

I hereby certify that the Minutes of the Special Council Meeting held are a true and accurate record of the proceedings contained therein.

\_\_\_\_\_  
Shire President

\_\_\_\_\_  
Date



SHIRE OF WYNDHAM | EAST KIMBERLEY

**MINUTES  
SPECIAL COUNCIL  
MEETING**

**23 April 2015**



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**SHIRE OF WYNDHAM EAST KIMBERLEY  
MINUTES OF THE SPECIAL COUNCIL MEETING  
KUNUNURRA COUNCIL CHAMBERS  
HELD ON TUESDAY, 23 APRIL 2015, AT 5:00 PM**

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**1. DECLARATIONS OF OPENING / ANNOUNCEMENT OF VISITORS**

The Shire President declared the meeting open at 5.01pm.

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

Cr J Moulden	Shire President
Cr R Dessert	Deputy Shire President
Cr D Learbuch	Councillor
Cr K Wright	Councillor
Cr B Robinson	Councillor
Cr G Taylor	Councillor
Cr G King	Councillor
Cr D Spackman	Councillor
L Gee	Acting Chief Executive Officer / Director Community Development
N Octoman	Director Corporate Services
D Klye	Director Infrastructure
M Tonkin	Executive Assistant (Minute Taker)

**GALLERY**

Bradley Rawson	Hotel Kununurra
Nathan Welsh	Hotel Kununurra
Rob Storey	Ratepayer
Carl Askew	Resident
Christina Askew	Resident
Joanna Atkins	Resident / North Kimberley Transport
Nicholas Atkins	Resident / North Kimberley Transport
Julie Fysh	Resident / Fysh Grader hire
Cally Dupe	The Kimberley Echo
Jenny Spragg	Ratepayer
Simone Rushby	Ratepayer
Mark Northover	Ratepayer
Wayne Richards	Shire Staff
Peter Kerp	Shire Staff
Navneet Raheja	Shire Staff

**APOLOGIES**

Cr S Cooke	Councillor
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## **LEAVE OF ABSENCE PREVIOUSLY APPROVED**

Nil

### **3. DECLARATION OF INTEREST**

- Financial Interest

Cr D Spackman declares a financial interest in item 11.2.2 Hotel Kununurra Request for Support of Extended Trading Hours. The description of interest is "Indirect financial association to tavern".

- Impartiality Interest

D Klye, Director Infrastructure declares an impartiality interest in item 11.1.1 Tender T09 – 14/15 Kalumburu Rd – Port Warrender Road Opening Grade. The description of interest is "With regard to item 11.1.1 T09 14 /15, Kalumburu Road and Port Warrender Road Opening Grade, I disclose that I have an impartiality interest in this matter, the nature of the interest is that;

1. I have a personal association with Mr Stephen Guerinoni of Guerinoni and Son a tenderer in this matter, and
2. Mr Mark Northover of Martinjinni Pty Ltd trading as Ord River Contracting has made formal complaints against me for misleading Council, fabricating evidence, racial vilification, discrimination and prejudice in my conduct as Director Infrastructure for the Shire of Wyndham East Kimberley.

As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and provide impartial, objective professional advice where required.

Cr R Dessert declares an impartiality interest in item 11.2.2 Hotel Kununurra Request for Support of Extended Trading Hours. The description of interest is "Also a licensee".

Cr D Learbuch declares an impartiality interest in item 11.2.2 Hotel Kununurra Request for Support of Extended Trading Hours. The description of interest is "I work for a company owned by the owners of Gullivers Tavern".

- Proximity Interest

Nil

### **4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

### **5. PUBLIC QUESTION TIME**

Public question time commenced at 5.05pm

## **Questions from Mark Northover, Kununurra**

**Question 1** – Why as Councillors are you dipping into the ratepayers funds for the cost of grading the Mitchell Plateau, knowing that there is no ratepayers out there, and that the same officer your DOI prevaricated with arguments for station road closures, in his past Shire, with the purpose of embarrassing the Councillors (as evident on the internet)?

D Klye, Director Infrastructure provides the following response:

I have no idea what Mr Northover is talking about, and I will take the question on notice.

