

Shire of Exmouth

# SPECIAL COUNCIL MEETING

## AGENDA



5<sup>th</sup> December 2019

# NOTICE OF MEETING

Notice is hereby given that the

Shire of Exmouth  
Special Council Meeting  
will be held on  
Thursday 5<sup>th</sup> December 2019  
Commencing at 4.00 pm  
In the Tantabiddi Travelling Gallery,  
2Truscott Crescent, Exmouth

**Cameron Woods**  
**Chief Executive Officer**

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## **Disclaimer**

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note this agenda contains recommendations which have not yet been adopted by Council.

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**Shire of Exmouth**

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**Disclosure of Interest Form**

(Elected Members/Committee Members/Employees/Contractors)

*Local Government Act 1995 (Section 5.65, 5.70 & 5.71)*

To: Chief Executive Officer

- ☐ Ordinary Council Meeting held on \_\_\_\_\_
- ☐ Special Council Meeting held on \_\_\_\_\_
- ☐ Committee Meeting held on \_\_\_\_\_
- ☐ Other \_\_\_\_\_

Report No \_\_\_\_\_

Report Title \_\_\_\_\_

Name \_\_\_\_\_

☐ Elected Member      ☐ Committee      ☐ Employee      ☐ Contractor

Type of Interest (\*see overleaf for further information)

☐ Proximity      ☐ Financial      ☐ Impartiality

Nature of Interest

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Extent of Interest (if intending to seek Council approval to be involved with debate and/or vote)

\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_ Signed: \_\_\_\_\_ Date: \_\_\_\_\_

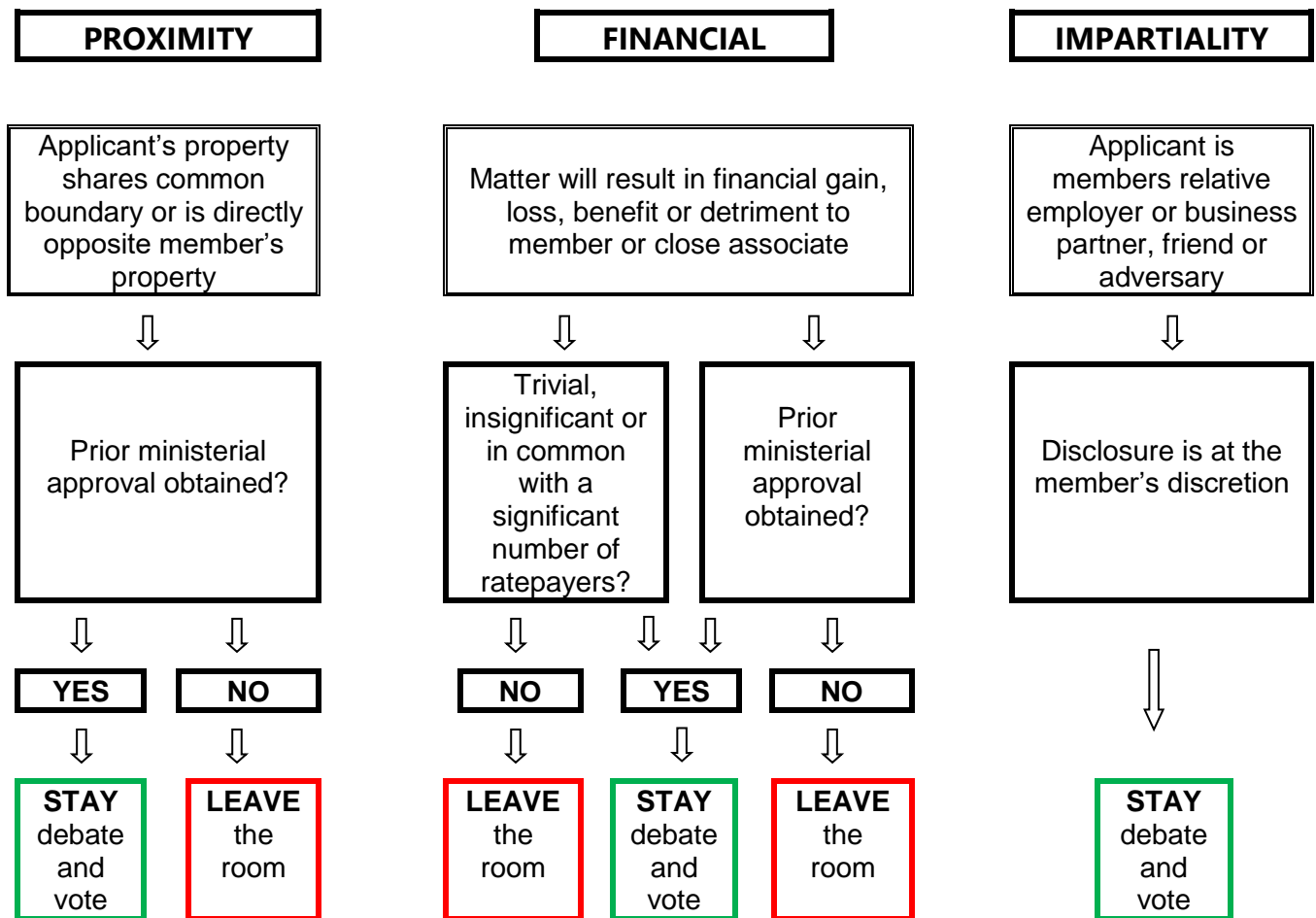
**Note 1:** For Ordinary meetings of Council, elected members and employees are requested to submit this completed form to the Chief Executive Officer prior to the meeting. Where this is not practicable, disclosure(s) must be given to the Chief Executive Officer prior to the matter being discussed.

