



SHIRE OF WYNDHAM | EAST KIMBERLEY

**MINUTES
SPECIAL COUNCIL
MEETING**

7 FEBRUARY 2023

DISCLAIMER

Members of the Public are advised that recommendations to Council contained within this Agenda and decisions arising from the Council meeting can be subject to alteration. Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council's decision with respect to any particular issue.

An audio and/or video record will be made of these proceedings to assist in the taking of minutes.

Signed on behalf of Council



VERNON LAWRENCE
ACTING CHIEF EXECUTIVE OFFICER

NOTES

- 1. Councillors wishing to make alternate motions to officer recommendations are requested to provide notice of such motions electronically to the minute taker prior to the Council Meeting.**
- 2. Councillors needing clarification on reports to Council are requested to seek this from relevant Officers prior to the Council meetings.**

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**SHIRE OF WYNDHAM EAST KIMBERLEY
SPECIAL COUNCIL MEETING MINUTES
KUNUNURRA COUNCIL CHAMBERS
TO BE HELD ON 7 FEBRUARY 2023 AT 5:00PM**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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I declare the Meeting open at 4:32pm.

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Cr T Chafer
Cr M McKittrick
Cr C McNeil
Cr B Kyne
Cr D Hearty (Video Conference)
Cr N Brook (Video Conference)
Cr J Farquhar (Video Conference)

Leave of Absence

Cr M Dear
Cr D Menzel

Apologies

Nil

3. DECLARATION OF INTEREST

- Financial Interest – Nil
- Impartiality Interest – Nil
- Proximity Interest - Nil

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5. PUBLIC QUESTION TIME

Nil

6. LEAVE OF ABSENCE

Cr D Menzel has requested a leave of absence for today's meeting; and
Cr M Dear has requested a leave of absence for the Special Council Meeting 7 February
2023 and also the 21 February 2023 Ordinary Council Meeting.

Council Decision

Minute Number:

That Council approve a Leave of Absence for:

1. Cr D Menzel
 - Special Council Meeting - 7 February 2023

2. Cr M Dear
 - Special Council Meeting - 7 February 2023
 - Ordinary Council Meeting - 21 February 2023

Moved: Cr Chafer

Seconded: Cr Kyne

Decision: 7/0

7. PETITIONS

Nil

8. REPORTS

8.1. WARD AND REPRESENTATION REVIEW

DATE:	7 February 2023
AUTHOR:	Chief Executive Officer
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Regulator - enforce state legislation and local laws
VOTING REQUIREMENT	Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

1. Notes the submission that was received in relation to its local public notice of the ward and representation review;
2. In accordance with Schedule 2.2 (9) of the Local Government Act 1995 (the Act), recommends to the Local Government Advisory Board that the number of Councillors be reduced from nine elected members to eight elected members and that the Shire President be elected by a vote of electors (direct election method).

Council Decision

Minute Number: 07/02/2023 - 118777

That Council:

1. Notes the submission that was received in relation to its local public notice of the ward and representation review;
2. In accordance with Schedule 2.2 (9) of the Local Government Act 1995 (the Act), recommends to the Local Government Advisory Board that the number of Councillors be reduced from nine elected members to eight elected members and that the Shire President be elected by a vote of electors (direct election method).

Moved: Cr McKittrick

Seconded: Cr Kyne

Decision: 7/0

PURPOSE

For Council to finalise a ward and representation review and make representations to the Local Government Advisory Board, as directed by the Minister for Local Government.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Council considered this matter at its October 2022 Ordinary Meeting (**Minute Number: 25/10/2022 - 118736**), which is in response to a direction of the Minister for Local Government to undertake a Ward and Representation Review relevant to the State Government's local government 'reforms'. These include:

- The introduction of optional preferential voting;
- Directly elected Mayors and Presidents for band 1 and 2 local governments;
- Councillor numbers based on population, and
- The removal of wards for band 3 and 4 local governments.

Council's decision of at the October 2022 meeting was:

That Council:

- 1. Notes that the Department of Local Government, Sport and Cultural Industries has advised the Shire of the need to change to a directly elected Shire President and consequently reduce the size of the elected Council by one, to eight elected Councillors;***
- 2. Direct the Chief Executive Officer to advise the Department of Local Government, Sport and Cultural Industries of its intention to undertake a voluntary process to address the local government reform of directly electing the Shire President;***
- 3. Reluctantly resolves to change the method of electing the Shire President to a vote of electors of the district at the next election and reduce the number of elected Councillors by one; and***
- 4. Endorses that a ward and representation review only be undertaken if advised to do so in a reply from the Minister to correspondence requesting clarification on the need to do so.***

Point 2 has been actioned and the Minister advised the Shire that it was obligated to undertake a Ward and Representation Review and this has similarly been actioned and is provided at Attachment 1. Notice of this document was undertaken on 9 November 2022, with comments sought by 20 January 2023 and one submission was received, from Keth Wright which is at Attachment 2. This submission is supportive of the Shire not recommending the introduction of a ward system.

