



Minutes

Ordinary Meeting of Council

20th December 2018

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 4.00pm

2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

The Shire President thanked Councillors and staff for their work and commitment to the Shire of Yilgarn this year and wished everyone a Merry Christmas.

3. ATTENDANCE

Presiding Member	Cr O Truran	President
Members	Cr W Della Bosca Cr B Close Cr G Guerini Cr P Nolan Cr D Pasini Cr S Shaw	Deputy President
Council Officers	P Clarke C Watson R Bosenberg N Warren L Della Bosca	Chief Executive Officer Executive Manager Corporate Services Executive Manager Infrastructure Executive Manager Regulatory Services Minute Taker
Observers:	Brendan Hockley & Des Hockley	
Leave of Absence:	Nil	

4. DECLARATION OF INTEREST

Nil

7. PRESENTATIONS, PETITIONS, DEPUTATIONS

Covalent Lithium

Ms Susanna Beech, Manager Environment, Approvals and Community, Mr Colyn Louw, General Manager Organisational Development and Mr Michael Cairduff attended Council and gave an update on the Mt Holland Lithium project. The mine is 105km south of Southern Cross with an estimated life of 47years, the project is still in the early stages with Covalent Lithium managing the joint venture for Kidman Resources and SQM.

Cr Truran thanked Ms Beech for her presentation and invited questions from Councillors:

Cr Nolan enquired as to when mining was expected to begin?

Ms Beech indicated that it was hoped that mining could commence early in 2020.

Minjar Gold

Mr Martin Haugg attended Council to provide an update on Minjar Gold's mining activities, mainly the dewatering the Aquarius mine into Frasers pit. It was confirmed that the dewatering had started. Vanja Sekizovic, Environmental Superintendent, confirmed that the dewatering pipeline was inspected at least daily, water levels in Frasers pit are recorded weekly along with water sampling and photo monitoring with mining to start early 2019.

Cr Truran thanked Martin Haugg and Vanja Sekizovic for their time and invited questions;

Cr Della Bosca enquired as to when the grid on the haul road to stop wild dogs entering farm land was to be installed?

It was confirmed that the grid was on site with it to be installed early January 2019, the Eastern Wheatbelt Biosecurity Group have been kept informed of this progress.

As there were no further questions Martin Haugg thanked Council for their time.

Shire of Yilgarn Chief Bush Fire Control Officer

Mr Ron Burro, Chief Bush Fire Control Officer attended Council to update Council on issues relating to the current bush fire season. Mr Burro stressed how important it is that everyone complied with the Bushfires Act and keep compliant fire breaks, for which it was pointed out, there can be considerable fines applied for those who do not comply. Mr Burro also suggested that the Shire could lead a campaign to help in the education of all things relating to keeping fire issues under control during the summer months in the Shire of Yilgarn.

Cr Truran thanked Mr. Burro for his time.

At the conclusion of the presentations Ms Susanna Beech, Mr Colyn Louw, Mr Michael Cairduff, Mr Martin Haugg, Ms Vanja Sekizovic, Mr Brendan Hockley, Mr Des Hockley and Mr Ron Burro left the meeting at 4.38pm.

5. PUBLIC QUESTION TIME

Nil

6. CONFIRMATION OF MINUTES

6.1 Ordinary Meeting of Council, Thursday 15th November 2018

170/2018

Moved Cr Pasini/Seconded Cr Shaw

That the minutes from the Ordinary Council Meeting held on the 15th November 2018 be confirmed as a true record of proceedings.

CARRIED (7/0)

6.2 Central East Aged Care Alliance (CEACA), Committee Meeting-Wednesday, 14th November 2018

Wheatbelt East Regional Organisation of Councils (WE-ROC), Executive Meeting-Wednesday 28th November 2018

Great Eastern Country Zone (GECZ), Teleconference-Thursday 29th November-

171/2018

Moved Cr Pasini/Seconded Cr Della Bosca

That the minutes from the CEACA Committee meeting, the WE-ROC Executive Meeting and the GECZ Teleconference be received.

CARRIED (7/0)

8. DELEGATES' REPORTS

Cr Truran Announced the following

- Attended the GECZ Teleconference on the 29th November
- Attended the Senior Citizens Christmas Dinner on the 2nd December
- Attended the HAY Committee Christmas Party on the 3rd December
- Attended the DHAC Meeting via teleconference and the St Joseph's Christmas concert on the 5th December
- Attended the DHAC meeting and the Southern Cross District High School Christmas Concert.

Cr Pasini announced the following:

- Attended the Senior Citizens Dinner on the 2nd December
- Attended the Museum Christmas Party on the 8th December

Cr Della Bosca announced the following:

- Attended Moorine Rock Primary Schools Christmas concert on the 8th December

Cr Nolan announce the following

- Attended the AG Care meeting on the 16th December.

9 OFFICERS REPORTS

9.1 Officers Report – Chief Executive Officer

9.1.1 WALGA - Local Government Act Review Submissions

File Reference	2.3.1.1
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	WALGA Advocacy Positions on Local Government Act Review and; Draft Shire of Yilgarn Local Government Act Review Submission

Purpose of Report

To present to Council for consideration a Draft Submission on the Review of the Local Government Act.

Background

In 2017 the Minister for Local Government commenced a review of the Local Government Act with both a community and a Local Government consultation process. Phase 1 of the review process dealt with gifts, training for Elected Members, behaviours and administrative efficiencies and the outcomes of Phase 1 will soon be presented to State Parliament.

Phase 2 of the review process commenced in 2018 with 11 themes arranged under the 'Smart, Agile and Inclusive' headings: -

- Agile
 - Beneficial Enterprises
 - Financial Management
 - Rates
- Smart
 - Administrative Efficiencies
 - Local Laws
 - Council Meetings
 - Interventions
- Inclusive
 - Community Engagement
 - Integrated Planning and reporting
 - Complaints Management
 - Elections

WALGA is now offering an opportunity for member Local Governments submissions to consider, review, amend and add to the advocacy positions endorsed by State Council in March 2018 follow the Phase 1 review together with submissions on any aspect of the 11 themes discussed under the Phase 2 headings.

WALGA initially indicated that it would appreciate responses by **Friday, 1 February 2019** in order that an Agenda item can be presented to the Zone meetings leading up to the March 2019 State Council meeting however, advice was received in late November that this had been extended to **Friday, 22 February 2019** to allow Council's to refer it to their February 2019 Ordinary meetings.

In addition to the above opportunity, WALGA advise that it is planning a State-wide Forum on the future of Local Government in late January/ early February 2019.

The forum will include a review of the information coming through from the Local Government Act forums and submissions. In addition, there will be guest speakers presenting on the future of Local Government.

Comment

As Council was informed at the November 2018 Briefing Session, the Department of Local Government in association with WALGA, conducted a series of Review Forums at which the Shire President, Deputy Shire President, CEO, EMCS and EMRS attended.

At the above Briefing Session the CEO also enquired as to whether Council wished to conduct its own in-house workshop of the Act review however, Councillors indicated that this was not required with Councillors having their own opportunity of commenting via the Department's questionnaires and the proposal of the CEO to submit a Review document for Council's consideration at a future meeting.

As Council does not conduct an Ordinary meeting in January 2019 and WALGA is seeking responses from member Local Governments by **Friday, 22 February 2019**, the December 2018 Ordinary meeting is the only time that Council can consider WALGA State Council Advocacy positions on the Act review.

Therefore, it is considered that the December Council meeting is the most appropriate time to consider the Shire of Yilgarn's Draft Submission, prepared by the CEO, in order that it can also be forwarded to WALGA for inclusion in their overall submission to the State Government as Council's February 2019 Ordinary meeting is scheduled to be held on **Thursday, 21 February**, one day prior to the WALGA submission period.

As per the attachments, many of the WALGA State Council Advocacy positions are similar to the Draft Shire of Yilgarn Submission.

Statutory Environment

Local Government Act 1995 - State Government Review.

Strategic Implications

Shire of Yilgarn Strategic Community Plan 2016-2026 – Civic Leadership Strategy – Dynamic and visionary leadership guiding our community into the future.

Policy Implications

Nil

Financial Implications

Nil

Officer Recommendation and Council Decision

172/2018

Moved Cr Close/Seconded Cr Nolan

That Council

- 1. Advises WALGA that it supports the WALGA State Council's Advocacy Positions on the Local Government Act Review;***
- 2. Endorses the Draft Shire of Yilgarn Submission on the Act Review for forwarding to WALGA to assist it in its overall submission on behalf of the sector; and***
- 3. Forwards the Shire of Yilgarn submission to the Department of Local Government for consideration.***

CARRIED (7/0)

9.1 Reporting Officer - Chief Executive Officer

9.1.2 Yilgarn History Museum – Dissolution of Incorporated Body

File Reference	1.5.1.3
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Attachments	Nil

Purpose of Report

To inform Council of the decision by the Yilgarn History Museum's decision to dissolve its Incorporation status and the proposal to establish the Yilgarn History Museum as an Advisory Committee of Council.

Background

The Yilgarn History Museum had advised Council in writing that following their Annual General Meeting held on 31 October 2018, a special resolution was tabled and carried to dissolve the current Incorporated Association.

The History Museum members advise that the above decision was based on the following:-

- Dwindling membership and volunteer numbers mean the likelihood of the Shire inheriting the operation of the Museum at some future time;
- All monies have been held in trust by the Shire of Yilgarn who manage the Museum's finances and have done so since 2000;
- Museum's collection of artefacts is housed in Shire-owned, maintained and insured building (Public Liability and Building Insurance) on behalf of the Yilgarn community;
- Costs and formalities associated with Incorporation status no longer practical for this small group; and
- If managed under Council, the Shire's insurance scheme would cover volunteers for injury while on Museum premises.

The History Museum advises that whilst interest and dedication is still alive and well in their volunteer base, they can definitely see a time when they will not have sufficient numbers to operate the Museum and the Shire of Yilgarn would inherit the operation. The History Museum also advise that the small group of volunteers who keep the Museum open to the public would work well as a Shire appointed Management Group in place of the Incorporated status and therefore request that accepts this undertaking in order that they can continue to show off the excellent example of a rural historical Museum as Shire volunteers.

Comment

The decision by the History Museum to dissolve their Incorporation status is a result of a meeting between the current Volunteers/Committee, the Shire President and Chief Executive Officer.

It was considered at the above meeting that the Yilgarn History Museum had no value in being an Incorporated body, primarily because it did not manage its own funds, it operated within a Council owned and managed building and the structure of an Incorporated entity through its Constitution had no relevance to the group. It was therefore suggested that the Yilgarn History Museum would be better serviced by being an Advisory Committee of the Shire Council.

Council already has representation (Crs Truran and Pasini) on the Museum Committee however, being an Advisory Committee of the Council, the Minutes of the Group and any recommendations contained therein would be presented to Council for adoption, e.g., upgrades to the building and surrounds and allocation of funds contained within the Council Trust Fund would be at the discretion of Council. The Museum's volunteers would still be responsible for manning the facility, collation and referencing of the artefacts but would ultimately be answerable to Council on all other matters.

As indicated in the correspondence received from the Yilgarn History Museum, it still has a willing band of volunteers to man the facility but not the ability to handle the ongoing administrative requirements associated with an Incorporated Association.

