL AND RESOURCES IMPLICATIONS

Financial and resource implications associated with draft IS1 are not known at this stage. The State Government is yet to release its findings on the Voluntary Buy-back Scheme.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 2.d.1 Investment in key infrastructure development such as the port and logistics is pursued
- 2.d.2 The development of industry specific value chains are encouraged and supported
- 3.b.1 The present and future needs for serviced land and infrastructure provision are identified, planned and developed
- 3.b.5 The protection and valuing of amenities and urban space is enhanced through community engagement
- 3.c.1 Urban and spatial planning is implemented to enhance human interaction with nature and industry

### *Environmental*

The State Government's decision to implement the Dust Taskforce Report through an improvement plan and scheme will see a change in zoning over the West End of Port Hedland to reduce the risk to human health associated with exposure of a large portion of the population to elevated levels of dust.

### *Economic*

The economic impacts of IS1 are not known at this stage.

### *Social*

The West End of Port Hedland contains a historic town centre and large population base. The Town should advocate to protect cultural, historic and community values associated with the area through the improvement scheme process.

### *Corporate Business Plan*

The following action of the Town's Corporate Business Plan 2018-2022 apply in relation to this item:

- 3.b.1.3 – Advocate to and support State Government initiatives to resolve land use conflicts

## RISK MANAGEMENT CONSIDERATIONS

There is a reputational risk associated with this item because there has been a long standing land use conflict between port operations and residents in the West End of Port Hedland. The risk rating is considered to be high (16), which is determined by a likelihood of likely (4) and a consequence of major (4).

There is an environmental risk associated with this item, as IS1 represents a response to the Health Risk Assessment and resolving land use conflicts in the West End. The risk rating is considered to be medium (9), which is determined by a likelihood of possible (3) and a consequence of moderate (3).

This risk will be mitigated by the adoption of the officer's recommendation. If Council resolves not to support IS1, it may be seen to be hindering the implementation of actions associated with the Dust Taskforce Report which aim to reduce health risk associated with exposure of large portions of the population to elevated levels of dust.

## OPTIONS

*Option 1 – Adopt officer's recommendation*

*Option 2 – Amend officer's recommendation*

*Option 3 – Do not adopt officer's recommendation*

## CONCLUSION

This report has provided an overview of draft Port Hedland West End Improvement Scheme No. 1 (IS1). The key factors to note are that IS1 represents a response to implementing the October 2018 State Government decision on the Dust Taskforce Report. Gazettal of IS1 will transfer decision making power for development applications from the Town to the WAPC. The improvement scheme process is driven by the State Government and the recommendation is for Council to support IS1 and delegate powers to the CEO to provide a detailed response to the WAPC prior to the closing of the public comment period on 3 July 2020.

## ATTACHMENTS

1. Port Hedland West End Improvement Scheme No. 1 Text (under separate cover)
2. Port Hedland West End Improvement Scheme No. 1 Map (under separate cover)

11.3.3	PROPOSED SCHEME AMENDMENT NO. 84 - RECLASSIFICATION/REZONING OF LAND BOUND BY STYLES ROAD, PRETTY POOL CREEK, COOKE POINT ROAD FROM 'PARKS AND RECREATION', 'RURAL' AND 'PUBLIC PURPOSES: ENERGY' TO 'URBAN DEVELOPMENT'
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**Author:** Senior Strategic Planner  
**Authorising Officer:** Director Regulatory Services  
**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

#### OFFICER'S RECOMMENDATION

That Council:

1. Adopt proposed Scheme Amendment No. 84 (Amendment No. 84) to the Town of Port Hedland Local Planning Scheme No. 5 (LPS5) without modification, pursuant to section 75 of the *Planning and Development Act 2005* (PD Act) and Part 5 regulation 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations);
2. Determine that Amendment No. 84 is a standard amendment pursuant to regulation 35(2) of the Regulations for the following reason:
  - a) Amendment No. 84 is consistent with the objectives of the Town of Port Hedland Pilbara's Port City Growth Plan and Town of Port Hedland Draft Local Planning Strategy; and
  - b) Amendment No. 84 will have minimal impact on land in the scheme area and it will not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
3. Authorises the Chief Executive Officer to arrange for Amendment No. 84 to be referred to the Environmental Protection Authority (EPA) pursuant to section 81 of the PD Act, to enable the EPA to comply with section 48A of the *Environmental Protection Act 1986*; and
4. Authorises the Chief Executive Officer to arrange for Amendment No. 84 to be advertised for public inspection pursuant to section 81 and 82 of the PD Act and in accordance with the procedure set out in regulation 47 of the Regulations.

***SIMPLE MAJORITY VOTE REQUIRED***

#### PURPOSE

The purpose of this report is for Council to adopt proposed Scheme Amendment No. 84 (refer to Attachment 1), which was lodged by Element on behalf of DevelopmentWA, in collaboration with the Town of Port Hedland (Town) to reclassify/rezone the land bound by Styles Road, Pretty Pool Creek and Cooke Point Road, also known as the 'Stables Precinct' (the subject site) to 'Urban Development'. The reclassification/rezoning of the subject site to 'Urban Development' is being undertaken to de-constrain the subject site, by clearing an important

step in the land assembly process, to ensure land availability for future population growth and cater to a potential shift of the residential population, from the West End of Port Hedland.

## DETAIL

Amendment No. 84 seeks to facilitate the redevelopment of the subject site for primarily residential purposes, in accordance with the strategic direction for the area under the Town's *Pilbara's Port City Growth Plan*. Development would be guided by an approved structure plan, which would plan for environmental and cultural values of the Stables site, and the natural environment and high amenity of Pretty Pool Creek. Amendment No. 84 is the first step in the statutory planning process, for de-constraining this site. No subdivision or development will be contemplated until a structure plan is prepared and approved by the Western Australian Planning Commission (WAPC).

### Background

The growth of Port Hedland, since the 1960's, has largely been driven by the iron ore industry. Today, Port Hedland is the largest bulk export port in the world for iron ore, with an export output of 247 million tonnes during 2012 and 513 million tonnes in 2019. Future export volume is forecast by the Port Hedland Industries Council, to be 700 million tonnes by 2027. As a result of a significant increase in port operations and export movements in the last decade, concerns have been raised as to the public health risk of iron ore dust in the West End of Port Hedland.

The WA Department of Health undertook investigations into the issue of dust in West End and published the report *Port Hedland Air Quality Health Risk Assessment for Particulate Matter* (February 2016). The report concluded that, there is sufficient evidence suggesting the possible negative effects on human health, from dust in West End. The Department recommended improved dust management, monitoring controls and land use planning measures, to reduce community exposure to dust. To cater for this shift in residential population from the West End of Port Hedland, DevelopmentWA in collaboration with the Town of Port Hedland, is continuing to plan for and prioritise land, to accommodate a shift in residential population, as well as future population growth.

### Coastal processes and flooding

Amendment No. 84 follows the previous Scheme Amendment No. 77 for the same land, which also proposed to rezone the site to 'Urban Development'. Amendment No. 77 was refused by the Minister for Planning in May 2017, primarily on the basis of an inconsistency with *State Planning Policy 2.6 – State Coastal Planning Policy* (SPP2.6). That inconsistency was the Town of Port Hedland had not (at that time) completed a Coastal Hazard Risk Mapping and Adaptation Plan (CHRMAP).

