



# **SHIRE OF DERBY/WEST KIMBERLEY**

## **ORDINARY MEETING OF COUNCIL**

Held at the Council Chambers  
Clarendon Street, Derby  
Monday, 10 December 2018

## **MINUTES**

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## **Our Guiding Values**

### **Respectful**

By being helpful, friendly and supportive

### **Integrity**

Through honesty, accountability and ethical behaviour

### **Leadership**

By the Shire at the local and regional level and through encouragement of community leaders

### **Knowledgeable**

By being well informed and accurate in what we do

### **Building Good Relationships**

By being communicative, responsive and inclusive

## **Disclaimer**

No responsibility whatsoever is implied or accepted by the Shire of Derby/West Kimberley (Shire) for any act, omission or statement or intimation occurring during Council or Committee meetings.

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The Shire warns that anyone who has any application lodged with the Shire must obtain and should only rely on written confirmation of the outcome of the application and any conditions attaching to the decision made by the Shire in respect of the application.

## Notes for Members of the Public

### **PUBLIC QUESTION TIME**

The Shire of Derby/West Kimberley extends a warm welcome to you in attending any Shire meeting. The Shire is committed to involving the public in its decision making processes whenever possible. The ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective. The Shire sets aside a period of 'Public Question Time' to enable a member of the public to put questions. Questions should only relate to the business of the Shire and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Presiding Member may either answer the question or direct it to an officer to answer, or it will be taken on notice.

Any comments made by a member of the public become a matter of public record as they are minuted by Council. Members of the public are advised that they are deemed to be held personally responsible and legally liable for any comments made by them that might be construed as defamatory or otherwise considered offensive by any other party.

### **MEETING FORMALITIES**

Local government Council meetings are governed by legislation and regulations. During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation. Members of the public shall ensure that their mobile telephone or audible pager is not switched on or used during any Shire meeting.

Members of the public are hereby advised that the use of any electronic, visual or audio recording device or instrument to record proceedings of the meeting is not permitted without the permission of the Presiding Member.

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## Notes for Elected Members

### NATURE OF COUNCIL'S ROLE IN DECISION MAKING

Advocacy:	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
Executive/Strategic:	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations, grants, and setting and amending budgets.
Legislative:	Includes adopting local laws, town planning schemes and policies.
Administrative:	When Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.
Review:	When Council reviews a decision made by Officers.
Information:	Includes items provided to Council for information purposed only that do not require a decision of Council (that is for 'noting').

### ALTERNATIVE MOTIONS

Councillors wishing to make alternative motions to officer recommendations are requested to provide notice of such motions in written form to the Director Corporate and Community Services prior to the Council meeting.

### DECLARATIONS OF INTERESTS

Elected Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences. Section 5.60A of the *Local Government Act 1995* states;

*"a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person."*

Section 5.60B states;

*"a person has a proximity interest in a matter if the matter concerns –*

- (a) a proposed change to a planning scheme affecting land that adjoins the person's land; or*
- (b) a proposed change to the zoning or use of land that adjoins the person's land; or*
- (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land."*

Regulation 34C (Impartiality) states;

*"interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association."*

**2018 MEETING DATES**

At its Ordinary Meeting of Council on 30 November, 2017, Council adopted the following meeting dates for 2018;

January			Council in Recess
Thursday	22 February 2018	5.30 pm	Council Chambers, Derby
Thursday	29 March 2018	1.00 pm	Karrayili Adult Education Centre, Fitzroy Crossing
Thursday	26 April 2018	5.30 pm	Council Chambers, Derby
Thursday	31 May 2018	5.30 pm	Council Chambers, Derby
Thursday	28 June 2018	1.00 pm	Karrayili Adult Education Centre, Fitzroy Crossing
Thursday	26 July 2018	5.30 pm	Council Chambers, Derby
Thursday	30 August 2018	5.30 pm	Council Chambers, Derby
Thursday	27 September 2018	1.00 pm	Council Chambers, Derby
Thursday	25 October 2018	5.30 pm	Council Chambers, Derby
Thursday	29 November 2018	1.00 pm	Karrayili Adult Education Centre, Fitzroy Crossing
Thursday	13 December 2018	5.30 pm	Council Chambers, Derby

Council's Compliance and Strategic Review Committee and the Housing and Works Committee meet when required. Details of these meetings are advised as appropriate.

