



AGENDA
FOR THE ORDINARY MEETING
OF COUNCIL
TO BE HELD IN
THE COUNCIL CHAMBERS, YALGOO
ON 19 AUGUST 2016
COMMENCING 11.00 AM



SHIRE OF YALGOO

NOTICE OF ORDINARY COUNCIL MEETING

THE NEXT ORDINARY MEETING OF COUNCIL WILL BE HELD IN THE YALGOO COUNCIL CHAMBERS, YALGOO ON 19 AUGUST 2016 COMMENCING AT 11.00 AM.

Silvio Brenzi

Chief Executive Officer



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Agenda for the Ordinary Meeting of the Yalgoo Shire Council,
to be held in the Council Chambers, 37 Gibbons Street, Yalgoo,
on 19 August 2016 commencing at 11.00 am.

PLEASE TURN OFF ALL MOBILE PHONES PRIOR TO THE COMMENCEMENT OF THE MEETING

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

MEMBERS

STAFF

GUESTS

OBSERVERS

LEAVE OF
ABSENCE

APOLOGIES

3. DISCLOSURE OF INTERESTS

Disclosures of interest made before the Meeting

8. CONFIRMATION OF MINUTES

8.1 ORDINARY COUNCIL MEETING

Background

Minutes of the Ordinary Meeting of Council have previously been circulated to all Councillors.

Voting Requirements

Simple majority

OFFICER RECOMMENDATION

Minutes of the Ordinary Meeting

That the Minutes of the Ordinary Council Meeting held on 22 July 2016 be confirmed.

Moved:

Seconded:

Motion put and carried/lost

9. REPORTS OF COMMITTEE

10. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS/Other Matters

10.1 INFORMATION ITEMS

Sharing of operational information on items that are not confidential, do not require a decision and do not meet the definition of matters for which the meeting may be closed under section 5.23 of the Local Government Act (e.g: matters affecting employee/s or the personal affairs of any person).

11 MATTERS FOR DECISION

11.0 MATTERS BROUGHT FORWARD

11.1 TECHNICAL SERVICES

Nil

11.2 DEVELOPMENT, PLANNING AND ENVIRONMENTAL HEALTH

11.2.1 Development Application – Advertising Sign at Lot 135 Piesse Street, Yalgoo

Author:	Silvio J Brenzi - Chief Executive Officer
Interest Declared:	No interest to disclose
Date:	10 August 2016
Attachments	
End of yellow section – General Attachments	

Copies of Development Application, Submissions Received Matter for Consideration

Council has received a development application from Pinnacle Planning on behalf of Paramount Australia to erect an advertising sign at Lot 135 (No.35) Piesse Street, Yalgoo.

Background

The Council has previously received 2 development applications for a similar advertising signs at the subject site. Both applications were received in 2011. The initial application was withdrawn by the applicant due to a number of issues surrounding the proposed location of the sign and delays in receiving advice from Main Roads WA.

A subsequent development application was lodged in 2011 proposing a similar sign. This application was refused by Council due to the sign's location, scale and incompatibility with the surrounding environment. The Applicant subsequently lodged an application for review with the State Administrative Tribunal however withdrew the application in early-2012.

Statutory Environment

Local Government Act 1995

s.3.1 (1) The general function of the local government is to provide for the good government of persons in its district.

Planning and Development (Local Planning Scheme) Regulations 2015 (deemed provisions_

60. 'A person must not commence or carry out any works on, or use land in the scheme area unless –

- *The person has obtained development approval of the local government under Part 8 or*
- *The development is of a type referred to in clause 61'.*

Note: development includes the erection, placement and display of advertisements.

Shire of Yalgoo Local Planning Scheme No. 2 (LPS2)

Clause 4.2.2 Commercial zone objectives

Clause 5.16 When considering applications for the town centre and in order to enhance the existing character and complement the existing pattern of development Council shall have regard to the scale, colours, materials and design of new buildings and extensions.

Clause 5.18 Council when considering attractive entries into each of the townsites may restrict some land uses, require greater setbacks and landscaping to maintain or improve the entries in to towns.

Shire of Yalgoo Local Planning Strategy (LPS)

Clause 5.1 Land use and development within the town should be consistent with the objectives of the LPS.

Strategic Implications

The approval of an advertising sign fronting Piesse Street may set precedence for similar advertising signs to be constructed.

Policy Implications

Nil

Financial Implications

The Shire has engaged planning consultants Urbis to lead the assessment of this application. All costs associated with the procurement of Urbis have been borne by the Shire.

Consultation

Although not mandatory, the application was advertised for public comment given the prominent location at the entry to town on Piesse Street. Specifically, the following was undertaken:

- A notice was placed on the Shire’s website inviting comment for a period of 14 days.
- A letter was sent to the following authorities/adjoining landowners inviting comment on the proposal:
 - Main Roads – WA (given location on Piesse Street).
 - WA Police – given the proposal adjoins a proposed new police station to the east, which is currently under construction.

A total of 2 submissions were received. The matters raised in these submissions have been considered as part of Officers assessment.

