

SHIRE OF EXMOUTH



SPECIAL COUNCIL MEETING

MINUTES

1 May 2012

CONFIRMATION OF MINUTES

These minutes were confirmed by the Council on 17 May 2012 as a true and accurate record of the Special Council Meeting held on 1 May, 2012.

.....
C (Turk) Shales
Shire President

*All attachment items referred to in these minutes are available
for public perusal at the Shire office*

DISCLAIMER

The advice and information contained herein is given by and to the Council without liability 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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Signed at Exmouth  (B Price), Chief Executive Officer Shire of Exmouth

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SPECIAL COUNCIL MEETING MINUTES

Our Vision

To support and develop a vibrant, welcoming community that embraces its past, values its present and plans for a sustainable future

Our Purpose

To responsibly provide governance for the whole community in the best interest of current and future generations

Our Strategic Objectives

- To provide sustainable management of the organisation
- To consistently apply the principles of Good Governance
 - To communicate effectively
 - To promote socioeconomic development
 - To value our environment and heritage

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President declared the meeting open at 5.00pm.

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Councillor T Shales	Shire President
Councillor S Fitzgerald	Deputy Shire President
Councillor R Winzer	(via Instantaneous Communication as per Council Resolution 23-0412)
Councillor J Warren	
Councillor M Hood	
Councillor G Thompson	
Mr B Price	Chief Executive Officer
Mrs Sue O'Toole	Executive Manager Corporate Services
Mr R Kempe	Executive Manager Community Engagement
Mr R Manning	Executive Manager Health & Building
Mr R Mhasho	Executive Manager Town Planning

GALLERY

Visitors 6

APOLOGIES

Mr K Woodward Executive Manager Engineering Services

LEAVE

Nil

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).

Nil

5 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.

Nil

Cr Hood advised that based on advice received from the Department of Local Government, he is required to Disclose an Impartiality Interest. The following declaration was made by Cr Hood;

'With regard to Proposed Scheme Amendment 27 – Lots 1, 101, 112 and 220 Minilya Exmouth Road, the matter in item 6.1.1, I disclose that I am an employee of Bagwhan Marine. 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 vote accordingly.'

6. REPORTS OF OFFICERS

6.1 Executive Manager Town Planning

6.1.1 Proposed Scheme amendment 27- Lots 1,101,112 and 220 Minilya Exmouth Road

Location:	Lots 1,101,112 and 220 Minilya Exmouth Road
Applicant:	RPS
File Reference:	LP.PL.2. 27
Disclosure of Interest:	Nil
Date:	27 April 2012
Author:	Executive Manager Town Planning, Rhassel Mhasho

Signature of Author:



Senior Officer:

Chief Executive Officer, Bill Price

SUMMARY

This report recommends that the Council of the Shire of Exmouth initiate the proposed Scheme Amendment 27 for the purpose of public advertising pursuant to section 75 of the Planning and Development Act 2005 to amend the Shire of Exmouth Town Planning Scheme No.3 for Lots 1, 101, 112, 220 Minilya-Exmouth Road, Learmonth. (*Refer Attachment 1*)

BACKGROUND

In October 2011, Council received a proposed scheme amendment from MG Kailis (the 'land owner') for a Marine Supply Base upon Lots 1, 101, 112 and 220 Minilya-Exmouth Road, Learmonth. During the December OCM held 15 December 2012, Council Decision 17-1211 resolved;

“to set aside amendment 27 to carry out a comprehensive study/risk analysis, with the assistance of the WAPC that engages the community and industry to fully understand the demand and impact of any potential supply base(s).”

In February 2012 the land owner requested Council to reconsider the December 2011 Council resolution however the motion did not receive an absolute majority vote to revoke the December resolution.

Council decided to take a holistic approach to planning for the Exmouth South area as there is limited strategic document that covers the area at a district level. TME Town Planning Management Engineering (TME) and co-consultants were engaged to prepare the Exmouth South Structure Plan with the first part of the plan being to provide an Issues Paper and report recommending the preferred site/s for a marine supply base(s) within the Shire of Exmouth. This was to take into account the results of literature review, including the Australian Marine Complex (AMC Management Pty Ltd) report for the Department of Commerce *Marine Based Common Use Facilities: Northwest Western Australia* (April 2011). Preparation of the report was to include community consultation and identification of opportunities and constraints leading to the recommendation of a preferred site(s).

