

Shire of Lake Grace

Special Council Meeting

# Minutes

17 October 2017



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## **SHIRE OF LAKE GRACE**

Minutes for the Special Meeting of Council held at Council Chambers, 1 Bishop Street, Lake Grace, WA on Tuesday, 17 October 2017.

### **1.0 OPENING & ANNOUNCEMENT OF VISITORS**

The Shire President opened the meeting at 2.49 pm.

### **2.0 ATTENDANCE RECORD**

#### **2.1 PRESENT**

Cr JF De Landgraftt	Shire President (to adjournment at 3.35 pm)
Cr SG Hunt	Deputy Shire President
Cr LW Armstrong	
Cr R Chappell	(to adjournment at 3.35 pm)
Cr DS Clarke	(to adjournment at 3.35 pm)
Cr RA Lloyd	
Cr AD Marshall	
Cr MG Stanton	
Cr AJ Walker	

#### **In Attendance**

Ms D Gobbart	Chief Executive Officer
Ms N Bowman	Governance Officer (to adjournment at 3.35 pm)

#### **Observer/Visitors**

Nil

#### **2.2 APOLOGIES**

Nil

#### **2.3 LEAVE OF ABSENCE PREVIOUSLY GRANTED**

Nil

### **3.0 PUBLIC QUESTION TIME**

Nil

**4.0 DECLARATIONS OF INTEREST****4.1 DECLARATIONS OF FINANCIAL INTEREST – LOCAL GOVERNMENT ACT 1995 SECTION 5.60A**

Cr Armstrong declared financial interest for Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the interest being, as a relief school bus driver I use Davmin Holdings Workshop / Concrete Hard Standing / Water and Pressure Cleaner to wash mud and dust off the buses that I drive when needed.

Cr Chappell declared financial interest for Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the interest being, Fyfe Transport are my cartage contractors.

Cr Clarke declared financial interest for Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the interest being, with Trevenens as a supplier of services.

Cr De Landgrafft declared financial interest for Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the interest being, contracted Davmin Holdings Pty Ltd, Fyfe Transport and Newdegate Grading and Plant Hire.

Cr Hunt declared financial interest for Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the interest being, supplied and installed equipment for security in sheds at Kennedy's.

Cr Lloyd declared financial interest for Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the interest being, Newdegate Grading & Plant Hire supplied earthworks / grading, Davmin Holdings supplied earthworks and Fyfe Transport supplied cartage of stock.

Cr Marshall declared financial interest for Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the interest being, paid for contract work at my farm business by Davmin Holdings, Lake Grace Earthmoving and Fyfe Transport.

Cr Stanton declared financial interest for Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the interest being, paid Davmin Holdings for contract work, pushed up 3,000 square metres of gravel.

**4.2 DECLARATIONS OF PROXIMITY INTEREST – LOCAL GOVERNMENT ACT 1995 SECTION 5.60B**

Nil

**4.3 DECLARATIONS OF IMPARTIALITY INTEREST – ADMINISTRATION REGULATIONS 1996 SECTION 34C**

Cr Armstrong declared impartiality interest in Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the association being, Davmin Holdings. I use his workshop areas on a regular basis to wash school buses.

Cr Clarke declared impartiality interest in Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the association being, contract work with Fyfe Transport and Davmin Holdings.

Cr Chappell declared impartiality interest in Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the association, dealings with MA Trevenen Trading as Lake Grace Earthmoving over three years ago.

Cr Walker declared impartiality interest in Item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 (refer to page 13) with the nature of the association being; S&L Trevenen provided and spread gravel around garage. It was further identified that the work around his house was undertaken February 2013 to the value of \$800.

**5.0 MATTERS FOR CONSIDERATION**

*No matters for consideration.*

**6.0 CONFIDENTIAL BUSINESS – as per Local Government Act s5.23 (2)**

Resolution

**RESOLUTION 12617**

Moved Cr Marshall  
Seconded Cr Hunt

That Council meet behind closed doors at 2.51 pm in accordance with section 3.7 of the Shire of Lake Grace Standing Orders Local Law 2015, and Section 5.23(2)(c) of the Local Government Act 1995.

**CARRIED 9/0**

*These items and any attachments are confidential in accordance with Section 5.23(2)(c) of the Local Government Act 1995 as it contains “a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting”.*

*Ms N Bowman left the meeting at 2.51 pm.*

**6.1 MANAGER INFRASTRUCTURE SERVICES – APPOINTMENT**

*Forwarded under separate cover.*

Resolution

**RESOLUTION 12618**

Moved Cr Hunt  
Seconded Cr Armstrong

That Council:

1. accepts the recommendation of the Chief Executive Officer to employ Mr David Holland in the position of Manager Infrastructure Services on a five year contract; and,
2. authorises the President and Chief Executive Officer to affix the Common Seal on the contract of employment.

