



**Shire of Derby /
West Kimberley**

AGENDA

Special Council Meeting Friday, 20 December 2024

I hereby give notice that a Special Meeting of Council will be held on:

Date: Friday, 20 December 2024

Time: 2:00 PM

**Location: Council Chambers
Clarendon Street
Derby**

Tamara Clarkson

Acting Chief Executive Officer



Our Guiding Values

We are **PROUD** of who we are and where we live.

We will create a **POSITIVE LEGACY** for our children and children's children.

We will go about our business with **INTEGRITY, TRANSPARENCY and AUTHENTICITY**.

We value and **RESPECT** what our community has to say and will strive to make things happen.

We are **PROUD** of and value the **KNOWLEDGE** of our diverse and strong people and cultures.

We value our **RELATIONSHIPS** and will work with others to achieve common goals and gain maximum impact.

We are **PROUD** of and **COMMITTED** to the responsible preservation of our unique natural environment and making sure our built environment reflects our current and future needs.

We are open for and encourage business, industry and all aspects of **COMMUNITY DEVELOPMENT**, particularly our thriving arts and cultural scene.

Disclaimer

No responsibility whatsoever is implied or accepted by the Shire of Derby/West Kimberley (Shire) for any act, omission or statement or intimation occurring during Council or Committee meetings.

The Shire disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any Council Member or officer of the Shire during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire.

The Shire warns that anyone who has any application lodged with the Shire must obtain and should only rely on written confirmation of the outcome of the application and any conditions attaching to the decision made by the Shire in respect of the application.

Notes for Members of the Public

PUBLIC QUESTION TIME

The Shire of Derby/West Kimberley extends a warm welcome to you in attending any Shire meeting. The Shire is committed to involving the public in its decision-making processes whenever possible. The ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective. The Shire sets aside a period of 'Public Question Time' to enable a member of the public to put questions. Questions should only relate to the business of the Shire and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Presiding Member may either answer the question or direct it to an officer to answer, or it will be taken on notice.

Any comments made by a member of the public become a matter of public record as they are minuted by Council. Members of the public are advised that they are deemed to be held personally responsible and legally liable for any comments made by them that might be construed as defamatory or otherwise considered offensive by any other party.

MEETING FORMALITIES

Local government Council meetings are governed by legislation and regulations. During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation. Members of the public shall ensure that their mobile telephone or audible pager is not switched on or used during any Shire meeting.

Members of the public are hereby advised that the use of any electronic, visual or audio recording device or instrument to record proceedings of the meeting is not permitted without the permission of the Presiding Member.

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Notes for Council Members

NATURE OF COUNCIL'S ROLE IN DECISION MAKING

Advocacy:	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
Executive/Strategic:	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations, grants, and setting and amending budgets.
Legislative:	Includes adopting local laws, town planning schemes and policies.
Administrative:	When Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.
Review:	When Council reviews a decision made by Officers.
Information:	Includes items provided to Council for information purposed only that do not require a decision of Council (that is for 'noting').

ALTERNATIVE MOTIONS

Council Members wishing to make alternative motions to officer recommendations are requested to provide notice of such motions in written form to the Chief Executive Officer prior to the Council meeting.

DECLARATIONS OF INTERESTS

Council Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

Council Members must disclose the nature of their interest in matters to be discussed at the meeting (Part 5 Division 6 of the *Local Government Act 1995*). 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*).

APPLICATION FOR LEAVE OF ABSENCE

In accordance with Section 2.25 of the *Local Government Act 1995*, an application for leave requires a Council resolution granting leave requested. Council may grant approval for Leave of Absence for a Council Member for ordinary Council meetings for up to but not more than six consecutive meetings. The approval of the Minister is required for leave of absence greater than six ordinary Council meetings.

This approval must be by Council resolution and differs from the situation where a Council Member records their apologies for the meeting. A failure to observe the requirements of the Act that relates to absence from meetings can lead to a Council Member being disqualified should they be absent without leave for three consecutive meetings.

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1 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS**2 ACKNOWLEDGMENT OF COUNTRY**

In the spirit of reconciliation, the Shire of Derby/West Kimberley acknowledges the traditional custodians of country throughout the Shire and their connection to land, sea and community.