Statutory Environment

Associations and Incorporations Act and Local Government Act 1995

Strategic Implications

Shire of Yilgarn Strategic Community Plan 2016-2026 – Economic Strategy – Continue to support the Southern Cross Museum.

Policy Implications

Nil

Financial Implications

Nil

Officer Recommendation and Council Decision

173/2018

Moved Cr Pasini/Seconded Cr Shaw

That Council supports the Yilgarn History Museum in its application to dissolve its Incorporation status and in doing so, agrees for the Yilgarn History Museum to become an Advisory Committee of the Shire of Yilgarn.

CARRIED BY ABSOLUTE MAJORITY (7/0)

9.1 Officers Report – Chief Executive Officer

9.1.3 Central East Aged Care Alliance (CEACA) Units

File Reference	1.3.3.18
Disclosure of Interest	None
Voting Requirements	Absolute Majority
Attachments	Nil

Purpose of Report

To inform Council of impending financial considerations associated with the construction of the CEACA Units in Southern Cross.

Background

In previous financial years Council developed the subdivision in Antares Street for the provision of Aged Units and provided appropriate infrastructure (power, water and sewerage) to the subdivision.

CEACA, through its contractual arrangements with Alliance Housing and Pindan Homes, has commenced site works and the laying of the slabs for the construction of the two (2) Units that the Shire of Yilgarn had been allocated under the CEACA project. Upon commencement of site work preparations, it was ascertained by Alliance Housing and Pindan Homes that the allocated blocks would have to be cut back to compensate for Australian Disability Standards associated with gradient access to the Units. Drainage issues were also identified that were not originally anticipated by Council when developing the lots, nor by Alliance Housing when reviewing initial block plans. Drainage issues have also been exacerbated by the elevation of the Public Open Space area at the rear of the subdivision.

Based on the above issues, Alliance Housing has been communicating with Council staff and has informed the Shire that additional costs associated with retaining walls and drainage would be incurred. At CEACA sites in other participating Local Governments, site work issues over and above those initially anticipated have been at the cost of the Shires, which was unanimously agreed upon at previous CEACA meetings.

Alliance Housing has advised that the following indicative costs would apply to drainage and retaining walls at the Southern Cross lots:-

Stormwater Drainage

The indicative cost is in the order of \$29,500.00 +GST.

Retaining Walls

Precast Concrete Panel and Post: the indicative cost is in the order of \$28,000.00 +GST.

Comment

Alliance Housing's assessment of stormwater drainage issues was considered by Council's Executive Managers of Infrastructure and Regulatory Services to be excessive and both officers were of the opinion that drainage works could be undertaken in-house without incurring the costs as quoted by Alliance Housing. Following negotiations with Alliance Housing, an alternative design has been agreed upon with the works being undertaken by Council's employees and can be expended within current Budget parameters.

In respect to the Retaining Wall at the rear of the two properties, it was agreed that these works were necessary with a Shire contribution negotiated at \$14,000.00. The \$14,000.00 has not been allowed for in the 2018/2019 Budget and therefore approval is required from Council as per Section 6.8 of the *Local Government Act 1995* to expend the un-budgeted amount.

Alliance Housing has been advised that the allocation of additional costs to the project would have to be referred to the December 2018 Ordinary meeting of Council for consideration.

Statutory Environment

Section 6.8 of the *Local Government Act 1995*

6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
 - (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
 - (b) is authorised in advance by resolution*; or
 - (c) is authorised in advance by the mayor or president in an emergency.

* *Absolute majority required.*

- (1a) In subsection (1) —
additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.
- (2) Where expenditure has been incurred by a local government —
 - (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
 - (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

Strategic Implications

Shire of Yilgarn Strategic Community Plan 2016-2026 – Social Strategy – High quality and well maintained Aged Care facilities.

Policy Implications

Nil

Financial Implications

2018/2019 Budget Review consideration.

Officer Recommendation and Council Decision

174/2018

Moved Cr Guerini/Seconded Cr Nolan

That Council

- 1. Endorses the actions of Council's Executive team in negotiating with CEACA's contractor, Alliance Housing, to undertake drainage works in-house within current 2018/2019 Budget parameters for the two (2) CEACA lots currently under development/construction;***
- 2. Acknowledge that a financial contribution of \$14,000.00 be provided by Council for the construction of a Retaining Wall at the rear of the two (2) Units; and***
- 3. The additional expenditure of \$14,000.00 be provided for in the 2018/2019 Budget Review as Council's contribution to the Retaining Wall construction.***

CARRIED BY ABSOLUTE MAJORITY (7/0)

9.1 Reporting Officer – Chief Executive Officer

9.1.4 Rural Numbering System – Proposed Implementation

File Reference	1.6.5.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Nil

Purpose of Report

To inform Council of the process and estimated costs associated with the implementation of the Rural Numbering System (RNS) at rural locations within the Shire of Yilgarn.

Background

At the October Briefing Session of Council, Cr Della Bosca raised the question of implementing the RNS for the rural areas of the Shire and requested staff to investigate the potential for same.

Cr Della Bosca's reasons for this investigation to be undertaken was that the RNS is important for emergency services to quickly and efficiently locate rural properties in times of emergencies and the fact that the Shire of Yilgarn is one of the last remaining local government authorities in the Wheatbelt that has yet to introduce the system.

Comment

The CEO made contact with Landgate who have provided some information that will assist in implementing the RNS. Staff have also researched archived records dating back to 2010 where Landgate again supplied information to assist in the implementation of the RNS.

The current and past information supplied by Landgate will have to be researched and this would entail the engagement of a Contractor to physically drive the Shire to verify the coordinate details and add any new access points/driveways to properties that have structures (houses, sheds etc.). The purchase of hardware (RNS markers and posts) would also have to be sourced at Council's expense.

The anticipated cost to Council to introduce the RNS in the Shire of Yilgarn is estimated to be in the vicinity of \$50,000.00. The majority of these costs relate to the appointment of a Contractor to undertake the work.

At the Council Briefing Session held on Thursday, 15 November general discussion took place on the implementation, with the CEO advising that there will be an inconvenience to landholders with the address changes. Council and Landgate would notify Government Departments (DFES, Police, Electoral Commission, Australia Post and Water Corporation) of address changes however, it would be the responsibility of the landholder to advise Telstra, Synergy, Police Licensing and the myriad of other non-government/private organisations/businesses that hold the personal address details of the landowner.

At the above Briefing Session it was advised that community consultation should be commenced to alert landholders of the proposal to introduce the system and the inconvenience that would be experienced once implemented. It is planned to commence the consultation process early in the new year.

Statutory Environment

Should Council consider allocating funds in the 2018/2019 Budget Review for the RNS project, this would be approved by Absolute Majority as part of the review process.

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

2018/2019 Budget review or 2019/2020 Budget consideration.

Officer Recommendation and Council Decision

175/2018

Moved Cr Shaw/Seconded Cr Close

That Council lists for consideration, funds to be allocated in the 2019/2020 Budget to provide for the Rural Numbering System to be implemented in the Shire of Yilgarn.

CARRIED (7/0)

9.1 Reporting Officer – Chief Executive Officer

9.1.5 Local Government Ordinary Elections 2019

File Reference	2.2.1.3
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Attachments	Nil

Purpose of Report

Council to consider declaring the WA Electoral Commissioner to be responsible for the conduct of the 2019 Shire of Yilgarn Local Government Elections to be held on Saturday, 19 October 2019.

Background

Mr David Kerslake, WA Electoral Commissioner, has written to Council to advise that the next Local Government Elections are being held on 19 October 2019 and while this still some distance in the future, the Commissioner has provided an estimate of costs for the Election for consideration in the 2019/2020 budget preparations.

The Commissioner advises that the estimated cost for the Election if conducted as a Postal Ballot is \$13,000 incl., GST which has been based on the following assumptions:-

- 700 Electors
- Response rate of approximately 50%
- 3 Vacancies
- Count to be conducted at the offices of the Shire of Yilgarn
- Appointment of a local Returning Officer
- Regular Australia Post delivery service to apply for the lodgement of the election packages.

The Commissioner also advises that an additional amount of \$140 will be incurred if Council decides to opt for the Australia Post Priority Service for the lodgement of election packages. The Commission is of the view that the regular service is adequate for outgoing mail for most local governments, particularly in the metropolitan area.

The Commissioner indicates that costs not incorporated in this estimate include:-

- Any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns;
- One local government staff member to work in the polling place on election day;
- Any additional postage rate increase by Australia Post.

The Commissioner further advises that the Commission is required by the *Local Government Act 1995* to conduct local government elections on a full cost recovery basis and Council

should note that this is an estimate only and may vary depending upon a range of factors including the cost of materials or number of replies received. The basis for charges is all materials at cost and a margin on staff time only. Should a significant change in this figure become evident prior to or during the election Council will be advised as early as possible.

The Commissioner advises that the current procedure required by the *Act* is that his written agreement has to be obtained before the vote by Council is taken. To facilitate this process, the Commissioner indicates that Council can take this letter as his agreement to be responsible for the conduct of the ordinary elections in 2019 for the Shire of Yilgarn in accordance with Section 4.20(4) of the *Local Government Act 1995*, together with any other elections or polls that may also be required. The Commissioner advises that his agreement is subject to the proviso that the Shire of Yilgarn also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.

Comment

The conduct of Postal Elections previously in the Shire of Yilgarn has been proven to increase voter participation. This was evidenced in the 2015 Council Elections when a 48.1% turnout was achieved.

Statutory Environment

4.20. CEO to be returning officer unless other arrangements made

- (1) Subject to this section the CEO is the returning officer of a local government for each election.
- (2) A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint* a person other than the CEO to be the returning officer of the local government for —
 - (a) an election; or
 - (b) all elections held while the appointment of the person subsists.

** Absolute majority required.*

- (3) An appointment under subsection (2) —
 - (a) is to specify the term of the person's appointment; and
 - (b) has no effect if it is made after the 80th day before an election day.
- (4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.

** Absolute majority required.*

- (5) A declaration under subsection (4) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (6) A declaration made under subsection (4) on or before the 80th day before election day cannot be rescinded after that 80th day.

4.61. Choice of methods of conducting election

- (1) The election can be conducted as a —
postal election which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or
voting in person election which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.
- (2) The local government may decide* to conduct the election as a postal election.

** Absolute majority required.*

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

As indicated in the Commissioner's correspondence, costs to conduct the election by Postal Vote is estimated to be \$13,000.

Officer Recommendation and Council Decision

176/2018

***Moved Cr Guerini/Seconded Cr Close
That Council***

- 1. Declare that in accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2019 Ordinary Elections together with any other elections or polls which may be required; and***
- 2. Determines in accordance with Section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a Postal Election.***

CARRIED BY ABSOLUTE MAJORITY (7/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.1 Financial Reports

File Reference	8.2.3.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Financial Reports

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 30th November 2018.

- 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.