Proposal

The proposal is for a third party advertising sign located Lot 135 (No.35) Piesse Street, Yalgoo (the subject site). The proposed sign is double sided and comprises of two sign panels, one with a height of 1.55m and width of 8.35m (approximately 13sq.m) and the other with a height of 0.5m and a width of 8.35m (approximately 4sqm). The sign achieves a total area of approximately 17sqm (per side) and a clearance of 4.25m from the natural ground level.

The submitted site plan depicts the advertising sign being setback 1m from Piesse Street, addressing traffic travelling both east and west. However, through the application process and matters raised through

submissions, the Applicant has stated that it will accept a greater setback distance in line with the Shire's Planning Scheme (via a condition of planning approval).

It is understood the sign is for the purpose of third part advertising, noting that there is potential for the sign to be utilised for community based messaging including road safety, local tourism messages and Shire events.

Comment

Local Planning Scheme No.2

Signage is typically assessed under local planning schemes and associated local planning policies as well as local laws prepared under the *Local Government Act 1995*. LSP 2 does not provide any guidance for the assessment of signage, nor does Council currently have an adopted planning policy in place to guide discretionary decisions on signage. Accordingly, Officers have undertaken an assessment based on the overall planning merit of the application, including alignment with zone objectives and the Shire's Local Planning Strategy.

The subject site is zoned 'Commercial' and located within a 'Special Design Area' under LSP 2. The site has frontage to Piesse Street, which is identified as a 'Major Road' under LSP 2. All lots fronting Piesse Street are currently undeveloped, however it is noted that the Yalgoo Police Station is currently under construction to the immediate east of the site (corner of Piesse and Campbell Street).

The lots adjoining the subject site to the east are zoned Industrial, whilst the lot to the east and north are zoned Commercial. It is noted LPS 2 does not provide any guidance with regard to development located within a Special Design Area. The objective of the Commercial zone is set out in Clause 4.2.2 of LSP 2, and is as follows:

- a) *To provide a variety of service functions, predominantly commercial, service, and administrative uses.*
- b) *To maintain a compact and accessible centre.*
- c) *To centralise commercial and service functions.*
- d) *To maintain safety and efficiency of traffic flows and provide for adequate facilities for the storage and circulation of vehicles.*
- e) *To preclude the storage of bulky and unsightly goods where they may be in public view.*
- f) *To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.*
- g) *To provide sheltered places for pedestrians.*
- h) *To restrict industrial type uses to service or low impact, labour intensive industries that relate to the centre functions.*
- i) *To reduce uses attracting large volumes of truck traffic other than to service retail outlets.*
- j) *To provide for residential uses only where the uses are combined with a commercial use, e.g. hotel, or where the residential uses occupy a floor level where it is impracticable or in appropriate to establish a shop or office'.*

The objectives of the Commercial zone are broad in nature, however the key objective relevant to the development of advertising sign is considered to be item (j) which is *'to maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades'*. In this regard, although it is noted the police station is proposed to the east which will change the streetscape in this locality, the provision of a sign is not seen to be compatible with this proposed development, not the vacant land surrounding the site in other directions.

The Applicant has outlined in its application cover letter that the contents of the proposed sign will regularly change to reflect different advertising campaigns and therefore it can be assumed that the sign will be third party in nature. It is also noted that there are opportunities to include elements of community messaging (Shire/tourist events, road safety messaging). Although Officers do not object to third party advertising in its entirety, there are significant concerns that a large format third party advertising in this location is not an appropriate or aesthetically-pleasing outcome for this prominent entry into town.

Clause 5.16 states *‘when considering applications for the town centre and in order to enhance the existing character and complement the existing pattern of development Council shall have regard to the scale, colours, materials and design of new buildings and extensions’*. Clause 5.18 further states that *‘Council when considering attractive entries into each of the townsites may restrict some land uses, require greater setbacks and landscaping to maintain or improve the entries in to towns.’*

Officers consider the proposal to be in conflict with these Scheme provisions. The rural nature and character of the town raises concerns relating to the proposed height and width of the sign, which represents a significant increase in scale over existing signs in the immediate locality and the town centre. It is further considered that the presence of such a significant sign will have a negative impact on the amenity of the locality and may compromise future development on the site.

Further, it is again noted that there is a proposed new Police Station which is currently under construction to the immediate east of site (Lot 136 and 137 Piesse Street). Shire Officers consider that this will be an iconic development within Yalgoo and appropriately designed for this prominent location. On this basis, it is considered that a larger format sign adjoining this new development has the potential to impact negatively on the aesthetic value of the area.

Local Planning Strategy

The Shire’s Local Planning Strategy provides the following objectives to guide land use and development within the town site:

- a) *‘Maintain a small town atmosphere*
- b) *Maintain current uses within the town*
- c) *Allow for a variety of uses necessary to service the normal functions of a town’.*

The application is considered inconsistent with the ‘small town atmosphere’ and is not of a scale which is appropriate for this site.

Matters Raised in Submissions

The application was advertised for a period of two (2) weeks from the 12th July to the 26th July 2016. Two (2) submissions were received from Main Roads WA and the WA Police during the proposal’s advertising period.

