
Shire of Kalamunda

Special Council Meeting

Minutes for 9 July 2012

INDEX

1.0	OFFICIAL OPENING	1
2.0	ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED.....	1
3.0	PUBLIC QUESTION TIME.....	2
4.0	PETITIONS/DEPUTATIONS.....	2
5.0	DISCLOSURE OF INTERESTS	2
6.0	REPORT TO COUNCIL.....	2
	6.1. Disposal of Property – 33 Canning Road, Kalamunda	3
7.0	CLOSURE.....	7

MINUTES

1.0 OFFICIAL OPENING

1.1 The Chairman opened the meeting at 6.30pm and welcomed Councillors, Staff and Members of the Public Gallery.

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Councillors

Donald McKechnie	(Chairman) (Shire President)	North Ward
Sue Bilich		North Ward
Justin Whitten		South West Ward
Allan Morton		South West Ward
Frank Lindsey		South East Ward
John Giardina		South East Ward
Bob Emery		North West Ward
Martyn Cresswell		North West Ward
Dylan O'Connor		(North West Ward)

Members of Staff

James Trail	Chief Executive Officer
Clayton Higham	Director Planning & Infrastructure Services
Rhonda Hardy	Director Corporate & Community Services
Peter Hayes	Manager Business & Strategy
Warwick Carter	Manager Economics Property & Procurement
Darrell Forrest	Manager Governance
Andrew Fowler-Tutt	Manager Development Services
David Tomlinson	Coordinator Statutory Planning
Sam Assad	Manager Operations
Raj Malde	Manager Financial Services
Michelle Clark	Executive Assistant
Donna McPherson	Minute Secretary

Members of the Public 4

Members of the Press 1

2.2 Apologies

Margaret Thomas	North Ward
Noreen Townsend	South West Ward

2.3 Leave of Absence Previously Approved

Geoff Stallard	South East Ward
----------------	-----------------

3.0 PUBLIC QUESTION TIME

A period of not less than 15 minutes is provided to allow questions from the gallery on matters relating to the functions of this Committee. For the purposes of Minuting, these questions and answers are summarised.

3.1 Nil.

4.0 PETITIONS/DEPUTATIONS

4.1 Nil.

5.0 DISCLOSURE OF INTERESTS

5.1 Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 5.65 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the *Local Government Act 1995*.)

5.1.1 Nil.

5.2 Disclosure of Interest Affecting Impartiality

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

5.2.1 Nil.

6.0 REPORT TO COUNCIL

Please Note: declaration of financial/conflict of interests to be recorded prior to dealing with each item.

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

6.1. Disposal of Property – 33 Canning Road, Kalamunda

Previous Items	OCM-11/2010, OCM-02/2011
Responsible Officer	Director Corporate and Community Services
Service Area	Economic Property & Procurement
File Reference	EI 1004
Applicant	N/A
Owner	Shire of Kalamunda
Attachment 1	Proposal to Dispose of 31 Canning Road, Kalamunda - Submission Table
Attachment 2	Copy of Petition
Attachment 3	Copy of Request for Special Electors Meeting

PURPOSE

1. To consider submissions on the proposed consideration for the disposal of 33 Canning Road in Kalamunda to Dome Coffees Australia Pty Ltd.

BACKGROUND

2. Council prepared an Expression of Interest for 31 Canning Road, Kalamunda and this was advertised in The West Australian Newspaper on 10 July 2010 and in the Midland Kalamunda Reporter on 13 July 2010.
3. The property was previously known as 31 Canning Road, Kalamunda, however due to a change to the title, is now described as 33 Canning Road Kalamunda.
4. At its meeting of 15 November 2010 Council considered the two submissions received and requested Dome Coffees Australia Pty Ltd submits a formal proposal.
5. At its meeting of 21 February 2011 Council resolved:

Resolved OCM 09/2011

 1. *That the Formal Proposal submitted by Dome Coffees Australia Pty Ltd be accepted.*
 2. *That the Shire of Kalamunda advises Dome Coffees Australia Pty Ltd of its intention to enter into a "Lease Agreement" subject to successful land acquisition from Departments of Lands, and Planning and Building approvals being given.*
 3. *That subject to the required approvals being forthcoming from the Department of Lands, Council approves the Chief Executive Officer finalising a lease agreement between the Shire of Kalamunda and Dome*

Coffees Australia Pty Ltd which incorporates the terms and conditions outlined in (Confidential GS 9/2011/Attachment 1).

