



Shire of  
YILGARN

*“good country for hardy people”*

# *Minutes*

*Ordinary Meeting of  
Council*

*15th February*

*2018*

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## 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 4pm

## 2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

## 3. ATTENDANCE

Presiding Member      President-Cr O Truran

Members                  Deputy President- Cr W Della Bosca  
                                 Cr B Close  
                                 Cr G Guerini  
                                 Cr P Nolan  
                                 Cr D Pasini  
                                 Cr S Shaw

Council Officers        P Durtanovich, Acting Chief Executive Officer  
                                 C Watson, Executive Manager Corporate Services  
                                 R Bosenberg, Executive Manager Infrastructure  
                                 N Warren, Manager Regulator Services  
                                 J. Gemund, Manager Community Services  
                                 L Della Bosca, Minute Taker

Apologies:              Nil

Observers                Nil

Leave of Absence:      Nil

## 4. DECLARATION OF INTEREST

Nil

## 5. PUBLIC QUESTION TIME

Nil

## 6. CONFIRMATION OF MINUTES

### 6.1 Ordinary Meeting of Council Friday 15<sup>th</sup> December 2017

#### **Officer Recommendation**

That the minutes from the Ordinary Council Meeting held on the 15<sup>th</sup> December 2017 be confirmed as a true record of proceedings subject to the following amended:  
Item 14.1- header to read Doctor Recruitment Contract.

#### **Council Decision**

*1/2018*

*Moved Cr Della Bosca/Seconded Cr Shaw*

*That the minutes from the Ordinary Council Meeting held on the 15<sup>th</sup> December 2017 be confirmed as a true record of proceedings subject to the following amended:*

*Item 14.1- header to read Doctor Recruitment Contract.*

*Carried 7/0*

### 6.2 Ordinary Council Meeting Friday 15<sup>th</sup> December 2017 Action Sheet

#### **Officer Recommendation**

That the Action Sheet for the Council Meeting held on Friday 15<sup>th</sup> December 2017 be received

#### **Council Decision**

*2/2018*

*Moved Cr Pasini/Seconded Cr Della Bosca*

*That the Action Sheet for the Council Meeting held on Friday 15<sup>th</sup> December 2017 be received*

*Carried 7/0*

## 7. PRESENTATIONS, PETITIONS, DEPUTATIONS

At 4.05pm representatives from Tianye SXO Gold Mining Pty Ltd attended the meeting and updated Councilors on the companies mining activities in the Shire, the presentation concluded at 4.20pm.

The President thanked the representative from Tianye SXO for attending the meeting and for continuing communication with Council.

## 8. DELEGATES' REPORTS

Cr Truran announced the following:

- Attended the Hay Committee Meeting on the 6<sup>th</sup> February
- Attended the "Thank a Volunteer Day" on the 8<sup>th</sup> February
- On the 13<sup>th</sup> February partook in a WALGA webinar on the Local Government Act.
- Attended the Outdoor Gym official opening on the 15<sup>th</sup> February.

Cr Close announce he attended the Southern Regional Road Group meeting on the 12<sup>th</sup> February.

Cr Della Bosca announced he officiated at the Australia Day celebrations, acting on Cr Trurans behalf, and also attended the Outdoor Gym opening.

Cr Nolan announced that he took part in WALGA training on Meeting Procedures and Debating in Kellerberrin on the 9<sup>th</sup> February.

Cr Pasini announced he attended the Outdoor Gym opening on the 9<sup>th</sup> February.

Cr Guerini announced he attended the Outdoor Gym opening on the 9<sup>th</sup> February

## 9. Officers Report – Chief Executive Officer

### 9.1.1 Review of Delegations

<b>File Reference</b>	<b>2.3.3.6</b>
<b>Disclosure of Interest</b>	<b>None</b>
<b>Voting Requirements</b>	<b>Absolute Majority</b>
<b>Attachments</b>	<b>Current Register of Delegations</b>

#### Purpose of Report

The purpose of this report is for Council to review existing delegation to the Chief Executive Officer.

#### Background

To assist in the effective administration of the shire, council has granted various delegations to the Chief Executive Officer. Delegations made under the Local Government Act, 1995 can only be made to the Chief Executive Officer or Council Committees. Where appropriate, the Chief Executive Officer on delegates to other officers.

Delegations under other legislation are made directly to the officer concerned.

Council last reviewed delegations in March, 2017.

#### Comment

The Chief Executive Officer has reviewed the current Delegated Authority Register and recommends retention of existing delegations. No new delegations are recommended.

#### Statutory Environment

5.42. Delegation of some powers and duties to CEO

(1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —

(a) this Act other than those referred to in section 5.43; or

(b) the Planning and Development Act 2005 section 214(2), (3) or (5).

\* Absolute majority required.

5.46. Register of, and records relevant to, delegations to CEO and employees

(1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.

(2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.

(3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

### Strategic Implications

Nil

### Policy Implications

Where a Policy exists for an activity/function that has been delegated the Chief Executive Officer is to adhere to that Policy.

### Financial Implications

Nil

### Officer Recommendation and Council Decision

**3/2018**

***Moved Cr Guerini/Seconded Cr Pasini***

***That Council, having reviewed the Delegations currently in force, agree that all delegations be retained.***

***Carried by Absolute Majority 7/0***



## 9. Reporting Officer – Acting Chief Executive Officer

### 9.1.2 Use of Shire Facilities by Service Providers – Waiving of Fees

<b>File Reference</b>	<b>2.3.3.2</b>
<b>Disclosure of Interest</b>	<b>None</b>
<b>Voting Requirements</b>	<b>Simple Majority</b>
<b>Attachments</b>	<b>None</b>

#### Purpose of Report

The purpose of this report is for Council to formalise the waiving of fees and charges for the use of Shire facilities by service providers such as Chiropractors, Physiotherapists, etc.

