



Shire of
YILGARN

“good country for hardy people”

Minutes

*Ordinary Meeting of
Council*

March

2017

Table of Content

1 Official Opening.....	3
2 Record of Attendance.....	3
3 Disclosure of Financial/Impartiality Report.....	3
4 Public Question Time.....	3
5 Confirmation of Minutes.....	4
6 Announcements by the Presiding Member and Councillors.....	4
7 Chief Executive Officer Reports.....	6
7.1 Adoption of Local Laws	6
7.2 Delegation Register	25
7.3 Rating Strategy	27
7.4 Policy 3.6 Signing of Cheques	29
8 Deputy Chief Executive Officer Reports.....	32
8.1 Financial Reports	32
8.2 Accounts for Payment	34
9 Executive Manager Infrastructure Reports.....	n/a
10 Manager Regulatory Services Reports.....	31
10.1 Application for Non-Conforming Fence	36
10.2 Planning Application-Fuel Storage	38
11 Manager Community Services Reports.....	43
11.1 CSRFF Application-Mt Hampton Tennis Court Resurfacing	43
12 Information Book Items.....	46
13 Notice for Motions for Which Prior Notice has been Given.....	46
14 Urgent Business approved by the Presiding Member or by Decision.....	46
15 Confidential Items.....	46
16 Closure of Meeting.....	46

1. OFFICIAL OPENING

The Presiding Member declared the meeting open at 4:00pm

2. RECORD OF ATTENDANCE

PRESENT

Presiding Member President-Cr O Truran

Members Deputy President- Cr W Della Bosca
 Cr B Close
 Cr J Della Bosca
 Cr P Nolan
 Cr D Pasini
 Cr K Chrisp

Council Officers B Jones, Chief Executive Officer
 R Bosenberg, Executive Manager Infrastructure
 N Warren, Manager Regulatory Services
 L Della Bosca, Minute Taker

Apologies: Nil
Leave of Absence: Nil
Observers: Mrs. C Crafter

3. DISCLOSURE OF FINANCIAL/IMPARTIALITY INTEREST

Cr W Della Bosca declared an interest in item 10.2

4. PUBLIC QUESTION TIME

Mrs. C Crafter attended public question time and posed the questions

- Does the Shire of Yilgarn have a transparency policy in regards to decisions made at Council meetings?
- Has the Shire had any communication regarding Hanking and the de-watering of the Golden Pig mine?

Cr Onida Truran advised that the public is welcome to view Council meeting minutes either at the Shire offices or on the Shires website and advised that the Shire had not received any official correspondence from Hanking or any regulatory body in regards to the Golden Pig Mine dewatering.

5. CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council Thursday 16th February 2017

17/2017

Moved Cr W Della Bosca/Seconded Cr Nolan

That the minutes from the Ordinary Council Meeting held on the 16th February 2017 be confirmed as a true record of proceedings

Voting Requirements: Simple Majority

Carried (7/0)

5.2 Ordinary Council Meeting Thursday 16th February 2017 Action Sheet

18/2017

Moved Cr J Della Bosca/Seconded Cr Chrisp

That the Action Sheet for the Council Meeting held on Thursday 16th February 2017 be received

Voting Requirements: Simple Majority

Carried (7/0)

5.3 Audit Committee Meeting Thursday 16th February 2017

19/2017

Moved Cr W Della Bosca/Seconded Cr J Della Bosca

That the minutes of the Audit Committee Meeting held on Thursday 16th February 2017 be confirmed as a true record of proceedings and the recommendation be adopted by council.

Voting Requirements: Simple Majority

Carried (7/0)

6. ANNOUNCEMENTS BY THE PRESIDNG MEMBER AND COUNCILLORS

Cr O Truran announced the following

- On 18th February attended the Yoga workshop run by the CRC, this workshop was well attended and will run again.
- Attended the CWA morning tea with the CWA state president Heather Allen on the 22nd February
- Thank you to Cr W Della Bosca attending the GECZ and chairing the LEMC meeting in my place on the 23rd February
- Thank you to the Manager Community Services for presenting medals at the YSSSA on the 24th February in my absence.
- Attended the swimming pool working group meeting on the 28th February.
- On the 11th March attended the Ladies Day hosted by the CRC, the event was well attended and feedback indicates that it was enjoyed by all.
- Attended the Yilgarn Occasional Child Care Meeting on the 13th March.
- Cr Truran is going to be out of the State from 1st to 16th April.

Cr Nolan announced he attended the Agcare meeting in Nungarin.

Cr W Della Bosca announced the following

- Attended the GECZ meeting with the CEO on the 23rd February
- Also chaired the LEMC meeting on the 23rd February
- Attended the DOAC meeting in Merredin with the Manager Regulatory Services on the 13th March

Cr J Della Bosca announced that she attended the Swimming Pool working group meeting on the 28th February and the Ladies Day on the 11th March.

7. Reporting Officer – Chief Executive Officer

7.1 Adoption of Local Laws

File Reference	2.3.2.11
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Attachments	Copy of amended Local Laws

Purpose of Report

To consider making local laws

Background

At the ordinary Council meeting held on Friday 16 December 2016 Council passed the following resolution:

1. *That Council, in regards to the Local Law Review conducted in accordance with section 3.16 of the Local Government Act 1995;*
 - a) *Approves no amendments to the Trading in Public Places (1992) Local Law and the Health (1997) Local Law.*
 - b) *Agrees to repeal:*
 - a. *the Cemetery - Southern Cross (1980) Local Law,*
 - b. *the Rubbish Clearing & Removal of (1992) Local Law,*
 - c. *the Swimming Pool Complex (1997) Local Law*
 - c) *Agrees to:*
 - a. *Replace the Fencing (1983) Local Law with a new local law,*
 - b. *Replace the Standing Orders (1997) Local Law with a new local law,*
 - c. *Replace the Dogs (1997) Local Law with a new local law*
2. *That Council, in accordance with section 3.12 of the Local Government Act, 1995:*
 - a) *Approves the giving of statewide public notice of the following local laws (as shown below) in order to seek public comment:*
 - a. **Repeal Local Law (2017)**
PURPOSE: To repeal superfluous, defunct and obsolete local laws.