Main Roads WA raised no objections with the proposal providing (subject to development approval) an additional application for approval is lodged with Main Roads Mid-West-Gascoyne Region for assessment and approval. The WA Police however objected to the proposal raising concerns relating to the proposed sign’s bulk, scale, location, and the appropriateness of the sign within the planning framework. Specifically, the WA Police raised the following concerns:

- The size of the sign appears inappropriate for a rural setting.
- The location and context of the advertising sign may cause confusion to road users due to its close proximity to the new police station.
- The scale of the sign exceeds the 6m², which the WA Police understand to be the general size used for advertising signs in metropolitan areas.

- Further, the WA Police note that the following criteria is general used to access a signage application in a metropolitan area:
 - A sign shall be designed and located such that it is sympathetic and harmonious with the character of the surrounding environment
 - The design, number or variety of signs within an area shall not be injurious to the amenity or natural beauty of the locality
 - All signs shall compliment the character of any designated heritage buildings or precincts

The WA Police requested the scale of the sign be reduced and the location of the sign be changed to be further away from the new Police Station. Officers agree with a majority of matters raised by the WA Police however acknowledge that metropolitan sign standards differ and that 6sq.m is not known to be a typical size for an advertising sign of this nature.

Urbis (on behalf of the Shire) has been in direct liaison with the Applicant regarding the matters raised by the WA Police during advertising. A summary of the Applicant's response is as follows:

- There are effectively no development standards in place which the Shire could utilise to assess what is or isn't appropriate.
- The Shire has advised that the scale is incompatible due to the size of the sign and there being no other buildings in close proximity. With the construction of the WA Police Station imminent, this position is no longer the case or accurate.
- The Applicant is willing to change the setback of the sign to be consistent with the Police Station, therefore ensuring the streetscape outcome is consistent.
- Moving the sign to another location is not considered by the Applicant to be a valid or reasonable consideration, given its Client only owns the land to which the application relates.
- The previous position of objection provided by the Shire is no longer valid, given the large scale commercial development occurring in the immediate vicinity. Given signage is a component of commercial zoned land and in this instance will be setback from the street in a distance consistent with recently approved developments.
- Main Roads WA have raised no objection to the subject proposal, therefore, it is the view of that the proposal is capable of approval given Main Roads WA consider it acceptable, specifically in relation to size, location, and road safety.
- The Applicant notes the comments referring to the LPS, in relation to the proposal being considered contrary to the objectives of the commercial zone, and inconsistent with Clause 5.18 regarding town entry statements. To this end, we refer to the proposed changes to the plan regarding setbacks as addressing concerns relating to "general comparability within the general streetscape" and impacts on the surrounding amenity. With regard to entry statements, the proposal does not purport to be, nor have we applied for an entry statement. Importantly, given the setback of the sign to a consistent setback as the Police Station, and general screening provided by the building, the visual prominence is reduced. The impact of the above is that there are no requirements of policy documents that suggest the proposal is out of scale.
- Given the changes to the plans provided, provision of a feature limestone wall, landscaping of the site, and physical changes to the locality, the Applicant considers the application should be approved. Signage is a component of commercial zoned land and in this instance will be setback from the street in a distance consistent with recently approved developments, and will no longer be the largest form of development in the locality.

In considering the above, Officers agree that there are no specific parameters in place for signage and therefore an assessment of the planning merit has been undertaken. Further, whilst it is acknowledged that the Applicant owns the land in question and therefore cannot consider moving the sign to an alternative

location, Officers are of the clear opinion that this does not mean the proposed location is suitable for this type of development and approved on this basis.

In considering the matters raised by the WA Police, the Applicant has further offered to amend the setback of the sign from 1m to a distance consistent with the setback of the Police Station (as a condition of approval). Further, the Applicant has discussed including a limestone feature wall below the sign and landscaping to the balance of the site, as a means to provide further visual interest at the entry point to town.

The Applicant’s response has been reviewed and considered as part of the assessment of the proposed advertising sign. Whilst it is acknowledged that an increased setback and landscaping may reduce some of the visual impact of the proposed sign to an extent, Officers maintain its position that the overall bulk and scale of the sign will dominate the streetscape and have an adverse impact on the amenity of the area; most importantly the entrance to the Yalgoo town centre.

Further, we note that the development of the Police Station adjacent to the subject is of a civic nature and therefore provides considerable opportunities for the further development of this southern portion of town. The approval of an advertising sign at this scale has the potential to jeopardise this outcome.

Conclusion

For the reasons outlined in this report, it is concluded that the proposed development is not supported by Officers. The recommendation for refusal is based on the proposal’s inconsistency with the Shire of Yalgoo’s Local Planning Strategy and LPS 2, which seeks to ensure development is consistent with the small town atmosphere of Yalgoo.

The proposal is of a size and scale which is significantly larger than the existing signage found within the locality and is not considered suitable in this location. It is considered a sign of this nature (third-party) and scale is better suited to areas along the Geraldton-Mount Magnet Road, outside of the Yalgoo town.

Voting Requirements

Simple Majority.