#### Background

Currently the following service providers use shire facilities free of charge:

- Podiatrist uses the Senior Citizen Centre for 1.5 days every 7 weeks. Waived hire fee is \$70 per day. Accommodation is also provided at either 13 Libra Street or the Caravan Park. The waived fee is \$55 and \$94 respectively.
- Chiropractor uses the Senior Citizen Centre 1 day a fortnight but this may reduce to once a month. The fee situation is similar to that of the Podiatrist.
- Vet uses a change room in the Recreation Centre once a month. The waived hire fee is \$70 per visit.

In the Shire of Yilgarn Strategic Community Plan the Social Services Goal is:

*"An inclusive, secure and welcoming community that encourages families, youth and the aged to remain and contribute to our Shire in the long term."*

A strategy listed to achieve this goal is:

*"Continue to provide free use of facilities for use by service providers (Chiropractor, Physiotherapist, Veterinarian)."*

#### Comment

The hire fees for the uses listed above are currently waived, however, the schedule of Fees and Charges does not adequately specify this. Council can delegate this decision making authority to the Chief Executive Officer, however, given that the waiving of fees for the purposes listed is a strategy in the Strategic Community Plan, it would be appropriate to formalise Council's intent by policy.

#### Statutory Environment

Nil

### Strategic Implications

As highlighted in this report.

### Policy Implications

Nil

### Financial Implications

Approximately \$2,500 per annum reduction in hire fees.

### Officer Recommendation and Council Decision

**4/2018**

***Moved Cr Nolan/Seconded Cr Della Bosca***

***That the following policy be adopted:***

***Policy No 3.11 – Use of Shire Facilities by Service Providers***

***Policy:***

***To encourage service providers such as Chiropractors, Podiatrists, Physiotherapists and Veterinarians to provide a service in the Shire of Yilgarn, Shire buildings required for the delivery of such services will be made available free of charge.***

***Carried 7/0***

## 9.2 Reporting Officer– Executive Manager Corporate Services

### 9.2.1 Financial Reports

<b>File Reference</b>	<b>8.2.3.2</b>
<b>Disclosure of Interest</b>	<b>Nil</b>
<b>Voting Requirements</b>	<b>Simple Majority</b>
<b>Attachments</b>	<b>See attachment 9.2.1</b>

#### Purpose of Report

To consider the Financial Reports

#### Background

Enclosed for Council's information are various financial reports that illustrate the progressive position of Council financially on a month-by-month basis.

The following reports are attached and have been prepared as at the 31<sup>st</sup> December 2017.

- Rates Receipt Statement
- Statement of Investments
- Monthly Statement of Financial Activity
- Own Source Revenue Ratio

Councillors will be aware that it is normal practice for all financial reports to be indicative of Council's current Financial Position as at the end of each month.

During the 2012/2013 audit it was noted by the Shire's Auditors that the own source revenue was below acceptable. Council asked for the ratio to be monitored and is therefore included as part of this report.

#### Comment

Nil

#### Statutory Environment

Local Government (Financial Management) Regulations 1996 Regulation 34(i)(a) and Regulation 17.

#### Strategic Implications

Nil

#### Policy Implications

Nil

### Financial Implications

Nil

### Officer Recommendation and Council Decision

*5/2018*

*Moved Cr Nolan/Seconded Cr Della Bosca*

*That Council endorse the various Financial Reports as presented for the period ending 31<sup>st</sup> December 2017*

*Carried 7/0*

## 9.2 Reporting Officer– Executive Manager Corporate Services

### 9.2.2 Financial Reports

<b>File Reference</b>	<b>8.2.3.2</b>
<b>Disclosure of Interest</b>	<b>Nil</b>
<b>Voting Requirements</b>	<b>Simple Majority</b>
<b>Attachments</b>	<b>See attachment 9.2.1</b>

#### Purpose of Report

To consider the Financial Reports

#### Background

Enclosed for Council's information are various financial reports that illustrate the progressive position of Council financially on a month-by-month basis.

The following reports are attached and have been prepared as at the 31<sup>st</sup> January 2018.

- Rates Receipt Statement
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During the 2012/2013 audit it was noted by the Shire's Auditors that the own source revenue was below acceptable. Council asked for the ratio to be monitored and is therefore included as part of this report.

#### Comment

Nil

#### Statutory Environment

Local Government (Financial Management) Regulations 1996 Regulation 34(i)(a) and Regulation 17.

#### Strategic Implications

Nil

#### Policy Implications

Nil

### Financial Implications

Nil

### Officer Recommendation and Council Decision

**6/2018**

***Moved Cr Guerini/Seconded Cr Close***

***That Council endorse the various Financial Reports as presented for the period ending 31<sup>st</sup> January 2018***

***Carried 7/0***

## 9.2 Reporting Officer– Executive Manager Corporate Services

### 9.2.3 Accounts for Payment

<b>File Reference</b>	<b>8.2.1.2</b>
<b>Disclosure of Interest</b>	<b>Nil</b>
<b>Voting Requirements</b>	<b>Simple Majority</b>
<b>Attachments</b>	<b>See attachment 9.2.3</b>

#### Purpose of Report

To consider the Accounts for Payment

#### Background

Municipal Fund – Cheque Numbers 40544 to 40575 totalling \$39,217.01, Municipal Fund-EFT Numbers 7113 to 7282 totalling \$655,876.40, Municipal Fund – Cheque Numbers 1383 to 1394 totalling \$332,626.78, Municipal Fund Direct Debit Numbers 12290.1 to 12372.13 totalling \$75,154.03, Trust Fund 402332 to 402338 totalling \$3,880.60 and Trust Fund – Cheque Numbers 6097 to 6104 (DPI Licensing), totalling \$97,121.30 are presented for endorsement as per the submitted list.

