



SHIRE OF DERBY/WEST KIMBERLEY

SPECIAL MEETING OF COUNCIL

TO CONSIDER THE FOLLOWING ITEM:

- **Appointment of Acting Chief Executive Officers**

MINUTES

Stephen Gash
CHIEF EXECUTIVE OFFICER

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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.

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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, 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.”

2019 MEETING DATES

At its Ordinary Meeting of Council on 28 November, 2018, Council adopted the following meeting dates for 2019;

January			Council in Recess
Thursday	28 February 2019	5.30 pm	Council Chambers, Derby
Thursday	28 March 2019	1.00 pm	Library, Fitzroy Crossing
Tuesday	30 April 2019	5.30 pm	Council Chambers, Derby
Thursday	30 May 2019	5.30 pm	Council Chambers, Derby
Thursday	27 June 2019	1.00 pm	Library, Fitzroy Crossing
Thursday	25 July 2019	5.30 pm	Council Chambers, Derby
Thursday	29 August 2019	5.30 pm	Council Chambers, Derby
Thursday	26 September 2019	1.00 pm	Council Chambers, Derby
Thursday	31 October 2019	5.30 pm	Council Chambers, Derby
Thursday	21 November 2019	1.00 pm	Library, Fitzroy Crossing
Thursday	12 December 2019	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.

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

MINUTES

1.0 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

The meeting was opened at 5.00pm by Geoff Haerewa, Shire President.

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:

Moved: Cr I Prouse

Seconded: Cr P White

That Council, BY AN ABSOLUTE MAJORITY:

- 1. APPROVES Cr P McCumstie attendance at the Special Council Meeting held 14 March 2019 via telephone communication in accordance with regulation 14A(1) of the *Local Government (administration) Regulations 1996*;**
- 2. APPROVES Perth, 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

2.0 RECORD OF ATTENDANCE

2.1 ATTENDANCE

ELECTED MEMBERS:

Cr Geoff Haerewa	Shire President
Cr Paul White	Deputy Shire President
Cr Chris Kloss	Councillor
Cr Peter Coggins	Councillor
Cr Iris Prouse	Councillor
Cr Peter McCumstie	Councillor (by phone)

STAFF:

Stephen Gash

Wayne Neate

Chief Executive Officer

Executive Manager Technical &
Development Services

Carlie McCulloch

Danielle Hurstfield

Governance Officer

Manager Administration & Governance

VISITORS:

Nil.

GALLERY:

Nil.

2.2 APOLOGIES

Cr Andrew Twaddle

2.3 APPROVED LEAVE OF ABSENCE

Nil.

2.4 ABSENT

Cr Denise Andrews

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

Wayne Neate declared an interest in item 10.1.1 as a recommended candidate for the Acting Chief Executive Officer position.

2.5.2 DECLARATIONS OF PROXIMITY INTERESTS

Nil.

2.5.3 DECLARATIONS OF IMPARTIALITY INTERESTS

Nil.

3.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

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

Nil.

6.2 PUBLIC STATEMENTS

Nil.

6.3 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS

Nil.

7.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil.

8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Nil

9.0 RECOMMENDATIONS AND REPORTS OF COMMITTEES

Wayne Neate declared an interest in Item 10.1 and left the meeting.

10.0 REPORTS

10.1 EXECUTIVE SERVICES

10.1.1 APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICERS

Location/Address:	N/A
Name of Applicant:	N/A
File Reference:	0400
Author:	Stephen Gash – Chief Executive Officer
Responsible Officer:	Stephen Gash – Chief Executive Officer
Disclosure of any Interest:	The Author is the incumbent in the position and finishes 29 March 2019
Date of Report:	12 March 2019
Attachments:	Confidential Employment Terms
Authority/Discretion:	Executive

SUMMARY:

To appoint Acting Chief Executive Officers until the incoming permanent Chief Executive Officer commences early June 2019.

BACKGROUND:

Delegations and policy that support short term Acting Chief Executive appointment are linked to the current CEO and would not be valid after expiration of the contract on 29 March 2019.

Therefore Council is required to resolve the Acting CEO arrangements between 29 March 2019 and 3 June 2019.

STATUTORY ENVIRONMENT:

Local Government Act 1995

Division 4 – Local government employees

5.36. Local government employees

(1) A local government is to employ –

- (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council
- (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.

* Absolute majority required.

POLICY IMPLICATIONS:

Delegation A2 allowing appointment of Acting CEO for periods less than 90 days cannot be exercised by the incumbent CEO after contract expiry 29 March 2019, therefore referral to Council is required.

FINANCIAL IMPLICATIONS:

The CEO salary is budgeted as a fully relieved position therefore there are no budget implications and the salary is within the Salary Allowances Tribunal Band 2 range for Local Government CEO's as required.

STRATEGIC IMPLICATIONS:

The appointment of Acting CEO includes all delegations as approved in the Delegations Register, last reviewed 28 February 2019.

CONSULTATION:

Council Briefing 28 February 2019.

The Acting CEO position was not advertised as the period will be less than year in accordance with the exemption under reg 18A (1)(b) of the *Local Government (Administration) Regulations 1996*.

COMMENT:

The period of 29 March to 3 June 2019 is proposed to be covered by two Acting CEO's. Mr Wayne Neate has previous commitments and cannot fulfil the Acting CEO role between 4 April and 8 May 2019.

Mr John Attwood has accepted the role between 4 April and 8 May 2019 subject to Council endorsement. The employment terms are provided as a confidential attachment for Council to comply with s 5.36 (2)(b) of the Local Government Act 1995.

Both officers have filled CEO or Acting CEO roles and suitable for the position under s 5.36 (2)(a) of the Local Government Act 1995.

VOTING REQUIREMENT:

Absolute majority

COUNCIL RESOLUTION/OFFICER RECOMMENDATION:

MINUTE NO: SCM 2019/001

Moved: Cr C Kloss

Seconded: Cr P White

The Council, BY AN ABSOLUTE MAJORITY:

- 1. Appoint Mr John Attwood as Acting Chief Executive Officer from 4 April 2019 to 8 May 2019 inclusive.**
- 2. Appoint Mr Wayne Neate as Acting Chief Executive Officer from 29 March 2019 to 3 April 2019 and from 9 May 2019 to 3 June 2019.**

CARRIED: 6/0

5.10pm Wayne Neate returned to the meeting and was advised of the outcome

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

Nil

12.0 NEW BUSINESS OF AN URGENT NATURE

Nil

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

Nil

14.0 CLOSURE

14.1 DATE OF NEXT MEETING

The next Ordinary Meeting of Council will be held on 28 March 2019 at 1.00pm at the Library, Fitzroy Crossing

14.2 CLOSURE OF MEETING

The Presiding Member closed the meeting at 5.13pm.

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