OFFICER RECOMMENDATION

Application for Planning Approval A513 Advertising Sign

That Council:

That Council determine that the proposed development of an advertising sign on Lot 135 (35) Piesse Street, Yalgoo is hereby **refused** for the following reasons:

- The size, bulk and scale of the proposed advertising sign would adversely affect the amenity of the area, and is contrary to the objectives of the Shire of Yalgoo Local Planning Strategy and Local Planning Scheme No.2, in particular maintaining a ‘small town atmosphere’ and promoting attractive entries to town.
- The approval of the proposed advertising sign will have a negative impact on aesthetic of Piesse Street and the proposed adjoining Police Station which is currently under construction.

Moved:

Seconded:

Motion put and carried/lost

11.3 FINANCE

11.3.1 Financial Activity Statements and Accounts Paid for the Month of June 2016.

Author:	Dominic Carbone
Interest Declared:	No interest to disclose
Date:	12 August 2016
Attachments (Red Cover)	<ul style="list-style-type: none"> Financial Statements for the Month of June 2016

Matter for Consideration

Adoption of the Monthly Financial Statements.

Background

The Local Government Act and Regulations require local governments to prepare monthly reports containing the information that is prescribed and require the Chief Executive Officer to prepare a list of accounts paid.

Statutory Environment

Local Government Act 1995

Section 6.4—Specifies that a local government is to prepare such other financial reports as are prescribed.

Local Government (Financial Management) Regulations 1996

Reg 13(1)—Requires that where the Chief Executive Officer has delegated power to make payments from the Municipal or Trust funds a list of accounts paid is to be prepared each month.

Regulation 34 states:

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month in the following detail:
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - (b) budget estimates to the end of month to which the statement relates;
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c);
 - (e) the net current assets at the end of the month to which the statement relates.

Sub regulations 2, 3, 4, 5, and 6 prescribe further details of information to be included in the monthly statement of financial activity.

Strategic Implications

Provision of timely accounting information to inform Council of the financial status and financial affairs of the local government.

Reports showing year to date financial performance allow monitoring of actual expenditure, revenue, and overall results against budget targets.

Policy Implications

- 2.1 Capitalisation of Assets
- 2.4 Material Variance

Financial Implications

Payments from Council’s Municipal Account as disclosed in the budget or subsequently approved.

Consultation

- Shire Accountants – Moore Stephens
- Dominic Carbone – Dominic Carbone & Associates

Comment

The Shire utilises the services of accountants UHY Haines Norton to prepare the monthly financial statements in the statutory format and provide general accountancy support and advice.

A copy of the Statement of Financial Performance is included in the financial attachments with the investment register and schedule of payments.

The areas where material variances have been experienced (10% or \$10,000 above or below budget) are commented on in the material variance attachment.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

R34 (1) Financial Activity Statements for the Month of June 2016.

That Council adopts the Financial Activity Statement for the period ending 30 June 2016.

Moved:	Seconded:	Motion put and carried / lost
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OFFICER RECOMMENDATION

R13 (1) List of Accounts Paid for the Month of June 2016.

That Council receives the Schedule of Payments for accounts paid in the month of June 2016.

Moved:	Seconded:	Motion put and carried / lost
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11.3.2 Differential Rating 2016/17 – Proposed Rates and Minimums

Author:	Dominic Carbone
Interest Declared:	No interest to disclose
Date:	11 August 2016
Attachments (Yellow Cover)	<ul style="list-style-type: none"> • Work sheet detailing 2015-16 and 2016-17 Rates levied utilising 2015-16 rates in the dollar and minimums; • Work sheet detailing 2016-17 Rates levied based on Rates levied increasing by 5%.

Matter for Consideration

Council to give consideration to retaining the 2015-16 Differential Rates in the dollar and Minimums for the 2016-17 Financial year.

Background

Council at its meeting held on 17 June 2016 adopted the following resolution:

F2016-0602 Differential Rating 2016/2017 – Proposed Rates and Minimums

That Council:

1. Advertise the intention to impose the following differential general rates and minimum payments applying to each of the differential rate categories in accordance with Section 6.36 of the Local Government Act 1995 be placed in the Geraldton Guardian newspaper and the Bulldust.

Differential General Rate	Rate in the \$
GRV. - Townsites Improved	0.08080000
GRV. - TownsitesVacant	0.08080000
UV -Pastoral / Rural	0.07213050
UV.- Mining / Mining Tenement	0.41666230
UV.- Exploration / Prospecting	0.23250620
	Minimum
Minimum Payment	\$
GRV. - Townsites Improved	300
GRV. - TownsitesVacant	640
UV -Pastoral / Rural	300
UV.- Mining / Mining Tenement	300
UV.- Exploration / Prospecting	300

2. That the advertisement in (1) above also provide for an invitation for submissions to be made by an elector or a ratepayer for a period of 21 days closing at 4:00 pm on Wednesday 13 July 2016, and detail the time and place where the Shire of Yalgoo Rating Methodology and it’s Differential Rating Model may be inspected and a copy be placed on the Shire’s website.

