



Town of Port Hedland

MINUTES

OF THE

SPECIAL MEETING

OF THE TOWN OF PORT HEDLAND COUNCIL

HELD ON

TUESDAY 10 SEPTEMBER 2013

AT 5.30 PM

IN COUNCIL CHAMBERS

McGREGOR STREET, PORT HEDLAND

Agenda Items:

- 1. Proposed Town Centre - "Restaurant" and "Caretakers Dwelling" Application on Lot 500 The Esplanade Street, Port Hedland. (File No.: 4028440G)*
- 2. Request to Increase the Original Catamore Subdivision Loan for the Joint Venture Subdivision Agreement with the Department of Housing (File No. 800240G)*
- 3. Old Port Hedland Cemetery Upgrade – Adoption of Master Plan (File No: 08/02/0021)*
- 4. Request for Partial Reimbursement and a Commitment of Funding for the Spoilbank Marina Precinct Development*
- 5. Town of Port Hedland Number of Councillors (File No.: 13/09/0014)*
- 6. Endorsement of the Appointment of the Director Corporate Services (Confidential)*

*M.J. (Mal) Osborne
Chief Executive Officer*

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OUR COMMITMENT

To enhance social, environmental and economic well-being through leadership and working in partnership with the Community.

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ITEM 1 OPENING OF MEETING**1.1 Opening**

The Mayor declared the meeting open at 5:33pm and acknowledged the traditional owners, the Kariyarra people.

ITEM 2 RECORDING OF ATTENDANCE AND APOLOGIES**2.1 Attendance**

Mayor Kelly A Howlett
Councillor George J Daccache
Councillor Arnold A Carter
Councillor Jan M Gillingham
Councillor David W Hooper
Councillor Michael (Bill) Dziombak
Councillor Julie E Hunt
Councillor Gloria A Jacob
Councillor Penny Taylor

Officers

Mal Osborne
Natalie Octoman
Russell Dyer
Gordon MacMile
David Westbury

Josephine Bianchi

Chief Executive Officer
Director Corporate Services
Director Engineering Services
Director Community Development
Manager Economic Development
& Strategic Planning
Minute Taker

2.2 Apologies

Nil

2.3 Approved Leave of Absence

Nil

ITEM 3 PUBLIC TIME**IMPORTANT NOTE:**

'This meeting is being recorded on audio tape 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 also reminded that in accordance with Section 20.3 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.'

Mayor opened Public Question Time at 5:34pm

3.1 Public Question Time

Nil.

Mayor closed Public Question Time at 5:34pm

Mayor opened Public Statement Time at 5:34pm

3.2 Public Statement Time

3.2.1 Lavan Legal in relation to agenda item 6.1.1 'Proposed Town Centre - "Restaurant" and "Caretakers Dwelling" Application on Lot 500 The Esplanade Street, Port Hedland. (File No.: 402840G)'

The Mayor tabled the following statement sent through by Lavan Legal.

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URGENT

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10 September 2013

Mr Mal Osborne
Chief Executive Officer
Town of Port Hedland
PO Box 41
PORT HEDLAND WA 6721
By Email: council@porthedland.wa.gov.au
cc: Councillors

Dear Mr Osborne

Special Council Meeting of 10 September 2013 – Item 6.1.1

I refer to the proposed "restaurant" and "caretaker's dwelling" for Lot 500 The Esplanade, Port Hedland, which is the subject of Item 6.1.1 of the Town of Port Hedland Special Council Meeting scheduled for this evening.

I act for a number of Port Hedland business owners, who have previously made a submission expressing their concerns in relation to this proposal. Having now reviewed the responsible officer's report, I have been instructed by my clients to provide a supplementary submission.

Car parkingFailure to apply properly assess parking requirements

- 1 The responsible officer's report fails to properly address car parking standards with respect to the proposal.
- 2 As stated in the responsible officer's report, the proposal does not include any on-site parking and the proponent seeks to justify this on the basis that some off-site parking is already available in the locality.
- 3 Although the responsible officer's report attaches a document entitled "review of parking proposal" (**Proponent's Parking Report**), it is evident that no proper consideration has been given to the impacts of failing to provide adequate parking facilities on site.
- 4 Having considered the Proponent's Parking Report, the responsible officer comments that:

Please notify us if this communication has been sent to you by mistake. If it has been, any privilege between solicitor and client is not waived or lost and you are not entitled to use it in any way.

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- 4.1 it is not possible to provide parking on site, whereas the Proponent's Parking Report contemplates 10 parking bays on site;
- 4.2 the proposal to rely on public parking already provided within a 250 metre radius is questionable considering the harsh climate of Port Hedland during summer months; and
- 4.3 population growth will increase demand at the boat ramp parking facility.
- 5 Despite identifying that the Proponent's Parking Report is inadequate in these regards, the responsible officer recommends only one condition with respect to car parking, which is:
- If within 12 months from the use commencing operations, the use has directly resulted in additional car-parking requirements to that which can be reasonably accommodated in the locality 250m radius from the premises, then the proponent shall, develop at its construction cost a maximum of 5 additional parking bays within the McKay Street road verge (or alternate location in the locality) to the satisfaction of the Manager Planning Services.*
- 6 This represents a significant concession with respect to car parking standards and demonstrates that the responsible officer has elected not to apply the relevant provisions of the *Town of Port Hedland Town Planning Scheme No 5 (TPS5)*, which requires each development to have a minimum number of parking bays.

Proponent's Parking Report is defective

- 7 Despite the Proponent's Parking Report stating that the proposal will include 10 parking bays to the rear of the site, the responsible officer's report states that as a matter of practice, it is not possible for provide any parking bays on site.
- 8 The Proponent's Parking Report also fails to identify that TPS5 requires an additional two parking bays for the proposed "caretaker's residence" and these are not provided as a consequence.
- 9 The Proponent's Parking Report is therefore based on fundamental factual errors and its findings are compromised as a result.

Parking requirements in relation to floor space

- 10 The Proponent's Parking Report assesses parking demand on the basis that the proposal will have a total dining area of 170 square metres, which when the parking provisions of TPS5 are applied, requires a minimum of 34 parking bays to be provided.
- 11 The floor plans however show that the proposal features both a ground floor dining area and a mezzanine dining area, meaning that the total dining area would far exceed 170 square metres.
- 12 It follows that on a proper application of TPS5, the proposal would require well in excess of 34 parking bays.

- 13 If the Town of Port Hedland understands that the proposal will be limited to 170 square metres of dining area, this should be specified in a condition of development approval, whereby if the proponent uses more than 170 metres of floor space for dining purposes, it will be in breach of that condition and subject to prosecution.

The reliance on off-site parking

- 14 The responsible officer's report suggests that no parking bays will be provided on site and that the proposal will be entirely reliant on existing off-site parking in the public domain.
- 15 As business owners in the Town Centre, my clients are concerned that this total reliance on existing off-site parking will result in parking problems throughout all parts of the Town Centre, because if customers of the proposal are unable to park on site, they will be required to use existing parking bays in the Town Centre.
- 16 Using TPS5 as a measuring point, at least 36 parking bays in the public domain (34 for the restaurant and two for the caretaker's dwelling) will be required for use by customers of the proposal, meaning that customers of existing businesses and residents of the Town Centre will be deprived from using those parking bays.
- 17 Even if the proposed condition 15 (outlined at paragraph 5 above) were enforced by the Town of Port Hedland, that would only result in five new parking bays being constructed.
- 18 The proposed condition 15 is therefore insufficient in that regard.

No requirement for cash-in-lieu

- 19 Despite the substantial shortfall in the provision of parking, the responsible officer has not recommended a cash-in-lieu payment to the Town of Port Hedland.
- 20 This is the case even though cash-in-lieu arrangements have been enforced in the past for similar developments in the Town Centre, as is ordinary practice for a local government granting development approval.
- 21 My clients submit that it would be completely unreasonable for the proposal to be approved with neither an adequate amount of parking bays on site, nor an equivalent cash-in-lieu payment for parking bays off site.

Procedural submission

- 22 Based on the foregoing assessment of the problems underpinning the car parking analysis, my clients submit that as a matter of procedure, the Town of Port Hedland should:
- 22.1 require the proponent to prepare a revised parking analysis prior to the application being decided, in order to address the factual inconsistencies contained in the Proponent's Parking Report;
- 22.2 require an appropriate cash-in-lieu payment with respect to the shortfall of parking bays; or

- 22.3 resolve to refuse the proposal on the basis of failure to provide adequate parking arrangements.

Function room or conference centre

- 23 The proponent's development application contemplates that in addition to the "restaurant" and "caretaker's dwelling" uses, an area may be set aside for use as a function room or conference centre.

- 24 The term "restaurant" is defined in TPS5 as:

A building and any associated outbuildings and grounds where food is prepared for sale and consumption on the premises and may be licensed to sell liquor.

- 25 Any proposed function area would not fall within this definition of "restaurant", but would instead fall under the definition of "reception centre", which is defined as:

Land or buildings used by parties for functions on formal, business, social or ceremonial occasions, but not for unhosted use of general entertainment purposes.

- 26 If the proponent wishes to operate a function room or conference centre at the site, they will be required under TPS5 to lodge a separate application with the Town of Port Hedland for approval as a "reception centre".

Caretaker's Dwelling

- 27 My clients submit that the proposed condition of approval with respect to the caretaker's dwelling is inadequate in its current form, which provides:

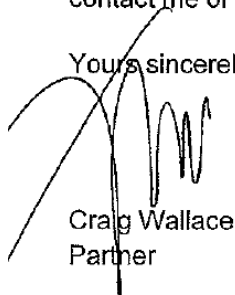
The proposed "Caretakers Dwelling" is to be reduced in size to 50m² to comply with the Port Hedland Town Planning Scheme No 5.

- 28 The proposed condition in this form does not require the design, look or layout of the scaled down caretaker's dwelling to be approved by the Council.

- 29 The condition should provide that the proponent is required to obtain the Council's approval with respect to the design, look and layout of the scaled down caretaker's dwelling.

My clients contend that the Council must take the above legal considerations into account in deciding the proposal at the Special Council Meeting this evening. Please do not hesitate to contact me or Alex McGlue if you would like to discuss.

Yours sincerely



Craig Wallace
Partner

Mayor closed Public Statement Time at 5:36pm

ITEM 4 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil.

ITEM 5 DECLARATION BY MEMBERS TO HAVE GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPER PRESENTED BEFORE THE MEETING

Mayor Howlett	Councillor Dziombak
Councillor Daccache	Councillor Jacob
Councillor Carter	Councillor Hunt
Councillor Gillingham	Councillor Taylor
Councillor Hooper	

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 Council has been received. Decisions made at this meeting can be revoked, pursuant to the Local Government Act 1995.

NOTE: the Chief Executive Officer offered clarification to members of the public and elected members about the number required for a quorum being that of five elected members and for an absolute majority decision of six elected members.

ITEM 6 REPORTS OF OFFICERS**6.1 Planning & Development****6.1.1 *Proposed Town Centre - "Restaurant" and "Caretakers Dwelling" Application on Lot 500 The Esplanade Street, Port Hedland. (File No.: 402840G)***

Officer Eber Butron
Director Planning &
Development

Date of Report 5 September 2013

Disclosure of Interest by Officer Nil

Summary

Council has received an application from Dome Coffee Australia for a "Restaurant" and "Caretakers Dwelling", on Lot 500 (76) The Esplanade Road Port Hedland, (owned by the Crown with a management order to the Town).

The applicant has requested a reduction in the provision of parking for the proposed use, considering the substantial cost of upgrading the existing heritage building and due to its proximity to the public car park at Bert Madigan Park and the surrounding area it is considered reasonable to consider waiver of on-site parking.

This item was laid on the table at the Ordinary Council Meeting of 28th August 2013 and is again presented to Council for determination. Additional information has been provided via further background to the development.

The application is supported by the Towns Officers, Council is requested to consider the application favourably.

Background

The District Medical Officer's Quarters is located on the corner of The Esplanade and McKay Street, Port Hedland, opposite the Port Hedland boat ramp facing north, with direct and uninterrupted views of the Port.

The building was built in 1907 and is a single storey Federation Bungalow style residence. It is heritage listed and requires substantial renovation and restoration.

Given its prominent waterfront location in the West End of town, it has been widely recognised that the location is ideally suited to a café or restaurant.

In 2011, the Minister for Lands ordered that the Town of Port Hedland have care control and management of Reserve 8402, being Lot 500 on Deposited Plan 64541, 76 The Esplanade, Port Hedland, otherwise known as the 'District Medical Officer's Quarters'.

The conditions attached to the Order were that:

- the property is to be used for a community purpose;
- the power to lease or sub-lease is limited to 21 years (this was changed to 40 years by RDL on 20 May 2013) and approved by the Minister; and
- any proceeds from a commercial lease arrangement are to be deposited into a trust account and used for the maintenance and upkeep of the property.

