

shire of  
**ROEBOURNE**

*Karratha*

*Powerhouse of the Pilbara*

## **SPECIAL COUNCIL MEETING**

# **AGENDA**

**NOTICE IS HEREBY GIVEN that a  
Special Meeting of Council will be held  
in the Council Chambers, Welcome Road, Karratha,  
on 3 June 2010 at 5.30pm**

  
\_\_\_\_\_  
**Collene Longmore  
CHIEF EXECUTIVE OFFICER**





Powerhouse of the Pilbara

No responsibility whatsoever is implied or accepted by the Shire of Roebourne for any act, omission or statement or intimation occurring during Council or Committee Meetings. The Shire of Roebourne 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 persons 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 license, any statement or intimation of approval made by any member or Officer of the Shire of Roebourne during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Roebourne.

The Shire of Roebourne warns that anyone who has any application lodged with the Shire of Roebourne 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 of Roebourne in respect of the application.

Signed:   
**Ms C Longmore –Chief Executive Officer**

## **DECLARATION OF INTERESTS (NOTES FOR YOUR GUIDANCE) (updated 13 March 2000)**

A member who has a **Financial Interest** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (c) Preside at the part of the Meeting, relating to the matter or;
- (d) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the Local Government Act 1995.

### **NOTES ON FINANCIAL INTEREST (FOR YOUR GUIDANCE)**

The following notes are a basic guide for Councillors when they are considering whether they have a **Financial Interest** in a matter. I intend to include these notes in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the Local Government Act 1995 but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
  - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the Local Government Act; or
  - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the Local Government Act, with or without conditions.

### **INTERESTS AFFECTING IMPARTIALITY**

**DEFINITION:** *An interest that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'.*

A member who has an **Interest Affecting Impartiality** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest;

- (a) in a written notice given to the Chief Executive Officer before the Meeting; or
- (b) at the Meeting, immediately before the matter is discussed.

### **IMPACT OF AN IMPARTIALITY CLOSURE**

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote.

With the declaration of this new type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest existed.

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# **AGENDA**

## **1 OFFICIAL OPENING**

Cr Lockwood acknowledged the traditions of the Ngarluma people, on whose land we are gathered here today.

## **2 PUBLIC QUESTION TIME**

## **3 RECORD OF ATTENDANCES / APOLOGIES / LEAVE OF ABSENCE**

**Councillors:**

- Cr Nicole Lockwood [President]
- Cr John Lally [Deputy President]
- Cr Garry Bailey
- Cr Fay Cechner
- Cr Harry Hipworth
- Cr Ben Lewis
- Cr Joanne Pritchard
- Cr Des Rothe
- Cr Evette Smeathers
- Cr Fiona White-Hartig

**Staff:**

Collene Longmore	Chief Executive Officer
Paul Anderson	Assistant to CEO
Ray McDermott	Exec Manager Corporate Svces
Simon Kot	Exec Manager Community Svces
David Pentz	Exec Manager Development Svces
Troy Davis	Exec Manager Technical Svces
Bianca Williams	Minute Secretary

**Apologies:** Cr Sharon Vertigan

**Absent:**

**Leave of Absence:**

**Members of Public:**

**Members of Media:**

## **4 DECLARATION OF INTERESTS**

## **5 CHIEF EXECUTIVE OFFICER & EXECUTIVE SERVICES**

### **5.1 CHIEF EXECUTIVE OFFICER**

#### **5.1.1 AQUACAROTENE MINING LEASE APPLICATION**

<b>File No:</b>	<b>ED.12</b>
<b>Attachment(s)</b>	<b>Report from Ordinary Council Meeting 17 May 2010 and Deed between Shire of Roebourne and Aquacarotene Limited</b>
<b>Responsible Officer:</b>	<b>Chief Executive Officer</b>
<b>Author Name:</b>	<b>Assistant to the Chief Executive Officer</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

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#### **REPORT PURPOSE**

To bring to Councils attention concerns expressed by the General Manager of Carr Civil in regard to Council's resolution of 17 May 2010 relating to the deed with amendments between the Shire of Roebourne and Aquacarotene Limited dated 12 December 2002 and the length of extension approved by the Council.

These leases are situated on Dampier Road to the west of the Karratha Town Centre.