COMMENT

Council during the April OCM Council Decision 16-0412;

“That the Council of the Shire of Exmouth receive the first part of the Exmouth South Structure Plan being an Issues Paper and a report, taking into account the results of literature review, community consultation and identification of opportunities and constraints, and recommending the preferred site/s for a marine supply base(s) within the Shire of Exmouth”

It was evident from the results of the Exmouth South Structure Plan Community Survey that people generally supported development in the Exmouth South area and supported engagement with the oil and gas industry, however it was also clearly evident that the community wanted Council to take into account a number of environmental and social issues before giving approval within the area.

A review of the 5 sites undertaken by MP Rogers also identified that the Kailis site (Lot 1, 101, 112 and 220) and Lot 50 could be developed as a second tier minor supply base.

Should Council consider initiating the scheme amendment the following issues, but not limited to, would need to be taken into account prior to final adoption.

1. Uses

The proponent intends to have residential and workers accommodation as permitted uses on the site. It came out clear during the survey that most people do not want to see workers accommodation or residential outside the townsite. It is recommended that the residential and the workers accommodation uses be gradually phased out should the Minister approve the scheme amendment. Workers should live in the town site so as not to comprise the main uses being the storage /depot /supply base support base.

2. Size of the land proposed for rezoning

The proponent intends to have 27.840 ha rezoned. Based on the MP Rogers report a minor marine facility could vary from a very modest 2ha to a more generous and useful 10-20ha. Should all the proposed land be rezoned it will exceed the size of the current Lot 51 industrial area, duplicating existing uses at Lot 51.

3. Social impact of the proposal

As evident from the survey, it is recommended that the applicant provides social impact of the proposal covering issues like economic impact (employment generation, local goods sourced), social impact (community services, impact on quality of life of residents and tourist employment numbers, cultural impact, local amenity, impact on tourist attraction etc. This statement may form a component of an Environmental Impact Assessment.

Should the planning process be initiated, the Environmental Protection Authority will assess the proposal and determine the appropriate level of assessment with regards to the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* and may include referral to the Federal Minister for Environment. If initiated the following procedures will be undertaken in the planning process:-

1. *referral to the Environmental Protection Authority (EPA) for comment (concurrent approval);*
2. *advertising (42 days) the amendment, including the notification of other relevant service authorities and persons likely to be affected;*
3. *Council will compile a table of submissions received for consideration and resolve whether to adopt with or without modifications or refuse the amendment;*
4. *notification to the Commission of resolutions passed in relation to the amendment (including a schedule of submissions received and the amendment documentation) will be provided for review and recommendation to the Minister;*
5. *determination of the amendment by the Minister; and*
6. *public notification of the outcome of the amendment planning process.*

Further advice

- i. Council is advised that should Council refuse to initiate the scheme amendment the applicant may apply for a review of Council's decision through the Minister for Planning pursuant to section 76 of the Planning and Development Act 2005. The Minister will make a decision whether or not to issue the order to initiate the scheme amendment and if so, on what terms. Or

- ii. The proponent may request government to enter into an agreement under the State Agreement Acts. These agreements will prevent local government from rezoning land proposed for the development and in some cases the local planning schemes ceases to apply in relation to the area subject to the agreement.

CONSULTATION

All amendments are required to be referred to the Environmental Protection Authority for advice on whether any environmental assessment is required. The amendment will be formally advertised for a minimum of 42 days once EPA advice is received.

STATUTORY ENVIRONMENT

Planning and Development Act 2005
Town Planning Scheme No.3
Town Planning Regulations 1967

POLICY IMPLICATIONS

Policy 1.25 – Communication and Consultation

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Economic

Objective 1: To be a diverse and innovative economy with a range of local employment opportunities.

- Outcome 1.2 - Planned and balanced economic growth.

Environment

Objective 2: To have a balanced respect for our environment and heritage, both natural and built.

- Outcome 2.2: Our pristine natural environment and biodiversity will be understood, maintained and protected.
- Outcome 2.4: To be a leader in eco-friendly initiatives and innovations.

Social

Objective 3: To be a dynamic, passionate and safe community valuing natural and cultural heritage.

- Outcome 3.2: Excellent lifestyle, recreational and cultural facilities.
- Outcome 3.3: An inclusive, responsible and cohesive community.
- Outcome 3.4: A community that is well informed and educated about our natural, cultural and built environment.
- Outcome 3.5 - Maintain and increase the participation levels in local community organisations and clubs.

Civic Leadership

Objective 4: To work together as custodians for now and the future.