#### Comment

Nil

#### Statutory Environment

Sections 5.42 and 5.44 of the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996, Regulation No 12 and 13

#### Strategic Implications

Nil

#### Policy Implications

Council has provided delegation to the Chief Executive Officer to make payments from the Shire of Yilgarn Municipal, Trust or other Fund.

#### Financial Implications

Drawdown of Bank funds

**Officer Recommendation and Council Decision**

**7/2018**

***Moved Cr Close/Seconded Cr Shaw***

***Municipal Fund – Cheque Numbers 40544 to 40575 totalling \$39,217.01, Municipal Fund- EFT Numbers 7113 to 7282 totalling \$655,876.40, Municipal Fund – Cheque Numbers 1383 to 1394 totalling \$332,626.78, Municipal Fund Direct Debit Numbers 12290.1 to 12372.13 totalling \$75,154.03, Trust Fund 402332 to 402338 totalling \$3,880.60 and Trust Fund – Cheque Numbers 6097 to 6104 (DPI Licensing), totalling \$97,121.30 are presented for endorsement as per the submitted list.***

***Carried 7/0***



## 9.2 Reporting Officer-Executive Manager Corporate Services

### 9.2.4 Provision of Transport Licensing Services

<b>File Reference</b>	<b>10.2.4.1</b>
<b>Disclosure of Interest</b>	<b>Nil</b>
<b>Voting Requirements</b>	<b>Simple Majority</b>
<b>Attachments</b>	<b>Attachment 1 – Agreement for the Provision of Licensing Services</b> <b>Attachment 2 – Agreement for the Provision of Non-Road Law Functions</b>

#### Purpose of Report

Council is requested to enter into another five (5) year agreement with the Department of Transport for the provision of licensing services and Non-Road Law functions.

#### Background

The current agreement for the Provision of Licensing Services with the Department of Transport expired on 31 December 2017. In order to continue providing these services to the community a new agreement is required to be entered into. The Department of Transport has granted an extension to 31<sup>st</sup> March for Council to accept the new agreement.

In the past, ancillary functions relating to such areas as licensing of vessels, photo cards, firearm licences, off-road vehicles and motor vehicle driving instructor fees were undertaken under either memorandum of understanding or in terms of conditions that were set out in the schedules to the agreement for the provision of licensing services. As of the 27<sup>th</sup> of April 2015, the Road Laws came into effect and it became necessary to enter into a separate agreement for the provision of Non-Road Law functions.

#### Comment

The provision of licensing services is a vital service for communities in rural areas.

Both of the new contracts with the Department of Transport will expire on 31 December 2022.

#### Statutory Environment

##### 9.49A. Execution of documents

- (1) A document is duly executed by a local government if —
  - (a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or
  - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.

- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.
- (3) The common seal of the local government is to be affixed to a document in the presence of —
  - (a) the mayor or president; and
  - (b) the chief executive officer or a senior employee authorised by the chief executive officer,each of whom is to sign the document to attest that the common seal was so affixed.
- (4) A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.
- (5) A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the local government, it is to be presumed that the seal is the common seal of the local government unless the contrary is shown.

### **Strategic Implications**

There are no strategic implications as a result of this report.

### **Policy Implications**

This report deals with changes to Council's Policy Manual.

### **Financial Implications**

Revenue and expenses associated with the provision of licensing services have been accounted for in the current budget.

**Officer Recommendation and Council Decision**

**8/2018**

***Moved Cr Nolan/Seconded Cr Shaw***

***That Council***

- 1. authorise the Shire President and Acting Chief Executive Officer to sign and affix the common seal to the agreement with the Department of Transport for the provision of licensing services for a five (5) year period expiring on 31 December 2022; and***
- 2. authorise the Shire President and Acting Chief Executive Officer to sign and affix the common seal to the agreement with the Department of Transport for the provision of Non-Road Law Functions for a five (5) year period expiring on 31 December 2022.***

***Carried 7/0***

### 9.3 Reporting Officer– Executive Manager for Infrastructure

#### 9.3.1 Tianye Mining

<b>File Reference –</b>	<b>3.2.1.24</b>
<b>Disclosure of Interest -</b>	<b>N/A</b>
<b>Voting Requirements -</b>	<b>Simple Majority</b>
<b>Attachments -</b>	<b>Shire Submission Aquarius Open Pit TRASVAAL GOLD PROJECT</b>

#### Purpose of Report

Tianye SXO Mining (managed by Minjar Mining) is currently implementing a range of mining projects to ensure continuity of supplying ore to Marvelloch processing plant. They propose to re-establish the Transvaal project with their initial operations focused on the Aquarius open pit. Prior to mining the Aquarius pit the adjacent Transvaal and Polaris pit will require de-watering. Tianye Mining proposes to run a waterline from Transvaal project through to the Frasers Open pit for the purpose of dewatering. To access the Frasers pit with the pipeline they require crossing over a portion of Reserve 38802 (location of Southern Cross Motor Cycle Club)

Tianye Mining is seeking permission from Council for the placement of an above ground dewatering pipe through Reserve 38802.

