

# **AGENDA**

# **Special Council Meeting Friday, 5 July 2019**

I hereby give notice that a Special Meeting of Council will be held on:

Date: Friday, 5 July 2019

Time: 8.30am

**Location: Council Chambers** 

**Clarendon Street** 

Derby

Amanda O'Halloran Chief Executive Officer

# **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 Elected 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, 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."

# **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

<sup>\*</sup> amended to 18 April 2019 at 12.00pm 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 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.

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# 1 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

# 2 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.

# 3 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.

- 3.1 Declaration of Financial Interests
- 3.2 Declaration of Proximity Interests
- 3.3 Declaration of Impartiality Interests
- 4 PUBLIC TIME
- 4.1 Public Question Time
- 4.2 Public Statements
- 5 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

#### REPORTS

#### **6** CORPORATE SERVICES

#### 6.1 SUBMISSION REGARDING DIFFERENTIAL MINING RATES

File Number: 5174

Author: Amanda O'Halloran, Chief Executive Officer

Responsible Officer: Amanda O'Halloran, Chief Executive Officer

**Authority/Discretion: Executive** 

#### **SUMMARY**

At the May 2019 Ordinary Council Meeting Council resolved to raise Differential Rates on mining and pastoral properties in accordance with Section 6.33 of the Local Government Act. Council also resolved to give notice of its intention to raise Differential Rates in accordance with Section 6.36 of the Local Government Act with closing date of submission being 28 June 2019. Two submission have been received from McMahon Mining Title Services Pty Ltd and Maxima Pearling Company Pty Ltd. Council is required to consider any submissions received.

This report has been prepared for Council to consider submissions received as part of the advertising of the proposed differential rates and to request that the Minister for Local Government, Sport and Cultural Industries (Minister) approve the proposed differential rates prior to the adoption of the rates through the budget process. At the Ordinary Council Meeting on 30 May 2019, Council endorsed to advertise the Statement of Objects and Reasons and proposed differential rates and minimum payments for the 2019/20 financial year in accordance with the Local Government Act 1995.

Advertising which occurred in the West Australian and Broome Advertiser on the 3 and 6 of June 2019 respectively called for public submissions until close of business on Friday the 28 June 2019.

Copies of the Statement of Objects and Reasons were also made available for public inspection at the Shires Administration Building and website. At the expiration of the statutory advertising period, two submissions were received. Full details of the submissions are contained within Attachment A.

This report has been prepared for Council to consider the submissions prior to the adoption of the rates through the Annual Budget process in accordance with section 6.36(4) of the Act.

#### **DISCLOSURE OF ANY INTEREST**

Nil.

#### **BACKGROUND**

The following 2019/20 proposed differential rates was advertised in the West Australian and the Broome Advertiser on the 3<sup>rd</sup> and 6<sup>th</sup> June 2019 respectively as well as exhibited on public notice boards in accordance with s1.7 of the local government act 1995:

Data Cada	18/19 Rate in the \$	19/20 Rate in the \$	Change in Yield	General Minimum
Rate Code Description	(expressed as cents in the dollar)	(expressed as cents in the dollar)		
GRV General Rate	12.6200	13.3772	6%	\$1027
UV General Rate	21.6939	22.9955	6%	\$1027
UV Mining	26.8233	28.4327	6%	\$1027
UV Pastoral	6.4434	6.8300	6%	\$1027

# THAT A PROVISION BE INCLUDED IN THE BUDGET FOR THE OFFERING OF A 2.0% DISCOUNT ON THE EARLY PAYMENT OF RATES FOR THE 2019/2020 YEAR.

The rate revenue level is based on an increase in the rate in the dollar of 6 per cent on 2018/19 for:

- GRV General
- UV General
- UV Mining
- UV Pastoral

Landgate determines all properties gross rental valuations (GRV) and unimproved valuations (UV) used by the Shire to determine property rates, and undertakes a revaluation process on a five year cylcle for GRV and yearly for UV. In regards to GRV the latest valuation was applied from 1 July 2016. The 2019-2020 financial year will be the fifth and final year in the current valuation period.

# **POLICY IMPLICATIONS**

AF20- Rating Administration Policy

#### STATUTORY ENVIRONMENT

- 1. Local Government Act Section 6.28 Basis of Rates
  - 1). The Minister is to -
    - (a) determine the method of valuation of land to be used by a local government as the basis for a rate; and
    - (b) publish a notice of the determination in the government gazette.
  - 2). In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be
    - (a) where the land is used predominantly for rural purposes, the unimproved value of the land, and
    - (b) where the land is used predominantly for non-rural purposes, the

gross rental value of the land.

#### 2. Local Government Act Section 6.33 - Differential General Rates

- 1). A local government may impose differential general rates according to any or a combination, of the following characteristics -
  - (a) the purpose for which the land is zoned under a local planning scheme in force under the Planning and Development Act 2005;
  - (b) the predominant purpose for which the land is held or used as determined by the local government;
  - (c) whether or not the land is vacant land; or
  - (d) any other characteristic or combination of characteristics prescribed.