**Note 2:** Employees or Contractors disclosing an interest in any matter apart from at meetings, where there is a conflict of interest including disclosures required by s5.71 are required to submit this form to the CEO as soon as practicable.

**OFFICE USE ONLY**

CEO: \_\_\_\_\_ Signed: \_\_\_\_\_ Date: \_\_\_\_\_

## \* Declaring an Interest



### Local Government Act 1995 - Extract

#### 5.65 - Members' interests in matters to be discussed at meetings to be disclosed.

- (1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest:
- (a) in a written notice given to the CEO before the meeting; or (b) at the meeting immediately before the matter is discussed. (Penalties apply).
- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know:
- (a) that he or she had an interest in the matter; or (b) that the matter in which he or she had an interest would be discussed at the meeting.
- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

#### 5.70 - Employees to disclose interests relating to advice or reports.

- (1) In this section: 'employee' includes a person who, under a contract for services with the local government, provides advice or a report on a matter.
- (2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.
- (3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest. (Penalties apply).

#### 5.71 - Employees to disclose interests relating to delegated functions.

- If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and:
- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter. (Penalties apply)

### 'Local Government (Administration) Regulations 1996 – Extract

In this clause and in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996:

*"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.*

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# AGENDA

Our Vision	To be a prosperous and sustainable community living in harmony with our natural environment.
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Our Purpose	To responsibly provide governance for the whole community in the best interest of current and future generations.
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Our Strategic Objectives	<ul style="list-style-type: none"> <li>Diversify and grow our economy in a manner that provides year round employment opportunities</li> <li>To protect and value our unique natural and built environment as we grow our economy.</li> <li>To be a vibrant, passionate and safe community valuing our natural environment and unique heritage</li> <li>To provide open transparent, accountable leadership working in collaboration with our community.</li> </ul>
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## 1. **DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

The Shire President declared the meeting open at XX

The Shire President acknowledged the aboriginal people both past and present, as the traditional custodians of the land on which we meet.

The Shire President advised the gallery in adhering to both the *Local Government Act 1995*, and the Shire of Exmouth Meeting Procedures Local Law 2015, it is an offense to record the proceedings of this meeting and asked the gallery to switch off any recording devices, including phones.

He advised the gallery the meeting will be recorded by the Executive Secretary for the purpose of compiling an accurate record of the minutes only; and the recording will be erased once they are confirmed.