Tianye Mining is also seeking permission from council to utilise council roads for the purpose of transporting gold ore from Transvaal operations to Marvelloch treatment plant for processing.

#### Background

The Transvaal mining project (Aquarius pit) is located approximately five kilometres south east of Southern Cross. Access to Transvaal mining project is generally via Southern Cross South Road or Southern Cross Marvelloch Road. In previous years gold ore extracted from Transvaal operation was transported via private haul road through private property (Unkovich paddock) crossing the Marvelloch Southern Cross Road onto Cornishman/Marvelloch haul road then through to Marvelloch treatment plant. The haul road is owned and managed by relevant mining companies on the day.

The re-establishment of Transvaal Operations and the mining of Aquarius pit by Tianye Mining is expected to run for fifteen months, extract 620,000 tonne of gold ore. The ore will be transported to Marvelloch mill for processing by triple roadtrain. Tianye mining is hoping to utilise the existing private haul road (Unkovich paddock). If they cannot get permission to use the private haul through the paddock they have requested council's permission to use the Southern Cross Road (14.4km) Gatley Road (9.5km) and Ghooli South Road (5.1km).

During mining operations it is expected that a combined total of 1,000,000kl of water will be pumped from Transvaal, Polaris and Aquarius pits. Various options were considered to dispose of the water (refer to page eight "*Shire Submission Aquarius Open Pit TRASVAAL GOLD PROJECT*") with the preferred option been pumped to Frasers Pit. This pit has sufficient capacity to take the anticipated volume.

## Comment

As mentioned in the background comments Tianye Mining are hoping to utilise existing private haul road to cart gold ore to Marvelloch processing plant. If permission is not granted to haul through private land (Unkovich paddock), then they have requested to utilise council roads (Southern Cross South Road, Gatley Road and Ghooli South Road (refer to "*Shire Submission Aquarius Open Pit TRASVAAL GOLD PROJECT*" page eleven Figure 3 Haul Road Options Utilising Shire Roads).

This is approximately a combined total of 29 kilometres of council roads, of this approximately 2km's is bitumen surface and the remaining 27km's has gravel surface.

These roads are utilised by residents located south of Southern Cross to access farming property. Southern Cross South Road and Gatley Road are bus routes.

Concerns are that a high proportion of the road pavement on the roads that Tianye Mining has requested to utilise to haul on will not stand up to a continuous carting campaign as proposed and would deteriorate quickly.

Before council considers these roads to be utilised by Tianye Mining for haulage route a complete assessment should be carried out on the pavement suitability, geometric suitability and safety suitability by a competent person. A cost estimate of \$5,000 has been obtained from WML Consultants for this purpose.

The cost to carry out the assessment could be met by council as this could be used by council for future reference.

Cost for any upgrades that are identified to bring the roads up to a suitable standard and ongoing maintenance cost required during the carting campaign thereafter to be met by Tianye Mining. Upgrades are to be carried out prior to carting campaign commencement.

During the mining operation, Tianye Mining has indicated that de-watering of Transvaal, Polaris and Aquarius pits is required. This will be done by the laying of poly pipe located in an open V drain with the intention of pumping the water to Fraser's pit. To access the Fraser Pit with this pipe they require council permission to lay a section of this pipe through Reserve 38802.

Reserve 38802 is vested in council for recreational purpose and is the location of Southern Cross Motor Cycle Track.

An onsite meeting with council staff and representatives from Tianye/Minjar Mining has identified (with council approval) the best location for the pipe is to run between the Southern Cross South Road and Reserve 38802 (refer to "*Shire Submission Aquarius Open Pit TRASVAAL GOLD PROJECT*" page six Figure 2 General Arrangement).

Council staff have contacted Mr James Panizza President of the Motor Cycle Club and discussed the proposed location of the pipe, which at the time he had no problem with this on the proviso that the pipe is placed in a buried culvert passing under the motor cycle track access road. The pipe is also to be buried under all track crossings.

### Statutory Environment

Nil

### Strategic Implications

Nil

### Policy Implications

Shire of Yilgarn Policy 5.2- Heavy Haulage on Local Roads, 5.7-Stock on Council Road Reserves and 5.8-Road Works on Council Roads will have some relevancy depending on council decisions going forward

### Financial Implications

1. Cost to carry out the assessment on roads is estimated to be \$5,000
2. Cost for any upgrades that are identified to bring the roads up to a suitable standard and ongoing maintenance cost required during the carting campaign thereafter to be met by Tianye Mining.

### Officer Recommendation

#### OFFICER RECOMMENDATION 1

1. That WLM Consulting be engaged to carry out an assessment of Southern Cross South Road, Gatley Road and Ghooli South Road for pavement, geometric and safety suitability for the use by road trains.
2. That the cost for any upgrades that are identified to bring the Southern Cross South, Gatley and Ghooli South roads up to a suitable standard for use by road trains be the responsibility of Tianye Mining

#### OFFICER RECOMMENDATION 2

That the Chief Executive Officer be delegated authority to negotiate a contribution from Tianye Mining for any additional maintenance required on the Southern Cross South, Gatley and Ghooli South roads due to use by Tianye Mining.

#### OFFICER RECOMMENDATION 3

That permission be granted to Tianye Mining to lay a above ground dewatering pipe through reserve 38802 for pit dewatering purposes.