C2016-0602 Differential Ratings 2016/2017 – Proposed Rates and Minimums

That Council accepts and endorses the Finance Committee Recommendation/Decisions (1) and (2) from the Finance Committee Meeting held on 10 June 2016, on the Differential Ratings 2016/2017 – Proposed Rates and Minimums.

Council at its meeting held on 22 July 2016 adopted the following resolution:

C2016-0709 Differential Rating 2016-17 – Proposed Rates and Minimums

That Council:

1. Notes the submission received from McMahon Mining Title Services;
2. Make an application to obtain Ministerial approval for the following:
 1. To adopt rates in the dollar that exceed the 2:1 rates required pursuant to Section 6.33 (3) of the Local Government Act 1995, namely;
 - UV Mining/Mining Tenement 41.66623 cents;
 - UV Exploration and Prospecting 23.25062 cents;
 3. To impose a minimum rate of \$640.00 on vacant land in accordance with Section 6.35 (5) of the Local Government Act 1995.

Statutory Environment

Local Government Act 1995

s6.33. Differential general rates

- (3) In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.

s6.35. Minimum payment

- (5) If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land.

Financial Implications

Council is required to raise different rates to meet its total expenditure commitments.

Consultation

Nil

Comment

In accordance with Council Resolution adopted on 22 July 2016 an application was lodged to obtain Ministerial approval for the rates in the dollar that exceed the 2:1 rates required pursuant to Section 6.33(3) of the Local Government Act 1995.

Advice received from the Legislation Officer, Department of Local Government and Communities (DLGC) is that the above-mentioned rates are too high and that the Shire should consider efficiencies as an estimated 17% increase for Exploration and Prospecting and a 6.7% increase for Mining/Mining Tenements would not be supported.

Mr D. Carbone, on behalf of the Shire, stated to the Legislation Officer from DLGC, that a redistribution of the rates burden between the Differential Rating categories would not work as the Shire derives 94% of its rates from the above-mentioned categories. The only option open to Council is to retain the rates in the dollar and minimums imposed in the 2015-16 financial year and whether this would be acceptable to the Minister. The indications are that this option is acceptable to the Minister.

The attached work sheets reveal the following financial impact on the Shire:

1. The overall decrease in rates revenue between 2015-16 and 2016-17 is \$109,109.00 (\$1,819,860.00 less \$1,710,751.00) or negative 6%.
2. Rates to be derived from the various rating categories in percentage terms for 2016-17 are similar to 2015-16.
3. The 2016-17 valuations have decreased by \$281,818.00 when compared to 2015-16, mainly for the Mining/Mining Tenement category.
4. The over-all shortfall from not increasing the rate in the dollar and minimums in 2016-17 amounts to \$200,064.00 (\$1,910,815.00 less \$1,710,751.00). This shortfall to be offset from the expected surplus for 2015-16 less committed expenditure to be carried forward from the 2015-16 Annual Budget and/or reduction in operating and capital expenditure in the 2016-17 Annual Budget.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

Differential Rating 2016/17 – Proposed Rates and Minimums

That Council:

1. **Intends to impose the following Differential General Rates and Minimum payments:**

<u>Differential General Rate</u>	<u>Rate in the \$</u>
GRV – Town-sites Improved	0.07454640
GRV – Town-sites Vacant	0.07456640
UV – Pastoral/Rural	0.06575168
UV – Mining/Mining Tenement	0.37430250
UV – Exploration/Prospecting	0.19882530
<u>Minimum Payment</u>	<u>Minimum \$</u>
GRV – Town-sites Improved	270.00
GRV – Town-sites Vacant	620.00
UV – Pastoral/Rural	270.00
UV – Mining/Mining Tenement	270.00
UV – Exploration/Prospecting	270.00

2. **Subject to (1) above, the Department of Local Government and Communities, be advised accordingly.**

Moved:

Seconded:

Motion put and carried/lost

11.4 ADMINISTRATION

11.4.2 Report on Matters Outstanding as at 11 August 2016

Author:	Dominic Carbone
Interest Declared:	No interest to disclose
Date:	11 August 2016
Attachments (Yellow Cover)	Nil

Matter for Consideration

That Council note the report on outstanding matters.

Background

The report is compiled from resolutions of Council relating to reports presented to Council, Notice of Motions, and Urgent Business.

Statutory Environment

Nil

Business Implications

Nil

Consultation

Nil

Comment

Matters outstanding are detailed below with comments in relation to status.

Matters Outstanding			
MEETING DATE	ITEM REFERENCE	RESOLUTION	CURRENT STATUS
22 nd January 2016	2014-2015 Budget-Imposition of Rates and Minimum Proposal Requiring Ministerial Approval	That Council:	Application has been submitted. Awaiting on response from the State Administrative Tribunal (SAT).
		1/. Make application to the State Administrative Tribunal in accordance with Section 6.82 of the Local Government Act 1995 to have the following rates quashed:	
		- GRV-Town Vacant Land Minimum \$600	
		- UV-Mining/Mining Tenement 35:75 cents	
		- UV-Exploration and Prospecting 18:99 cents	