Subsequent to receiving the management order for the reserve, in April 2011 the Town initiated an Expression of Interest (EOI) process for the development of the heritage listed building for the purpose of a bar, café or restaurant, complying with the use being for 'community purpose'.

Respondents to the EOI were required to have experience in operating a similar commercial development as well as experience in renovating or restoring heritage listed buildings.

It was also stipulated through this process that the successful respondent would be expected to undertake all required alterations and renovations to upgrade the facilities at their own expense with any development to be at a minimum cost to the Town.

The Town received two proposals in respect of this EOI, one from Dome Coffees Australia Pty Ltd (Dome) and the second from Mobiles at Work Pty Ltd. As per the requirements of section 3.57 of the *Local Government Act 1995*, – tenders for providing goods or services, these submissions were assessed and presented to Council for their consideration.

At its ordinary meeting, held 13 July 2011, Council resolved the following:

"That Council:

1. *Acknowledge the expression of interest evaluation for the District Medical Officers Quarters, Reserve 8402, being 76 on Deposited Plan 64541, 76 The Esplanade, Port Hedland;*
2. *Authorise the Chief Executive Officer to 'Request a Proposal' for Council's consideration from Dome Coffees Australia Pty Ltd, in relation to the proposed development of the District Medical Officers Quarters, Reserve 8402, being 76 on Deposited Plan 64541, 76 The Esplanade, Port Hedland, utilising the following criteria:*

	Criteria	Weight %
A.	An explanation and particularised cost of development to Council, in dollar terms, where assistance or contribution from the Town has been identified.	30
B.	An explanation of type, number and essential terms of the contractual agreements that will need to be executed by the parties to formalise an agreement for the 'whole of development' life, including the lease.	20
C.	A financial model clearly justifying the rental structure over the proposed life of the lease.	20
D.	An explanation of the how the Port Interpretative Viewing Platform can be maximised with reference to the local tourism market and other tourist attractions in the Pilbara.	20
E.	Alternative solutions to parking, in light of the Town's 'cash in lieu policy' and identified car parking shortfall in West End, Port Hedland, in the medium to long term future.	10

On August 2012, a request for further information by way of letter was forwarded to Dome, reflective of the criteria as set by Council for further consideration.

A concept forum was held with Councillors on the 4th September 2013. A summary of the information presented to Councillors is attached.

Proposal

The applicant has indicated they will be working together with a Heritage Consultant to ensure the existing heritage building is restored to its original form. In addition to the refurbishment it is proposed to construct a modern building at the rear of the heritage building which will provide the required facilities / amenities for the proposed restaurant. The development also includes a 73m² caretakers dwelling.

The provision of parking on the site is problematic due to the retention of the heritage building and the requirement for the construction of an additional building which is required to provide the necessary infrastructure essential to deliver the required service. This issue has been "red flagged" consistently during the entire EOI process by Dome which stating the following in the response to the Expression of Interest "We shall require the Town of Port Hedland to give assurance that they will grant planning for all uses in the proposal. There may be flexibility required on the part of Council in considering the application of planning requirements for a café. We are also of the view that whilst we have provided limited on-grade parking, we shall require Councils' direct assistance in granting a full waiver for any additional car-parking requirements in order to deliver the full benefits proposed in this EOI to the Community. We note positively that there significant public-domain parking within a one to three minute walk time from the subject site."

(Attachment 1).

Consultation

In terms of the Port Hedland Town Planning Scheme No 5, the lot is zoned "Town Centre" identifying the "Restaurant / Café" use as a "P" use (*the development is permitted by the Scheme*).

Internal Consultation has been done with the following units:

- Building Services Unit
- Environmental Health Services Unit
- Technical Services Unit
- Engineering Services Unit

The recommended approval will be subject to the support from the following external departments, should objections be received a report will be brought back to Council to consider the objections:

- Department of State Development (Dust Task Force)
- Department of Health
- Department of Environmental Regulations (previously DEC)

A concept forum was held with Councillors on Wednesday 4th September 2013.

Statutory Implications

In accordance with the Planning and Development Act 2005, the proposed development is subject to the provisions of the Town of Port Hedland Town Planning Scheme No. 5 (TPS5).

Clause 6.13.5 of the Town Planning Scheme No 5, provides Council with the ability to vary car parking requirements if it is satisfied the variation will not lower the safety standards.

Policy Implications

12/002

Off Site Car Parking Policy

Objectives

To provide guidance for the possible development of car parking in adjoining road reserves.

Parking Policies

- i. The land valuation component of the cash-in-lieu provision be undertaken in accordance with the Town Planning Scheme requirements, by a qualified valuer appointed by the Town of Port Hedland. All costs associated with the valuation being met by the developer with an estimated cost being paid before valuation is obtained.

- ii. A minimum of 50% of assessed car parking bays to be provided on-site.
- iii. All development within the road reserve to be at the developer's cost.

Development of Car parking in Road Reserves other than in "Residential" areas.

- i. Council, at its discretion, may permit a portion of the abutting road reserve to be developed for car parking, up to a maximum of 40% of the road reserve. The number of bays to be constructed in the road reserve shall be expressed as a cash-in-lieu of car parking contribution and paid to Council. Council shall then arrange to design and carry out the necessary works. Such parking in the road reserve shall thereafter be designated public car parking and available for use by all motorists.

Strategic Planning Implications

The proposal is in line with the following clauses within the Strategic Community Plan 2012 – 2022:

6.1	Community
6.1.2	Vibrant
	Provide access to recreational, cultural, entertainment facilities and opportunities (Council Priority 1 – 4 years)
6.2	Economic
6.2.1	Diverse Economy
	Facilitate commercial, industrial and town growth (Council priority 1 – 4 years) Create local employment and investment and diversify the economy (Council priority 1 – 4 years) Enhance supply of suitably located and supported industrial and retail land (Council priority 1 – 4 years) Encourage entrepreneurship through local programs, including business incubation, business advisory, local investment funds, and other programs geared towards generating new products and services (Council priority 1 – 4 years)

Budget Implications

Immediate:

The prescribed application fee has been received from the applicant.

Whole of Life:

The ongoing maintenance of the car parking and landscaping located within the Mckay Street and The Esplanade Road reserves.

Officer's Comment

Economic Development Unit Comment

This project will represent a significant investment in a badly needed sector of the Port Hedland economy. The Pilbara Port City Growth Plan identifies the lack of cafes and retail as an immediate priority that this project will help in that category of retail. This project will contribute towards providing wider variety of choice in the food "menu" of Port Hedland from a high quality Western Australian Company. Dome is also renowned for creating a sense of community or "third place" where the community can socialize or even "get out the house" something the community mentions the desire for at every forum. The fact that Dome is also proposing to restore an important piece of Port Hedland History and then make that use available to the public, should only be described as a great outcome for the community.

Planning Unit Comment

Car Parking:

As mentioned as a result of the requirement to retain the existing heritage building and additional amenities, it is not possible to provide parking on the site.

Being a heritage listed property which the applicant will be required to restore, it is reasonable subject to there not being a lowering of safety standards for Council to reduce or waive the parking requirement.

The parking review prepared by Porter Consulting Engineers on behalf of the applicant (Attachment 2) confirms, in terms of the Port Hedland Town Planning Scheme No 5, thirty four (34) car parking bays are required. It must be noted that at the time of the report being prepared it was assumed ten (10) car parking bays will be provided on-site. The review justifies the inclusion of all public parking areas within a 250m radius to the proposed development.

From a planning perspective the proposed radius of 250m is questionable considering the harsh climate conditions experienced during summer months. In addition with the population growth and the availability of only one (1) boat ramp within the Port Hedland area, it must be considered that the parking demand at the boat ramp will increase. Should the Marina development proceed it is anticipated a new boat ramp facility will be provided. By acknowledging a proportion of parking for the proposed development will be accommodated within the "Boat Ramp" parking area may impact on the potential redevelopment of the land should the boat ramp be relocated.

Streetscape / Heritage Value Retention:

It is important to ensure the new building design proposed at the rear is sympathetic and compliments the existing heritage building. In this regard the Town obtained the following advice from Laura Gray Heritage and Conservation Consultant:

“Overall, in my opinion, the proposal is well considered and serves to highlight the heritage place while still making an appropriate architectural statement in Port Hedland.

The use of the site, maximising the footprint but managing to set the new buildings back from McKay Street, serves to highlight the heritage building that still dominates the Richardson Street frontage, and the street corner of McKay Street.

Further, the view north in McKay Street will still encompass the heritage building. The heritage building located immediately adjacent at No2 McKay Street, complements the subject heritage building if scale and form. Together they are clearly articulated against the more contemporary developments respective to both sites.

The contemporary nature of the proposed buildings on the site is in my opinion entirely responsive to the situation of not detracting from the heritage building, but also establishing an architectural statement for Port Hedland of the 2010s.

The perspective drawing (3 of 3) clearly demonstrates the dominance of the heritage building on the primary street corner, with no impact on the Richardson view, or the McKay Street view.

Further commentary

There are two points of view in heritage circles with regard to the interpretation of the Burra Charter. The Burra Charter is the underpinning philosophy of conservation that informs all heritage and conservation guidelines and planning and assessment processes and policies. The Burra Charter is the Australian version of an International Conservation charter established by ICOMOS (International Council of Monuments and Sites). All practitioners and bodies engaged in heritage and conservation should respect and respond to the Charter principles and practitioners such as I, as a member of Australia ICOMOS are bound by the Charter.

Basically the Burra Charter implies that any interventions to a heritage place should be identified as such. A Place meaning that whatever is assessed as being the context of what is significant. In the subject heritage place, it is the entirety of Lot 76, so the interventions include not only what is required to adapt the heritage building, but the impact of the new buildings on the overall context of the heritage value of the site.

It is my contention that differing interpretations arise from extracting “articles” from the Charter and taking them out of the context of the totality of the Charter. The Burra Charter must be read as a whole. The underlying principle is to understand a place and respond in a way that does not impact the assessed significance of that place. Generally that is with a considered response to the significance of the place as reflected in its form, scale and materials. That considered response may well result in a similar roof form, single storey scale – or not. The key is to minimise the impact on the heritage place (definitely NOT mimicking)- and understanding and respect of that place. The proposed Dome development, in my opinion, has achieved just that.”

Caretakers Variation:

The proposal includes a “Caretakers Dwelling” being an “AA” use in terms of the Port Hedland Town Planning Scheme No 5 (the development is not permitted unless the Council has granted planning approval).

In terms of the Town Planning Scheme No. 5, a “Caretakers Dwelling” is restricted to a maximum size of 50m². The applicant has proposed a 73m² “Caretakers Dwelling”. It is the Towns Officers are of the opinion that a variation to the defined size of a “Caretakers Dwelling” cannot be supported unless done through a scheme amendment. Should the application be approved by Council a condition should be imposed requiring the reduction of the size of the “Caretakers Dwelling” to comply with the definition as contained in the Town Planning Scheme.

Dust Mitigation Report

The applicant is required to obtain a report prepared by a suitably qualified Mechanical Engineer to ensure the design of the “Caretakers Dwelling” achieves the same outcome as what is proposed in the Scheme Amendment 22 area.

Should Council support the proposal, thereby providing the applicant with confidence to proceed with the required report, it is recommended the approval be made subject to the approval of the “Dust Mitigation Report”. Should objections be received from the relevant state agency, a report be presented to Council to consider any objections.

Attachments

1. Porter Consulting Engineers (Under Separate Cover)
2. Proposed Development
3. Concept forum presentation

201314/080 Officer's Recommendation/ Council Decision**Moved: Cr Jacob****Seconded: Cr Carter****That Council:**

A. Approves the application from Dome Coffee Australia for a "Restaurant" and "Caretakers Dwelling", on Lot 500 (76) The Esplanade Road Port Hedland (owned by the Crown with a management order to the Town) subject to the following conditions:

- 1. This approval relates only to the proposed Town Centre – "Restaurant / Café" and "Caretakers Dwelling", as indicated on the approved plans (DRG2013/468/1 - DRG2013/468/2. It does not relate to any other development on this lot;**
- 2. If the development referred to in (1) above is not substantially commenced within a period of two years from the date of this approval, the approval shall lapse and be of no further effect;**
- 3. The proposed "Caretakers Dwelling" is to be reduced in size to 50m² to comply with the Port Hedland Town Planning Scheme No. 5;**
- 4. Front walls and fences within the primary street setback area shall be visually permeable and no higher than 1.2m measured from natural ground level;**
- 5. Roof mounted or freestanding plant or equipment such as air conditioning units and hot water systems shall be located and / or screened to the satisfaction of the Manager Planning Services;**
- 6. Alterations or relocations of existing infrastructure within the road reserve shall be carried out and reinstated at the landowner's cost, to the specification and satisfaction of the Manager Technical Services;**

The following condition(s) are to be cleared by Planning Services prior to the submission of a building permit application.