**CARRIED 9/0**

*Ms N Bowman returned to the meeting at 2.59 pm.*



## **6.2 APPOINTMENT OF SUPERVISION SERVICES – WANDRRA AGRN 743**

*Forwarded under separate cover.*

### Resolution

#### **RESOLUTION 12619**

Moved Cr Hunt  
Seconded Cr Clarke

That Council;

1. award Tender RFT 01-2017 Supply of Supervision Services for Road Flood Damage Repairs; Western Australian Natural Disaster Relief and Recovery Arrangement (WANDRRA) AGRN743 for the Shire of Lake Grace to Talis Consultants for \$471,578 (Ex GST), subject to its confirmation that the identified personnel in its response will be available for the project;
2. give delegated authority to the Chief Executive Officer to enter into negotiations with Talis Consultants to:
  - a. explore any other efficiencies this Tender may present;
  - b. clarify critical assumptions;
  - c. Negotiate any contractual departures; and
  - d. Ensure identified personnel in the Talis Consultants response are confirmed as available when the project commences.
3. award the Tender RFT 01-2017 Supply of Supervision Services for Road Flood Damage Repairs; to the second ranked Tenderer, Grove Design and Construct for \$426,200 (Ex GST), subject to the same stipulated agreement terms, should negotiations with the Preferred Tenderer not progress.

**CARRIED BY ABSOLUTE MAJORITY 9/0**

### Resolution

#### **RESOLUTION 12620**

Moved Cr Chappell  
Seconded Cr Clarke

That Council adjourned the meeting at 3.04 pm for the Chief Executive Officer to seek advice from the Department of Local Government, Sport and Cultural Industries on how the meeting can proceed without a quorum, due to the number of financial interests disclosed.

**CARRIED 9/0**

Meeting reconvened at 3.25 pm, with all in attendance present.

The advice from the Department of Local Government, Sport and Cultural Industries (DLGSCI) was that the meeting be adjourned until participation approval is granted by the Minister. DLGSCI had advised that they would be able to assist with the participation approval given all the required information was sent today, Tuesday 17 October. It would be anticipated that the approval would be granted no early than Friday 20 October.

It can be resolved to adjourn the meeting until the approval is granted to allow a quorum, then reconvene the meeting. The earliest time a quorum would be available to meet is 6.00 pm Friday 20 October 2017

### Resolution

#### **RESOLUTION 12621**

Moved Cr Lloyd  
Seconded Cr Clarke

That Council adjourn the meeting at 3.35 pm with the meeting to reconvene at 6.00 pm on Friday 20 October 2017 to discuss item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743.

**CARRIED 9/0**

*The meeting reconvened at 6.00 pm on 20 October 2017 with all those previously present in attendance with the exception of Cr De Landgraft, Cr Clarke, Cr Chappell and Ms Bowman.*

*Deputy President Cr Hunt presided the meeting from 6.00 pm as Cr (President) De Landgraft was not in attendance when the meeting reconvened.*

*The Chief Executive Officer advised that as a result of the declarations received prior to the meeting, an application had been made to the Minister for Local Government for approval under section 5.69(3)(a) of the Local Government Act 1995 for sufficient elected members to be present to form a quorum to allow the matter to be discussed. As a result of that request correspondence had been received from the Department of Local Government and Communities as follows:*

*“I refer to your correspondence dated 17 October 2017 and advise that, in accordance with authority delegated by the Minister for Local Government, the Director General has approved the Shire of Lake Grace’s application, in part, under section 5.69(3)(a) of the Local Government Act 1995 (the Act).*

*This approval allows disclosing members, Councillors Walker, Hunt, Armstrong, Stanton, Lloyd and Marshall to fully participate in the discussion and decision making relating to the below-mentioned item at the Shire’s Special Council Meeting of 20 October 2017;*

#### **Item 6.3 – APPOINTMENT OF PLANT AND OPERATORS – WANDRRA AGRN 743**

*Subject to the following conditions:*

1. *The approval is only valid for the 20 October 2017 Special Council Meeting when agenda item 6.3 is considered;*
2. *The abovementioned Councillors must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;*
3. *The CEO, is to provide a copy of the Department's letter of approval to the abovementioned Councillors;*
4. *The CEO, is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;*
5. *The CEO, is to provide a copy of the confirmed minutes of the abovementioned meeting to the Department, to allow the Department to verify compliance with the conditions of this approval; and*
6. *The approval granted is based solely on the interests disclosed by the abovementioned Councillors, made in accordance with the application. Should other interests be identified, these interests will not be included in this approval and the financial interest provisions of the Act will apply.*

*It was noted that, Cr Debrah Clarke submitted both a financial interest and impartiality interest declaration. The information Cr Clarke submitted on the impartiality interest declaration was actually financial interest information, and as such, should have been included in her financial interest declaration. There was no requirement for Cr Clarke to submit an impartiality interest declaration, particularly given the additional information that was received via text.*