		2/. The Department of Local Government and Communities be advised of (1) above.	
22 nd January 2016	Application for funding – National Stronger Regions Fund	That the Chief Executive Officer prepare a funding application for the following project - The upgrade and extensions to the Shire of Yalgoo Information, Arts and Cultural Centre.	Application rejected. Awaiting reasons.
22nd January 2016	Application for Funding Round Five of the Heavy Vehicles Safety and Productivity Program.	That council engage the services of a suitable external consultant to prepare the application for funding for the new rest areas at Paynes Find for Round Five of the Heavy Vehicle Safety and Productivity Program.	Paperwork completed. Ready to be submitted to the Application Funding Round when it opens.
19-February-2016	Technical Services Report	The CEO organise an appropriate meeting to investigate the use of solar panels in Yalgoo	Visit arranged for 29 August 2016 in Carnarvon.
27-May-16	Prepare a Local Law for the Recovery of Costs from Damage to the Shire of Yalgoo Properties.	That Council request the CEO to investigate the legal requirements to create a Local Law to recover the costs associated with damage to Shire property and infrastructure.	Report N ^o 11.4.3 prepared for council consideration in this agenda.
27-May-16	Tourism	As per Notice of Motion - 11.4.7 Council Decision C2016-0713 - Report on Tourism Strategy for Yalgoo That Council: 1. Receive Report No. 11.4.7 on Tourism Strategy for Yalgoo 2. Aligns future initiatives to be undertaken to the Action Plan for the Shire of Yalgoo detailed in the Mid West Tourism Development Strategy. 3. Upload Yalgoo Festival video onto the Yalgoo webpage.	Emu Cup video uploaded to the Yalgoo website.
17-Jun-16	Assessment of Development Applications. For proposed advertising signage Lot 135 Piesse Street, Yalgoo.	That Council will be forwarded a report for consideration from the Shire’s Town Planning Consultant URBIS on which to base an assessment.	Report N ^o 11.2.1 prepared for Council consideration in this Agenda.
22-Jul-16	Report on Donation – Meekatharra School of the Air.	As per Notice of Motion - 11.4.9 Council Decision C2016-0715 - Report on Donation – Meekatharra School of the Air That Council approves a donation of \$1,000.00 to the Meekatharra School of the Air for the purpose of sending the schools year 5/6 student to Canberra in 2017.	Donation of \$1000 has been paid to the Meekatharra School of the Air.

22 Jul-16	Investigate establishing an Emergency Services Training Centre in Yalgoo.	CEO to investigate the level of support available from surrounding shires, DFES, St John Ambulance and costs involved re: Emergency Services Training Centre.	Report 11.4.4 prepared for Council consideration in this Agenda
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Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

Report on Matters Outstanding as at 11 August 2016

That Council receives Report N^o 11.4.2 Report on Matters Outstanding as at 11 August 2016.

Moved:

Seconded:

Motion put and carried/lost

11.4.3 Making a Local Law for the Recovery of Costs Associated with Damage to Shire Property

Author:	Dominic Carbone
Interest Declared:	No interest to disclose
Date:	11 August 2016
Attachments (Yellow Cover)	<ul style="list-style-type: none"> • Shire’s Property Insurance Policy • Victims of Crime Information

Matter for Consideration

To consider and receive the report in relation to the making of a Local Law for the recovery of costs associated with damage of Shire property.

Background

At the Ordinary Council Meeting held on the 27 May 2016, Council resolved as follows:
 “That Council request the CEO to investigate the legal requirements to create a local law to recover the costs associated with damage to Shire Property and Infrastructure”.

Statutory Environment

Local Government Act 1995

Division 2 Legislative functions of local governments

Subdivision 1 — Local laws made under this Act

3.5. Legislative power of local governments

- (1) A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.
- (2) A local law made under this Act does not apply outside the local government’s district unless it is made to apply outside the district under section 3.6.
- (3) The power conferred on a local government by subsection (1) is in addition to any power to make local laws conferred on it by any other Act.
- (4A) Nothing in the *Building Act 2011* prevents a local government from making local laws under this Act about building work, demolition work, a standard for the construction or demolition of buildings or incidental structures, or the use and maintenance of, and requirements in relation to, existing buildings or incidental structures, as those terms are defined in section 3 of that Act.
- (4) Regulations may set out —
 - (a) matters about which, or purposes for which, local laws are not to be made; or
 - (b) kinds of local laws that are not to be made,
 and a local government cannot make a local law about such a matter, or for such a purpose or of such a kind.
- (5) Regulations may set out such transitional arrangements as are necessary or convenient to deal with a local law ceasing to have effect because the power to make it has been removed by regulations under subsection (4).

3.10. Creating offences and prescribing penalties

- (1) A local law made under this Act may provide that contravention of a provision of the local law is an offence, and may provide for the offence to be punishable on conviction by a penalty not exceeding a fine of \$5 000.

- (2) If the offence is of a continuing nature, the local law may make the person liable to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.
- (3) The local law may provide for the imposition of a minimum penalty for the offence.
- (4) The level of the penalty may be related to —
 - (a) the circumstances or extent of the offence;
 - (b) whether the offender has committed previous offences and, if so, the number of previous offences that the offender has committed.
- [(5) *deleted*]
- (6) A local law made under this Act may specify the method and the means by which any fines imposed are to be paid and collected, or recovered.