The Shire of Derby/West Kimberley pay respect to the past, present and future traditional custodians and Elders of this nation and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

3 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS

A Council Member may attend council or committee meetings by electronic means if the member is authorised to do so by the President or the Council. Electronic means attendance can only be authorised for up to half of the Shire's in-person meetings they have attended in total, in any rolling 12 months prior period. Authorisation can only be provided if the location and the equipment to be used by the Councillor are suitable to enable effective, and where necessary confidential, engagement in the meeting's deliberations and communications.

4 DISCLOSURE OF INTERESTS**4.1 Declaration of Financial Interests****4.2 Declaration of Proximity Interests****4.3 Declaration of Impartiality Interests****5 PUBLIC TIME**

Due to the nature of this meeting, being a Special Council Meeting, only questions relating to matter on this agenda may be addressed.

5.1 Public Question Time**5.2 Public Statements****6 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

REPORTS

7 EXECUTIVE SERVICES

7.1 AWARD OF TENDER T03-2024/25 FITZROY CROSSING YOUTH PRECINCT STAGE 1 - WATER SPLASH PARK

File Number: 5215

Author: Mark Davis, Executive Services Project Director

Responsible Officer: Tamara Clarkson, Acting Chief Executive Officer

Authority/Discretion: Executive

SUMMARY

This item is for Council to consider the awarding of Tender T03-2024/25, being for the design and construction of a water splash park that forms Stage 1 of the Fitzroy Crossing Youth Precinct. It is proposed that the tender be awarded to CMA Contracting, but with conditions that will enable Council to suitably control/address cost related matters, for example, having with the detailed design and costings being bought back to Council after the design phase; and also for the project site to be the Town Oval Precinct, Fitzroy Crossing.

DISCLOSURE OF ANY INTEREST

Nil by Author or Responsible Officer.

BACKGROUND

The Fitzroy Crossing Youth Precinct (s) project aims to increase community connectiveness and reduce vulnerability and disadvantage. It will achieve this by establishing a vibrant and inclusive youth precinct that fosters community engagement, provides recreational opportunities and supports the overall wellbeing of young people in the Fitzroy Valley.

Community infrastructure and amenity priorities were developed in support of discrete youth precincts (including three identified sites of Flynn Drive, McLarty Road and the Town Oval Precinct) following an extensive youth engagement program which commenced in late 2023 and culminated in the Fitzroy Crossing Engagement and Concept Report. The engagement and concept plans clearly identified the number one priority as part of a new youth precinct was the development of a water splash park.

The intent of the three priority sites are:

- Zone 1: McLarty Road – to provide a passive play and gathering space
- Zone 2: Flynn Drive – to provide an active play space
- Zone 3: Town Oval – to provide an active play space, incorporated into the future concept plan for the development of a new recreational and evacuation complex within the town oval precinct.

The report and associated concept plans were presented at the Ordinary Council Meeting of 30 May 2024 (Item No. 13.7), where the plan was endorsed.

While Zones 1 and 2 were the initial focus for the Youth Zones, limitations are acknowledged on both sites including:

- Zone 1: McLarty Road – with the focus to provide a passive play space, the area is only suitable for small scale development due to flood risk, making it unsuitable for the Water Splash Park.
- Zone 2: Flynn Drive – with the focus to provide an active play space, the area is an open space to the public and recently has become a significant site for anti-social behaviour. Due diligence undertaken highlighted the likelihood of higher annual costs at the Flynn Drive (Karrayili) site related to preventative measures to mitigate vandalism and maintenance due to such behaviour.

Accordingly, the Fitzroy Town Oval precinct has been identified as a critical mitigation measure. This location continues to support the intent and priorities within the Fitzroy Crossing Youth Facilities masterplan and would provide additional supervision due to co-located recreational activities and operating organisations as well as facility fencing. The precinct's recent concept plan also has suitable space for such a facility to be incorporated into the masterplan of the precinct.

It is proposed for the water splash park to be constructed at the Town Oval Precinct; and will incorporate water play and sensory play, shade, water fountains and other amenity.

