

PROSPECTIVE WEST DALY REGIONAL COUNCIL

MINUTES

OF THE

ORDINARY COUNCIL MEETING

**held in the Large Conference Room Ground
Floor 83-85 Smith Street, Darwin on
Wednesday 14th May, 2014 commencing at
10.05am.**

- 1. Attendance**
- 2. Establishment of the West Daly Regional Council**
- 3. Delegation of Authority to Change Manager**
- 4. West Daly Regional Council Draft Organisational Chart**
- 5. Local Authorities – Wadeye, Palumpa and Peppimenarti**
- 6. Late Agenda Items**
- 7. General Business**
- 8. Next meeting – 6 June 2014 Darwin office.**
- 9. Meeting Closure**

Lee Farrell

Change Manager

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The West Daly (Prospective) Regional Council advises that anyone who has any application lodged with the West Daly (Prospective) Regional Council shall obtain and should only rely on **WRITTEN CONFIRMATION** of the outcome of the application, and any conditions attaching to the decision made by the West Daly (Prospective)Regional Council in respect of the application.

Signed: Lee Farrell – Change Manager

14/5/2014

MINUTES

OF THE PROSPECTIVE WEST DALY REGIONAL COUNCIL ORDINARY
COUNCIL MEETING.

HELD IN THE Ground Floor conference room, 83-85 Smith Street,
Darwin

On Wednesday 14 May, 2014 commencing at 10.05am

1. PERSONS PRESENT

Shaun Hardy – Manager Prospective West Daly Regional Council

STAFF PRESENT

Change Manager Lee Farrell
Team Leader Project Management Regional Governance Project – Neil Murray

2. Establishment of the West Daly Regional Council

2.1 SUMMARY

In December 2013, the Minister for Local Government and Regions, Mr David Tollner MLA announced that the Victoria Daly Regional Council will be split into two with a new West Daly Regional Council (WDRC) in the Wadeye – Peppimenarti-Palumpa area and the continuing Victoria Daly Regional Council (VDRC) in the remaining area. Under the guidance of a representative Transition Committee, the establishment of the new West Daly Regional council by 1 July 2014 is now well underway.

As applied during the 2008 Shire Council amalgamation process, the legislative mechanism for creating new councils is restructuring Orders. These orders provided the power for the Minister to make any order that the Minister considers necessary or desirable to facilitate restructuring of the system of local government.

The first restructuring order establishes a prospective council, an interim body with various functions and powers under the control of a manager, to undertake a task that prepares the council for its future role.

The first restructuring order has been signed by the Minister, gazetted on 28th April, 2014 and in accordance with the provisions of the Local government act has been tabled in parliament and published in relevant newspapers.

The restructuring order has established the West Daly Regional Council as a body corporate and defined the local government area for the West Daly Regional Council.

2.2 BACKGROUND

The restructuring order provided for a range of tasks to be undertaken such as opening a bank account, procuring insurance, applying for various registrations, setting of budgets, negotiating agency service contracts and the authority of the Prospective Manager Mr Shaun Hardy and Change Manager Mr Lee Farrell.

The Local Government Act requires certain events to be completed and include but not limited to the following;

Finalisation of 2014/15 Budget by 31 July, 2014.

Creation of Bank Accounts, ABN and GST registration

Delegation of Authority

Policies and administrative procedures

Strategic, Service delivery and Long term financial plan developed and approved.

Office Location and appointment of CEO

2.3 COMMENT

- **Creation of Bank Accounts:** Bank accounts have been created with the Commonwealth Bank – Darwin with signature being Mr Shaun Hardy, Mr Lee Farrell and Mr Frank Crawley
- **ABN Number:** The ABN number has been created being 25 966 579 574
- **Delegation of Authority:** The draft policy for Financial Delegation has been prepared for consideration by the prospective Council
- **Office Location:** In accordance with the recommendation from the Interim Committee the West Daly Regional Council will be located at unit 3 21 Parap Road Parap.0804 for a period of 12 months effective from 4th June, 2014
- **Appointment of CEO:** LGANT have been requested to provide a quotation for the appointment of a CEO for the West Daly Regional Council.
- **Strategic Plan and Budget development:** Departmental staff are currently preparing a draft budget to be completed by 31 May 2014. Strategic Plans are being developed by the Change Manager for consideration by the Councillors from the West Daly region.

- **Transfer of Staff:** Letters will be sent to staff from the VDRC. Those staff transferring to the WDRC letters will be sent offering them a position on the Council . These letters have been developed by the Prospective WDR Council’s lawyers. These letters will be delivered by 31st May 2014
- **Organisation Chart** has been prepared and will be submitted for Council approval

2.4 CONSULTATION

Transition Committee Meetings – 4 meetings held to date and minutes of meeting recorded.