A CHRMAP informs the viability (including any adaptation measures) for locating future residential areas in the context of coastal processes and flood inundation, arising from climate change and forecast sea level rise. In April 2019, the Town of Port Hedland adopted a CHRMAP for Port Hedland Townsite that identifies and assesses coast hazard risks, culminating in a recommended adaptation pathway to address the identified short-term and long-term risks to the area. The findings of the adopted Town of Port Hedland Townsite CHRMAP, provide a framework to guide future development of Port Hedland.

The Town of Port Hedland Townsite CHRMAP study's modelling and erosion investigation, demonstrates that over the planning timeframe of 100 years, the subject site is landward of the coastal erosion hazard line to the east at Pretty Pool Beach. Thus the erosion hazard criteria of SPP2.6, for the 100 year planning horizon, is met. The Town of Port Hedland Townsite CHRMAP study also identified the subject site to be within a coastal flood inundation risk hazard area. Flooding as a result of tidal movement, storm surge, wave action and changes in sea level, place as identified in the Town of Port Hedland Townsite CHRMAP, have the potential to impact the subject site in the long term. The modelling undertaken in the technical investigations to support Amendment No. 84, demonstrate that with filling of the site and provision of a bund wall of suitable rock design for stability, the SPP2.6 inundation criteria for the 100 year planning timeframe (above the 500 year ARI water level), can be satisfied.

A 6.7m AHD finished floor level of development as determined by the Cardno Addendum report dated 27 May 2020 (refer to Appendix A within the Environmental Assessment Report in Attachment 1), will adequately address the potential coastal flood inundation impacts identified in the Town of Port Hedland Townsite CHRMAP. The preliminary geotechnical and engineering investigations, confirm that the site can be developed to accommodate imported fill, to achieve a minimum finished floor level of 6.7m AHD, which is consistent with the requirements of the Town of Port Hedland Townsite CHRMAP. Site filling is an appropriate adaptation measure in response to the potential climatic impact of coastal processes and flooding (due to sea level rise) to the year 2110. Thus proposed urban development within the amendment area, can potentially comply with the provisions and expectations within SPP2.6.

#### Land description and tenure

The subject site will form an extension of the existing Pretty Pool residential area, extending east outwards along Styles Road, is approximately 27 ha in size and is mostly vacant Crown Land, under various forms of tenure. It incorporates two Crown Reserves, which are under use by the Town:

- Crown Reserve 5770 for the purpose of Equestrian Uses which is presently used by the Port Hedland Pony Club and Port Hedland Turf Club; and
- Crown Reserve 29044 for the purpose of Recreation, which is currently under a licence by the Port Hedland Pony Club.

Amendment No. 84 does not affect the ongoing rights of the leases or future renewal of the leases. This has been explained to all parties by DevelopmentWA and the Town.

The ground conditions of the site can be described as follows:

- a limestone ridge runs along the south of the site parallel to Styles road reaching a maximum height of 7.0m;
- a secondary dune system located in the north-western corner which has low shrub land across it and heights to 8.0m and bare tidal flats down to levels of 2.0m AHD; and
- bare tidal flats comprised of low lying shrub land and patches of grass.

### Proposed Scheme Amendment

Amendment No. 84 proposes to reclassify/rezone the subject site from 'Rural', 'Parks and Recreation' and 'Other Public Purpose – Energy', to 'Urban Development'. It will facilitate the future subdivision and development of the land residential purposes, following preparation of a structure plan for endorsement by the WA Planning Commission. The proposed reclassification and rezoning of land, is shown in the scheme amendment plan (refer to Attachment 1).

Amendment No. 84 also proposes modifications to Appendix 10 of LPS5, which will provide for appropriate planning considerations at the structure planning, subdivision and development stages of future development. These modifications will ensure that required environmental investigations are carried out, as part of the structure planning process for the subject site, in accordance with the established framework for the Pretty Pool area under LPS5.

The proposed amendments to Appendix 10 involve updating both the name of the development area to 'Pretty Pool' rather than 'Pretty Pool 2', and the description of the land, to reflect the broader area. This will provide consistency across future development areas and ensure that the requirement, for relevant environmental studies, applies to the remaining undeveloped areas of Pretty Pool.

### Concept Development Plan

The 'Urban Development' zone provides for a basic footprint, for which structure planning is undertaken. Structure planning will identify the appropriate land uses, road layout and urban infrastructure, within the urban development zone. It is highly likely, that not all of the urban development zone being proposed, will be developed for residential use. A reduced residential footprint is expected as part of structure planning, which would result in a greater area provided as a foreshore setback, to the Pretty Pool Creek natural area, compared with the earlier development concept plans.

The structure planning process will consider an appropriate mix of low and medium density residential development, consistent with the established character of surrounding residential development in the localities of, Pretty Pool to the east and Cooke Point to the north. The structure planning will also consider and respond to the requirements of the WAPC Liveable Neighbourhoods. Matters to consider include:

- The distribution of residential density, across the subject site, consistent with the Town's aspirations for the area;
- The integration of established roads, with the proposed internal road network;
- The provision of public open space to service the area, which has been informed by the location of places of identified cultural heritage significance;
- The role that public open space will play in urban water management, noting the unique climate and high rainfall events in the area;
- The interface with Pretty Pool Creek and the provision of public access via the proposed public road network, in recognition of the role Pretty Pool Creek, can play in providing a high level of amenity for future residents and creating a unique sense of place;
- Providing a high level of passive surveillance of streets and public spaces, in accordance with the principles of crime prevention, through environmental design; and

- CHRMAP considerations will also inform the structure planning and design outcomes, including provision of appropriate coastal protection infrastructure and finished development levels, to mitigate against coastal flood inundation. Accordingly, the ultimate form and layout of development, will be further explored as part of the structure plan process.

## LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of medium significance, because the decision may affect the capacity of the Council to carry out activities identified in the strategic plan and may affect a range of people who reside in Port Hedland.

## CONSULTATION

### *Internal*

- Director Regulatory Services;
- Manager Town Planning and Development;
- Manager Infrastructure Projects and Assets;
- Manager Marketing, Events and Communications;
- Coordinator Property Management; and
- Community Engagement Officer.

### *External Agencies*

Should Council resolve to support the officer's recommendation for adoption, Amendment No. 84 documentation including all attachments will be submitted to the Environmental Protection Authority (EPA) for assessment pursuant to Section 81 of the *Planning and Development Act 2005*.

### *Community*

Dependent on the assessment outcome by the EPA, Amendment No. 84 will be referred internally and externally as well as being advertised in accordance with *Planning and Development (Local Planning Schemes) Regulations 2015*, as follows:

- Locally distributed newspaper;
- Registered letters to all adjoining properties within 100m radius;
- Site notice will be placed on the site; and
- Notice will be placed on the information board at the Civic Centre office.

Once the consultation process has been finalised, Amendment No. 84 will be brought back before Council. At that point, Council is required to form a resolution to either support, support with modifications or not support Scheme Amendment No. 84, in its recommendation to the WAPC.

