



**Shire of Derby /  
West Kimberley**

# **UNCONFIRMED MINUTES**

**Special Council Meeting  
Thursday, 21 March 2024**

**Date: Thursday, 21 March 2024**

**Time: 4:30 PM**

**Location: Council Chambers  
Clarendon Street  
Derby**



**Order Of Business**

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**MINUTES OF SHIRE OF DERBY / WEST KIMBERLEY  
SPECIAL COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBERS, CLARENDON STREET, DERBY  
ON THURSDAY, 21 MARCH 2024 AT 4:30 PM**

**PRESENT:**

**(In person)** Mr Peter McCumstie (President), Cr Geoff Haerewa (Deputy President), Cr Brett Angwin, Cr Paul Bickerton, Cr Brian Ellison, Cr Wayne Foley, Cr Kerrissa O'Meara and Cr Andrew Twaddle.

**PRESENT:**

**(Online)** Cr Geoff Davis.

**IN ATTENDANCE:**

**(In Person)** Tamara Clarkson (Deputy Chief Executive Officer), Wayne Neate (Director, Technical and Development Services), Sarah Smith (Executive Services Coordinator), Mark Davis (Executive Services Project Director), Andrew Melville (Manager of Ports), Dean Wyber (Manager of Assets), Bhavesh Modi (Manager of Infrastructure) and Mark Chadwick (Manager of Environments).

**IN ATTENDANCE:**

**(Online)** Amanda Dexter (Chief Executive Officer), Jess Karlsson (Executive Director of Operations and Strategic Development – entered the meeting at 4:36pm) and Neil Hartley (Director, Strategic Business – entered the meeting at 4:46pm).

**VISITORS:** Nil

**GALLERY:** Kevin Pilkington, Peter Jackson and Terri Buckley.

**APOLOGIES:** Nil

**APPROVED LEAVE OF ABSENCE:** Nil

**ABSENT:** Nil

**1 DECLARATION OF OPENING, ANNOUNCEMENTS OF VISITORS**

The meeting was opened at 4:30pm by Mr Peter McCumstie – President.

**2 ACKNOWLEDGEMENT OF COUNTRY**

In the spirit of reconciliation, the Shire of Derby/West Kimberley acknowledges the traditional custodians of country throughout the Shire and their connection to land, sea and community.

The Shire of Derby/West Kimberley would like to pay respect to the past, present and future traditional custodians and Elders of this nation and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

### **3 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS**

A Councillor may attend council or committee meetings by electronic means if the member is authorised to do so by the President or the Council. Electronic means attendance can only be authorised for up to half of the Shire's in-person meetings they have attended in total, in any rolling 12 months prior period. Authorisation can only be provided if the location and the equipment to be used by the Councillor are suitable to enable effective, and where necessary confidential, engagement in the meeting's deliberations and communications.

- Cr Geoff Davis.

### **4 DISCLOSURE OF INTERESTS**

#### **4.1 Declaration of Financial Interests**

- Nil.

#### **4.2 Declaration of Proximity Interests**

- Nil.

#### **4.3 Declaration of Impartiality Interests**

- Nil.

### **5 PUBLIC TIME**

#### **5.1 Public Question Time**

- Nil.

#### **5.2 Public Statements**

- Nil.

### **6 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

#### **Mr Peter McCumstie – President**

- Attended the Fitzroy Crossing Deadly Jobs Expo on Wednesday, 20 April 2024 – Thursday, 21 April 2024; and
- Fitzroy Crossing Shire Depot has had recent break-ins. The CEO is working with staff and will provide an update and briefing on staff safety to Council next week in Fitzroy Crossing prior to the Ordinary Council Meeting on Thursday, 28 March 2024 at 11:00am.

