



# **SHIRE OF DERBY/WEST KIMBERLEY**

## **NOTICE OF SPECIAL MEETING OF COUNCIL**

Dear Elected Member,

**NOTICE IS HEREBY GIVEN THAT A SPECIAL MEETING OF COUNCIL WILL BE HELD IN THE COUNCIL CHAMBERS, CLARENDON STREET DERBY ON 9 FEBRUARY, 2017 COMMENCING AT 2.00PM TO CONSIDER THE FOLLOWING ITEMS:**

) **Public Environmental Review – Sheffield Resources**

## **AGENDA**

Stephen Gash  
**CHIEF EXECUTIVE OFFICER**

Date: 03/02/2017

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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.

The Shire disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Shire during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire.

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, setting and amending budgets.
Legislative:	Includes adopting local laws, town planning schemes and policies.
Review:	When Council reviews decisions made by officers.
Quasi-Judicial:	When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits and licences (for example under the <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

### ALTERNATIVE MOTIONS

Councillors wishing to make alternative motions to officer recommendations are requested to provide notice of such motions in written form to the Executive Manager Corporate 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.”*

## 2017 MEETING DATES

At its ordinary meeting of Council on 24 November, 2016, Council adopted the following meeting dates for 2017;

January			Council in Recess
Thursday	23 February 2017	5.30 pm	Council Chambers, Derby
Thursday	30 March 2017	1.00 pm	Fitzroy Crossing Inn, Fitzroy Crossing
Thursday	27 April 2017	5.30 pm	Council Chambers, Derby
Thursday	25 May 2017	5.30 pm	Council Chambers, Derby
Thursday	29 June 2017	1.00 pm	Fitzroy Crossing Inn, Fitzroy Crossing
Thursday	27 July 2017	5.30 pm	Council Chambers, Derby
Thursday	31 August 2017	5.30 pm	Council Chambers, Derby
Thursday	28 September 2017	1.00 pm	Aboriginal Community or Station (to be advised)
Thursday	26 October 2017	5.30 pm	Council Chambers, Derby
Thursday	30 November 2017	1.00 pm	Fitzroy Crossing Inn, Fitzroy Crossing
Thursday	14 December 2017	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 2016-2017 ordinary and special Council meetings;

Councillor	28 Jul 2016	25 Aug 2016	29 Sept 2016	27 Oct 2016	24 Nov 2016	15 Dec 2016	09 Feb 2017	23 Feb 2017	30 Mar 2017	27 Apr 2017	25 May 2017	29 Jun 2017
	OCM	OCM	OCM	OCM	OCM	OCM	SCM	OCM	OCM	OCM	OCM	OCM
E Archer	✓	✓	✓	✓	✓	✓						
P White	✓	✓	LOA	✓	✓	✓						
P Coggins	✓	✓	✓	LOA	✓	✓						
C Kloss	✓	✓	✓	✓	✓	✓						
A Kogolo	AB	A	✓	A	A	LOA						
P McCumstie	LOA	✓	✓	✓	LOA	✓						
J Oscar	✓	✓	LOA	✓	LOA	✓						
I Prouse	✓	✓	✓	✓	✓	✓						
A Twaddle	✓	✓	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 a 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 a 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 ..... by.....

#### **2.0 RECORD OF ATTENDANCE**

##### **2.1 ATTENDANCE**

**ELECTED MEMBERS:**

**STAFF:**

**VISITORS:**

**GALLERY:**

##### **2.2 APOLOGIES**

##### **2.3 APPROVED LEAVE OF ABSENCE**

##### **2.4 ABSENT**

##### **2.5 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.

**2.5.1 DECLARATIONS OF FINANCIAL INTERESTS**

**2.5.2 DECLARATIONS OF PROXIMITY INTERESTS**

**2.5.3 DECLARATIONS OF IMPARTIALITY INTERESTS**

**3.0 APPLICATIONS FOR LEAVE OF ABSENCE**

**4.0 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS**

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

**6.0 PUBLIC TIME**

**6.1 PUBLIC QUESTION TIME**

**6.2 PUBLIC STATEMENTS**

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

**7.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

**8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**  
Nil

**9.0 RECOMMENDATIONS AND REPORTS OF COMMITTEES**

**10.0 REPORTS**

## 10.1 EXECUTIVE SERVICES

### 10.1.1 SUBMISSION – THUNDERBIRD MINERAL SANDS PUBLIC ENVIRONMENTAL REVIEW

<b>Location/Address:</b>	Thunderbird Mineral Sands Project – Mt Jowlaenga/Derby
<b>Name of Applicant:</b>	Sheffield Resources
<b>File Reference:</b>	4060 – Mining and Exploration
<b>Author:</b>	Noel Myers – Shire Planner
<b>Responsible Officer:</b>	Stephen Gash – Chief Executive Officer
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	6 February 2017
<b>Attachments:</b>	Nil
<b>Authority/Discretion:</b>	Executive

#### SUMMARY:

This item outlines the Shire’s submission to the Environmental Protection Authority (EPA) in relation to Sheffield Resource’s Public Environmental Review (PER) for the Thunderbird Mineral Sands Project (Thunderbird).