- Outcome 4.1: To be a collaborative community with the capacity to manage the current and future direction of Exmouth.
- Outcome 4.2: A local government that is respected, professional, trustworthy and accountable.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION – 6.1.1

That the Council of the Shire of Exmouth initiate the proposed Scheme Amendment 27 for the purpose of public advertising pursuant to section 75 of the Planning and Development Act 2005 to amend the Shire of Exmouth Town Planning Scheme No.3 by:

1. *Modifying Schedule 3 – Special Use Zones to include:*

- (a) *Supply base to support the fishing and oil and gas industry, including marine engineering, maintenance and repair, and fabrication and assembly of related components;*
- (b) *Storage Facility / Depot / Laydown Area;*
- (c) *Residential and*
- (d) *Transient Workforce Accommodation, as Special Uses.*

2. *Modifying Schedule 3 – Special Use Zones to include specific conditions relating to the listed Special Uses. The conditions proposed include:*

- a) *All development is to be generally in accordance with a Site Management Plan approved by the Local Authority to address matters including:*
 - i. *Layout and extent of land uses*
 - ii. *Vehicular access and circulation*
 - iii. *Maximum number of people accommodated*
 - iv. *Drainage and stormwater management*
 - v. *On site effluent and trade waste disposal*
 - vi. *Water supply*
 - vii. *Fire management*
- b) *All development is to be generally in accordance with an Environmental Management Plan approved by the Local Authority in consultation with the Department of Environment and Conservation.*
- c) *A Landscape Plan shall be prepared by the proponent to the satisfaction of the Local Authority addressing visual impact as viewed from Minilya-Exmouth Road.*
- d) *A Foreshore Management Plan shall be prepared by the proponent to the satisfaction of the Western Australian Planning Commission.*
- e) *Any application for temporary structures to provide transient workforce accommodation shall, to Council's satisfaction, be accompanied by information and plans indicating how and when the development will be removed and the site rehabilitated or developed for a different use.*

3. *Inserting the following into Schedule 1 – Definitions:*

- a) *Storage Facility / Depot / Laydown Area: means any land, buildings or other structures used for the storage and transfer of goods including salvaged items, the assembling of prefabricated components of products and includes transport and fuel depots.*
- b) *Transient Workforce Accommodation: means premises intended for the temporary accommodation of transient workers and may be designed to allow transition to another use or may be designed as a permanent facility for transient workers..*

Advice

- iii. *If Council initiates the proposed amendment the proposal will be referred to the Environmental Protection Authority for an environmental review, on receipt of EPA comment the proposal may proceed to advertising for a minimum of 42 days; upon expiry Council will reconsider the amendment in light of any submissions received to resolve whether to refuse the amendment or adopt with or without modifications.*
- iv. *The applicant is required to engage Council to discuss the issues identified in the Comments section of this report.*
- v. *The planning process for the amendment is attached for information. (Refer Attachment 2)*

- vi. *The proponent may apply for a review of Council's decision through the Minister for Planning pursuant to section 76 of the Planning and Development Act 2005.*

COUNCIL DECISION – 01-0512 – 6.1.1

Moved Councillor Fitzgerald, Seconded Councillor Warren.

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 - vi. *Water supply*
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 - b) *All development is to be generally in accordance with an Environmental Management Plan approved by the Local Authority in consultation with the Department of Environment and Conservation.*

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 - d) *A Foreshore Management Plan shall be prepared by the proponent to the satisfaction of the Western Australian Planning Commission.*

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Advice

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- ii. *The applicant is required to engage Council to discuss the issues identified in the Comments section of this report.*
- iii. *The planning process for the amendment is attached for information. (Refer Attachment 2)*
- iv. *The proponent may apply for a review of Council's decision through the Minister for Planning pursuant to section 76 of the Planning and Development Act 2005.*

Drawn Vote 3/3

As per S 5.21(3) of the Local Government Act 1995 the President delivered his casting vote in the negative.

Motion Lost 4/3

Cr Shales, Thompson and Hood voted against the Motion.

NB: The majority of the Council voted against the Officers recommendation based on the following considerations;

1. **That the existing Exmouth Town Planning Scheme No 3, that has had extensive community consultation and endorsement, has already identified Lots 50 & 51 Minilya –Exmouth Road (Mowbowra Creek) as the Strategic Industrial site enabling Marine Supply Base uses and activities, and that there has been considerable developments and private investment within the Strategic Industrial area.**
2. **That the proposal is considered ad hoc spot rezoning and should not be supported in accordance to Town Planning Bulletin 102/2010, given it sets an undesirable precedent for fragmented development of an environmentally sensitive area which otherwise requires coordinated and comprehensive planning.**
3. **That the 27.840Ha proposal is considered to be of large scale and is not consistent to a small/second tier Marine Supply Base.**
4. **Environmental Impacts.**

7. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

8. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

Nil

9. MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS

Nil

10. CLOSURE OF MEETING

There being no further business the Shire President thanked everyone for their attendance and closed the meeting at 5.47pm.