**MEETING ATTENDANCE**

The following table provides information on attendance at the 2017-2018 Ordinary and Special Council Meetings;

Councillor	22 Feb 2018	29 Mar 2018	26 Apr 2018	31 May 2018	14 Jun 2018	28 Jun 2018	26 Jul 2018	30 Aug 2018	27 Sep 2018	25 Oct 2018	28 Nov 2018	10 Dec 2018
	OCM	OCM	OCM	OCM	SCM	OCM	OCM	OCM	OCM	OCM	OCM	OCM
P White	✓	✓	✓	✓	✓	✓	✓	✓	LOA	✓	✓	✓
P Coggins	✓	✓	LOA	✓	✓	✓	LOA	✓	✓	✓	✓	LOA
C Kloss	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
P McCumstie	✓	LOA	✓	✓	✓	✓	✓	LOA	✓	✓	A	✓
I Prouse	✓	✓	✓	LOA	✓	✓	✓	✓	✓	✓	✓	✓
A Twaddle	✓	✓	LOA	✓	✓	✓	✓	LOA	✓	✓	✓	✓
G Davis	A	✓	✓	✓	✓	✓	✓	✓	A	A	A	A
G Haerewa	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
D Andrews	A	A	✓	A	A	LOA	✓	✓	✓	LOA	A	✓

**APPLICATION FOR LEAVE OF ABSENCE**

In accordance with Section 2.25 of the *Local Government Act 1995*, an application for leave requires a Council resolution granting leave requested. Council may grant approval for Leave of Absence for an Elected Member for ordinary Council meetings for up to but not more than six consecutive meetings. The approval of the Minister is required for leave of absence greater than six ordinary Council meetings.

This approval must be by Council resolution and differs from the situation where an Elected Member records their apologies for the meeting. A failure to observe the requirements of the Act that relates to absence from meetings can lead to an Elected Member being disqualified should they be absent without leave for three consecutive meetings.

## SHIRE OF DERBY/WEST KIMBERLEY

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## ORDINARY MEETING OF COUNCIL

### AGENDA

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#### 1.0 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

The meeting was opened at 5.34pm by Cr Geoff Haerewa, Shire President.

#### 2.0 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS

In accordance with regulation 14A of the *Local Government (Administration) Regulations 1996* Council must approve (by Absolute Majority) the attendance of a person, not physically present at a meeting of Council, by audio contact. The person must be in a 'suitable place' as approved (by absolute majority) by Council. A 'suitable place' means a place that is located in a townsite or other residential area and 150km or further from the place at which the meeting is to be held.

#### COUNCIL DECISION/OFFICER RECOMMENDATION:

#### MINUTE NO. 114/2018

Moved: Cr A Twaddle

Seconded: Cr I Prouse

That Council, BY AN ABSOLUTE MAJORITY:

1. APPROVES Cr McCumstie and Cr Andrews attendance at the Council Meeting held 10 December 2018 via telephone communication in accordance with regulation 14A(1) of the *Local Government (administration) Regulations 1996*;
2. APPROVES Perth and Fitzroy Crossing, Western Australia, as a suitable place for Councillor attendance in accordance with regulation 14A(4) of the *Local Government (Administration) Regulations 1996*.

CARRIED: 5 / 0 BY AN ABSOLUTE MAJORITY

#### 3.0 RECORD OF ATTENDANCE

##### 3.1 ATTENDANCE

##### ELECTED MEMBERS:

Cr Geoff Haerewa

Shire President

Cr Paul White

Deputy Shire President

Cr Andrew Twaddle

Councillor

Cr Iris Prouse

Councillor

Cr Chris Kloss

Councillor

Cr Denise Andrews  
Cr Peter McCumstie

Councillor  
Councillor

**STAFF:**

Stephen Gash  
Stuart Martin  
Noel Myers  
Ross Sullivan  
Carlie McCulloch

Chief Executive Officer  
Manager Development Services  
Manager Planning  
Manager Community Services  
Customer Service Officer (Minutes)

**VISITORS:**

Nil

**GALLERY:**

Terri Buckley  
Peter Jackson

Buckley's Earthworks and Paving  
Buckley's Earthworks and Paving

### **3.2 APOLOGIES**

Nil

### **3.3 APPROVED LEAVE OF ABSENCE**

Cr Peter Coggins

Councillor

### **3.4 ABSENT**

Nil

### **3.5 DISCLOSURE OF INTERESTS**

Section 5.65 and 5.70 of the *Local Government Act 1995* requires an Elected Member or officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Elected Member or officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

An Elected Member who makes a disclosure under section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow an Elected Member to speak, the extent of the interest must also be stated.

