



# Ordinary Council Meeting Minutes

**Date: 19 October 2011**

**Please Note: These minutes and the decisions recorded therein have not as yet been confirmed by Council as a true and accurate record of the meeting.**

## **The Shire of Moora Vision and Mission Statement**

### **Vision**

Our vision is that:

*The Moora region will be a place of brilliant opportunity over the next twenty years. Sustainable growth will result in a vibrant, healthy, wealthy and diverse community.*

### **Mission**

Our mission is:

*To identify and stimulate growth through creative leadership and a willingness to get things done.*

**SHIRE OF MOORA**  
**MINUTES OF THE ORDINARY MEETING OF COUNCIL**  
**HELD IN THE COUNCIL CHAMBERS, MOORA**  
**19 OCTOBER 2011**

**Declarations by Newly Elected Councillors**

Prior to the commencement of the meeting, those Councillors elected at the Ordinary Election on Saturday 15 October 2011 completed their declarations as required by Section 2.29 of the Local Government Act 1995.

Councillors Chris Hawkins, Robert Keamy, James McLagan and Tracy Humphry completed their declarations before Mrs Cynthia McMorran, OAM JP in the Council Chambers at 5.30pm.

---

**TABLE OF CONTENTS**

---

<b>1.</b>	<b>DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS</b>	<b>3</b>
	<b>1.1 DECLARATION OF OPENING</b>	<b>3</b>
	<b>1.2 DISCLAIMER READING</b>	<b>3</b>
<b>2.</b>	<b>ELECTION OF SHIRE PRESIDENT</b>	<b>3</b>
<b>3.</b>	<b>ELECTION OF DEPUTY SHIRE PRESIDENT</b>	<b>3</b>
<b>4.</b>	<b>ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE</b>	<b>4</b>
<b>5.</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b>	<b>4</b>
<b>6.</b>	<b>PUBLIC QUESTION TIME</b>	<b>4</b>
<b>7.</b>	<b>PETITIONS AND PRESENTATIONS</b>	<b>4</b>
<b>8.</b>	<b>APPLICATIONS FOR LEAVE OF ABSENCE</b>	<b>5</b>
<b>9.</b>	<b>ANNOUNCEMENTS BY THE PRESIDING MEMBER</b>	<b>5</b>
<b>10.</b>	<b>CONFIRMATION OF MINUTES</b>	<b>5</b>
	<b>10.1 ORDINARY COUNCIL MEETING - 21 SEPTEMBER 2011</b>	<b>5</b>
	<b>10.2 SPECIAL MEETING OF COUNCIL - 11 OCTOBER 2011</b>	<b>5</b>

<b>11. DELEGATIONS TO COMMITTEES / WORKING GROUPS</b>	<b>5</b>
<b>12. REPORTS OF OFFICERS</b>	<b>10</b>
<b>12.1 CORPORATE SERVICES</b>	<b>10</b>
12.1.1 List of Payments Authorised Under Delegation 1.31 *	10
12.1.2 Statement of Financial Activity for Period Ended 30 September 2011 *	11
12.1.3 Assistance to Moora Health Centre	12
12.1.4 Constitutional Recognition	14
12.1.5 Shire of Moora Communication Policy *	16
12.1.6 Shire of Moora Communication Plan *	18
12.1.7 Endorsement of Shire of Moora Local Emergency Management Committee Annual Business Plan 2011-2012 and 2010-2011 Annual Report *	20
<b>12.2 HEALTH, BUILDING &amp; PLANNING SERVICES</b>	<b>22</b>
12.2.1 Building Application Lot 27 16 Roberts Street Moora *	22
12.2.2 Town Planning Committee Recommendations	23
12.2.3 Proposed Scheme Amendment No. 10 –Shire of Moora Town Planning Scheme No 4 *	24
<b>12.3 COMMUNITY &amp; ECONOMIC DEVELOPMENT</b>	<b>36</b>
<b>12.4 ENGINEERING SERVICES</b>	<b>36</b>
<b>13. ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	<b>37</b>
<b>14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING</b>	<b>37</b>
<b>15. MATTERS FOR WHICH THE MEETING MAY BE CLOSED</b>	<b>7</b>
<b>15.1 Appointment of Manager Health, Building and Planning Services</b>	<b>8</b>
<b>16. CLOSURE OF MEETING</b>	<b>37</b>

\* Separate Attachments

<i>Item 11.1.1</i>	<i>List of Payments Authorised Under Delegation 1.31</i>
<i>Item 11.1.2</i>	<i>Statement of Financial Activity for the Period Ended 30 September 2011</i>
<i>Item 11.1.5</i>	<i>Shire of Moora Communication Policy</i>
<i>Item 11.1.6</i>	<i>Shire of Moora Communications Plan (without attachments)</i>
<i>Item 11.1.7</i>	<i>LEMC Annual Business Plan 2011-2012 &amp; LEMC Annual Report 2010-2011</i>
<i>Item 11.2.1</i>	<i>Drawings</i>
<i>Item 11.2.3</i>	<i>Draft Scheme Amendment Maps x 2 &amp; Draft Flood Classifications map</i>

## **I. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

### **I.1 DECLARATION OF OPENING**

*The Acting Chief Executive Officer declared the meeting open at 5.40pm, welcomed visitors and assumed the chair until the election of the Shire President.*

### **I.2 DISCLAIMER READING**

*No responsibility whatsoever is implied or accepted by the Shire of Moora for any act, omission or statement or intimation occurring during this meeting.*

*It is strongly advised that persons do not act on what is heard at this meeting and should only rely on written confirmation of Council's decision, which will be provided within fourteen (14) days of this meeting.*

## **2. ELECTION OF SHIRE PRESIDENT**

The Acting Chief Executive Officer conducted an election for the position of Shire President for a term of two years.

The Acting Chief Executive Officer advised that prior to the meeting he had received written nominations for the position of Shire President for Cr Keamy and Cr Gardiner.

There being no further nominations the Acting Chief Executive Officer closed the nominations and declared an election would be held.

All votes were counted resulting in 4 votes for Cr Keamy and 5 votes for Cr Gardiner. The Acting Chief Executive officer then declared Cr Colin Gardiner elected as Shire President for a term of two years.

Cr Gardiner made the declaration required by Section 2.29 of the Local Government Act 1995 before Mrs Cynthia McMorran, OAM JP.

Councillor Gardiner thanked Councillors for their support and for electing him as Shire President and assumed the chair.

## **3. ELECTION OF DEPUTY SHIRE PRESIDENT**

The Shire President conducted an election for the position of Deputy Shire President for a term of two years. He advised that written nominations had been received for Councillors Keamy, Tonkin, Clydesdale-Gebert and Cocking prior to the meeting.

The Shire President called for any further nominations. There being no further nominations the Shire President closed the nominations and declared an election would be held. The Shire President requested the Acting Chief Executive Officer conduct the election.

All votes were counted resulting in 3 votes for Cr Keamy, 4 votes for Cr Tonkin, 0 votes for Cr Clydesdale-Gebert and 2 votes for Cr Cocking. The Acting Chief Executive Officer then declared Cr Arthur Tonkin elected as Deputy President for a term of two years.

Cr Tonkin then made the declaration required by Section 2.29 of the Local Government Act 1995 before Mrs Cynthia McMorran, OAM JP.

#### 4. **ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**

##### **ATTENDANCE**

SA Bryan	-	Shire President
CE Gardiner	-	Presiding Member
AR Tonkin	-	Councillor
CD Hawkins	-	Councillor
JW McLagan	-	Councillor
DV Clydesdale-Gebert	-	Councillor
R Keamy	-	Councillor
OC Cocking	-	Councillor
TG Humphry	-	Councillor
AJ Middleton	-	Acting Chief Executive Officer
L J Parola	-	Manager Finance & Corporate Services
JL Greay	-	Manager Engineering Services
R L McCall	-	Manager Community & Economic Development

##### **PUBLIC**

C McMorran OAM JP	-	Freeman
-------------------	---	---------

#### 5. **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

#### 6. **PUBLIC QUESTION TIME**

Nil

#### 7. **PETITIONS AND PRESENTATIONS**

The Chief Executive Officer advised that a petition had been received in relation to the level of rates charged in the Moora Shire. 189 signatures are listed with quite a number of them not being ratepayers in the Shire.