## REPORTS

### 7 TECHNICAL SERVICES

#### 7.1 AWARD OF TENDER T02-2023/24 - CALWYNYARDAH NOOKANBAH AND MILLIJIDEE ROAD RESHAPING AND GRAVEL RESHEETING

**File Number:** 0481

**Author:** Bhavesh Modi, Manager of Infrastructure

**Responsible Officer:** Wayne Neate, Director Technical and Development Services

**Authority/Discretion:** Executive

### SUMMARY

Council is to consider the award of Tender T02-2023/24 being the contract works required to undertake gravel reshaping and re-sheeting on the road pavement, shoulders, batters, and table drains for a total length of 5.25Km and 3.60Km, on the Calwynyardah/Nookanbah and Millijidee Roads, respectively. It is proposed that the Tender be awarded to Buckley's Earthworks and Paving (BEP).

### DISCLOSURE OF ANY INTEREST

Nil by author; Nil by Responsible Officer.

### BACKGROUND

As proposed in Council's 2023/2024 budget, funding has been allocated for improvement works to undertake gravel reshaping and re-sheeting on the road pavement, shoulders, batters, and table drains from Straight line Kilometre (measurements used on roads from a start point) (SLK) 31.50 to 32.00, SLK 39.30 to 39.65, SLK 55.25 to 56.95 and SLK 58.30 to 61.00 a total of 5.25Km for Calwynyardah/Nookanbah Roads and SLK 16.30 to 19.45, SLK 20.10 to 20.20 and SLK 21.50 to 21.85 a total of 3.60Km, for Millijidee Road. Following the tender advertisement, one request was made for the applicable tender documents.

At the close of tenders on the 8 February 2024, submitted tender documents were received from;

- Buckley's Earthworks and Paving

### STATUTORY ENVIRONMENT

*Local Government Act 1995* – 3.57 Tenders for the providing goods or services and *Local Government (Functions and General) Regulations 1996* Part 4 Tenders for providing goods or services.

### POLICY IMPLICATIONS

F1 Procurement of Goods and Services

F7 Regional Price preference Policy

## FINANCIAL IMPLICATIONS

Funds for the undertaking of this contract are contained within the proposed 2023-2024 budget for gravel reshaping and re-sheeting on the road pavement, shoulders, batters, and table drains on Calwynyardah Nookanbah and Millijidee Road.

Each road is comprised of the following funding;

### Calwynyardah Nookanbah Road – RC014

- Roads to Recovery – \$50,000 propose to increase to \$100,000
- Remote Access Road – \$250,000
- Road Project Grant – \$100,000
- Total - \$400,000 – proposed to change to budget to \$450,000

### Millijidee Road – R2R165

- Roads to Recovery – \$50,000 propose to increase to \$100,000
- Remote Access Road – \$75,000
- Road Project Grant – \$100,000
- Total - \$225,000 – proposed to change to budget to \$275,000

Roads to Recovery (R2R) funds are funds from a five-year program running from financial year 19/21 to 23/24 and these funds are Federal government controlled. With the additional allocations as proposed above there will be approx. \$92,000 left to allocate as the current program ends on the 30 June 2024. These R2R grants are stand alone and can be used for a complete or part of a project.

Remote access road grants are made up of funds from Main Roads Western Australia (MRWA) and Special road grants from the Federal Assistance Grant (SFAGS) on a 33.3% and 66.6% basis respectively. The amounts shown above for the Remote access road grants is the combined total of the MRWA and SFAGS grants. These grants are road specific grants.

Road project grants are funds administered by MRWA and are funded in a manner that 66.6% of the grant is from MRWA and the rest of the grant is Shire funds making up the final 33.3%. In the amounts shown above we are only listing the 66.6% from MRWA we are using R2R grant to make up Councils 33.3%. These grants are road specific grants.

The Tender price submission from BEP is attached as a confidential attachment.

## STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
4. Environment	4.2 Liveable Communities	4.2.3 Encourage and facilitate the maintenance and development of infrastructure that connects our communities

**RISK MANAGEMENT CONSIDERATIONS**

<b>RISK</b>	<b>LIKELIHOOD</b>	<b>CONSEQUENCE</b>	<b>RISK ANALYSIS</b>	<b>MITIGATION</b>
<b>Community:</b> Access to communities restricted.	Likely	Moderate	High	Maintain roads to industry standard.