3.12. Procedure for making local laws

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.
- (3) The local government is to —
 - (a) give Statewide public notice stating that —
 - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and
 - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.
* *Absolute majority required.*
- (5) After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the *Gazette* the local government is to give local public notice —
 - (a) stating the title of the local law; and
 - (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - (c) advising that copies of the local law may be inspected or obtained from the local government’s office.
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
- (8) In this section —

making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

3.14. Commencement of local laws

- (1) Unless it is made under section 3.17, a local law comes into operation on the 14th day after the day on which it is published in the *Gazette* or on such later day as may be specified in the local law.
- (2) A local law made under section 3.17 comes into operation on the day on which it is published in the *Gazette* or on such later day as may be specified in the local law.

3.15. Local laws to be publicized

A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.

3.16. Periodic review of local laws

- (1) Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.
- (2) The local government is to give Statewide public notice stating that —
 - (a) the local government proposes to review the local law; and
 - (b) a copy of the local law may be inspected or obtained at any place specified in the notice; and
 - (c) submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.
- (2a) A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.
- (3) After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.
- (4) When its council has considered the report, the local government may determine* whether or not it considers that the local law should be repealed or amended.

* *Absolute majority required.*

LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996

Part 1A — Local laws

2A. Matters about which local laws are not to be made (Act s. 3.5)

Local laws are not to be made —

- (a) requiring the payment of fees or charges for the parking of vehicles on any land under the care, control or management of a local government in any part of the district of Cottesloe west of Broome Street; or
- (b) enabling such a requirement to be imposed.

3. Prescribed manner of giving notice of purpose and effect of proposed local law (Act s. 3.12(2))

For the purpose of section 3.12 of the Act, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that —

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and

- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Strategic Implications

Nil

Consultation

Nil

Comment

Local Law

A Local Law made under the Local Government 1995 may provide that contravention of a provision of the Local Law is an offence and may provide for the offence to be punishable on conviction by a penalty not exceeding a fine of \$5,000.00.

The Local Law would be based on the utilisation of a Shire property i.e. a hall, recreation facility etc and penalties would be imposed if the hirer or user did not utilise the facility in accordance with the conditions set.

Bonds

The Shire may hire a facility and charge a bond for the purpose of recovery of costs associated for the upkeep of the facility, i.e. if the hirer left the facility in untidy condition, the Shire may engage cleaners and the cost offset against the bond. Bonds are set as part of the Schedule of Fees and Charges.

Insurance

The Shire's property insurance policy responds to claims resulting from the destruction or damage not specifically excluded in the insurance policy. The deductible/excess to any one loss ranges from \$100.00 to \$1,000.00.

Victims of Crime

The Shire may be able to apply to the Court sentencing an offender for a compensation or restitution order. The Shire or the Prosecutor can make an application at the time the offender is sentenced or up to twelve months after the date of sentencing.

A Reparation Order could be either of the following:

- Compensation Order, where an offender makes a compensation payment to the victim of the crime for loss of, or damage to property and expenses reasonably incurred.
- Restitution Order, requiring that property is returned to the victim.

In both instance, if the offender does not comply, civil action can be taken through the courts.

A Court cannot make a Compensation Order if it believes that:

- The offender could not comply with the order due to insufficient means:
- Paying the compensation would unduly prejudice the welfare of the offender's dependents.

Payment of compensation cannot be made as a condition of a Community-based Order or an Intensive Supervision Order.

If the intent is to make a Local Law to recover costs for damage of Shire property then this is limited to the user of the property. The Shire through its property insurance policy or by pursuing a Common Law claim or a Compensation Order may recover the cost of the damages incurred.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

Making a Local Law for the Recovery of Costs Associated with Damage to Shire Property

That Council receives Report N^o 11.4.3, making a Local Law for the Recovery of Costs Associated with Damage to Shire Property.

Moved:

Seconded:

Motion put and carried/lost

11.4.4 Establishment of an Emergency Services Training Centre in Yalgoo

Author:	Dominic Carbone
Interest Declared:	No interest to disclose
Date:	12 August 2016
Attachments (Yellow Cover)	<ul style="list-style-type: none"> • Report BDO12 Works Depot: Replace Workshop (CLGF 2013/14) and Proposal for Volunteer Emergency Services Training Operations Centre (VESTOC) • Business Case

Matter for Consideration

To consider and receive the report on the Establishment of an Emergency Services Training Centre in Yalgoo.

Background

Council at its Ordinary Council Meeting held on 18 April 2013 (copy attached) considered the matter of constructing a Volunteer Emergency Services Training Operations Centre (VESTOC).

The Council at the time adopted the following resolution:

- “That Council:
 1. Approves the concept of constructing a Volunteer Emergency Services Training and Operational Centre at the Shire depot; and
 2. Authorises the CEO to use the CLGF 2013-14 depot precinct funds to leverage funds for construction of the centre”.

A Business Case was prepared for the project (copy attached).

Statutory Environment

Nil

Business Implications

Project be subject to successful grant applications.