#### **Background**

The Council at the meeting held 17 May 2010 passed the following resolution:

*That the application from Aquacarotene Limited to extend the deed between the Shire and Aquacarotene be granted for a three year period effective from 13 February 2009 subject to the original conditions contained within the deed and the following amendments including but not limited to:*

- 1. The lodgement of a traffic management plan that ensures the safe ingress and egress of traffic to the site;*
- 2. Lodgement of a rehabilitation plan that facilitates the development of industry on the site;*
- 3. The agreement of the applicant to a contribution towards Community Infrastructure as determined by the Chief Executive Officer and the details of the agreement to pay the contribution towards Community Infrastructure be documented in a deed to extend and vary the deed between the Shire and Aquacarotene dated 12 December 2002;*
- 4. The Shire in accordance with Clause 3 of the deed dated 12 December 2002 consents to the request from Aquacarotene to approve the joint venture with Carr Civil in regard to the operations at Mining Leases 47/397 and 47/450;*
- 5. The applicant be advised that no further extension or approval will be granted.*

**Issues**

The General Manager of Carr Civil on behalf of Aquacarotene has now corresponded via email to the CEO and provided the following comment in regard to the Council resolution:

*Aquacarotene believe this timeframe is too short to be able to fully support the Aurora Project build out. Construction of the Aurora Bio Fuel Farm is not due to be completed until the final quarter of 2012 when the Farm is expected to reach peak production. The February 2012 Deed expiry date will preclude much of the material being supplied from M47/450 which is part of the agreed contract of sale between Aurora and Aquacarotene.*

*We assume the February 2012 date was selected as it is three years from the previous Deed expiry date, rather than the land being required for re-development in February. It was disappointing that a three year extension as requested at our meeting of 16 April 2010 was not granted.*

*As you are aware we have been unable to sell material from the pit at a competitive price for some years as the Government royalties we pay on our material sales meant we could not compete with the lower Shire rate for material from the Rubbish tip area. As a result of the material sales and the time limiting of the Deed to 17 months. We have been, and will be, unable to fully utilise the lease.*

*It is requested that the Deed end date be considered for extension by 18 months to align with our request for a further three years from 2010.*

*In regards to rehabilitation of the site, we propose that sufficient gravel be left behind for the commercial redevelopment of the site. This would save Shire haulage costs, however we would be seeking recompense for the material.*

*Can you please also provide an indication of the expected value of the contribution towards Community Infrastructure as required in the renewed Deed?*

While the reasons given by the General Manager are of a commercial nature and should have been addressed by the organisation prior to entering into agreements that relied upon third party approval, the deed between the Shire and Aquacarotene was not honoured in regard to the seeking of the three year options to continue the deed.

The reference to competition in the market is noted however it is the authors understanding that this practice was only utilised to supply general fill as has since been discontinued.

The issue of leaving gravel in the site is not in accordance with the rehabilitation plan and the Council resolution that required the site to be left in a condition that facilitates the development of industry on the site.

The issue of the indication of the contribution towards community infrastructure is still being negotiated between the Chief Executive Officer and the General Manager.



**Options**

Council has the following options available:

1. Advise the applicant that the Council resolution of 17 May 2010 stands.
2. Rescind point 5 of the resolution of 17 May 2010 and authorise an 18 month extension with an expiry date of 13 August 2013.

**Policy Implications**

There are no relevant policy implications pertaining to this matter.

**Legislative Implications**

1. The Council currently does not have any local laws applicable to this activity.
2. The Land Administration Act 1997 applies as the land is in the Town Site within the meaning of the Act.
3. In accordance with Section 8 of the Mining Act 1978 the Shire is deemed to be the owner of the land.

**Financial Implications**

The initial deed endorsed by the Council had no positive or negative financial implications to the Council. There are minimal rates applicable to the leases.

The original resolution by Council included the insertion of a clause to enable the applicant to agree to a contribution towards Community Infrastructure as determined by the Chief Executive Officer.

The granting of an extended period will enable the amount of product to be increased and if the financial arrangement is based upon the amount of material extracted will increase the return to the Council.

**Conclusion**

The resolution of the Council passed at the meeting of 17 May 2010 indicated the intent of the Council not to extend the deed beyond the current terms, consideration may be given to the new information and an extension to the 13 August 2013 granted to assist a local industry to deliver on a facility that contributes to the growth of infrastructure in the community.

**Voting Requirements**

Simple.