The guiding principles for the delivery of this project include:

- The development of an engaging and appropriate water spray park suitable for all ages and abilities
- A facility that will withstand the rugged environment and comply with relevant environmental and health standards
- A project that is delivered within the defined timeframe and budget

The facility will incorporate the following:

- Water play and sensory play elements which are accessible and inclusive for children and youth of all abilities
- A zero depth, safe water environment for users of all abilities
- A secure, fenced and shaded plant room that provides compliant water filtration and sanitation infrastructure
- Permanent hard shade
- Seating and shade and integrated landscaping within perimeter fencing which covers the entire facility
- Adequate toilet facilities as per relevant guidelines
- Solar lighting
- Compliance with all relevant State and National Standards

STATUTORY ENVIRONMENT

- Local Government Act 1995 – 3.57 Tenders for the provision of goods or services
- Local Government (Functions and General) Regulations 1196 part 4: tenders for the provisions of goods or services
- Competition and Consumer Protection Act 2010

POLICY IMPLICATIONS

- AF33 – Regional Preference Policy- no tenderers qualified for application of this policy
- ADF2 – Sustainable Procurement-the Shire will support sustainable procurement by applying the value for money assessment to ensure wherever possible, our suppliers demonstrate outcomes which contribute to improved environmental, social and local economic outcomes.

FINANCIAL IMPLICATIONS

The delivery of the water splash park has been made possible through a Lotterywest grant and funding contribution by INPEX, to the total value of \$2,500,000 and are captured within the 2024/25 budget under account PC042.

Whole of life costs and ongoing maintenance expenses will be considered throughout the detailed design process; as will be the requirement to maintain and meet health standards.

At the Ordinary Council Meeting held Thursday 28 November 2024, the item to award the tender was laid on the table to enable further investigation of asset management costs and vandalism mitigation actions. An indicative set of operating and maintenance costs were presented to Council on 12 December 2024 at a briefing session.

The 2024/25 Shire budget does not include any allowance for ongoing operational and asset management costs relating to the water splash park. Future Shire budgets being 2025/26 and beyond will need to allow for such operational and asset management costs within each year's budget.

Water park management and maintenance training will be provided at handover, including detailed daily and weekly check lists and management requirements which are estimated to take approximately 25 minutes (daily) and 30 minutes (weekly) of resource time.

Financial implications related to vandalism and other damage are unknown, however a key mitigation strategy has been the proposed move to the Town Oval precinct.

STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
2. Community	2.1 Safe Communities	2.1.3 Provide activities, programs, places and spaces that engage young people
2. Community	2.2 Healthy Communities	2.2.1 Build, maintain and maximise the use of community facilities

2. Community	2.4 Sustainable Communities	2.4.2 Collaborate with key agencies, groups and service providers to improve community services, programs and facilities
3. Economy	3.1 Industry and business development and growth	3.1.2 Value and support small to medium-sized businesses

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Financial: Risk of limited competition, reduced value for money, and potential bias in the selection process due to having a single tender response.	Possible	Moderate	Medium	The Shire requested additional information from tenderer, in addition to undertaking a process to review comparable similar projects as well engaging an independent technical expert to assist in the tender evaluation.
People Health & Safety: Inability for water park to operate due to water quality issue or contamination.	Likely	Major	High	The Shire trains and appoints suitable staff member/contractor to regularly test and maintain minimal standards of operation. Fencing maintained to alleviate unwanted animal access.
Community: Community users are injured at the facility.	Possible	Major	Medium	Zero level water depth throughout facility. Installation of appropriate safety and usage standards.
Reputation: A negative perception and risk to the Shire.	Possible	Major	High	The Shire champions a successful tender and delivers a complete project open to the community on schedule, with support of internal and external experts.

CONSULTATION

The tender was advertised via TenderLink, in addition to The West Australian and Broome Advertiser newspapers. It was also published on the Shire of Derby/West Kimberley website, social media channels and the Shire Community Notice Boards.

Advertising of the tender was for the minimum 14-day period required by legislation and closed on 20 September 2024 at 4.00pm (AWST).

