



Special Meeting of Council Minutes

6th June

2019

DISCLAIMER

Any Plans or documents in agendas or minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material, as per the Copyright Act 1968.

Any statement, comment or decision made at a Council meeting regarding any application for an approval, consent or licence, including the resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

Any person or entity who has an application before the Shire of Yilgarn must obtain, and should rely on, written notice of the Shire of Yilgarn's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done in a Council meeting.

Any advice provided by an employee of the Shire of Yilgarn on the operation of a written law, or the performance of a function by the hire of Yilgarn, is provided in the capacity of an employee, and to the best of the persons knowledge and ability. It does not constitute, and should not be relied upon, as legal advice or representation by the Shire of Yilgarn. Any advice on a matter of law, or anything sought to be relied upon as a representation by the Shire of Yilgarn should be sought in writing and should make clear the purpose of the request. Any plans or documents in Agendas and Minutes may be subject to copyright.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 4:00pm

2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

3. ATTENDANCE

Presiding Member	Cr O Truran	President
Members	Cr W Della Bosca Cr G Guerini Cr P Nolan Cr D Pasini	Deputy President-
Council Officers	C Watson R Bosenberg J Gemund N Mwale	Executive Manager Corporate Services Executive Manager Infrastructure Manager Community Services Finance Manager
Apologies:	Cr B Close P Clarke N Warren	Chief Executive Officer Executive Manager Regulatory Services
Observers:	Mrs. Kay Crafter	

4. LEAVE OF ABSENCE

The Shire President advised that Cr S Shaw had sought Leave of Absence from this Special Meeting.

82/2019

Moved Cr Pasini/Seconded Cr Guerini

That Cr S Shaw be granted Leave of Absence from this Special Meeting.

CARRIED (5/0)

5. DECLARATION OF INTEREST

Nil

6. PUBLIC QUESTION TIME

Nil

7 Reporting Officer – Executive Manager Corporate Services

7.1 Differential Rates – 2019/2020

File Reference	8.1.1.5
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Attachments	Rating Strategy Object and Reasons 5 x Submissions Received

Purpose of Report

To consider the proposed Differential Rate in the dollar for the 2019/2020 financial year for all land categories that was advertised in accordance with the *Local Government Act (1995)*.

Background

At the March 2019 Ordinary meeting of Council resolved the following as the commencement of the Differential Rating process for the 2019/2020 financial year:-

32/2019

Moved Cr Shaw/Seconded Cr Close

That Council:

- 1. Endorse the Differential Rating – Objects and Reasons for the 2019/2020 rating years as presented;*
- 2. Endorse the following proposed Differential General Rates Categories, Rates in the Dollar and Minimum amounts for the Shire of Yilgarn for the 2019/2020 financial year:*

<i>Land Category</i>	<i>Rate – Cents in the Dollar</i>	<i>Minimum Payment</i>
<i>GRV - Residential/Industrial</i>	<i>11.3449</i>	<i>\$500</i>
<i>GRV - Commercial</i>	<i>7.9861</i>	<i>\$400</i>
<i>GRV - Minesites</i>	<i>15.9722</i>	<i>\$400</i>
<i>GRV -Single Persons Quarters</i>	<i>15.9722</i>	<i>\$400</i>
<i>UV - Rural</i>	<i>1.7749</i>	<i>\$400</i>
<i>UV - Mining</i>	<i>17.5653</i>	<i>\$400</i>

- 3. Endorse a public consultation process on the proposed Differential General Rates and General Minimum Rates as follows:*
 - Statewide and local public notice on Wednesday 1st May 2019 as per the requirements of section 6.36 of the Local Government Act 1995.*

- ***Individual ratepayer consultation for all ratepayers in General Rate Categories with less than 30 ratepayers.***

CARRIED (4/1)

****Cr Nolan voted against the decision.***

In accordance with Section 6.33 (3) of the Local Government Act 1995, a Local Government is not, without the approval of the Minister, to impose a differential general rate which is more than twice the lowest differential general rate imposed by it.

With the Differential General Rates being proposed in the 2019/2020 Rating Strategy and Objects & Reasons, Council falls under the umbrella of this section of the Act. Note however that it is only applicable to UV Mining.

Accordingly, Ministerial approval is required and the proposal to impose this rate required that it be advertised for a period of not less than 21 days with any submissions received subsequently being presented to Council for consideration.

Comment

Following the statutory advertising period (21 days) and being advertised in the "Kalgoorlie Miner" on the 1st May 2019 and the "Crosswords" on the 2nd May 2019. At the close of the submission period of Thursday, 23 May 2019, five submissions were received from the following respondents.