Local Government Project team staff meetings – Minutes recorded

Minister for Local Government and Regions office meetings

CEO of Department of Local Government and Regions - Darwin

LGANT

CouncilBiz

Councilors’ – VDRC

CEO & Staff VDRC

Legal representatives

Commonwealth & State Government Departments – Ongoing Non-Core service contracts.

2.5 STATUTORY ENVIRONMENT

Section 25 of the Local Government Act states: Council to be body corporate etc.

(1) A council is a body corporate.

(2) A council has the name assigned to it by or under this Act.

(3) A council has full legal capacity to acquire or incur any rights, powers, obligations and liabilities that may attach to a body corporate.

(4) A council has the functions and powers conferred by this Act.

Section 26 of the Local Government Act - how council acts in its corporate capacity

(1) A council acts:

(a) through local authorities, local boards or council committees, officers, staff and agents to whom the council has delegated powers or authorised to act on its behalf; or

(b) Through officers or other persons authorised by this Act (or a by-law) to act on the council's behalf; or

(c) Under its common seal.

Note: It follows that a contract will be made by a council under its common seal or by an officer or other agent of the council with authority to act on its behalf

Section 10E of the Local Government Act - effect of restructuring order

(1) A restructuring order operates to the exclusion of any inconsistent provision of this Act.

(2) If a manager is appointed by a restructuring order mentioned in section 10C (1) (g), the manager assumes the council's functions and has all the powers of the council.

2.6 POLICY IMPLICATIONS

Not applicable (N/A)

2.7 FINANCIAL IMPLICATIONS

N/A

2.8 VOTING REQUIREMENT

N/A

2.9 RESOLUTION

2.9.1. That the Manager of the prospective West Daly Regional Council notes and records in the files of the West Daly Regional Council the information contained in the Government Gazette notice dated 28 April, 2014 which establishes the local government area of the prospective West Daly Regional Council. It is also noted the functions and powers conferred by this notice under the NT Local Government Act for the named manager Mr Shaun Hardy to exercise the powers of the prospective council until it becomes a council or otherwise ceases to exist.

2.9.2. That the Manager of the prospective West Daly Regional Council endorses the following action;

- ***Establishment of Australian Business Number (ABN) for the West Daly Regional Council - 25 966 579 574***
- ***Approve the creation of a Bank account at the Commonwealth Bank , Darwin - BSB: 065901 Account: 11026791 in the name of the West Daly Regional Council.***
- ***Approve the following named signatories for the operation of the Commonwealth Bank account no 11026791 and any other bank account created for the operation of the West Daly Regional Council: Mr Shaun Christopher Hardy , Mr Charles Leonard Farrell (Lee Farrell), Mr Francis Richard Crawley .***
- ***Approve the manufacture of a common seal and this seal to be only used by resolution of the prospective West Daly Regional Council.***
- ***Approve and that the Manager finalise the negotiations for the Lease of Unit 3/ 21 Parap Road, Parap as the West Daly Regional office in Darwin for a 12 month period commencing 4 June , 2014***

MOVED: That Resolutions 2.9.1 & 2.9.2.be carried.

3. Delegation of Authority to Change Manager

3.1 SUMMARY

The first restructuring order establishes a prospective council, an interim body with various functions and powers under the control of a manager, to undertake a task that prepares the council for its future role.

The first restructuring order has been signed by the Minister, gazetted on 28th April 2014 and, in accordance with the provisions of the Local Government Act, tabled in parliament and published in relevant newspapers.

The restructuring order has established the prospective West Daly Regional council as a body corporate and defined the local government area for the West Daly Regional Council.

3.2 BACKGROUND

The restructuring order provided for a range of tasks to be undertaken such as opening a bank account, procuring insurance, applying for various registrations, setting of budgets, negotiating agency service contracts and the authority of the Prospective Manager Mr Shaun Hardy and Change Manager Mr Lee Farrell.

The Local Government Act requires certain events to be completed and include but not limited to the following

Finalisation of 2014/15 Budget by 31 July, 2014.

Creation of Bank Accounts, ABN and GST registration

Delegation of Authority

Policies and administrative procedures

Strategic, Service deliver and Long term financial plan developed and approved.

Office Location and appointment of CEO

3.3 COMMENT

Draft interim West Daly Regional Council Delegations authority is attached at **Appendix A**

3.4 CONSULTATION

Victoria Daly Policy Manual

VDRC Executive Staff

Neil Murray Dept. of Local Government

3.5 STATUTORY ENVIRONMENT

Local Government Act Section 10E Effect of restructuring order

- (1) A restructuring order operates to the exclusion of any inconsistent provision of this Act.
- (2) If a manager is appointed by a restructuring order mentioned in section 10C(1)(g), the manager assumes the council's functions and has all the powers of the council.
- (3) No stamp duty is payable in respect of a transfer of property under a restructuring order.
- (4) The Registrar-General must, on application for registration of a disposition of an interest in land under a restructuring order, make appropriate entries in the land register.