#### **COUNCIL RESOLUTION**

*121/11 Moved Cr Bryan, seconded Cr Gardiner that the petition be received and noted.*

**CARRIED** **9/0**

**8. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**9. ANNOUNCEMENTS BY THE PRESIDING MEMBER**

- Welcomed new Cr Tracy Humphry
- Announced that Council have appointed Mr Alan Leeson as the new Chief Executive Officer for a period of 3 years commencing on the 16<sup>th</sup> January 2012.
- Cr Bryan officiated at the Tidy Towns Presentations in Moora earlier this afternoon

**10. CONFIRMATION OF MINUTES****10.1 ORDINARY COUNCIL MEETING - 21 SEPTEMBER 2011****COUNCIL RESOLUTION**

*122/11 Moved Cr Hawkins, seconded Cr McLagan that the Minutes of the Ordinary Meeting of Council held on 21 September 2011 be confirmed as a true and correct record of the meeting.*

**CARRIED 9/0**

**10.2 SPECIAL MEETING OF COUNCIL - 11 OCTOBER 2011****COUNCIL RESOLUTION**

*123/11 Moved Cr Cocking, seconded Cr Tonkin that the Minutes of the Special Meeting of Council held on 11 October 2011 be confirmed as a true and correct record of the meeting.*

**CARRIED 9/0**

**11. DELEGATIONS TO COMMITTEES / WORKING GROUPS**

The Local Government Act 1995 Section 5.46 requires that a register of delegations be kept and that those delegations made must be reviewed at least once every financial year by the delegator (Council).

Now is the opportune time given the recent election to review the 'Delegations to Committee's/Working Groups' section of the Delegations Register.

A draft copy of the current delegations with proposed changes was attached to be reviewed by Councillors and updated accordingly.

**COUNCIL RESOLUTION**

**124/11 Moved Cr McLagan, seconded Cr Bryan that the document titled *Delegations to Committees / Working Groups, showing the appointment of members and representatives be adopted.***

**(1) Audit Committee**

**Membership:** 9 Councillors

**(2) Management Review Committee**

**Membership:** Shire President, Deputy Shire President, Cr Bryan and the Chief Executive Officer.

**(3) Town Planning Occasional Committee**

**Membership:** Cr Cocking, Cr Hawkins, Cr Keamy, Chief Executive Officer, Manager Community & Economic Development, Manager Engineering Services

**(4) Avon Zone** Cr Gardiner, Cr Tonkin

**(5) CMVROC** Cr Gardiner, Cr Tonkin

**PORTFOLIO GROUPS****(6) Business Development Group**

**Membership:** Manager Economic & Community Development, Cr Bryan, Cr Clydesdale-Gebert, Cr Tonkin, Cr Humphry

**(7) Operational Development Group**

**Membership:** Manager Engineering Services, Cr Gardiner (Chair), Cr McLagan, Cr Humphry.

**(8) Financial Development Group**

**Membership:** Manager Finance and Corporate Services, Cr Keamy (Chair) Cr Bryan, Cr Gardiner, Cr Cocking, Cr Clydesdale-Gebert.

**(9) Indigenous & Youth Community Group**

**Membership:** Chief Executive Officer, Manager Economic & Community Development, Be Active Coordinator, Youth Coordinator, Cr Bryan, Cr McLagan, Cr Hawkins, Cr Clydesdale-Gebert, Freeman Mrs Cynthia McMorran plus representatives from

Central Midlands Senior High School and Education Department, plus four nominated representatives from the Moora Aboriginal Progress Association (2 male and 2 female representatives)

**(10) Local Emergency Management Committee (LEMC)**

**Membership:** Cr Gardiner (Chair), Chief Executive Officer, Manager Engineering Services, Manager Health, Building & Planning Services and Community Emergency Services Manager plus representatives appointed by the LEMC Committee

**(11) Council Membership to other Committees**

- St James Residential College Board	Cr Bryan
- Landcare Groups (Rural Water Council / West Koojan-Gillingarra Land Conservation Committee )	Cr Tonkin
- Australia Day Awards Committee	Cr Bryan
- Community Resource Centre Management Committee	Cr Gardiner
- Aged Care Steering Committee	Cr Gardiner

**CARRIED 9/0**

**SUSPENSION OF STANDING ORDERS**

**COUNCIL RESOLUTION**

*125/11 Moved Cr McLagan, seconded Cr Bryan that the meeting suspend standing orders at 6.19pm to allow item 15.1 Appointment of Manager Health, Building and Planning Services to be considered prior to item 12.*

**CARRIED 9/0**

**15. MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

**COUNCIL RESOLUTION**

*126/11 Moved Cr Hawkins, seconded Cr McLagan that the meeting move behind closed doors to discuss Item 15.1, 'Appointment of Manager Health, Building and Planning Services' as it is a matter affecting employees pursuant to Section 5.23(2)(a) of the Local Government Act 1995.*

**CARRIED 9/0**

At 6.20pm the member of the public left and the meeting moved behind closed doors.



**15.1 APPOINTMENT OF MANAGER HEALTH, BUILDING AND PLANNING SERVICES**

Provided to Councillors under confidential cover.

**COUNCIL RESOLUTION  
(OFFICER RECOMMENDATION)**

*127/11 Moved Cr Cocking, seconded Cr McLagan that the Shire of Moora employs Mr Peter Williams as Manager for Health, Building and Planning Services on a three year contract with the following package structure;*

- **Commencing Salary** **\$70,000**

*Subject to satisfactory service, reflected in the officer's performance appraisal, this will be increased to \$80,000 at the commencement of the 2012/2013 financial year.*

- *Annual Leave – 5 weeks per annum. Leave loading is not applicable. Executive time off is available in consultation with the Chief Executive Officer.*
- *Vehicle – An executive level vehicle is offered for business and private use in accordance with Council Policy. The officer will be required to pay for fuel used on private use of the vehicle outside of the south west land division. The package value of the vehicle recognises that the vehicle may be required for use by other staff during work hours.*
- *Superannuation – 9% compulsory plus 6% council sponsored on a 1:1 basis for full contributing member contributing at least 5%. Salary Sacrifice is available.*
- *The Shire will provide an annual telephone allowance of \$250. This amount is a contribution towards the rental on a landline installed at the office's residence and provision of a mobile telephone. Council will meet the cost of all business related calls from the mobile telephone and reasonable amount for personal calls.*
- *Council will provide an amount of \$500 annually for the purchase of a uniform and ongoing replacement.*
- *Sick leave, long service leave and other benefits or conditions in the Local Government Industry Award 2010 are included in the package.*
- *Housing – The officer will be offered a 9-year-old executive 4-bedroom 2-bathroom house within the Moora Townsite. Rent payable by the officer is \$50 per week, which can be salary sacrificed. Based on a market rental of \$350 per week for similar housing in Moora, the rental subsidy for packaging purposes is \$15,600 per annum.*
- *A Bond will be payable on the property equivalent to four weeks rent (\$1,400). The property will be inspected by an approved property manager before tenancy commences and again on departure. If the property is not left in a suitable condition then expenses will be deducted from the bond to cover any outstanding costs.*

- ***Council will subsidise water consumption at the Shire residence to a maximum amount of \$1,000 per annum.***
  
- ***Relocation and removal expenses to Moora are available in accordance with Council Policy. A maximum amount of \$5,000 or 50% of the actual, whichever is lesser, will be paid towards the cost of relocation and removal expenses on the following basis - 50% on arrival, 50% after one year of service. Relocation expenses to be refunded in full if the Officer leaves on their own accord within the first 12 months. Reimbursement on a pro-rata basis will be required if the officer does not complete at least 2 years of the contract.***
  
- ***Council will provide up to \$2,000 per annum for the professional development of the Officer.***

**CARRIED            9/0**

### **REOPENING OF MEETING**

#### **COUNCIL RESOLUTION**

***128/11 Moved Cr Tonkin, seconded Cr Bryan that the meeting move out from behind closed doors and re-open to the public.***

**CARRIED            9/0**

The meeting reopened to the public at 6.25pm.

***On reopening the meeting, there were no public present therefore the Presiding Member did not read aloud the decisions made behind closed doors.***

### **RESUMPTION OF STANDING ORDERS**

#### **COUNCIL RESOLUTION**

***129/11 Moved Cr Bryan, seconded Cr Cocking that the meeting resume at 6.25pm.***

**CARRIED            9/0**

## **12. REPORTS OF OFFICERS**

### **12.1 CORPORATE SERVICES**

#### **12.1.1 LIST OF PAYMENTS AUTHORISED UNDER DELEGATION 1.31**

**REPORT DATE:** 12 October 2011

**OFFICER DISCLOSURE OF INTEREST:** Nil

**AUTHOR:** Leanne Parola, Manager Finance & Corporate Services

**ATTACHMENTS:** Accounts Paid Under Delegated Authority

#### **PURPOSE OF REPORT**

Payments have been made under delegated authority and a listing of these payments is attached for Council to note and endorse.

#### **BACKGROUND**

At the December 2005 Ordinary Meeting of Council resolution 276/2005 delegated the authority of payments from Municipal and Trust Funds to the Chief Executive Officer.