## 2. **RECORD OF ATTENDANCE, APOLOGIES AND APPROVED LEAVE OF ABSENCE**

Councillor M (Matthew) Niikkula	Shire President
Councillor B (Ben) Dixon	Deputy Shire President
Councillor G (Gary) Mounsey	
Councillor B (Ben) Dixon	
Councillor H (Heather) Lake	
Councillor M (Mark) Lucas	
Councillor A (Anne) McCarrol	
Mr C Woods	Chief Executive Officer
Mr M Richardson	Executive Manager Development Services
Mr M Bird	Executive Manager Commercial and Community

Mr G Coetzee  
Ms M Head

Executive Manager Corporate Services  
Minute Clerk

## **GALLERY**

## **APOLOGIES**

## **LEAVE OF ABSENCE**

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

Nil

### **4. PUBLIC QUESTIONS TIME**

In accordance with section 5.24 of the *Local Government Act 1995*, a 15-minute public question time is made available to allow members of the public the opportunity of questioning Council on matters concerning them.

#### **Council Consideration Towards Public**

When public questions necessitate resolutions of Council, out of courtesy and at the President discretion the matter is to be dealt with immediately to allow the public to observe the determination of the matter (obviates the need for the public to wait an undetermined period of time).

When a matter is listed on the Agenda and member/s of the public are in attendance to observe the determination of the matter, out of courtesy and at the discretion of the President the matter is to be brought forward on the agenda and dealt with immediately to allow the public to observe the determination of the matter (again this obviates the need for the public to wait an indeterminate period of time).

### **5. DECLARATIONS OF INTEREST**

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

The Local Government Act 1995 (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council.

Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non attendance at a meeting is not an application for leave of absence.

### **7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

Nil

**8. ANNOUNCEMENTS/REPORTS OF ELECTED MEMBERS**

Nil

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

Nil

**10. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

Nil

**11. MATTERS ARISING FROM COMMITTEES OF COUNCIL**

Nil



## 12. REPORTS OF OFFICERS

### 12.1.1 FLOURISHING OCEANS – NINGALOO RESEARCH CENTRE SEAWATER SUPPLY

File Reference:	CP.AD.3.2
Responsible Officer:	Chief Executive Officer
Reporting Officer:	Executive Manager Commercial and Community
Date of Report:	4 December 2019
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	<ol style="list-style-type: none"> <li>1. Proposed Pipeline route</li> <li>2. Minderoo Flourishing Ocean letter</li> </ol>

#### PURPOSE

This report seeks Council APPROVAL to the Flourishing Oceans arm of Minderoo Foundation (Minderoo) for the proposed pipeline easement to provide essential high quality seawater supply to the Ningaloo Research Centre.

#### BACKGROUND

At the September 2019 Ordinary Council Meeting Exmouth Council granted approval to enter into a new lease with the Minderoo Foundation Pty Ltd as trustee for the Minderoo Foundation Trust for Lot 300 on Deposited Plan 408720 Murat Road Exmouth for the area commonly known as the Research and Educational area within the Ningaloo Centre.

**Res No: 03-0919**

**Move Cr Lake**

**Seconded Cr Lucas**

***That Council APPROVE Minderoo Foundation Pty Ltd (CAN 098 198 684) as trustee for The Minderoo Foundation Trust (ABN 24 819 440 6198) to lease the area commonly known as the Research and Educational area within the Ningaloo Centre, Lot 300 on Deposited Plan 408720 Murat Road as per the terms and conditions of the attached draft lease agreement marked CONFIDENTIAL attachment 1 to this report. Carried 5/0***

As stated in the September 2019 report, Minderoo plan to invest some \$2.5m on capital works for the Ningaloo Centre facility. Included in this capital works program is the installation of a direct seawater supply to the Ningaloo Centre facility.

Minderoo have designed a direct seawater pipeline solution (Attachment 1) and are now seeking Shire consent for the proposed pipeline easement on affected lots where the Shire of Exmouth is

the primary interest holder of Management Orders over Crown Land Lot 300 on Deposited Plan 408720 (LR3167/393) and Crown Land Lot 303 on Deposited Plan 408720 (LR3167/394).