#### **3.5.1 DECLARATIONS OF FINANCIAL INTERESTS**

Cr Iris Prouse - 10.3.1 – Petition – Speed Limits and Signage at Hamlet Grove

Cr Chris Kloss - 10.3.1 – Petition – Speed Limits and Signage at Hamlet Grove

### **3.5.2 DECLARATIONS OF PROXIMITY INTERESTS**

Nil

### **3.5.3 DECLARATIONS OF IMPARTIALITY INTERESTS**

Cr Andrew Twaddle – 10.5.1 Waste Management Fees Waiver – Mary Island Fishing Club

## **4.0 APPLICATIONS FOR LEAVE OF ABSENCE**

### **COUNCIL DECISION/OFFICER RECOMMENDATION:**

#### **MINUTE NO. 115/2018**

**Moved: Cr A Twaddle**

**Seconded: Cr P White**

**That Cr P Coggins be granted leave of absence from the Ordinary Council Meeting held on Monday 10 December 2018.**

**CARRIED: 7/0**

### **COUNCIL DECISION/OFFICER RECOMMENDATION:**

#### **MINUTE NO. 116/2018**

**Moved: Cr A Twaddle**

**Seconded: Cr P White**

**That Cr D Andrews be granted leave of absence from the Ordinary Council Meeting to be held on Thursday 28 February 2019.**

**CARRIED: 6/0**

## **5.0 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

## **6.0 PUBLIC TIME**

### **6.1 PUBLIC QUESTION TIME**

Nil

**6.2 PUBLIC STATEMENTS**

Nil

**6.3 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS**

Nil

**7.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

Cr Geoff Haerewa, Shire President, wanted to acknowledge Ayla-May Seibel, Senior Youth Services Officer at the Shire of Derby/West Kimberley, for being awarded the 2018 Youth Work WA Regional Youth Worker Award.

Cr Geoff Haerewa, Shire President, wished everyone a Merry Christmas and safe and happy New Year.

**8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS****COUNCIL DECISION/OFFICER RECOMMENDATION:****MINUTE NO. 117/2018****Moved: Cr C Kloss****Seconded: Cr A Twaddle**

**That the Minutes of the Ordinary Meeting of the Shire of Derby/West Kimberley held at the Council Chambers, Derby, on 28 November 2018 be CONFIRMED.**

**CARRIED: 7/0****9.0 RECOMMENDATIONS AND REPORTS OF COMMITTEES**

Nil

**10.0 REPORTS****10.1 EXECUTIVE SERVICES**

Nil

## 10.2 CORPORATE SERVICES

### 10.2.1 ACCOUNTS FOR PAYMENT – NOVEMBER 2018

<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	N/A
<b>File Reference:</b>	5110 – Accounts Payable
<b>Author:</b>	Emma Gugeri - Finance Officer
<b>Responsible Officer:</b>	Myra Henry – Manager Finance
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	4 December 2018
<b>Attachments:</b>	Cheque reconciliation and schedule of accounts
<b>Authority/Discretion:</b>	Information

#### SUMMARY:

For Council to note the list of accounts paid under the Chief Executive Officer's delegated authority during the month of November 2018.

#### BACKGROUND:

Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the Shire's municipal and trust funds. In accordance with regulation 13 of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the Chief Executive Office is to be provided to Council.

#### STATUTORY ENVIRONMENT:

*Local Government (Financial Management) Regulations 1996*

#### **12. Payments from municipal fund or trust fund, restrictions on making**

*12(1) A payment may only be made from the municipal fund or a trust fund –*

*(a) if the local government has delegated to the Chief Executive Officer the exercise of its power to make payments from those funds – by the CEO: or*

*(b) otherwise, if the payment is authorised in advance by a resolution of the council.*

*The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.*

#### **13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.**

*(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared –*

*(a) the payee's name; and*

- (b) the amount of the payment; and*
- (c) the date of the payment; and*
- (d) sufficient information to identify the transaction.*

*(2) A list of accounts for approval to be paid is to be prepared each month showing —*

*(a) for each account which requires council authorisation in that month —*

- (i) the payee's name; and*
- (ii) the amount of the payment; and*
- (iii) sufficient information to identify the transaction; and*

*(b) the date of the meeting of the council to which the list is to be presented.*

*(3) A list prepared under subregulation (1) or (2) is to be —*

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and*
- (b) recorded in the minutes of that meeting.*

#### **POLICY IMPLICATIONS:**

Nil

#### **FINANCIAL IMPLICATIONS:**

All expenditure from the municipal fund was included in the annual budget as adopted or revised by Council.