- 7. Prior to the submission of a building permit application the applicant shall provide a restoration plan of the District Medical Officer's Quarters approved by the State Heritage Office;**

8. For the Caretakers component of the development the proponent is required to submit a 'Dust Mitigation' report prepared by a suitably qualified Mechanical Engineer to the satisfaction of the Director of Planning and Development;

The following conditions are to be cleared by Planning Services prior to any works taking place on the lot.

9. Prior to the commencement of any works, a "Stormwater management plan" shall be submitted and approved by the Manager Planning Services. All stormwater disposal shall be accordance with the approved stormwater management plan;
10. Prior to the commencement of any works a detailed landscaping and reticulation plan including any street verge, shall be submitted and approved by the Manager Planning Services. The plan to include location, species and planting details with reference to Council's list of Recommended Low-Maintenance Tree and Shrub Species for General Landscaping included in Council Policy 10/001;
11. Prior to the commencement of any works, a "Refuse Collection Strategy / Management Plan" shall be submitted and approved by the Manager Planning Services. The approved "Refuse Collection Strategy / Management Plan" shall be implemented to the satisfaction of the Manager Planning Services;
12. Prior to the commencement of any works, an "Erosion and Sediment Control Plan" shall be submitted and approved by the Manager Planning Services;
13. Prior to the commencement of any works, a "Construction Site Management Plan" shall be submitted and approved by the Manager Planning Services. The "Construction Site Management Plan" shall indicate how it is proposed to manage the following during construction:
 - a. The delivery of materials and equipment to the site;
 - b. The storage of materials and equipment on the site;
 - c. The parking arrangements for the contractors and subcontractors;
 - d. Impact on traffic movement;
 - e. Operation times including delivery of materials; and
 - f. Other matters likely to impact on the surrounding residents / businesses;

The following conditions are to be cleared by Planning Services prior to occupation of the development.

14. Prior to the occupation of the development landscaping and reticulation shall be established with the use of mature trees and shrubs in accordance with the approved plan and thereafter maintained to the satisfaction of the Manager Planning Services (Refer to advice note 3); and

The following condition to be cleared by the Manager of Planning Services upon 12 months of operations.

15. If within 12 months from the use commencing operations, the use has directly resulted in additional car-parking requirements to that which can be reasonably accommodated in the locality 250m radius from the premises, then the proponent shall, develop at its construction cost a maximum of 5 additional parking bays within the McKay Street road verge (or alternate location in the locality) to the satisfaction of the Manager Planning Services.

ADVICE NOTES:

1. In terms of the Port Hedland Town Planning Scheme No 5, "Restaurant" is defined as follows:

"a building and any associated outbuildings and grounds where food is prepared for sale and consumption on the premises and may be licensed to sell liquor."
2. You are reminded this is a Planning Approval only and does not obviate the responsibility of the landowner to comply with all relevant building, health and engineering requirements;
3. In the absence of a clear definition of "mature trees and shrubs" within the Port Hedland Town Planning Scheme, No.5, for the purpose of this approval "mature trees and shrubs" shall mean trees of no less than 2m in height and shrubs of no less than 0.5m in height;
4. Waste receptacles shall be stored in a suitable enclosure, provided to the specifications of Council's Health Local Laws 1999;
5. The landowner shall comply with the requirements of Worksafe Western Australia in the carrying out of any works associated with this approval; and

- 6. To clear any conditions kindly contact the Towns Compliance Officer on (08) 9158 9300. Please note it may take up to 28 days to clear conditions.**
- B. Request that the Chief Executive Officer, or his delegate(s), prepare a Parking Strategy for the West and Town Centre locality.**

CARRIED 9/0

PROPOSED DOME CAFE BUILDING & EXTENSION

LOCATION : LOT 76 Cnr of RICHARDSON ST & MCKAY STREET
 FOR : DOME COFFEES

PROJECT No 7614
 SKETCH No SK0028
 SHEET No 2 OF 3
 SCALE As indicated @ A1
 DATE MAY 2013

meyer shircore
 ARCHITECTS
 149/111/113
 Suite 2, Ground Floor, 437 Roberts Rd,
 Subiaco, Western Australia 6008
 T: (08) 9381 8511
 e: meyer@meyshircore.com.au
 w: www.meyershircore.com.au

© Meyer Shircore
 8 Apsara Drive
 Member
 ACN 115 189 216

Legend

DESCRIPTION	Color	Area (sqm)	Area (sqft)
Existing Building	Light Brown	12.1m ²	131.4m ²
New Extension - Cafe/Bar	Yellow	48.2m ²	520.0m ²
New Extension - Kitchen	Light Green	27.0m ²	291.0m ²
Carport	Purple	28.2m ²	304.0m ²
DEM	Light Blue	104.0m ²	1122.0m ²
New Extension - Decking/Outdoor Area	Dark Green	104.0m ²	1122.0m ²




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Lot 500 The Esplanade,
District Medical Quarters

Concept Forum
4 September 2013





Timeline of activity

- An **Expression of Interest** process was followed in June 2011

- **Dome Coffees Australia** were acknowledged by way of Council resolution as the preferred candidate with authorisation for the CEO to **Request a Proposal (RFP)** from Dome Coffees Australia in relation to the proposed development of the **District Medical Quarters**

- **RFP** forwarded to Dome by way of letter to address further points for consideration arising from the **EOI** submission

Management Order – Reserve 8402

- ToPH are vested with care, control and management of the Reserve pursuant to a **Management Order**
- The purpose of the Reserve being ‘**Community Purposes**’. It is a **condition** of the **Management Order** that;
“any proceeds from a commercial lease arrangement granted under Condition 2 are to be deposited into a trust account and used only for the maintenance and upkeep of the heritage listed District Medical Quarters”
- The conditions of the management order dictated that any use of this site would not create a commercial opportunity for ToPH, but more of a community benefit





Negotiations to date

Costs to Council

The initial proposal from Dome requested the Town to jointly fund a number of elements of the development, ranging from landscaping to insurance and maintenance

Proposed Lease fee

The initial annual lease fee proposed by Dome was suggested to be \$0 in consideration of the initial capital spend

Car Parking Waiver

A parking study was prepared by Porter Consulting Engineers (Nov 2012) indicating that the proposed development can operate in a satisfactory manner with utilisation of other parking resources within a 250m catchment boundary



Benefits of the development

- Restoration of the Class A heritage listed building with a spend of over \$6 Million
- Activation of the West End
- Increased hospitality options for the residents (*the approved Pilbara's Port City Growth Plan calls the lack of cafes and shops an immediate priority*)
- Economic diversity for the town and local businesses
- Employment opportunities
- Increased livability for residents an potential residents by increased offering of services that are commonplace in urban areas

Benefits of the development




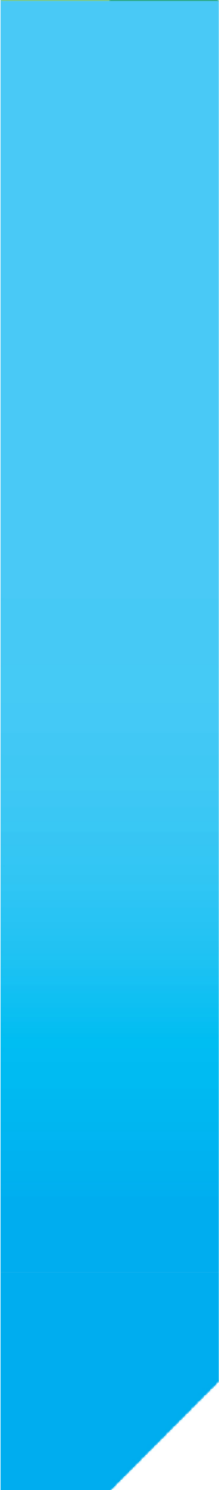
North West View from McKay Street

*“I have to say it is this Dome proposal is one of the **best associated with a heritage building that I have seen**. In my opinion, it is simple in form, strong in refined character, and entirely appropriate in establishing a relevant contemporary Port Hedland architectural style.”*

Comments from Laura Gray (Heritage & Conservation Consultant) and Vice Mayor of Wanaroo





- 
- 
- RDL has already approved the development concept, extended the ability to lease the property to 40 years from 21 years and have also signed off on the development application as Land Owner
 - At OCM April 2013, Council resolved to dispose of the property by way of lease
 - Draft lease document is agreed and ready for execution by both parties

6.1.2 Request to Increase the Original Catamore Subdivision Loan for the Joint Venture Subdivision Agreement with the Department of Housing (File No. 800240G)

Officer Brie Holland
Coordinator of Economic
Development and Strategy

Date of Report 30 August 2013

Disclosure of Interest by Officer Nil

Summary

The purpose of this report is for the Council to consider increasing the loan requirements for the Catamore development from \$1.095 million to \$1,618,882 for 2013/14. Other associated increases in principal and interest repayments, and the recognition of revenue from the sale of the land will also need to be incorporated into the 2013/14 budget if Council support the increased loan.

If approved, the Town will be required to advertise the change in loan requirements in accordance with the legislative provisions of the *Local Government Act 1995*.

Background

On 6 March 2013 Council approved selling a portion of inactive space at the south boundary of Shay Gap Park to the Department of Housing (DoH), based on an unimproved market valuation. The portion has since been valued at \$250,000. The Department of Housing will pay the Town for the land against the infrastructure costs associated with the development. Council also approved for the Town of Port Hedland (the Town) to enter into contractual negotiations with the DoH regarding the joint venture for subdivision works of the Catamore subdivision.

On 21 August 2013 DoH forwarded the Town its portion of costs associated with the subdivision which equals \$2,055,770 (incl. GST) or \$1,868,882 (excl. GST). The cost to complete the subdivision (33 lots) for both DoH and the Town has been calculated on a percentage proportion of the total number of lots being DoH having 23 lots (67.65%) and the Town having 11 lots (32.35%).

The increase in the loan amount is necessary because the original loan of \$1,095,000 was indicative based upon costing at the time. Due to the time that has lapsed and the fact that we now have competitively priced actual costing the cost have increased.

Council at its' Ordinary Council Meeting on 6 March 2013 resolved the following;

"201213/254

That Council:

1. *Requests the Chief Executive Officer, or his delegate, to enter into discussions with the Department of Housing to confirm the project management and civil works costs for the infrastructure required to service the Town's land within the Catamore Court development;*
2. *Requests the Chief Executive Officer or his delegated officer to negotiate with the Department of Housing for a joint venture agreement for the proposed subdivision works as conferred by item 1) above;"*

This report outlines the implications of the costs received and the expectations of the Town in relation to its portion of the costs.

To reflect on the 6 March 2013 agenda item, Council should note that according to advice sought by the Western Australian Local Government Association, Procurement and Contract Consultant, dated 12 September 2012, the Town is within its rights to issue the project management including the tender process of the subdivision works without constraint to a State Government body, being the DoH:

'Regarding the Joint Venture arrangement with the Department of Housing (DOH), it appears at face value that the Town of Port Hedland is not the project proponent, rather the DOH is project managing a development on land that has been provided by the Town. If this is the case, the Town has simply submitted a tender proffered by the State Government. The Local Government Act does not constrain or regulate a Local Government in terms of tendering for the provision of its goods or services to external parties.'

Consultation

Internal

- Planning and Development
- Manager of Economic Development and Strategic Planning
- Director of Corporate Services

External

- Department of Housing
- Western Australian Local Government Association

Statutory Implications

Local Government Act 1995 (WA) Section 6.20 – Power to Borrow

While the 2013/14 annual budget includes the Catamore Court borrowing requirements, the details of this proposal have been modified, therefore one month's local public notice of the proposal is required.

Local Government Act 1995 (WA) Section 6.8 – Expenditure from municipal fund not included in annual budget

As the 2013/14 annual budget incorporates expenditure relating to Catamore Court, this request is not deemed to be for an additional purpose, in accordance with the definition provided in section 6.8 (1a).

Local Government Act 1995 (WA) Section 3.57 – Tendering for providing goods or services

Local Government (Financial Management) Regulations 1996 Section 20 – Circumstances in which local public notice not required for exercise of power to borrow

While the 2013/14 annual budget incorporates revenue from the proposed power to borrow (loan funds), the nature of this request is considered to constitute a major variation in accordance with section 20 (2)(b) and therefore one month's local public notice of the proposal is required.