#### **COMMENT**

Accounts Paid under delegated authority are periodically presented to Council.

#### **POLICY REQUIREMENTS**

Delegation 1.31 – Payments from Municipal and Trust Funds.

#### **LEGISLATIVE REQUIREMENTS:**

Local Government Act 1995 - Section 6.10

Local Government (Financial Management) Regulations 1996 – Regulations 12 & 13.

#### **STRATEGIC IMPLICATIONS**

There are no known strategic implications associated with this proposal.

#### **SUSTAINABILITY IMPLICATIONS**

➤ **Environment**

There are no known significant environmental implications associated with this proposal.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

There are no known significant social implications associated with this proposal.

#### **FINANCIAL IMPLICATIONS**

Payments are in accordance with the adopted budget.

#### **VOTING REQUIREMENTS**

Simple Majority Required

<b>COUNCIL RESOLUTION (MANEX RECOMMENDATION)</b>
--

***130/11 Moved Cr Bryan, seconded Cr Tonkin that Council notes and endorses the Payments from the Municipal and Trust Funds made under delegation 1.31***

<b><i>Municipal Fund</i></b>	<b><i>Cheques 60498 to 60523</i></b>	<b><i>\$91,824.73</i></b>
<b><i>Direct Debits</i></b>	<b><i>EFT 6811 to 6901</i></b>	<b><i>228,820.81</i></b>
	<b><i>Net Pays – PPE 14 September 2011</i></b>	<b><i>81,770.94</i></b>
	<b><i>Net Pays – PPE 28 September 2011</i></b>	<b><i>92,306.11</i></b>
	<b><i>Credit Cards to 14 September 2011</i></b>	<b><i>2,511.08</i></b>
<b><i>Trust</i></b>	<b><i>Cheques 4726 to 4727</i></b>	<b><i>60.00</i></b>
<b><i>Total</i></b>		<b><i><u>\$497,293.67</u></i></b>
		<b><u>CARRIED</u>            <u>9/0</u></b>

**12.1.2 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 30 SEPTEMBER 2011**

**REPORT DATE:** 12 October 2011

**OFFICER DISCLOSURE OF INTEREST:** Nil

**PREVIOUS MEETING REFERENCES:** Nil

**AUTHOR:** Leanne Parola, Manager Finance & Corporate Services

**ATTACHMENTS:** Statement of Financial Activity for the Period Ended 30 September 2011

**PURPOSE OF REPORT:**

To note and receive the Statement of Financial Activity for the period ended 30 September 2011.

**BACKGROUND:**

Council is provided with monthly financial reports to enable monitoring of revenues and expenditures against the adopted budget.

**COMMENT:**

The Statement of Financial Activity for the Period Ended is provided as a separate attachment in Program format.

**POLICY REQUIREMENTS:**

Nil

**LEGISLATIVE REQUIREMENTS:**

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Clause 34

**STRATEGIC IMPLICATIONS:**

Monitoring of actual revenues and expenditures against the adopted budget assists Council in being informed as to the financial health of the organisation.

**SUSTAINABILITY IMPLICATIONS:**

- **Environment**  
There are no known significant environmental implications associated with this proposal.
- **Economic**  
There are no known significant economic implications associated with this proposal.
- **Social**  
There are no known significant social implications associated with this proposal.

**FINANCIAL IMPLICATIONS:**

Year to date income and expenditure is provided by program to enable comparison to 2011/12 adopted budget.

**VOTING REQUIREMENTS**

Simple Majority Required

**COUNCIL RESOLUTION  
(OFFICER RECOMMENDATION)**

*131/11 Moved Cr Bryan, seconded Cr Gardiner that Council notes and receives the Statement of Financial Activity for the period ended 30 September 2011.*

**CARRIED                      7/2**

Cr Bryan declared an impartiality interest in item 12.1.3 as she works with Dr Chapman on a daily basis.

**12.1.3 ASSISTANCE TO MOORA HEALTH CENTRE**

**FILE REFERENCE:** CC/MHCI  
**REPORT DATE:** 6 October 2011  
**APPLICANT/PROPONENT:** Dr B Chapman  
**OFFICER DISCLOSURE OF INTEREST:** Nil  
**PREVIOUS MEETING REFERENCES:** Briefing session 17/8/11  
**AUTHOR:** Allan Middleton, Acting Chief Executive Officer  
**ATTACHMENTS:** Nil

**PURPOSE OF REPORT:**

To determine what level of financial assistance the Shire of Moora is prepared to offer the Moora Health Centre to attract an additional medical practitioner to town.

**BACKGROUND:**

The town and district of Moora has been fortunate to have a dedicated team of doctors available to residents. In recent times the local practice has lost the services of doctors and the principal medical practitioner Dr. Chapman is keen to find a replacement. At the August

2011 Briefing Session Dr. Chapman addressed Council seeking financial assistance to attract a doctor to town.

**COMMENT:**

Medical practitioners are in demand throughout country Western Australia and local governments are offering incentives to attract doctors to their town. Moora, to ensure it is a town under consideration by interested doctors, will need to offer some assistance to attract that profession to town.

It is understood Council has not formalised what assistance it will provide to encourage a doctor to Moora and the following recommendation will document that assistance. The recommendation is based on anecdotal evidence and comments from briefing sessions and staff. Council may wish to vary the assistance.

**POLICY REQUIREMENTS:**

No policy

**LEGISLATIVE REQUIREMENTS:**

There are no known legislative requirements related to this item.

**STRATEGIC IMPLICATIONS:**

Moora as a sub regional centre will benefit greatly if a comprehensive medical service is provided within the town. Flow on benefits from employment at the hospital, commercial activity and improved aged care are but a few of the positive outcomes resulting from having a medical centre.

**SUSTAINABILITY IMPLICATIONS:**

➤ **Environment**

There are no known significant environmental implications associated with this proposal.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

There are no known significant social implications associated with this proposal.

**FINANCIAL IMPLICATIONS:**

Council will need to make provision in this year's budget to accommodate any additional expenditure for medical services. A budget variation will need to be undertaken.

In considering the item, Council will be mindful of the health, social and economic benefits that a district receives when a vibrant medical service is offered.

**VOTING REQUIREMENTS**

When a review of the budget is undertaken an absolute majority is required.

**COUNCIL RESOLUTION  
(MANEX RECOMMENDATION)**

***132/11 Moved Cr McLagan, seconded Cr Cocking that the Shire of Moora advises Dr Bernard Chapman that the following financial assistance/incentive will be available to attract an additional doctor to the Moora practice.***

- (1) Provision of a motor vehicle (Executive type vehicle)***
- (2) Provision of a residence with a rental subsidy of \$200 per week.***
- (3) Contribution of \$5,000 towards fringe benefit tax obligations.***

**CARRIED BY ABSOLUTE MAJORITY 9/0**

**12.1.4 CONSTITUTIONAL RECOGNITION**

**FILE REFERENCE:** GA/ALGI  
**REPORT DATE:** 6 October 2011  
**APPLICANT/PROPONENT:** Nil  
**OFFICER DISCLOSURE OF INTEREST:** Nil  
**PREVIOUS MEETING REFERENCES:** Nil  
**AUTHOR:** Allan Middleton, Acting Chief Executive Officer  
**ATTACHMENTS:** Nil

**PURPOSE OF REPORT:**

The Australian Local Government Association and the Western Australian Local Government Association are asking Councils to support constitutional change to have Local Government recognised in the Australian Constitution.

**BACKGROUND:**

For some years local government has been lobbying to have “Local Government” recognised in the constitution and the Local Government Association will be forwarding a submission to an Expert Panel on the Constitutional Recognition of Local Government. A discussion paper was released on the 22<sup>nd</sup> September, canvassing four options for constitutional change. The options basically were:-

1. Adding a reference to local government to the Constitution for symbolic reasons.
2. Amending the constitution so it explicitly states the Commonwealth can provide funding directly to local councils.
3. Include a guarantee in the Constitution that local government have the right to elect their local council democratically.
4. Change the Constitution to encourage all three levels of government – local, state/Territory and Federal to better cooperate to improve relationships.

**COMMENT:**

If Council were to lodge a submission it would need to be lodged by 4<sup>th</sup> November 2011. It is recommend a submission not be submitted, however the Shire of Moora support the concept of Constitutional recognition and the Australian Local Government Association and Western Australian Local Government Association to be advised of that decision.

Three principles that strongly support the recognition are:

- (i) The identification of local government and the right for local government to exist throughout the nation, no longer would local government exist at the whim of a State Government.
- (ii) The ability of local government to be responsible for the receipt of Federal funding without the need to beg from State Government and
- (iii) The strong possibility of local government being part of the current Federal and State Government Premiers conference.