- Cr Phil Nolan
- Jake Larson (Copy of submission supplied by Cr Phil Nolan – see Cr Phil Nolan's Submission for responses)
- McMahon Mining Title Services Pty Ltd
- West Australian Prospectors Pty Ltd
- Graham Taylor

It should be noted that due to a typographical error in the "Statement of Objects & Reason" where the 2018 closing date (Friday 24th May 2018) was used and not the advertised date of Thursday 23rd May 2019, the submission received from Councillor Nolan on behalf of Mr Jake Larson was considered.

The submissions received are attached to this Report together with comments from staff and recommended actions related to the various points that have been submitted for Council consideration.

As Councillors are aware, a Special meeting of Council was conducted on Thursday, 30 May 2019 to consider the submissions received. At this meeting the Executive Manager Corporate Services Report indicated that an Absolute Majority decision of Council was required on the recommendation submitted. The meeting did record a Simple Majority however, as the Absolute Majority was not achieved, the meeting was closed and reconvened

for Thursday, 6 June to further discuss further options for Differential Rating for the 2019/2020 financial year.

Following the 30 May Special Council meeting the CEO circulated an email that he had forwarded to the Legislation Section of the Department of Local Government seeking clarification on the requirement of an Absolute Majority being required. The following is the reply email received from the Department:-

From: Troy Hancock <Troy.Hancock@dlgsc.wa.gov.au> **On Behalf Of** Legislation
Sent: Friday, 31 May 2019 2:55 PM
To: Peter Clarke <ceo@yilgarn.wa.gov.au>
Subject: RE: Differential Rating Process

Hi Peter

Thanks for the email and the clear explanation.

While it is obviously preferable for as many Councillors as possible be available to consider the submissions and resolve to impose to the Minister, we share your view that an absolute majority is not required for this part of the process in the lead up to the adoption of the budget.

Happy to discuss,
Troy

Troy Hancock

Senior Legislation Officer

Department of Local Government, Sport and Cultural Industries

140 William Street, Perth WA 6000

GPO Box R1250, Perth WA 6844

Telephone [+61 8 6552 1624](tel:+61865521624)

Email troy.hancock@dlgsc.wa.gov.au

Web www.dlgsc.wa.gov.au

Statutory Environment

Local government Act 1995

6.33. Differential general rates

- (3) In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.

6.36. Local government to give notice of certain rates

- (1) Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6)(c) a local government is to give local public notice of its intention to do so.
- (2) A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).
- (3) A notice referred to in subsection (1) —
 - (a) may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency; and
 - (b) is to contain —
 - (i) details of each rate or minimum payment the local government intends to impose; and
 - (ii) an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and
 - (iii) any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed;and
 - (b) is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.
- (4) The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.

Strategic Implications

Attachment - 2019/2020 Rating Strategy, contains a detailed listing of the Local Government Act rating provisions.

Policy Implications

Nil

Financial Implications

The endorsed rate in the dollar will form the basis of the 2019/2020 budgeted rates revenue.

Officer Recommendation

83/2019

Moved Cr Guerini/Seconded Cr Della Bosca

That Council:

1. *Council notes that it has complied with Sections 6.36 of the Local Government Act 1995 in respect advertising requirements and preparation of the "2019/2020 Rating Strategy" and "Objects and Reasons" documents being prepared;*
2. *Receives the submission from Cr Phil Nolan, Cr Phil Nolan on behalf of Mr Jake Larson, West Australian Prospectors Pty Ltd, Mr Graham Taylor and McMahan Mining Title Services Pty Ltd and notes the comments made therein and further, endorses the comments and recommendations submitted by staff in relation to the submissions;*
3. *Endorse the following proposed Differential General Rates Categories, Rates in the Dollar and Minimum amounts for the Shire of Yilgarn for the 2019/2020 financial year:*

<u>Land Category</u>	<u>Rate – Cents in the Dollar</u>	<u>Minimum Payment</u>
GRV - Residential/Industrial	11.3449	\$500
GRV - Commercial	7.9861	\$400
GRV - Minesites	15.9722	\$400
GRV -Single Persons Quarters	15.9722	\$400
UV - Rural	1.7749	\$400
UV - Mining	17.5653	\$400

and

4. *Make application to the Minister for Local Government to impose the UV Mining Differential Rate, being more than twice the lowest differential UV rate.*

Cr P Nolan reiterated his statement against and objections to, the UV Mining differential as included in the minutes of the Special Meeting of Council held 30th June 2019.

CARRIED (4/1)

8 CLOSURE

As there was no further business to discuss, the Presiding Member declared the meeting closed at 4:04pm.

I, Onida T Truran confirm the above Minutes of the Special Meeting held on Thursday, 6th June 2019, are confirmed on Thursday, 20th June 2019 as a true and correct record of the June Special Meeting of Council.

Cr Onida T Truran
SHIRE PRESIDENT