## LEGISLATION AND POLICY CONSIDERATIONS

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Scheme) Regulations 2015*

## FINANCIAL AND RESOURCES IMPLICATIONS

Scheme Amendment No. 84 is fully funded by the Town of Port Hedland. This is a collaborative project with DevelopmentWA, who are providing project management services for the project, free of cost.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 3.a.1 Traditional owners, key stakeholders, and the community are informed and actively involved in the protection and enhancement of the natural environment
- 3.a.2 Biodiversity is understood by the community and protected
- 3.b.1 The present and future needs for serviced land and infrastructure provision are identified, planned and developed
- 3.c.3 Engagement with the community on urban renewal and greening initiatives is enhanced

There are no significant identifiable environmental, social or economic impacts relating to this item.

### *Corporate Business Plan*

The following action of the Town's Corporate Business Plan 2018-2022 apply in relation to this item:

- 3.b.1.3 – Advocate to and support State Government initiatives to resolve land use conflicts

## RISK MANAGEMENT CONSIDERATIONS

There is a reputational risk associated with this item due to the tight approval timeframes being pursued, which may impact the Town's reputation. The risk rating is considered to be medium (8), which is determined by a likelihood of unlikely (2) and a consequence of major (4).

There is a financial risk associated with this item due to the tight approval timeframes that statutory requirements may exceed available budget requiring additional funds or project objectives not being met. The risk rating is considered to be medium (6), which is determined by a likelihood of unlikely (2) and a consequence of moderate (3).

The above risks will be eliminated by the adoption of the officer's recommendation.

## OPTIONS

*Option 1 – Adopt officer's recommendation*

*Option 2 – Amend officer's recommendation*

*Option 3 – Do not adopt officer's recommendation*

**CONCLUSION**

Proposed Scheme Amendment No. 84 will facilitate the reclassification/rezoning of the land, known as the 'Stables Precinct' to 'Urban Development'. The reclassification/rezoning of the subject site to 'Urban Development', is being undertaken to de-constrain the subject site, by clearing an important step in the land assembly process, to ensure land availability for future population growth and cater to a potential shift of the residential population from the West End of Port Hedland. Scheme Amendment No. 84 is consistent with the Town's endorsed planning strategy, the *Pilbara's Port City Growth Plan*. It will be brought back before Council to consider once the advertising process has been finalised.

**ATTACHMENTS**

1. Scheme Amendment No. 84 documentation (LATE under separate cover)

**11.3.4 WORKFORCE ACCOMMODATION AND SOCIAL IMPACT ASSESSMENT  
PLANNING FRAMEWORK**

**Author:** Senior Strategic Planner  
**Authorising Officer:** Director Regulatory Services  
**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

**OFFICER'S RECOMMENDATION**

That Council:

1. Adopts Position Statement – Workforce Accommodation for final approval, presented in Attachment 1 of this item;
2. Adopt the research paper authored by Professor Fiona Haslam McKenzie subject to any modifications resulting from a peer review process, presented in Attachment 2 of this item;
3. Initiates draft Local Planning Policy 05 – Workforce Accommodation and draft Local Planning Policy 06 – Social Impact Assessment pursuant to Clause 3, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), presented in Attachment 3 and Attachment 4 respectively of this item, for the purpose of public consultation; and
4. Advertises draft Local Planning Policy 05 – Workforce Accommodation and draft Local Planning Policy 06 – Social Impact Assessment pursuant to Clause 4, Schedule 2 of the Regulations.

***SIMPLE MAJORITY VOTE REQUIRED***

**PURPOSE**

The purpose of this report is for Council to consider adopting the Position Statement – Workforce Accommodation (Position Statement) and research paper by Professor Fiona Haslam McKenzie (research paper) and initiate draft Local Planning Policy 05 – Workforce Accommodation (LPP05) and draft Local Planning Policy 06 – Social Impact Assessment (LPP06). In acknowledgement of the varying characteristics of workforce, the Town has focused its policy response on the lifespan of workforce accommodation facilities to ensure the individual and cumulative social impacts can be appropriately addressed, and benefits realised for both the community, industry proponents, and industry workforces.

Should Council resolve to adopt the draft policies, they will be advertised for public comment before being presented to Council for final adoption (with or without modification).

## DETAIL

### *Position Statement – Workforce Accommodation*

The Position Statement was previously initiated at the Ordinary Council Meeting held on 5 February 2020. The draft Position Statement was then advertised for a period of 40 days from 12 February 2020 to 23 March 2020, through an advertisement in the North West Telegraph, email notifications with key industry, community and government stakeholders and on the Town's website. Nine (9) submissions were received during the public consultation period and are captured in a schedule of submissions (refer to Attachment 5). The purpose of the Position Statement is to:

1. Outline the Town's rationale, when responding to development applications or referrals, for workforce accommodation.
2. Provide underlying principles for the community, industry and stakeholders, to consider when proposing workforce accommodation.
3. Support the formulation of Local Planning Policies relating to Workforce Accommodation and Social Impact Assessment.

Submissions offered, support for the draft Position Statement, and however were critical of elements, which were not fully developed. It should be acknowledged, that the draft Position Statement was prepared as a precursor to the subsequent research paper and local planning policies, for workforce accommodation and social impact assessment. The majority of suggestions with the submissions have been supported and have resulted in a revised Position Statement, with changes in content, format and structure (refer to Attachment 1).

### *Research Paper*

The Town contracted research by Professor Fiona Haslam McKenzie, Co-Director at the Centre for Regional Development at the University of Western Australia, to inform a safe driving distance to a worksite from accommodation. The purpose of which, has been used to inform LPP05. The methodology included, an evidence based review of literature on the impact of Long Distance Commuting (LDC) practices on individuals and communities, and safety considerations when travelling between home and work. Interviews were also conducted with experts, regarding industrial relations issues and with government and industry stakeholders, on occupational health and safety, in the context of LDC and considerations for safe work distances.

The report highlights:

- The exponential growth in workforce accommodation over the past two decades (the number of LDC in the region, during the last mining boom, exceeded the number of residents).
- That workforce accommodation located within 20km of the town site, is estimated at approximately 3,500 beds, although this number is difficult to confirm, due to an absence of source data and local government referral exemptions for certain mining leases, under the Mining Act and State Agreement Acts.
- The dearth of academic literature and industrial guidelines, regarding safe levels of work travel, in the context of time worked and the absence of academic literature, in a non-urban setting.
- The significant impact of LDC, on host communities and the 'fly-over effect', regarding investment in host towns.

- The lack of equivocal evidence of the impact of LDC, compact shifts and extended rosters on workers, however indications that LDC workers do face specific psychosocial risks from loneliness, fatigue and isolation.
- Duty of care obligations, pertaining to worker travel time in the context of 12-hour shifts, compressed rosters and limited flexibility, associated with standard work hours.
- Concerns raised by interviewees, around travel to work sites from Port Hedland including, road quality and maintenance, workers compensation, weather impacts, wild animals, family pressures and time spent undertaking tasks additional to shifts.
- Evidence that also reflects positive mental health and work tenure outcomes, for employees and State Government support, for collocating workforce accommodation within host towns, where practicable.
- That government statutory and policy frameworks, promote reliance on workforce accommodation and do not align effectively, with government's purported support of local government endeavours, to increase the proportion of residential workers.
- That encouraging a residential workforce for resource dominated towns, appears to make sense from a community and regional development perspective, with a logical solution, being the imposition of a geographical boundary within which, workforce accommodation facilities are discouraged.

