

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President declared the meeting open at 6:00pm.

2. RECORD OF ATTENDANCE

Cr Michele Pucci	Shire President
Cr Ralph Addis	Deputy Shire President
Cr Di Ausburn	Councillor
Cr Paul Caley	Councillor
Cr Fred Mills	Councillor
Cr John Moulden	Councillor
Cr Jane Parker	Councillor
Cr Keith Wright	Councillor
Mr Peter Stubbs	Chief Executive Officer
Ms Jo-Anne Ellis	Executive Manager Corporate Services
Ms Karyn Apperley	Executive Manager Community Services from 6.23pm

APOLOGIES

Nil

LEAVE OF ABSENCE

Nil

PUBLIC GALLERY

Nil

3. DECLARATION OF:

- Financial Interest

Peter Stubbs declared a financial interest in item 7.2 - CEO Employment Contract, as the proposed contract relates directly to his employment as the Chief Executive Officer.

- Members Impartiality Interest

Cr J Moulden declared an impartiality interest in Item 7.1 - Proposed Bed And Breakfast Accommodation – Lot 1293 Great Northern Highway, Wyndham, as he works with one of the applicants.

- Proximity Interest

Nil

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5. PUBLIC QUESTION TIME

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE.

COUNCIL DECISION

Minute No. 8356

Moved: Cr K Wright

Seconded: Cr R Addis

That Council grant Cr D Ausburn a leave of absence for the Ordinary Meetings of Council 21 October 2008 and 18 November 2008.

Carried Unanimously 8/0

7. BUSINESS OF MEETING

7.1 Proposed Bed And Breakfast Accommodation – Lot 1293 Great Northern Highway, Wyndham

DATE:	2 September 2008
PROPONENT:	David & Patricia Muirson
LOCATION:	Lot 1293 Great Northern Highway
AUTHOR:	Gary McCarney, Town Planning Officer
REPORTING OFFICER:	Keith Williams, Executive Manager Town Planning
FILE NO:	01.0233.02
ASSESSMENT NO:	A233

Cr J Moulden declared an impartiality interest in Item 7.1 - Proposed Bed And Breakfast Accommodation – Lot 1293 Great Northern Highway, Wyndham, as he works with one of the applicants.

PURPOSE

For Council to consider an application for planning consent for bed and breakfast accommodation in a private dwelling in a Special Rural zone on the outskirts of Wyndham.

BACKGROUND

An application to run bed and breakfast accommodation from a private dwelling on a Special Rural lot was received from David and Patricia Muirson on 11 August 2008. The proposed use is not listed in the Zoning table within the Wyndham Town Planning Scheme. The proposal has therefore been referred to Council for a decision, as required under the Scheme.

The applicants are in negotiations over the sale of the property and require approval of the bed and breakfast use prior to finalisation. They have therefore requested urgent attention to this matter. The application was received too late to be referred to the August Council meeting and required additional information before an assessment and report could be made.

SITE LOCATION

Lot 1293 is located on the north eastern side of Great Northern Highway, within the Special Rural zone.



PROPOSED DEVELOPMENT

The application is for the use of four bedrooms within the existing residence for bed and breakfast accommodation. There is sufficient space to park four or more vehicles on site.

FINANCIAL IMPLICATIONS

The \$ application fee has been paid.

CONSULTATION

Town Planning Scheme No 6 (Wyndham Townsite) does not list bed and breakfast accommodation in the Zoning table. The Scheme requires uses that are not listed to be referred to Council to determine the level of consultation (advertising) required.

PLANNING ASSESSMENT

Strategic/Structure Plans

The Local Planning Strategy noted the significant benefits to be derived from the tourism industry for the Shire and identified the need for more budget accommodation to suit the growing self-drive and backpackers markets.

The strategy states its tourism and recreation objective as (clause 6.5):

To facilitate the growth and development of tourism and tourism related opportunities within the population centres and throughout the SWEK

The policies to achieve this include:

- *Encourage the development of a wide range of Tourist Accommodation in the towns of Kununurra and Wyndham.*

The proposal is consistent with the Strategy.

Town Planning Scheme No. 6 – Wyndham Townsite

Clause 3.2.5 of the Scheme sets out the requirements where a proposed use is not listed in the zoning table. It states that:

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

- a) determine that the use is not consistent with the objectives and purposes of the Policy Statement and particular zone and is therefore not permitted,*

or

- b) determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the Policy Statement and Zones and thereafter follow the advertising procedures of Clause 10.2 in considering an Application for Planning Consent.*

The subject site is within the Special Rural zone, the objectives being:

- a) To provide for the provision of land for people wishing to reside on a small rural holding;*
- b) To prohibit the use of any land which may be incompatible to or adversely affect the amenity of the surrounding land uses;*
- c) To maintain the rural/residential character of the land.*

The Scheme also, in Appendix II, sets out a number of special provisions including:

2) Permitted Uses

Agriculture, horticulture and other intensive agriculture, agistment of horse, cattle, sheep and goats, but excluding pigs and kennels.

Recreational uses

Equestrian Centre

A dwelling and ancillary buildings for the development and maintenance of the predominant use.