*Cr Armstrong declared aloud his financial interest in item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 with the nature and extent of the interest being, as a relief school bus driver I use Davmin Holdings Workshop / Concrete Hard Standing / Water and Pressure Cleaner to wash mud and dust off the buses that I drive when needed. No monies are exchanged as Davmin Holdings use the facilities for their own operations, and it is a goodwill offer. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Special Council Meeting of 20 October 2017.*

*Cr Hunt declared aloud his financial interest in item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 with the nature and extent of the interest being supplied and installed equipment for security in sheds at Kennedy's to the value of \$2,500. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Special Council Meeting of 20 October 2017.*

*Cr Lloyd declared aloud her financial interest in item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 with the nature and extent of the interest being, Newdegate Grading & Plant Hire supplied earthworks / grading \$1,000, Davmin Holdings supplied earthworks \$600 and Fyfe Transport supplied cartage of stock \$2,500. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Special Council Meeting of 20 October 2017.*

*Cr Marshall declared aloud his financial interest in item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 with the nature and extent of the interest being, paid for contract work at my farm business by Davmin Holdings \$4,000, Lake Grace Earthmoving \$960 and Fyfe Transport \$9,800. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Special Council Meeting of 20 October 2017.*

*Cr Stanton declared aloud his financial interest in item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 with the nature and extent of the interest being, paid Davmin Holdings for contract work, pushed up 3,000 square metres of gravel \$4,050 ex GST. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Special Council Meeting of 20 October 2017.*

*Cr Walker declared aloud his impartiality interest in item 6.3 Appointment of Plant and Operators – WANDRRA AGRN 743 with the nature and extent of the interest being S&L Trevenen provided and spread pea gravel around garage at my home in February 2013 to the value of \$800. Ministerial approval has been granted to allow full participation in the discussion and decision making relating to this matter at the Special Council Meeting of 20 October 2017.*

*As Ministerial approval has been granted to allow Cr Armstrong, Cr Hunt, Cr Lloyd, Cr Marshall, Cr Stanton and Cr Walker to fully participate in the discussion and decision making related to this matter, they remained in the Council Chambers.*

*As Cr Chappell, Cr Clarke and Cr De Landgraft were not in attendance when the meeting reconvened, no further disclosures were made.*

### **6.3 APPOINTMENT OF PLANT AND OPERATORS – WANDRRA AGRN 743**

*Forwarded under separate cover.*

#### Resolution

#### **RESOLUTION 12622**

Moved Cr Lloyd  
Seconded Cr Stanton

That Council;

1. award Tender RFT 02-2017 Supply of Plant and Operators for Road Flood Damage Repairs; Western Australian Natural Disaster Relief and Recovery Arrangement (WANDRRA) AGRN743 for the Shire of Lake Grace to the following Tenderers, subject to confirmation that the identified personnel in its response will be available for the project;
  - a. Graeme Hobbs Contracting, (ABN: 22 684 657 392);
  - b. Coalcliff Plant Hire & Civil Contracting (ABN: 11 202 533 991);
  - c. Newdegate Grading and Plant Hire (ABN: 85 125 195 707), and
  - d. M A Trevenen T/A Lake Grace Earthmoving (ABN: 28 111 416 552);
2. that each preferred Tenderer be awarded one of the four identified parcels of work, subject to successful agreement of funding for the project;
3. give delegated authority to the Chief Executive Officer to enter into negotiations with the prospective Tenderers to:
  - a. explore any other efficiencies this Tender may present;
  - b. clarify critical assumptions;
  - c. negotiate any contractual departures;
  - d. ensure identified personnel in the responses are confirmed as available for the commencement of the projects; and
  - e. ensure responses to requested clarifications are suitable and received; and
4. award the RFT 02-2017 Supply of Plant Operators for Road Flood Damage Repairs; to the next ranked Tenderer, Leeuwin Civil (ABN: 55 117 828 789) subject to the same stipulated agreement terms, should negotiations with a Preferred Tenderer not progress.

**CARRIED BY ABSOLUTE MAJORITY 6/0**

Resolution

**RESOLUTION 12623**

Moved Cr Stanton  
Seconded Cr Armstrong

That Council move out from behind closed doors at 6.07 pm.

**CARRIED 6/0**

*The meeting was opened to the public at 6.07 pm, no members of the public were present.*

**7.0 CLOSURE**

There being no further business, the Chairperson closed the meeting at 6.08 pm.

**8.0 CERTIFICATION**

I, \_\_\_\_\_, certify that the minutes of the meeting held on the 17 October 2017 as shown were confirmed as a true record at the meeting held on the 25 October 2017.

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

\_\_\_\_\_  
Date