**CONSULTATION**

Tender T02-2023/24 Calwynyardah/Nookanbah and Millijidee Road Reshaping and Gravel Resheeting, was advertised in local and state-wide newspapers, with the tender closing 2.00pm (WST) on 8 February 2024. The advertised Tender allowed for a minimum of fourteen days for individuals or companies to submit tenders, which included the opportunity to view and inspect the construction site. Council officers have carried out several inspections on the section of road concerned to ascertain the most appropriate locations for treatment.

**COMMENT**

For the purposes of the project the scope of works was split into separate components as follows;

- Project – Reshape/Re sheet shoulders, batters, table drains and road pavement from SLK 31.50 to 32.00, SLK 39.30 to 39.65, SLK 55.25 to 56.95 and SLK 58.30 to 61.00 a total of 5.25Km on Calwynyardh/Nookanbah, and SLK 16.30 to 19.45, SLK 20.10 to 20.20 and SLK 21.50 to 21.85 a total of 3.60Km, Millijidee Roads.

It is recommended that the tender be awarded to the contractor with the highest average score given by three assessors, using the Approved Tender Scoring Criteria that falls within the allocated budget. The Regional Price Preference Policy AF33 was applied to the prices submitted by Buckley's Earthworks and Paving.

The criteria and weighting for this tender were as follows;

<b>Criteria</b>	<b>%</b>
Company History & Track Records	<b>10</b>
Key Personnel and Experience	<b>15</b>
Tenderer's Capacity & Resources	<b>10</b>
Demonstrated Understanding	<b>25</b>
Local Supplier Details	<b>20</b>
Quality Management Systems	<b>15</b>
Risk	<b>5</b>

A score summary is shown below;

Buckleys Earthworks and Paving	<b>C1</b>
--------------------------------	-----------

		<b>C1</b>
Company History & Track Records	10%	9.0
Key Personnel Skills & Experience	15%	13.0
Tenderer's Capacity & Resources	10%	8.7
Demonstrated Understanding	25%	11.0
Local Supplier Details	20%	12.3
Quality Management System	15%	12.7
Risk	5%	4.0
<b>Totals</b>	<b>100%</b>	<b>70.7</b>

As seen in the table above, Buckley's Earthworks and Paving score reflects the business's capability in each area in the Assessment Criteria for T02-2023-24 Calwynyardah/Nookanbah and Millijidee Road Reshaping and Gravel Re-sheeting.

**FOR NOTING:**

The Shire Administration has undertaken negotiations with Buckley's in an effort to provide an increased social benefit across works carried out in the Fitzroy Valley. The tender received did not adequately meet the minimum specification of both Item's D & E.

Demonstrated Understanding	25%	11.0
Local Supplier Details	20%	12.3

The Shire and other Government Agencies have led recovery operations to ensure that there is local social and economic benefit experienced directly in the Valley. The Shire has demonstrated its commitment to Aboriginal empowerment through its draft Aboriginal Empowerment Strategy – endorsed by Council 22 July 2021.

All Agencies have been committed over the last 12 months to actioning jobs creation in the Valley, with a focus on local Aboriginal procurement where possible and a local employment first strategy. The Shire has modified its tendering specifications and employment practices to enable local jobs and business creation in an effort to contribute to balanced and sustainable economic development across the region in an effort to impact abject poverty.

The Tenderers have embraced the discussions and have submitted the attached ADDENDUM (see **Attachment 2**) to the initial tender submitted.

Officers believe that the tender, even though the only tender:

- provides value for money as a comparison has been made to previous works on these roads and there have been only slight increases in the rates of work.
- meets the Shires outcomes in regards to the engagement of local Indigenous business development, engagement and employment.



It is recommended that this contract be awarded to Buckley's Earthworks and Paving.