#### **STRATEGIC IMPLICATIONS:**

GOAL	OUTCOME	STRATEGY
<b>4:</b> Good governance and an effective organisation Leadership that provides strategic direction for the community, supported by efficient and effective service delivery	<b>4.4:</b> Financial sustainability and accountability for performance	<b>4.4.4:</b> Provide resources to support the Shire's operations and to meet planning, reporting and accountability requirements

**RISK MANAGEMENT CONSIDERATIONS:**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Legal and Compliance:</b> In accordance with section 6.8 of the <i>Local Government Act 1995</i> , a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council	Rare	Minor	Low	Expenditure to only be incurred in accordance with budget parameters, which have been structured on financial viability and sustainability principles

**CONSULTATION:**

Internal consultation within the Corporate Services Department.

**COMMENT:**

All municipal fund expenditure included in the list of payments is incurred in accordance with the 2018-19 Annual Budget as adopted by Council at its meeting held 30 August 2018 (Minute No. 077/2018 refers) and subsequently revised or has been authorised in advance by the President or by resolution of Council as applicable.

The table below summarises the payments drawn on the funds during the month. Lists detailing the payments made are appended as an attachment.

FUND	DETAILS	AMOUNT
<b>Municipal Account</b>		
EFT Payments	45572-45573	\$2,703,381.46
Municipal Cheques	54727-54729	\$47,007.41
Direct Debits – Payroll	Fees, Charges, Credit Card Payment, Payroll and Payroll Liabilities	\$544,639.53
Manual Cheques	NIL	NIL
<b>Trust Account</b>		
Trust Cheques	6537 - 6539	\$1,991.24
<b>Total</b>		<b>\$3,297,019.64</b>

Creditors outstanding as at 30 November 2018 totalled \$156,230.61.



**VOTING REQUIREMENT:**

Simple majority

**COUNCIL DECISION/OFFICER RECOMMENDATION:**

**MINUTE NO. 118/2018**

**Moved: Cr P White**

**Seconded: Cr C Kloss**

**That Council NOTES the Chief Executive Officer's list of accounts for November 2018 paid under Delegated Authority in accordance with regulation 13(1) of the *Local Government (Financial Management) Regulations 1996* attached to Report 10.2.1, totalling \$3,297,019.64.**

**CARRIED: 7/0**

### **10.3 TECHNICAL SERVICES**

5.45pm – Cr Iris Prouse and Cr Chris Kloss left the room.

#### **10.3.1 PETITION - SPEED LIMITS AND SIGNAGE AT HAMLET GROVE**

<b>Location/Address:</b>	Hamlet Grove Sub-division, Gibb River Road
<b>Name of Applicant:</b>	Shire of Derby/West Kimberley
<b>File Reference:</b>	5480
<b>Author:</b>	Danielle Hurstfield – Manager Administration & Governance
<b>Responsible Officer:</b>	Wayne Neate – Director of Technical and Development Services
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	20 November 2018
<b>Attachments:</b>	Petition received from Kelly Betambeau
<b>Authority/Discretion:</b>	Review

#### **SUMMARY:**

This item seeks Council's approval to accept the intent of the invalid petition received from Kelly Betambeau. In addition, highlight the support of the community in further correspondence to the Commissioner of Main Roads Western Australia (MRWA) as per Council as per minute no 092/2018.

#### **BACKGROUND:**

Complaints have been received from residents within the Hamlet Grove subdivision over several years regarding vehicles travelling at excessive speeds. Upon investigating Council officers identified there was some confusion over what the actual speed limit in this area was.

Shire staff then assisted in collecting data on the roads within the Hamlet Grove subdivision to assist Main Roads in determining what the speed limit could be set at, taking into consideration the location and density of the properties at the same time.

Following this an item was put to Council in March 2018 and a motion was moved to apply to MRWA for a 60km/h speed limit on Windjana and Lennard Road's.

The initial response from MRWA technical section based in Perth was to set the speed at 80km/h on both roads. Kimberley MRWA staff then went back to their technical

staff to request if it could be lowered to 70km/h. MRWA technical staff have agreed to this and proposed that the speed limit on Windjana and Lennard Road's be set at 70km/h which was accepted by Council at the Ordinary Meeting held 25 October 2018

**MINUTE NUMBER. 092/2018****Moved: Cr McCumstie****Seconded: Cr Twaddle****That Council:**

- 1. Accept the proposal by Main Roads Western Australia to implement 70km/h speed zone signage on Windjana and Lennard road's in the Hamlet Grove subdivision;**
- 2. Continue to lobby Main Roads Western Australia to lower the speed zone on Windjana and Lennard roads in the Hamlet Grove subdivision.**

**CARRIED: 7/0**

Since this time the approved signage has been installed on the roads at Hamlet Grove.