EFFECT: To allow more efficient and effective local government by removing outdated local laws from the public record.

b. Dogs Local Law (2017)

PURPOSE: *To make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs and to prescribe areas in which dogs are prohibited and dog exercise areas.*

EFFECT: *To extend the controls over dogs which exist under the Dog Act 1976*

c. Fencing Local Law (2017)

PURPOSE: *To prescribe a sufficient fence and the standard for the construction of fences throughout the district.*

EFFECT: *To establish the minimum requirements for fencing within the district.*

d. Local Government (Council Meetings) Local Law (2017)

PURPOSE: *To provide rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.*

EFFECT: *To result in:*

- a. better decision-making by the Council and committees;*
- b. the orderly conduct of meetings;*
- c. better understanding of the process of conducting meetings; and*
- d. the more efficient and effective use of time at meetings.*

b) Submit to the Minister for Local Government a copy of all proposed local laws;

- ✓ Statewide public notice, as required by section 3.12(3)(a) of the local government act was effected by advertisement in the West Australian Newspaper on Wednesday 21 December 2016.
- ✓ A copy of the proposed local laws and a copy of the statewide public notice was forwarded to the Minister on Tuesday 20 December 2016, as required by section 3.12(3)(b) of the local government act.
- ✓ The public submission period closed on Tuesday 7 March 2017.

Comment

Comment on the proposed Local Laws has been received by the Department Local Government and Communities. The comments and recommended action (in green) for each Local Law is detailed below:

Repeal Local Law 2017

1. Local Law Title

It is suggested that the Shire bold, capitalise and remove italics from its title.

Local Law amended as recommended

2. Enacting Provision

The enacting provision assumes that the local law is going to be made on 16 March 2017. If the local law is made on a different day, the date should be corrected accordingly.

Noted

3. Clause 1

Italicise "*Shire of Yilgarn Repeal Local Law 2017*" as citation titles should always be in italics.

Local Law amended as recommended

4. Clause 2

To reflect best practice, it is suggested that the Shire amend its commencement clause as follows:

--

This local law comes into operation 14 days after the date of its publication in the Government Gazette.

Local Law amended as recommended

5. Clause 3

It is suggested that the Shire insert "as amended" before referring to an amendment date. For example in clause (3)(a), the Shire should amend as follows:

Buildings By Laws as published in the Government Gazette on 11 October 1935 and as amended in the Government Gazette on 6 December 1946, 26 November 1948 and 22 August 1952.

Local Law amended as recommended

6. Clause 3(a)

It appears that 11 October 1935 is the principal law for the *Buildings By Laws*. The 22 February 1935 gazette is an amendment which refers to an earlier set of building by-laws gazetted on 23 November 1928. The earlier local law and the amendment were both repealed by the Shire on 30 July 1997.

It is suggested that the reference to "22 February 1935" be removed as it is unnecessary.

The Department has corrected the local law register to note that the 22 February 1935 local law has already been repealed.

Local Law amended as recommended

7. Clause (3)(b)

It is suggested that "11 September 1931" be deleted. The Department has checked this gazette and cannot identify any Yilgarn by-law referring to *Straying Stock*.

The relevant item in the Department's local law register has been deleted, as the Department can find no evidence that it relates to a current instrument.

Local Law amended as recommended

8. Citation titles

In addition, the Shire should ensure that citations reflect the citation titles as they appear in the *Government Gazette*. For example (not an exhaustive list):

- In paragraph (b) "*Straying Stock*" should be replaced with "*By-law to Prohibit Straying Stock*".
- In paragraph (d) "*Parking*" should be replaced with "*Parking Places at Southern Australia*".
- In paragraph (h) "*Rubbish Clearing & Removal*" should be replaced with "*Clearing and Removal of Trees, Scrub, Undergrowth, Refuse, Rubbish, Vehicle Bodies, Disused Materials and Unsightly items/Object from Land*".

Local Law amended as recommended

Local Government (Council Meetings) Local Law 2017

1. Enacting provision and common seal

The current date of 16 March 2017 in the enactment clause and common seal is incorrect.

Under section 3.12(4) of the *Local Government Act 1995*, a local law can only be made after the public submission period has closed.

The date that should appear in the enactment clause and common seal will be a date after the public submission period, when the Council considers the final copy of the proposed local law and resolves to 'make' that local law.

The Shire should ensure the correct date appears in the final copy of the local law when it is formally made by the Council. A failure to do this may result in the Delegated Legislation Committee requesting an undertaking to amend the local law.

The date is the date of the Council meeting and is correct if adopted on that date. Public submission period closed on 7 March 2017. This has been clarified with the DLGC

2. Page numbers

It is suggested the page numbers be removed from the contents page and in the footer. These numbers may no longer be accurate when the local law is published in the *Government Gazette*.

In the event that the Shire chooses to maintain a public version of the local law in hard copy or electronic format, the Shire can choose to retain the contents page with page numbers.

Page numbers have been removed from the contents page and footer

3. Citation year

It is suggested that the title of the local law be changed to *Shire of Yilgarn Local Government (Council Meetings) Local Law 2017* to account for the fact the local law will be made and gazetted in 2017. This change should be reflected throughout the local law.

The local law is titled with 2017, this has been clarified with the DLGC

4. Bracketed references to clauses other legislation

Clauses 1.6(3)(a), 5.2(3), 8.12(d), 8.14, 8.15, 10.3(5), 11.1(g) and 11.7(2) (not an exhaustive list) contain bracketed references to clauses of the local law and other legislation.

The Delegated Legislation Committee has expressed concerns regarding this practice. It is suggested that the bracketed references be removed from the final draft of the local law prior to gazettal.

Local Law amended as recommended

5. Clause 1.2 – Commencement

It is suggested that clause 1.2 be redrafted in the following terms:

This local law comes into operation 14 days after the date of publication in the *Government Gazette*.

Local Law amended as recommended

6. Clause 1.4 Interpretation

It is suggested that the Shire inserts a definition for the term "*district*". The Shire may also wish to insert a definition for the term *Officer* as the term is used frequently throughout the local law.

A definition for District and Officer has been included as recommended

7. Clause 1.5 – Repeal

In line with best drafting principles, it is suggested clause 1.5 be redrafted. An example below has been provided for the Shire's consideration:

The *Shire of Yilgarn Local Laws Relating to Standing Orders* published in the *Government Gazette* on 30 July 1997 is repealed.

In addition, the Shire should ensure that citations reflect the titles as they appear in the *Government Gazette*. The year "1997" should be deleted from the citation, as it does not appear in the title of the local law that was published in the *Government Gazette*.

Local Law amended as recommended

8. Clause 6.12 – Boxed note referring to legislation

Clause 6.12 contains a boxed note containing an extract from the *Local Government Act 1995*.

The Delegated Legislation Committee has raised concerns with this practice in its 23rd Report. This is because:

- The references have no legal effect in themselves; and
- The references will become misleading if the part of the Act is amended.

It is suggested that the boxed reference be deleted from the gazette version of the local law. In the event that the Shire chooses to maintain a public version of the local law in hard copy or electronic format, the Shire can choose to retain the reference for the benefit of readers.

It is further noted that clause 1.6 provides an explanation of the boxed references contained within the local law. As the local law contains only one boxed note in clause 6.12, if the note is deleted, the Shire may also remove clause 1.6 and the reference to clause 1.6 in the contents page.