## Council Decision

**9/2018**

***Moved Cr Nolan/Seconded Cr Della Bosca***

- 1 That the new information be received***
- 2 That Rob Munns Engineering be engaged to carry out an assessment of Southern Cross South Road, Gatley Road and Ghooli South Road for pavement, geometric and safety suitability for the use by road trains.***
- 3 That the cost for any upgrades that are identified to bring the Southern Cross South, Gatley and Ghooli South roads up to a suitable standard for use by road trains be the responsibility of Tianye Mining***

***Carried 7/0***

### **Reason for Change to the Officer Recommendation**

New information was received by the officer regarding the cost of carrying out the assessment of the Southern Cross South, Gatley and Ghooli South roads. Rod Munns Engineering quoted the estimated cost of the assessment to be \$3,800. Council agreed to accept this new information, differing the council decision to the Officer Recommendation.

**10/2018**

***Moved Cr Guerini/Seconded Cr Pasini***

***That the Chief Executive Officer be delegated authority to negotiate a contribution from Tianye Mining for any additional maintenance required on the Southern Cross South, Gatley and Ghooli South roads due to use by Tianye Mining.***

***Carried by Absolute Majority 7/0***

**11/2018**

***Moved Cr Della Bosca/Seconded Cr Guerini***

***That permission be granted to Tianye Mining to lay a above ground dewatering pipe through reserve 38802 for pit dewatering purposes.***

***Carried 7/0***

## 9.4 Officers Report – Manager Regulatory Services

### 9.4.1 Planning Application Third Party Appeal Rights

<b>File Reference</b>	<b>1.6.21.2</b>
<b>Disclosure of Interest</b>	<b>Nil</b>
<b>Voting Requirements</b>	<b>Simple majority</b>
<b>Attachments</b>	<b>WALGA - Outcomes of Consultation and Preferred Model Report FINAL Nov 2017</b>

#### Purpose of Report

To make a determination on the Shire of Yilgarn's preferred option for "Third Party Appeal Rights" in planning applications.

#### Background

As detailed in the attachment, the Western Australian Local Government Association (WALGA) has undertaken to investigate third party appeal rights (TPAR) for planning and development applications in Western Australia. After consultation with Local Government, it was determined support for TPAR was the general consensus and as such, further consultation has resulted in WALGA producing four possible options for TPAR which broadly capture the range of responses from Local Government.

The 4 options are as follows:

- 1. Support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels:** Under this system, third party appeals would be broadly similar to the New South Wales system whereby appeal rights are limited to uses such as major developments where the development is high impact and possibly of state significance. This would include the ability to appeal amendments to an existing approval.
- 2. Support the introduction of Third Party Appeal Rights for decisions where discretion has been exercised under the R-Codes, Local Planning Policies and Local Planning Schemes:** Under this system, third party appeals would be broadly similar to the Tasmanian system whereby third party appeals are limited to development applications where discretion has been exercised. This would include the ability to appeal an amendment to an existing approval.
- 3. Support the introduction of Third Party Appeal Right against development approvals:** Including all development application approvals made by Local Governments, JDAPs and the Perth DAP, MRA or WAPC. This would include appeal rights for affected neighbours and community groups for applications and the ability to appeal amendments to an existing approval.



4. **Support the introduction of Third Party Appeal Rights against development approvals and/or the conditions or absence of conditions of an approval:** Under this system, third party appeals would be broadly similar to the Victorian system whereby the provision of third party appeal rights cover most development applications and the use of, or lack of, any conditions being imposed. This would include the ability to appeal an amendment to an existing approval.
5. **Other** – as a range of options were provided by members, any alternate versions to the above, or combination of the above could be proposed, including maintaining WALGA's current policy position of not supporting Third Party Appeal Rights.

WALGA have indicated their preferred option is **OPTION 1**.

WALGA have requested each member Council advise of their support or otherwise to this model of TPAR via Council Resolution, after which, a report of the responses will be presented to State Council for further consideration.

#### Comment

It is the opinion of the Manager Regulatory Services that Council should support WALGA in their preference for Option 1, being TPAR should be available for decisions made by Development Assessment Panels (DAP).

#### DEVELOPMENT ASSESSMENT PANELS

The Shire of Yilgarn falls within the Mid-West Wheatbelt Joint DAP, which consists of five panel members, three being specialist members and two local government councillors.

Under the Planning and Development (Development Assessment Panels) Regulations 2011, each DAP will determine development applications that meet set type and value thresholds as if it were the responsible authority under the relevant planning instrument, such as the local planning scheme or region planning scheme. The DAP regulations state that DAP applications cannot be determined by local government or the Western Australian Planning Commission (WAPC).

The type/threshold for applications to be seen by the Mid-West Wheatbelt Joint DAP are:

#### Mandatory DAP Application:

- An estimated cost of \$10 million or more, except warehouses.

#### Optional DAP Application:

- an estimated cost of \$2 million or more and less than \$10 million; or
- development of a warehouse that has an estimated cost of \$2 million or more.

### **Exempt DAP Application:**

- a single house and any associated carport, patio, outbuilding and incidental development;
- less than 10 grouped dwellings and any associated carport, patio, outbuilding and incidental development;
- less than 10 multiple dwellings and any associated carport, patio, outbuilding and incidental development;
- development in an improvement scheme area;
- development by a local government or the Commission;
- development in a district for which —
  - a DAP is not established at the time the application is made; or
  - a DAP has been established for less than 60 days at the time the application is made;

### **THIRD PARTY APPEAL RIGHTS - EFFECTS ON SHIRE OF YILGARN**

The Shire of Yilgarn rarely receives applications of a contentious nature that may warrant TPAR, the exception being mining or other resource related developments.