#### **VOTING REQUIREMENT**

Absolute majority

#### **ATTACHMENTS**

- 1. BEP Price submission - Confidential**
- 2. Addendum - Tender T02-2023/24 - Confidential**

*Jess Karlsson (Executive Director of Operations and Strategic Development) entered the meeting at 4:39pm.*

*Neil Hartley (Director, Strategic Business) entered the meeting at 4:46pm.*

#### **OFFICER RECOMMENDATION**

**That Council by ABSOLUTE MAJORITY;**

- 1. Award Tender T02-2023/24 Calwynyardah/Nookanbah and Millijidee Road Reshaping and Gravel Resheeting to Buckley's Earthworks and Paving; and**
- 2. Agree to the increase in the budget for both works by \$50,000 in each account RC014 and RC165 for a total of \$100,000 to be allocated from unspent Roads to Recovery funds.**

**AMENDMENT****RESOLUTION 23/24****Moved: Cr Geoff Haerewa****Seconded: Cr Brett Angwin**

Cr Haerewa is recommending that we revert to Item 14.1 Award of Tender T02-2023/24 - Calwynyardah Nookanbah and Millijidee Road Reshaping and Gravel Resheeting as per Agenda – Ordinary Council Meeting held on 29 February 2024 at 5:30pm.

**That Council:**

**Revert to the officer report and recommendation at Item 14.1 Award of Tender T02-2023/24 - Calwynyardah Nookanbah and Millijidee Road Reshaping and Gravel Resheeting (as per Agenda – Ordinary Council Meeting held on 29 February 2024 at 5:30pm).**

In Favour: Crs Geoff Haerewa, Brett Angwin, Paul Bickerton, Brian Ellison, Wayne Foley, Kerrissa O'Meara and Andrew Twaddle

Against: Mr Peter McCumstie and Cr Geoff Davis

**CARRIED 7/2****RESOLUTION 24/24****Moved: Cr Andrew Twaddle****Seconded: Cr Brian Ellison**

Cr Haerewa is recommending that we revert to Item 14.1 Award of Tender T02-2023/24 - Calwynyardah Nookanbah and Millijidee Road Reshaping and Gravel Resheeting as per Agenda – Ordinary Council Meeting held on 29 February 2024 at 5:30pm.

**That Council by ABSOLUTE MAJORITY;**

- 1. Award Tender T02-2023/24 Calwynyardah/Nookanbah and Millijidee Road Reshaping and Gravel Resheeting to Buckley's Earthworks and Paving; and**
- 2. Agree to the increase in the budget for both works by \$50,000 in each account RC014 and RC165 for a total of \$100,000 to be allocated from unspent Roads to Recovery funds.**

In Favour: Crs Geoff Haerewa, Brett Angwin, Paul Bickerton, Brian Ellison, Wayne Foley, Kerrissa O'Meara and Andrew Twaddle

Against: Mr Peter McCumstie and Cr Geoff Davis

**CARRIED 7/2 BY ABSOLUTE MAJORITY**

## **7.2 AWARD OF TENDER T03-2023/24 - FAIRFIELD LEOPOLD DOWNS ROAD RESHAPE AND RESHEET**

**File Number:** 0481

**Author:** Bhavesh Modi, Manager of Infrastructure

**Responsible Officer:** Wayne Neate, Director Technical and Development Services

**Authority/Discretion:** Executive

### **SUMMARY**

Council to consider the awarding of Tender T03-2023/24 being the contract works required to undertake gravel reshaping and re-sheeting on road pavement, shoulders, batters, and table drains for a total of length of 7.83Km, on the Fairfield-Leopold Road. It is proposed that the Tender be awarded to Buckley's Earthworks and Paving (BEP).

### **DISCLOSURE OF ANY INTEREST**

Nil by Author; Nil by responsible Officer.

### **BACKGROUND**

As proposed in Council's 2023-2024 budget, funding has been allocated for improvement works to undertake gravel reshaping and re-sheeting on shoulders, batters, table drains and road pavement from Straight Line Kilometre (measurements used on roads from a start point) (SLK) 35.07 to 36.80, SLK 39.50 to 41.20, SLK 41.60 to 42.00, SLK 42.10 to 44.10 and SLK 46.00 to 48.00, a total of 7.83Km, on the Fairfield-Leopold Road. Following the tender advertisement, one request was made for the applicable tender documents.