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

177/2018

Moved Cr Close/Seconded Cr Pasini

That Council endorse the various Financial Reports as presented for the period ending 30th November 2018

CARRIED (7/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.2 Accounts for Payment

File Reference	8.2.1.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	See attachment 9.2.2

Purpose of Report

To consider the Accounts for Payment

Background

Municipal Fund – Cheque Numbers 40699 to 40728 totalling \$23,773.27, Municipal Fund-EFT Numbers 8166 to 8321 totalling \$910,064.91, Municipal Fund – Cheque Numbers 1459 to 1468 totalling \$195,261.19, Municipal Fund Direct Debit Numbers 13170.1 to 13221.12 totalling \$51,233.98, Trust Fund 402395 to 402399 totalling \$1,245.85 and Trust Fund – Cheque Numbers 6147 to 6152 (DPI Licensing), totalling \$53,836.25 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

178/2018

Cr Nolan/Seconded Cr Della Bosca

Municipal Fund – Cheque Numbers 40699 to 40728 totalling \$23,773.27, Municipal Fund- EFT Numbers 8166 to 8321 totalling \$910,064.91, Municipal Fund – Cheque Numbers 1459 to 1468 totalling \$195,261.19, Municipal Fund Direct Debit Numbers 13170.1 to 13221.12 totalling \$51,233.98, Trust Fund 402395 to 402399 totalling \$1,245.85 and Trust Fund – Cheque Numbers 6147 to 6152 (DPI Licensing), totalling \$53,836.25 are presented for endorsement as per the submitted list.

CARRIED (7/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.3 Seizure for Non Payment of Rates – 31 Riley Crescent, Bullfinch

File Reference	A11400 & 8.1.1.6
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Nil

Purpose of Report

This report seeks Councils approval to seize and subsequently transfer to the Crown residential land and for the write off of outstanding rates.

Background

Assessment	A11400	
Type / Zoning	Residential	
Property Address	31 Riley Crescent, Bullfinch	
Owner on Record	Douglas John Spence (Deceased)	
Period Outstanding	2015/2016 – Current	
Amount Outstanding	\$1,881.45	
Last Payment	30 September 2015 - \$797.34	
Recovery Action	Mar 18	Final Demand Letter sent, referred to AMPAC (Councils Debt Collection Agents). No response to collections correspondence and no known executors of the estate.
Response	Nil	

Comment

Given the high cost associated with holding a public auction and the high degree of uncertainty for a successful sale of this property, it will be recommended that s6.64 (1) (c) of the Local Government Act 1995 be applied and that the freehold title for assessment A11400 be returned to the Crown.

Statutory Environment

Local Government Act 1995

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —

- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
- (b) waive or grant concessions in relation to any amount of money; or
- (c) write off any amount of money,

which is owed to the local government.

** Absolute majority required.*

- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

6.64. Actions to be taken

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
 - (a) from time to time lease the land; or
 - (b) sell the land; or
 - (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.
- (2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- (3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

The recommendation that follows is consistent with the legislative requirements.

Strategic Implications

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

Policy Implications

Council Policy

3.9 - Rates and Charges Recovery Policy (Including Sewerage Charges Financial Hardship Policy)

Financial Implications

Write off of \$1,881.45 in uncollected Rate and Charges revenue being;

Levies	Receipts	Balance	C/A	Description
575.41	0.00	575.41	C	Rates
1057.51	0.00	1057.51	A	Rates
85.99	0.00	85.99	C	Interest
5.54	0.00	5.54	A	ESL PENALTY
82.00	0.00	82.00	C	EMERGENCY SERVICE LEVY
75.00	0.00	75.00	A	EMERGENCY SERVICE LEVY
=====				
1881.45	0.00	1881.45		*** TOTALS ***

Officer Recommendation and Council Decision

179/2018

Moved Cr Nolan/Seconded Cr Pasini

That Council

- 1. pursuant to Section 6.64 (1) (c) of the Local Government Act 1995, cause the land located at 31 Riley Crescent, Bullfinch to be transferred to the Crown;**
- 2. pursuant to Section 6.12 (1) (c) of the Local Government Act 1995, approve the write off of \$1,881.45 in unpaid rates and charges; and**
- 3. endorse the marking of assessment A11400 as Non-Rateable until such time as the land's transfer to the Crown has been completed.**

CARRIED (7/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.4 Seizure for Non Payment of Rates - 35 Dorothy Street, Bullfinch

File Reference	A11320 & 8.1.1.6
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Nil

Purpose of Report

This report seeks Councils approval to seize and subsequently transfer to the Crown residential land and for the write off of outstanding rates.

Background

Assessment	A11320	
Type / Zoning	Residential	
Property Address	35 Dorothy Street, Bullfinch	
Owner on Record	Pearl Jane KELLEHER (Deceased)	
Period Outstanding	2014/2015 – Current	
Amount Outstanding	\$2,827.24	
Last Payment	15 th November 2014 - \$544.39	
Recovery Action	Mar 18	Final Demand Letter sent, referred to AMPAC (Councils Debt Collection Agents).
	Jun 2018	Investigations have revealed that the owner of the property and the subsequent Executor of their Estate have both passed away. The Public Trustee's Office have been contacted and have no record of this estate and were unable to provide any further information.
Response	Nil	

Comment

Given the high cost associated with holding a public auction and the high degree of uncertainty for a successful sale of this property, it will be recommended that s6.64 (1) (c) of the Local Government Act 1995 be applied and that the freehold title for assessment A11320 be returned to the Crown.

Statutory Environment

Local Government Act 1995

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
 - (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,

which is owed to the local government.

** Absolute majority required.*

- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

6.64. Actions to be taken

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
 - (a) from time to time lease the land; or
 - (b) sell the land; or
 - (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.
- (2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- (3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

The recommendation that follows is consistent with the legislative requirements.

Strategic Implications

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

Policy Implications

Council Policy

3.9 - Rates and Charges Recovery Policy (Including Sewerage Charges Financial Hardship Policy)

Financial Implications

Write off of \$2,827.24 in uncollected Rate and Charges revenue being;

Levies	Receipts	Balance	C/A	Description
546.35	0.00	546.35	C	Rates
1514.08	0.00	1514.08	A	Rates
417.60	0.00	417.60	C	Interest
11.91	0.00	11.91	C	ESL PENALTY
41.30	0.00	41.30	A	ESL PENALTY
82.00	0.00	82.00	C	EMERGENCY SERVICE LEVY
214.00	0.00	214.00	A	EMERGENCY SERVICE LEVY
=====				
2827.24	0.00	2827.24		*** TOTALS ***

Officer Recommendation and Council Decision

180/2018

***Moved Cr Pasini/Seconded Cr Close
That Council***

- 1. pursuant to Section 6.64 (1) (c) of the Local Government Act 1995, cause the land located at 35 Dorothy Street, Bullfinch to be transferred to the Crown;***
- 2. pursuant to Section 6.12 (1) (c) of the Local Government Act 1995, approve the write off of \$2,827.24 in unpaid rates and charges; and***
- 3. endorse the marking of assessment A11320 as Non-Rateable until such time as the land's transfer to the Crown has been completed.***

CARRIED (7/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.5 Seizure for Non Payment of Rates - 35 Jones Street, Bullfinch

File Reference	A11380 & 8.1.1.6
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Nil

Purpose of Report

This report seeks Councils approval to seize and subsequently transfer to the Crown residential land and for the write off of outstanding rates.

Background

Assessment	A11380	
Type / Zoning	Residential	
Property Address	35 Jones Street, Bullfinch	
Owner on Record	Brian William ARUNDEL (Deceased)	
Period Outstanding	2009/2010 – Current	
Amount Outstanding	\$8,048.63	
Last Payment	21 st July 2009 - \$1,188.95	
Recovery Action	Mar 18	Final Demand Letter sent, referred to AMPAC (Councils Debt Collection Agents).
	Jun 18	Title search indicates current owner is Jenny Marie JAMES however she is also deceased.
		Further enquiries by AMPAC have been unsuccessful in finding any other Executor/s for this Estate.
Response	Nil	

Comment

Given the high cost associated with holding a public auction and the high degree of uncertainty for a successful sale of this property, it will be recommended that s6.64 (1) (c) of the Local Government Act 1995 be applied and that the freehold title for assessment A11380 be returned to the Crown.

Statutory Environment

Local Government Act 1995

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
 - (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,

which is owed to the local government.

** Absolute majority required.*

- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

6.64. Actions to be taken

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
 - (a) from time to time lease the land; or
 - (b) sell the land; or
 - (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.
- (2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- (3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

The recommendation that follows is consistent with the legislative requirements.

Strategic Implications

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

Policy Implications

Council Policy

3.9 - Rates and Charges Recovery Policy (Including Sewerage Charges Financial Hardship Policy)

Financial Implications

Write off of \$8,048.63 in uncollected Rate and Charges revenue being;

Levies	Receipts	Balance	C/A	Description
511.47	0.00	511.47	C	Rates
3812.85	0.00	3812.85	A	Rates
2778.13	0.00	2778.13	C	Interest
32.70	0.00	32.70	C	Legal Charges
27.09	0.00	27.09	C	ESL PENALTY
261.39	0.00	261.39	A	ESL PENALTY
82.00	0.00	82.00	C	EMERGENCY SERVICE LEVY
543.00	0.00	543.00	A	EMERGENCY SERVICE LEVY
=====				
8048.63	0.00	8048.63		*** TOTALS ***

Officer Recommendation and Council Decision

181/2018

Moved Cr Close/Seconded Cr Nolan

That Council

- 1. pursuant to Section 6.64 (1) (c) of the Local Government Act 1995, cause the land located at 35 Jones Street, Bullfinch to be transferred to the Crown;**
- 2. pursuant to Section 6.12 (1) (c) of the Local Government Act 1995, approve the write off of \$8,048.63 in unpaid rates and charges; and**
- 3. endorse the marking of assessment A11380 as Non-Rateable until such time as the land's transfer to the Crown has been completed.**

CARRIED (7/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.6 Property Seizures for the Recovery of Unpaid Rates

File Reference	A3380, A4010 & 8.1.1.6
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Nil

Purpose of Report

This report seeks Councils approval to seize and subsequently sell the land listed for the purpose of recovering rates and charges outstanding in excess of three years.

Background

There are currently 2 assessment that have rates outstanding by three or more year for which it has not been possible to enter into an acceptable and successful arrangement for payment of the balance owing. In all instances, the owners have failed to respond to all written notifications, summons and judgement.

The following is a list of those properties that have rates currently in arrears by three or more years, together with a brief history of actions taken to date.

1) 1 GRUIS STREET, SOUTHERN CROSS		
Assessment	A3380	
Type / Zoning	Residential – Southern Cross	
Period Outstanding	2015 / 2016 – 2018 / 2019	
Amount Outstanding	\$6,243.05	
Last Payment	13 th November 2015 - \$1,000.00	
Recovery Action	Mar 18	Final Demand Letter Referred to AMPAC (Councils Debt Collection Agents)
	Jul 18	Summons Served
	Aug 18	Judgement Entered
	Sep 18	Correspondence sent to tenants requesting rental payments to be made to Council.
Response	The owner has not responded to any notices or correspondence relating to debt collection.	
	The owner did contact Council in relation to this and 4 other properties he was receiving rental payment from until Council requested his tenants pay any rent to Council and not to the ratepayer	

2) 25 TAURUS STREET, SOUTHERN CROSS		
Assessment	A4010	
Type / Zoning	Residential – Southern Cross	
Period Outstanding	2015 / 2016 – 2018 / 2019	
Amount Outstanding	\$11,736.20	
Last Payment	10 th August 2015 – \$3,136.86	
Recovery Action	Mar 18 Jul 18 Aug 18 Sep 18	Final Demand Letter Referred to AMPAC (Councils Debt Collection Agents) Summons Served Judgement Entered Correspondence sent to tenants requesting rental payments to be made to Council.
Response	<p>The owner has not responded to any notices or correspondence relating to debt collection.</p> <p>The owner did contact Council in relation to this and 4 other properties he was receiving rental payment from until Council requested his tenants pay any rent to Council and not to the ratepayer</p>	

Comment

In October 2018, only after Council contacted his tenants, did the ratepayer contact Council and advised staff that he was in the process of gaining a debt consolidation loan and that the funding from this loan would settle the outstanding rates and charges on these two properties. He advised this would happen no later than the end of November 2018.