**POLICY REQUIREMENTS:**

Nil

**LEGISLATIVE REQUIREMENTS:**

A change to the Australian Constitution would be needed.

**STRATEGIC IMPLICATIONS:**

There are no known strategic implications associated with this proposal.

**SUSTAINABILITY IMPLICATIONS:**

- **Environment**  
There are no known significant environmental implications associated with this proposal.
- **Economic**  
There are no known significant economic implications associated with this proposal.
- **Social**  
There are no known significant social implications associated with this proposal.

**FINANCIAL IMPLICATIONS:**

There are no immediate financial implications to Council in relation to this item.

**VOTING REQUIREMENTS**

Simple Majority Required

At 6.40pm Cr Cocking left the meeting and returned at 6.42pm.



<b>COUNCIL RESOLUTION (OFFICER RECOMMENDATION)</b>
--

***133/11 Moved Cr Clydesdale-Gebert, seconded Cr Bryan that the Shire of Moora support the drive to have Local Government recognised in the Australian Constitution and this support to be communicated to the Executive of the Australian Local Government Association and the Western Australian Local Government Association.***

**LOST                      3/6**

### **12.1.5 SHIRE OF MOORA COMMUNICATION POLICY**

**FILE REFERENCE:** PL/POPI

**REPORT DATE:** 7 October 2011

**PREVIOUS MEETING REFERENCES:** Nil

**AUTHOR:** Rebecca McCall, Manager Community & Economic Development

**ATTACHMENTS:** Shire of Moora Communication Policy

**PURPOSE OF REPORT:**

For Council to endorse the Shire of Moora Communication Policy.

**BACKGROUND:**

It is imperative that the Shire of Moora communicates with residents, partners, the media, staff, councillors and other stakeholders to:

- Maintain a culture of communication
- Encourage open, honest and accountable two-way dialogue
- Provide professional, accurate and timely communications
- Keep information free from jargon and easy to understand
- Make sure information is available in appropriate formats so that no one is excluded from accessing it
- Promote a consistent corporate identity

To achieve this it is necessary to develop a policy and plan to provide a structure for effective communication.

**COMMENT:**

The Shire of Moora's Communication Policy provides a framework for communication between Council and its stakeholders. The effective dissemination of information and communication is a vital element in building a positive identity for Council through the greater community awareness of its services, activities, achievements and resources.

Successful communication will be achieved through the distribution of regular, consistent and truthful information in partnership with productive community consultation on key issues. All Departments of Council must be committed to the Policy.

The Shire of Moora's Communication Policy will be supported by the Shire of Moora Communication Plan which will guide Councillors, staff and community members on the style and manner in which we communicate with Shire stakeholders.

**POLICY REQUIREMENTS:**

Nil

**LEGISLATIVE REQUIREMENTS:**

There are no known legislative requirements related to this item.

**STRATEGIC IMPLICATIONS:**

The Shire of Moora's Strategic Plan outlines the role to provide opportunity for community participation and improve the level of understanding, respect and pride in the community.

**SUSTAINABILITY IMPLICATIONS:****➤ Environment**

There are no known significant environmental implications associated with this proposal.

**➤ Economic**

There are potential economic implications associated with this proposal through communication by attracting possible new investment to the Shire of Moora and the potential growth for existing business and industry with the Shire of Moora.

**➤ Social**

There are potential social implications associated with this proposal with the delivery of clear, concise and frequent communication conducted by council to the wider community.

**FINANCIAL IMPLICATIONS:**

Possible financial implications to Council in relation to this item may include the cost incurred to advertise, market and promote the Shire of Moora's activities and decisions. These costs are identified in Council's annual budget each financial year.

**VOTING REQUIREMENTS**

Absolute Majority Required

**COUNCIL RESOLUTION  
(MANEX RECOMMENDATION)**

*134/11 Moved Cr Bryan, seconded Cr Hawkins that Council adopts the Shire of Moora Communication Policy as attached for inclusion in the Shire of Moora Policy Manual.*

**CARRIED BY ABSOLUTE MAJORITY 9/0**

## **12.1.6 SHIRE OF MOORA COMMUNICATION PLAN**

**FILE REFERENCE:** PD/CPLI

**REPORT DATE:** 7 October 2011

**PREVIOUS MEETING REFERENCES:** Nil

**AUTHOR:** Rebecca McCall, Manager Community & Economic Development

**ATTACHMENTS:** Shire of Moora Communication Plan (without attachments)

### **PURPOSE OF REPORT:**

For Council to endorse the Shire of Moora Communication Plan.

### **BACKGROUND:**

It is imperative that the Shire of Moora communicates with residents, partners, the media, staff, councillors and other stakeholders to:

- Maintain a culture of communication
- Encourage open, honest and accountable two-way dialogue
- Provide professional, accurate and timely communications
- Keep information free from jargon and easy to understand
- Make sure information is available in appropriate formats so that no one is excluded from accessing it
- Promote a consistent corporate identity

To achieve this it is necessary to develop a policy and plan to provide a structure for effective communication.

### **COMMENT:**

The purpose of the Shire of Moora Communications Plan is to guide Councillors, staff and community members on the style and manner in which we communicate with Shire stakeholders.

It defines our visions, customer service charter target audiences, communication channels and how we will measure that we are communicating effectively into the future. To achieve this it is important all Councillors and staff read and understand this plan and use it to guide how we operate daily.

To ensure the plan is in keeping with community sentiments, it will be reviewed every two years with input from key stakeholders.

This plan is designed to assist the Shire of Moora to achieve its Mission and Vision outlined in the Shire of Moora's Strategic Plan.

The communications plan will include the following attachments:

1. Local Politician Contact List
2. Media Contact List
3. Media Release Template
4. Newsletter Templates

### **POLICY REQUIREMENTS:**

Nil

**LEGISLATIVE REQUIREMENTS:**

There are no known legislative requirements related to this item.

**STRATEGIC IMPLICATIONS:**

The Shire of Moora's Strategic Plan outlines the role to provide opportunity for community participation and improve the level of understanding, respect and pride in the community.

**SUSTAINABILITY IMPLICATIONS:****➤ Environment**

There are no known significant environmental implications associated with this proposal.

**➤ Economic**

There are potential economic implications associated with this proposal through communication by attracting possible new investment to the Shire of Moora and the potential growth for existing business and industry with the Shire of Moora.

**➤ Social**

There are potential social implications associated with this proposal with the delivery of clear, concise and frequent communication conducted by council to the wider community.

**FINANCIAL IMPLICATIONS:**

Possible financial implications to Council in relation to this item may include the cost incurred to advertise, market and promote the Shire of Moora's activities and decisions. These costs are identified in Council's annual budget each financial year.

**VOTING REQUIREMENTS**

Absolute Majority Required.

**COUNCIL RESOLUTION  
(MANEX RECOMMENDATION)**

*135/11 Moved Cr Hawkins, seconded Cr Bryan that Council adopts the Shire of Moora Communication Plan as attached.*

**CARRIED BY ABSOLUTE MAJORITY 9/0**

### **12.1.7 ENDORSEMENT OF SHIRE OF MOORA LOCAL EMERGENCY MANAGEMENT COMMITTEE ANNUAL BUSINESS PLAN 2011-2012 AND 2010-2011 ANNUAL REPORT**

**FILE REFERENCE:** LO/LOEI  
**REPORT DATE:** 12 October 2011  
**APPLICANT/PROPONENT:** N/A  
**OFFICER DISCLOSURE OF INTEREST:** Nil  
**PREVIOUS MEETING REFERENCES:** Nil  
**AUTHOR:** Allan Middleton, Acting Chief Executive Officer  
**ATTACHMENTS:** 1. LEMC Annual Business Plan 2011-2012 &  
 2. LEMC Annual Report 2010-2011

#### **PURPOSE OF REPORT:**

A requirement of the Emergency Management Act 2005, is to provide relevant information to Council regarding the activities of the Moora Local Emergency Management Committee (LEMC) during 2010/11 to enable the endorsement of the annual report. Additionally, information is provided for the endorsement of the LEMC Annual Business Plan which outlines the planned activities of the committee during 2011-2012.

#### **BACKGROUND:**

The Emergency Management Act 2005 specifies the role of Local Government as follows:

#### **36. Functions of local government**

It is a function of a local government —

- (a) subject to this Act, to ensure that effective local emergency management arrangements are prepared and maintained for its district;
- (b) to manage recovery following an emergency affecting the community in its district; and
- (c) to perform other functions given to the local government under this Act.