3) Uses Not Permitted

*Any industrial use, including the wrecking of motor vehicles and the storage of derelict machinery.
Any extractive industry.*

4) Uses Not Permitted Unless Special Approval is Granted by Council (AA)

Home Occupation or Home Industry not related to the predominant use

5) Uses Incidental to the Predominant Use (IP)

None listed

Appropriateness of Proposed Use

The proposal to use part of the existing house for bed and breakfast accommodation would be unlikely to have a significant impact on the surrounding area or on the rural residential character of the property. It would be consistent with the objectives of the Scheme.

It is therefore considered that the requirements of Clause 3.2.5 (b) are met and it is recommended that Council determine that the use may be consistent with the Scheme objectives and proceed to follow the advertising procedures of Clause 10.2 of the Scheme.

Clause 10.2 Advertising Procedures

Clause 10.2 Advertising of Applications states that:

10.2.1 Where an application is made for Planning Consent to commence or carry out development which involves an "SA" use the Council shall not grant to that application unless notice of the application is first given in accordance with the provisions of this Clause.

10.2.2 Where an application is made for Planning Consent to commence or carry out development which involves an "AA" use, or for any other development which requires Planning Consent of the Council, the Council may give notice of the application in accordance with the provisions of this Clause.

Although not listed in the Wyndham Scheme, bed and breakfast accommodation is listed in the Kununurra Scheme (introduced via Amendment 14 - June 2006). The Kununurra Scheme does not have a Special Rural zone but does have a Rural Living zone that has the same objectives as the Wyndham Special Rural zone.

In the Rural Living zone, bed and breakfast is listed as an AA use. It is reasonable to assume that, if bed and breakfast were listed in the Wyndham Scheme, it would also be an AA use in the Special Rural zone. If that were the case there would be no requirement to advertise the proposal.

TOURISM PERSPECTIVE

The Council, in December 2007, approved an application for a bed and breakfast accommodation within a private dwelling in Lakeside. At that time the manager of the Visitor Centre advised that there was no registered bed and breakfast accommodation in the area.

There is a demand for a wider range of accommodation within the Shire, in particular for something between backpackers/camping and hotel accommodation. Accommodation within the Wyndham area is limited and anything that increases the volume and range of

accommodation is well worth considering. Accommodation facilities with the potential to attract visitors to the Wyndham area and to get them to stay longer, as opposed to the day trip from Kununurra, should be encouraged.

There is also a shortage of accommodation in the peak tourist season, especially during the muster and other major events.

Less formal accommodation, such as the proposed bed and breakfast, is one way of addressing these issues.

CONCLUSION / COMMENT

The applicants propose to use four bedrooms in their residential dwelling for bed and breakfast accommodation. The subject site is in the Special Rural zone and the use is not listed in the town planning scheme's Zoning table.

The proposal has been referred to Council to determine, as required under the Scheme:

1. Whether the proposed use may be consistent with the Scheme objectives for the Special Rural zone; and if so determined
2. The level of consultation (advertising) required (if any)
3. Whether to approve the application

The proposal to use part of the existing house for bed and breakfast accommodation would be unlikely to have a significant impact on the surrounding area or on the rural residential character of the property. It would therefore meet the objectives of the Scheme and it is recommended that Council determine that the use may be consistent with the Scheme objectives.

The level of consultation required depends upon whether Council determines the use to be an SA or AA use. The Kununurra Scheme introduced bed and breakfast into the Scheme zone tables in 2006 as an AA use in the Rural Living zone (a zone with the same objectives as the Wyndham Scheme Special Rural zone).

It is reasonable to assume that, if bed and breakfast were listed in the Wyndham Scheme it would also be an AA use in the Special Rural zone. If that were the case there would be no requirement to advertise the proposal.

There is a demand for a wider range of accommodation particularly in the Wyndham area where accommodation is limited. Accommodation facilities with the potential to attract visitors to the Wyndham area and to get them to stay longer, as opposed to the day trip from Kununurra, should be encouraged.

It is therefore recommended that approval be granted for the proposed bed and breakfast.

ATTACHMENTS

Nil

VOTING REQUIREMENT

Absolute Majority

RECOMMENDATION

That Council, in accordance with Town Planning Scheme No. 6 – Wyndham Townsite, resolves to:

- a) Determine that the proposed bed and breakfast use for Lot 1293 Great Northern Highway is consistent with the objectives and purpose of the Policy Statement and Zones of TPS N^o 6 - Wyndham.
- b) Determine the use to be an AA use that does not require advertising.
- c) Grant Planning Approval to David and Patricia Muirson for the use and development of Lot 1293 Great Northern Highway, Wyndham for bed and breakfast accommodation, subject to the following specific conditions:
 - (i) The approval is for the use of a maximum of four bedrooms for bed and breakfast accommodation.
 - (ii) No additional bedrooms shall be used for bed and breakfast accommodation without prior written approval from the Council.
 - (iii) All visitor parking shall be contained on site at all times
 - (iv) Obtain separate Council approval for the erection of any advertising signs.
 - (v) Any other conditions issued under delegated authority in accordance with Council's adopted list of Standard Conditions.