STATUTORY IMPLICATIONS

Local Government Act, 1995

Division 2

2.11. Alternative methods of filling office of mayor or president

- (1) When an order is made under section 2.1 declaring an area of the State to be a district, the Governor is, by order, to specify whether the first mayor or president of the local government is to be —
 - (a) elected by electors of the district under Part 4; or
 - (b) elected by the council from amongst the councillors under Schedule 2.3, Division 1.
- (2) A local government may change* the method of filling the office of mayor or president used by the local government from the election by the council method to the election by the electors method.

* Absolute majority required.

2.18. Fixing and changing number of councillors

- (1) When a local government is newly established the Governor, by order made on the recommendation of the Minister, is to —
 - (a) specify the number of offices of councillor on the council of the local government; and
 - (b) if the district is to have a ward system, specify the numbers of offices of councillor for the wards.
- (2) When an order is made under section 2.2 discontinuing a ward system for a district, the number of offices of councillor on the council remains unchanged unless the order specifies otherwise.
- (3) The Governor, on the recommendation of the Minister, may make an order —
 - (a) changing the number of offices of councillor on a council; or
 - (b) specifying or changing the number of offices of councillor for a ward; or
 - (c) as to a combination of those matters.
- (4) The Minister can only make a recommendation under subsection (1) or (3) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.

Schedule 2.2

5. Local government may propose ward changes or make minor proposals

A local government may, whether or not it has received a submission —

- (a) carry out a review of whether or not an order under section 2.2, 2.3(3) or 2.18 should, in the council's opinion, be made; or
- (b) propose* to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3) if, in the opinion of the council, the proposal is —
 - (i) one of a minor nature; and
 - (ii) not one about which public submissions need be invited;
 or
- (c) propose* to the Minister the making of an order changing the name of the district or a ward.

* Absolute majority required.

POLICY IMPLICATIONS

There are no policy implications associated with this matter.

FINANCIAL IMPLICATIONS

There are possible financial implications associated with the electors vote for the Shire President, in the event of a candidate being elected as a Councillor and as the Shire President as, under the current legislation, there is no option to simply fill the (then) vacant Council position with the candidate who received the next highest number of votes. In this event, the Shire would need to conduct an extraordinary election to fill the vacant Council position.

Ascending to the Minister's request, as decided at the October 2022 meeting, ensures that the organisation does not incur additional costs associated (or inconvenience and loss of good governance) with abolishing all Council positions at the October 2023 elections ie if the Council had opted to accept the 'Reform Election Pathway'.

STRATEGIC IMPLICATIONS

There are no strategic implications associated with this matter.

RISK IMPLICATIONS

Risk: Failure to manage a governance framework which transparently embraces good governance practices.

Control: Reviewing and implementing changes as required by the Department of Local Government.

COMMUNITY ENGAGEMENT

A discussion paper was prepared and published on the Shire's website and notices were posted in the Kimberley Echo and on Facebook.

COMMENTS

One submission was received, which was supportive of the Shire not recommending the introduction of a ward system.

In accordance with the relevant legislation, and in light of the Minister's direction, it is recommended that the Council advise the Local Government Advisory Board that it agrees to a reduction of Councillors, from nine elected members to eight and that the Shire President be elected by a direct vote of electors.

ATTACHMENTS

Attachment 1 - SWEK Ward and Representation Review

Attachment 2 - Email (submission) from Keith Wright

8.2. KIMBERLEY LOCAL GOVERNMENTS MOU

DATE:	7 February 2023
AUTHOR:	Senior Ranger and Emergency Services Coordinator
RESPONSIBLE OFFICER:	Paul Webb, Director Infrastructure & Strategic Projects
FILE NO:	GR.03.12
DISCLOSURE OF INTERESTS:	Nil
VOTING REQUIREMENT:	Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Endorse the attached Memorandum Of Understanding - Provision of Mutual Aid During Emergencies and Post Incident Recovery; and**
- 2. Authorises the Chief Executive Officer to sign the Memorandum Of Understanding on behalf of the Shire.**

Council Decision

Minute Number: 07/02/2023 - 118778

That Council:

- 1. Endorse the attached Memorandum Of Understanding - Provision of Mutual Aid During Emergencies and Post Incident Recovery; and**
- 2. Authorises the Chief Executive Officer to sign the Memorandum Of Understanding on behalf of the Shire.**

Moved: Cr McKittrick

Seconded: Cr Kyne

Decision: 7/0

PURPOSE

This Memorandum of Understanding (MoU) sets out a basic framework for cooperation between the Local Governments named, to promote cooperation in an emergency event which affects one or more of the partnering Local Governments.