A part of this responsibility is to report to the State Emergency Management Committee as

#### **40. Annual report of local emergency management committee**

- (1) After the end of each financial year each local emergency management committee is to prepare and submit to the district emergency management committee for the district an annual report on activities undertaken by it during the financial year.
- (2) The annual report is to be prepared within such reasonable time, and in the manner, as is directed in writing by the SEMC.

#### **COMMENT:**

An annual report of the State Emergency Management Committee (SEMC) is to be produced under the provisions of section 25 of the *Emergency Management Act 2005* (the Act) to provide evidence of the emergency management activities in Western Australia undertaken by SEMC.

In producing an annual report, the SEMC is reliant on reports from the SEMC subcommittees, the Metropolitan Emergency Management Executive Group (MEMEG), the District Emergency Management Committees (DEMC), the Local Emergency Management Committees (LEMC) and Hazard Management Authorities (HMA).

It is important that there is consistency in the structure of reports from these various groups and a SEMC Policy, No 2.6 *Annual Reporting*, has been developed to facilitate consistent preparation of annual reports at all levels.

The annual report meets the formatting requirements and reflects the activities of the Moora LEMC during 2010-2011 and was endorsed by the committee at the meeting of 11 October 2011.

#### **RESOLUTION**

*Moved Murray Matthews, seconded Phil Cartledge that the LEMC Committee endorse the 2010-2011 LEMC Annual Report.*

**CARRIED**

#### **RESOLUTION**

*Moved Murray Matthews, seconded Phil Cartledge that the LEMC Committee endorse the Annual Business Plan for 2011-2012.*

**CARRIED**

#### **POLICY REQUIREMENTS:**

Nil

#### **LEGISLATIVE REQUIREMENTS:**

Emergency Management Act 2005, Sections 36 & 40

#### **STRATEGIC IMPLICATIONS:**

There are no known strategic implications associated with this proposal.

#### **SUSTAINABILITY IMPLICATIONS:**

##### ➤ **Environment**

There are no known significant environmental implications associated with this proposal.

##### ➤ **Economic**

There are no known economic implications to Council in relation to this item.

##### ➤ **Social**

There are no known significant social implications associated with this proposal.

#### **FINANCIAL IMPLICATIONS:**

There is a small budgetary implication associated with this proposal as the business plan requires \$1,000 of the 2011/12 budget to be allocated to LEMC activities.

#### **VOTING REQUIREMENTS**

Simple Majority Required

#### **COUNCIL RESOLUTION (OFFICER RECOMMENDATIONS)**

*136/11 Moved Cr Bryan, seconded Cr Hawkins that Council receive and endorse the Shire of Moora;*

- 1. Local Emergency Management Committee Annual Business Plan 2011 – 2012; and*
- 2. 2010 – 2011 Local Emergency Management Committee Annual Report.*

**CARRIED** 9/0

## **12.2 HEALTH, BUILDING & PLANNING SERVICES**

### **12.2.1 BUILDING APPLICATION LOT 27, 16 ROBERTS STREET MOORA**

**FILE REFERENCE:** ED/MLV/TNTI/Lot 27

**REPORT DATE:** 10 October 2011

**APPLICANT/PROPONENT:** Mrs Cynthia McMorran

**OFFICER DISCLOSURE OF INTEREST:** Nil

**PREVIOUS MEETING REFERENCES:**

**AUTHOR:** Rebecca McCall, Manager Community & Economic Development

**ATTACHMENTS:** Drawings

#### **PURPOSE OF REPORT:**

For Council to ratify the decision to allow the carport attached to the dwelling located on Lot 276, 16 Roberts Street Moora to be enclosed.

#### **BACKGROUND:**

Enclosing carports has not been permitted to date at the Moora Lifestyle Village. There is no written policy to enforce this decision other than verbal confirmation that carports within the development are not to be enclosed for the purposes of:

- Emergency
- Ventilation
- Natural Light
- Aesthetics

#### **COMMENT:**

Upon the arrival of a new resident, Mrs Cynthia McMorran, the tenant expressed the wish to enclose the carport attached to her dwelling. With consultation with Council's contracted Building Surveyor and analysing the building codes it became apparent that enclosures to carports can be permitted dependent on variables to be considered such as adequate ventilation, access to natural light, the use of materials, occupational and safety access for emergency purposes and the contribution to the aesthetics of the Moora Lifestyle Village.

It is necessary for a policy to be developed to guide the Shire of Moora to adequately address future applications from potential residents. The policy will include building, landscaping and health conditions to suit legislative requirements and the rules in which the Moora Lifestyle Village operates within.

#### **POLICY REQUIREMENTS:**

Nil

#### **LEGISLATIVE REQUIREMENTS:**

Planning and Development Act 2005 and Shire of Moora's, Town Planning Scheme No 4.

#### **STRATEGIC IMPLICATIONS:**

Increasing the number of dwellings within the Shire of Moora is consistent with the Strategic Plan's major priority of planning for growth.

#### **SUSTAINABILITY IMPLICATIONS:**

##### ➤ **Environment**

Enclosed carports may reduce the amenity value of the built environment if no provision for landscaping and new materials is included.

➤ **Economic**

The provision of new dwellings in Moora would contribute to economic growth of the town.

➤ **Social**

The addition of housing within Moora is a positive, however increasing low cost housing may contribute to social implications in the long term.

**FINANCIAL IMPLICATIONS:**

Nil

**VOTING REQUIREMENTS**

Simple Majority Required

**COUNCIL RESOLUTION  
(MANEX RECOMMENDATION)**

***137/11 Moved Cr Hawkins, seconded Cr Cocking that Council approve the enclosure of the carport on Lot 27, 16 Roberts Street Moora subject to the following conditions;***

- 1. Materials used to enclose the carport are new.***
- 2. Materials used to enclose the carport must allow adequate ventilation.***
- 3. Perspex sheeting is to be used in conjunction with colourbond to allow adequate light to come through.***
- 4. An automatic exhaust fan is to be installed in the toilet of the dwelling.***

**CARRIED                      9/0**

**12.2.2 TOWN PLANNING OCCASIONAL COMMITTEE MEETING HELD 28 SEPTEMBER 2011**

The following recommendations have been submitted for consideration and adoption by Council:-

**VOTING REQUIREMENTS**

Simple Majority Required

**CURRENT TOWN PLANNING SCHEME**

A general discussion on the current scheme took place with desktop analysis of what currently existed.

**COMMITTEE RECOMMENDATION**

*That*

- 1. Council's Town Planning Consultant in conjunction with the Department of Planning prepare an amendment to the Shire of Moora Local Town Planning Scheme No. 4 to rename the "floodway" description / definition to a more appropriate definition.***
- 2. The scheme be further amended to provide discretionary power to Council to allow development in the "floodway".***
- 3. Consultants be directed to the SKM report 'Review of Moora Floodplain Definition Study' which provides definition of "risk" category.***



## **DEVELOPMENT – TOOTRA STREET INDUSTRIAL AREA**

### **COMMITTEE RECOMMENDATION**

*That development in the industrial area to be:-*

1. *Subject to building above a declared Australian Height Datum Level*
2. *Any building to be constructed within an identified building envelope or footprint area clearly shown on approved plans.*
3. *The Scheme amendments to provide an area that will allow for service and light industry with residential accommodation.*

### **COUNCIL RESOLUTION**

***138/11 Moved Cr Cocking, seconded Cr Tonkin that the recommendations of the Town Planning Occasional Committee meeting held 28 September 2011 be received.***

**CARRIED                      9/0**

## **12.2.3 PROPOSED SCHEME AMENDMENT NO. 10 – SHIRE OF MOORA TOWN PLANNING SCHEME NO 4**

**FILE REFERENCE:** TP/TPSI  
**REPORT DATE:** 13 October 2011  
**APPLICANT/PROPONENT:** Gray & Lewis on behalf of the Shire of Moora  
**OFFICER DISCLOSURE OF INTEREST:** Gray & Lewis receive planning fees for advice to the Shire therefore declare a Financial Interest – Section 5.65 of *Local Government Act 1995*  
**PREVIOUS MEETING REFERENCES:** Nil  
**AUTHOR:** Gray & Lewis Landuse Planners  
**ATTACHMENTS:** Draft Scheme Amendment Maps  
 Draft Flood Classifications map

### **PURPOSE OF REPORT:**

Council is to consider adopting Amendment 10 to the Shire of Moora Town Planning Scheme No 4 ('the Scheme') for the purpose of initiating public advertising.

The amendment substantially introduces revised provisions for land subject to flooding, and has been prepared in close liaison with the Shire, Western Australian Planning Commission (WAPC) and the Department of Water (DoW).

### **BACKGROUND:**

The Shire of Moora Local Planning Scheme No 4 was published in the Government Gazette on 9 June 1998. Due to the age of the Scheme it was in need of revision and updating which was completed as part of omnibus Amendment No 9.