On 26 October a petition addressed to the Chief Executive Officer was received with 418 signatures 'supporting the Shire of Derby/West Kimberley's proposal to Main Roads for the speed limit to be 60 km/h on the roads in Hamlet Grove'.

As a result of the timing of this petition, the response to Main Roads as outlined in Minute 092/2018 has been held over pending the outcome of this item.

**STATUTORY ENVIRONMENT:**

*Australian Standard AS 1742 – 2008 Manual of Uniform traffic control devices, part 4 Speed Controls.*

*Shire of Derby/West Kimberley Standing Orders 2001*

**Section 3.4**

A petition, in order to be effective, is to –

- a) Be addressed to the President;
- b) Be made by electors of the district;
- c) State the request on each page of the petition;
- d) Contain the names, addresses and signatures of the electors making the request, and the date each elector signed;
- e) Contain a summary of the reasons for the request;

- f) State the name of the person upon whom, and an address at which, notice to the petitioners can be given;
- g) Be in the form prescribed by the Act and Local Government (Constitution) Regulations 1996 if it is –
  - i. A proposal to change the method of filling the office of President;
  - ii. A proposal to create a new district or the boundaries of the Local Government;
  - iii. A request for a poll on a recommended amalgamation;
  - iv. A submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil

**STRATEGIC IMPLICATIONS:**

GOAL	OUTCOME	STRATEGY
4: Good governance and an effective organisation	4.1: Effective governance and leadership	4.1.1: Provide leadership in balancing the needs of the community, government, industry and the environment.

**RISK MANAGEMENT CONSIDERATIONS:**

Nil risk to Council

**CONSULTATION:**

Previous consultation with Main Roads Western Australia.

Shire Staff have worked to provide information to the residents of Hamlet Grove. Meetings have also been held with the residents by Councillor Prouse and Haerewa.

**COMMENT:**

On 26 October a petition addressed to the Chief Executive Officer was received with 418 signatures 'supporting the Shire of Derby/West Kimberley's proposal to Main Roads for the speed limit to be 60 km/h on the roads in Hamlet Grove'.

The Standing Orders Local Law sets out the requirements of the information required to present a valid petition. Below is a summary of the validity of the petition against the criteria:

- The petition is not addressed to the President as required by 3.4(a) of the Local Law. The petition is currently addressed to Stephen Gash, CEO.
- It is not clear whether the petition is made by electors of the district as required by 3.4(b) of the Local Law. In some cases a street address is not given or the address is based outside of the district.
- The petition does not always contain the names, addresses and signatures of the electors making the request as required by 3.4(d) of the Local Law.
- The petition does not contain the date each elector signed as required by 3.4(d) of the Local Law.
- Section 3.4(g) of the Local Law is irrelevant as the petition does not concern any of the requests, proposals or submissions listed under that section.
- The petition meets the requirements of 3.4(c) and (e) of the Local Law.

Albeit the petition in its current form does not comply with the requirements of the Standing Orders Local Law, Council can accept the intent being there is some wider community support for the proposed speed reduction to 60 km/h. As a result of the timing of this petition, the response to Main Roads as outlined in Minute 092/2018 has been held over pending the outcome of this item. Should Council accept the intent of this petition, this can be included in the outstanding response to the Commissioner of Main Roads required by Minute No. 092/2018.

In addition, Officers will make appropriate amendments to the information provided on the Shire of Derby/West Kimberley website to assist the community to make valid petitions in the future.

#### **VOTING REQUIREMENT:**

Simple majority

**COUNCIL DECISION/OFFICER RECOMMENDATION:**

**MINUTE NO. 119/2018**

**Moved: Cr P McCumstie**

**Seconded: Cr P White**

**That Council:**

- 1. Accept the intent of the invalid petition received from Kelly Betambeau; and**
- 2. Highlight the support of the wider community in further correspondence to the Commissioner of Main Roads Western Australia (MRWA) in accordance with Council minute no 092/2018**

**CARRIED: 5/0**

5.46pm – Cr Iris Prouse and Cr Chris Kloss re-entered the room.

Presiding Officer notified Cr Iris Prouse and Cr Chris Kloss of outcome.