Policy Implications

Nil

Strategic Planning Implications

Strategic Community Plan 2012 - 2022

6.3	Environment
6.3.1	Housing
	Address housing shortage & affordability through using Council held land, providing high quality modular construction, providing incentives and other forms of inducement to deliver housing by 2013.
6.4	Local Leadership
6.4.3	Capable
	Attract, develop and retain a productive and effective workforce to deliver the Strategic Community Plan

Budget Implications

If Council chooses to proceed with the request the Town will be required to make several modifications to the 2013/14 annual budget as outlined in the table below:

GL Account	Description	Current Budget \$	Proposed Budget \$	Variation \$
901422	Catamore Cres Development	1,095,000	1,868,882	773,882
901396	Loan Funds	(1,095,000)	(1,618,882)	(523,882)
901297	Loan Interest Repayments	260,244	273,341	13,097
901498	Loan Principal Repayments	320,571	328,343	7,772
New Account	Proceeds from Sale of Land	0	(250,000)	(250,000)
1407274	Efficiency Dividend	(1,876,715)	(1,897,584)	(20,869)

The above variations reflect the increase in the expenditure required from the Town for the subdivision; the recognition of proceeds from the sale of the land in accordance with the valuation received, and the increase in the loan funds reflects the net of the increased expenditure for development and the proceeds (i.e. \$1,868,882 - \$250,000 = \$1,618,882).

It should be noted that the Original Budget for the efficiency dividend was (\$1,930,000). This amount was amended at the Ordinary Council Meeting on 28 August 2013 with an adjustment of \$53,285 which reflected the savings made during July, therefore resulting in the current budget of (\$1,876,715). In order to maintain a balanced budget position, this proposal will result in an overall increase in the efficiency dividends to be sourced of \$20,869, being the cost of servicing the additional loan for 2013/14 (based upon one loan repayment).

It is proposed in the drafted subdivision agreement that the DoH pay for all the costs of the subdivision upfront, with the Town reimbursing DoH within 10 business days of the subdivision being cleared. If Council chooses to increase the loan, it is not expected that the loan will need to be activated until the end of January 2014. This gives the Town time to negotiate a non-cash solution to the shortfall if at all possible.

Officer's Comments

Increased subdivision costs explanation

The Town received the final cost of the subdivision on 21 August 2013 from the DoH and the cost has risen from the initial estimate of \$1,095,000 to \$1,868,882. Council has previously allocated \$1,095,000 for the Town's portion of the cost of the subdivision works. The amount of \$1,095,000 was first incorporated into the Town's budget in 2010/11 (three (3) years ago) and it was previously tabled earlier in the year that initial estimates of the cost of the subdivision to the Town were actually around \$1,600,000. The DoH has assured the Town that the current costs are very economical. The Town's Officers have cross checked the average cost of delivering a serviced lot in South Hedland with the State's preferred land developer LandCorp, in the market today. To note, the answer isn't straight forward based as each development has its own set of variables which attract different levels of costs; fill requirement, connection to services, remediation etc. In a (part) email dated 30 August 2013 from Senior Project Manager Ross Lee stated that,

"...The costs can vary from about \$120,000 to \$220,000 depending on amount of fill needed and distance services have to be brought in...as a ball park we were looking at about \$200,000 per lot to produce in the prelim cut of the development of the Western Edge"

Noting LandCorp's pricing range of delivering a serviced lot in South Hedland to be from \$120,000 - \$220,000, the cost of delivering each of the lots at the Catamore subdivision through the DoH proposal of \$147,171 is on the lower end of the range. Officers are comfortable that the DoH have proposed a very modest joint venture subdivision cost.

DoH has reassured Officers that the program for delivering the serviced lots has remained the same: within 16 (minimum) – 20 (maximum) weeks, which includes two (2) weeks for mobilisation. If Council chooses to approve the increase in the loan to complete the subdivision, given that the contract has already been drafted and the DoH preferred Tender has been selected, this would allow the DoH to commence the civil works in October next month and be completed by the end of January 2014.

Alternative Options

Request for Tender (RFT)

Council has the option of calling for a Tender for the civil works. This option isn't supported on three levels; firstly the unknown timeframe for the delivery of the subdivision, secondly the flow-on impact to Megara's ability to sell the Sales Lots during the slump in current market sales and thirdly the risk of receiving proposals over the current proposed costs of \$147,171 per lot.

If Council wishes to call for an RFT for the civil works on the Catamore subdivision the timeframes for delivering the subdivision become unknown. It is estimated that it would take an additional six (6) months to advertise, assess, request Council approval and negotiate a new subdivision contract. DoH has proposed the civil works commence immediately and will be finalised within a 16 (minimum) week – 20 (maximum) week program, by the end of January 2014. Given the experience of the DoH in delivering serviced lots within the Town of Port Hedland; Officers are comfortable with the proposed programs timeframe.

If Council chooses to call for an RFT, given the estimated extension of six (6) months to renegotiate a subdivision agreement this means an extension in time for Megara Constructions to wait until they can market the Sales Lots which means that Megara (and by consequence the Town) will have to compete with an increase in land stock coming on line to the market. Megara Constructions wish to start the marketing campaign immediately to give the Sales Lots the best chance of being sold (to note the proposed House and Land package by Megara has been competitively priced) and a six (6) month extension during the current market circumstances on settlement closure, would be dire.

Thirdly if an RFT is called for the subdivision works the Town runs the risk of receiving offers of delivering a serviced lot over the current proposal of \$147,171.

Summary

Entering into a Joint Venture Subdivision Agreement with DoH, to which the Town does not have to project manage itself has always been seen as an ideal situation. The DoH has managed to negotiate subsidised subdivision rates based on bulk tendering on other projects it has in the municipality. Given the amount of time it has taken from the previous allocation of budgeted loan funds over three (3) years ago, it was highlighted in the March agenda item this year that the cost of civil works would be in the vicinity of \$1,600,000. To reiterate, the actual impact of servicing the loan (repayment of principal and interest) increase from \$1,095,000 to \$1,868,882 to Council is \$20,869 for 2013/14 and estimated at double this in each future year.

The main objective of the Catamore project after the subdivision is completed is for Megara to build eight (8) multiple dwellings located on Lot 23 which the Town will have complete freehold ownership of, through the land sales of the remaining 10 Lots. The development will contain 6 x 2 bedroom / 2 bathroom dwellings, and 2 x 3 bedroom / 2 bathroom dwellings, which can accommodate a family or shared housing of the Town's own administration staff.

Subdivision works must be completed in order for this to happen and they must happen in a timely manner in order for Megara to facilitate the marketing of the sales of the Sale Lots.

The effect on increasing the original subdivision loan from \$1,095,000 to \$1,868,882 on interest and principal repayments of \$20,869 for 2013/14 is seen to be reasonable given the proposal outcome of owning eight (8) multiple dwelling units freehold. This will provide the opportunity for Council to withdraw from the private rental market and make some considerable savings on the rental market.

It should be noted, the DoH has expressed a willingness to work with the Town to develop a non-monetary solution to this funding gap. Town officers are exploring other alternatives, but the increased loan is required to complete the project in a timely manner if those efforts prove impossible.

The non-cash alternatives that will be explored include, but are not limited to the following

- Allocating the Department of Housing a unit within the 8 unit apartment building to be built on lot 23 (Group Site) in exchange for the infrastructure payment;
- Locating fill materials for the Department of Housing Projects from local sources;
- Utilising surplus lands such as those requested from the State of Western Australia Department of State Lands via the Lazy Lands program and making those lands available for Department of Housing Projects.
- Other land development opportunities

Options

1. Council supports the request to increase the loan for the Catamore Development.
2. Council also has the option of rejecting this request. This is not supported by officers given the ramifications this would have.

Attachments

1. Department of Housing and Town of Port Hedland costing (spread sheet), dated 31 July 2013.

201314/081 Council Decision

Moved: Cr Carter

Seconded: Cr Gillingham

That Council suspend Standing Orders.

CARRIED 9/0

Mayor declared Standing Orders are suspended at 5:47pm

201314/082 Council Decision

Moved: Cr Carter

Seconded: Cr Dziombak

That Council resume Standing Orders.

CARRIED 9/0

Mayor declared Standing Orders are resumed at 5:53pm

Officer's Recommendation

That Council:

1. Notes that the Town's portion of project management and civil works costs for the infrastructure requirement within the Catamore development equals (\$1,868,882 excl. GST), according to the DoH report;
2. Approves the following budget amendments as outlined in the Variation column of the table below to recognise the additional loan requirements and recognition of revenue and the associated impacts:

GL Account	Description	Current Budget \$	Proposed Budget \$	Variation \$
901422	Catamore Cres Development	1,095,000	1,868,882	773,882
901396	Loan Funds	(1,095,000)	(1,618,882)	(523,882)
901297	Loan Interest Repayments	260,244	273,341	13,097
901498	Loan Principal Repayments	320,571	328,343	7,772
New Account	Proceeds from Sale of Land	0	(250,000)	(250,000)
1407274	Efficiency Dividend	(1,876,715)	(1,897,584)	(20,869)

3. Approves that the revenue of \$250,000 is offset against the Town's development cost of \$1,868,882 therefore reducing the overall development costs to \$1,618,882;
4. Endorses the advertisement of the change in the proposed power to borrow (loan funds) in accordance with the requirements of the *Local Government Act 1995* and associated regulations;

5. Endorses the Chief Executive Officer to affix the common seal on the loan application when the funds are required, providing this is after the 4 week advertising period required and the non-cash solutions are investigated;
6. Endorses the Chief Executive Officer or his delegate to enter into the appropriate contractual arrangements with the Department of Housing reflecting the Joint Venture arrangements;
7. Request the Chief Executive Officer or his delegate make a concerted effort to develop a non-cash solution with the Department of Housing to fill the funding gap so that the extra funding does not need to be utilised.

NOTE: ABSOLUTE MAJORITY VOTE REQUIRED

201314/083 Council Decision

Moved: Cr Carter

Seconded: Cr Jacob

That Council defer a decision on item 6.1.2 'Request to Increase the Original Catamore Subdivision Loan for the Joint Venture Subdivision Agreement with the Department of Housing (File No. 800240G)' to the end of this meeting after all other items on the agenda have been considered.

CARRIED 9/0

NOTE: Refer to page 77 for Council's consideration of this matter.

6.2 Community Development

5:53pm Cr Hunt declared an impartiality interest in agenda item 6.2.1 'Old Port Hedland Cemetery Upgrade – Adoption of Master Plan (File No: 08/02/0021)' as she is a member of the Historical Society.

Cr Hunt did not leave the room.

6.2.1 *Old Port Hedland Cemetery Upgrade – Adoption of Master Plan (File No: 08/02/0021)*

Officer Mark Davis
Community Development
Officer

Date of Report 14 August 2013

Disclosure of Interest by Officer Nil

Summary

The purpose of this report is to provide an update on progress of the Old Port Hedland Cemetery (OPHC) Upgrade and seek Council endorsement of the Master Plan. A further report is to be brought to Council with details of final quantity surveyor (QS) costing, confirmation of funding strategy, asset register, recommended procurement method and construction program.

Background

This agenda item was submitted to the Ordinary Council Meeting on the 28 August 2013, but due to a lack of a quorum, is being resubmitted for Council consideration.

The Town of Port Hedland (March 2010) reinvigorated the Old Port Hedland Cemetery Upgrade project by engaging a project group to prepare a scoping document. The document outlined the processes required to facilitate and enable an upgrade of the Old Port Hedland Cemetery. This was in response to historical and growing community concern regarding the appearance of the Cemetery, of which its regular maintenance was hindered by an erroneous native title claim.

The project scoping document set out the steps required to appropriately gather and interpret information regarding the history of the Cemetery and interred individuals. It proposed a number of steps be undertaken including a combination of desktop research and site investigation. The purpose being two-fold:

1. The Town of Port Hedland would have an accurate point-in-time record of the physical appearance of the Cemetery and would have also captured important oral histories from relatives of interred individuals and undergone a comprehensive literature review
2. The Town of Port Hedland would be able to effectively tender the upgrade design and construction works at a later date having consolidated information to provide prospective designers and contractors.

Since funding was made available the following elements have been completed:

- Video collation of Indigenous oral histories
- Literature and research review and summary
- Archaeological field survey – removing the need to obtain a section 18 license to undertake works (erroneous native title claim)
- Ground Penetrating Radar (GPR) to determine locations and depth of subterranean features and the subsequent provision of CAD drawings
- Completion of 3D Terrestrial Scanning which provides a detailed site model defining all visible surface features
- Reconciliation of burial lists and oral histories with on-site plots (where possible)
- A public consultation session / presentation held on site to explain the project and receive community feedback.

The above works were undertaken to enable and inform the production of a concept, detailed design and subsequent budget which will guide future on-ground upgrade works.

The Town engaged UDLA in February 2013 as consultants to prepare the concept, Master Plan, detailed design and subsequent budget for future works.

Consultation

Given the sensitive nature of this project, there has been an emphasis on ensuring meaningful consultation and communication. Development of the Master Plan has involved a range of workshops, site inspections, information sessions and interviews. This has led to ongoing engagement with a range of stakeholders, and strong community support has been built for the project. The following stakeholders have been consulted in the production of the Master Plan:

External

- Relatives of those interred
- Community members
- HARTZ

- BHP Billiton Iron Ore
- Pilbara Development Commission
- Port Hedland Historical Society
- Diana Robinson (traditional owner)
- Lotterywest

Internal (Town of Port Hedland)

- Coordinator Landscape/Irrigation Operations
- Coordinator Parks and Reserves
- Manager Community Development
- Manager Infrastructure Development
- Projects Coordinator
- Library Coordinator
- Coordinator Community and Cultural Development
- Senior Statutory Planner.