At the close of tenders on the 8 February 2024, submitted tender documents were received from;

- Buckley's Earthworks and Paving

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995* – 3.57 Tenders for the providing goods or services and *Local Government (Functions and General) Regulations 1996* Part 4 Tenders for providing goods or services.

### **POLICY IMPLICATIONS**

F1 Procurement of Goods and Services

F7 Regional Price preference Policy

### **FINANCIAL IMPLICATIONS**

Funds for the undertaking of this contract are contained within the proposed 2023-2024 budget for Reshaping and Re-sheeting of shoulders, batters, table drains and road pavement on Fairfield-Leopold Road.

The funding on the Fairfield-Leopold Road is made up of the following funds;

**Fairfield-Leopold Road – RC025**

- Council funds – \$173,333
- Federal Assistance Grants (FAGs) – \$466,667
- Total – \$640,000

Federal Assistance Grants (FAGs) has a roads component of approximately \$1.3 million each year, these funds are used in the road maintenance and upgrade works, they are untied grant funds and therefore not project specific funds. Council Funds come from Councils allocation to roads.

The tender price submission from BEP is attached as a confidential attachment.

**STRATEGIC IMPLICATIONS**

GOAL	OUR PRIORITIES	WE WILL
4. Environment	4.2 Liveable Communities	4.2.3 Encourage and facilitate the maintenance and development of infrastructure that connects our communities

**RISK MANAGEMENT CONSIDERATIONS**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Community:</b> Access to communities restricted.	Likely	Moderate	High	Maintain roads to industry standard.

**CONSULTATION**

Tender T03-2023/24 Fairfield-Leopold Downs Road Reshape and Re-sheeting, was advertised in local and state-wide newspapers, with the tender closing 2.00pm (WST) on 8 February 2024. The advertised tender allowed for a minimum of fourteen days for individuals or companies to submit tenders, which included the opportunity to view and inspect the construction site. Council officers have carried out several inspections on the section of road concerned to ascertain the most appropriate locations for treatment.

**COMMENT**

For the purposes of the project the scope of works was split into separate components as follows;  
 Project – Reshape/Re sheet shoulders, batters, table drains and road pavement from SLK 35.07 to 36.80, SLK 39.50 to 41.20, SLK 41.60 to 42.00, SLK 42.10 to 44.10 and SLK 46.00 to 48.00, a total of 7.83Km, on Fairfield-Leopold Road.

It is recommended that the tender be awarded to the contractor with the highest average score given by three assessors, using the Approved Tender Scoring Criteria that falls within the allocated budget. The Regional Price Preference Policy AF33 was applied to the prices submitted by Buckley’s Earthworks & Paving.

The criteria and weighting for this tender were as follows;

Criteria	%
Company History & Track Records	<b>10</b>
Key Personnel and Experience	<b>15</b>
Tenderer's Capacity & Resources	<b>10</b>
Demonstrated Understanding	<b>25</b>
Local Supplier Details	<b>20</b>
Quality Management Systems	<b>15</b>
Risk	<b>5</b>

A score summary is shown below;

Buckley's Earthworks and Paving	<b>C1</b>
---------------------------------	-----------

		<b>C1</b>
Company History & Track Records	10%	9.0
Key Personnel Skills & Experience	15%	13.3
Tenderer's Capacity & Resources	10%	8.7
Demonstrated Understanding	25%	11.0
Local Supplier Details	20%	12.3
Quality Management System	15%	12.7
Risk	5%	4.0
<b>Totals</b>	<b>100%</b>	<b>70.7</b>

As seen in the table above, Buckley's Earthworks and Paving score reflects the business's capability in each area in the Assessment Criteria for T03-2023/24 Fairfield-Leopold Downs Road Reshape and Re-sheeting.