These mining/resource applications would generally be a “Mandatory DAP” level application, being over \$10 million estimated development costs, or at the least, fall within the Optional DAP level of \$2 million estimated costs.

Whilst any form of TPAR against DAP decisions may rarely be used within the Shire, Option 1 does give the ability for the Shire or the community to appeal decisions should they wish.

The Manager Regulatory Services is in favour of TPAR, only for DAP decisions, as these are generally large developments with significant impact on the community. Allowing TPAR for applications of lesser significance could see large volumes of appeals lodged with little merit or vexatious in nature. To date the Manager Regulatory Services is yet to receive any written third party complaints relating to standard planning applications and as such, does not think there is merit in supporting TPAR for applications of this nature.

### **Statutory Environment**

Planning and Development Act 2005

Planning and Development (Development Assessment Panels) Regulations 2011

### **Strategic Implications**

Goal: A prosperous future for our community

Outcome: Businesses in the Shire remain competitive and viable

Strategy: - Continue to provide an efficient and effective approval process;

**Policy Implications**

Nil

**Financial Implications**

Nil

**Officer Recommendation and Council Decision**

*12/2018*

*Moved Cr Della Bosca/Seconded Cr Close*

**THAT COUNCIL:**

*Resolve to support the Western Australian Local Government Associations position on Third Party Appeal Rights in relation the planning applications, whereby Third Party Appeal Rights are supported only for decisions made by Development Assessment Panels.*

*Carried 7/0*

## 9.4 Officers Report – Manager Regulatory Services

### 9.4.2 Southern Cross Landfill

<b>File Reference</b>	<b>4.1.9.21</b>
<b>Disclosure of Interest</b>	<b>Nil</b>
<b>Voting Requirements</b>	<b>Simple majority</b>
<b>Attachments</b>	<b>Nil</b>

#### Purpose of Report

To determine service levels for the Southern Cross Landfill facility.

#### Background

The Southern Cross Landfill facility (the landfill), located off Southern Cross South Road, was opened in 2009 and took over from the original landfill site for all landfilling of Shire kerbside collected waste, commercial waste and Southern Cross townsite generated waste.

To date the landfill has been an unmanned site and accessible via prior arrangement only. The Shire has continued using the existing landfill site as a transfer station, open to the public 24 hours/7 days a week.

Over the past few years infrastructure upgrades have been undertaken, with the intention to transition the landfill into a manned, restricted hours facility for all Southern Cross waste and to close the transfer station.

The landfill is nearing completion of essential infrastructure to enable the transition to the manned site.

Once the landfill facility is opened, the transfer station will be closed permanently and a closure plan developed and implemented in consultation with Department of Water and Environmental Regulation.

A number of bulk cardboard and co-mingle recycling bins will remain at the Southern Cross Sports Complex for residents use at any time.

#### Comment

The landfill facility is proposed to open for public access from April 2018 with the following opening hours:

Monday:	Closed
Tuesday:	Closed
Wednesday:	Closed
Thursday:	Closed
Friday:	12:00pm to 5:00pm

Saturday: 1:00pm to 4:00pm  
Sunday: 8:00am to 11:00am

In determining the opening hours of the new facility, traffic data for the transfer station was used in addition to comparing the opening times of similar Shire landfills.

Whilst there may be some complaints from transitioning from a 24/7 facility to a restricted facility the following should be noted and relayed to any disgruntled ratepayers/residents:

1. Residents of the Shire of Yilgarn depositing residential waste will not be charged for depositing waste during the designated opening hours;
2. Residents still have a weekly kerbside collection;
3. The Shire incurs significant costs in transferring waste from the transfer station to the landfill on a weekly basis. Whilst exact figures are not available, it is estimated to be in excess of \$65,000;
4. The Shire incurs significant clean-up costs relating to windblown waste caused by illegal scavenging and the extended period of time the waste sits in transfer cells; and
5. The transfer station is at risk of unauthorised fires (two in 2017/2018), most often caused by improper dumping or scavengers.

The landfill will still be accessible outside of the proposed opening hours, though only via prior arrangement, and commercial tipping rates are proposed for any out of hours users.

An initial three month trial period for the landfill is to be undertaken, with feedback welcomed by users, after which a review of service levels will be undertaken.

Once the operating hours are approved by Council, the public will be informed of the changes via Crosswords, website, notice board and onsite advertising via Variable Message Board.

### Statutory Environment

Nil

### Strategic Implications

Goal: Protecting, utilising and enhancing our beautiful natural heritage

Outcome: Satisfaction with waste management services and recycling processes

Strategy: - Establish and maintain environmentally sound regional waste facilities to cater for the Shires long term waste disposal requirements;  
&  
- Continue to provide & promote recycling services, including fortnightly household pick up and e-waste collection.

### Policy Implications

Nil

### Financial Implications

- \$27,044 in 2017/2018 budget to cover wages for part time employee/s;
- Ongoing annual wage for part time employee/s; and
- Savings based on elimination of costs for transfer facility and increased income from fees and charges.

### Officer Recommendation

THAT COUNCIL:

1. Endorse the opening of the Southern Cross Landfill Facility as a manned site from April 2018, pending all required infrastructure being installed;
2. Approve the opening hours of the Southern Cross Landfill Facility as follows:

Monday:	Closed
Tuesday:	Closed
Wednesday:	Closed
Thursday:	Closed
Friday:	12:00pm to 5:00pm
Saturday:	1:00pm to 4:00pm
Sunday:	8:00am to 11:00am
3. Approve commercial tipping rates for any persons requiring access to the Southern Cross Landfill Facility outside of approved operating hours.
4. Endorse a three-month trial to be undertaken to gauge ratepayer response to the changes, after which a review will be undertaken.