## **10.4 DEVELOPMENT SERVICES**

## **10.5 COMMUNITY DEVELOPMENT AND RECREATION SERVICES**

### **10.5.1 WASTE MANAGEMENT FEES WAIVER – MARY ISLAND FISHING CLUB**

<b>Location/Address:</b>	Portion Reserve 26818 Lot 325 Elder St, Derby
<b>Name of Applicant:</b>	Mary Island Fishing Club
<b>File Reference:</b>	9010.13
<b>Author:</b>	Ross Sullivan, Manager of Community Development
<b>Responsible Officer:</b>	Stephen Gash, Chief Executive Officer
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	30 November 2018
<b>Attachments:</b>	Request Letter, Drawing of Lease Area
<b>Authority/Discretion:</b>	Executive

#### **SUMMARY:**

This item seeks Council to consider waiving fees for disposal of materials at the Derby Waste Management Facility resulting from a clean-up of the portion of Reserve 26818 Lease area held by Mary Island Fishing Club (MIFC).

#### **BACKGROUND:**

MIFC currently hold a ten year lease over a portion of Reserve 10831 expiring in October 2021 with an option for a further ten year term. It is upon this area that the Club's main facilities are located.

In June 2013, MIFC was granted a Lease variation to include the portion of Reserve 26818 which abuts the western boundary of the initial Lease area for the purpose of developing a boat storage facility and associated ancillary uses.

At this point in time, development of the area as a boat storage facility has not been progressed

Located on this leased area is a small building containing asbestos as well as other material such as cement pads, footings with remnants of steel protruding from them, bricks and other legacy items that were in place at the time MIFC acquired the Lease.

These materials are located amongst vegetation making it difficult to maintain the area to a safe or appealing standard and is relatively visible to the public as well as from the Club's main area where a number of tourist events are held.

More recently, people have been accessing the area to use as an itinerant camping ground which is becoming more problematic for the club as they are beginning to try and access the club facilities and services. MIFC as the lease holders are responsible for the maintenance and upkeep of the property. It was because of this that MIFC approached the Shire for assistance to clean up the property to remove the vegetation and other legacy items.

MIFC were successful in receiving a Quick Grant to cover the costs of disposing the asbestos building at the waste management Facility. They have also secured donated use of machinery and equipment to remove the waste materials described above to bring the area to clean and tidy state. The waste removed will be largely vegetation, concrete (approx. 80 cubic metres) and steel.

### **STATUTORY ENVIRONMENT:**

Not Applicable

### **POLICY IMPLICATIONS:**

By virtue of 6.12(1)(b) of the *Local Government Act 1995*, Council have the power to waive adopted Fees and Charges:

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

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

(a) when adopting the annual budget, grant\* a discount or other incentive for the early payment of any amount of money; or

(b) waive or grant concessions in relation to any amount of money; or

(c) write off any amount of money,

which is owed to the local government.

\* Absolute majority required.

### **FINANCIAL IMPLICATIONS:**

Foregone (waived) waste disposal charges on an estimated 80m<sup>2</sup> volume of concrete material at \$55/m<sup>2</sup> equating to \$4,400. Other materials including steel and green waste do not attract charges.

### **STRATEGIC IMPLICATIONS:**

GOAL	OUTCOME	STRATEGY
Community wellbeing	An inclusive and participative community	Actively promote and support community groups and clubs



A balance between the natural and built environments	Protection of the natural environment	Provide effective management and maintenance of the Shire's land and reserves
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**RISK MANAGEMENT CONSIDERATIONS:**

RISK	LIKELIHOOD	CONSEQUENCE	MITIGATION
Environment:	Likely	Moderate	Assist to facilitate clean-up
People, Health and Safety:	Almost certain	Major	Assist to facilitate clean-up
Property:	Possible	Moderate	Assist to facilitate clean-up

**CONSULTATION:**

The Shire has received a letter from MIFC with the details of their request followed by internal discussions with officers from other departments.

**COMMENT:**

MIFC acquired the Lease with the waste materials already on site. Without progression of the boat storage facility, there has been no impetus to undertake to clear the area of the various legacy materials and items.

Increasingly, homeless people accessing the area has become more frequent and is a health and safety hazard for these people due to open fires burning close to combustible vegetation, snake bites, trip hazards etc. Generally, it is an unsafe location for people to be established in whatever manner.

The general aesthetic of the area would be greatly improved with the removal of the waste material, particularly as it can be seen from Jetty Road where there is a high frequency of traffic as well as being adjacent to a regular tourist event area where MIFC host a variety of events.