The ratepayers only other contact with Council has been over Council requiring his tenants to pay any rent owing to Council. The ratepayer has yet to make any payments on these two properties and his tenant lodging in Unit B, 25 Taurus Street, Southern Cross has ignored all notices and conversations regarding the payment of rent to Council.

Given the high level of debt and the amount of time that has been afforded to enable the ratepayer to either clear or significantly reduce the debt, it is appropriate to apply section 6.64 (1) (b) of the Local Government Act 1995 empowering the sale of land provisions in relation to unpaid rates and charges.

Statutory Environment

Local Government Act 1995

6.64. Actions to be taken

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
 - (a) from time to time lease the land; or
 - (b) sell the land; or

- (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.
- (2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- (3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

The recommendation that follows is consistent with the legislative requirements.

Strategic Implications

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

Policy Implications

Council Policy

3.9 - Rates and Charges Recovery Policy (Including Sewerage Charges Financial Hardship Policy)

Financial Implications

Nil at this time, however, the cost of proceeding to an auction and potential for the write off of rates and charges in the future if the properties remain unsold.

Officer Recommendation and Council Decision

182/2018

Moved Cr Close/Seconded Cr Shaw

That Council, pursuant to Section 6.64 (1) (b) of the Local Government Act 1995, take possession of the land indicated and proceed to sell the land listed hereunder which have rates in arrears for three or more years.

List of Land by Assessment Number:

***Assessment: A3380 - 1 Gruis Street, Southern Cross
A4010 - 25 Taurus Street, Southern Cross***

CARRIED (7/0)

9.2 Reporting Officer– Executive Manager Corporate Services

9.2.7 Write Off of Rates

File Reference	A100641, A100657, A100734 & 8.1.1.6
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Attachments	Nil

Purpose of Report

This report seeks Councils approval for the write off of outstanding rates and charges.

Background

A Dead Mining Tenement is a claim, lease or license to mine that is inactive or has been surrendered by the applicant, withdrawn by the applicant or been forfeited on the grounds a third party proves is legitimate. The chances of recovery of outstanding amounts relating to dead mining tenements is near zero.

Comment

Dead Tenements

The following two assessments are “Dead Tenements” that require their amounts outstanding written off.

Assess No	Owner	Tenement No	Arears Type	Arrears Value	Revalued Date
A100641	Golden Mining Pty Ltd	E77/01980	Rates	\$497.10	Nov 2013
			Interest	\$460.39	
				<u>\$922.49</u>	
A100857	Kalorra Mining	E77/02133	Rates	\$2,643.20	Mar 2015
			Interest	\$1,478.02	
			Legal	\$1,824.29	
				<u>\$5,945.51</u>	
			TOTAL	\$6,868.00	

Defunct Company

The assessment A100734 – 17 Procyon Street, Southern Cross was owned by AMMS (WA) Pty Ltd that went into liquidation in 2015. Collection action has revealed that AMMS and their Liquidators have already surrendered the tile to this property to the Crown, a title search

has indicated the land parcel is in the name of the "State of WA". Rates and charges to be written off are:

Levies	Receipts	Balance	C/A	Description
1735.00	0.00	1735.00	A	Rates
547.24	0.00	547.24	C	Interest
1601.96	0.00	1601.96	C	Legal Charges
37.57	0.00	37.57	C	ESL PENALTY
43.36	0.00	43.36	A	ESL PENALTY
278.00	0.00	278.00	A	EMERGENCY SERVICE LEVY
=====				
4243.13	0.00	4243.13		*** TOTALS ***

Statutory Environment

Local Government Act 1995

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
 - (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,

which is owed to the local government.

** Absolute majority required.*

- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

The recommendation that follows is consistent with the legislative requirements.

Strategic Implications

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

Policy Implications

Council Policy

3.9 - Rates and Charges Recovery Policy (Including Sewerage Charges Financial Hardship Policy)

Financial Implications

Write off of \$11,111.13 in uncollected Rate and Charges revenue.

The 2018/2019 budget has an inclusion of \$75,000 in Account E03118 – Debtors Written Off. Currently \$337.56 of this budget allocation has been utilized.

Officer Recommendation and Council Decision

183/2018

Moved Cr Nolan/Seconded Cr Close

That Council, pursuant to Section 6.12 (1) (c) of the Local Government Act 1995, approve the write off of the following amounts in rates and charges:

<i>Assessment: A100671</i>	<i>\$992.49</i>
<i>Assessment: A100857</i>	<i>\$5,945.51</i>
<i>Assessment: A100735</i>	<i>\$4,243.13</i>

CARRIED BY ABSOLUTE MAJORITY (7/0)

9.4 Officers Report – Executive Manager Regulatory Services

9.4.1 Renewal of Lease – Lots 307 & 308 Procyon Street, Southern Cross

File Reference	1.6.17.4
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Smart Plan
	Aerial of Lease
	Deposited Plan

Purpose of Report

To endorse a recommendation to the Department of Planning, Lands and Heritage for the renewal of a Lease on Lots 307 & 308 Procyon Street, Southern Cross

Background

The Department of Planning, Lands and Heritage (the Department) have written to the Shire of Yilgarn seeking Councils comments in relation to the renewal of lease J962874 over Lots 307 and 308 Procyon Street, Southern Cross, for the purpose of “storage of plant and machinery”.

These lots are located in the industrial area of Southern Cross, with storage of plant and machinery being a permitted use in this zone.

The Department is considering renewing the lease for a further 10-year period and is seeking comment.

Comment

Attached is a smart plan, aerial image and the deposited plan containing these lots.

To date the Shire has not received a complaint regarding the property, nor has there been a notice issued under Health, Planning or Building legislation against these lots.

There are no outstanding rates owing on this property.

Statutory Environment

Land Administration Act 1997

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

184/2018

Moved Cr Guerini/Seconded Cr Pasini

THAT COUNCIL:

Advise the Department of Planning, Lands and Heritage, the Shire of Yilgarn has no objections to the renewal of lease J962874 over Lots 307 and 308 Procyon Street, Southern Cross, for a period of 10 years.

CARRIED (7/0)

9.4 Officers Report – Executive Manager Regulatory Services

9.4.2 Appointment of Fire Control Officers

File Reference	5.1.5.1
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Nil

Purpose of Report

To appoint members of the Yilgarn Volunteer Bush Fire Brigade as Fire Control Officers.

Background

Section 38(1) of the *Bush Fires Act 1954* states:

“A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.”

The following members of the Yilgarn Bush Fire Brigade have recently undertaken Department of Fire and Emergency Services training to become eligible to be appointed as a Fire Control Officer. As such, the Chief Bush Fire Control Officer has put forward the following members to be appointed by Council as Fire Control Officers:

- Leigh Dal Busco;
- Rob Pownall;
- Callum Wesley; and
- Matt Woodhouse.

Comment

The Shire currently has 11 Fire Control Officers, these additional four will provide improved coverage, especially during the harvest period.

Statutory Environment

Bush Fires Act 1954

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Officer Recommendation and Council Decision

185/2018

Moved Cr Guerini/Seconded Cr Nolan

THAT COUNCIL:

- ***Appoint the following individuals as Fire Control Officers for the Shire of Yilgarn;***
 - ***Leigh Dal Busco;***
 - ***Rob Pownall;***
 - ***Callum Wesley; and***
 - ***Matt Woodhouse.***

CARRIED (7/0)

9.4 Officers Report – Executive Manager Regulatory Services

9.4.3 Renewal of Lease for Lots 25 & 27 Yellowdine

File Reference	3.1.3.1
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Nil

Purpose of Report

To endorse the seeking of a lease for Lots 25 and 27, Great Eastern Highway, Yellowdine.

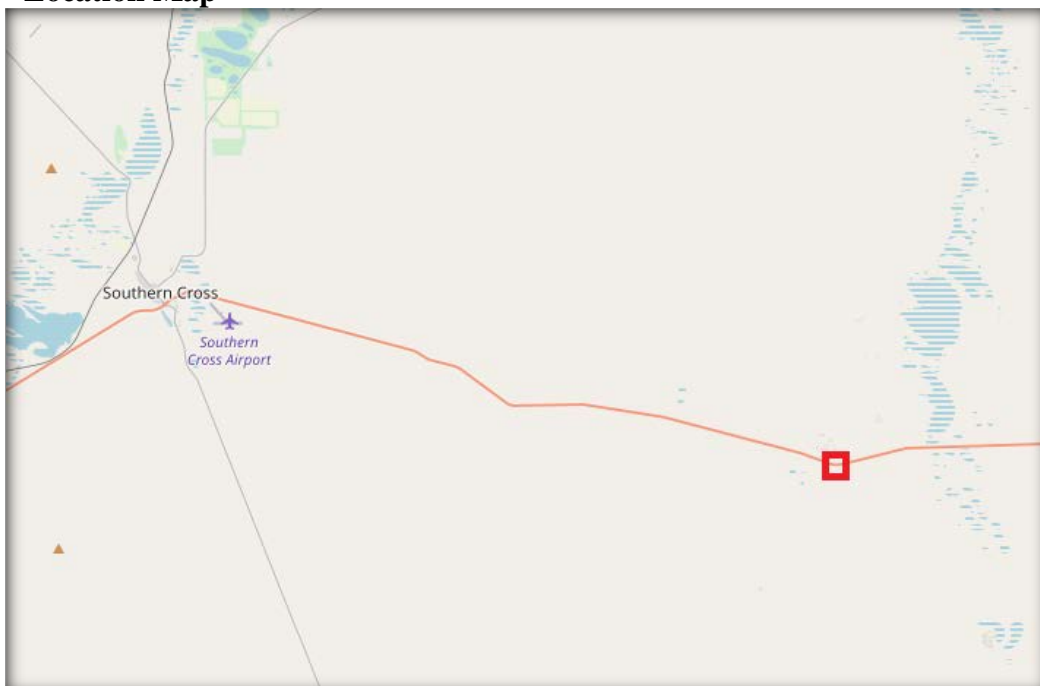
Background

Solicitors working on behalf of the owners of the Yellowdine Roadhouse, Zoya Investments Pty Ltd have sought comments from the Shire of Yilgarn regarding renewing the current lease of Lots 25 & 27 Great Eastern Highway, Yellowdine.

The owners of the roadhouse currently hold a lease over the adjoining lots 25 and 27, however there is no option to extend the lease after June 2019. As such, they must lodge a formal request with the Department of Planning, Lands and Heritage (DPLH) for a new lease over the said lots. A new submission requires prior consultation with Local Government, as such they are seeking Councils endorsement for lodging a new lease over the said lots.

Below is the location map and aerial view of the lots.

Location Map



Aerial View



Comment

The most recent proprietor of the Yellowdine Roadhouse has opted not to continue running the business. As such, the owners, through their Solicitors, have advised they are taking this vacancy as an opportunity to upgrade the premises. However; securing these adjoining lots is essential to any future planning.