Local Law amended as recommended

9. Clause 6.16 – Recording of proceedings

It is suggested that the word "vocal" should be replaced with "audio".

The Shire may also find it useful to add a new subclause after subclause (1):

- (2) If the Presiding Member gives permission under subclause (1), the Presiding Member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

Local Law amended as recommended and clause 6.16(2) included

10. Clause 8.8 – Relevance

It is suggested that the phrase "or decorum" at clause 8.8(2)(a)(ii) be removed. This phrase can be subject to a variety of interpretations and this uncertainty has previously been raised as an issue by the Delegated Legislation Committee.

The Shire should consider what issues of decorum are contemplated by this clause. If the issue relates to offensive conduct or interruptions, it is likely that it can already be raised as a point of order under other clauses.

Local Law amended as recommended

11. Clause 19.1 – Penalty for breach

It is suggested that the penalty for breach of the local law is reduced to \$1000 with a daily penalty of \$100 for continuing offences.

Offences under standing orders are relatively minor when compared to local laws that involve matters of public safety of local government property. The Delegated Legislation Committee has previously requested undertakings when local governments try to impose the maximum penalty permitted under the *Local Government Act 1995*.

In addition, it is suggested that the clause be redrafted to include “where the offence is of a continuing nature”. The Committee has recently expressed concerns with this kind of wording. As the clause is currently written, it may be interpreted to mean that the daily penalty of \$500 would occur on the first day, along with the \$5,000 penalty. This would mean that the total penalty is \$5,500, which is inconsistent with the *Local Government Act 1995* that imposes a maximum penalty of \$5,000.

An example has been provided below for the Shire’s consideration:

19.1 Penalty for breach

A person who commits an offence under this local law is liable to a penalty of \$1000 and where the offence is of a continuing nature, to a daily penalty of \$100 in respect of each day or part of day during which the offence has continued.

Local Law amended as recommended

12. Minor edits

The following minor edits are suggested:

- Ensure the table of contents accurately reflects the contents of the local law. For example, clause titles for Part 4 Division 1 in the table of contents are inconsistent with the clause titles as shown in Part 4 Division 1 in the local law.
- In line with best drafting principles, it is suggested to change all references of “these Local Laws” to read “this local law”. If this change is made, the definition of **Local Law** under clause 1.4 should be updated accordingly. This comment also refers to the term “Local Government”. It is suggested to change all references of “Local Government” to “local government”.
- In line with best drafting principles, it is suggested to substitute numbers expressed in words with digits, for example “two” with “2”.
- Ensure defined terms, such as “Member”, are expressed consistently throughout – for example, at clause 6.15.
- The Shire uses colons and dashes interchangeably throughout the local law. For best drafting principles, it is suggested that the Shire choose one, and use it consistently.

- State Law Publisher's current formatting for defined terms are that they should be **bolded** and *italicised* with no quotation marks. Clauses 5.4, 5.5, 6.11 and 16.3 should be amended to reflect this.
- **Clause 1.1:** italicise "Shire of Yilgarn Local Government (Council Meetings) Local Law 2017".
- **Clause 1.4:**
 - a. Defined terms should be listed in alphabetical order. Move the defined term *President* after the terms *meeting* and *Member*.
 - b. In the definition of *simple majority*, delete the comma after the word "and".
- **Clause 1.5:** remove the designation (1) as there are no other subclauses. The Department has provided an alternative drafting suggestion for this clause above.
- **Clause 5.1(4):** the reference to "Reports (Item 10)" should be to "Reports (Item 9)" if it is intended to refer to the order of business set out in clause 5.2(1).
- **Clause 5.2(3):** delete the bracketed reference to the Act and Regulations.
- **Clause 6.10(2):** insert a space between "subclause" and "(3)".
- **Part 7:** Each of subclauses (1) to (5) should have a clause title and number. The clause numbering of the local law otherwise skips from clause 6.17 to clause 8.1.
 - a. In subclause (3) redesignate (i) and (ii) with (a) and (b).
 - b. In subclause (4) redesignate (i) and (ii) with (a) and (b).
- **Clause 9.5(3)(b):** move all text from "the Presiding Member" onto a new line aligned with designations (a) and (b).
- **Clause 10.16(4)(a):** insert the word "and" after the semicolon.
- **Clause 13.4**
 - a. In subclause (1)(c), delete the comma after the word "and".
 - b. In subclause (3)(a), delete the comma after the word "or".
- **Clause 14.2(2):** replace "is to include" with "are to include".
- **Clause 15.2(c):** delete "[speaking twice]".
- **Clause 17.2(1)(b):** replace "these Standing Orders" with "this local law".

The Shire should ensure that all references and cross references in the local law are accurate, particularly if any changes are made as a result of these comments.

Local Law amended as recommended

Fencing Local Law 2017

1. Contents page

Due to the length of the local law, it is suggested that the local law include a contents page. This will enable readers to determine the contents of the local law at a glance. However, page numbers are not necessary in the contents page.

Contents page has been included

2. Enactment clause and common seal

The current date of 16 March 2017 in the enactment clause and common seal is incorrect.

Under section 3.12(4) of the *Local Government Act 1995*, a local law can only be made after the public submission period has closed.

The date that should appear in the enactment clause and common seal will be a date after the public submission period, when the Council considers the final copy of the proposed local law and resolves to 'make' that local law.

The Shire should ensure the correct date appears in the final copy of the local law when it is formally made by the Council. A failure to do this may result in the Delegated Legislation Committee requesting an undertaking to amend the local law.

The date is the date of the Council meeting and is correct if adopted on that date. Public submission period closed on 7 March 2017. This has been clarified with the DLGC

3. Clause 1.3 – Purpose and effect

Clause 1.3 sets out the purpose and effect of the local law. This clause has no legislative effect and can be removed if the Shire wishes.

While the *Local Government Act 1995* requires the purpose and effect to be included in the public notices relating to a proposed local law, there is no requirement to include the purpose and effect in the local law itself.

Clause 1.3 removed as recommended

4. Clause 1.4 – Repeal

The Shire should ensure that citations reflect the titles as they appear in the *Government Gazette*. For example, "The Shire of Yilgarn Fencing by-law" should be replaced with "The Municipality of the Shire of Yilgarn By-laws Relating to Fencing".

Local Law amended as recommended

5. Australian Standards

The Delegated Legislation Committee has expressed concerns with the use of Australian Standards in local laws, as the Standards are protected by copyright and are not public documents.

The Committee has expressed that where Australian Standards are used, the general public should be informed by the Shire as to where they can freely access these Standards. The Committee may inquire as to how this information is to be made available to the public.