**FOR NOTING:**

The Shire Administration has undertaken negotiations with Buckley's in an effort to provide an increased social benefit across works carried out in the Fitzroy Valley. The tender received did not adequately meet the minimum specification of both Item's D & E.

Demonstrated Understanding	25%	11.0
Local Supplier Details	20%	12.3

The Shire and other Government Agencies have led recovery operations to ensure that there is local social and economic benefit experienced directly in the Valley. The Shire has demonstrated

its commitment to Aboriginal empowerment through its draft Aboriginal Empowerment Strategy – endorsed by Council 22 July 2021.

All Agencies have been committed over the last 12 months to actioning jobs creation in the Valley, with a focus on local Aboriginal procurement where possible and a local employment first strategy. The Shire has modified its tendering specifications and employment practices to enable local jobs and business creation in an effort to contribute to balanced and sustainable economic development across the region in an effort to impact abject poverty.

The Tenderers have embraced the discussions and have submitted the attached ADDENDUM (see **Attachment 2**) to the initial tender submitted.

Officers believe that the tender, even though the only tender:

- provides value for money as a comparison has been made to previous works on these roads and there have been only slight increases in the rates of work.
- meets the Shires outcomes in regards to the engagement of local Indigenous business development, engagement and employment.

It is recommended that this contract be awarded to Buckley's Earthworks and Paving.

#### **VOTING REQUIREMENT**

Simple majority

#### **ATTACHMENTS**

1. **BEP Price submission - Confidential**
2. **Addendum - Tender T03-2023/24 - Confidential**

#### **OFFICER RECOMMENDATION**

**That Council award Tender T03-2023/24 Fairfield Leopold Downs Road Reshape and Resheeting to Buckley's Earthworks and Paving.**

**AMENDMENT****RESOLUTION 25/24****Moved: Cr Geoff Haerewa****Seconded: Cr Wayne Foley**

Cr Haerewa is moving an amendment that we revert to Item 14.2 Award of Tender T03-2023/24 - Fairfield Leopold Downs Road Reshape and Resheet as per Agenda – Ordinary Council Meeting held on 29 February 2024 at 5:30pm.

**That Council:**

**Revert to the officer report and recommendation at Item 14.2 Award of Tender T03-2023/24 - Fairfield Leopold Downs Road Reshape and Resheet as per Agenda – Ordinary Council Meeting held on 29 February 2024 at 5:30pm.**

In Favour: Crs Geoff Haerewa, Brett Angwin, Paul Bickerton, Brian Ellison, Wayne Foley, Kerrissa O'Meara and Andrew Twaddle

Against: Mr Peter McCumstie and Cr Geoff Davis

**CARRIED 7/2****RESOLUTION 26/24****Moved: Cr Geoff Haerewa****Seconded: Cr Wayne Foley**

Cr Haerewa is moving an amendment that we revert to Item 14.2 Award of Tender T03-2023/24 - Fairfield Leopold Downs Road Reshape and Resheet as per Agenda – Ordinary Council Meeting held on 29 February 2024 at 5:30pm.

**That Council award Tender T03-2023/24 Fairfield Leopold Downs Road Reshape and Resheeting to Buckley's Earthworks and Paving.**

In Favour: Crs Geoff Haerewa, Brett Angwin, Paul Bickerton, Brian Ellison, Wayne Foley, Kerrissa O'Meara and Andrew Twaddle

Against: Mr Peter McCumstie and Cr Geoff Davis

**CARRIED 7/2**

**8 NEW BUSINESS OF AN URGENT NATURE**

- Nil.

**9 CLOSURE**

**9.1 Date of Next Meeting**

The next ordinary meeting of Council will be held Thursday, 28 March 2024 at 11:00am in Fitzroy Crossing at the Karrayili Adult Education Centre - Fitzroy Crossing.

**9.2 Closure of Meeting**

The Presiding Member closed the meeting at 5:24pm.

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

.....

**Signed:** .....

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

**Date:** .....