New scheme provisions relating to areas subject to flooding were introduced by Amendment 9. Amendment 9 was written based on the understanding that proposed development in floodways that is obstructive to major flows is not acceptable.

If a floodway is even partially blocked, then upstream flood levels may be raised and thereby affect areas which may not have been previously affected. Limiting development is therefore necessary to maintain the existing flood regime.

Gray & Lewis has been requested to review the existing Scheme provisions as:

1. Currently the Scheme does not allow any new building or structure in the floodway which may obstruct the free passage of floodwater, unless the building or structure replaces an existing approved building or structure, and where the flooding risk is not increased.
2. The Shire has raised concern over the Scheme restrictions as there is vacant Industrial land located to the north east of town.
3. The Flood Classifications map is included in a Schedule in the Scheme, and extensive areas of Moora townsite is affected by Floodway.
4. The Shire may be able to obtain funding towards infrastructure for Industrial development, however existing Industrial land in Moora is restricted due to the extent of the Floodway as defined in the 'Review of Moora Flood Management Study'.

The Shires Chief Executive Officer held a meeting with representatives from Gray & Lewis, the Western Australian Planning Commission, Department of Water and Landcorp to discuss a scheme amendment, and the separate issue of the need to identify unconstrained Industrial land.

The meeting was productive as follows;

- The Department of Water has advised that the 'floodway' terminology was used in the 'Review of Moora Flood Management Study' at the Shires request and to be consistent with previous plans. The area is better described as 'high and extreme flood hazard area'.
- The Department of Water advised that development could be considered in the floodway where the applicant demonstrates that it will not detrimentally impact on the existing flood regime. The applicant may be required to provide a site specific assessment and hydrology information as part of the development process.
- The Department of Water has detailed mapping which has now been provided to the Western Australian Planning Commission. Availability of the digital mapping means that the flood areas can be reviewed properly in context of existing zones on the Scheme map.
- All parties agreed that a scheme amendment could be pursued to review and improve the scheme provisions for flood affected land, if prepared in consultation with the Department of Water and Western Australian Planning Commission.
- The WAPC advised that the areas subject to flooding should be under a 'Special Control Area', and that in the longer term the shire needs to develop a Local Planning Strategy.
- The WAPC has advised there is an opportunity for a reduced advertising period for any scheme amendment.

**COMMENT:****1.0 Flood Controls**

Amendment 10 will effectively delete the existing Scheme provisions over the Flood Control Area and proposes new provisions which:

1. Introduce new consolidated scheme provisions to deal with land subject to flooding. The provisions will apply to all lots that are affected fully or partially by the defined 'Floodway' or 'Flood Fringe' in the 'Review of Moora Flood Management Study'.
2. Introduce new terminology to replace the 'Floodway' term with 'High and Extreme Flood Hazard' area and to replace the 'Flood fringe' term with 'Floodplain'. This will be reflected in new scheme text and a Flood Classifications map to be Schedule 12 in the Scheme.
3. Introduces a 'Special Control Area' for all lots affected by flooding on the Shires Town Planning Scheme map. The Special Control Area will follow lot boundaries rather than the boundaries of the 'High and Extreme Flood Hazard' area and the 'Floodplain'.

A 'Special Control Area' is typically used to target a single issue, such as flooding, where the issue may traverse and overlap a number of different zones.

4. Require all development in the Special Control Area to obtain planning approval and be referred to the Department of Water.

The Department of Water has the technical expertise and digital mapping to fully assess the implications of new development.

5. Require all applicants to demonstrate that the development will not detrimentally impact on the existing flood regime.

For some applications this may be achieved with simple information that the development is only of a small scale, or is located outside of the defined flood areas. It is likely that the Department of Water will require more specific assessment and modelling by an applicant proposing new development in the with 'High and Extreme Flood Hazard'.

Any development that has potential to negatively impact on the existing flood regime to the extent that it may cause currently unaffected properties to be flooded, should not be approved by Council.

6. Broaden discretion over development within the 'High and Extreme Flood Hazard' and have one set of development controls for land within the 'High and Extreme Flood Hazard' area and 'Floodplain'.
7. Require all new development to have a Finished Floor Level of 300mm (above the March 1999 levels) – this includes new buildings and structures that may be located on a portion of a lot outside of the 'High and Extreme Flood Hazard' area and 'Floodplain'.

This is more restrictive than the existing Scheme provisions which allow discretion for a Finished Floor Level of 0.15 metres above the March 1999 flood level for commercial and industrial development. The new requirement to meet the FFL of 300mm is to maximise protection of buildings and property, regardless of whether the development is habitable or non habitable.

The amendment also includes a Clause 4.11.4.1 (f) aimed at ensuring that there is no discretion by either Council or the State Administrative Tribunal to vary the 300mm FFL except where specifically allowed in the Scheme (for minor building extensions, ancillary residential development, and infill development in the Town Centre – refer point 8 below). Clause 4.11.4.1(f) has been modelled on a clause in the City of Joondalup Scheme.

8. Allow limited discretion to approve lesser finished floor levels (than 300mm) only for minor building extensions, ancillary residential development and new infill development in the 'Town Centre' where fill is considered impractical and / or has potential streetscape impact.
9. Provide clear discretion to require an applicant to undertake assessments and / or hydraulic modelling to demonstrate that development will not detrimentally impact on the existing flood regime. This is particularly important for any development in the 'High and Extreme Flood hazard' area.
10. Outline matters that Council will have regard to when assessing applications.
11. Require building envelopes to be located in areas of the lowest flood hazard risk.

There are lots which are only partially affected by the boundary of the Floodplain, so new buildings and structures can be located in less risk areas. There are also lots which are traversed by both the 'Floodplain' and the 'High and Extreme Flood Hazard'. In those cases buildings should be located on the area with the lesser flood risk, being the 'Floodplain'.

12. Make it clear that Council may refuse any development which has potential to detrimentally impact on the existing flood regime or detrimentally obstruct the free passage of flood water.
13. Outline the types of conditions that may be imposed on development such as limiting building size or locations, imposing minimum floor levels, and placing notifications on title to alert prospective purchasers that the land is affected by the Moora Floodplain Definition Study.
14. Introduces a new section on subdivision and only allows for new lots to be created in the 'High and Extreme Flood Hazard' area where they are for flood mitigation purposes.
15. Introduces a new section on subdivision in the floodplain and outlines consideration for assessment including the need to consider regional flooding impacts, detrimental impact on the existing flood regime, the need to locate building envelopes outside of the Floodplain, flood risk, and in accordance with other relevant zone and scheme requirements.

16. Modify the provisions that apply to Lot 16 Ferguson Road, Moora which prevent residential development in the flood fringe. One of the requirements that applies to Lot 16 under 'Schedule 10 – Rural Residential' zones is no longer required as (i) there is an approved Subdivision Guide Plan which has building envelopes outside of the flood fringe and (2) the provisions of the new Special Control Area will now apply.
17. Include a requirement that effluent disposal for and subject to flooding will only be considered where sewer is not available.

It is important to note that whilst the amendment will give Council broader discretion to consider new development in the 'floodway' (which is now the 'High and Extreme Flood Hazard' area), the onus is on the applicant to demonstrate that the development will not detrimentally impact on the existing flood regime.

If development is approved in the floodway that detrimentally alters the existing flood regime or detrimentally obstructs the free passage of floodwater, then it will have an impact on lots that currently are not identified as being subject to flooding. This would leave the Council open to liability and litigation by owners, occupiers and insurance companies.

## **2.0 Residential Densities**

A substantial portion of land zoned 'Residential' in Moora townsite has a flexible density code of 'R12.5/25' as shown on the Scheme map. The R-Code dictates the minimum and average lot size for development and subdivision.

At the R12.5 Code a minimum of 700m<sup>2</sup> and average of 800m<sup>2</sup> per dwelling applies. At the R25 Code a minimum of 320m<sup>2</sup> and average of 350m<sup>2</sup> per dwelling applies. There is discretion to approve development at an R25 density where sewer is available.

Notwithstanding that many residential lots have a flexible code which is shown on the existing Scheme map, development and subdivision is restricted so that the higher density of R25 does not apply to any land located in the floodway as defined on the Flood Classifications Map (existing Clause 4.2).

It is important for Council to note that Amendment 10 proposes to change the density code on the Scheme Map for a substantial number of residential zoned lots in Moora Townsite from the flexible code of 'R12.5/R25' to a flat density code of 'R12.5'. The lower R12.5 density will be shown on the scheme map for all Residential lots which are subject to flooding.