Officers have reviewed the document and prepared a submission to the EPA which focuses on recommendations in relation to areas which will have a material impact on the local community.

It is acknowledged that the Shire submission does not seek to contest the environmental factors of the Sheffield Submission but rather focuses on the liveability indicators that the project may have an impact upon with a targeted emphasis on the environmental and social setting of the Derby town site and community.

The matter is being presented to Council at this special meeting of Council to ensure that the submission is able to be duly considered by Council prior to it being lodged. The closing date for submissions is Monday, 13 February 2017.

#### BACKGROUND:

The Thunderbird Mineral Sands project involves the following:

- ) Mining of mineral sands for more than 40 years from the Thunderbird deposit;
- ) Onsite primary and secondary processing of ore to produce a range of saleable mineral sand products.

- ) Abstraction and reinjection of groundwater to allow mining and supply ore processing needs.
- ) Development of infrastructure to support the project including power generation facilities, accommodation village, administration and maintenance buildings, internal roads, communications infrastructure and waste storage and disposal facilities.
- ) Upgrade and extension of an existing pastoral road to form a 30km site access road.
- ) Transport of mineral sands to Derby and Broome ports for storage to export.
- ) Export of bulk mineral sands from the Derby port via King Sound and packaged mineral product from the Broome port.

The project is considered in terms of two separate development envelopes: mine site and Derby port. These will contain the majority of project-related activities and will both require construction of new infrastructure. It is noted that the mine site is located wholly within the Shire of Broome.

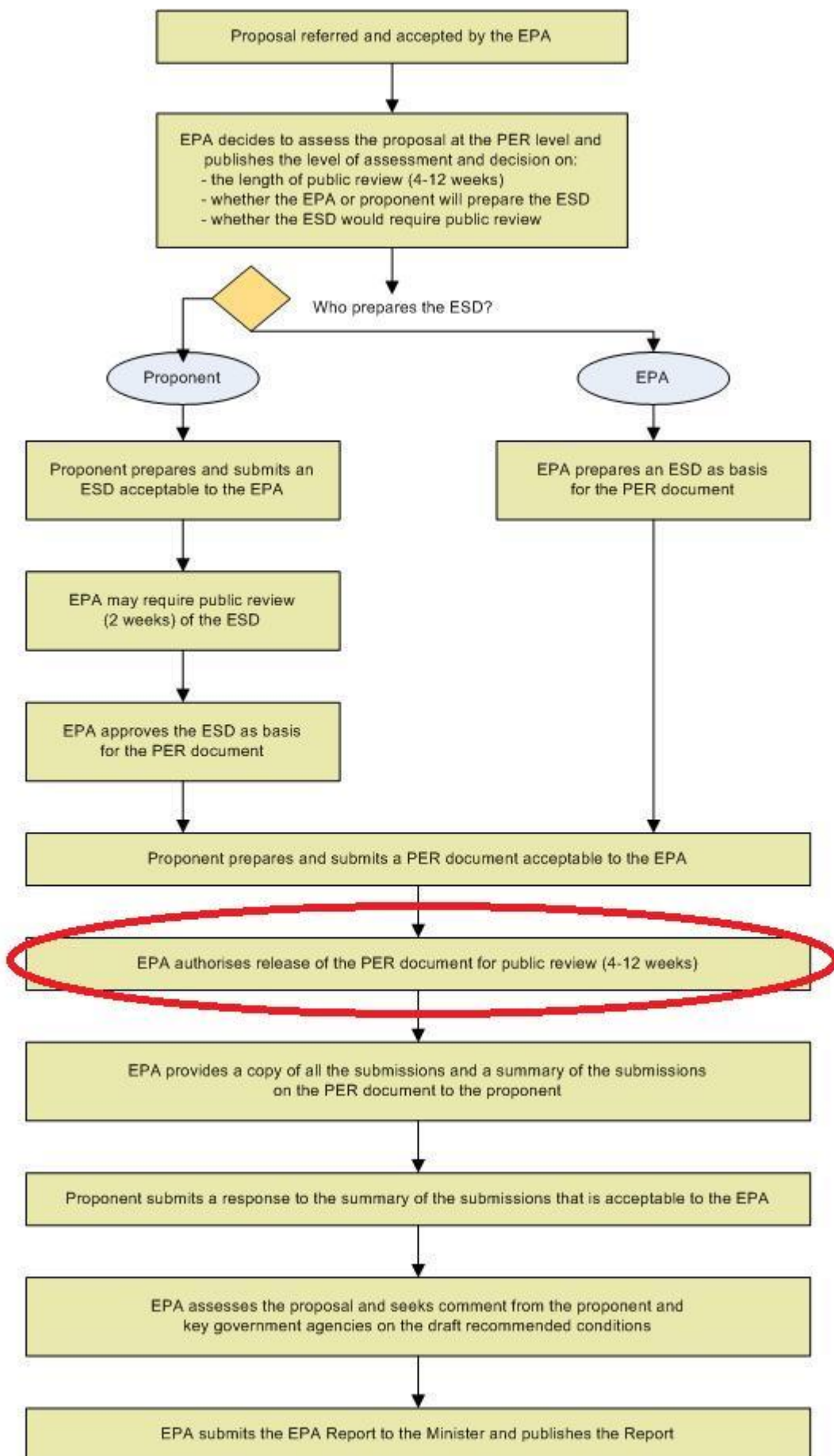
Bulk mineral sand products are to be transported by road from the mine site to the Derby port for storage prior to export. A new product storage facility will be constructed at the port adjacent to the wharf and then product is to be transferred from the storage facility to dedicated transshipment vessels via a covered loading conveyor. Transshipment vessels will then transfer the product to ships at a designated sea transfer point.