If any specific Standards are referred to in the local law, the Shire should ensure that the citations are accurate. If the citation is inaccurate, the Committee may request that the citation be amended.

6. Clause 1.5 – Definitions

It is suggested that the Shire inserts a definition for each of the following terms which are used in the local law:

- *authorised person*;
- *manufacturer's specifications* or *manufacturer's written instructions* (one consistent term should be used, defined at clause 1.6 and then expressed consistently throughout);
- *right-of-way*;
- *public access way*; and
- *structural engineer*.

Whilst not all of these definitions are necessary, they may assist readers and reduce the possibility of misinterpretation.

It is suggested the term *front fence* is removed as there is no other mention of the word in the local law.

Definition for "front fence" removed, definitions for "authorised person" and "structural engineer" included

7. "Licence" or "approval"

The local law defines the term "licence" and the forms in Schedules 5 and 6 are "licences"; however, the relevant clauses in the local law refer to an "approval". If the terms are intended to mean the same thing they should be standardised. If an "approval" is intended to be something different than a "licence", a separate definition for *approval* should be included at clause 1.6 of the local law.

Recent local laws adopted by local governments do not have a definition of "approval" and a "licence" is clearly defined as an electrified fence licence or a razor wire fence licence. No change made.

8. Clause 2.3 – Gates in fences

Paragraph (a) currently provides that a gate in a fence which does not open into the "lot" should not be erected. It is unclear which "lot" is being referred to in situations where a gate is built on a fence between two lots. It is suggested that the Shire redrafts this clause to provide clarification on what should occur in this situation.

Definition amended by including "if the gate is providing access to a thoroughfare"

9. Clause 2.11 – Requirement for a licence

Under subclause (1), a person shall not erect, maintain or alter an electrified fence or a fence constructed of razor wire without first obtaining approval. Under subclause 2(b), approval must not be issued unless the fence complies with the relevant standard.

These subclauses may be interpreted to mean that a fence would need to comply with the standard prior to obtaining approval. Since a fence cannot comply with a standard until it is built, the only way to obtain approval would be to erect the fence without approval. This would be in breach of subclause (1)(a).

It is suggested that the Shire reviews and redrafts subclauses (2) and (3) to ensure it reflects its intentions. For example, the Shire could provide that compliance with the standard is a condition of having the fence rather than a requirement for obtaining approval to build it. Alternatively, the clause could be drafted so that when approval is issued, it is subject to a condition that the fence will be built in accordance with the standard.

2.11, 2(b) amended by removing “unless the prohibited fence complies with” and inserting “unless the fence will comply with”

10. Clause 6.2 – Modified Penalties

It appears that the purpose of clause 6.2(3) is to provide guidance to an authorised person when he or she issues an infringement notice for an offence under the local law.

As this clause is only there for guidance, it has no direct legislative effect. It is suggested that clause 6.2(3) is not included in the local law but rather in a separate guidance or practice manual that officers can refer to when administering and enforcing the local law.

Clause 6.2(3) removed as recommended

11. Minor edits

The following minor edits are suggested:

- **Clause 1.5:**
 - a. In the definition of *AS or AS/NZS*, replace the full stop with a semicolon.
 - b. In the definition of *Barbed wire fence*, remove the capitalisation of the first letter.
 - c. In the definition of *local government*, remove the italics from “*Shire of Yilgarn*”.
 - d. In the definition of *sufficient fence*, insert a semicolon after “clause 2.1” and insert the word “and” after it.
- **Clause 1.6:** italicise “Local Government Act 1995”.
- **Clause 2.2:**

- a. Replace all instances of “front set-back area” with “front setback area” to ensure consistency with the defined term and the clause title. This comment also applies to other instances of the term “front setback area” appearing throughout the local law.
- b. It is suggested that subclause (2) is divided into multiple subclauses.
- **Clause 2.3:** delete the designation “(1)”, as there are no other subclauses.
- **Clause 2.4:** delete the word “whatsoever”.
- **Clause 2.8(1):** replace “where” with “if”.
- **Division 3 – Fencing materials:** The paragraph between the title of Division 3 and the beginning of clause 2.9 should be contained in a clause. The paragraph can be moved into an existing clause if the Shire wants to avoid renumbering.
- **Clause 2.10:**
 - a. The local law uses “millimetres” and “mm” interchangeably. It would be preferable to pick one approach and use it consistently. This comment also applies to various other clauses in the local law and its Schedules, including clauses 2.2 and 2.11; however, this is not an exhaustive list and it is for the Shire to ensure terms are expressed consistently throughout.
 - b. At subclause (3) replace “setback” with “set back”.
 - c. Align subclause (6) so it matches the other subclauses.
- **Clause 2.11(2)(b)**
 - a. Replace “prohibited” with “electrified”.
 - b. Remove the quotation marks surrounding “AS/NZS 3016:2002 Electrical installations-Electricity security fences”.
- **Clause 3.1(2)(d):** replace “sections 6.19” with “sections 6.16 to 6.19”.
- **Clause 6.2(2):** replace “directly opposite” with “directly adjacent to”.
- **Clause 6.3(b):** replace “in Schedule 1” with “of Schedule 1”.
- **Clause 7.1:** replace “the provision of” with “the provisions of”.
- **Schedule 1:**
 - a. Item 1 – replace “which” with “that”.
 - b. Item 2 – after “setback area” insert “of a Residential Lot”.
- **Schedule 2:**
 - a. **Timber fence:** At (c), insert a new line before the words beginning “(d) all posts” and renumber the remaining paragraphs accordingly.
 - b. **Timber fence:** At (f) reference is made to “clause 7”. This does not appear to be the correct reference.

- c. **Corrugated fence:** At (d) there is another reference to "clause 7".
- d. **Composite fence:** At (c) replace "shall by" with "shall be".
- **Schedule 3:**
 - a. **Galvanised or PVC fence and gate:** At (e) replace "local planning schemes" with "district planning scheme".
- **Schedule 4:** at **Non-electrified fence**, each of paragraphs (a) to (c) should end with a semicolon instead of a full stop.
- **Schedule 5:** at (c) replace "Chief Executive Officer" with "CEO".
- **Schedule 6:** replace "[insert name of local government]" with "Shire of Yilgarn" and at (c) replace "Chief Executive Officer" with "CEO".

Local Law amended as recommended

Dogs Local Law

1. Local Law Title

It is suggested that the Shire bold, capitalise and remove the italics from its local law title.

Local Law amended as recommended

2. Enactment Clause

The enacting provision assumes that the local law is going to be made on 16 March 2017. If the Shire's schedule changes and the local law is made on a different day, the date should be corrected accordingly.

Noted

3. Clause 1.4

The Shire should amend "*Shire of Yilgarn Dogs local law*" to "*Shire of Yilgarn Local Laws Relating to Dogs*" to accurately reflect the gazettal publication.