Statutory Implications

Nil

Policy Implications

The Community Engagement Strategy (OCM 16 November 2011) was implemented and ensured that a comprehensive plan of consultation and involvement occurred with the community.

This item has also referenced Policy 9/010 Asset Management Policy.

Strategic Planning Implications

The Town's Strategic Community Plan 2012 to 2022:

6.1	Community
6.1.2	Vibrant
	Develop Port Hedland's tourism industry to broaden the tourist opportunities available
6.1.3	Rich in Culture
	Strengthen local communities, history and culture.
6.4	Local Leadership
6.4.1	Strategic
	Deliver responsible management of infrastructure, assets, resources and technology
6.4.2	
	Provide a community-orientated organization that delivers the high levels of service expected by our stakeholders.

The Town's Corporate Business Plan 2012 to 2016 identifies:

- | | |
|-----|---|
| 3. | Environment |
| 3.2 | Community Facilities |
| | Undertake improvement to the Old Port Hedland Cemetery. |

Budget Implications

Indicative initial costing suggested a total construction budget of \$662,948.00. The Town currently has a contribution of \$299,570.34 in GL 1009484 which is allocated from BHPB Partnership Funds.

The funding strategy to progress to the construction phase of this project has not been confirmed at this stage. Officers are currently seeking additional funding, including preparation of a grant application to Lotterywest Big Ideas Fund, for the interpretive and public art elements.

Further information on asset management and maintenance will be presented to Council for consideration before proceeding to tender.

Officer's Comment

The Town of Port Hedland has taken a best practice approach in developing the Master Plan for the Old Port Hedland Cemetery Upgrade.

The plan reflects the community's wishes for a sensitive upgrade in keeping with the Old Port Hedland Cemetery's indigenous and settler heritage.

The community has expressed some key themes which have been incorporated into the design, being:

- Enhancement works are to be sensitive and subtle
- Provision of areas which provide a peaceful and serene place to reflect on those interred
- Remembrance and acknowledgement of those interred, in particular a commemorative component for those interred but unable to be identified by grave markings
- Acknowledgement of the rich history and contribution of those interred
- Upgrades must be sensitive to the landscape and reflect endemic flora.

Due regard has also been paid to the guiding principles of the Burra Charter with respect to best practice for cultural / heritage upgrades.

Key aspects of the Master Plan respond to the community values as outlined above.

Council endorsement of the Master Plan will enable the funding strategy to be finalised.

Asset Management

Subject to adoption of the OPHC Upgrade Master Plan by Council, officers will work with potential funding bodies to source funds to commence the detailed design phase.

Contained within the detailed design phase will be a complete investigation / strategy development in relation to asset management. This phase of the project(s) will detail not only the construction / development cost, but also management strategies, maintenance regimes / cost / resourcing and whole of life costs / implications.

A further report will be presented to Council seeking endorsement to tender for the construction of the project. This will include final QS costing, confirmation of funding strategy, asset management and maintenance, recommended procurement method and construction program for the Old Port Hedland Cemetery Upgrade.

Attachments

1. Old Port Hedland Cemetery Upgrade Master Plan
2. Preliminary Cost Estimate.

201314/084 Officer's Recommendation/ Council Decision

Moved: Cr Carter

Seconded: Cr Gillingham

That Council:

1. **Notes the community engagement and consultation process undertaken for the proposed Old Port Hedland Cemetery Upgrade;**
2. **Adopts the Master Plan for the proposed Old Port Hedland Cemetery Upgrade as a guide to future planning and decision making; and**
3. **Notes that a subsequent report will be provided to Council with final QS costing, confirmation of funding strategy, asset register, recommended procurement method and construction program for the proposed Old Port Hedland Cemetery Upgrade.**

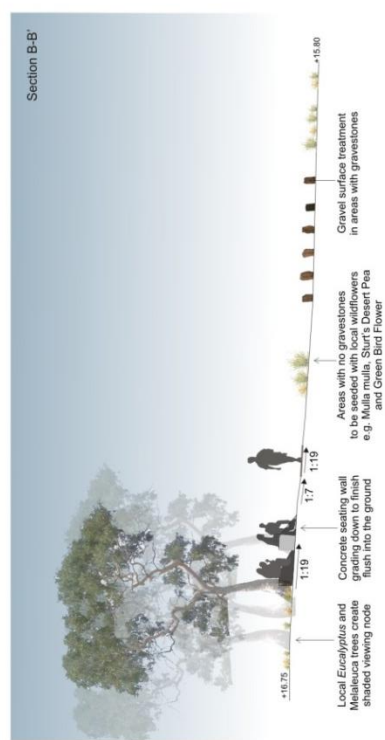
CARRIED 9/0

ATTACHMENT 1 TO ITEM 6.2.1





Artistic sketch of Memory Wall (Artist: Jahme Rees)



MASTER PLAN SECTIONS
PORT HEDLAND PIONEER CEMETERY
 06.06.2013

ucla
 Level 1A, 3-5 Josephson St Fremantle WA 6160
 T: (08)9338 7577 www.ucla.com.au

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PORT HEDLAND CEMETERY - Opinion of Probable Cost

OPINION OF PROBABLE COST (Landscape Construction Works Only)

		Qty	Unit	Rate	Total
TOTAL LANDSCAPE WORKS AREA APPROX. 13900 m2					
1.00	SITE PRELIMINARIES				
1.01	Project Management Site Insurances	1	Allow	\$25,000.00	\$25,000.00
1.02	Site specific controlled demolition and preparation E.g. to front garden	1	Allow	\$5,000.00	\$5,000.00
	Subtotal				\$30,000.00
2.00	HARD LANDSCAPE				
2.01	Supply and install grey concrete path with shell aggregate to central axis and footpath	410	m2	\$130.00	\$53,300.00
2.02	Supply and spread compacted north pole fines to paths	560	m2	\$20.00	\$11,200.00
2.03	Supply and spread Brown cracked pea gravel to define original plot layout around gravestones (with spade edge)	4,750	m2	\$20.00	\$95,000.00
2.04	Supply, install and paint damaged portions of the existing fence along site boundary	1	Allow	\$4,000.00	\$4,000.00
2.05	Supply and lay rock edging to entry garden bed	105	lm	\$150.00	\$15,750.00
2.06	Supply and place central axis seating	8	each	\$1,200.00	\$9,600.00
	Subtotal				\$188,850.00
3.00	ART PIECES				
3.01	Construct, deliver and install central Memory wall (E.g. rammed earth, polished limestone concrete, shell aggregates) (Public Artist/Interpretation Scope)	1	Allow	\$181,500.00	\$181,500.00
3.02	Construct two (2) benches located adjacent Stevens Street. (Public Artist/Interpretation Scope)	1	Allow	\$7,500.00	\$7,500.00
3.03	Construct two (2) seating walls (Located at the high point lookout) (Public Artist/Interpretation Scope)	1	Allow	\$8,500.00	\$8,500.00
3.04	Construct two (2) new entry walls. (Public Artist/Interpretation Scope)	1	Allow	\$10,000.00	\$10,000.00
3.05	Delivery of two (2) new entry walls, two (2) seating walls and two (2) concrete benches .	1	Allow	\$4,500.00	\$4,500.00
3.06	Installation of two (2) new entry walls, two (2) seating walls and two (2) concrete benches .	1	Allow	\$9,300.00	\$9,300.00
3.07	Manufacture and undertake sandblasting of plot numbers to the central axis concrete path	1	Allow	\$5,000.00	\$5,000.00
	Subtotal				\$226,300.00
4.00	SHADE SHELTERS				
4.01	Supply and install artistic LandMark shade shelters (Two 4.0 x 3.3m portals with a 5.0 x 3.0m suspended roof panel) Contact: Adel Young Phone: (08) 9470 5765 Budget No: 23476	2	Each	\$20,000.00	\$40,000.00
	Subtotal				\$40,000.00
5.00	PROFIT AND ATTENDANCE				
5.01	Profit and attendance to oversee subcontractors (10% of Art and Shade Shelter Costs)	1	Allow	\$26,630.00	\$26,630.00
	Subtotal				\$26,630.00
6.00	SOFT LANDSCAPE				
6.01	Supply and plant 45lt bag trees to the central axis	65	each	\$250.00	\$16,250.00
6.02	Supply and plant tube stock to the entry garden (2/m2) and back garden (behind memory wall)	706	each	\$5.00	\$3,530.00
	Subtotal				\$19,780.00
7.00	IRRIGATION				
7.01	Connection to mains	1	Item	\$5,000.00	\$5,000.00
7.02	Install Bubblers to new trees	706	Item	\$20.00	\$14,120.00
	Subtotal				\$19,120.00
8.00	ESTABLISHMENT, MAINTENANCE & DEFECTS LIABILITY PERIOD				
8.01	(24) Twenty Four Months Establishment, Maintenance & Liability Period for all irrigation, hard and soft landscape items following Practical Completion and ongoing rectification of defects (Includes PAW, Central POS and Swale POS)	104	Weeks	\$500.00	\$52,000.00
	Subtotal				\$52,000.00
	TOTAL				\$602,680.00
	Contingency (10%)				\$60,268.00
	PORT HEDLAND CEMETERY (EX GST)				\$662,948.00

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6.3 Corporate Services**6.3.1 *Request for Partial Reimbursement and a Commitment of Funding for the Spoilbank Marina Precinct Development (File No.: 01/04/0006)***

Officers **Natalie Octoman**
Director, Corporate Services

Date of Report **2 September 2013**

Disclosure of Interest by Officer **Nil**

Summary

The Town has received a formal request from LandCorp to reimburse costs and also for the Town of Port Hedland (the Town) to commit funds to further project costs that will assist with the Scheme Amendment process associated with the Spoilbank Marina Development. The letter asks for the Town's commitment and essentially, the reimbursement of costs to occur, prior to the finalisation of the Project Agreement so as not to delay the project further.

Background

At the Special Council Meeting of 12 March 2012, Council adopted the business plan for the development of Kingsford Business Park (formerly known as Precinct 3) which included a prepayment of the lease to the amount of \$40 million. Council further resolved to redirect the \$40 million from the Airport Redevelopment Reserve to the Spoilbank Reserve with future funds sourced from the Kingsford Business Park to "make good" the \$40 million for the airport redevelopment.

The resolutions of this meeting also included (in part):

"201112/351 Council Decision

Moved: Cr A A Carter Seconded: Cr S R Martin

Officer's Recommendation 3

That Council:

4. *Requests the CEO to present a report to a future Council meeting that outlines the financial arrangements of the Spoilbank Precinct Development and to gain Council direction for the aspects of the development that Council wishes to invest in."*

This report was subsequently provided to Council on 25 July 2012, whereby clarification was sought from Council as to what aspects of the Spoilbank Marina Development the funding would be committed to.

At this meeting, Council resolved:

“201213/026 Amended Officer’s Recommendation/Council Decision

Moved: Cr Martin Seconded: Cr Jacob

That Council:

1. *Notes the request from LandCorp and supports Option 3 as noted by LandCorp in Attachment 1.*
2. *Reaffirms its willingness to contribute up to \$40 million towards the Spoilbank Precinct development on the basis of:*
 - a. *Feasibility and due diligence being undertaken prior to final commitment*
 - b. *Deliverables for the Town and community including:*
 - *Caravan/tourist park site (freehold title to the Town at no cost)*
 - *Boardwalks associated with the marina and other public facilities and spaces*
 - *Amenities as an open air entertainment area / event space*
 - *Opportunities for public swimming*
 - *Play spaces – both dry and water based*
 - *Fishing spaces and platforms*
 - *Public interaction spaces incorporating cafes, bars and restaurants*
 - *Picnic and BBQ areas*
 - *Opportunities for public exercise, walking and healthy interaction*
 - *Public artworks, including culture and heritage works.*
3. *Notes the provisional payments of the \$40 million contribution as:*
 - 2012/13 - \$1.5 million*
 - 2013/14 - \$5.7 million*
 - 2014/15 - \$23.1 million*
 - 2015/16 - \$9.7 million*
 - \$40.0 million*
4. *Requires appropriate legal and contractual arrangements being entered into between the Town of Port Hedland, LandCorp and the Department of Regional Development and Lands prior to the commitment of funds.*

CARRIED 7/0

The resolutions above clearly outline Council's expectations in relation to the funding agreement being the "trigger" for any of the \$40 million to be transferred to LandCorp.