#### 3. Local Government act 6.36 – Local Government to give notice of certain rates

- (1) Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6)(c) a local government is to give local public notice of its intention to do so.
- (2) A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).
- (3) A notice referred to in subsection (1)
  - (a) may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency; and
  - (b) is to contain —
  - (i) details of each rate or minimum payment the local government intends to impose; and
  - (ii) an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and
  - (iii) any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed;

and

- (c) is to advise electors and ratepayers of the time and place where a document describing the objects of, and r e a s o n s f o r, e a c h proposed rate and minimum payment may be inspected.
- (4) The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.
- (5) Where a local government
  - (a) in an emergency, proposes to impose a supplementary general rate or specified area rate under section 6.32(3)(a); or
  - (b) proposes to modify the proposed rates or minimum payments after considering any submissions under subsection (4),
    - it is not required to give local public notice of that proposed supplementary general rate, specified area rate, modified rate or minimum payment.

# **FINANCIAL IMPLICATIONS**

For the 2019/20 financial year the prosed differential rates for mining will raise an estimated rates revenue of \$961,787.

# **STRATEGIC IMPLICATIONS**

GOAL	ОИТСОМЕ	STRATEGY
Leadership that provides strategic direction for the community, supported by efficient and effective service delivery.	Financial sustainability and accountability for performance.	Develop, maintain and monitor rating and property strategies.

# **RISK MANAGEMENT CONSIDERATIONS**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Financial: Loss of Revenue	Unlikely	Moderate	Medium	Accept officer recommendation

#### **CONSULTATION**

Before Council can establish a Differential Rating Model, the proposed Differential Rates together with the Statement of Objects and Reasons for Differential Rates and Minimum Payments and reasons for each Rate must be advertised for a minimum period of 21 days. This submission is a result of that consultation.

#### COMMENT

McMahon Mining Title Services Pty Ltd and Maxima Pearling Company Pty Ltd. have forwarded submissions regarding the Shire of Derby West Kimberley's intention to raise Differential Rates in regards to UV Mining and UV Commercial.

Council has tried to maintain a minimal increase in rates for all categories given the economic down turn experienced in recent years with rate increases of:

•	2015/19	0.5% across all categories
•	2016/17	1.5% across all categories

• 2016/17 0.9% across all categories

being imposed. Unfortunately rising costs and aging infrastructure and the ongoing maintenance of critical infrastructure such as the Port and Airport operations have seen costs rise considerably which is putting significant pressure on the Shires ability to perform its general operations.

The key points for the Shire of Derby West Kimberley 2019/20 rating strategy: -

- Raise sufficient yield to maintain current services and begin to provide for future infrastructure renewal to meet community expectations, as outlined in the strategic community plan 2012-2021.
- Review of the number and type of rating categories and move towards uniform rating across the GRV and UV categories of residential, industrial, commercial, mining and pastoral categories to ensure fairness and equity;
- Spread the rates burden more equitably across the rating differential categories to more
  effectively reflect and equitable contribution to the provision of council resources,
  maintenance and improvement of said resources, services and infrastructure;
- Significant increase in costs due to the implementation of councillor training, implementation of the Auditor General auditing process and increasing governance imposts and the decreasing availability of grant funding has had a flow on effect to how the Shire continues to meet ongoing asset renewal and maintaining service levels.

The Officer considers that the proposed increases to the rating categories for the 2019/20 financial year are in line with council's strategic direction and are necessary to maintain operations and current service levels.

# **VOTING REQUIREMENT**

Simple majority

#### **ATTACHMENTS**

- 1. Submission McMahon Mining Title Services 4 Table 2
- 2. Submission Maxima Pearls U
- 3. Advertisment Broome Advertiser U
- 4. Advertisement The West Australian U

#### **RECOMMENDATION**

#### **That Council:**

- 1. Acknowledge and note the submissions received as per ATTACHMENT;
- 2. Adopt the following advertised 2019/20 Differential Rates for consideration for 2019/20 Budget;

GRV General Rate 13.3772 UV General Rate 22.9955 UV Mining 28.4327 UV Pastoral 6.8300

General Minimum Rate for both GRV and UV of \$1027

3. Request the Chief Executive Officer seek Ministerial approval to impose differential general rates which are more than twice the lowest differential rate for the 2019/20 financial year, in accordance with Section 6.33(3) of the Local Government Act 1995.



5 June 2019

Mr Wayne Neate Acting Chief Executive Officer Shire of Derby/West Kimberley PO Box 94 DERBY WA 6728

Dear Sir

#### **SUBMISSION - DIFFERENTIAL RATING 2019/20**

Thank you for the opportunity to make a submission regarding the proposed rates for 2019-20.

We note that valuations provided by the Valuer General are used in calculating mining tenement rates, and these valuations are based on the rent imposed by the Department of Mines, Industry Regulation and Safety. Any increases in the rent therefore result in an increase in valuations and in turn an automatic increase in rates.