Local Law amended as recommended

4. Clause 1.5

It is suggested that the Shire include a definition for "owner" to provide clarity. For example:

owner in relation to a dog means the person whom the dog is ordinarily kept or a person who is deemed by section 3(2) of the Act to be the owner of the dog;

Definition included as recommended

5. Clause 3.1 – premises

It is also suggested that the Shire include a definition for "premises" in order to clearly identify who the occupier is.

For example:

(3) *premise*, for the purpose of determining who is the occupier has its meaning given to it in the Act.

Clause 3.1(3) included as recommended

6. Clause 3.1 – penalty

This clause imposes a \$4,000 penalty for the failure to confine a dangerous dog and \$2,000 for failure to confine dogs generally.

Confinement of dangerous dogs is dealt with in section 33GA(2) of the Dog Act, which provides that a dangerous dog must be confined whenever it is not tethered or leashed and under the direct control of an adult. This section provides for a maximum penalty of \$10,000. Since the penalty is twice the maximum penalty which a local law can impose, local governments are required to enforce the penalty directly via the Dog Act rather than via a local law. A modified penalty for failing to confine a dangerous dog is unnecessary, since a modified penalty is already prescribed in the Dog Regulations.

The penalties for dangerous dogs listed at 3.1 and offence 3.1 in Schedule 3 should therefore be deleted to avoid inconsistency with the Dog Act,.. It is also suggested that the Shire add an additional subclause to clause 3.1 explaining this issue. An example for drafting purposes is:

(4) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and Regulations.

Local Law amended as recommended

7. Clause 3.2

It is suggested that the Shire include a definition for “townsite” in order to avoid confusion.

A definition for “townsite” has been included as recommended

8. Clause 4.9

This clause provides that a person must comply with the conditions of a kennel licence. The Act and Regulations already provide the following penalties for failing to comply with a kennel licence:

- (a) an unmodified penalty of \$5,000;
- (b) a daily penalty of \$100; and
- (c) a modified penalty of \$200.

These penalty amounts apply, irrespective of whether the offence involves a dangerous dog or not.

It is suggested that the penalties in clause 4.9 and Schedule 3 be amended to ensure consistency with the penalties already set in the Act and Regulations.

Local Law amended as recommended

9. Clause 4.13

Subclause (2)(c) provides that a local government may cancel a license if the licensee is not a "fit and proper person". It is suggested that the term "fit and proper" be clarified, since it is not certain what circumstances may qualify as sufficient grounds for cancellation.

Clause 4.13(2)(c) removed

10. Clause 5.1

It is suggested that the Shire include the following clause to provide further clarity of who falls within the scope of a "person liable for the control of the dogs":

(4) person liable for the control of the dog has its meaning given to it in the Act.

Clause 5.1(4) included as recommended

11. Clause 6.3 – Issue of infringement notice and Clause 6.6 – Withdrawal of infringement notice

While the Dog Regulations have infringement notices, these notices are designed to be used for offences under the Dog Act or Dog Regulations. If the Shire wishes to use these forms, it should modify the "Alleged offence" box on the form to refer to an offence under the local law instead.

Since the *Dog Act 1976* and *Dog Regulations 2013* do not prescribe what form of infringement notices should be used by local governments for breaches of local laws, the relevant forms can be those prescribed by section 9.17 of the *Local Government Act 1995* and regulation 26(2) of the *Local Government (Functions and General) Regulations 1996*.

If the Shire wishes to do this, the cross references in clauses XX and XX should be updated accordingly.

Alternatively, the Shire can create its own forms for infringement notices and withdrawal notices. In that case, the local government can remove the specific references to forms and simply refer to a notice "in the form determined by the local government from time to time".

Local Law amended as recommended by including "in the form determined by the local government from time to time"

12. Schedule 3

It is suggested that an "item" column be inserted into the table in Schedule 3 as this will make the local law easier to amend in the future.

An "item" column has been included as recommended

13. Clause 4.14

Clause (3) is worded confusingly. It is suggested that it be reworded in the following terms:

*"(3) The local government may –
(a) approve, subject to such conditions as it considers appropriate; or
(b) refuse to approve,
an application for the transfer of a licence under this clause.. "*

Clause 4.14(3) amended as recommended

14. Minor Edits

- Contents page – The Schedule titles should be included, so a person reading the contents page can identify what each Schedule contains.
- Clause 1.1 – italicise “2017”.
- Clause 1.5 – The *Planning and Development Act 2005* uses the term “local planning scheme” rather than “town planning scheme”. The definition for ***town planning scheme*** should be reviewed to ensure the terminology is correct.
- Part headings should be in normal case.
- Remove capitals from clause titles in the contents – to accurately reflect the title e.g. change “1.1 CITATION” to “1.2 Citation”.
- Capitalise the “c” in each schedule’s title.
- Remove the underline in the “Schedule 1” title.
- Change references to “First Schedule” to “Schedule 1”.

Local Law amended as recommended

The comments received from the DLGC, as detailed above, cover a number of aspects including general typographical, editorial and formatting issues. It is noted that these changes do not affect the intent of the proposed local laws and have been incorporated into the final documents.

At the close of the advertising period there were no comments received from the community.

Statutory Environment

Local Government Act

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) summarising 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.

Strategic Implications

Decision to consider new local laws was made by Council following the eight year statutory review of local laws.

Policy Implications

Nil

Financial Implications

Council included \$10,000 in the 2016/17 Budget. As the review has been undertaken in-house the actual cost will be well below budget and mainly consists of advertising costs.

Recommendation

That Council:

- **Note that no community submissions were received in relation to the:**
 - **Repeal Local Law (2017);**
 - **Dogs Local Law (2017);**
 - **Fencing Local Law (2017); and**
 - **Local Government (Council Meetings) Local Law (2017).**
- **Agree that the proposed changes, as recommended by the Department of Local Government and Communities and included in the:**
 - **Repeal Local Law (2017);**
 - **Dogs Local Law (2017);**
 - **Fencing Local Law (2017); and**
 - **Local Government (Council Meetings) Local Law (2017)**

are not considered significantly different to that which was originally advertised.