Considering the industry standard 12-hour work roster and a sufficient rest period of seven hours, the findings calculated that one hour per day from accommodation to site and return is appropriate. This equates to 30 minutes travel time each way. Variations in the location of accommodation and drop off points on work sites, creates complexity in calculating the 30 minute commute time. The 30 minutes commute time is not definitive and to ensure standardisation in calculations for the purposes of workforce accommodation, the Town has applied the town site boundary and the principal proponent's worksite boundary, as the parameters for calculating 30 minute worksite travel. As noted, companies and individuals have a duty of care, regarding workforce safety and issues regarding workforce safety for travel distances under LPP05, will form part of the consultations with the Town, regarding the location of workforce accommodation.

#### *Local Planning Policy 05 – Workforce Accommodation*

The development arrangements for workforce accommodation in Western Australia, are covered by three key legislative instruments. The *Planning and Development Act 2005* establishes a general requirement for all development to obtain approval, through a development application made under the planning scheme. However, the jurisdictions of the *Mining Act 1978* and State Agreements, which are ratified by Acts of Parliament, can vary the application of the *Planning and Development Act 2005*.

The decisions of when, how and where to accommodate workers are complex, and may be influenced by factors such as, the economy and Commonwealth taxation arrangements. Similarly, arrangements for workforce accommodation, may be made between the State Government and companies directly, and through the issuing of 'general purpose' mining tenements. LPP05 has been prepared to compliment proposed draft Local Planning Scheme No. 7 (LPS7), providing guidance to proponents of workforce accommodation and is consistent with the Western Australian Planning Commission (WAPC) *Position Statement: Workforce Accommodation*.

The objectives of LPP05 are:

1. Integrate workforce accommodation into the fabric of town centres and residential areas.
2. Ensure a design that can perform longer-term functions, rather than be demolished after a short life.
3. Encourage urban based workforce accommodation, that is located close to commercial centres, to serve multi-purpose functions within the Hedland community.
4. Achieve integration of aesthetically designed built form, with the local environment.
5. Improve building, landscaping, street and town appeal.
6. Provide high-quality, aesthetically pleasing and locally appropriate design, that reflects a neighbourhood-like environment.

#### Types of workforce accommodation

The Town understands that workforce accommodation is economically critical infrastructure, that may be required in a very short timeframe and therefore, flexibility is required. LPP05 identifies three types of workforce accommodation to accommodate for this, as follows:

**Short-term workforce accommodation** – typically much larger and more transient and may accommodate, but not be limited to, construction workforces. Used for projects, where the workforce is temporary, engaged for the short to medium term and associated with the delivery of a project or projects, with less than a three year life cycle;

**Intermittent workforce accommodation** – typically associated with alternating shutdown crews, that may only be required for a short period of time. Workforces comprise multi-skilled teams, that work extended shifts, undertaking maintenance or upgrading jobs; and

**Long-term workforce accommodation** – typically accommodates operational workforces, which are smaller in number and where employment is generally for the longer term and more stable. Job roles can include, office staff, drivers, non-shutdown maintenance crews, emergency services, plant operators, and so on, which respond to ongoing project operations, with a lifecycle of three or more years.

LPP05 has different locational requirements and design standards, depending on what type of workforce accommodation is proposed, as discussed later in this report.

#### Need/Demand

With any proposal for workforce accommodation, the Town will require that the applicant demonstrate that, additional workforce accommodation is required to accommodate the proponent's workforce, in accordance with Clause 67(ze) of LPS7. Information must be detailed and address the following:

- the specific worksite or worksites that employees will be working at;
- the location or locations of those worksites;
- the estimated length of time, that the worksite or worksites have funding for, or will be operational for;
- the number of workers that will be needed, for the worksite or worksites;
- a breakdown of the different roles, that the employees will engaged in (ie. construction, maintenance, operational);
- a breakdown of short-term, intermittent and long-term employees, needing to be accommodated at each worksite; and

- whether the proposal seeks to accommodate workers from other worksites and/or companies.

The above information will assist in determining what type of workforce accommodation the development falls under, which influences location and design requirements. The Town wishes to prevent third party workforce accommodation that does not serve a particular worksite or worksites' needs and will not support these proposals.

#### Preferred locations for workforce accommodation

Where a worksite is located within a 30 minute drive of the Port Hedland and/or South Hedland town site boundary, as defined by the Department of Planning, Lands and Heritage and there is available land for development, the Town will not support workforce accommodation, external to that boundary. Where a worksite is located outside of a 30 minute drive of either town site boundary, the location will be considered remote. The Town has applied the town site boundary and the principal proponent's worksite boundary, as the parameters for calculating 30 minutes worksite travel.

#### Design Standards

Short-term and intermittent workforce accommodation, is characterised by the relatively urgent nature of the accommodation being needed, to support the commencement of projects. The Town quantified this to a three year period, to provide a greater level of certainty to the industry. This number is based on a range of historical construction projects within the Pilbara, including the construction of mines, port expansions and development of new railway yards, which tended to be completed within 2.5 years.

The Town does not expect a workforce associated with, for example, a single construction project to stay within the area beyond completion of a particular project. Given the short nature that this accommodation is needed and designed for, a set of 'Basic Design Standards' are outlined in LPP05. The basic design standards apply to the following proposals:

- Short-term and/or Intermittent workforce accommodation (outside Residential, Urban Development, Centre and Mixed Use zones - based on draft LPS7 zonings).

Where workforce accommodation is designed to house a workforce for three years or greater, generally associated with an operational workforce, the Town expects a high standard of design that compliments SPP7.0. The 'High Design Standards' applies to the following proposals:

- Short-term and/or intermittent workforce accommodation (within Residential, Urban Development, Centre and Mixed Use zones - based on draft LPS7 zonings); and/or
- Long-term workforce accommodation within any zone; and/or
- Hybrid accommodation models that propose to incorporate long term workforce persons with short-term and/or intermittent workforce persons.

The high design standards are based on a number of State Planning Policies and design guidelines, including SPP7.3 Residential Design Codes Volume 1 and Volume 2. These were used as inspiration, given that achieving good quality design for housing/accommodation, heavily impacts on people's quality of life and the positive contribution to a town.

### Time Limit

Pursuant to clause 72 of the Deemed Provisions, the local government may impose conditions limiting the period of time, for which development approval is granted. For the purposes of LPP05, a condition may link the timeframes of the project phases (ie. the construction phase) to the workforce accommodation's development approval. Development that is designed and constructed, in accordance with the 'Basic Design Standards', shall have a time limited approval, that accords with the project lifespan, to a maximum of three years. Development that is designed and constructed, in accordance with the 'High Design Standards', shall not have a time limited approval.