4. *That the cost for sewer extension be considered for inclusion in the 2010/2011 Budget during the current Budget Review process.*
6. Shire staff have been progressing a Lease with Dome Coffees Australia Pty Ltd.
7. Dome Coffees Australia Pty Ltd have been progressing works on the property at 33 Canning Road, Kalamunda and plan to open for business in mid to late July 2012.

DETAILS

8. Staff advertised the proposed disposal (by lease) of the land in the Kalamunda Reporter and Hills Gazette on 2 June 2012. Two submissions were received. One submission was in the form of a petition.

STATUTORY AND LEGAL IMPLICATIONS

9. Section 3.58(3) of the *Local Government Act 1995* states:
 - (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

and

- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

POLICY IMPLICATIONS

10. Shire of Kalamunda - Land Asset Management Policy.

PUBLIC CONSULTATION/COMMUNICATION

11. Advertisements were placed in the Kalamunda Reporter and the Hills Gazette on 2 June 2012.

FINANCIAL IMPLICATIONS

12. The proposed lease would have a positive financial impact on the Council through improvements to a Shire asset and ongoing rental income in the order of \$1.5 million over the twenty year lease period..

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Planning Implications

13. The Shire of Kalamunda's Strategic Plan 2009-2014:
- 2.1.1 Develop and implement a policy and structure to ensure the effective management of Shire owned and managed land and buildings.
 - 2.3.2 Maintain, refurbish or upgrade existing infrastructure to encourage increased utilisation and extension of asset life.

Sustainability Implications

Social Implications

14. The Dome Café will provide community space for meetings and gatherings.

Economic Implications

15. The development will generate rate income for the Shire, in addition to the other financial matters discussed in this report.

Environmental Implications

16. Nil

OFFICER COMMENT

17. The *Local Government Act 1995* requires Council to consider and respond to submissions made during a submission period.
18. The main objections were in regard to the land use, the competition to existing businesses and the amount of the lease.
19. The proposed land use (café) was approved by Council at its meeting of 20 February 2012. With regard to the competition that existing businesses face, this is not an issue to be considered by Council. The process of selecting Dome Coffees Australia Pty Ltd was through an open Expression of Interest. The use of the site as a café was the commercial decision of the applicant, not the Shire and the Shire cannot prohibit other cafés establishing on the grounds that they will be in competition against existing businesses.

-
20. The amount of rent Dome Coffees Australia Pty Ltd is paying is based on the significant capital investment they are making in the Shire's building. This has meant that the Shire has not needed to borrow one million dollars to perform necessary works to bring the building into a state to enable it to be rented. These improvements included provision of universal access, toilets to Building Code Australian Standard and a commercial kitchen.
 21. The Shire also received a request for a Special Electors Meeting, which officers were verbally advised was in regards to the disposal of the subject property. The request was not in a valid format for the purposes of the *Local Government Act 1995* and also failed to generate the required number of signatures. The request is included as Attachment 2.

RESOLVED SCM 65/2012

1. That Council notes the submissions received and endorses the staff response in the submissions table.
2. That Council approves, in accordance with Section 3.58 (3) of *the Local Government Act 1995*, the disposal of 33 Canning Road, Kalamunda, to Dome Coffees Australia Pty Ltd.

Moved: **Cr John Giardina**

Seconded: **Cr Justin Whitten**

Vote: **CARRIED UNANIMOUSLY (9/0)**

7.0 CLOSURE

There being no further business, the Chairman declared the meeting closed at 6.32pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed: _____
Chairman

Dated this _____ day of _____ 2012