*As per the Shire of Wyndham East Kimberley Standing Orders Local Law 2003, 2.3(3) a response will be given to the member of the public in writing by the CEO, and a summary of the question raised and the response given are to be included in the agenda and minutes of the next meeting of the Council.*

**Question 2** – Does Council not see there to be a conflict of interest in the proposed awarding of T09/2015, given that the DOI and Officer Kerp have a common habit of staying and enjoying the facilities of the home site of Sunlight Holdings, that thanks to the advice of former Supervisor Edmeades we know that the hourly rate charged by Sunlight is well in excess of all other operators, that aspersions have been previously cast over the level of quality, that the operator regularly “camps rough” and never bothers with traffic control or management? Can the Council confirm that an “unconflicted” Shire representative will be visiting the site to ensure quality works, proper camp facilities, traffic management and that the contract payment will cease when in excess of “2 days” work?

D Klye, Director Infrastructure provides the following response:

I am not able to answer those questions in full so I will take the questions on notice.

*As per the Shire of Wyndham East Kimberley Standing Orders Local Law 2003, 2.3(3) a response will be given to the member of the public in writing by the CEO, and a summary of the question raised and the response given are to be included in the agenda and minutes of the next meeting of the Council.*

## **Questions from Simone Rushby, Kununurra**

**Question 1** – How can the ACEO make claim to an “Official Tender Opening” process, when the process is completed at the front counter of reception, with telephone calls interrupting the process, officers leaving and returning, no senior director in attendance, no councillor in attendance and the “Official tender printer” being out the back where security of documents is neither monitored or safeguarded?

L Gee, Acting Chief Executive Officer provides the following response:

I will take the question on notice so that I can investigate the allegations, ensure they are correct and confirm to you what the process is.

*As per the Shire of Wyndham East Kimberley Standing Orders Local Law 2003, 2.3(3) a response will be given to the member of the public in writing by the CEO, and a summary of the question raised and the response given are to be included in the agenda and minutes of the next meeting of the Council.*

**Question 2** – Given that the Tender 09/2015 is requesting TMP’s and Traffic Management, can you please advise if you are again going to enlist the services of Glenn Matthew Taylor to complete these requirements, knowing full well that he is (a) is a Councillor and breaching multiple legislative and ethical rulings (b) charges well in excess of double the going rate and (c) is according to his own statement to SWEK staff the “Only person who can do this stuff (Traffic Management diagrams and approvals) in the Kimberley”, which of course is a false statement as in evidence by the email sent today by Shire officer Navneet regarding ETAS?

Shire President, Cr J Moulden provides the following response:

The question is regarding the business activities of a person and I rule that question out of order.

### **Questions from Mark Northover, Kununurra**

**Question 3** – Why can’t the DOI address the 16 relevant and important questions regarding this tender, given that the contact officer for the Shire stated that “questions would be accepted and answered right up to the last minute” and the questions were lodged 52 hours (or 3120 minutes) prior to closing? Is the Shire accepting and encouraging ineptitude in its officers and also happy to put itself at further risk as the non-compliance and non-ability to answer the questions is against fair assessment and clear breaches of several council and government regulations?

D Klye, Director Infrastructure provides the following response:

I would like to take the question on notice.

N Octoman, Director Corporate Services advises that the matter is also under investigation through another complaints process.

Shire President, Cr J Moulden advises that the question will not be answered as it will be allowed to follow the course of the complaints process.

**Question 4** – Why are you considering to dip into the Aboriginal access road funding (\$740,000) when there are communities that have had absolutely no funds spent on their access roads, one community has no more than a goat track for the children to get to school? You are aware of the many illegal uncertified and unsafe bridging culverts and yet you are also wanting to also access \$300,000 of bridging funds.

D Klye, Director Infrastructure provides the following response:

I can advise that the funds referred to are funds provided by Roads to Recovery and they are specifically for Kalumburu Road.

**Question 5** – Will the Council be addressing and reviewing the levels of pay in relation to level of skill, with the incoming CEO, in light of the multiple errors in reporting made by the ACEO of which she afforded us an apology, the massive amount of community angst over rising rates and the failing budgetary situation of the Shire.

L Gee, Acting Chief Executive Officer provides the following response:  
Mr Northover raised this matter to me in regards to the Annual Report. Council have a report in front of them tonight to look at amending the Annual Report as required by legislation.

**Question 6 –** How is the Council ensuring that Mr Klye and Mr Kerp adhere to the Policy CP Gov 3100 of which has been touted by Mr Klye, and are you ensuring that the ratepayers funds and community expectations are being considered?