### Referral

In considering proposals for workforce accommodation on mining tenements, the local government may exercise its discretion to inform the Minister for Mines and the Minister for Planning, in writing that the granting of a mining lease or general purpose lease, is contrary to the provisions of the Scheme. Where workforce accommodation under the Mining Act 1978 or under a State Agreement Act is likely to impact the Town of Port Hedland's achievement of its development aspirations, the local government may seek to influence the arrangements governing workforce accommodation. In considering proposals for workforce accommodation on mining tenements, the Town may exercise its discretion to inform the Minister for Mines and the Minister for Planning, in writing that the granting of a mining lease or general purpose lease, is contrary to the provisions of the Scheme.

### *Local Planning Policy 06 – Social Impact Assessment*

Sustainability is central to the planning system integrating the social, economic and environmental consequences of land use and development, in order to deliver a better quality of life of communities and for future generations. The *State Planning Strategy 2050* aims to provide for the sustainable use and development of land, and this aim is based on six key principles for:

- Enabling diverse, affordable, accessible and safe communities;
- Facilitating trade, investment, innovation, employment and community betterment;
- Conserving the State's natural assets through sustainable development;
- Ensuring infrastructure supports development;
- Building the competitive and collaborative advantages of the regions; and
- Building community confidence in development processes and practices.

The objectives of LPP06 are:

1. To encourage early identification and assessment of positive and negative social impacts of a planning proposal, through a Social Impact Assessment and Social Impact Management Plan, for mitigating adverse impacts and maximising positive social outcomes, for the impacted community.

2. To outline the Town's expectations concerning the key elements of a Social Impact Assessment, including genuine engagement with stakeholders.
3. To support informed decision-making with quality information and measures to be implemented and monitored, through key performance indicators.

LPP06 applies throughout the Town of Port Hedland. It specifies what types of planning proposals should be accompanied, by a social impact assessment:

- A structure plan, as a technical appendix to the structure plan report;
- A standard or complex scheme amendment, as a technical document;
- Development falling within the use class of 'Workforce Accommodation';
- Development that has an estimated cost of construction in excess of \$10 million;
- Development or use that the Town considers, would result in significant social change or harm; and/or
- An amended or updated SIA, where an amendment to an above-listed proposal is submitted to the Town.

LPP06 provisions aim to rely on best-practice and the skillsets of appropriately qualified personnel to formulate and prepare the SIA. The provisions also have regard to the guidance for assessing and managing the social impacts of projects, which have been well established at an international level. This would allow applicants to consider the most appropriate scope and methodology, to align with the scale and complexity of their particular project or planning proposal.

Should Council adopt both policies, the Town would advertise the local planning policies for a minimum period of 21 days, in accordance with the Deemed Provisions of the Regulations.

## LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of medium significance as:

- A number of regional local governments have adopted local planning policies for workforce accommodation and social impact assessment.
- The benefits are well established in relation to identifying positive and negative social impacts and mitigating against adverse consequences of development.
- It is appropriate for the Town to consider social impacts as part of planning and decision-making processes. The Environmental Protection Authority considers social impact as a key environmental factor for its own environmental impact assessment process, to protect social surroundings from significant harm. However, not all planning proposals are subject to an environmental impact assessment process.

## CONSULTATION

### *Internal*

- Manager Town Planning and Development; and
- Senior Planner.

### *External Agencies*

- External agencies will be consulted as part of the public advertising period, should the policies be initiated.

### Community

- A notice of the proposed draft local planning policies will be published in the North West Telegraph, for a period of no less than 21 days. This advertisement will provide details on:
  - The subject and nature of the proposed policy;
  - The objectives of the proposed policy;
  - Where the proposed policy may be viewed; and
  - To whom, in what form and during what period submissions in relation to the proposed policy may be made.
- A copy of the draft local planning policies will also be placed on the Town's website inviting submissions. Any submissions received during the public consultation period will be considered and reported back to Council in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

### LEGISLATION AND POLICY CONSIDERATIONS

- *State Agreements which are ratified by Acts of Parliament;*
- *Mining Act 1978;*
- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015; and*
- *Town of Port Hedland Local Planning Scheme No. 5.*

### FINANCIAL AND RESOURCES IMPLICATIONS

There is a financial cost of advertising the draft planning policies in the North West Telegraph with an approximate cost of \$600.

### STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 1.b.5 Opportunities to get involved and results of engagement are regularly promoted
- 1.d.3 Facilities and community infrastructure are well maintained, managed and fit for purpose to provide a range of lifestyle opportunities
- 3.c.1 Urban and spatial planning is implemented to enhance human interaction with nature and industry

There are no significant identifiable environmental, social or economic impacts relating to this item.

### RISK MANAGEMENT CONSIDERATIONS

There is a health risk associated with this item because social impacts on the community can result as a consequence of development and/or use of land for certain activities. The assessment of potential social impacts would be considered reasonable for certain developments, based on their potential impacts, just as proposals are considered and assessed for their potential environmental impacts. The risk rating is considered to be medium (6), which is determined by a likelihood of possible (3) and a consequence of moderate (3).

There is a reputational risk associated with this item because the requirement to undertake social impact assessment or additional design requirements has a time and cost implication

for a proponent. It is anticipated that there will be submissions received arguing for the fair and reasonable application of the local planning policy in terms of when social impact assessments are necessary, and the form and content of the assessments. The risk rating is considered to be medium (5), which is determined by a likelihood of possible (3) and a consequence of minor (2).

The above risks will be eliminated by the adoption of the officer's recommendation.

## OPTIONS

*Option 1 – Adopt officer's recommendation*

*Option 2 – Amend officer's recommendation*

*Option 3 – Do not adopt officer's recommendation*

## CONCLUSION

The adoption of the Position Statement, research paper and initiation of the draft local planning policies will introduce extra rigour when considering proposals for workforce accommodation and require the preparation of a social impact assessment for certain planning proposals. The planning policies encourage applicants to undertake this work early, so that it can inform the planning proposal and help mitigate negative social impacts on our community. By initiating these policies, Council will have a basis for requesting social impact assessments for improved planning and decision-making capabilities and added weight when responding to proposal for workforce accommodation facilities.

## ATTACHMENTS

1. Position Statement - Workforce Accommodation (under separate cover)
2. Research Paper by Professor Fiona Haslam McKenzie (under separate cover)
3. Draft Local Planning Policy 05 - Workforce Accommodation (under separate cover)
4. Draft Local Planning Policy 06 - Social Impact Assessment (under separate cover)
5. Schedule of Submission - Position Statement (under separate cover)

## 11.4 Infrastructure Services

### 11.4.1 PROPOSED ADOPTION OF REVISED POLICY 9/004 'PRE-CYCLONE GREEN WASTE COLLECTION'

**Author:** Manager Infrastructure Operations

**Authorising Officer:** Director Infrastructure Services

**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

#### OFFICER'S RECOMMENDATION

That Council adopt revised Policy 9/004 'Pre-Cyclone Green Waste', as per Attachment 1.

*SIMPLE MAJORITY VOTE REQUIRED*

#### PURPOSE

The purpose of this report is for Council to consider the proposed amendments made to the Town's policy on the collection of pre-cyclone green waste to ensure it remains current and in line with the Council's strategic direction.