### ADVICE NOTES

1. Bulk cardboard and comingle recycling bins remain available at the Southern Cross Sports Complex entrance.

### Council Decision

**13/2018**

***Moved Cr Nolan/Cr Shaw***

**THAT COUNCIL:**

- 1 Endorse the opening of the Southern Cross Landfill Facility as a manned site from April 2018, pending all required infrastructure being installed;***

**2 Approve the opening hours of the Southern Cross Landfill Facility as follows:**

**Monday:** Closed  
**Tuesday:** 12:00pm to 5:00pm  
**Wednesday:** Closed  
**Thursday:** Closed  
**Friday:** 12:00pm to 5:00pm  
**Saturday:** 1:00pm to 4:00pm  
**Sunday:** 8:00am to 11:00am

**3 Approve commercial tipping rates for any persons requiring access to the Southern Cross Landfill Facility outside of approved operating hours.**

**4 Endorse a three-month trial to be undertaken to gauge ratepayer response to the changes, after which a review will be undertaken.**

**ADVICE NOTES**

**A Bulk cardboard and comingle recycling bins remain available at the Southern Cross Sports Complex entrance.**

***Carried by Simple Majority 7/0***

**Reason for the change to Officer Recommendation**

Council felt that a four days closure in a row may be too long for some residents and that a three month trial of a Tuesday opening will enable council to better assess community needs.

## 9.4 Officers Report – Manager Regulatory Services

### 9.4.3 Development Application – 66 Arcturus Street, Southern Cross

<b>File Reference</b>	<b>3.1.3.1</b>
<b>Disclosure of Interest</b>	<b>Nil</b>
<b>Voting Requirements</b>	<b>Simple majority</b>
<b>Attachments</b>	<b>- Site Layout</b> <b>- Shed Elevation Front</b> <b>- Shed Elevation Left</b>

#### Purpose of Report

To determine a development application for a shed and ablution.

#### Background

The Shire is in receipt of a Development Application for 66 Arcturus Street, Southern Cross, which is industrial zoned land.

The applicant proposes to install:

- A commercial sized shed, being 20 metres wide, 64 metres in length and eave height of 5.4 metres. The shed will be clad in cream colorbond sheeting to match the existing fence and sheds; &
- An ablution facility containing a toilet, shower and hand basin.

The shed is to be used for storage of drilling equipment and the ablution is to replace an old unit which was removed.

Attached are copies of the layout plan and shed specifications.

#### Comment

The Shire of Yilgarn Town Planning Scheme 2 (TPS2) contains a development table that details the requirements for certain use types, in this instance the use would be deemed "Industrial - Light" which is described as:

*An industry;*

- in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises, will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and*
- the establishment of which will not, or the conduct of which does not, impose an undue load on any existing or proposed service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services.*



The TPS2 Development Table sets the following requirements for this land use:

Use	Minimum Boundary Setback			Maximum Plot Ratio	Minimum Landscape Area%	Minimum Number Parking Bays
	Front	Rear Average	Sides			
Industrial Light	7.5	7.5	*	*	10	1 per 2 employees
*Means "to be determined by the Council" in each particular case						

As the table above shows, Council are required to determine the side boundary setback and maximum plot ratio for each application of this type of development.

### Plot Ratio

The plot ratio (building density) would be approximately less than 40% and is therefore not a concern.

### Side Boundary

The side boundary setback for the main shed has been proposed to be 1 metre and the ablation 2.5 metres. As there is no set setback listed in TPS2 Development Table, Council has the discretion to approve any distance.

The ablation boundary is against a secondary road (Regulus Street) and is therefore not affecting a neighbour; therefore 2.5 metres is deemed a sufficient setback.

The shed boundary adjoins two industrially zoned properties. The affected property owner has been contacted and provided the following:

- No problem with the setback;
- Would like to see colorbond material used but understood if it wasn't being industrial; and
- Ensure storm water runoff was diverted away from their property.

The Applicant is utilising cream colorbond cladding to match existing structures, and has advised storm water will be collected and diverted to tanks for re-use.

Considering the response from the affected neighbour, 1 metre is deemed a sufficient setback for the shed from the side boundary.

### Front Boundary

The proposed shed breaches the front boundary setback requirement of 7.5 metres, proposed to be only 3 metres. The proposed 3 metre setback is thought to be adequate given the following:

- There are already structures on this site closer to the front boundary than 3 metres;

- Whilst the property fronts Arcturus street, vehicular access is gained from Procyon Street at the rear, as such a perimeter fence is installed along the front boundary;
- Neighbouring properties seem to have structures within the 7.5 metre setback.

### Statutory Environment

Planning and Development Act 2005  
Shire of Yilgarn Town Planning Scheme 2

### Strategic Implications

Goal: A prosperous future for our community

Outcome: Businesses in the Shire remain competitive and viable

Strategy: - Continue to provide an efficient and effective approval process; &  
- Support initiatives progressed by the local business community.