Essentially, LandCorp are requesting Council reconsider their prior resolution given the delays to date, and the desire to proceed with the appointment of environmental consultants (essentially for an 18 month dust and ground water monitoring program) in order to have these results prior to the finalization of the Health Risk Assessment being undertaken by the EPA.

Consultation

- Chief Executive Officer – Town of Port Hedland
- Director Planning and Development – Town of Port Hedland
- McLeods Barristers & Solicitors
- Todd Wood - LandCorp

Statutory Implications

Local Government Act 1985

3.59 Commercial enterprises by local governments

(1) In this section —

“acquire” has a meaning that accords with the meaning of “dispose”;

“dispose” includes to sell, lease, or otherwise dispose of, whether absolutely or not;

“land transaction” means an agreement, or several agreements for a common purpose, under which a local government is to —

(a) acquire or dispose of an interest in land; or

(b) develop land;

“major land transaction” means a land transaction other than an exempt land transaction if the total value of —

(a) the consideration under the transaction; and

(b) anything done by the local government for achieving the purpose of the transaction,

is more, or is worth more, than the amount prescribed for the purposes of this definition;

“major trading undertaking” means a trading undertaking that —

(a) in the last completed financial year, involved; or

(b) in the current financial year or the financial year after the current financial year, is likely to involve, expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

“trading undertaking” means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of “land transaction”.

(2) *Before it —*

- (a) *commences a major trading undertaking;*
- (b) *enters into a major land transaction; or*
- (c) *enters into a land transaction that is preparatory to entry into a major land transaction,*

a local government is to prepare a business plan.

(3) *The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —*

- (a) *its expected effect on the provision of facilities and services by the local government;*
- (b) *its expected effect on other persons providing facilities and services in the district;*
- (c) *its expected financial effect on the local government;*
- (d) *its expected effect on matters referred to in the local government's current plan prepared under section 5.56;*
- (e) *the ability of the local government to manage the undertaking or the performance of the transaction; and*
- (f) *any other matter prescribed for the purposes of this subsection.*

(4) *The local government is to —*

- (a) *give Statewide public notice stating that —*
 - (i) *the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction;*
 - (ii) *a copy of the business plan may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and*
- (b) *make a copy of the business plan available for public inspection in accordance with the notice.*

(5) *After the last day for submissions, the local government is to consider any submissions made and may decide* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.*

** Absolute majority required.*

(5a) *A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.*

(6) *If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.*

(7) *The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.*

(8) *A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.*

(9) *A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.*

(10) *For the purposes of this section, regulations may —*
(a) *prescribe any land transaction to be an exempt land transaction;*
(b) *prescribe any trading undertaking to be an exempt trading undertaking.”*

**8A. Major land transactions and exempt land transactions —
s. 3.59**

(1) *The amount prescribed for the purposes of the definition of major land transaction in section 3.59(1) of the Act is —*

(a) *if the land transaction is entered into by a local government the district of which is in the metropolitan area or a major regional centre, the amount that is the lesser of—*

(i) *\$10 000 000; or*

(ii) *10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year; or*

(b) *if the land transaction is entered into by any other local government, the amount that is the lesser of—*

(i) *\$2 000 000; or*

(ii) *10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.*

(2) *A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if —*

(a) *the total value of—*

(i) *the consideration under the transaction; and*

(ii) *anything done by the local government for achieving the purpose of the transaction, is more, or is worth more, than the amount prescribed under subregulation (1); and*

(b) *the Minister has, in writing, declared the transaction to*

be an exempt transaction because the Minister is satisfied that the amount by which the total value exceeds the amount prescribed under subregulation (1) is not significant taking into account —
(i) the total value of the transaction; or
(ii) variations throughout the State in the value of land.

While this report is not the subject of the proposed major land transaction, the officer wishes to highlight section 3.59 (2) of the legislation which outlines that a business plan must be prepared before it enters into a major land transaction, or enters into a land transaction that is preparatory to entering into a major land transaction.

To this end, the officer has attached legal advice (Attachment 2) in relation to LandCorp's request for reimbursement of costs for work undertaken in relation to the scheme amendment. The advice outlines that a reimbursement of these costs is not considered preparatory to entering into a major land transaction as the scheme amendment is not necessarily linked to the agreement. Therefore any reimbursement or commitment of costs relating to the scheme amendment is possible with a Council resolution.

Policy Implications

Nil

Strategic Planning Implications

The Spoilbank Marina Precinct development is a landmark project for Council and the Town, and would provide considerable benefits to the community from a recreational, residential, economic and tourist perspective.

There are many Strategic Community Plan implications for this project, namely:

Town Vision – A nationally significant, friendly city, where people want to live and are proud to call home.

6.1 Community

6.1.2 Vibrant

Provide access to recreational, cultural, entertainment facilities and opportunities

Commit to improving the quality of life and wellbeing of residents

Develop Port Hedland's tourism industry to broaden the tourist opportunities available

Maintain and extend the visual and physical access to the coast and thoroughfares for general public

6.2	Economic
6.2.1	Diverse Economy
	Facilitate commercial, industry and town growth Create local employment and investment and diversify the economy Enhance supply of suitable located and supported industrial and retail land
6.4	Local Leadership
6.4.1	Deliver responsible management of infrastructure, assets, resources and technology
	Responsible and transparent management of financial resources

Budget Implications

Costs incurred to date by the Town include those associated with the preparation of the business plan and the draft funding agreement that is still progressing. To date, they total \$54,765 and are being sourced from the \$1.45 million held within account 1304256 "Spoilbank Development".

Costs borne by LandCorp to date include those associated with the scheme amendment and the drafting of the proposed funding agreement. Copies of invoices have been provided to the Town that outlines the details of what work has been undertaken. While LandCorp have requested in their letter a reimbursement of \$174,875.31 (excl GST), after reviewing the invoices, the officer believes that only \$170,324.31 (excl GST) may be considered for reimbursement given the other costs are associated with other sites outside of the Spoilbank Marina Precinct Development. This has been discussed with LandCorp who have verbally agreed that this is the case.

In addition to the costs that have actually been incurred by LandCorp to date, the officer is aware that LandCorp are in the process of appointing an environmental consultant to undertake dust and water monitoring for the next 18 months, which will provide invaluable data for comparison to the health risk assessment results. This will amount to a further commitment of at least \$600,000. LandCorp are seeking Council's approval for all costs associated with the scheme amendment to be reimbursed when they are incurred, until such time that a business plan may be considered by Council.

Officer's Comment

LandCorp was engaged by the State Government to deliver the Spoilbank Marina Precinct development. The Cabinet Submission outlined that the \$152 million would be sourced via the Town in the first instance through its \$40 million contribution, and the State funds are to be utilised thereafter. LandCorp itself, are not a direct funding body and are essentially project managers in this case, charging project management fees to the project in accordance with the endorsed Cabinet Submission.

Council has been quite clear in its past resolutions that funding will not be provided until there is a funding agreement in place, and a funding agreement cannot be executed until a business plan is prepared, considered, advertised, re-considered and subsequently adopted given the major land transaction that this project involves between LandCorp and the Town.

To date, LandCorp have therefore been expending its own funds to support the overarching scheme amendment and the drafting of the proposed funding agreement, and essentially taking a risk in that Council will eventually resolve to proceed with the business plan and sign off on the funding agreement, at which point the funds would be provided based on the milestones agreed to.

The request from LandCorp incorporates any costs incurred to date associated with the scheme amendment, along with any costs incurred up to the point that the agreement is executed with a clause indicating that if for any reason the project does not proceed, then a resolution be put to Council to provide an ex-gratia payment recognising that LandCorp are continuing with the project in anticipation that the funding agreement will be signed at some point in the future.

This essentially means that if Council determined not to proceed with the project, the Town would still be required to pay for any costs incurred by LandCorp including project management fees.

While Council adopted an original budget of \$1.45 million for 2013/14 and the request could be funded/committed to as the costs are related to the scheme amendment, there is still a risk that Council may determine not to adopt the business plan. This would therefore mean that there would be no requirement for any funds to be transferred to LandCorp for the project, other than from a moral viewpoint, and while the Town was not a signatory to the Cabinet Submission the details contained within the Submission state Town of Port Hedland funds would be spent first.

It may be assumed that there will be little risk of the business plan not being adopted, but this is still a risk given the complexities of the project, the assets that would transfer to the Town upon construction being completed, and the financial implications that this would have to the Town.

There are several options that Council have:

Option 1 – Recognise that LandCorp is continuing with the project in good faith, and reimburse costs incurred to date for scheme amendment related work only but not provide any further commitments until such time that a business plan may be adopted and a funding agreement entered into.

Option 2 – (Officer's recommended approach) Recognise that LandCorp is continuing with the project in good faith, and reimburse costs incurred to date and any future commitments up to a capped amount of \$1.45 million being the 2013/14 budget allocation (noting that Town costs will need to be funded first), providing the costs are related to the scheme amendment only until such time that a business plan may be adopted and a funding agreement entered into.

Option 3 – Refuse to reimburse costs or provide any commitments until the business plan is adopted and funding agreement entered into, which may see LandCorp cease any further work until this occurs. This approach would result in further delaying the project with the increased potential for political and future State funding ramifications.

Option 4 – Request that LandCorp put a submission to Cabinet proposing to modify the current cashflow of funding from the State Government, so that those funds are utilized prior to those of the Town's.

While recognising the prior Council resolutions, the officer is recommending that Option 2 would be the most reasonable approach for Council to take based on the legal advice received. This option does have the potential risk of expending up to \$1.45 million and the business plan not being adopted at some point in the future, but it would demonstrate the commitment that Council have to seeing this landmark project being delivered for its community, which too has been reflected in the prior resolutions of Council.

Option 2 also minimizes the risk of potential criticism not only from the State Government, but also from the community in that Council may be seen to be cautious of development in the West End, and is therefore using this as a delaying tactic until the health risk assessment is completed, with a full understanding that LandCorp will not bear any future costs without a commitment from Council.

Based on Option 2, Council would need to revoke its prior decision not to provide funding until the funding agreement is executed.

Attachments

1. Letter from LandCorp requesting funding
2. CONFIDENTIAL Legal advice from McLeods (Under Separate Cover)

201314/085 Council Decision**Moved: Cr Carter****Seconded: Cr Gillingham**

That the meeting be closed to members of the public as prescribed in Section 5.23(2)(d) of the Local Government Act 1995, to enable Council to discuss the legal advice provided for agenda item 6.3.1 'Request for Partial Reimbursement and a Commitment of Funding for the Spoilbank Marina Precinct Development (File No.: 01/04/0006)'

CARRIED 9/0

Mayor advised that the meeting is closed to members of the public at 5:59pm

201314/086 Council Decision**Moved: Cr Jacob****Seconded: Cr Hunt**

That the meeting be opened to members of the public.

CARRIED 9/0

Mayor advised that the meeting is opened to members of the public at 6:01pm

NOTE: Mayor to call for a show of hands in favour (1/3 of members) to consider the partial revoking of Council Resolution 201213/026 of Agenda Item 11.1.1 'Request to Commit Funds to Various Aspects of the Spoilbank Marina Development' presented to the Ordinary Council Meeting held on 25 July 2012, and recorded on pages 18 and 19 of those Minutes:

The following Councillors indicated their intent to do so:

- Cr Jacob
- Cr Hunt
- Cr Gillingham

201314/087 Officer's Recommendation 1/ Council Decision**Moved: Cr Jacob****Seconded: Cr Hunt****That Council:**

1. **Revokes point 2 (a) of the Council Decision 201213/026 from 25 July 2012 recorded on page 18 of those minutes:**

"Feasibility and due diligence being undertaken prior to final commitment."

2. **Revokes point 4 of the Council Decision 201213/026 from 25 July 2012 recorded on page 19 of those minutes:**

“Requires appropriate legal and contractual arrangements being entered into between the Town of Port Hedland, LandCorp and the Department of Regional Development and Lands prior to the commitment of funds.”

CARRIED BY ABSOLUTE MAJORITY VOTE 9/0

Officer’s Recommendation 2

That Council:

1. Acknowledges the request from LandCorp in Attachment 1;
2. Approves the reimbursement of funds expended to date by LandCorp related to the scheme amendment process only, to the amount of \$170,324.31 (excl. GST);
3. Requests the CEO to enter into a separate funding agreement that outlines the Town’s commitment to reimburse the monies expended to date, and any future expenditure in relation to the scheme amendment only, until such time as a business plan may be adopted, to a maximum amount of \$1.45 million (excl GST) for 2013/14 recognising that Town expenditure will also be incurred from this budgeted amount;
4. Notes that the Town is currently preparing a business plan for the major land transaction associated with the Spoilbank Marina Development; and
5. Subject to consideration of the business plan at a future Council Meeting, requests the CEO to enter into appropriate legal and contractual arrangements to be entered into between the Town of Port Hedland, LandCorp and the Department of Regional Development and Lands prior to committing the remaining funds in excess of \$1.45 million (GST excl).