#### DETAIL

##### *Background*

The administration is currently undertaking a comprehensive review of Council policies to ensure they are relevant and meet the needs of Council and the community. Over the past few months, Council have been presented a number of policies, which have required a review, based on their level of priority, significance and length of time that has passed since their last review. Policy 9/004 'Pre-Cyclone Green Waste' was first adopted in 2004 and last reviewed in 2014.

The Town of Port Hedland is located in a region of Australia which frequently experiences cyclones during the summer months. Cyclone season in Australia officially runs from 1 November through to 30 April. To alleviate risks to the community, businesses and infrastructure, Council adopted a policy for the collection of green waste, prior to each cyclone season. Under the policy, residents and businesses, within the municipal boundaries of Port Hedland, including South Hedland, Pretty Pool, Cooke Point, Wedgefield, South Hedland Rural Estate, Redbank and Turner River, are offered a free green waste collection service between September and October each year. This service is either undertaken by the Town's staff or an external contractor.

In order for the Town to carry out the collection efficiently, businesses and residents are asked to adhere to the following conditions:

- Ensure that prunings are no longer than 1.5m;
- Ensure that cut ends are placed towards the street;
- Ensure that prunings do not obstruct footpaths or walkways;
- Ensure that pruning's are not placed within 2m of existing infrastructure; and
- Ensure that loose materials are suitably wrapped.

### *Proposed Amendments*

Firstly, to continue its alignment with the Town's strategic direction to '*Undertake community cyclone preparation and response*' and '*ensure governance information provided to the community is in line with legislated requirements*', the policy has been amended to refer to the potential non-compliance actions, in line with the Town's current Waste Local Law and the *Litter Act 1979*.

Furthermore, the addition of the clause that "Town staff or any external contractor will not enter private property to collect waste" ensures that officers, without explicit delegation by Council, do not breach the rights of residents and businesses, by unlawfully entering a property.

Other minor administrative amendments have been made, as shown in the attachment.

All proposed amendments have no impact on the intent of the policy, which remains to ensure that residents and businesses, are adequately prepared for the annual cyclone season.

### **LEVEL OF SIGNIFICANCE**

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of low significance, and does not meet any of the criteria which deems it significant.

### **CONSULTATION**

#### *Internal*

The following Town officers have contributed to the review:

- Manager Infrastructure Operations;
- Manager Waste Services; and
- Manager Environmental Health Services.

#### *External Agencies*

- Nil.

#### *Community*

Community members are made aware of the collection each year through the Town advertising via newspaper, local radio and social media outlets at least one month prior to commencement of collections. This is also stipulated in the policy.

### **LEGISLATION AND POLICY CONSIDERATIONS**

In the event that the Town outsources the collection to an external contractor, the Town will be required to adhere to the purchasing policy.

The Town of Port Hedland Waste Local Law (2018 and proposed 2020) and *Western Australian Litter Act 1979* outline possible compliance action which may need to be undertaken if required.

### **FINANCIAL AND RESOURCES IMPLICATIONS**

The Town allocates an annual operational budget to undertake the collection each year. The amendments to this policy has no affect on budget.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 3.b.2 Emergencies such as cyclones are prepared for, educated about, responded to and recovered from in partnership with key agencies
- 4.b.3 Transparent and regular governance reporting and communication to the community is undertaken

There are no significant identifiable environmental, social or economic impacts relating to this item.

### *Disability Access and Inclusion Plan*

The following outcomes of the Town's Disability Access and Inclusion Plan 2017-2022 apply in relation to this item:

- Outcome 1 – Services and Events

### *Corporate Business Plan*

The following actions of the Town's Corporate Business Plan 2018-2022 apply in relation to this item:

- 3.b.2.1** Undertake community cyclone preparation and response
- 4.b.3.1** Ensure governance information provided to the community is in line with legislated requirements

## RISK MANAGEMENT CONSIDERATIONS

There are no significant identifiable risks associated with the adoption of this revised policy, however, there may be a potential reputational risk that the Town is not reviewing its policies in a timely manner considering the policy was last amended in 2014. The risk rating is considered to be low (4), which is determined by a likelihood of likely (4) and a consequence of insignificant (1).

The risk will be eliminated by the adoption of the officer's recommendation.

## OPTIONS

*Option 1 – Adopt officer's recommendation*

*Option 2 – Do not adopt officer's recommendation*

## CONCLUSION

The revised pre-cyclone green waste collection policy promotes alignment to the Town's delegations, Waste Local Law and relevant legislation, and further reiterates the Town's commitment in ensuring that its policies remain current and in line with legislative requirements.

## ATTACHMENTS

1. Policy 9/004 Pre - Cyclone Green Waste Collection (under separate cover)

**11.4.2 CONTINUATION OF CONTRACT FOR RFT2017-14 SOUTH HEDLAND INTEGRATED SPORTING PRECINCT: ARCHITECT BRIEF**

**Author:** Project Manager  
**Authorising Officer:** Director Infrastructure Services  
**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

**OFFICER'S RECOMMENDATION**

That Council:

1. Endorse the award of the remainder of RFT2017-14 – 'South Hedland Integrated Sporting Precinct: Architect Brief' to Carabiner Architects for \$1,072,088.50 (Ex GST), for a term of seven (7) years with no options to extend; and
2. Authorise the CEO to execute the remainder of the contracted works for the remaining below stop/go points:
  - a. Completion of the Schematic Design Stage;
  - b. Completion of the Tender Documentation/ Pre-Tender Estimate Stage; and
  - c. Consideration/ Evaluation of Tenders.

*SIMPLE MAJORITY VOTE REQUIRED*

**PURPOSE**

The purpose of this report is for Council to consider the award of the remainder of the works, under RFT 2017-14 South Hedland Integrated Sporting Precinct: Architect Brief, to progress the design of the Masterplan.

**DETAIL**

The preliminary design of the South Hedland Integrated Sports Complex (now known as South Hedland Integrated Sports Hub or SHISH), was awarded to Carabiner Architects (formerly Sandover Pinder) in 2017, following a public tender process. This work was the result of significant community consultation, and was completed by Carabiner Architects, in conjunction with ABV Leisure Consultants.

The South Hedland Integrated Sporting Precinct, now known as South Hedland Integrated Sports and Community Hub (SHISH), was formally endorsed by Council in August 2019.

The proposed contract for the Architect and design team has been developed to enable progression of the project, through to construction of the major building infrastructure, with stop/go points inserted into the contract, at the following project stages:

1. Completion of Masterplan/Design Brief;
2. Completion of Concept Design Stage;
3. Completion of the Schematic Design Stage;
4. Completion of the Tender Documentation/Pre-Tender Estimate Stage; and
5. Consideration of Tenders.