#### **STATUTORY ENVIRONMENT:**

Part IV of the *Environmental Protection Act 1986* (the EP Act).

Environmental Impact Assessment (EIA) is a systematic and orderly evaluation of a proposal and its impact on the environment. The Assessment includes considering ways in which the proposal, if implemented, could avoid or reduce any impact on the environment.

The flowchart identifies the processes undertaken by the EPA when considering a proposal:



**POLICY IMPLICATIONS:**

Nil in respect to this submission.

**FINANCIAL IMPLICATIONS:**

Nil in respect to this submission – future benefits accrue to the community through direct and indirect employment opportunities over the anticipated mine life of 40 years.

**STRATEGIC IMPLICATIONS:**

GOAL	OUTCOME	STRATEGY
<b>2:</b> Sustainable natural and built environments that meet the needs of the community and support future growth	<b>2.1:</b> Appropriate development that enhances the unique character and heritage of the Shire's townships	<b>2.1.3:</b> Provide supportive planning and development guidance and liaison on major land developments <b>2.1.4:</b> Ensure quality, consistent and responsive development and building assessment approval processes and enforcement <b>2.1.5:</b> Actively work with other government bodies on state, regional planning and development Issues
<b>3:</b> A strong local economy that is supported by a broad industry base with opportunities for business development and employment	<b>3.2:</b> A strong and diverse industry base providing community benefits <b>3.4:</b> Appropriate infrastructure that supports economic development	<b>3.2.1:</b> Undertake community impact and opportunity analysis of major mining, oil and gas ventures
<b>Goal 4 :</b> Leadership that provides strategic direction for the community, supported by efficient and effective service delivery	<b>4.1:</b> Effective governance and leadership	<b>4.1.1:</b> Provide leadership in balancing the needs of the community, government, industry and the environment

**CONSULTATION:**

The PER (Section 6) details the consultation that has occurred in regard to the project which commenced in October 2014. An extensive range of stakeholders had been identified and a range of consultation protocols were implemented to capture various views. This has included a number of community information events and also targeted meetings.

Shire of Derby/West Kimberley Councillors have been provided with briefings and regular project updates.

To date there have been a number of opportunities for public involvement in the Impact Assessment process which included:

- ) Comment on the level of assessment appropriate for the project under part IV of the *Environmental Protection Act 1986* (October/November 2015).
- ) Comment on controlled action status of the project under the *EPBC Act* (February 2016).
- ) Decision Making Authorities have had opportunity to provide feedback during initial project meeting coordinated by the DMP in its lead agency role (March 2016) and more formally in providing written feedback on the draft environmental scoping document to the OEPA (April/May 2016). The environmental scoping document has been endorsed by the EPA.
- ) It is highlighted that the PER document has been released for a four week public comment period and therefore it is open to any member of the public to make a submission.

Section 6.3 – Table 46 of the PER provides a summary of stakeholder comments.

#### **COMMENT:**

The Shire is generally supportive of projects which benefit the region's economy. This support is, however, contingent on these projects ensuring that their environmental and social impacts are fully identified and minimised. It is with this focus that the submission has been prepared.