L Gee, Acting Chief Executive Officer asks Mr Northover for the title of the policy and then provides the following response:

The reference is to the community engagement policy. The intent of that policy is to provide an outline to the community on how we engage and to set a framework for the level or degree of which we take community engagement. The community engagement policy highlights the Councils intent to engage with the community.

Mr Mark Northover states that his question was regarding the aboriginal community, “you are spending their fund, that’s the crux of it”.

**Question 7 –** Why is Council tonight adopting an open ended lump sum hire tender, without any risk analysis presented as the grader operator, who is also the supervisor, and the sole operator of a compulsory automated defibrillator, and can you please explain how, if in the middle of an acute heart attack, the operator will operate this machine on himself?

D Klye, Director Infrastructure provides the following response:

I will take the question on notice, but no one would expect anyone in the midst of an acute heart attack to operate a defibrillator.

*As per the Shire of Wyndham East Kimberley Standing Orders Local Law 2003, 2.3(3) a response will be given to the member of the public in writing by the CEO, and a summary of the question raised and the response given are to be included in the agenda and minutes of the next meeting of the Council.*

**Question 8 –** Mr Klye and Mr Kerp afforded the same trip to view the “rough camping” arrangements of the proposed tender awardee, that was afforded to Martinjinni Pty Ltd, if so how are the explaining that the awardee generally “swags it” in terms of this being against tender specification?

D Klye, Director Infrastructure provides the following response:

There is absolutely no evidence that the person proposed to be awarded the tender would camp rough.

Shire President, Cr John Moulden advises Mr Northover that additional unanswered questions can be submitted if he wishes.

## **6. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

## **7. PETITIONS**

Nil

**8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

Nil

**9. MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

Nil

**10. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS / NOTICES OF MOTIONS**

Nil

**11. REPORTS**

**11.1 INFRASTRUCTURE**



and in accordance with the *Local Government (Functions and General) Regulations 1996, Part 4, Division 2, regulation 11(1)*.

**11. When tenders have to be publicly invited**

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 unless subregulation (2) states otherwise.*
- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if —*
  - (a) *the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or*
  - (b) *the supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA; or*
  - (ba) *the local government intends to enter into a contract arrangement for the supply of goods or services where —*
    - (i) *the supplier is either —*
      - (I) *an individual whose last employer was the local government; or*
      - (II) *a group, partnership or company comprising at least 75% of persons whose last employer was that local government;*
    - and*
    - (ii) *the contract —*
      - (I) *is the first contract of that nature with that individual or group; and*
      - (II) *is not to operate for more than 3 years;*
    - and*
    - (iii) *the goods or services are —*
      - (I) *goods or services of a type; or*
      - (II) *(in the opinion of the local government) substantially similar to, or closely related to, goods or services of a type, that were provided by the individual (or persons) whilst employed by the local government;*
  - or*
  - (c) *within the last 6 months —*
    - (i) *the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications; or*
    - (ii) *the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;*
  - or*
  - (d) *the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government; or*
  - (e) *the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or*

- (ea) *the goods or services are to be supplied —*
- (i) *in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and*
- (ii) *by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;*
- or
- (f) *the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or*
- (g) *the goods to be supplied under the contract are —*
- (i) *petrol or oil; or*
- (ii) *any other liquid, or any gas, used for internal combustion engines.*

### **POLICY IMPLICATIONS**

The Shire of Wyndham East Kimberley's Purchasing Policy CP/FN-3204 applies.

### **FINANCIAL IMPLICATIONS**

Funds for opening grade can be allocated from the additional funds received from the Road to Recovery Programme 2014/15 – 2018/19 for bridge works (\$300,000) and for Aboriginal Access Roads (\$740,000). This equates to \$148,000 p/a over the 5 years Road to Recovery Programme available to spend on Kalumburu Road and Port Warrender Road.