The initial award was presented to Council in March 2018, with the following resolution:

**CM201718/176 OFFICER'S RECOMMENDATION/COUNCIL DECISION****MOVED: CR MCDONOGH****SECONDED: MAYOR BLANCO****That Council;**

- 1. Endorse the recommendation of the evaluation panel and award the Tender 2017/14 for the South Hedland Integrated Sports Precinct; Architect Brief to Sandover Pinder for a projected contract value of \$1,286,765.50 (ex GST) subject to the STOP/GO segments; and**
- 2. Commence the Master Plan stage to the value of \$96,727 (ex GST), with any further stages exercisable at the discretion of the Town, following subsequent approval by the Council and future budget allocation.**

***CARRIED 6/2***

For: Mayor Blanco, Deputy Mayor Newbery, Cr Carter, Cr Hebbard, Cr McDonogh, Cr Pitt  
Against: Cr Whitwell, Cr Daccache

Following completion of the first stage above, the second stage was presented to Council, in August 2019, to progress to the schematic design stage.

**CM201920/029 OFFICER'S RECOMMENDATION \ COUNCIL DECISION****That Council:**

- 1. Endorse the South Hedland Integrated Sports Complex Masterplan (Attachment 1).**
- 2. Authorise the Chief Executive Officer to proceed to the detailed design of the South Hedland Integrated Sports Complex.**
- 3. Authorise the execution of the schematic design (next) stage of contract by the appointed project architects – Carabiner Architects.**

***CARRIED BY COMMISSIONER RIEBELING***

Now that Carabiner Architects have completed this stage of works, the Town is seeking Council approval to proceed to the next stage of design, and for the Town's Executive Leadership Team to manage the project, without the requirement of Council approval to proceed to the next stage.

The proposed contract is for a seven (7) year period, with no options for extension. It is anticipated that the contract will commence on 1 July 2020.

## LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of medium significance, in terms of social, cultural and wellbeing issues of the residents of the Town of Port Hedland, as it relates to the development of significant community infrastructure.

## CONSULTATION

### *Internal*

- Director Infrastructure Services;
- Principal Project Manager;
- Project Manager;
- Director Community Services;
- Manager Community Development;
- Manager Infrastructure Projects and Assets;
- Manager Leisure Facilities;
- Senior Sports and Facilities Officer;
- Regulatory Services team including planning and environmental health & safety;
- Finance team;
- Marketing team;
- Legal Advisor;
- Procurement team;
- Manager Infrastructure Operations; and
- Leisure team.

### *External Agencies*

- Carabiner Architects including sub-consultants;
- Aspect Studios (Landscaping Design); and
- ABV Leisure consultants.

### *Community*

- All Hedland Basketball Association;
- Hedland Reds Junior Football Club;
- South Hedland Swans Football Club;
- South Hedland Cougars Rugby League Club;
- Port Hedland Cricket Association;
- Hedland Touch Association; and
- Hedland Gymnastics Club.

## LEGISLATION AND POLICY CONSIDERATIONS

The initial tender was publicly advertised and awarded in accordance with the *Local Government Act 1995* the *Local Government (Functions and General) Regulations 1996* and the Town's purchasing policies and processes.

## FINANCIAL AND RESOURCES IMPLICATIONS

Carabiner Architects were initially awarded a projected contract value of \$1,286,765.50 (ex GST), subject to stop/go points. To date, Carabiner Architects have been awarded the following under RFT 2017-14:

FY	Award amount (ex GST)	Comment
17/18	\$96,727.00	As per Council resolution CM201718/176
19/20	\$117,950.00	As per Council resolution CM201920/029
<b>TOTAL</b>	<b>\$214,677.00</b>	

This leaves \$1,072,088.50 of the initial award available to allocate.

As per the 19/20 approved capital budget, \$850,000 was allocated to this project, with an anticipated carryover of \$540,000 into 20/21.

The total remaining contract value of \$1,072,088.50, will be awarded in 19/20, with expenditure occurring through to 26/27.

There is \$9,500,000 allocated for the South Hedland Integrated Sports Hub (SHISH) project in the proposed 20/21 capital budget, of which the design work to be undertaken by Carabiner is part.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 1.a.1 Stakeholders are engaged to develop a whole of town approach to increase accessibility to quality health and wellbeing services
- 1.a.4 Partnerships with stakeholders to deliver sport and recreation are enhanced
- 1.a.5 Agencies and the community are fully engaged to reduce anti-social behaviours and improve community safety
- 1.a.6 Town-wide health, safety, recreation and sporting activities and services
- 1.b.4 Regular opportunities for the broad community to have input into the Town of Port Hedland plans and programs are provided for transparency, accountability and two-way interaction
- 1.b.5 Opportunities to get involved and results of engagement are regularly promoted
- 1.c.1 The community, industry, arts and cultural organisations are engaged to identify, plan and coordinate events and activities
- 1.c.2 Events and activities to celebrate the Town's cultural heritage, arts and Pilbara lifestyle are consistently programmed and delivered
- 1.d.1 The present and future facilities and requirements of the Town are planned for and developed in-line with relevant facility standards and community needs
- 1.d.2 Facilities and community infrastructure are revitalised across the Town
- 1.d.3 Facilities and community infrastructure are well maintained, managed and fit for purpose to provide a range of lifestyle opportunities
- 3.b.1 The present and future needs for serviced land and infrastructure provision are identified, planned and developed
- 3.b.5 The protection and valuing of amenities and urban space is enhanced through community engagement
- 3.c.1 Urban and spatial planning is implemented to enhance human interaction with nature and industry
- 3.c.2 The community is surrounded by and has access to attractive natural habitats, built form, parks and amenities

- 3.c.3 Engagement with the community on urban renewal and greening initiatives is enhanced
- 4.b.1 Sound long-term financial planning is implemented
- 4.b.4 Constructive forums are provided for discussion and the representation of the diversity of views and needs that impact on the Town's developments, programs and policies
- 4.c.2 Community members, business and tourists are engaged to provide feedback about local facilities and services
- 4.c.4 Efficiency strategies across the Town's infrastructure and amenity assets are implemented

#### *Environmental*

Development of the currently undeveloped land on the western and northern sides of the Marie Marland Reserve will have negligible environmental impact.

#### *Economic*

This Masterplan is accommodated in the long term financial planning of the Town.

#### *Social*

It is expected that the realisation of this Masterplan will have significant impact on social capital for the Port Hedland community.

#### *Disability Access and Inclusion Plan*

The following outcome of the Town's Disability Access and Inclusion Plan 2017-2022 apply in relation to this item:

- Outcome 2 – Buildings and Facilities

#### *Corporate Business Plan*

The following actions of the Town's Corporate Business Plan 2018-2022 apply in relation to this item:

- 1.a.4.1** Support stakeholders to deliver sports and recreation services
- 1.b.4.2** Inform the community on Town projects, operations, services and events
- 1.b.5.1** Develop, implement and review opportunities to share engagement feedback with key stakeholders
- 1.d.3.1** Support the provision of cultural, sporting and recreational facilities which are fit for purpose
- 2.a.2.1** Develop Masterplans and business cases for future project implementation, in line with the Town's strategic direction and needs
- 3.c.3.1** Develop, implement and review public open space in line with the Parks and Paths Strategy.

## **RISK MANAGEMENT CONSIDERATIONS**

There is a reputational risk associated with this matter because of the identified community need and community desire for improved community and sporting amenities at the South Hedland Integrated Sports Complex. The risk rating is considered to be medium (9), which is determined by a likelihood of possible (3) and a consequence of moderate (3).

This risk will be mitigated by the adoption of the officer's recommendation.