Statutory Environment

Land Administration Act 1997

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

186/2018

Moved Cr Nolan/Seconded Cr Pasini

THAT COUNCIL:

Endorse Zoya Investments Pty Ltd making application to the Department of Planning, Lands and Heritage to lease lots 25 and 27 Great Eastern Highway, Yellowdine;

and;

Advise the Department of Planning, Lands and Heritage, should they seek comments, that the Shire of Yilgarn has no objections to the Department issuing a lease for lots 25 and 27 Great Eastern Highway, Yellowdine to Zoya Investments Pty Ltd.

CARRIED (7/0)

9.4 Officers Report – Executive Manager Regulatory Services

9.4.4 Development Application – Relocation of Ablution and New Lean Too – 64 Arcturus Street, Southern Cross

File Reference	3.1.3.5
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Layout Plan

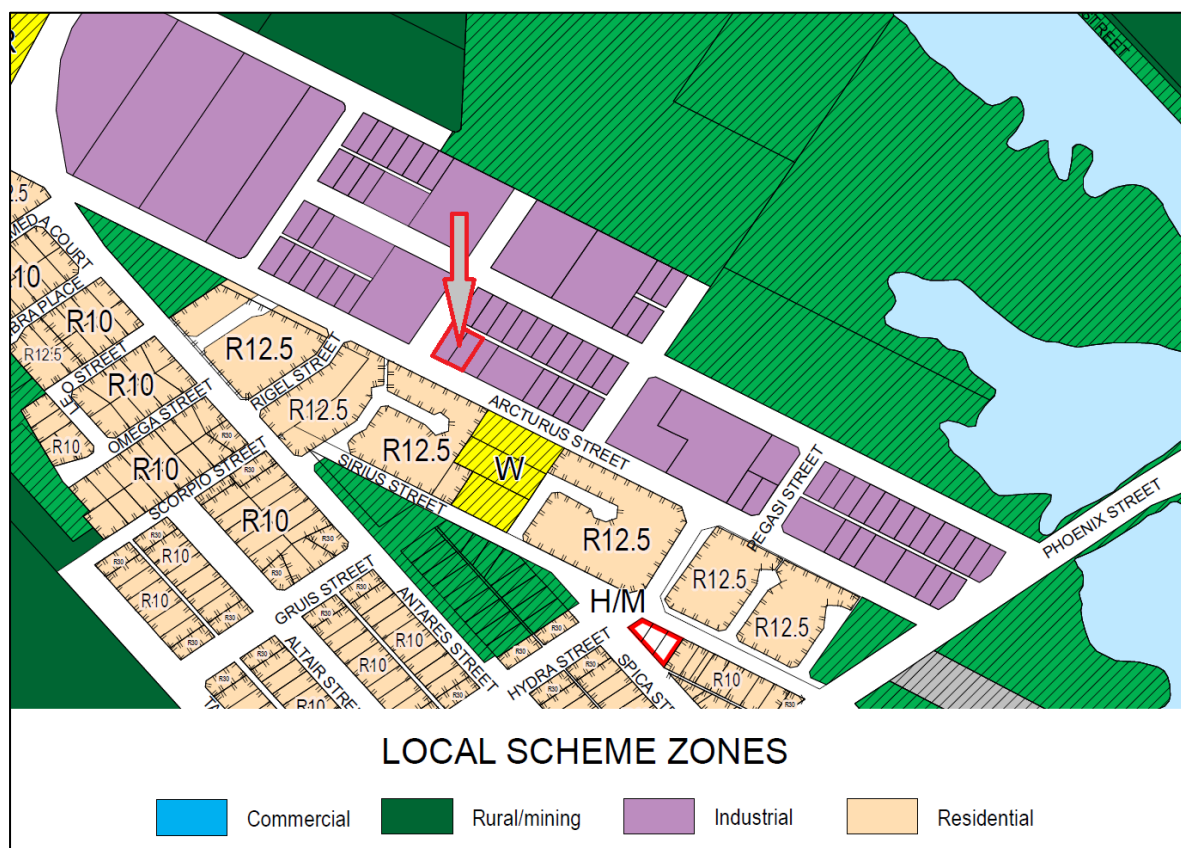
Purpose of Report

To endorse a development application to relocate an ablution block and install a new lean to at 64 Arcturus Street, Southern Cross.

Background

The owner of 64 Arcturus Street, Southern Cross, which includes Lots 323 and 324, has lodged a development application seeking approval to relocate an existing ablution facility and install a 15 metre by 12 metre lean-too, attached to the existing shed, at the same height, being 4.5 metres. Attached is the provided layout plan for the development.

The subject property is located in the Industrial area, as zoned by the Shire of Yilgarn Town Planning Scheme 2 (TPS2) as shown on the map below:



The TPS2 describes the industrial zone as:

The Industrial Zone is to be used primarily for the manufacture of goods or allied uses such as fuel storage, fuel sales, vehicle repairs, public utilities and showrooms for bulky goods. Other uses, listed in Table 1, may be permitted at the discretion of Council if they are considered an integral part of the industrial environment and where Council is satisfied that they will benefit the community and not result in being a nuisance.

The property is already operating as an “industrial use”, being metal fabrication, and the proposed addition is deemed ancillary to that existing use. As such, Council is not required to determine whether the use is consistent with the requirements of the TPS2.

However, the TPS2 Development Table, which details the site requirements for certain developments, has a number of discretionary requirements for Industrial Service uses, of which Council are required to approve in each case. The table below details the relevant site requirements for this development:

Use Class	Minimum Boundary Setback (m)			Maximum Plot Ratio
	Front	Rear	Sides	
Industrial Service	7.5	7.5	*	*

**means 'to be determined by the Council' in each particular case.*

Comment

Boundary Setbacks

The proposed development complies with the front and rear setback requirements of 7.5 metres. Whilst there are existing structures that are within the 7.5 metre rear setback, these are not part of this consideration, and are deemed to have existing approvals in place, or retrospective approval.

The side setback is a discretionary requirement, of which Council must consider for each development of this nature. The proposed development is central on the block, with the smallest side setback being 9.2 metres, as such this is deemed adequate given the surrounding properties and the minimal impact this development will create.

Due to the only adjoining neighbour boundary being 9.2 metres from the proposed development, the risk of this development affecting the adjoining property is deemed minimal and as such comments have not been sought and are not deemed necessary.

Maximum Plot Ratio

The plot ratio for the premises, including the proposed development, will be approximately 23% built environment and 73% open/useable space. This is deemed adequate for the industrial area.

Other Considerations

The applicant will still be required to seek and obtain a building permit for the proposed development prior to commencement.

The existing septic system is located such that the relocated ablution facility will be able to be re-plumbed into the system with sufficient gravity fall.

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.

Policy Implications

Nil

Financial Implications

Development Application fees.

Officer Recommendation and Council Decision

187/2018

Moved Cr Guerini/Seconded Cr Pasini

THAT COUNCIL:

Approve the proposed development at 64 Arcturus Street, Southern Cross, which includes the relocation of an existing ablution block and installation of a 12 metre by 15 metre lean-to, to be located against the existing shed and at the same height of 4.5 metres. Approval is issued as per the submitted plans.

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 is still required to seek and obtain a building permit prior to commencement of development.***

CARRIED (7/0)

9.4 Officers Report – Executive Manager Regulatory Services

9.4.5 Management Order for Reserve 3229, Yellowdine

File Reference	9.1.1.3
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Management Order for Reserve 3229

Purpose of Report

To consider the Shire of Yilgarn taking over a management order for Reserve 3229.

Background

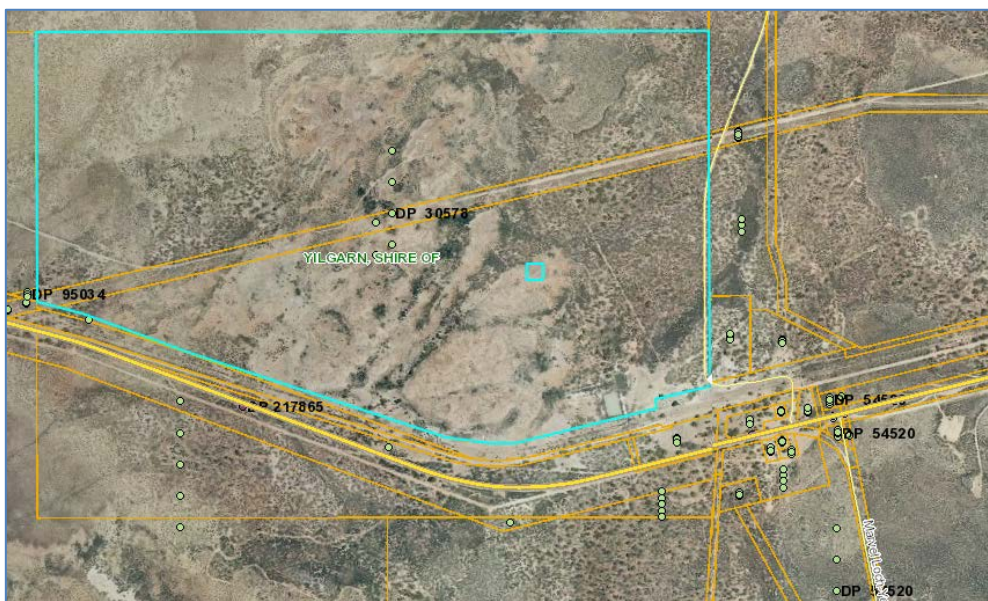
At the April 2018 Council meeting, Councillors were asked to consider if they were interested in taking over a management order for reserve 3229.

The reserve is located in Yellowdine, north of Great Eastern Highway and opposite the Yellowdine Roadhouse.

The site was managed by the Water Corporation, however the Minister of Works has advised the Department of Planning Lands and Heritage (DPLH) of their wish to relinquish the Management Order.

The site contains the “Yellowdine Railway Dam”, which is included in the Shires Municipal Heritage Inventory, however is in a significant state of disrepair. It does however hold water which may be useful for Shire roadworks

An aerial view of Reserve 3229 is provided below:





At the April 2018 Council meeting, the following was carried:

44/2018

Moved Ct Pasini/Seconded Cr Shaw

RECOMMENDATION 1:

***That Council endorse taking on a Management Order of Reserve 3229;
AND***

Prior to agreeing to a Management Order require:

- ***A draft Management Order be provided by the Department of Planning, Lands and Heritage for perusal; and***
- ***Further investigation into possible contamination and the associated implications for the Shire.***

RECOMMENDATION 2:

That Council endorse Shire administration investigating costs for repair of the "Yellowdine Railway Dam" infrastructure for inclusion in future budgets.

Carried (7/0)

The DPLH were advised of the Council's resolution and have now sent through an offer to take over the Management Order. The current management order has also been provided and is attached for Councillors perusal.

Comment

The Reserve is designated as a "waterway", and as such, if the Shire were to take over management of the site, the only feasible use for the land would be a water source for roadwork requirements.

The Marvel-Loch Yellowdine Road is within the vicinity of the site and the water may be of some use whilst work is being undertaken on this site, however it could be argued the water may be able to be accessed without the Shire having a Management Order.

The Department of Planning, Lands and Heritage have advised that an investigation into contamination has not occurred, however any historical contamination found would likely be the responsibility of Water Corporation to address. However, there may be implications for the Shire should contamination occur whilst under the Shire's control.