- **Agree to accept all changes proposed and adopt the:**
 - **Repeal Local Law (2017);**
 - **Dogs Local Law (2017);**
 - **Fencing Local Law (2017); and**
 - **Local Government (Council Meetings) Local Law (2017).**
- **Advertise the adopted local laws in the *Government Gazette*.**
- **Submit to the Minister for Local Government, following advertising in the *Government Gazette*, a copy of the adopted local laws.**
- **Advertise, as a local public notice, the adoption of the local laws.**
- **Submit the Explanatory Memorandum and associated papers to the Joint Standing Committee on Delegated Legislation.**

Resolution

20/2017

Moved Cr Close/Seconded Cr Chrisp

That Council:

- ***Note that no community submissions were received in relation to the:***
 - ***Repeal Local Law (2017);***
 - ***Dogs Local Law (2017);***
 - ***Fencing Local Law (2017); and***
 - ***Local Government (Council Meetings) Local Law (2017).***

- ***Agree that the proposed changes, as recommended by the Department of Local Government and Communities and included in the:***
 - ***Repeal Local Law (2017);***
 - ***Dogs Local Law (2017);***
 - ***Fencing Local Law (2017); and***
 - ***Local Government (Council Meetings) Local Law (2017)***

are not considered significantly different to that which was originally advertised.

- ***Agree to accept all changes proposed and adopt the:***
 - ***Repeal Local Law (2017);***
 - ***Dogs Local Law (2017);***
 - ***Fencing Local Law (2017); and***
 - ***Local Government (Council Meetings) Local Law (2017).***

- ***Advertise the adopted local laws in the Government Gazette.***

- ***Submit to the Minister for Local Government, following advertising in the Government Gazette, a copy of the adopted local laws.***

- ***Advertise, as a local public notice, the adoption of the local laws.***

- ***Submit the Explanatory Memorandum and associated papers to the Joint Standing Committee on Delegated Legislation.***

Carried (7/0)

7. Reporting Officer – Chief Executive Officer

7.2 Delegations Register

File Reference	2.3.3.6
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Attachments	Three New Delegations

Purpose of Report

To review Council Delegations

Background

Section 5.46(2) of the local government act requires delegations to be reviewed at least once every financial year.

Council last reviewed delegations at the March 2016 ordinary Council meeting.

Comment

All current Delegations remain relevant with the exception of Delegation HEALTH01 due to the introduction of the Health Services Act 2016 which will replace the Health Act 1911.

It is recommended that Delegation HEALTH01 be removed and replaced with three new Delegations as attached.

Statutory Environment

5.42. Delegation of some powers and duties to CEO

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

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

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

* Absolute majority required.

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

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

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

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

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Recommendation

That Council, having reviewed the Delegations currently in force, agree to remove the Delegation HEALTH01 and replace with the three delegations attached, with all other Delegations to be retained.

Resolution

21/2017

Moved Cr W Della Bosca/Seconded Cr Pasini

That Council, having reviewed the Delegations currently in force, agree to remove the Delegation HEALTH01 and replace with the three delegations attached, with all other Delegations to be retained.

Carried (7/0)

7. Reporting Officer – Chief Executive Officer

7.3 Rating Strategy

File Reference	8.1.1.5/8.2.5.5
Disclosure of Interest	Nil
Voting Requirements	Simple
Attachments	Rating Strategy 2017/18

Purpose of Report

To consider the adoption of Rating Strategy for 2017/18

Background

A copy of a draft Rating Strategy for 2017/18 is attached for Councils consideration.

Comment

The purpose of the Rating Strategy is to enable Council to provide direction regarding the setting of rates for the 2017/18 Budget preparation and Differential rates processes.

Statutory Environment

Nil

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

Implications of the rating strategy will be incorporated in the 2017/18 draft Budget.

Recommendation

That Council adopt the Rating Strategy 2017/18 as presented

Resolution

22/2017

Moved Cr Chrisp/Seconded Cr J Della Bosca

That Council adopt the Rating Strategy 2017/18 as presented

Carried (6/1)

Cr Nolan is recorded as being against the motion

7. Reporting Officer – Chief Executive Officer

7.4 Signing of Cheques

File Reference	2.3.3.2
Disclosure of Interest	Nil
Voting Requirements	Simple
Attachments	Nil

Purpose of Report

To consider amending Policy 3.6 Signing of Cheques, by including two additional signatories.

Background

Council Policy 3.6 authorises the following persons to sign cheques and authorise electronic payments, noting they must be authorised by two persons; Chief Executive Officer, Deputy Chief Executive Officer and Executive Manager Infrastructure.

Comment

Council previously had four signatories and with the departure of the former Manager Environmental Health & Building Services in early 2016 this was reduced to three. With the current vacant position of Executive Manager Corporate Services (previously Deputy CEO) there are now only two signatories available until the new Executive Manager Corporate Services commences with the Shire in April 2017.

This means that if either the Chief Executive Officer or Executive Manager Infrastructure is away then payments cannot be authorised and processed. It is noted that the CEO will be away from the office during the next payroll period and if this Policy change is not adopted payroll will not be able to be paid.

It is recommended that the Manager Regulatory Services and Manager Community Services be added as authorised signatories. It is further recommended that payments must be authorised by at least one of the following positions; Chief Executive Officer, Executive Manager Corporate Services or Executive Manager Infrastructure.

Statutory Environment

Local government (financial management) regulations 12 and 13.

Strategic Implications

Nil

Policy Implications

Policy 3.6 Signing of Cheques

Financial Implications

Nil

Recommendation

That Council Policy 3.6 Signing of Cheques be amended by removing:

These payments, made either by cheque or Direct Debit, are to be signed or electronically authorised by any two of the following authorised persons:

- **Chief Executive Officer**
- **Deputy Chief Executive Officer**
- **Executive Manager Infrastructure**

and replacing with

These payments, made either by cheque or Direct Debit, are to be signed or electronically authorised by any two of the following authorised persons:

- **Chief Executive Officer**
- **Executive Manager Corporate Services**
- **Executive Manager Infrastructure**
- **Manager Community Services**
- **Manager Regulatory Services**

provided that at least one of the authorised persons is either the Chief Executive Officer, Executive Manager Corporate Services or Executive Manager Infrastructure.

Resolution

23/2017

Moved Cr Close/Seconded Cr Pasini

That Council Policy 3.6 Signing of Cheques be amended by removing:

These payments, made either by cheque or Direct Debit, are to be signed or electronically authorised by any two of the following authorised persons:

- *Chief Executive Officer*
- *Deputy Chief Executive Officer*
- *Executive Manager Infrastructure*

and replacing with

These payments, made either by cheque or Direct Debit, are to be signed or electronically authorised by any two of the following authorised persons:

- *Chief Executive Officer*
- *Executive Manager Corporate Services*
- *Executive Manager Infrastructure*
- *Manager Community Services*
- *Manager Regulatory Services*

provided that at least one of the authorised persons is either the Chief Executive Officer, Executive Manager Corporate Services or Executive Manager Infrastructure.

Carried (7/0)

8. Reporting Officer– Deputy Chief Executive Officer

8.1 Financial Reports

File Reference	8.2.3.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	See attachment 8.1

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 28th February, 2017:

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

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

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

Comment

Nil

Statutory Environment

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

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Recommendation

That Council endorse the various Financial Reports as presented for the period ending 28th February 2017.