COMMENT

For the purposes of ensuring that the Fitzroy Crossing Youth Precinct Stage 1 – Water Splash Park is delivered by a suitably experienced operator in an acceptable timeframe and within the agreed budget, it is recommended that the tender is awarded to the contractor who provides value for money based on the approved tender scoring criteria below:

Criteria	Weighting
Key Personnel and Relevant Experience	35%
Tenderer's Resources and Methodology	35%
Local Supplier Details	20%
Risk	10%

A single tender submission was received from CMA Contracting. A score summary is shown below;

	Weighted Score	CMA
Key Personnel and Relevant Experience	35%	23.3%
Tenderer's Resources and Methodology	35%	22.2%
Local Supplier Details	20%	10.7%
Risk	10%	4.7%
Totals	100%	60.9%

As seen in the table above, CMA Contracting's score reflects the business's capability in each area in the Assessment Criteria for T03-2024/25 Fitzroy Crossing Youth Precinct Stage 1 - Water Splash Park. In particular, the information provided in areas including detail of key sub-contractors, lead contractor prior project experience and specific experience delivering aquatic and splash park infrastructure, was detailed and extensive.

- Subcontractors as part of team: Delta Group, Water Features by Design, BEC, BK Concreting & Earthworks (Derby), Modus Australia, Wattnow Electrical (Derby), Remote Area Plumbing (Fitzroy Crossing)

Previous experience of CMA Contracting and its key sub-contractors include:

- Currently undertaking the Cable Beach Foreshore Redevelopment Stage 1A and 1B, with a contract value of \$13.5M

- Design and construction of the Kununurra Water Playground and toilet block, valued at \$3.2M
- Design and construction of the Wickham Water Playground
- Civil Landscaping works at the Royal Park Melbourne, valued at \$14.9M
- Construction of new elevated and ground level water tanks and pump station upgrade in Gapuwiyak (NT), with a combined value of \$7.3M

Officers are satisfied that CMA Contracting is a capable delivery partner for this project given their previous project experience and overall consideration of their tender submission.

The contract is a fixed price contract, with the approval and endorsement of detailed design (Phase 1) required to proceed to Phase 2 (construction and installation). Asset and operational management costings based upon the detailed design will also be developed.

Once there is further detail of these costings, the opportunity exists to approach key stakeholders and commence discussions around operational contributions – with the goal of reducing the Shire’s ongoing input.

The contract will specify the following process for endorsing the preferred detailed design (Phase 1), and approving the commencement of the installation and construction of the preferred facility and infrastructure (Phase 2):

- a) Contractor develops and provides detailed design for consideration.
- b) Asset and operational management costings based upon
- c) Consideration by Council.

Phase 2 will be conditional on Council endorsement of a preferred detailed design – along with the costs to operate and maintain the asset.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

1. Price Summary - Confidential

RECOMMENDATION

That Council:

- 1. Conditional on the contract incorporating the following points, award Tender T03-2024/25 Fitzroy Crossing Youth Precinct Stage 1 – Water Splash Park to CMA Contracting;**
 - (a) Two discrete phases - Phase 1 (Detailed Design) and Phase 2 (Construction and Installation);**
 - (b) A suitable clause that Council endorsement of the detailed design and associated asset management costings resulting from Phase 1 is required to proceed to Phase 2; and**
 - (c) A suitable clause to enable rescoping, cost management or cancellation if Council does not endorse the detailed design and asset management costings.**

- 2. Authorises the Chief Executive Officer to sign a contract with CMA Contracting for a staged approach of the Fitzroy Crossing Youth Precinct Stage 1 – Water Splash Park, conditional on Lotterywest funding;**
- 3. Endorses the Fitzroy Crossing Town Oval Precinct as the preferred site for the Water Splash Park; and**
- 4. Directs the Chief Executive Officer to investigate partnership opportunities for ongoing operational costs of the facility.**

8 NEW BUSINESS OF AN URGENT NATURE

9 CLOSURE

9.1 Date of Next Meeting

The next ordinary meeting of Council will be held Thursday, 27 February 2025 in the Council Chambers, Clarendon Street, Derby.

9.2 Closure of Meeting