The subject Lease area is managed through a Head Lease between the Shire and the Department of Transport. Should the Lease with MIFC lapse and the Shire undertake a clean-up for the same reasons outlined above, the costs to engage contractors is estimated to be close to \$10,000. Currently, these costs would be avoided by the Shire through MIFC carrying out the works with their arranged donated services.

**VOTING REQUIREMENT:**

Simple majority

**COUNCIL DECISION/OFFICER RECOMMENDATION:**

**MINUTE NO. 120/2018**

**Moved: Cr P White**

**Seconded: Cr I Prouse**

- 1. That Council waive the Waste Management Fees and Charges associated with material being removed from the Mary Island Fishing Club, Lease Portion Reserve 26818 Lot 325 Elder St, Derby; and**
- 2. That Mary Island Fishing Club undertake to separate the materials in accordance with the various categories to allow waste minimisation and recycling at the Waste Management Facility.**

**CARRIED: 7/0**

**11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**12.0 NEW BUSINESS OF AN URGENT NATURE****COUNCIL DECISION:****MINUTE NO. 121/2018****Moved: Cr P White****Seconded: Cr I Prouse****That Council move a motion to consider the late item 12.1.1 – Disposal of Assets.****CARRIED 7/0****12.1.1 DISPOSAL OF ASSETS**

<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	N/A
<b>File Reference:</b>	5115
<b>Author:</b>	Stephen Gash – Chief Executive Officer
<b>Responsible Officer:</b>	Stephen Gash – Chief Executive Officer
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	9 December 2018
<b>Attachments:</b>	Nil
<b>Authority/Discretion:</b>	Legislative

**SUMMARY:**

This item seeks Council approval to advertise intent to dispose of a single persons accommodation block to the Derby Speedway Club.

**BACKGROUND:**

The Shire has received requests from many community groups for donation of surplus transportable buildings.

The current status of the inventory and allocation is below:

- Ablution Block (gifted to Derby Rodeo and Horse Riders Association 21/2/2018)
- Guard House 1 (gifted to Derby Rodeo and Horse Riders Association 21/2/2018 as part of proposed ablution complex)
- Guard House 2 reserved for office/crib room at the Wharf

- Guard House 3 reserved for possible RFDS patient transfer shelter at Derby Airport
- Security Block (A and B) unallocated
- Accommodation Blocks 1 to 5 unallocated (see comments).

## STATUTORY ENVIRONMENT:

### *Local Government Act 1995*

#### 3.58. Disposing of property

- (1) In this section —

*dispose* includes to sell, lease, or otherwise dispose of, whether absolutely or not;

*property* includes the whole or any part of the interest of a local government in property, but does not include money.

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

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

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

- (a) it gives local public notice of the proposed disposition —
  - (i) describing the property concerned; and
  - (ii) giving details of the proposed disposition; and
  - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

and

- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

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

- (a) the names of all other parties concerned; and
- (b) the consideration to be received by the local government for the disposition; and

- (c) the market value of the disposition —
  - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
  - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
  - (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or
  - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
  - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
  - (d) any other disposition that is excluded by regulations from the application of this section.

*[Section 3.58 amended by No. 49 of 2004 s. 27; No. 17 of 2009 s. 10.]*

#### **POLICY IMPLICATIONS:**

Valuation and treatment of disposal will be in accordance with the Shires Significant Accounting Policies.

#### **FINANCIAL IMPLICATIONS:**

The indicative value of the accommodation block is \$20,000 to \$30,000 which will be created as a donated asset to the Shire, and required to be treated as a loss on disposal of asset.

#### **STRATEGIC IMPLICATIONS:**

The disposal of the ablution block as surplus to Shire needs for a community group on Shire reserve, as in kind contribution will assist with building compliance on the Shire speedway reserve, and allow their own funds to go towards internal fit out.

#### **CONSULTATION:**

Derby Speedway Club

**COMMENT:**

The Derby Speedway Club applied through the community grants process for a contribution to a transportable building to replace the kiosk. The application was deferred pending further detail as there was concern the proposed budget may underestimate the costs and not consider the cost of rectifying some of the site/headworks issues.

The Club was unsuccessful in procuring the transportable building they had identified, which the requested cash contribution was for. The incoming Club President was then asked to consider whether the dimensions of a surplus accommodation block would allow better positioning on the site and move away from the area that would require significant site work and electrical upgrade cost.

This item considers gifting / disposing Accommodation Block 1 for repurposing as kiosk / bar facility, in lieu of the requested contribution under the community grant scheme. To initiate the process public advertising of the proposal is required.