Resolution

24/2017

Moved Cr Pasini/Seconded Cr W Della Bosca

That Council endorse the various Financial Reports as presented for the period ending 28th February 2017.

Carried (7/0)

8. Reporting Officer– Deputy Chief Executive Officer

8.2 Accounts for Payment

File Reference	8.2.1.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	See attachment 8.2

Purpose of Report

To consider the Accounts for Payment

Background

Municipal Fund – Cheque Numbers 40375 to 40388 totalling 11792.17, Municipal Fund-EFT Numbers 5966 to 6053 totalling 623,071.49, Municipal Fund – Cheque Numbers 1323 to 1328 totalling 174,329.69, Municipal Fund Direct Debit Numbers 11466.1 to 11505.12 totalling 39,028.04, Trust Fund 402241 to 402243 totalling 738.65 and Trust Fund – Cheque Numbers 1322 to 1322 and 6049 to 6052 (DPI Licensing), totalling 44,555.55 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

Recommendation

Municipal Fund – Cheque Numbers 40375 to 40388 totalling 11792.17, Municipal Fund-EFT Numbers 5966 to 6053 totalling 623,071.49, Municipal Fund – Cheque Numbers 1323 to 1328 totalling 174,329.69, Municipal Fund Direct Debit Numbers 11466.1 to 11505.12 totalling 39,028.04, Trust Fund 402241 to 402243 totalling 738.65 and Trust Fund – Cheque Numbers 1322 to 1322 and 6049 to 6052 (DPI Licensing), totalling 44,555.55 are presented for endorsement as per the submitted list.

Resolution

25/2017

Moved Cr Close/Seconded Cr W Della Bosca

Municipal Fund – Cheque Numbers 40375 to 40388 totalling 11792.17, Municipal Fund-EFT Numbers 5966 to 6053 totalling 623,071.49, Municipal Fund – Cheque Numbers 1323 to 1328 totalling 174,329.69, Municipal Fund Direct Debit Numbers 11466.1 to 11505.12 totalling 39,028.04, Trust Fund 402241 to 402243 totalling 738.65 and Trust Fund – Cheque Numbers 1322 to 1322 and 6049 to 6052 (DPI Licensing), totalling 44,555.55 are presented for endorsement as per the submitted list.

Carried (7/0)

10 Officers Report – Manager Regulatory Services

10.1 Application for Non-Conforming Fence

File Reference	2.2.3.4
Disclosure of Interest	Nil
Voting Requirements	Simple majority
Attachments	Attachment 10.1 - Proposed Non-Conforming Fence

Purpose of Report

To determine an application for installation of a non-conforming fence.

Background

The Shire has received a request to install a non-conforming fence, being a razor wire fence.

The property in question is a holding yard at 2A Spica Street, Southern Cross. The yard is used for storage of vehicles; some impounded by Police, and has had several alleged break-ins over the past months, with the current barbed wire fence proving to be an insufficient deterrent.

The owners propose to install razor wire along the internal perimeter of the existing fence, to be attached to the top two strands of the existing three barbed wire strands. Due to the construction of the existing fence, the barbed wire strands are inset from the external boundary by approximately 70mm meaning no part of the razor wire will protrude outside of the property boundary.

The colour bond panel fence measures 1.8 metres in height with the barbed wire approximately 2.0 metres (bottom strand) to 2.4 metres (top strand).

Comment

The Shires current *Fencing Local Law 1983* has no provision for the installation of razor wire fences; as such the proposal is deemed a non-conforming fence which requires Council consent prior to installation.

Statutory Environment

Shire of Yilgarn Fencing Local Law 1983

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Recommendation

That council:

Permit the installation of razor wire to the existing barbed wire strands on the perimeter fence of 2A Spica Street, Southern Cross.

Resolution

26/2017

Moved Cr Pasini/Seconded Cr Chrisp

That council:

Permit the installation of razor wire to the existing barbed wire strands on the perimeter fence of 2A Spica Street, Southern Cross.

Carried (6/1)

Cr J Della Bosca is recorded as being against the motion.

Cr W Della Bosca declared an interest and left the room at 4.26pm

10 Officers Report – Manager Regulatory Services

10.2 Planning Application – Fuel Storage

File Reference	3.1.3.6
Disclosure of Interest	Nil
Voting Requirements	Simple majority
Attachments	Attachment 10.2 – Proposed Location of Storage Tank

Purpose of Report

To determine an application for fuel storage at 51 Taurus Street, Southern Cross

Background

The Shire has received a Planning Application for the storage of fuel at 51 Taurus Street Southern Cross. The applicant proposes to install an overhead gravity fed 2,000 litre diesel storage container on the property. An occupant of the property runs a grader as part of their small business and requires diesel storage.

The applicant is seeking approval prior to purchasing a tank and as such specific dimensions are not available, however, tank dimensions are generally 1.1 metres in diameter and 2.0 metres in length, with the stand usually between 1.6 to 2.4 metres in height.

The tank will be able to be sighted from the road.

Alternatively, the applicant has suggested a second option of a 2,000 litre tank housed on a stationary trailer.

Attachment 10.2 shows the proposed location of the storage tank.

Bunding will be required in the event of spillage, as well as an onsite spill kit.

Fuel is not to be on-sold and is purely for business purposes.

Comment

The Manager Regulatory Services has followed up with the Department of Mines and Petroleum who mentioned it was only required to be licenced if storing over 100,000 litres of diesel, and with Worksafe, who advised they had no issues with it being in a residential property, as long as all manufacturers requirements were complied with.

The property is zoned “residential”, and the storage of fuel is a use not listed under the Shire of Yilgarn Town Planning Scheme 2 (TPS2).

The definition of “residential” in TPS2 is as follows”

“The Residential Zone is to be used primarily for single houses on separate lots. 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 residential environment and where Council is satisfied that they will benefit the community and not result in being a nuisance.”

Clause 3.2.5 of TPS2 states:

If the use of the land for a particular purpose is not specially mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation on one of the use categories the Council may:

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
- (b) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the "SA" procedures of Clause 6.3 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.*

Clause 6.3 as mentioned in 3.2.5 (b) of TPS2 states:

- 6.3.1 Where an application is made for planning approval to commence or carry out development which involves an 'SA' use, the Council shall not grant approval to that application unless notice of the application is first given in accordance with the provisions of sub-clause 6.3.3.*
- 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.*

6.3.4 *The notice referred to in sub clause 6.3.3 (a) and (b) shall be in the form contained in Appendix 6 with such modifications as circumstances require.*

6.3.5 *After expiration of twenty-one days from the serving of notice of the proposed development, the publication of notice or the erection of a sign or signs, whichever is the later, the Council shall consider and determine the application.*

Statutory Environment

Shire of Yilgarn Town Planning Scheme 2

Strategic Implications

Goal: A prosperous future for our community

Outcome: Businesses in the Shire remain competitive and viable

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

Policy Implications

Nil

Financial Implications

Nil

Recommendation

Council has three options as per the Town Planning Scheme 2 as follows:

1. **THAT COUNCIL: Determine that the storage of fuel is a use consistent with the objectives and purposes of the residential zoning for 51 Taurus Street, Southern Cross, and is therefore permitted on the following conditions:**
 1. Comply with relevant manufacturers requirements;
 2. Install adequate bunding;
 3. Have a spill kit onsite at all times;
 4. Have a setback of one metre from all boundaries.