### **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2012-2022*

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.3: Facilities are appropriate for their intended purpose and factor in whole of life costing and maintenance

Strategy 2.3.2: Plan, design and budget for sustainable infrastructure

### **COMMUNITY CONSULTATION**

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required

### **COMMENT**

Six (6) submissions were received from the following companies prior to the deadline 2pm Monday 20 April 2015;

- North Kimberley Transport
- Sunlight Holdings Pty Ltd

- Guerinoni & Son
- Fysh Grader Hire (2 submissions appeared to be the same)
- SSP Devices
- Martinjinni Pty Ltd trading as Ord River Contracting

Martinjinni Pty Ltd trading as Ord River Contracting did not submit a tender submission but lodged correspondence notifying the reason no tender was submitted due to pending legal action against the Shire for non-payment of outstanding invoice.

A panel comprising Manager Engineering Services, Senior Planning Officer and Senior Technical Officer undertook tender evaluations of the five (5) tenders received in accordance with the advertised Compliance Selection Criteria, section 6.2.1

Fysh Grader Hire lodged two (2) submissions with entirely the same information and this has been clarified as an error on their part. Consequently one only of the tender submissions from Fysh Grader Hire was assessed. Fysh Grader Hire also advised the Shire via e-mail dated 21 April 2015 that they had incorrectly identified the grader as CAT 140H where in effect it is CAT 12H with a change in price.

All five (5) tender submissions (the two tenders from Fysh Grader Hire are considered to be one tender) were considered to satisfy the requirements of the Compliance Criteria in accordance with section 6.2.1 of the General Conditions of Tendering and were then assessed in accordance with the advertised Qualitative Criteria, section 6.2.2. Please refer to Attachment 1 – Tender Evaluation Report.

The tendered prices were assessed together with qualitative and compliance criteria to determine the most advantageous outcome to the Shire.

Following consideration of the submissions in accordance with the tender criteria, Sunlight Holdings Pty Ltd represents best value to the Shire for Tender T09 14/15 Kalumburu Road and Port Warrender Road Opening Grade and is therefore recommended as the preferred tenderer.

## **ATTACHMENTS**

Attachment 1 – Confidential Tender Evaluation Report (provided under separate cover)

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER'S RECOMMENDATION**

That Council accept the tender submitted by Sunlight Holdings Pty Ltd, PMB 9, Kununurra WA 6743, for Tender T09 14/15 Kalumburu Road - Port Warrender Road, Opening Grade in accordance with the tender documentation and their submitted schedule of prices.

**COUNCIL DECISION**

**Minute No. 10867**

**Moved: Cr K Wright  
Seconded: Cr G King**

**That the item 11.1.1 Tender T09 – 14/15 Kalumburu Rd – Port Warrender Road  
Opening Grade is considered at the end of the meeting.**

**Carried 6/2**

**For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr K Wright, Cr B Robinson,  
Cr G King  
Against: Cr D Spackman, Cr G Taylor**

## 11.2 CHIEF EXECUTIVE OFFICER

### 11.2.1 Annual Report 2013/14 Amendment

<b>DATE:</b>	23/04/2015
<b>PROPONENT:</b>	Shire of Wyndham East Kimberley
<b>LOCATION:</b>	Shire of Wyndham East Kimberley
<b>AUTHOR:</b>	Monika Tonkin, Executive Assistant
<b>REPORTING OFFICER:</b>	Louise Gee, Acting Chief Executive Officer
<b>FILE NO:</b>	CM.13.4
<b>DECLARATION OF INTERESTS:</b>	Nil

#### PURPOSE

For Council to note an amendment to the Annual Report for 2013 – 2014.

#### BACKGROUND

At the Ordinary Meeting of Council on 24 March 2015, the Council resolved the following:

**Minute No. 10848**

**Moved: Cr K Wright**

**Seconded: Cr D Spackman**

**That Council:**

- a) **Accepts the Annual Report for the year ended June 2014.**
- b) **Directs the Acting Chief Executive Officer to advertise that the Annual General Electors meeting will be held at 6pm on the 28 April 2015.**

**Carried 7/1**

**For: Cr R Dessert, Cr D Learbuch, Cr K Wright, Cr B Robinson, Cr D Spackman,  
Cr S Cooke, Cr G Taylor  
Against: Cr J Moulden**

The Annual Report 2013-2014 that was accepted by the Council contained the following table on page 16 in section 6.2 Staff Summary:

The number of employees with salaries over \$100,000 for the year 2013-2014 is reflected in the below table:

\$100,000	\$110,000	\$120,000	\$130,000	\$140,000	\$150,000	\$160,000	\$170,000	\$180,000	\$190,000
-	-	-	-	-	-	-	-	-	+
\$109,999	\$119,999	\$129,999	\$139,999	\$149,999	\$159,999	\$169,999	\$179,999	\$189,999	
1	1	2	0	0	2	1	0	0	1

The *Local Government (Administration) Regulations 1996* require that:

## **Division 2 — Annual reports**

### **19B. Information about numbers of certain employees to be included (Act s. 5.53(2)(g))**

For the purposes of section 5.53(2)(g) the annual report of a local government for a financial year is to contain the following information —

- c) (a) the number of employees of the local government entitled to an annual salary of \$100 000 or more;
- d) (b) the number of those employees with an annual salary entitlement that falls within each band of \$10 000 over \$100 000.

The above table does not comply with this regulation as the last column does not reflect a band of \$10,000.

### **STATUTORY IMPLICATIONS**

*Local Government (Administration) Regulations 1996*

## **Division 2 — Annual reports**

### **19B. Information about numbers of certain employees to be included (Act s. 5.53(2)(g))**

For the purposes of section 5.53(2)(g) the annual report of a local government for a financial year is to contain the following information —

- e) (a) the number of employees of the local government entitled to an annual salary of \$100 000 or more;
- f) (b) the number of those employees with an annual salary entitlement that falls within each band of \$10 000 over \$100 000.

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2012-2022*

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

## **COMMUNITY ENGAGEMENT**

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

Engagement will take place in accordance with the Shire's Community Engagement Guidelines and will include:

Advising electors of the amendment at the Annual General Electors Meeting

## **COMMENT**

Advice was taken from the Department of Local Government as to how to amend the Staff Summary table in the Annual Report 2013-2014 (Attachment 1). The new table for Section 6.2 Staff Summary is:

The number of employees with salaries over \$100,000 for the year 2013-2014 is reflected in the below table:

\$100,000	\$110,000	\$120,000	\$130,000	\$140,000	\$150,000	\$160,000	\$170,000	\$180,000	\$190,000	\$200,000
-	-	-	-	-	-	-	-	-	-	-
\$109,999	\$119,999	\$129,999	\$139,999	\$149,999	\$159,999	\$169,999	\$179,999	\$189,999	\$199,999	\$209,999
1	1	2	0	0	2	1	0	0	0	1

As per the advice from the Department of Local Government, the Annual Report on our website and hard copies that were already printed now have a note advising of the correction.

## **ATTACHMENTS**

Attachment 1 - Correspondence from the Department of Local Government

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER'S RECOMMENDATION**

That Council notes an amendment to section 6.2 Staff Summary in the Annual Report 2013-2014.

### **COUNCIL DECISION**

**Minute No. 10868**

**Moved: Cr B Robinson  
Seconded: Cr K Wright**

**That Council notes an amendment to section 6.2 Staff Summary in the Annual Report 2013-2014.**

**Carried 8/0**

Cr D Spackman leaves the Chambers at 5.27pm

## Monika Tonkin

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**Subject:** FW: Annual Report Amendment

**From:** Andrew Borrett [<mailto:andrew.borrett@dlgc.wa.gov.au>]

**Sent:** Wednesday, 1 April 2015 3:20 PM

**To:** Monika Tonkin

**Cc:** Louise Gee

**Subject:** RE: Annual Report Amendment

Hi Monica,

We've discussed this in the office – as Council's resolution below correctly indicates, section 5.54 of the LG Act requires that the report is 'accepted' (not adopted) by Council.

We suggest that as the detail of salaries doesn't comply with requirements, the error should simply be brought to Council's attention at the Council meeting and this can then be advised to the Electors Meeting.

The report should be amended to comply with legislation, but it doesn't need to be 're-accepted' by Council, it should just be noted by Council that a correction has been made to the report previously accepted.

If hard copies of the report are already printed, you could print a correction note to be inserted in the printed copies.

As the annual report is available on your website you could add a note of the correction there also.