**Other Unallocated Buildings**

Medical Centre – was proposed to be considered for a Youth Hub/Centre in Fitzroy Crossing but the Fitzroy Futures Youth Subcommittee requested Youth Engagement Strategy be undertaken first. We understand that the report will not be presented until March 2019 but is unlikely to include project workup of the building above. We have been requested to consider the building as a public hall/community building at Looma.

Accommodation 2 to 5 – was originally set aside 3 units for possible standby accommodation at the airport for search and rescue or emergency response. The need so far hasn't materialised.

Security Block (A & B) is in two halves and a specialised layout. It was acquired with significant areas of floor missing and has not stood up well to 4 years of the elements with significant mould and weathering issues that would require complete gutting. Its potential value is questionable. It was to be part of the Derby Scallywags expansion with \$50,000 contribution from the Child Care operator but the proposal lapsed.

Discussions with Garnduwa have identified them wanting to access \$20,000 in grant funds to secure their old building provided by the Shire. Estimates suggest this would not cover the work proposed and there were discussions about whether 2 accommodation blocks with a deck in between could be a better option until final youth hub design and construct is undertaken. This project needs further costing/work up as it would have budget implications for the Shire and this will be presented in February, along with confirmation of other uses of the remaining buildings.

The Derby Turf Club have requested funding towards ablution facilities. The ablution granted to the Derby Rodeo and Horse Riders Association in February 2018 was part of the Kimberley Development Commission Grant that previously was split between the Turf Club. We are unsure of the status of their applications to different funding

bodies. In addition they had approached about the requirement for office accommodation during race meetings. An accommodation unit may meet there requirements.

Derby Golf Club requested a crib room for the green keeper but the guard houses that would be suitable for this purpose have been allocated.

Wharfinger House have requested whether any buildings could be used inside the Woolshed for further heritage displays.

Other entities who have expressed an interest since 2014 are Derby Tigers Football Club, Kimberley Wildlife, Mary Island Fishing Club, Liveringa Station.

#### **VOTING REQUIREMENT:**

Simple majority

#### **COUNCIL DECISION/OFFICER RECOMMENDATION:**

#### **MINUTE NO. 122/2018**

**Moved: Cr P White**

**Seconded: Cr I Prouse**

**That Council advertise notice of intention to dispose of the ex-Curtin Accommodation Block 1 by gifting to the Derby Speedway Club in accordance with Section 3.58 of the *Local Government Act 1995*.**

**CARRIED: 7/0**

### **13.0 MATTERS FOR WHICH THE MEETING MAY BE CLOSED (CONFIDENTIAL MATTERS)**

#### **COUNCIL DECISION/OFFICER RECOMENDATION:**

##### **MINUTE NO. 123/2018**

**Moved: Cr C Kloss**

**Seconded: Cr P White**

**That the Meeting be closed to the general public to discuss Agenda Item 13.1.1 pursuant to the Local Government Act 1995 Section 5.23(2)(c) and 5.23(2)(d).**

**CARRIED 7/0**

6.00pm – Meeting was closed to the general public and public left the gallery.

A verbal update was provided on the status of all port agreements.

### **13.1.1 EXTENSION OF MEMORANDUM OF UNDERSTANDING**

#### **COUNCIL DECISION/OFFICER RECOMMENDATION:**

##### **MINUTE NO. 124/2018**

**Moved: Cr P White**

**Seconded: Cr C Kloss**

**That Council:-**

- 1. Approve extension to the Memorandum of Understanding with WGPL Property No. 3 Pty Ltd and ACE Infrastructure SPV Pty Ltd to 30 June 2019; and**
- 2. Authorise the Shire President and Chief Executive Officer to affix the Common Seal to the Deed detailed under letter dated 6 December 2018.**

**CARRIED 7/0**

#### **COUNCIL DECISION/OFFICER RECOMENDATION:**

##### **MINUTE NO. 125/2018**

**Moved: Cr A Twaddle**

**Seconded: Cr P White**

**That the meeting again be open to the general public.**

**CARRIED 7/0**

6.36pm – Meeting was open again to the general public. Public did not return.



## **14.0 CLOSURE**

### **14.1 DATE OF NEXT MEETING**

The next ordinary meeting of Council will be held Thursday, 28 February 2019 in the Council Chambers, Clarendon Street Derby.

### **14.2 CLOSURE OF MEETING**

The Presiding Member closed the meeting at 6.38pm.

**These minutes were confirmed at a meeting on**

.....

**Signed:** .....

**Presiding Person at the meeting at which these minutes were confirmed.**

**Date:** .....