201314/088 Council Decision

Moved: Cr Jacob

Seconded: Cr Hunt

That Council:

1. **Acknowledges the request from LandCorp in Attachment 1;**
2. **Approves the reimbursement of funds expended to date by LandCorp related to the scheme amendment process only, to the amount of \$170,324.31 (excl. GST);**

- 3. Requests the CEO to enter into a separate funding agreement that outlines the Town's commitment to reimburse the monies expended to date, and any future expenditure in relation to the scheme amendment only, until such time as a business plan may be adopted, to a maximum amount of \$1.45 million (excl GST) for 2013/14 recognising that Town expenditure will also be incurred from this budgeted amount;**
- 4. Notes that the Town is currently preparing a business plan for the major land transaction associated with the Spoilbank Marina Development;**
- 5. Subject to consideration of the business plan at a future Council Meeting, requests the CEO to enter into appropriate legal and contractual arrangements to be entered into between the Town of Port Hedland, LandCorp and the Department of Regional Development and Lands prior to committing the remaining funds in excess of \$1.45 million (GST excl); and**
- 6. Request that the CEO contact the Minister for Regional Development & Lands and Landcorp seeking the preparation of a submission to Cabinet proposing that the State Government funds allocated to the Spoilbank Marina project are utilised prior to those funds committed by the Town of Port Hedland.**

CARRIED 9/0

ATTACHMENT 1 TO ITEM 6.3.1



Our Ref A551074
Enquiries Todd Wood 9482 7893

Mr Mal Osborne
 Chief Executive Officer
 Town of Port Hedland
 PO BOX 41
 Port Hedland
 WA 6721



Dear Mal,

PORT HEDLAND SPOILBANK MARINA – FUNDING LETTER

Thank you and Mayor Kelly Howlett for your time during the recent LandCorp board visit. As discussed LandCorp will continue to work closely with the Town to ensure the Spoilbank Marina progresses. LandCorp understands the Project Funding Agreement is still being negotiated and can't be finalised until the Town completes the required business plan process, expected in September 2013.

As the Town is aware, LandCorp has continued with the Scheme Amendment process. Project costs incurred to date are approximately \$175,000 plus GST (excluding Project Agreement negotiation costs). To facilitate reimbursement of these costs plus any further project costs incurred prior to finalisation of the Project Agreement a draft funding letter has been completed. The draft letter (see attached) and copies of paid tax invoices were emailed to the Town's lawyers McLeod's on the 22nd May 2013 and we are still awaiting a response.

The recent referral of the Spoilbank Scheme Amendment to the OEPA by the Town will require detailed environmental reports to be completed as outlined within the program LandCorp has previously provided to the Town. An additional component of these works will also include dust monitoring / sampling of the Spoilbank.

LandCorp will proceed with this work in two stages.

- Stage 1 - Preparation of the consultant briefs, tendering of various consultancy services, assessment of tenders. The cost to project manage these works is \$36,000 plus GST with a 6 week timeframe.
Engage RPS to complete a baseline turtle analysis. Cost \$20,000 plus GST with a 10 week timeframe.
- Stage 2 (1 week) – In consultation and with approval of the Town appoint the successful consultants.

It's LandCorp's preference to finalise the funding letter and obtain the Town's agreement to fund the Stage 1 costs prior to commencing the work.

Yours sincerely


 Ross Holt
 CHIEF EXECUTIVE OFFICER
 24 July 2013

01/04/0006

[TO BE TYPED ON LANDCORP LETTERHEAD]

[insert date]

Chief Executive Officer
Town of Port Hedland
Civic Centre
PORT HEDLAND WA 6721

Dear [*]

SPOILBANK MARINA PRECINCT PROJECT

As you are aware, LandCorp has been progressing the above project notwithstanding that the Town has not yet executed the proposed Agreement for the Funding and Development of the Spoilbank Marina Precinct ("**Agreement**"). It is understood that the Agreement cannot be executed by the Town until the proposed business case has been advertised and any submissions considered by Council and a resolution is passed by Council to enter into the Agreement.

Notwithstanding the above, LandCorp has been incurring costs in relation to the Project and ancillary matters. I write to you to confirm arrangements for the payment of costs incurred by LandCorp prior to the execution of the Agreement as follows:

- (a) the Town will reimburse to LandCorp costs incurred by LandCorp to date (which may continue to be incurred prior to the Agreement being executed) which the Town is legally entitled to reimburse at this time as set out in Schedule A attached.
- (b) upon the Town executing the Agreement, the Town will reimburse costs incurred by LandCorp in relation to the Project as set out in Schedule B attached.

If for any reason the Agreement is not signed and the Project does not proceed, then a resolution will be put to Council to approve the payment of the costs incurred by LandCorp as mentioned in paragraph (b) above on the basis of a "ex gratia" payment and recognising that LandCorp has incurred the costs in anticipation of an Agreement for the benefit of the Town.

If the above terms are acceptable, could you please sign a copy of this letter to confirm your agreement and return a copy to me.

Yours sincerely

Signature for LandCorp

The Town of Port Hedland hereby agrees to the terms set out in this letter.

Chief Executive Officer

Date

Ltr to Town of Port
Hedland (1427161_1)
(2)

1

6.4 CEO Office**6.4.1 *Town of Port Hedland Council Elected Member Representation (File No.:)***

Officer Josephine Bianchi
Governance Coordinator

Date of Report 4 September 2013

Disclosure of Interest by Officer Nil

Summary

This report outlines the recent change in number of Councillors being advertised for the 19 October Local Government Election from four to five; with four seats being for a four year term and one seat for a two year term.

This report recommends that the Council endorse the statutory process associated with this change in councillor seats.

Background

The Western Australian Electoral Commission (WAEC) was engaged by the Town to manage the Town of Port Hedland 2013 Ordinary Election. This election was to elect a Mayor and four councillors. On 31 July 2013, in a routine call concerning electoral matters, the project officer from the WAEC advised that, in his opinion, the Councillor vacancies to be considered at this election should be five.

Extensive research and clarification on the matter ensued, resulting in the Council considering a report at its Ordinary meeting of 28 August 2013. At this meeting Council resolved

That Council:

- 1. Re-affirm the Council's position that the number of Elected Members of the Town of Port Hedland Council since 1998 comprises of nine Elected Members, and since the 2009 election has comprised a popularly elected Mayor and eight Councillors;*
- 2. Request the Chief Executive Officer, or his delegate(s), to forward a submission to the Advisory Board in accordance with Schedule 2.2 (5)(b)(i) of the Local Government Act 1995, to change the number of offices of Councillor to eight as a minor matter, with the intent to obtain a Governor's Order pursuant to section 2.18(3) accordingly;*

3. *Accept the advice of the Department of Local Government and Communities (DOLGC) to operate with a quorum and absolute majority of six Elected Members from this date forward to protect validity of decision making during any transition period until a Governor's Order is requested and made reducing the number of offices of Councillor to eight;*
4. *In order to further ensure the validity of any previous decisions that may be impacted by the question of the Council's quorum of six Elected Members since October 2009, request the Chief Executive Officer, or his delegate(s), to obtain with the support offered by the DOLGC, a Governor's Order pursuant to section 9.64 of the Local Government Act 1995;*
5. *Request the Chief Executive Officer, or his delegate(s), to make representation to the DOLGC and the Electoral Commission that, as previously advised, the Town of Port Hedland intends at the 2013 Ordinary Local Government Election to fill four Councillor vacancies and one Mayoral vacancy in anticipation of obtaining a Governor's Order pursuant to section 2.18(3) to change the number of offices of Councillor on the Council to eight; and*
6. *Notes that should the representation requested in point 5 not be supported by 3 September 2013 or a Governor's Order not be obtained the permission of the Council will be required to hold an extraordinary local government election to fill the ninth Councillor vacancy.*

Consultation

Internal

- Relevant Town of Port Hedland Officers

External

- Minister for Local Government Principal Policy Advisor
- Department of Local Government
- McLeods
- Western Australian Electoral Commission

Statutory Implications

The Local Government Act 1995 states that:

Part 2- Division 4 — Membership and size of the council

2.17. Members of council

- (1) *If the method of filling the office of mayor or president is election by electors, the council is to consist of —*
 - (a) *the mayor or president; and*

- (b) *not less than 5 nor more than 14 councillors one of whom is to hold the office of deputy mayor or deputy president in conjunction with his or her office as a councillor.*
- (2) *If the method of filling the office of mayor or president is election by the council, the council is to consist of not less than 6 nor more than 15 councillors of whom —*
 - (a) *one is to hold the office of mayor or president as well as the office of councillor; and*
 - (b) *another is to hold the office of deputy mayor or deputy president as well as the office of councillor.*
- (3) *If the council has 15 councillors and a decision is made under section 2.11(2) to change the method of filling the office of mayor or president to election by electors, the council may, despite subsection (1)(b), continue to have 15 councillors after the decision has effect.*

2.18. Fixing and changing the number of councillors

- (1) *When a local government is newly established the Governor, by order made on the recommendation of the Minister, is to —*
 - (a) *specify the number of offices of councillor on the council of the local government; and*
 - (b) *if the district is to have a ward system, specify the numbers of offices of councillor for the wards.*
- (2) *When an order is made under section 2.2 discontinuing a ward system for a district, the number of offices of councillor on the council remains unchanged unless the order specifies otherwise.*
- (3) *The Governor, on the recommendation of the Minister, may make an order —*
 - (a) *changing the number of offices of councillor on a council; or*
 - (b) *specifying or changing the number of offices of councillor for a ward; or*
 - (c) *as to a combination of those matters.*
- (4) *The Minister can only make a recommendation under subsection (1) or (3) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.*

Local Government Act Schedule 2.2- Provisions about names, wards and representation

5. Local government may propose ward changes or make minor proposals

- A local government may, whether or not it has received a submission —*
- (a) *carry out a review of whether or not an order under section 2.2, 2.3(3) or 2.18 should, in the council's opinion, be made; or*

- (b) propose* to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3) if, in the opinion of the council, the proposal is —
 - (i) one of a minor nature; and
 - (ii) not one about which public submissions need be invited;
 or
- (c) propose* to the Minister the making of an order changing the name of the district or a ward.

* Absolute majority required.

Subdivision 3 — Matters affecting council and committee meetings
 5.19. Quorum for meetings

The quorum for a meeting of a council or committee is at least 50% of the number of offices (whether vacant or not) of member of the council or the committee.

1.4. Terms used

absolute majority —

- (a) *in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council;*

9.64. Governor may rectify omissions and irregularities

- (1) *This section applies if through an impediment or accidental omission anything required to be done by or under this Act is not done, or is not done in the prescribed time, manner or form.*
- (2) *If this section applies, the Governor for the purpose of giving effect to the intention and purposes of this Act, may by order take such measures as are necessary for rectifying the omission or removing the impediment.*
- (3) *The order may validate anything which has been done otherwise than in the prescribed time, manner, or form.*

Local Government (Administration) Regulations 1996 Section 10 'Revoking or changing decisions made at Council or Committee meetings – s5.25(e)'.

Policy Implications

Nil

Strategic Planning Implications

6.4	Local Leadership
6.4.2	Community Focused
	Local leaders in the community who provide transparent and accountable civic leadership

Budget Implications

Costs associated with the activity, in regards to the 2013 local Government Elections, to support this report are incorporated within the 2013/14 budget.

In regards to Elected Member payments and entitlements, the 2013/14 budget was prepared on the basis of Council comprising a Mayor and eight Councillors. The additional expenditure required to remunerate nine Councillors will be addressed at the first quarterly Budget review.

Officer's Comment

Following Council's decision on 28 August the Town sent correspondence to the Minister for Local Government and the Acting WA Electoral Commissioner advising that it intended to fill four councillor vacancies and one Mayoral vacancy at the 2013 Ordinary Election. This would be in anticipation of obtaining a Governor's Order to change the number of offices of councillor on the Council to eight.

This correspondence was also sent for information to the office of the Director General at the Department of Local Government, the Chairman at the Department of Local Government's Advisory Board, Minister Brendon Grylls and the Town's solicitors McLeods.

The Department of Local Government has since responded to the Town's correspondence (see Attachment 1). The advice received was that the Department understands that the Town was not aware of the requirement to fill another councillor vacancy following the change in the Mayoral's election in 2009. However, the Department also stated that now that this matter has come to light it needs to be addressed in order to comply with legislation and therefore an additional councillor vacancy for the 2013 Local Government Elections should be advertised. The Department's advice was that should this additional vacancy not be advertised, the Town could expose itself to challenges related to the validity of the election.

In view of this information and of the extremely short timeframe for action the Town's Chief Executive Officer made contact with the Principal Policy Advisor at the Minister for Local Government's office and was advised that the Minister fully supported the Department's recommendation.