The site is listed on the Municipal Heritage Inventory, and is seen as being of significance in the history of the Yilgarn. However, the site is in a significant state of disrepair, with costs to repair thought to be in the tens of thousands. Whilst taking over the Management Order would allow the Shire to undertake the remedial work, given the high cost, it is thought the funds could be better spent on heritage assets within the townsites and of greater significance.

As such, there is little benefit seen in the Shire taking over the Management Order. As such it is recommended the Shire of Yilgarn decline the offer to take over the Management Order for Reserve 3229.

Statutory Environment

Nil

Strategic Implications

There is no direct strategy in relation to items in the Municipal Heritage Inventory.

Policy Implications

Nil

Financial Implications

Nil

Officer Recommendation and Council Decision

188/2018

Moved Cr Close/Seconded Cr Pasini

THAT COUNCIL:

Advise the Department of Planning, Lands and Heritage that the Shire of Yilgarn declines the offer to take on the Management Order for Reserve 3229.

CARRIED (7/0)

10 APPLICATION FOR LEAVE OF ABSENCE

Nil

11 MOTIONS FOR WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

189/2018

Moved Cr Shaw/Seconded Cr Nolan

That the late items be accepted.

CARRIED (7/0)

13 LATE ITEM – Executive Manager Regulatory Services

13.1 Development Application – Workers Accommodation - Lot 502 Orion Street, Southern Cross

File Reference	3.1.3.1
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Proposed Site Plan Unit Internal Layout

Purpose of Report

To consider a development application for temporary accommodation units to be installed at Lot 502 Orion Street, Southern Cross.

Background

Sanctum Resources Pty Ltd (Sanctum), the owners of the Palace Hotel have submitted a development application, seeking approval to install eight accommodation units, containing 4 ensuite rooms per unit on Lot 502 Orion Street, Southern Cross.

The land is currently privately owned, however Sanctum are looking to purchase the land, should this proposed development be approved. There is an existing dwelling and various outbuildings existing on the site, which will be removed as part of this project.

Sanctum have advised they are in desperate need to expand their accommodation facilities due to mining operations around the district ramping up, and whilst they still intend to proceed with their previous project, which involved Crown Land at 8 & 12 Marvel Loch Road, Southern Cross (Council Resolution 162/2018), this project will enable expansion to occur in a tighter timeframe.

The development is temporary, with the units to be removed upon sale of either Lot 501 or 502. The reason being the parking allotment for the current development proposal is to be provided using land on Lot 501. Hence should separate entities control the lots, the parking would be insufficient for Lot 502, unless redevelopment of that lot is to occur at that time.

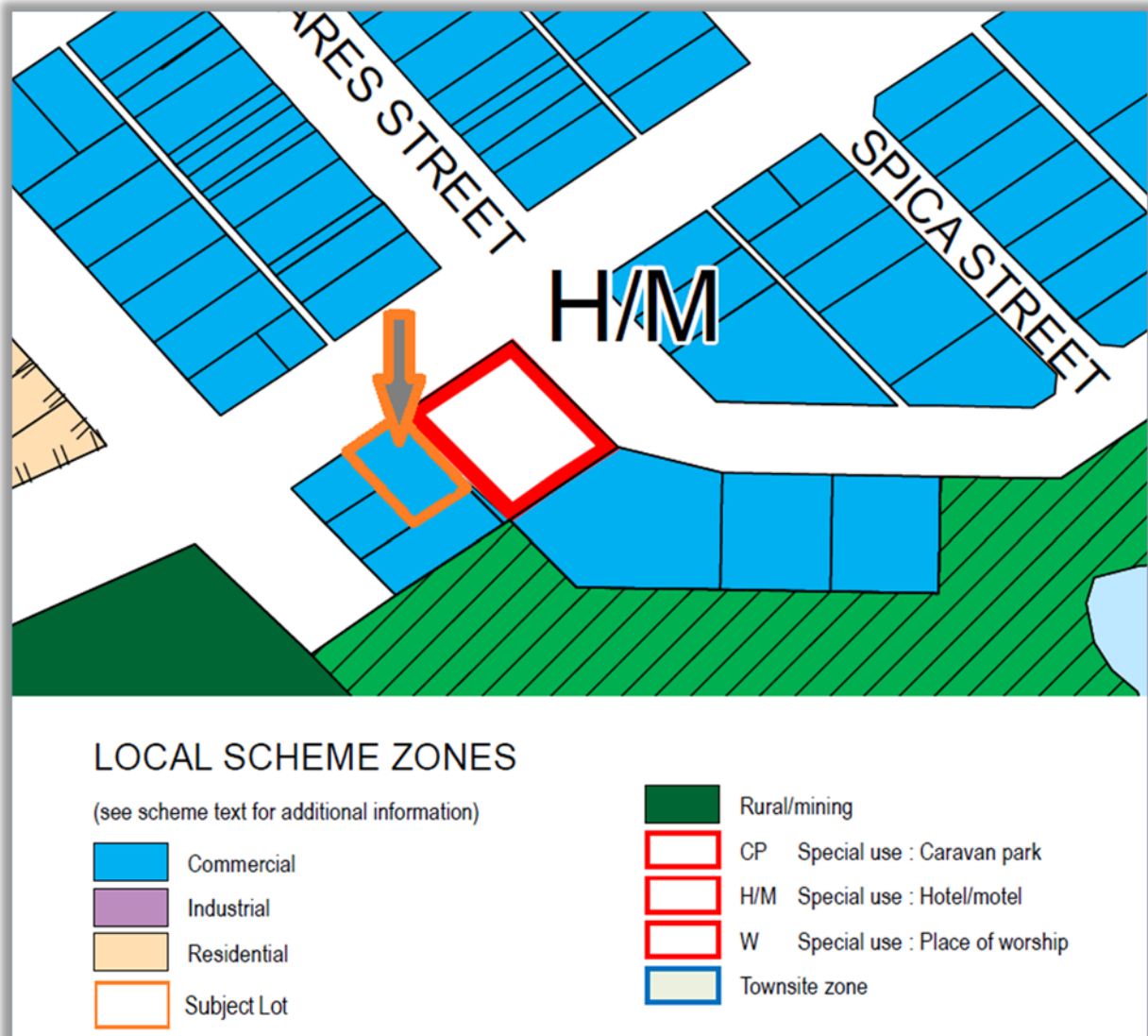
An exemption from the required number of parking bays has been requested, and is discussed in the comment section of this report.

Sanctum have proposed a 2.4 metre high colourbond fence along the boundaries facing Great Eastern Highway to screen the development from the road. The fence will be of a colour that matches the heritage approved colour scheme of the Palace Hotel, which is proposed to be painted in the future. The colour being charcoal grey.

Comment

The Shire of Yilgarn Town Planning Scheme 2 (TPS2) zones the land as “Commercial” as per the plan below. The TPS2 defines Commercial zones as:

The Commercial Zone is to be used for retail shopping, sales, hotels, offices, professional suites, restaurants and other business oriented uses. Other uses, listed in Table 1, may be permitted at the discretion of Council if they are considered to be an integral part of the commercial environment and where Council is satisfied that they will benefit the community and not result in being a Nuisance.



The proposed development fits closely with the use class “Grouped Dwellings”, which for Commercial Zones is an “AA” use.

An “AA” use means the development is not permitted unless the Council has granted planning approval.

As per Clause 6.3.2 of the TPS2, Council may give notice of the proposed development as follows:

6.3.2 *Where an application is made for planning approval to commence or carry out development which involves an 'AA' use, or any other development which*

requires the planning approval of the Council, the Council may give notice of the application in accordance with the provisions of sub-clause 6.3.3.

6.3.3 *Where the Council is required or decides to give notice of an application for planning approval the Council shall cause one or more of the following to be carried out:*

- (a) Notice of the proposed development to be served on the owners and occupiers as likely to be affected by the granting of planning approval stating that submissions may be made to the Council within twenty-one days of the service of such notice.*
- (b) Notice of the proposed development to be published in a newspaper circulating in the Scheme area stating that submissions may be made to the Council within twenty-one days from the publication thereof.*
- (c) A sign or signs displaying notice of the proposed development to be erected in a conspicuous position on the land for a period of twenty-one days from the date of publication of the notice referred to in paragraph (b) of this sub-clause.*

The TPS2 "Development Table" defines the required setbacks, plot ratios and landscaping for commercial and industrial development. There is no "Grouped Dwelling" option within the table, however the Hotel/Tavern option is deemed suitable for these purposes. The relevant requirements as per the table are shown below:

Use Class	Minimum Boundary Setback (m)			Maximum Plot Ratio	Minimum Landscape Area %	Minimum Car Parking Bays
	Front	Rear	Sides			
Hotel/Tavern	*	*	*	*	10	1 for every bedroom plus 1 per 4 m ² of bar and lounge area.

*means 'to be determined by the Council' in each particular case.

Setbacks

Council has discretion to approve any setback it deems suitable, taking into account aesthetics and effects on adjoining/neighbouring properties.

The development proposes a 3.5 metre setback to the North/West boundary, this boundary faces Great Eastern Highway/Orion Street, and given there are no adjoining neighbours and the building line is behind the current Palace Hotel building line, it is deemed adequate.

The North/East boundary is proposed to have a 0.3 metre setback, as the eventual owner of both blocks will be the same entity, the 0.3 metre setback is deemed adequate.

The South/East and South/West boundaries will have a one metre setback, there is Unallocated Crown Land to the South/East boundary, and as such there will be minimal affects, and to the South/West boundary there is Shire owned vacant land. Sanctum have made a separate application regarding the adjoining South/West lots, including a request to

purchase from the Shire and further develop with temporary accommodation. The Shire have no current plans for these lots, and it is therefore deemed a one metre setback is adequate.

Plot Ratio

Council have discretion to approve any plot ratio they deem adequate. The plot ratio for the proposed development is 58% built and 42% open space. This is deemed adequate for the proposed development. As a guide, the plot ratio for a motel is 100% built.

Minimum Landscape Area %

There is sufficient space to achieve 10% landscaping.

Car Parking Bays

Lot 502 has proposed 3 car spaces onsite, however as mentioned previously, car spaces are to be provided for on Lot 501 (Palace Hotel site), where on the adjoining boundary there is an access road with median strip, the strip will be removed and additional parking bays provided along the boundary edge, as well as a second row of car spaces to be located within the existing Southern carpark on lot 501.

Currently the Palace Hotel (Lot 501) operates 47 rooms with 24 car spaces. A ratio of 0.51 per room. With the majority of personnel being bussed or trained to site, parking seems adequate at that ratio currently.

The new development proposes a total of 79 rooms across Lots 501 and 502 and an additional 29 car spaces across both lots, with the total car spaces being 53. Therefore, the proposed ratio of car spaces to rooms will be 0.67, a higher ratio than is currently seen.

The TPS2 requires one car space per room, however this is not a standard hotel/tavern arrangement with the main use being workers accommodation, whereby staff are bussed or trained in, therefore reducing the number of car spaces required.

As the ratio for car spaces to rooms with the proposed development is higher than what is currently seen at the palace hotel, and there has not been any reported issues with parking at the site to date, it is therefore deemed suitable for Council to grant an exemption for the reduced number of car bays.