## **OPTIONS**

*Option 1 – Adopt officer's recommendation*

*Option 2 – Do not adopt officer's recommendation*

## **CONCLUSION**

It is recommended that Council award the remainder of the works under RFT2017-14 South Hedland Integrated Sports Complex: Architect Brief to Carabiner Architects, and authorise the CEO to execute the remainder of the stop/go points within the contract.

## **ATTACHMENTS**

1. Staging Plan - SHISH (under separate cover)

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## Item 12 Reports of Committees

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### 12.1 Strategy Committee

<b>12.1.1 STRATEGIC COMMUNITY PLAN MINOR REVIEW AND CORPORATE BUSINESS PLAN ANNUAL REVIEW</b>
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**Author:** Manager Planning and Analysis  
**Authorising Officer:** Director Corporate Services  
**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

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#### COMMITTEE / OFFICER'S RECOMMENDATION

That Council adopt the Strategic Community Plan Minor Review and Corporate Business Plan Annual Review, as per Attachment 1.

*SIMPLE MAJORITY VOTE REQUIRED*

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#### PURPOSE

The purpose of this report is for Council to consider adopting the Strategic Community Plan Minor Review and Corporate Business Plan Annual Review that has been prepared as a combined document.

#### DETAIL

The Strategic Community Plan Minor Review and Corporate Business Plan Annual Review was presented to the Strategy Committee (Committee) on 17 June 2020 for consideration. The Committee recommended that Council adopt the Strategic Community Plan Minor Review and Corporate Business Plan Annual Review.

The Strategic Community Plan (SCP) was adopted by Council in May 2018 and the Corporate Business Plan (CBP) in October 2018. The SCP defines the Town's vision for Port Hedland and explains, in broad terms, the actions that will be taken over a 10 year period to make that vision a reality. The CBP translates those broad actions in the SCP into more specific tasks that the Town will undertake over the next four (4) year period.

During the past two (2) years, the Town has been actively implementing the SCP. Related activities consist of:

- Progressing the tasks defined in the CBP;
- Developing special topic plans, strategies and master plans;
- Monitoring delivery of the CBP, on a quarterly basis; and
- Obtaining community feedback on the Town's overall performance, via the Community Perception Survey.

Regulation 19C of the *Local Government (Administration) Regulations 1996* (the regulations) requires a local government to ensure that an SCP is made for its district and the Integrated Planning and Reporting framework (IPR) recommends a strategic review is conducted every second year, alternating between minor and major reviews. Regulation 19DA of the regulations

requires a local government to ensure that a corporate business plan is made for its district and that the plan is reviewed every year. These reviews have been combined and neither review is intended to rewrite the plans. The review examines the available evidence to confirm if:

- Progress is being made to deliver the CBP;
- The actions identified in the CBP are still relevant for achieving the strategy; and
- The SCP has any obvious gaps or strategies that are no longer relevant.

More than 45% of the CBP is complete, that is, the actions are complete and require no further action or have become a part of the Town's regular operation, indicating alignment between it and the SCP. No new initiatives are currently proposed for the CBP.

The most common issues raised in the open comments question of the Community Perception Survey are already accommodated in the SCP, indicating no material gaps between the SCP and community's needs and aspirations. Overall, the perception survey had more favourable responses than unfavourable responses, which provides further evidence that the SCP is achieving the desired outcomes.

The next major review of the SCP is due in June 2022 and the annual review of the CBP in June 2021.

## LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of low significance, because no amendments to the SCP or CBP are proposed.

## CONSULTATION

### *Internal*

- Executive Leadership Team; and
- Progress towards implementation of the CBP was obtained from the CBP Quarterly Review that is completed by Managers.

### *External Agencies*

- Nil.

### *Community*

- Feedback on implementation of the SCP from the community was obtained from the 2019 Community Perception Survey; and
- Regulation 19C(9) of *Local Government (Administration) Regulations 1996* only requires electors and ratepayers to be consulted "...during the development... and when preparing modifications of a strategic community plan." No modifications to the SCP are proposed and accordingly, no consultation is required.

## LEGISLATION AND POLICY CONSIDERATIONS

Section 5.56(1) of the *Local Government Act 1995* requires a local government to plan for the future of the district.

Section 5.56(2) of the *Local Government Act 1995* requires a local government to ensure plans made under subsection (1) are in accordance with any relevant regulations

Regulation 19C of the *Local Government (Administration) Regulations 1996* requires a local government to ensure that a strategic community plan is made for its district.

The IPR recommends a strategic review is conducted every second year, alternating between minor and major reviews.

Regulation 19DA of the *Local Government (Administration) Regulations 1996* requires a local government to ensure that a Corporate Business Plan is made for its district and that the plan is reviewed every year.

## FINANCIAL AND RESOURCES IMPLICATIONS

There are no financial or resource implications related to this report.

## STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 1.b.4 Regular opportunities for the broad community to have input into the Town of Port Hedland plans and programs are provided for transparency, accountability and two-way interaction
- 4.b.3 Transparent and regular governance reporting and communication to the community is undertaken

There are no significant identifiable environmental, social or economic impacts relating to this item.

### *Disability Access and Inclusion Plan*

The following outcomes of the Town's Disability Access and Inclusion Plan 2017-2022 apply in relation to this item:

- Outcome 3 – Information; and
- Outcome 4 – Quality of Service.

### *Corporate Business Plan*

The following actions of the Town's Corporate Business Plan 2018-2022 apply in relation to this item:

- 1.b.4.2 Inform the community on Town projects, operations, services and events.
- 4.b.3.1 Ensure governance information provided to the community is in line with legislated requirements.

## RISK MANAGEMENT CONSIDERATIONS

There is a reputational risk associated with this item, as it may be perceived that the Town has not performed as expected by the community. The risk rating is considered to be medium (6), which is determined by a likelihood of possible (3) and a consequence of minor (2).

To reduce this risk, the action plan is to consistently monitor and ensure that the Town's administration is performing its duties to the best of its ability to meet or exceed its key deliverables.

## **OPTIONS**

*Option 1 – Adopt officer's recommendation*

*Option 2 – Amend officer's recommendation*

*Option 3 – Do not adopt officer's recommendation*

## **CONCLUSION**

It is recommended that Council adopt the SCP Minor Review and CBP Annual Review. The SCP continues to align with community expectations and the CBP continues to be relevant and effective to implement the SCP and accordingly, no changes are proposed to either plan.

## **ATTACHMENTS**

1. Strategic Community Plan Minor Review and Corporate Business Plan Annual Review (under separate cover)

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**Item 13 Motions of which Previous Notice has been given**

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**Item 14 New Business of an Urgent Nature (Late items)**

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| 14.1 | Adoption of 2020/21 Rating Strategy & Adoption of the 2020/21 Annual Budget |
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**Item 15 Matters for Which Meeting May Be Closed (Confidential Matters)**

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**Item 16 Closure**

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**16.1 Date of Next Meeting**

The next Ordinary Meeting of Council will be held on Wednesday 22 July 2020 commencing at 5:30pm.

**16.2 Closure**

There being no further business, the Commissioner declared the meeting closed at [enter time](#)