Note for section 10E

Section 10A applies in relation to the effect after a restructuring order of by-laws made before the order

Local Government Act Section 32 Delegation

- (1) A council may delegate powers and functions.
- (2) A delegation may be made to:
 - (a) a local authority; or
 - (aa) a local board; or
 - (b) a council committee; or
 - (c) a local government subsidiary; or
 - (d) the CEO.
- (3) However:
 - (a) the power to impose rates cannot be delegated; and
 - (b) if power to incur financial liabilities is delegated the council must fix reasonable limits on the delegate's authority; and
 - (c) a delegation cannot duplicate or derogate from the CEO's functions (including delegated functions).

3.6 POLICY IMPLICATIONS

The prospective WDRC has no policies in existence.

3.7 FINANCIAL IMPLICATIONS

N/A

3.8 VOTING REQUIREMENT

N/A

3.9 RESOLUTION

That the Manager of the prospective West Daly Regional Council approve the interim Council Delegations authority as attached (Reference Appendix A)

MOVED: That Resolution 3.9.be carried.

4. West Daly (Prospective) Regional Council DRAFT Organisational Chart

4.1 SUMMARY

In December 2013, that the Minister for Local Government and Regions, Mr David Tollner MLA announced that the Victoria Daly Regional Council will be split into two with a new West Daly Regional Council (WDRC) in the Wadeye – Peppimenarti-Palumpa area and the continuing Victoria Daly regional Council (VDRC) in the remaining area. Under the guidance of a representative Transition Committee, the establishment of the new WDRC by 1 July 2014 is now well underway.

The WDRC Draft Organisation Chart has been developed to meet the Core and Non-Core Services to be provided by the West Daly Regional Council.

4.2 BACKGROUND

The VDRC has provided the prospective WDRC with a list of their current employees to enable work on the transfer of staff from the VDRC to the newly formed WDRC to proceed and be in place by 1 July 2014.

The prospective Change Manager and Departmental staff will continue to liaise with HR of VDRC and the future WDRC staff to develop the final organisation chart. The prospective WDRC has also engaged Bowden McCormack lawyers to act as their Employee Relations advisor and assist with advice and letters to be communicated to future employees of the WDRC.

A high level information letter from the VDRC and the prospective WDRC describing the timing and actions to be taken by the two Councils on future staff employment will be sent to all staff on or about the 19 May 2014. Two other letters will then be sent out to future WDRC staff towards the end of the month – VDRC letter to advise transfer of position and termination from VDRC, and the WDRC letter of offer of employment under the same terms and conditions of the EBA agreement and/or current contract. Both these letters will be sent at the same time.

4.3 COMMENT

The Change Manager will be meeting with all staff currently employed by the prospective West Daly Regional Council from 19 to 23 May 2014. These meetings will verbally advise staff of the forthcoming action in relation to their future employment with the WDRC.

Information letters will be disturbed via email prior to this visit or hand delivered on the day.

4.4 CONSULTATION

VDRC – HR manager
Dept. of Local Government Regional Staff
Bowden McCormack Lawyers – Darwin
Frank Crawley Director Regional Governance Darwin
Management VDRC
Office of the Solicitor for the NT – Greg McDonald.

4.5 STATUTORY ENVIRONMENT

Bowden McCormack Lawyers, Darwin have provided written advice on the following;

- 1) The WDRC's obligations to prospective transferring employees under the *Fair Work Act 2009* (Cth), in relation to:
 - a. redundancy payments, if any
 - b. letters of Offer
 - c. the existing VDRC Enterprise Agreement 2013 – 2015 ("Enterprise Agreement"); and
 - d. Process for transferring employees from VDRC to WDRC.
- 2) WDRC's obligations with respect to the Information Privacy Principles (IPPs) as contained in the *Information Act* (NT) regarding the transfer of employees' personal information from VDRC to WDRC; and
- 3) any other relevant issues.

4.6 POLICY IMPLICATIONS

N/A

4.7 FINANCIAL IMPLICATIONS

The prospective WDRC has engaged Bowden McCormack on an hourly based contract. The cost estimate is between \$3K - \$5K with an hourly rate of \$250 to \$350 for all additional work required.