The Chief Executive Officer therefore advised the WAEC to proceed with the advertisement of five councillors vacancies; however one of these vacancies to be for a period of two years only as opposed to the other four being for four years each. The decision to advertise for the additional councillor vacancy was taken principally to protect the Town from any potential legal challenges and associated costs it might incur into should the election be disputed. The decision to advertise this additional vacancy for a period of two years only however, was to reaffirm Council's previous resolution to operate with eight councillors and one popularly elected Mayor in all (nine elected members) by forwarding a submission to the Advisory Board with the intent to obtain a Governor's order to reduce the number of councillor vacancies from nine to eight effective from 2015.

The Officer's Recommendation suggests that the Council revokes its previous decision and adopts revised recommendations in line with recent advice and subsequent developments.

The main change suggested centres around the advertising of five councillor vacancies as opposed to four. However, with regard to previous decisions made with an absolute majority vote of five the advice of the Department reiterates that requesting a Governor's Order under section 9.64 of the Local Government Act 1995 will ensure their validity and that they offer their full support in assisting the Town's administration with expediting this process.

Another point that requires clarification is that the Town of Port Hedland Council now has to operate as though it is carrying one councillor vacancy, which results in the total number of elected members being 10. In terms of decision making this means that all officer's recommendations requiring an absolute majority vote will have to achieve a minimum number of 6 elected members in order for them to be considered, as the Act states that it has to be more than 50% of the number of offices (whether vacant or not) of member of the council. However, as the Act states that a quorum is at least 50% of the total number of positions on the council whether vacant or not, this means that the current number of Town of Port Hedland elected members required to achieve a quorum is five.

Attachments

1. Correspondence from Department of Local Government

NOTE: Mayor to call for a show of hands in favour (1/3 of members) to consider the revoking of Resolution 201314/070 of Agenda Item 11.6.1.7 'Town of Port Hedland Council Elected Member Representation' presented to Council's Ordinary Meeting Held on 28 August 2013, and recorded on page 355 of those Minutes.

The following Councillors indicated their intent to do so:

- Cr Carter
- Cr Jacob
- Cr Dziombak

201314/089 Officer's Recommendation1/ Council Decision

Moved: Cr Carter

Seconded: Cr Dziombak

That Council revokes parts 3,4,5 and 6 of the Council decision 201314/070 of Agenda Item 11.6.1.7 'Town of Port Hedland Council Elected Member Representation' held on 28 August 2013 and recorded on page 357 of those Minutes:

"201314/070 Alternative Officer's Recommendation/ Council Decision

Moved: Cr Carter

Seconded: Cr Jacob

That Council:

.....

- 3. Accept the advice of the Department of Local Government and Communities (DOLGC) to operate with a quorum and absolute majority of six Elected Members from this date forward to protect validity of decision making during any transition period until a Governor's Order is requested and made reducing the number of offices of Councillor to eight;***
- 4. In order to further ensure the validity of any previous decisions that may be impacted by the question of the Council's quorum of six Elected Members since October 2009, request the Chief Executive Officer, or his delegate(s), to obtain with the support offered by the DOLGC, a Governor's Order pursuant to section 9.64 of the Local Government Act 1995;***
- 5. Request the Chief Executive Officer, or his delegate(s), to make representation to the DOLGC and the Electoral Commission that, as previously advised, the Town of Port Hedland intends at the 2013 Ordinary Local Government Election to fill four Councillor vacancies and one Mayoral vacancy in anticipation of obtaining a Governor's Order pursuant to section 2.18(3) to change the number of offices of Councillor on the Council to eight; and***

6. *Notes that should the representation requested in point 5 not be supported by 3 September 2013 or a Governor's Order not be obtained the permission of the Council will be required to hold an extraordinary local government election to fill the ninth Councillor vacancy.*

CARRIED BY ABSOLUTE MAJORITY VOTE 9/0

201314/090 Officer's Recommendation 2/ Council Decision

Moved: Cr Jacob

Seconded: Cr Dziombak

That Council:


1. Recognises that in order to comply with the Governor's Order from 1998 five councillor vacancies and one popularly elected Mayoral vacancy have been advertised via the WAEC for the 2013 Local Government Ordinary Elections; four councillor vacancies being for a four year term and one councillor vacancy being for a two year term;
2. Accept the advice of the Department of Local Government and Communities (DOLGC) to operate with an absolute majority of six Elected Members from this date forward to protect validity of decision making during any transition period until a Governor's Order is requested and made reducing the number of offices of Councillor to eight; and
3. In order to further ensure the validity of any previous decisions made by Council since October 2009 impacted by the discrepancy in number of elected members, request the Chief Executive Officer, or his delegate(s), to obtain with the support offered by the DOLGC, a Governor's Order pursuant to section 9.64 of the Local Government Act 1995.

CARRIED 9/0



Government of **Western Australia**
Department of **Local Government**

Our Ref: PH1-23 E1322040


Mr Mal Osborne
Chief Executive Officer
Town of Port Hedland
PO Box 41
PORT HEDLAND WA 6721

Dear Mr Osborne

**CONCERNS REGARDING COUNCILLOR NUMBERS AND POTENTIAL
VALIDITY OF PAST DECISIONS**

I refer to ongoing discussions between officers of the Department of Local Government and Communities, and the Town of Port Hedland, regarding the omission identified by the Western Australian Electoral Commission (WAEC) in its preparations for the Town's 2013 ordinary elections.

As those discussions have noted, the omission arose from the Port Hedland Council's understanding that resolving for the Mayor to be directly elected by the public represented a change only in the election method of an existing council member, rather than the creation of a new publicly elected office on council. The council was therefore unaware of any need to apply for a reduction in its previous councillor numbers.

Thank you for advising the Department of your correspondence of 30 August 2013 to the Minister for Local Government regarding the council's resolutions of 28 August 2013. Given that 4 September 2013 is the last date on which council vacancies can be advertised for the ordinary elections, it is considered appropriate that the Department notify you directly of the advice it will be providing to the Minister in relation to those resolutions.

It is clear that, rather than intentionally allowing a councillor vacancy to remain unfilled since 2009, the Town has simply been unaware that a vacant position should have been held to exist.

The Department has noted the intent of the council when it resolved to change the election method of its Mayor, and appreciates the reasoning behind its interpretation of the actions required under the *Local Government Act 1995* to achieve that intent.

Gordon Stephenson House
140 William Street Perth WA 6005
GPO Box R1250 Perth WA 6844
Tel: (08) 6552 1500 Fax: (08) 6552 1555 Freecall: 1800 620 511 (Country only)
E-mail: info@dlg.wa.gov.au Website: www.dlg.wa.gov.au
wa.gov.au

However, with regard to any capacity for this Department or the WAEC to allow one less vacancy to be filled at the ordinary elections than is legislatively required, there would need to be a provision in the Act which creates that discretionary power. As it stands, the Act grants the Minister for Local Government and his Department no power to exempt a local government from filling a vacant office. The Department's role is limited to providing interpretative advice on what the Act requires.

Any discretionary power granted by the Act to the Electoral Commissioner is limited to:

- postponing the filling of a vacancy which has arisen until the next ordinary elections under section 4.16(4); or
- allowing a vacancy which has arisen to remain unfilled until the next ordinary elections under sections 4.17(2) or (3).

It should be emphasised that these provisions are triggered by vacancies arising in a filled position, rather than vacancies existing because an office was not actually filled. In any case, neither provision allows for an exemption from filling a vacancy at the next ordinary election.

As such, the question of whether a valid case exists for the position to remain vacant pending the completion of another legislative process – such as an application to the Local Government Advisory Board (LGAB) for reduced councillor numbers – is not one on which the Department or the WAEC is in a position to make rulings or issue directions. The Act grants to neither agency, nor the Minister, the power to modify legislative requirements on the basis of such a case, regardless of its validity.

In the absence of this power, a decision not to advertise a position which still legally exists could expose the Town to potential challenges to the validity of the election. Any candidate receiving enough votes to have been elected to the unadvertised fifth position could seek a ruling from a Court of Disputed Returns on their right to have been elected.

As the Act contains no provision by which the Department could protect the Town from such legal action, it is the Department's view that the fifth vacancy should be advertised.

It has been observed that a Governor's Order under section 9.64(2) can 'rectify' an omission that has been made in complying with the Act. However, as you will be aware, the Department understands that any order at this time which immediately reduces the number of councillors would represent a continuation of the omission rather than its rectification.

It would therefore be inconsistent with the requirement of section 9.64(2) that any such order 'give effect' to the intent and purpose of the Act. Part of that intent is that the LGAB be involved in any process to reduce the number of offices on a council.

There remains, of course, the question of the omission's impact on the validity of decisions made by council since the omission occurred. Given that a quorum would require five members regardless of whether the council comprised nine

members or ten, any uncertainty regarding the validity of decisions would arise from council's confusion regarding the numbers required for absolute majorities.

This is indeed a problem with which a Governor's Order under section 9.64(2) could assist. It is considered that an order under this section could be requested to 'rectify' the impact of the omission on past resolutions, by validating any decisions made by council in good faith while it was unaware of the omission and therefore of the numbers required for certain decisions.

The Department would suggest that the Town make application for an order pursuant to section 9.64 in this case. Such an order could be requested to validate any decisions made in the period since the omission, where they were made by an absolute majority calculated on the understanding that there were only nine offices of council.

The Department is ready to assist wherever possible and will act to expedite any requests from the Town regarding this matter.

Yours sincerely



Brad Jolly
EXECUTIVE DIRECTOR,
SECTOR REGULATION AND SUPPORT

2 September 2013

cc: *Mr Chris Avent, Western Australian Electoral Commissioner*
Mr Phil Richards, WAEC Project Manager, Local Government Elections

6.1.2 Request to Increase the Original Catamore Subdivision Loan for the Joint Venture Subdivision Agreement with the Department of Housing (File No. 800240G)

201314/091 Council Decision

Moved: Cr Jacob

Seconded: Cr Carter

That Council:

1. Notes that the Town's portion of project management and civil works costs for the infrastructure requirement within the Catamore development equals (\$1,868,882 excl. GST), according to the DoH report;
2. Approves the following budget amendments as outlined in the Variation column of the table below to recognise the additional loan requirements and recognition of revenue and the associated impacts:

GL Account	Description	Current Budget \$	Proposed Budget \$	Variation \$
901422	Catamore Cres Development	1,095,000	1,868,882	773,882
901396	Loan Funds	(1,095,000)	(1,618,882)	(523,882)
901297	Loan Interest Repayments	260,244	273,341	13,097
901498	Loan Principal Repayments	320,571	328,343	7,772
New Account	Proceeds from Sale of Land	0	(250,000)	(250,000)
1407274	Efficiency Dividend	(1,876,715)	(1,897,584)	(20,869)

3. Approves that the revenue of \$250,000 is offset against the Town's development cost of \$1,868,882 therefore reducing the overall development costs to \$1,618,882;
4. Endorses the advertisement of the change in the proposed power to borrow (loan funds) in accordance with the requirements of the *Local Government Act 1995* and associated regulations;
5. Endorses the Chief Executive Officer to affix the common seal on the loan application when the funds are required, providing this is after the 4 week advertising period required and the non-cash solutions are investigated;

6. Endorses the Chief Executive Officer or his delegate to enter into the appropriate contractual arrangements with the Department of Housing reflecting the Joint Venture arrangements;
7. Request the Chief Executive Officer or his delegate make a concerted effort to develop a non-cash solution with the Department of Housing to fill the funding gap so that the extra funding does not need to be utilised.

CARRIED BY ABSOLUTE MAJORITY VOTE 9/0

ITEM 7 CONFIDENTIAL ITEMS

201314/092 Council Decision

Moved: Cr Carter

Seconded: Cr Hunt

That the meeting be closed to members of the public as prescribed in Section 5.23(2)(b)(c) and (e)(iii) of the Local Government Act 1995, to enable Council to consider the following item:

- 7.1 Endorsement of the Appointment of the Director Corporate Services (Confidential)

CARRIED 9/0

Mayor advised that the meeting is closed to members of the public at 6:14pm

7.1 *Endorsement of the Appointment of the Director Corporate Services*

201314/093 Officer's Recommendation/ Council Decision

Moved: Cr Carter

Seconded: Cr Gillingham

That Council receives the advice from the Chief Executive Officer that he proposes to employ the preferred candidate as identified in this confidential report as a senior employee of the Town of Port Hedland in the role of Director Corporate Services.

CARRIED 9/0

201314/094 Council Decision

Moved: Cr Carter

Seconded: Cr Gillingham

That the meeting be opened to members of the public.

CARRIED 9/0

Mayor advised members of the public of Council's decision whilst behind closed doors.

ITEM 8 CLOSURE**8.1 Date of Next Meeting**

The next Ordinary Meeting of Council will be held on Wednesday 25 September 2013, commencing at 5.30 pm.

8.2 Closure

There being no further business, the Mayor declared the meeting closed at 6:22pm.