Aesthetics

The applicants have proposed a 2.4 metre colourbond fence be installed to screen from Great Eastern Highway. The colour chosen is Charcoal Grey, which is the colour approved by the Department of Planning, Lands and Heritage for the wood features along the Palace Hotel frontage, and therefore the fence will tie in with the Palace Hotel once painting is complete.

A recommended condition of approval will be to ensure the dongas are to be colour matched to the Palace Hotel and or existing units on Lot 501. Whilst they will be screened from the

Highway, it will ensure aesthetically the new development will tie into the existing structures.

Recommendation

It is the opinion of the Executive Manager Regulatory Services that this development will not unduly affect the amenity of the commercial area. The proposed design shows sufficient boundary setbacks, significant plot ratios and sufficient parking to cater for the intended number of patrons, most of whom are bulk transported to site. A 2.4 metre boundary fence will ensure the development is aesthetically sound.

It is thought the impact on surrounding properties from this development will be minimal, with the closest residential property being 60 metres away and Great Eastern Highway separating the two. Therefore, public consultation is deemed unnecessary by the reporting officer, however Council may choose to undertake public consultation if they so choose.

As such, it is recommended that Council endorse the development proposal, upon purchase of the land by Sanctum, approving the proposed setbacks and plot ratio; and granting an exemption to the required number of car spaces, deeming 53 adequate to cater for both Lots 501 and 502. The following conditions should also apply:

1. Existing structures onsite are to be removed, with a demolition permit to be sought and issued prior to demolition commencing;
2. Building permit to be sought and issued prior to construction work commencing;
3. 2.4 metre colourbond fence is to be installed to ensure site is adequately screened from Great Eastern Highway;
4. Units are to be colour matched to the surrounding buildings on Lot 501 Orion Street, Southern Cross.
5. Upon sale or transfer of either Lot 501 or 502 Orion Street, Southern Cross, unit accommodation is to be removed from Lot 502, or a subsequent development application is to be submitted addressing onsite parking for Lot 502; and
6. In the event onsite parking becomes an issue, as determined by Council or Shire Executive Staff, then owners of Lot 501 and 502 Orion Street, Southern Cross are to undertake any action as directed by Council or Shire Executive Staff to address the matter. This includes but is not limited to reducing the number of accommodation units located on the lots.

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.

Policy Implications

Nil

Financial Implications

Statutory Planning and Building Act fees.

Officer Recommendation and Council Decision

190/2018

Moved Cr Nolan/Seconded Cr Close

THAT COUNCIL:

- 1. Conditionally approve the development proposal for Lot 502 Orion Street, Southern Cross, submitted by Sanctum Resources Pty Ltd, for the installation of 8 x 4 room accommodation units as per the submitted plans and as per the conditions listed herein:***
- 2. Approve the proposed setbacks and plot ratio as per submitted plans; and***
- 3. Grant an exemption to the required number of car spaces, deeming 53 adequate to cater for 79 rooms across both Lots 501 and 502 Orion Street, Southern Cross, citing the bulk transfer of workers to site as justification of the reduction.***

CONDITIONS

- 1. This approval is only valid upon Sanctum Resources Pty Ltd obtaining ownership of Lot 502 Orion Street, Southern Cross;***
- 2. Existing structures onsite are to be removed, with a demolition permit to be sought and issued prior to demolition commencing;***
- 3. Building permit to be sought and issued prior to construction work commencing;***
- 4. 2.4 metre colourbond fence is to be installed to ensure site is adequately screened from Great Eastern Highway, and colour matched to Palace Hotel;***
- 5. Units are to be colour matched to the surrounding buildings on Lot 501 Orion Street, Southern Cross.***

- 6. Upon sale or transfer of either Lot 501 or 502 Orion Street, Southern Cross, unit accommodation is to be removed from Lot 502, or a subsequent development application is to be submitted addressing onsite parking for Lot 502; and*
- 7. In the event onsite parking becomes an issue, as determined by Council or Shire Executive Staff, then the owners of Lot 501 and 502 Orion Street, Southern Cross are to undertake any action as directed by Council or Shire Executive Staff to address the matter. This includes but is not limited to reducing the number of accommodation units located on the lots.*

CARRIED (7/0)

13 LATE ITEM – Executive Manager Regulatory Services

13.2 Request to Purchase Land and Development Application - Lots 290 and 291 Orion Street, Southern Cross - Donga Accommodation

File Reference	3.1.3.1
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Proposed Site Plan Unit Internal Layout

Purpose of Report

To consider the sale of Lots 290 and 291 Orion Street, Southern Cross and to consider a proposed development application for temporary accommodation units to be installed upon those lots.

Background

Sanctum Resources Pty Ltd (Sanctum), the owners of the Palace Hotel have submitted a request to purchase Lots 290 and 291 Orion Street, Southern Cross, of which the Shire of Yilgarn currently own freehold, and then subsequently propose to develop the site as workers accommodation, seeking approval to install seven accommodation units, containing 4 ensuite rooms per unit.

It should be noted, this development requires the previously considered development application for Lot 502 Orion Street, Southern Cross to have been endorsed by Council to be able to proceed (See late Item 13.1 of the December 2018 Council meeting). Should Council have deemed the proposal in Late Item 13.1 is not in keeping with the commercial zoning and did not approve, then the same determination must be given for this proposal as it relies on parking space availability across all sites.

Sanctum have advised they are in desperate need to expand their accommodation facilities due to mining operations around the district ramping up, and whilst they still intend to proceed with their previous project, which involved Crown Land at 8 & 12 Marvel Loch Road, Southern Cross, WA 6426 (Council Resolution 162/2018), this current project will enable expansion to occur in a tighter timeframe as they are not reliant on state government approvals.

This development has an association with the previously reported development on Lot 502 Orion Street, Southern Cross, and Lot 501 Orion Street, Southern Cross, whereby all four lots will share combined car spaces and utilise laundry and food facilities within the Palace Hotel.

If approved, the development is temporary, with the units to be removed upon sale of either Lot 501, Lot 502, Lots 290 or Lot 291. The reason being the parking allotment for the current development proposal is to be provided using car spaces across all sites. Hence should separate entities control the lots, the parking would be insufficient for Lots 290, 291 and 502 unless redevelopment of those lots were to occur at that time.

An exemption from the required number of parking bays has been requested, and is discussed in the comment section of this report.

Sanctum have proposed a 2.4 metre high colourbond fence along the boundaries facing Great Eastern Highway to screen the development from the road. The fence will be of a colour that matches the heritage approved colour scheme of the Palace Hotel, which is proposed to be painted in the future. The colour being charcoal grey.

Comment

PURCHASE OF LAND

The sale of land by a Local Government is governed by the Local Government Act 1995 Section 3.58 which states:

3.58. *Disposing of property*

(1) *In this section —*

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) *Except as stated in this section, a local government can only dispose of property to —*

- a. the highest bidder at public auction; or*
- b. the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

(3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*

- a. it gives local public notice of the proposed disposition —
 - i. describing the property concerned; and*
 - ii. giving details of the proposed disposition; and*
 - iii. inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;**
and
- b. it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

(4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*

- a. the names of all other parties concerned; and*
- b. the consideration to be received by the local government for the disposition; and*
- c. the market value of the disposition —*

- i. *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
- ii. *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*

Should Council endorse the sale of land, Sanctum will be required to obtain a property valuation from a licenced valuer, after which they will submit an offer to the Shire of Yilgarn to purchase both Lots 290 and 291 Orion Street, Southern Cross.

Should the offer be of an amount equal to or greater than the valuation amount, the Shire will commence public notice, as per Clause 3.58(3) of the Local Government Act 1995, of its intention to sell the land to Sanctum for the offered price.

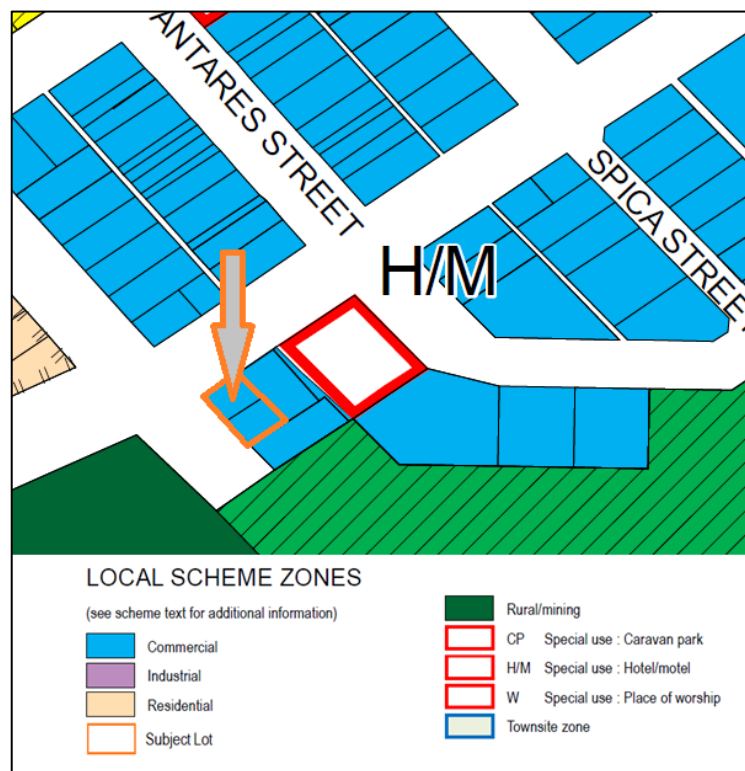
In the event Sanctum offer an amount less than the valued amount, Council will be required to make a determination on whether the offered amount is suitable, prior to advertising.

Once the advertising period closes, a final determination will be put to Council, with a summary of the responses, if any, from the public consultation.

Should Council then endorse the sale of land, it will be referred to a settlement agency for finalisation.

PLANNING

The Shire of Yilgarn Town Planning Scheme 2 (TPS2) zones the land as "Commercial" as per the plan below.



The TPS2 defines Commercial zones as:

The Commercial Zone is to be used for retail shopping, sales, hotels, offices, professional suites, restaurants and other business oriented uses. Other uses, listed in Table 1, may be permitted at the discretion of Council if they are considered to be an integral part of the commercial environment and where Council is satisfied that they will benefit the community and not result in being a Nuisance.

The proposed development fits closely with the use class "Grouped Dwellings", which for Commercial Zones is an "AA" use.

An "AA" use means the development is not permitted unless the Council has granted planning approval.

As per Clause 6.3.2 of the TPS2, Council may give notice of the proposed development as follows:

- 6.3.2 *Where an application is made for planning approval to commence or carry out development which involves an 'AA' use, or any other development which requires the planning approval of the Council, the Council may give notice of the application in accordance with the provisions of sub-clause 6.3.3.*
- 6.3.3 *Where the Council is required or decides to give notice of an application for planning approval the Council shall cause one or more of the following to be carried out:*
- (a) *Notice of the proposed development to be served on the owners and occupiers as likely to be affected by the granting of planning approval stating that submissions may be made to the Council within twenty-one days of the service of such notice.*
 - (b) *Notice of the proposed development to be published in a newspaper circulating in the Scheme area stating that submissions may be made to the Council within twenty-one days from the publication thereof.*
 - (c) *A sign or signs displaying notice of the proposed development to be erected in a conspicuous position on the land for a period of twenty-one days from the date of publication of the notice referred to in paragraph (b) of this sub-clause.*

The TPS2 "Development Table" defines the required setbacks, plot ratios and landscaping for commercial and industrial development. There is no "Grouped Dwelling" option within the table, however the Hotel/Tavern option is deemed suitable for these purposes. The relevant requirements as per the table are shown below:

Use Class	Minimum Boundary Setback (m)			Maximum Plot Ratio	Minimum Landscape Area %	Minimum Car Parking Bays
	Front	Rear	Sides			
Hotel/Tavern	*	*	*	*	10	1 for every bedroom plus 1 per 4 m ² of bar and lounge area.