4.8 VOTING REQUIREMENT

N/A

4.9 RESOLUTION

That the Manager of the prospective West Daly Regional Council approve the Draft Organisation Chart as a discussion document that will be utilised by Council staff for the development of the final Organisation Chart of the new WDRC

That the Manager of the prospective WDRC approve the engagement of Bowden McCormack Lawyers Darwin to provide legal advice to assist with the changeover of staff from VDRC to WDRC. The contract to be on an hourly basis as per their letter of offer dated 22 April 2014

MOVED: That Resolution 4.9.be carried

5. Local Authorities – Wadeye, Palumpa and Peppimenarti

5.1 SUMMARY

The establishment of Local Authorities for the communities of Wadeye, Palumpa, and Peppimenarti have been undertaken by the VDRC. VDRC have completed the election procedure and have

approved the names submitted to be the members of the Local Authorities communities of Wadeye, Palumpa and Peppimenarti at their meeting held in April 2014.

These Local Authorities must meet prior to the 30 June 2014 to provide input into the WDRC 2014/15 annual budget. VDRC have indicated that they see no advantage of their Council managing these Local authorities as from 1st July they will be the responsibility of the new WDRC. All Budgets and other request will form part of the new WDRC 2014/15 budget and strategic plan.

The prospective Council manager indicated that the new WDRC Change manager will undertake this role from their appointment by the VDRC in April 2014 through to 1st July 2014.

5.2 BACKGROUND

Agendas have been prepared for distribution to all Local Authority members on 14 May 2014. Local Authority meetings have been planned for the communities of Wadeye, Palumpa and Peppimenarti for the week commencing 19 May 2014.

The Change Manager, and DLG Regional staff will be in attendance at these meetings.

5.3 COMMENT

A copy of the Agenda paper for the first meeting is attached and marked **Appendix C**

5.4 CONSULTATION

Management VDRC
Manager prospective WDRC
Regional Manager Big Rivers
VDRC Service Managers for Wadeye, Palumpa and Peppimenarti

5.5 STATUTORY ENVIRONMENT

Local Government Act Section 53D Functions of local authority

The functions of a local authority are:

- (a) to involve local communities more closely in issues related to local government; and
- (b) to ensure that local communities are given an opportunity to express their opinions on questions affecting local government; and
- (c) to allow local communities a voice in the formulation of policies for the locality as well as policies for the area and the region; and
- (d) to take the views of local communities back to the regional council and act as advocates on their behalf; and
- (e) to contribute to the development of the relevant regional plan; and
- (f) to make recommendations to the council in relation to the council's budget, and to review expenditures by the council, in relation to the part of the council's area within which the local authority performs its functions; and
- (g) to perform other functions assigned to the local authority by the Minister, in accordance with any guidelines that the Minister may make.

53E Limits on functions of local authority

(1) A local authority must comply with any guidelines that the Minister may make.

(2) A local authority is subject to control and direction by the council, subject to any guidelines that the Minister may make.

53F Reporting

The local authority and the council must provide each other with reports in accordance with any guidelines that the Minister may make.

The Guideline 8 outlines the manner in which the meetings are to be held, time and dates etc.

5.6 POLICY IMPLICATIONS

VDRC Policy 1.1.9 Local Authorities is attached and Marked **Appendix C**

5.7 FINANCIAL IMPLICATIONS

Grant funding is provided by the VDRC to hold these meeting and pay the relevant members'

5.8 VOTING REQUIREMENT

N/A

5.9 RESOLUTION

That the Manager of the prospective West Daly Regional Council agree to have the Change Manager organise the three local authority meetings in consultation with VDRC and to be conducted in accordance with Ministerial guideline no 8

MOVED: That Resolution 5.9.be carried

6. Late Agenda Items

No late items

7. General Business

7.1 CouncilBiz Quotation

Action: Change Manger to obtain a final quote from CouncilBiz to carry out the IT, Payroll and Accounting processing functions for the WDRC

7.2 Orders prior to 1 July 2014 by WDRC staff

Action: *Change Manager liaise with the VDRC to seek clarification as to what pre 1 July orders have been placed and then discuss with staff the procedure to be adopted for arranging the supply of goods and services from 1 July 2014.*

7.3 Meeting with Minister and Gary Higgins 3rd or 4th June Darwin

Action: *Prospective Manager liaises with the Minister for Local Government Regions and the Member for Daly's office to arrange a meeting with the Councillors from the WDRC region in Darwin on 3rd or 4th June, 2014.*

7.4 Insurance – West Daly (Prospective) Regional Council

Action: *Change Manager arrange with CouncilBiz insurers to provide a Cover Note to insure the prospective WDRC operations and staff on any issues that may arise whilst developing the WDRC, until it is officially constituted on 1 July, 2014.*

7.5 Program Schedule

Action: *Change Manager have the program schedule updated, then reviewed by all prior to Monday 19 May, 2014 weekly project meeting*

8. Next meeting – 6 June 2014 Darwin office.

9. Meeting Closure – Manager declared the meeting closed at 11.05am