Regards,

**Andrew Borrett**

Senior Project Officer

Local Government Regulation and Support

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## 11.2.2 Hotel Kununurra Request for Support of Extended Trading Hours

<b>DATE:</b>	23/04/2015
<b>PROPONENT:</b>	Hotel Kununurra
<b>LOCATION:</b>	Shire of Wyndham East Kimberley
<b>AUTHOR:</b>	Louise Gee, Acting Chief Executive Officer
<b>REPORTING OFFICER:</b>	Louise Gee, Acting Chief Executive Officer
<b>FILE NO:</b>	N/A
<b>DECLARATION OF INTERESTS:</b>	Nil

### **PURPOSE**

For Council to consider supporting a request from Hotel Kununurra to receive written support of an application to extend their liquor license in order to show a Main Event Boxing Bout, 'The Fight of the Century' Floyd Mayweather v Many Pacouiao.

### **BACKGROUND**

Kununurra has had *Section 64 Liquor Control Act* liquor restrictions in place since 7 February 2011 aimed at assisting in addressing community issues. These were implemented to improve the safety, security and health of the whole community. The Kununurra Wyndham Liquor Accord states that "*The sale and supply of liquor for consumption on premises is prohibited before 12 midday, except where it is sold or supplied ancillary to a meal or to a lodge*".

On 7 April 2015 a request (Attachment 1) was received from Hotel Kununurra asking for written support of an application to extend their liquor license in order to show a Main Event Boxing Bout, 'The Fight of the Century' Floyd Mayweather v Many Pacouiao.

The support is requested as a 'one-off' for Sunday 3 May 2015, allowing Hotel Kununurra to trade from 9am – 12pm.

A minimum of two approved managers and security would be on duty from 9am enforcing Responsible Service of Alcohol.

Previously, the Shire has supported requests to extend trading hours for major annual events such as ANZAC Day and Melbourne Cup and when the Moon Fair was held on Messmate Way. It is understood that Shire support was provided for the FIFA World Cup.

### **STATUTORY IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

There are no Strategic Implications in relation to this report.

## **COMMUNITY ENGAGEMENT**

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required

## **COMMENT**

On the 13 April 2015 the Acting CEO advised Hotel Kununurra that the Shire did not support their application to vary their liquor licence for the purpose to sell and supply alcohol for consumption to customers in order to show the Main Event Boxing on Sunday 3 May 2015.

The reasons behind the decision not to provide Shire support are as follows:

1. The event facilitated the consumption of alcohol outside of restricted trading hours
2. The event is not a major recognised event
3. It may set a precedent for future requests.

In response to this advice from the Acting CEO, Hotel Kununurra requested on the 18 April 2015 that the Shire reconsider this decision. (Attachment 2)

## **ATTACHMENTS**

Attachment 1 - Initial request from Hotel Kununurra

Attachment 2 – Further correspondence from Hotel Kununurra

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER'S RECOMMENDATION**

That Council requests the Acting CEO write to Hotel Kununurra advising that support is not given for the Hotel Kununurra's application to extend their liquor license in order to show a Main Event Boxing Bout, 'The Fight of the Century' Floyd Mayweather v Manny Pacouiao on Sunday 3 May 2015.

**COUNCIL DECISION**

**Minute No. 10869**

**Moved: Cr B Robinson**

**Seconded: Cr G Taylor**

**That Council requests the Acting CEO write to Hotel Kununurra advising that support is given for the Hotel Kununurra's application to extend their liquor license in order to show a Main Event Boxing Bout, 'The Fight of the Century' Floyd Mayweather v Manny Pacouiao on Sunday 3 May 2015.**

**Carried 5/2**

**For: Cr R Dessert, Cr D Learbuch, Cr G Taylor, Cr B Robinson, Cr G King**

**Against: Cr J Moulden, Cr K Wright**

The Council Decision is different to the Officer's Recommendation as Council supports local industry taking initiative to extend, develop and promote their business in town.

Cr D Spackman enters the Chambers at 5.36pm

## Monika Tonkin

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**Subject:** FW: Hotel Kununurra ETP Trading Extention 03.05.2015

**From:** Bradley Rawson [<mailto:manager@hotelkununurra.com.au>]

**Sent:** Tuesday, 7 April 2015 2:53 PM

**To:** Louis Franks

**Subject:** Hotel Kununurra ETP Trading Extention 03.05.2015

Hi Louis,

I am writing for support of an application to RGL to extend our liquor license on Sunday 3.05.2015 in order to show a Main Event Boxing Bout.

'The Fight of The Century' Flloyd Mayweather v's Many Pacouiao. The event starts at 9am.