Or

2. **THAT COUNCIL: Determine that the storage of fuel is a use that may be consistent with the objectives and purpose of the residential zoning of 51 Taurus Street, Southern Cross and thereafter follow the "SA" procedures of Clause 6.3 in considering an application for planning approval by requiring notice of the proposal in one or more of the following formats:**

1. 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.
2. 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.
3. 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.

After the notice period, the matter is to be returned to Council for final determination.

Or

3. **THAT COUNCIL:** Determine that the storage of fuel is a use not consistent with the objectives and purposes of the residential zoning of 51 Taurus Street, Southern Cross and is therefore not permitted.

Resolution

27/2017

Moved Cr Pasini/Seconded Cr Nolan

THAT COUNCIL: *Determine that the storage of fuel is a use consistent with the objectives and purposes of the residential zoning for 51 Taurus Street, Southern Cross, and is therefore permitted on the following conditions:*

1. *Comply with relevant manufacturers requirements;*
2. *Install adequate bunding;*
3. *Have a spill kit onsite at all times;*
4. *Have a setback of one metre from all boundaries.*

Lost (2/4)

28/2017

Moved Cr Truran/Seconded Cr Close

THAT COUNCIL: Determine that the storage of fuel is a use that may be consistent with the objectives and purpose of the residential zoning of 51 Taurus Street, Southern Cross and thereafter follow the "SA" procedures of Clause 6.3 in considering an application for planning approval by requiring notice of the proposal in one or more of the following formats:

- 1. 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.**

After the notice period, the matter is to be returned to Council for final determination.

Carried (4/2)

Cr Nolan is recorded as being against the motion

Cr W Della Bosca rejoined the meeting at 4.31pm

11. Reporting Officer – Manager Community Services

11.1 CSRFF application Mt Hampton tennis court resurfacing

File Reference	1.3.8.5 / 8.2.6.16
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Nil

Purpose of Report

To endorse re-application of CSRFF funding for Mt Hampton tennis courts resurfacing and commit to financial support in 2017/18.

Background

The Shire has been approached by the Mt Hampton Tennis Club regarding possible support for the resurfacing of the Mt Hampton synthetic tennis courts.

Contact has been made with the Department of Sports and Recreation (DSR) about possible Community Sporting and Recreation Facilities Fund (CSRFF) funding.

At the ordinary council meeting held in August 2016 council passed the resolution to support the application and contribute \$15,610 towards the replacement of the courts and an application for funding has been lodged in August 2016.

The Shire has been notified that the application was unsuccessful in December 2016 but we have been encouraged to re-apply in March 2017 by current Minister for Sport and Recreation Mia Davies MLA.

The purpose of the CSRFF is to provide Western Australian Government financial assistance to community groups and local government authorities to develop basic infrastructure for sport and recreation.

All projects are assessed by Department of Sports and Recreation (DSR) on the following principles:

- Project justification.
- Planned approach.
- Community consultation.
- Management planning.
- Access and opportunity.
- Design.
- Financial viability.
- Coordination.
- Potential to increase physical activity.
- Sustainability.

DSR requests that Council place a priority and rating on all applications within its municipality. The ratings are to be assessed on the following criteria:

- Well planned and needed by the municipality (high)
- Well planned and needed by the applicant (medium/high)
- Needed by the municipality but more planning required (medium)
- Needed by the applicant but more planning required (medium/low)
- Idea has merit, but more planning required (medium/low); and
- Not recommended

Comment

The project will be managed and all funds administered by the Shire of Yilgarn.

No tenders have to be called as the total project total cost is under \$150,000.

The Mount Hampton Tennis club has since the last application successfully obtained a grant of \$5,000 from CBH towards the project cost.

Statutory Environment

Nil

Strategic Implications

Nil

Policy Implications

STRATEGIC COMMUNITY PLAN

Aligns with Strategic Community Plan to “*continue to provide and maintain high quality community infrastructure (recreation centre, oval, lawn bowls, tennis facilities, swimming pool, library, community centre, public halls).*”

Financial Implications

Council has previously agreed to contribute towards this project and the amount of \$15,610 has been included in Council’s 2016/17 budget.

The recommended amount of \$15,610 needs to be included in 2017/18 budget.

The project expenditure budget is based on the following figures (excluding GST):

Mt Hampton Tennis Club cash contribution	\$17,890
Mt Hampton volunteer labour & donated material	\$ 2,723
Shire of Yilgarn	\$15,610
CSRFF Grant	<u>\$15,000</u>
Total	\$47,673

Recommendation

That Council:

- Agree that the CSRFF application for the Mt Hampton Tennis court resurfacing project be ranked as the number one project and be rated as HIGH (well planned and needed by the municipality).
- Confirm that the Shire of Yilgarn will contribute \$15,610 in cash towards the costs of the project in 2017/18 and include the amount in the 2017/18 budget.

Resolution

29/2017

Moved Cr Chrisp/Seconded Cr W Della Bosca

That Council:

- *Agree that the CSRFF application for the Mt Hampton Tennis court resurfacing project be ranked as the number one project and be rated as HIGH (well planned and needed by the municipality).*
- *Confirm that the Shire of Yilgarn will contribute \$15,610 in cash towards the costs of the project in 2017/18 and include the amount in the 2017/18 budget.*

Carried (6/1)

Cr J Della Bosca is recorded as being against the motion

12 INFORMATION BOOK ITEMS

Nil

13 NOTICE FOR MOTIONS FOR WHICH PRIOR NOTICE HAS BEEN GIVEN

Nil

14 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY DECISION

Nil

15 CONFIDENTIAL ITEMS

Nil

16 CLOSURE OF MEETING

As there was no further business to discuss, the Shire President declared the meeting closed at **4.33pm**

I, Onida T Truran confirm the above Minutes of the Meeting held on Thursday, 16th March 2017, are confirmed on Thursday, 20th April 2017 as a true and correct record of the March Ordinary Meeting of Council.

Cr Onida Truran
SHIRE PRESIDENT