The proposed map change will ensure that:

1. Owners and prospective purchasers understand that development and subdivision is limited to low density (R12.5) as it will be shown on the Scheme map.
2. Currently the flexible code shown on the Scheme may give a false impression as the higher R25 code would not be applied to land subject to flooding.
3. The majority lots subject to this map change are already restricted to the lower density code through the Scheme text under existing Clause 4.2 (b).

Existing Clause 4.2 will be modified to delete reference to land subject to flooding as it will only apply to a small section of residential that will remain R12.5/R25 that is located outside of flood areas (Lee Steere Street / Atbara Street).

**POLICY REQUIREMENTS:**

There are no Policy implications associated with this proposal.

**LEGISLATIVE REQUIREMENTS:**

The statutory requirements for Amendments are controlled by the *Planning and Development Act 2005* and the *Town Planning Regulations 1967*.

It is a statutory requirement that all amendments be referred to the Environmental Protection Authority (EPA) for advice prior to any formal advertising. Advertising can only commence once the EPA confirms that no environmental assessment will be required.

Final approval of the amendment is required by the Minister for Planning and is subject to assessment by the WAPC.

**STRATEGIC IMPLICATIONS:**

The amendment will allow for greater clarity and strengthened landuse controls for areas subject to flooding. It also provides Council with greater discretion over development in the high and extreme flood hazard area.

**SUSTAINABILITY IMPLICATIONS:**➤ **Environment**

The proposed Special Control Area will recognise land subject to flooding.

➤ **Economic**

The extent of land subject to flooding in the Moora townsite is a constraint for future development and subdivision. The minimum floor levels required will be an added development cost.

➤ **Social**

There are no known significant social implications associated with this proposal.

**FINANCIAL IMPLICATIONS:**

The Shire will likely need assistance throughout the amendment process. The Shire pays fees to Gray & Lewis for planning advice.

**VOTING REQUIREMENTS:**

Simple Majority Required

<b>COUNCIL RESOLUTION (STAFF RECOMMENDATION)</b>
--

**139/11 Moved Cr Hawkins, seconded Cr Cocking that Council:**

A. Initiate Amendment 10 to the Shire of Moora Town Planning Scheme No. 4 pursuant to Section 75 of the Planning and Development Act 2005 for the purposes of:

1. Delete existing Clause 4.11 'Flood Control Area' including sub clause 4.11.1 to 4.11.4 which currently states:

**“4.11 FLOOD CONTROL AREA**

#### 4.11.1 Purpose

- (a) *To avoid inappropriate development of land subject to flooding during an event of similar magnitude to the March 1999 events.*
- (b) *To protect the free passage of floodwater in floodways by avoiding inappropriate development.*
- (c) *To ensure proposed development has adequate flood protection.*

#### 4.11.2 Application requirements

*Except where in the opinion of the local government the proposed development is for a minor outbuilding or improvement to an existing building, planning approval is required for all development, including a single house on land that is subject flooding (located in the floodway or flood fringe) as outlined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme.*

#### 4.11.3 Relevant considerations

- (a) *The local government in considering applications for planning approval is to have due regard to the recommendations of the Moora Floodplain Definition Study and any local planning policy.*
- (b) *Development which involves the construction of a building or structure which may obstruct the free passage of floodwater will not be permitted on land defined as a floodway on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme unless the building or structure replaces an existing approved building or structure, and subject to building conditions to ensure the proposed development is consistent with clause 4.11.1 (a) and the flooding risk is not increased.*
- (c) *On-site effluent treatment or disposal will not be permitted on land defined as a flood way on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme unless it is a replacement of an approved on-site effluent treatment or disposal system and the flooding, environmental and health risks are not increased.*
- (d) *A habitable building is to have a finished floor level not less than 300mm above the March 1999 flood level as defined in the Moora Floodplain Definition Study unless the local government considers the proposed development to be a minor extension to an existing approved building or structure.*
- (e) *The local government will set the minimum floor level for non-habitable buildings and structures based on matters, including size, location, use, existing nearby development and flood risk.*
- (f) *The local government has the discretion to approve a minimum floor level of 0.15m above the March 1999 flood level as defined in the Moora Floodplain Definition Study for non-habitable buildings such as outbuildings, industrial, commercial and non residential uses subject to flood proofing conditions and having regard for the recommendations of the Moora Floodplain Definition Study.*
- (g) *When determining applications for planning approval the local government may impose conditions relating to:*
  - (i) *flood proofing for new industrial development;*
  - (ii) *best practice agricultural and soil conservation methods to mitigate flood risk; and*
  - (iii) *any other conditions designed to reduce flood risk.*

#### 4.11.4 Referral of Applications

*All applications for planning approval are to be referred by the local government to the department of water and the local government is to have due regard to recommendations / advice from the department of water when determining applications.”*

2. Insert a new Clause 4.11 ‘Special Control Area’ to state as follows:

### **‘4.11 SPECIAL CONTROL AREAS**

#### **4.11.1 OPERATION OF SPECIAL CONTROL AREAS**

4.11.1.1 The following Special Control Areas are shown on the Scheme Map:

- Special Control Area 1 : Land subject to Flooding

4.11.1.2 In respect of a Special Control Area shown on a Scheme Map, the provisions applying to the Special Control Area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

4.11.1.3 Where conflict exists between any general provisions of the Scheme and Section 4.11, the provisions of the Special Control Areas will prevail.

#### **4.11.2 PURPOSE OF SPECIAL CONTROL AREAS**

The purpose of Special Control Area 1 is;

- (a) To avoid inappropriate development or subdivision of land subject to flooding during an event of similar magnitude to the March 1999 events.
- (b) To protect the free passage of floodwater in areas subject to flooding by avoiding inappropriate development.
- (c) To ensure proposed development has adequate flood protection.
- (d) To ensure new development will not detrimentally impact, alter or modify the existing flooding regime (as defined in the Moora Floodplain Definition Study).

#### **4.11.3 APPLICATION AND REFERRAL REQUIREMENTS**

4.11.3.1 Planning approval is required for all use or development of any land within or partially within Special Control Area No 1 including fill, excavation, a single house and ancillary development.

4.11.3.2 All applications for planning approval in Special Control Area No 1 are to be referred by the local government to the Department of Water, and the local government is to have due regard to recommendations / advice from the Department of Water when determining applications.

4.11.3.3 The local government, on the recommendation of the Department of Water, may require an applicant proposing development in Special Control Area No 1 to undertake assessments and/or hydraulic modelling to demonstrate that the proposed development is consistent with the floodplain management principles outlined in the Moora Floodplain Definition Study and Clause 4.11.2. Assessments and /or hydraulic modelling need to be to the satisfaction of the Department of Water and



local government, and demonstrate that the proposed development does not detrimentally affect the existing flooding regime.

#### **4.11.4 RELEVANT CONSIDERATIONS**

##### **4.11.4.1 Special Control Area I**

- (a) The local government in considering applications for planning approval is to have due regard to:
- (i) the recommendations of the Moora Floodplain Definition Study; and
  - (ii) the hazard category defined in the Moora Floodplain Definition Study and the appropriateness of the landuse having regard for the nature of the proposed use, extent of public access and building location; and
  - (iii) the size and location of buildings, structures, fill and use of external areas; and
  - (iv) relationship to existing and nearby development; and
  - (v) flood risk and need to maintain the existing flood regime; and
  - (vi) any relevant local planning policy; and
  - (vii) any other matter considered relevant by the local government.
- (b) Any development or landuse including but not limited to construction of a new building, structure, fill, excavation, external storage, trade display, stockpiling of materials or any other development and/or use of the land shall not be permitted in Special Control Area I unless:
- (i) The local government considers the proposed development to be a minor extension to an existing building or structure already approved and constructed; or
  - (ii) The building or structure is non habitable and replacing an existing building or structure already approved and constructed, and is of a similar floor area, size and location as the building or structure being replaced; or
  - (iii) The development is a single house within a Residential zone or Rural Residential zone with a finished floor level not less than 300mm above the March 1999 flood level as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme); or
  - (iv) The applicant demonstrates a building, structure, development and/ or landuse is wholly located outside of the High Flood Hazard Area and Low to Medium Floodplain Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme); or
  - (v) The development is of a commercial or industrial nature with a finished floor level not less than 300mm above the March 1999 flood level as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless Council has exercised discretion in accordance with Clause 4.11.4.1 (e); or
  - (vi) The development will not detrimentally obstruct the free passage of floodwater to the satisfaction of the Department of Water and the local government; and
  - (vii) The applicant demonstrates that the design of any new development and /or nature of the landuse will not detrimentally impact, alter or modify the extent of flood impact and existing flooding regime (as defined in the Moora

*Floodplain Definition Study) to the satisfaction of the Department of Water and the local government.*

- (c) *Any development or use of land and building envelopes shall be located to:*