Minderoo have outlined the critical need for the pipeline as stated in the Flourishing Oceans request letter (Attachment 2), extracts provided below;

*"Direct supply of high-quality raw seawater via a flow-through system is essential for establishing a world-class experimental coral aquaria lab at the Ningaloo Research Centre. The proposed lab needs to be sophisticated enough to enable advanced research, and flexible enough to accommodate multiple concurrent experiments of mixed design. This ensures attractiveness and competitive interest from the academic community.*

*The flexibility and scale required means that alternative methods for delivering seawater to the Centre are not feasible, due to issues in water quality, volume, velocity, and contamination. Coral experiments which mimic the natural reef environment require an ongoing flow of nutrients, which are essential for coral growth and reef formation.*

*Closed loop or recirculated tank systems strip the water of calcium and carbon, and artificially re-introducing these at later stages interferes with the experiment's ability to mimic the natural environment. In addition, raw seawater demonstrates a natural variability in dissolved nutrient levels (oxygen, trace elements, water acidity) which is unable to be replicated by artificial means. Finally, the level of redundancy required to secure long-term research investments is only achievable via a flow-through system. High-quality seawater supplied via a flow-through system is therefore considered essential to be able to establish an attractive, comprehensive, and cutting-edge research infrastructure offering.*

*High-quality seawater supply with a flowthrough delivery system is therefore considered essential for the establishment of an attractive and comprehensive research infrastructure offering with the capacity to accurately simulate both naturally occurring and human-influenced water conditions. A regular and guaranteed supply of high-quality raw seawater is integral to experimental and facility design, to successfully be able to support large multifactorial experiments and attract leading marine scientists to the WA coast to refocus research within the Indian Ocean."*

*Source: Flourishing Oceans Ningaloo Research Centre Seawater Supply letter*

## **COMMENT**

The Ningaloo Centre is a \$32 million project funded by the Commonwealth and State Government; Lottery west and the Shire of Exmouth. A key intended purpose of the facility was marine research.

The securing of Minderoo's Flourishing Oceans operation as a long term tenant of the Ningaloo Centre is considered a major achievement for the Exmouth community, expected to deliver a range of long term economic and employment benefits as well as reinforcing Exmouth's reputation as a centre for world class marine research.

As evidenced in attached supporting documentation, the proposed seawater pipeline is considered critical to the required infrastructure of the Ningaloo Centre.

In addition to the Minderoo Research activities, the installation of the proposed direct seawater pipeline will also service and provide financial and operational benefits to the Shire of Exmouth public aquarium facility.

The Shire of Exmouth has supported the installation of a direct sea water pipeline servicing the Ningaloo Centre from early project inception as evidenced in the year 2006 feasibility report stating *"Salt water may be sourced from a bore under the sand dunes or from a pipe through the dunes extending into the Ocean"* (source p10, Ningaloo Ocean and Earth Research Centre Feasibility Study, Doug Mcghie & associates, March 2006).

This report is now seeking Council consent for the proposed pipeline easement to enable the installation of this essential seawater supply infrastructure.

## **CONSULTATION**

Minderoo Foundation Pty Ltd

## **STATUTORY ENVIRONMENT**

Section 144(1)(a) of the Land Administration Act 1997

The Exmouth Council resolution will be subject to Department of Planning, Lands and Heritage approvals.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

The installation of a direct seawater supply to the Ningaloo Centre should result in a financial saving to the Shire in the order of \$15,000 per annum to replace current water carriage operations.

## **STRATEGIC IMPLICATIONS**

This item is relevant to the Councils approved Strategic Community Plan 2030 and Corporate Business Plan 2018-2022

Economic: Diversify and grow our economy in a manner that provides year round employment opportunities

- 1.1 A diverse and environmentally aware local economy that can attract business investment and provide employment opportunities
- 1.3 Enable the provision of essential infrastructure that will support investment and diversify our economy.

Environment: To protect and value our unique natural and built environment as we grow our economy.

- 2.1 A strong focus on environmental conservation and sustainable management of our natural environment

Social: To be a vibrant, passionate and safe community valuing our natural environment and unique heritage

3.1 Explore opportunities to deliver services and facilities that attract and retain people living in the Shire.

Leadership: To provide open transparent, accountable leadership working in collaboration with our community.