*means 'to be determined by the Council' in each particular case.

Setbacks

Council has discretion to approve any setback it deems suitable, taking into account aesthetics and effects on adjoining/neighbouring properties.

The development proposes a 10.5 metre setback to the North/West boundary, this boundary faces Great Eastern Highway/Orion Street, and given there are no adjoining neighbours and the building line is behind the current Palace Hotel building line, it is deemed adequate.

The remaining boundaries will all have a one metre setback. The North/East boundary borders Lot 502 Orion Street, which is currently privately owned, however as this proposal is reliant on Sanctum purchasing and developing Lot 502 Orion Street, it is deemed obtaining current owners' approval is not required.

The South/East and South/West boundaries adjoin unallocated Crown land and as such there will be no effect on occupants of those lots.

Plot Ratio

Council have discretion to approve any plot ratio they deem adequate. The plot ratio for the proposed development is 43% built and 57% open space. This is deemed adequate for the proposed development. As a guide, the plot ratio for a motel is 100% built.

Minimum Landscape Area %

There is sufficient space to achieve 10% landscaping.

Car Parking Bays

Sanctum has proposed to include 10 car spaces across Lots 290 and 291, however as mentioned, as this development is to be considered in conjunction with the proposed Development of Lot 502 Orion Street, and the newly created car spaces on Lot 501 Orion Street, the car spaces will be combined across all sites.

Currently the Palace Hotel (Lot 501) operates 47 rooms with 24 car spaces. A ratio of 0.51 per room. With the majority of personnel being bussed or trained to site, parking seems adequate at that ratio currently.

The new developments (Lot 502 and Lot 290 & 291) proposes a total of 107 rooms across all four lots, with the total car spaces being 63. Therefore, the proposed ratio of car spaces to rooms will be 0.59, a higher ratio than is currently seen.

The TPS2 requires one car space per room, however this is not a standard hotel/tavern arrangement with the main use being workers accommodation, whereby staff are bussed or trained in, therefore reducing the number of car spaces required.

As the ratio for car spaces to rooms with the proposed development is higher than what is currently seen at the palace hotel, and there has not been any reported issues with parking at the site to date, it is therefore deemed suitable for Council to grant an exemption for the reduced number of car bays.

Aesthetics

The applicants have proposed a 2.4 metre colourbond fence be installed to screen from Great Eastern Highway. The colour chosen is Charcoal Grey, which is the colour approved by the Department of Planning, Lands and Heritage for the wood features along the Palace Hotel frontage, and therefore the fence will tie in with the Palace Hotel once painting is complete.

A recommended condition of approval will be to ensure the dongas are to be colour matched to the Palace Hotel and or existing units. Whilst the proposed units will be screened from the Highway, it will ensure aesthetically the new development will tie into the existing structures.

Recommendation

It is the opinion of the Executive Manager Regulatory Services that this development will not unduly affect the amenity of the commercial area. The proposed design shows sufficient boundary setbacks, significant plot ratios and sufficient parking to cater for the intended number of patrons, most of whom are bulk transported to site. A 2.4 metre boundary fence will ensure the development is aesthetically sound.

It is thought the impact of surrounding properties from this development will be minimal, with the closest residential property being 60 metres away and Great Eastern Highway separating the two. Therefore, public consultation is deemed unnecessary for development approval, however will occur anyway via the disposal of land process as mentioned previously.

As such, it is recommended that Council endorse the development proposal, upon purchase of the land by Sanctum, approving the proposed setbacks and plot ratio; and granting an exemption to the required number of car spaces, deeming 63 adequate to cater for Lots 501, 502, 290 and 291 Orion Street, Southern Cross. The following conditions should also apply:

1. Land is to be surveyed by a practicing and licence surveyor to ensure property boundaries are identified and adhered to;
2. Building permit to be sought and issued prior to construction work commencing;
3. 2.4 metre colourbond fence is to be installed to ensure site is adequately screened from Great Eastern Highway, and colour matched with the Palace Hotel;
4. Units are to be colour matched to the surrounding buildings on Lot 501 and Lot 502 Orion Street, Southern Cross;
5. Upon sale or transfer of either Lot 501, 502, 290 or 291 Orion Street, Southern Cross, unit accommodation is to be removed from Lot 290 and 291, or a subsequent development application is to be submitted addressing onsite parking for Lots 290 and 291 Orion Street, Southern Cross; and
6. In the event onsite parking becomes an issue, as determined by Council or Shire Executive Staff, then owners of Lot 501 and 502 Orion Street, Southern Cross are to undertake any action as directed by Council or Shire Executive Staff to address the matter. This includes but is not limited to reducing the number of accommodation units located on the lots.

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.

Policy Implications

Nil

Financial Implications

Statutory Planning and Building Act fees.

Officer Recommendation

RECOMMENDATION 1

THAT COUNCIL

- 1. Endorse commencing the process of disposal as per Clause 3.58 of the Local Government Act 1995 for Lots 290 and 291 Orion Street, Southern Cross to Sanctum Resources Pty Ltd, and instruct Sanctum Resources Pty Ltd to engage a licensed valuer to undertake a valuation of the lots;*
- 2. Upon receiving an offered price for purchase from Sanctum Resources Pty Ltd, that is equal to or greater than that of a valuation provided by a licensed valuer, then Council deem the offered price to be adequate remuneration for the lots, and public notice, as per Clause 3.58 of the Local Government Act 1995 can commence;*

OR

Upon receiving an offered price for purchase from Sanctum Resources Pty Ltd that is lower than that of a valuation provided by a licensed valuer, the matter is to be reported at the next available Council meeting for Councillors determination of whether the offered price is acceptable prior to undertaking public notice.

ADVICE NOTES

- 1. A further report to Council will be required once public consultation has occurred, to allow Council to take into account any public submissions regarding the disposal of the land, prior to final endorsement of the sale.*

RECOMMENDATION 2:

THAT COUNCIL:

- 1. Conditionally approve the development proposal for Lots 290 and 291 Orion Street, Southern Cross, submitted by Sanctum Resources Pty Ltd, for the installation of 8 x 4 room accommodation units as per the submitted plans, on the provision of the conditions listed herein.*
- 2. Approve the proposed setbacks and plot ratio as per submitted plans; and*
- 3. Grant an exemption to the required number of car spaces, deeming 59 adequate to cater 107 rooms across both Lots 501, 502, 291 and 290 Orion Street Southern Cross.*

CONDITIONS

- 1. Land is to be surveyed by a practicing and licenced surveyor to ensure property boundaries are identified and adhered to;*
- 2. Building permit to be sought and issued prior to construction work commencing;*
- 3. 2.4 metre colourbond fence is to be installed to ensure site is adequately screened from Great Eastern Highway;*
- 4. Units are to be colour matched to the surrounding buildings on Lot 501 Orion Street, Southern Cross.*
- 5. Upon sale or transfer of either Lot 501 or 502 Orion Street, Southern Cross, unit accommodation is to be removed from Lot 502, or a subsequent development application is to be submitted addressing onsite parking for Lot 502; and*
- 6. In the event onsite parking becomes an issue, as determined by Council or Shire Executive Staff, then the owners of Lot 501 and 502 Orion Street, Southern Cross are to undertake any action as directed by Council or Shire Executive Staff to address the matter. This includes but is not limited to reducing the number of accommodation units located on the lots.*

Council Decision

191/2018

Moved Cr Guerini/Seconded Cr Close

RECOMMENDATION 1

THAT COUNCIL

- 1. Endorse commencing the process of disposal as per Clause 3.58 of the Local Government Act 1995 for Lots 290 and 291 Orion Street, Southern Cross to Sanctum Resources Pty Ltd, and instruct Sanctum Resources Pty Ltd to engage a licensed valuer to undertake a valuation of the lots;*

2. *Upon receiving an offered price for purchase from Sanctum Resources Pty Ltd, that is equal to or greater than that of a valuation provided by a licensed valuer, then Council deem the offered price to be adequate remuneration for the lots, and public notice, as per Clause 3.58 of the Local Government Act 1995 can commence;*

OR

Upon receiving an offered price for purchase from Sanctum Resources Pty Ltd that is lower than that of a valuation provided by a licensed valuer, the matter is to be reported at the next available Council meeting for Councillors determination of whether the offered price is acceptable prior to undertaking public notice.

ADVICE NOTES

1. *A further report to Council will be required once public consultation has occurred, to allow Council to take into account any public submissions regarding the disposal of the land, prior to final endorsement of the sale.*

RECOMMENDATION 2:

THAT COUNCIL:

1. *Conditionally approve the development proposal for Lots 290 and 291 Orion Street, Southern Cross, submitted by Sanctum Resources Pty Ltd, for the installation of 8 x 4 room accommodation units as per the submitted plans, on the provision of the conditions listed herein.*
2. *Approve the proposed setbacks and plot ratio as per submitted plans; and*
3. *Grant an exemption to the required number of car spaces, deeming 59 adequate to cater 107 rooms across both Lots 501, 502, 291 and 290 Orion Street Southern Cross.*
4. *Endorse access to Lots 501, 290 and 291 via Lot 502 Orion Street, Southern Cross*

CONDITIONS

1. *Land is to be surveyed by a practicing and licenced surveyor to ensure property boundaries are identified and adhered to;*
2. *Building permit to be sought and issued prior to construction work commencing;*

3. *2.4 metre colourbond fence is to be installed to ensure site is adequately screened from Great Eastern Highway;*
4. *Units are to be colour matched to the surrounding buildings on Lot 501 Orion Street, Southern Cross.*
5. *A Landscape plan is to be submitted for approval by the Executive Manager Regulatory Services and once approved, implemented, for the street frontage facing Great Eastern Highway;*
6. *Upon sale or transfer of either Lot 501 or 502 Orion Street, Southern Cross, unit accommodation is to be removed from Lot 502, or a subsequent development application is to be submitted addressing onsite parking for Lot 502; and*
7. *In the event onsite parking becomes an issue, as determined by Council or Shire Executive Staff, then the owners of Lot 501 and 502 Orion Street, Southern Cross are to undertake any action as directed by Council or Shire Executive Staff to address the matter. This includes but is not limited to reducing the number of accommodation units located on the lots.*

CARRIED (7/0)

REASON FOR ALTERATION TO RECOMMENDATION

To allow vehicle access via lot 502 as opposed to off Orion Street and to improve visual amenity.

13 MEETING CLOSED TO THE PUBLIC-CONFIDENTIAL ITEMS

Nil

14 CLOSURE

As there was no further business to discuss, the Shire President declared the meeting closed at **5.08pm**

I, Onida T Truran confirm the above Minutes of the Meeting held on Thursday, 20th December 2018, are confirmed on Thursday, 21st February 2019 as a true and correct record of the December Ordinary Meeting of Council.

Cr Onida T Truran
SHIRE PRESIDENT