  - (i) *Maximise use of areas available on a lot that are located outside of the High Flood Hazard Area and/or Floodplain Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme); or*
  - (ii) *Maximise use of the lowest Hazard Category area where a lot has no available area outside of, or is traversed by both, the High Flood Hazard Area and Floodplain Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme).*
  
- (d) *Any building and/or structure on a lot in Special Control Area 1, (inclusive of development located outside of the High Flood Hazard Area and/or Floodplain Area as outlined on the Flood Zone Classifications map), shall have a finished floor level not less than 300mm above the March 1999 flood level as shown on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless Council has exercised discretion in accordance with Clause 4.11.4.1 (e).*
  
- (e) *Council has discretion to consider a minimum finished floor level less than 300mm above the March 1999 flood levels where the local government determines that:*

  - (i) *The non habitable buildings and structures are infill development in the Town Centre zone (with a minimum FFL of 0.15 metres above the March 1999 flood levels); or*
  - (ii) *The proposed development is a minor extension to an existing building or structure already approved and constructed; or*
  - (iii) *The non habitable building or structure is ancillary development to a dwelling on the same lot inclusive of a carport, garage, patio, pergola, gazebo, and outbuilding; and*
  - (iv) *The local government considers fill is impractical and/or will have a negative impact on an established streetscape.*
  
- (f) *The minimum finished floor levels outlined in Clause 4.11.4.1 (d) and Clause 4.11.4.1 (e) are not a standard or requirement for the purpose of Clause 4.4.2.*
  
- 4.11.4.2 *Council may refuse an application for any development or use of land within the High Flood Hazard Area and Floodplain Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) where, in the opinion of the Department of Water and local government, it has potential to detrimentally impact on the existing flooding regime during an event similar in magnitude to the March 1999 event (as defined in the Moora Floodplain Definition Study).*
  
- 4.11.4.3 *All applications will be considered having regard for other relevant planning matters in accordance with Clause 7.5.*
  
- 4.11.4.4 *On-site effluent disposal treatment or disposal will not be permitted on land within the High Flood Hazard Area and/or Floodplain Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the*

Scheme) unless the development cannot be connected to reticulated sewer and:

- (a) It is a replacement of an approved on site effluent treatment or disposal system; and
- (b) It has been approved in liaison with the Department of Health WA; or
- (c) The flooding, environmental and health risks are not detrimentally increased.

#### **4.11.5 PLANNING CONDITIONS**

4.11.5.1 When determining applications for planning approval in Special Control Area 1 the local government may impose conditions relating to:

- (a) flood protection measures for new development;
- (b) minimum finished floor levels;
- (c) best practice agricultural and soil conservation methods to mitigate flood risk;
- (d) limitations on fill, external storage, trade display, stockpiling of materials;
- (e) limiting the size and location of buildings and structures;
- (f) locating buildings, structure and/ or development in the lowest hazard category designated in the Moora Floodplain Definition Study;
- (g) A Notification to be placed on the Certificate of Title at the proponents cost to alert prospective purchasers of the Flood Hazard Area (High) / or Floodplain and Moora Floodplain Definition Study;
- (h) any other conditions designed to reduce flood risk or recommended by the Department of Water.

#### **4.11.6 SUBDIVISION**

4.11.6.1 The local government shall not recommend approval of any subdivision with potential to create additional lots in the High Flood Hazard Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless the new lot(s) are for flood mitigation purposes with no development potential and is proposed to be purchased, or ceded free of cost, for management, care and control by the Shire of Moora, the crown or other relevant government body. Notifications or restrictive covenants registered on the Certificate of Title may be utilised to ensure no development occurs on lots created for flood mitigation.

4.11.6.2 The local government shall assess any subdivision application within the Floodplain as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) having regard to:

- (a) The recommendations of the Moora Floodplain Definition Study; and
- (b) The need to locate building envelopes outside of the Floodplain; and
- (c) The need to consider regional impacts on flooding due to potential development; and
- (d) Potential obstructive or detrimental impact on flooding; and
- (e) The need to maintain the existing flood regime; and
- (f) Potential isolation and flood emergency response implications such as difficulties of emergency egress and evacuation; and
- (g) Potential flood risk and damage; and

- (f) *In accordance with the relevant zone and other applicable Scheme requirements; and*
- (g) *any relevant local planning policy; and*
- (h) *any other matter considered relevant by the local government.*

3. Modify Clause 7.1.2 (b) (iv) under 'Development of Land' of 'PART V – PLANNING APPROVAL' which outlines exceptions and requirements to obtain planning approval which currently states:

*'(iv) is located on land that is subject to flooding as outlined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme'*

To state:

*'(iv) is located on land that is subject to flooding in Special Control Area 1 as designated on the Scheme Map and /or on land that is subject to flooding as outlined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme'.*

4. Modify 'Clause 4.2 SPECIAL APPLICATION OF THE RESIDENTIAL DESIGN CODES' which currently states:

*'Within areas with split coding the local government may permit development above the lower code (R12.5) to the higher code (R25) specified on the Scheme map, provided that the development is consistent with the Scheme and complies with the following requirements:*

- (a) the development is not located in the floodway as defined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme; and*
- (b) it can be connected to reticulated sewerage.'*

To state:

*'Within areas with split coding the local government may permit development above the lower code (R12.5) to a maximum density of the higher code (R25) specified on the Scheme map, provided that the development is consistent with the Scheme, the Residential Design Codes and it can be connected to reticulated sewerage.'*

5. Replace the existing Flood Zone Classifications Map in Schedule 12 with a new Flood Classifications Map that includes levels, replaces the terminology of 'Floodway' with 'High flood hazard' and replaces the terminology of 'Flood Fringe' with 'Floodplain'.

Note: the extent of the flood way and flood fringe as defined in the 'Review of Moora Flood Management Study' will not be altered.

6. Delete Point '2.' applicable to Rural Residential 7 – 'Lot 16 Ferguson Road, Moora' under 'Schedule 10 – Rural Residential Zones' which states as follows:

*'Despite Clause 3.13.2, no residential development shall be permitted to occur within the flood fringe as defined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme'.*

And re-number remaining Points 3 – 9 accordingly as applicable to Rural Residential 7 – 'Lot 16 Ferguson Road, Moora' under 'Schedule 10 – Rural Residential Zones'.

7. Amending the Shire of Moora Scheme Map by:
- (a) In the Legend on the Scheme Map including “Special Control Area” in the list of ‘OTHER’.
  - (b) Introducing a Special Control Area over land subject to flooding as depicted on the Scheme Amendment map.
  - (e) Replacing the dual density code R12.5/25 with R25 wherever it occurs on land subject to flooding as depicted on the Scheme Amendment map.
- B. Authorise Gray & Lewis to:
- (i) Compile a formal Scheme Amendment document consistent with the Council resolution and liaise with Department of Planning to finalise the Scheme Amendment maps.
  - (ii) Lodge Amendment 10 with the Western Australian Planning Commission on behalf of the Shire of Moora seeking consent for the public advertising period to be reduced from 42 days to 28 days in order to expedite the amendment process.
  - (iii) Lodge Amendment 10 with the Environmental Protection Authority on behalf of the Shire of Moora seeking written confirmation that no formal environmental assessment is required under Part IV Division 3 of the Environmental Protection Act 1986.
- C. Note that formal advertising of the Amendment will be organized by the Shires Chief Executive Officer in liaison with Gray & Lewis on receipt of formal advice from the Western Australian Planning Commission (on advertising) and the EPA (confirming that no environmental assessment is required). Advertising shall include public notices in an official local newspaper, individual letters to affected landowners and letters to relevant authorities (such as Department of Water).
- D. Note that a further report will be referred to a future Council meeting to consider any submissions received during public advertising, and to determine whether to adopt the amendment for final approval (with or without modifications).
- E. Note that the Scheme Amendment maps are in draft form and will be finalised in liaison with the Shires Chief Executive Officer. Any refinements to mapping can still be examined following advertising.

**CARRIED 9/0**

**Note:** Council requested the words “and Extreme” be removed where they appear throughout the Town Planning Scheme No 4 Amendment 10 document text and maps.

### **12.3 COMMUNITY & ECONOMIC DEVELOPMENT**

Nil

### **12.4 ENGINEERING SERVICES**

Nil

**13. ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**

Nil

**15. MATTERS FOR WHICH THE MEETING MAY BE CLOSED****15.1 APPOINTMENT OF MANAGER HEALTH, BUILDING AND PLANNING SERVICES**

Items 15 & 15.1 were considered after item 11.

**16. CLOSURE OF MEETING**

*There being no further business, the Presiding Member declared the meeting closed at 6.56pm.*

**CONFIRMED**

**PRESIDING MEMBER**