4.1 To provide proactive, collaborative and transparent leadership

## **VOTING REQUIREMENTS**

Absolute Majority

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### **OFFICER'S RECOMMENDATION**

### **ITEM 12.1.1**

That Council APPROVE the granting of consent to Minderoo for the proposed pipeline easement as detailed in Attachment 1 for the purpose of intake and discharge of seawater with the following conditions;

1. Detailed plans of all above ground infrastructure, inclusive of natural ground level/s, are to be submitted and approved by the local government and the Department of Planning, Lands and Heritage.
2. The development is subject to approval from the Department of Planning, Lands and Heritage.

## 12.1.2 RISK FRAMEWORK

File Reference:	FM.FI.1
Reporting Officer:	Executive Manager Corporate Services
Responsible Officer:	As above
Date of Report:	3 December 2019
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	1. Risk Management Framework

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### PURPOSE

To endorse the Risk Management Framework.

### BACKGROUND

This report was considered at the Audit Committee meeting held on 28 November 2019 and included in the Agenda for the Ordinary Council meeting held on 28 November 2019. However, due to an Administrative error, the Audit Committee's recommendation was overlooked and not considered by the Council. The report and the Audit Committee's Recommendation have therefore been resubmitted for the Council's consideration and decision.

Regulation 17 of the *Local Government (Audit) Regulation 1996*, requires the CEO to review the appropriateness and effectiveness of a local governments systems and procedures in relation to risk management, internal control and legislative compliance. This review is to be performed not less than once in every 3 financial years.

The Shire engaged Moore Stephens to perform the review and issued their findings in December 2018.

Following receipt of the review of Risk Management, Legislative Compliance and Internal Controls, it has been recommended that the Risk Management Procedures needed to be reviewed. These procedures have been updated with the review's recommendations within the Risk Management Framework.

### COMMENT

The review of Risk Management, Legislative Compliance and Internal Controls identified the purpose of risk management procedures as: Procedures and practices to set out a uniform approach to the identification, assessment, management, reporting and monitoring of risks.

Matters that was identified were:

1. Risk management procedures are based on a superseded risk management standard
2. Risk assessment and acceptance criteria within the Policy are not dependent on the context of the risk assessment being undertaken.

3. Risk management procedures are not actively followed across the organisation with risk management activities currently undertaken being largely undocumented.

The recommended improvements were:

1. Risk management procedures and process require review and updating in accordance with the latest Risk Management Standard (ISO 31000:2018)
2. Modification of the risk assessment and acceptance criteria within the Risk Management Procedures will assist in the rating of risks, relevant to the context of the assessment. This would involve use of percentages rather than absolute values when assessing the potential consequences of identified risks and avoid any need to redefine the risk assessment framework for different risk assessment contexts.
3. Implement risk management procedures throughout the organisation.

The attached Risk Management Framework is an updated set of procedures, governance arrangements and structure, that show how risks are being managed.

## **CONSULTATION**

Moore Stephens  
LGISWA

## **STATUTORY ENVIRONMENT**

*Local Government Act 1995*  
*Local Government (Audit) Regulations 1996*

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

This item is relevant to the Councils approved Strategic Community Plan 2030 and Corporate Business Plan 2018-2022

- Leadership: To provide open transparent, accountable leadership working in collaboration with our community.
- 4.1 To provide proactive, collaborative and transparent leadership
  - 4.2 A local government that is respected and accountable.
  - 4.3 To be a champion for our community

## **VOTING REQUIREMENTS**

Simple Majority

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## **OFFICER'S RECOMMENDATION**

**ITEM 12.1.2**

That the Audit Committee endorses the Risk Management Framework.

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**AUDIT COMMITTEE RECOMMENDATION****ITEM 12.1.2**

That the Audit Committee endorses the Risk Management Framework.

CARRIED 3/0

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**CHIEF EXECUTIVE OFFICER RECOMMENDATION****ITEM 12.1.2**

That Council notes the Audit Committee Recommendation and resolves to ENDORSE the Risk Management Framework.

**13. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

Nil

**15. MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS**

Nil

**16. CLOSURE OF MEETING**