Effective from 1 July 2018, the Department increased the rent rate by 1.5% for exploration licences and 6% for all other mining tenements. From 1 July 2019, the Department will increase exploration licence rents by a further 1.5% and the rent of all other mining tenements by a further 6%.

The resource sector is already one of the most significant contributors to the State's economy, with the WA Government receiving royalty revenue totalling \$5.8 billion in 2017–18 – a major proportion of the State's annual revenue. It is also one of the most significant employers in the State, with the WA minerals sector directly employing over 120,000 people in 2018.

To encourage the continued contributions made by the resources sector to the State economy it is critical that all government fees are set so as to reduce the cost of doing business in the State in the face of significant international competition wherever possible, and increase and incentivise investment in local exploration to discover vital new resources for the whole of the State.

We note that the Shire has proposed an increase in the rate in dollar and the minimum for UV Mining for 2019-20. We write to ensure the automatic increase in rates due to the increase in rents is taken into account in your budget modelling, and ask that you consider maintaining or reducing the rates for mining tenements for the 2019-20 year.

I would be happy to discuss this matter further on (08) 6467 7997.

Yours sincerely

Shannon McMahon

Director

28/168 Guildford Rd Maylands WA 6051 PO Box 592 Maylands WA 6931 (08) 6467 7997 mmts@mmts.net.au

www.mmts.net.au

by email to: sdwk@sdwk.wa.gov.au

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#### **Danielle Hurstfield**

From: Accounts Maxima Opportunity <accounts@maximaopportunity.com.au>

**Sent:** Friday, 28 June 2019 11:32 AM

To: Records Mailbox

Cc: John Hutton Max OP; 'Randal Wells'

**Subject:** CS1671 - Proposed 2019/20 Rates (Lot: MEDA LOC 24 A600235 231)

Follow Up Flag: Follow up Flag Status: Flagged

Chief Executive Officer Shire of Derby/ West Kimberley PO Box 94 Derby WA 6728

Your Reference: A600235

Dear Sir,

#### Proposed 2019/20 Rates (Lot: MEDA LOC 24 A600235 231)

Thank you for your letter dated 31 May 2019.

Maxima Pearling Company Pty Ltd (Maxima) holds a Lease of Crown Land over Lot 24 on Deposited Plan 9327 (also known as Turtle Island). The permitted use under the lease is for Aquaculture and Land Base in support of Pearling.

Currently, the Rating Category of Turtle Island is UV General Rate (UV Commercial). The Shire's proposed Rate in the Dollar for 2019/20 is 22.9955.

In Maxima's view, the Rating Category UV General Rate (UV Commercial) is not appropriate given the permitted use described above.

Maxima's Pearling operations have for some time not been profitable. Maxima is therefore focussing attention on Research and Development (R&D) of Aquaculture, rock oysters in particular. Maxima is incurring significant costs during the R&D stage. If Maxima's R&D program is successful, significant benefits to the Shire are likely to emerge including employment opportunities.

The unsuitability of the UV General Rate to Turtle Island is further illustrated by the Reasons in the following extract from the Shire's Statement of Objects and Reasons for Differential Rates and Minimum Payments for the Year Ending 30 June 2019:

1

Item 6.1 - Attachment 2

Description	Characteristics	Objects	Reasons
GRV General Rate	Properties within the town site boundaries.	This rate is to contribute to the service desired by the community. All GRV properties within the Shire have the same Rate in the Dollar applied.	
UV General Rate	Properties that are located outside of the town sites.		The higher rate is proposed in order to levy somewhat commensurate rate comparative wit their impact on the local community i.e. heav haulage vehicle movements, environmental healt and strategic planning. In addition, these propertie have access to all other services and facilitie provided by council.

The remoteness of Turtle Island and the nature of the activities on Turtle Island is such that there is no material "impact on the local community i.e. heavy haulage movements, environmental health and strategic planning" nor does Turtle Island enjoy any significant "access to all other services and facilities provided by council."

In view of the above, Maxima requests a Rating Category reclassification of the property to the UV Concessions Raised category including an appropriate concessionary Rate in the Dollar. Maxima suggests the concessionary Rate in the Dollar should be the same as the Shire's proposed 2019/20 UV Pastoral Rate in the Dollar of \$6.8300. To support this suggestion, the permitted use of the land and buildings on Turtle Island in support of the Aquaculture activities in Cone Bay is comparable to a farmer's use of a farm house, sheds and workshops on a Pastoral lease.

Kindly contact the undersigned should you have any queries or if you require any further information to support Maxima's request.

Yours sincerely John Hutton 27 June 2019

## Alison Hutton

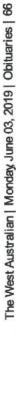
Finance and Administration Manager



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Item 6.1 - Attachment 3 Page 19







6/12/2019

Item 6.1 - Attachment 4

# 7 NEW BUSINESS OF AN URGENT NATURE

# 8 CLOSURE

# 8.1 Date of Next Meeting

The next ordinary meeting of Council will be held Thursday, 25 July 2019 in the Council Chambers, Clarendon Street, Derby.

# 8.2 Closure of Meeting