The PER is a substantial document that has been prepared by the proponent in accordance with the requirements of the EPA who have determined that the report has been prepared in a format that is sufficient for it to be released for public comment.

The submission that has been prepared has consciously focussed upon the aspects of the project that are likely to directly impact upon the Derby town site and community. It is considered that the EPA is the appropriately tasked and resourced body to assess the environmental issues at the mine site to ensure that there are appropriate conditions applied to that phase of the project.

In this context, the Shire's focus is to satisfy itself that the proposed management measures detailed within the PER adequately respond to the potential residual environmental impacts to the Derby town site environment.

On balance, the overall environmental impact of the project on the Derby town site is considered to be relatively low when the following factors are considered:

- ) The Derby port is an established and operating facility. The export of bulk materials through the port is consistent with the past and intended use of the facility and does not require significant redevelopment of the wharf front.



- ) The nature of the materials being exported – mineral sands are a relatively benign product in terms of any potential environmental harm with inherent radiation levels reported as being ‘incidental’.
- ) Dust emissions during transport, storage and transfer of mineral sands products are expected to be incidental due to the granular form of the materials and the proposed management practices during the various phases of operation.
- ) The traffic movements associated with the transportation represent a relatively modest increase on base line movements. The project will, on average, generate 20 truck movements (10 return trips) over a 24 hour period during the operational phase of the project.
- ) A detailed assessment has been undertaken on noise emissions from transport and export operations that have the potential to impact the amenity of residents and visitors with particular regard to sensitive receptors to traffic noise caused by road train movements through the town. A conservative approach to modelling based on higher numbers of movements (40 in lieu of 20) has been adopted and have been assessed as falling below target levels as contained within the WAPC State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning.

The PER details a set of management measures to be put in place that responds to the suite of identified environmental impacts. The measures as they apply to the issues impacting on the Derby town site are considered appropriate and justify the project approach.

Notwithstanding, the Shire seeks to adopt a more proactive approach in respect to management impacts upon the community and in particular in regard to the issue of noise and traffic management. To this end, it has been put to the proponent that the Shire would seek the EPA to require that the proponent is required to prepare and implement Noise and Traffic Management Plans which would be to the satisfaction of the Shire of Derby/West Kimberley.

It is envisaged that this plan would provide the Shire with a better ability to manage the issue of trucking movements to and from the wharf along Loch Street. This would extend to implementing quarantine periods and a greater ability to manage noise issues.

**SUMMARY:**

The task for Council is to consider the PER which is a technical report on the potential environmental impacts that may arise from the development. The outcome of this process is to seek to ensure that the EPA develops a set suitable environmental conditions that will be applied to the project should it proceed in the future, with the view that the satisfaction/compliance of those conditions can adequately address the issues that are of relevance to the Shire.

It is recommended that the Council advises the EPA that the Shire of Derby/West Kimberley endorses the Thunderbird Mineral Sands PER as submitted with the addition that the EPA includes a condition that requires the proponent to submit Noise and Traffic Management Plans, as agreed in principle by the proponent, and that the plan be to the satisfaction of the Shire of Derby/West Kimberley.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:****That Council:**

- 1. Authorise the Chief Executive Officer to submit to the Environmental Protection Authority that it supports the proposed management measures as detailed within the Thunderbird Mineral Sands Project Public Environmental Review document (EPA Assessment No.2073) with the following recommendation;**
  - 1.1 That in addition to the management measures detailed under Section 9.2.3 – Table 71 – Proposed Management Measures for Protection of Amenity for the Derby Port Development Envelope – the proponent be required to prepare *Noise and Traffic Management Plans to the satisfaction of the Shire of Derby/West Kimberley.***
- 2. Notes that the Shire of Derby /West Kimberley will be required to approve development of the project within the Derby Port Boundary as the port operator under management agreement from the Department of Transport.**

**10.2 CORPORATE SERVICES**

Nil

**10.3 TECHNICAL SERVICES**

Nil

**10.4 DEVELOPMENT SERVICES**

Nil

**10.5 COMMUNITY DEVELOPMENT AND RECREATION SERVICES**

Nil

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

**12.0 NEW BUSINESS OF AN URGENT NATURE**

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

**14.0 CLOSURE**

**14.1 DATE OF NEXT MEETING**

**14.2 CLOSURE OF MEETING**

The Presiding Member closed the meeting at .....pm

<p><b>These minutes were confirmed at a meeting on</b></p> <p>.....</p> <p><b>Signed: .....</b></p> <p><b>Presiding Person at the meeting at which these minutes were confirmed.</b></p> <p><b>Date: .....</b></p>
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