The guiding principle of this MoU is that any support given to a Local Government in a particular emergency event shall be voluntary and of a level that will not unduly compromise the operability of the Local Government providing the support.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The partners to this MoU recognise their responsibilities to have adequate arrangements in place in order to respond to non-natural and natural disasters.

The MoU seeks to:

- Facilitate the provision of mutual aid between partnering Local Governments during emergencies and post incident recovery;
- Enhance the capacity of our communities to cope in times of difficulty; and
- Demonstrate the capacity and willingness of participating Local Governments to work cooperatively and share resources within the region.

Partners to this MoU, in times of community distress due to an emergency incident, agree where possible to:

- a) Provide whatever resources may reasonably be available within the capacity of that Local Government to respond to the emergency incident if requested
- b) Provide, at its absolute discretion, whatever resources may be available within the means of that Local Government to assist with the response to an emergency, or in the post incident recovery within the affected community.

STATUTORY IMPLICATIONS

This MoU recognises that each Local Government will have its own local emergency management procedures and Local Emergency Management Arrangements (LEMA) in place in accordance with the Emergency Management Act, 2005.

POLICY IMPLICATIONS

The intention of this MoU is to improve the efficiency of joint response to an emergency event, share experiences, enhance cooperation between Local Governments and improve regional resilience to emergency events.

The parties acknowledge that the provisions of this document are not intended to create binding legal obligations between them.

The parties also acknowledge that:

- a) Nothing in this document authorises a party to incur costs or expenses on behalf of the other party; and
- b) A party has no authority to act for, or create or assume any responsibility, obligation, or liability on behalf of any other party.

FINANCIAL IMPLICATIONS

The Disaster Recovery Funding Arrangements WA (DRFAWA) provides for the reimbursement of eligible expenditure incurred by Local Governments during a declared event.

If an impacted Local Government has an approved DRFAWA claim for a proclaimed event, it may seek to have the costs incurred, in the use of partnering Local Government's resources, to undertake eligible reinstatement activities for that eligible event, reimbursed under DRFAWA.

Each partnering Local Government is responsible for maintaining an accurate record of its expenditure of recovery costs.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 1: PEOPLE - Healthy vibrant active communities

Focus Area 2: PLACE - Enhancing the environment

Goal 2.3: Make towns safe and inviting for locals and visitors

Strategy 2.3.2: Maintain a partnership approach for emergency management planning, preparedness, response and recovery

Strategy 4.1.2: Foster relationships and partnerships with key stakeholders to achieve community outcomes

Strategy 4.4.4: Apply best practice financial management to ensure long term sustainability

RISK IMPLICATIONS

Risk: Failure to develop appropriate, meaningful policies and processes which enable the administration to perform in an effective and efficient way.

Risk: Failure to undertake effective engagement strategies which develop the Shire's understanding of the needs and aspirations of the wider Kimberley community, grow community capacity and ensure supportable outcomes are reached with stakeholders.

Control: Ensure that the Shire engages with its stakeholders in the region to understand their needs and put in place processes and practices that lead to mutual beneficial outcomes.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

This is a document that formalises the practical help the four Kimberley Shires (Shire of Derby West Kimberley, Shire of Broome, Shire of Halls Creek & Shire of Wyndham East Kimberley) provide to one another. The four Shires, have a great record in recent years of working together for our mutual benefit and by implementing this MOU it is one more aspect of that mutual cooperation. The MOU basically sets out the framework for our cooperation. Being an MOU it does not create any legal obligations or liabilities. It is also a flexible document that can be amended from time to time as the need arises.

With the current events that Shire has provided staff to assist. This has been done through a provision in our Enterprise Agreement where staff can request special leave to assist as a volunteer in cases of emergencies. Our Ranger staff and other staff who are part of the SES and Fire Brigades spent time in Fitzroy Crossing assisting with the recovery. There is still a need for staff to assist as the recovery continues. There is further opportunity for the Shire to claim for reimbursement of the costs of recovery where the Local Government experiencing the event can claim expenses incurred. This MOU will assist in this process.

ATTACHMENTS

Attachment 1 - Kimberley Local Government's MOU - Mutual Aid & Recovery - October 2022

9. MATTERS BEHIND CLOSED DOORS

Nil

10. CLOSURE

The meeting was declared closed at 4:45pm