Consultation

Nil

Comment

The Council may give consideration to revisit the project and review the Business Case prepared in relation to possible location, potential funding sources and facility requirements.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

Establishment of an Emergency Services Training Centre in Yalgoo

That Council engage/not engage the services of a suitable Consultant to undertake a review of the Business Case for the construction of a Volunteer Emergency Services Training and Operations Centre (VESTOC) in Yalgoo.

Moved:

Seconded:

Motion put and carried/lost

11.4.5 The Shire of Yalgoo Local Emergency Management Committee

Author:	Dominic Carbone
Interest Declared:	No interest to disclose
Date:	12 August 2016
Attachments (Yellow Cover)	Shire of Yalgoo Local Emergency Management Plans 2016: <ul style="list-style-type: none"> • General Plan, • Local Welfare Support Management Plan, • Local Recovery Plan, • Emergency Risk Management Plan

Matter for Consideration

That Council give consideration and adopts the following Local Emergency Management Plans 2016:

- General Plan,
- Local Welfare Support Management Plan,
- Local Recovery Plan,
- Emergency Risk Management Plan.

Background

RESPONSIBILITIES IN RELATION TO EMERGENCY MANAGEMENT ARRANGEMENTS

Key responsibilities relevant to local emergency management arrangements are as follows:

Local Government – subject to the Act the responsibilities of local governments are:

- To ensure that effective local emergency management arrangements are prepared and maintained for its district;
- To manage recovery following an emergency affecting the community in its District;
- To establish one or more local emergency management committees for its District;
- To make its emergency management arrangements available for Inspection, free of charge, by members of the public during office hours;
- To keep a copy of its local emergency management arrangements at the offices of the local government.

Local Emergency Management Committees (LEMC)

- To advise and assist the local government in ensuring that local emergency management arrangements are established for its district;
- To liaise with public authorities and other persons in the development,
- To review and test the local emergency management arrangements; and
- To carry out other emergency management arrangement activities as directed by the SEMC prescribed by the regulations.

Statutory Environment

Emergency Management Act 2005

Section 38.(1)

Local emergency management committees:

- (1) A local government is to establish one or more local emergency management committees for the local government’s district.

Business Implications

Nil

Consultation

Shire of Yalgoo Local Emergency Management Committee

Comment

At the Shire of Yalgoo Local Emergency Management Committee meeting held on Friday 24 June 2016 adopted the following resolutions:

The LEMC Committee agreed to endorse the Shire of Yalgoo Local Emergency Management Plans.

The Plans comprise the:

- General Plan;
- Plan for the Provision of Welfare Support;
- Interim Emergency Risk Management;
- Local Recovery Plan.

The Emergency Management Act 2005 requires that a local government is to ensure that local emergency management arrangements are prepared and maintained for the Local Government District. The above-mentioned plans form part of these arrangements, the plans are updated and tested on a regular basis.

The Council is requested to adopt the above-mentioned plans.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

Shire of Yalgoo Emergency Management Plans

That Council adopts the following Local Emergency Management Plans 2016:

- **General Plan,**
- **Local Welfare Support Management Plan,**
- **Local Recovery Plan,**
- **Emergency Risk Management Plan.**

Moved:

Seconded:

Motion put and carried/lost

12. NOTICE OF MOTIONS

12.1 PREVIOUS NOTICE RECEIVED

13. URGENT BUSINESS

14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

STATUTORY ENVIRONMENT – MEETING CLOSED TO THE PUBLIC

Councillors are obliged to maintain the confidentiality of matters discussed when the meeting is closed. Fines of up to \$10,000 or two years imprisonment apply to certain offences relating to misuse of information.

The following legislative extracts were downloaded from www.auslii.edu.au on 8 November 2010.

Local Government Act 1995

s5.23. Meetings generally open to the public

- (1) Subject to subsection (2), the following are to be open to members of the public —
 - (a) all council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
 - (a) a matter affecting an employee or employees;
 - (b) the personal affairs of any person;
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to —

- (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government’s property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971 ; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

s5.92 Access to information by council, committee members

- (1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.
- (2) Without limiting subsection (1), a council member can have access to —
 - (a) all written contracts entered into by the local government; and
 - (b) all documents relating to written contracts proposed to be entered into by the local government.

s5.93. Improper use of information

A person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law —

- (a) to gain directly or indirectly an advantage for the person or any other person; or
- (b) to cause detriment to the local government or any other person. Penalty: \$10 000 or imprisonment for 2 years.

Local Government (Rules of Conduct) Regulations 2007

s6. Use of information

- (1) In this regulation —
 - closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
 - confidential document means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;
 - non-confidential document means a document that is not a confidential document.
- (2) A person who is a council member must not disclose —
 - (a) information that the council member derived from a confidential document; or
 - (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subregulation (2) does not prevent a person who is a council member from disclosing information —
 - (a) at a closed meeting; or
 - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or

- (e) to the Minister; or
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

15. NEXT MEETING

The next Ordinary Meeting of Council is due to be held in the Paynes Find Community Centre, Paynes Find on Friday 30 September 2016 commencing at 11.00 am.

16. MEETING CLOSURE