COUNCIL DECISION

Minute No. 8357

Moved: Cr K Wright

Seconded: Cr P Caley

That Council, in accordance with Town Planning Scheme No. 6 – Wyndham Townsite, resolves to:

- a) ***Determine that the proposed bed and breakfast use for Lot 1293 Great Northern Highway is consistent with the objectives and purpose of the Policy Statement and Zones of TPS N^o 6 - Wyndham.***
- b) ***Determine the use to be an AA use that does not require advertising.***
- c) ***Grant Planning Approval to David and Patricia Muirson for the use and development of Lot 1293 Great Northern Highway, Wyndham for bed and breakfast accommodation, subject to the following specific conditions:***
 - (i) The approval is for the use of a maximum of four bedrooms for bed and breakfast accommodation.***
 - (ii) No additional bedrooms shall be used for bed and breakfast accommodation without prior written approval from the Council.***

- (iii) All visitor parking shall be contained on site at all times***
- (iv) Obtain separate Council approval for the erection of any advertising signs.***
- (v) Any other conditions issued under delegated authority in accordance with Council's adopted list of Standard Conditions.***

Carried Unanimously 8/0

7.2 CONFIDENTIAL Chief Executive Officer Contract Review

This item was distributed under CONFIDENTIAL COVER to all Councillors.

COUNCIL DECISION

Minute No. 8358

Moved: Cr J Parker

Seconded: Cr D Ausburn

That the meeting move into camera to discuss Item 7.2 - CEO Employment Contract, under section 5.23. (2) (a) of the Local Government Act 1995 because the item directly affects an employee.

Carried Unanimously 8/0

Peter Stubbs and Jo-Anne Ellis left the Chambers at 6.03pm

COUNCIL DECISION

Minute No. 8359

Moved: Cr J Parker

Seconded: Cr P Caley

That Council Suspend Standing Orders for item 7.2 CEO Employment Contract.

Carried Unanimously 8/0

Moved: Cr K Wright

Seconded:

That Council Defer item 7.2 Chief Executive Officer Contract Review.

Motion lapsed for want of a seconder

COUNCIL DECISION

Minute No. 8360

Moved: Cr J Parker

Seconded: Cr J Moulden

That the CEO review committee recommends to Council;

That Council endorse the employment contract for the CEO Peter Stubbs for a 3 year period ending 20 September 2011

That Council delegate the CEO review committee to formally present the employment contract to the CEO and subject to the CEO accepting, delegate the Shire President to officially sign the contract on Councils behalf.

Carried 7/1

COUNCIL DECISION

Minute No. 8361

Moved: Cr J Parker

Seconded: Cr J Moulden

That the Meeting move out of camera.

Carried Unanimously 8/0

Peter Stubbs, Jo-Anne Ellis and Karyn Apperley entered the Chambers at 6.23pm

8. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

8.1 Shire President's Resignation

Prior to closure of the meeting, Cr M Pucci, Shire President announced her resignation from Council and read the following press release:

The Shire President Cr Michele Pucci, for the Shire of Wyndham East Kimberley tendered her resignation Tuesday 2 September following a Special Meeting of Council.

Cr Pucci's resignation becomes effective 22 October 2008 and she will continue as both Shire President and a Councillor up until that time.

Cr Pucci said "As many people in the community know I had intended to retire from council at the next election in October 2009. However in view of the recently announced extraordinary election I have decided that this is an opportunity to retire early. I have recently taken on a new challenging and exciting role in the Department for Child Protection. I will be devoting more time to my family and pursuing some other interests."

The extraordinary election is set for Friday 7th November, and nominations for candidates will open on the 24th September 2008.

Cr Pucci said "I have thoroughly enjoyed my time as both a Councillor and as Shire President. It has enabled me to meet so many people and contribute to a wide variety of issues across the East Kimberley region."

"I thank Councillors past and present and shire staff for their trust and support. As team we have worked hard and I know we have made a difference."

"The transition from the old child care to a purpose built 106 place child care centre, the construction of the Kununurra Youth Centre, and subsequent \$900,000 funding package to coordinate youth services in the East Kimberley are highlights for me. These projects and improvements will service our region well for many years to come."

"I am pleased to see the innovation Council has shown in advancing the Shire's Park Plan through sale of redundant parkland and the old child care site, which has provided the much needed funds to invest and improve public open space in Kununurra and Wyndham. It has also been very rewarding to have played a role in advocating for the much needed land releases in our region."

"I am pleased to be retiring from Council at a time when the Shire has a clear Strategic Plan and a comprehensive Plan for the Future which will help focus the Shire for years to come."

"I would like to express my love and gratitude to my husband Ernie, and my children Joshua, Caitlyn and Tommy and my friends who have over the last 7 years been my rock and inspiration. You have all played a role in helping me to achieve the best I could for our community".

Council Pucci was elected to Council in 2001 and to the role of Shire President in May 2005.

9. CLOSURE

With all matters of business complete Cr M Pucci declared the meeting closed at 6.27pm.