### Policy Implications

Nil

### Financial Implications

- Development application fees;
- Building permit fees;

### Officer Recommendation and Council Decision

14/2018

*Moved Cr Pasini/Seconded Cr Della Bosca*

**THAT COUNCIL:**

1. *Approve the proposed development application for a shed and ablution unit at 66 Arcturus Street, Southern Cross as per the supplied plans and specifications, noting the reduced front boundary setback of 3 metres and on the condition all water runoff is to be contained onsite.*

### ADVICE NOTES:

1. *As per Clause 8.5.1 of the Shire of Yilgarn Town Planning Scheme 2, an applicant aggrieved by a decision of the Council in respect of the exercise of a discretionary power under the Scheme may appeal in accordance with Part V of the Planning and Development Act 2005 and the rules and regulations made pursuant to the Act.*
2. *The applicant will be required to seek a Building permit from the Shire prior to construction commencing.*

*Carried 7/0*

## 10 APPLICATION FOR LEAVE OF ABSENCE

Nil

## 11 INFORMATION BOOK ITEMS

Nil

## 12 MOTIONS FOR WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

## 13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

### 13.1 Audit Committee Recommendation 15<sup>th</sup> February 2018

Minute from the Audit Committee Meeting held on the 15<sup>th</sup> February 2018 were provided to Councillors. The Acting Chief Executive Officer requested Council deal with the Audit Committees recommendations at this meeting to ensure the necessary actions arising from the committee recommendations are completed prior to 31<sup>st</sup> March 2018.

### 13.1 Officer Recommendation and Council Decision

15/2018

*Moved Cr Nolan/Seconded Cr Shaw*

*That Item 13.1 be dealt with at this meeting to enable timely compliance with the relevant legislation.*

*Carried 7/0*

## 13. Officers Report – Chief Executive Officer

### 13.1 Minutes of the Audit Committee Meeting, 15<sup>th</sup> February 2018

<b>File Reference</b>	<b>2.1.2.9</b>
<b>Disclosure of Interest</b>	<b>None</b>
<b>Voting Requirements</b>	<b>Simple Majority/Absolute Majority</b>
<b>Attachments</b>	<b>Current Register of Delegations</b>

### Purpose of Report

The purpose of this report is for Council to consider recommendations from the Audit Committee Meeting held on the 15<sup>th</sup> February 2018 and recommendations therein.

## Background

The Audit Committee was held on the 15<sup>th</sup> February 2018 to consider the 2017 Compliance Audit Return and to review the 2017/2018 Budget, In addition to the two items listed on the Agenda the committee considered increasing the Committee membership by inviting a community member.

The recommendations to council arising from the Audit Committee meeting are:

### Item 3.1 -Compliance Audit Return

That the Audit Committee, having reviewed the 2017 Compliance Audit Return as presented, recommend that it be accepted by council with the acknowledgment that there are four areas of non-compliance not 3 with section 3.57 under Tenders for Provision of Goods and Services -Reference 1 being non-compliant.

### Item 3.2-2017/2018 Budget Review

That the Audit Committee recommends, the budget review for the period 1<sup>st</sup> June 2017 to 31<sup>st</sup> January 2018, inclusive of the recommended budget amendments, be adopted by council.

### Item 3.3- Audit Committee Membership.

That Council invite Mrs Julie Della Bosca to join the Audit Committee.

## Comment

The reports contained within the minutes of the Audit Committee meeting give the background for the three recommendations. If the Audit Committee recommendations are adopted by council the Compliance Audit Return will be certified by the Shire President and Acting Chief Executive Officer and will be submitted to the Department of Local Government, together with the Budget Review.

A formal invitation will be forwarded to Mrs Della Bosca to join the Audit Committee as a community member.

## Statutory Environment

Local Government (Audit) Regulations 14(1), (2), 3(A), (3)

Local Government (Financial Management) Regulations 33A (1), (2), (3), (4)

Local Government Act, 1995, sections 7.1 A, B&C outline the rules for the establishment and conduct of Audit Committees.

## Strategic Implications

Nil

### Policy Implications

Nil

### Financial Implications

The 2017/2018 Budget Review includes several budget amendments

### Voting Requirements

Simple Majority for the acceptance of the 2017/2018 Compliance Audit Return.

Absolut Majority for the 2017/2018 Budget Review

Simple Majority for invitation to a community member to join the Audit Committee

Absolute Majority to appoint Audit Committee Members

### 13.1a Audit Committee Recommendation and Council Decision

**16/2018**

***Moved Cr Della Bosca/Seconded Cr Pasini***

***That the Compliance Audit Return for 2017, as reviewed by the Audit Committee and recommended to council be adopted.***

***Carried 7/0***

### 13.1b Audit Committee Recommendation and Council Decision

**17/2018**

***Moved Cr Nolan/Seconded Cr Guerini***

***That the 2017/2018 Budget Review, undertaken by the Audit Committee, and recommended to council for adoption, inclusive of budget recommendation budget amendment, be adopted.***

***Carried by Absolute Majority 7/0***

### 13.1c Audit Committee Recommendation and Council Decision

**18/2018**

***Moved Cr Shaw/Seconded Cr Nolan***

***That Mrs. Julie Della Bosca be invited to join the Shire of Yilgarn Audit Committee, as a community member.***

***Carried 7/0***

#### 14 MEETING CLOSED TO THE PUBLIC-CONFIDENTIAL ITEMS

Nil

#### 15 CLOSURE

As there was no further business to discuss, the Shire President declared the meeting closed at **5pm**

I, Onida T Truran confirm the above Minutes of the Meeting held on Thursday, 15th February 2018, are confirmed on Thursday, 15<sup>th</sup> March 2018 as a true and correct record of the December Ordinary Meeting of Council.

Cr Onida Truran  
SHIRE PRESIDENT