I would like support from the Shire for my application to extend my licence as a 'one off' on this date allowing Hotel Kununurra to trade from 9am – 12pm

A minimum of two approved managers and security will be on duty from 9am enforcing RSA.

Please let me know if you require any further information for support of this application.

Kind Regards,

## Bradley Rawson

GENERAL MANAGER

Hotel Kununurra  
PO BOX 611, Kununurra, WA 6743

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HOTEL  
KUNUNURRA



*Gateway to the East Kimberley*

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Bayside Holiday Apartments | Kimberley Hotel WA | Hotel Kununurra | Vaggs Wyndham Liquor

## Monika Tonkin

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**Subject:** FW: Hotel Kununurra ETP support

Hi Louise,

I am writing to you with a formal request to clarify your decision not to give support to our ETP application for Sunday May 3rd.

Hotel Kununurra prides itself on being able to show all the best live sport from around the world. With Kununurra situated in Western Australia, major sporting events often fall outside of Hotel trading times as they are geared mainly for the eastern states, being broadcast live from Las Vegas.

Across Australia venues will be presenting this event due to popular demand. The Mayweather/Pacquiao 'Fight of the century' is not just another boxing bout. It will be a spectacle that will go down in history.

I have been managing Hotel Kununurra for the past 28 months. In this time I have worked closely with the Shire and local authorities and in turn believe we have developed a very close relationship.

Hotel Kununurra have always supported council's efforts with requests in dealing with local issues surrounding the supply of alcohol in town. Including but not limited to: Mid strength restrictions when local funerals are being held, self imposed procedures and policy's implemented to help combat street drinking in close proximity of our venue and the support we extend for future initiatives.

In closing:  
Hotel Kununurra has been granted a number of ETP's since my appointment and not once has an incident occurred or posed a negative impact on the community.  
I have an exemplary ETP record.

May I respectfully ask you to reconsider your position with this application.

We would appreciate further consideration and your response via email by Tuesday 21<sup>st</sup> April 2015.

Kind Regards

**Bradley Rawson**  
GENERAL MANAGER

Hotel Kununurra  
PO BOX 611, Kununurra, WA 6743

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Bayside Holiday Apartments | Kimberley Hotel WA | Hotel Kununurra | Vaggs Wyndham Liquor

**12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**13. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil

**14. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION**

Nil

**15. MATTERS BEHIND CLOSED DOORS**

**COUNCIL DECISION**

**Minute No. 10870**

**Moved: Cr B Robinson**

**Seconded: Cr D Learbuch**

**That Council moves behind closed doors to consider item 11.1.1 Tender T09 – 14/15 Kalumburu Rd – Port Warrender Road Opening Grade.**

**Carried 6/2**

**For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr K Wright, Cr B Robinson, Cr G King**

**Against: Cr D Spackman, Cr G Taylor**

Council moves behind closed doors at 5.39pm.

Cr D Spackman states that “accountability to the public is not here”.

*This is recorded in the minutes as per the Shire of Wyndham East Kimberley Standing Orders Local Law 2003, 6.4(3). The Shire President caused the words used to be taken down and read to the meeting for verification.*

The meeting is adjourned at 6.07pm for a comfort break.

The meeting resumes at 6.08pm.

**COUNCIL DECISION**

**Minute No. 10871**

**Moved: Cr B Robinson**

**Seconded: Cr G Taylor**

**That Council moves out from behind closed doors.**

**Carried 7/1**

**For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr K Wright, Cr B Robinson,  
Cr G King, Cr G Taylor**

**Against: Cr D Spackman**

Council moves out from behind closed doors at 6.09pm.

Council considers item 11.1.1 Tender T09 – 14/15 Kalumburu Rd – Port Warrender Road Opening Grade.

**COUNCIL DECISION**

**Minute No. 10872**

**Moved: Cr G Taylor**

**Seconded: Cr B Robinson**

**That Council accept the tender submitted by Sunlight Holdings Pty Ltd, PMB 9, Kununurra WA 6743, for Tender T09 14/15 Kalumburu Road - Port Warrender Road, Opening Grade in accordance with the tender documentation and their submitted schedule of prices.**

**Carried 5/3**

**For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr G Taylor**

**Against: Cr D Spackman, Cr K Wright, Cr G King**

**16. CLOSURE**

The Shire President declares the meeting closed at 6.16pm