Item 1. One third of the number of offices.

Item 2. Simple majority.

Item 3. Simple majority.

## **RECOMMENDATION**

**1. That the resolution passed at the Ordinary Council Meeting held 17 May 2010 be amended by deleting point 5 as follows:**

*The applicant be advised that no further extension or approval will be granted.*

**2. The applicant be advised that following the expiration of current option on 17 February 2012 the deed will be extended to 13 August 2013 after which no further extensions will be granted.**

**Or**

**3. The applicant be advised that the Council resolution of 17 May 2010 in relation to the deed between the Shire and Aquacarotene in relation to mining leases within the town site boundary confirmed.**

**5.1.1 ATTACHMENT 1 - REPORT FROM ORDINARY COUNCIL MEETING 17 MAY 2010****15.1.1 AQUACAROTENE MINING LEASE APPLICATION****File No: TA/1/2****Attachment(s) Deed between Shire of Roebourne and Aquacarotene Limited****Responsible Officer: Chief Executive Officer****Author Name: Assistant to the Chief Executive Officer****Disclosure of Interest: Nil**

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**REPORT PURPOSE**

To consider the extension of the deed with amendments between the Shire of Roebourne and Aquacarotene Limited dated 12 December 2002 relating to the approval of Mining Leases 47/397 and 47/450.

These leases are situated on Dampier Road to the west of the Karratha Town Centre.

**Background**

AquaCarotene Ltd holds two Mining Leases located west of Karratha that contain gravel and other quarry products.

The land is in the District of the Shire and is a Town Site within the meaning of the Land Administration Act 1997. As the Shire has the lawful control and management of the land the Shire is deemed by virtue of Section 8 of the Mining Act 1978 (the Act) to be an owner of the land.

An applicant for a Mining Lease must pursuant to section 74(3) of the Act serve on the owner of the land to which the application relates notice of the application within the period prescribed by the Act to allow the Office of the Mining Registrar an objection to the grant of such lease.

The Council originally resolved on 14 December 1998 to approve the lease with the following conditions:

- (a) Lodgement of an operational plan which demonstrates that dust and noise will be contained to prevent offsite impacts;
- (b) Lodgement of a rehabilitation plan which identifies contouring and revegetation form and techniques;
- (c) The term of the lease being for five years with three years options with renewals being subject to Council endorsement and
- (d) Standard engineering building and health conditions.

These conditions were subsequently amended on 12 July 1999 to the following:

- (1) Advise Aquacarotene that any agreement on Mining Lease 47/397 should have an initial term of eight years and renewable every three (3) years thereafter.

This original eight year term expired on 13 February 2009 and Aquacarotene have requested that the Council extend the option in accordance with the original deed.

### **Issues**

Enquiries with the Department of Minerals and Energy have indicated that the Council has the option to revoke the Deed and invoke the clauses that require the surrender of the leases, however this would open the area up to another application for a Mining Lease. This would then need to be considered by the Council for approval or otherwise.

The Council originally objected to the granting of the Mining Lease on the grounds that the proposed leases were within the Town Site boundary and could result in the sterilisation of land which could be required for Town Site expansion in the future.

The issue of the Mining Lease being within the Town Site boundary is still relevant, however the impact upon the developing Town Site has been minimal to this stage.

The development areas identified in the Karratha City of the North Implementation blueprint indicate that this area may not be required in the short term.

The requirement of the materials being extracted from the site to provide for the ongoing expansion of other areas of the Town Site and road ways is of importance and may inhibit the development of these areas.

Aquacarotene entered into a joint venture with Carr Civil Contracting Pty Ltd in June 2004 and are also requesting that in accordance with clause 3 of the deed dated 12 December 2002 that the Council consent to the joint venture arrangement.

### **Options**

Council has the following options available:

- 1 Revoke support for the Mining Lease in its current format and require the lessee to instigate the rehabilitation plan.
- 2 Approve the three year option in accordance with the original deed.
- 3 Approve the three year option with amended conditions including the consent to approve the joint venture operations with Carr Civil Contracting Pty Ltd.

### **Policy Implications**

There are no relevant policy implications pertaining to this matter.

### **Legislative Implications**

1. The Council currently does not have any local laws applicable to this activity.
2. The Land Administration Act 1997 applies as the land is in the Town Site within the meaning of the Act.
3. In accordance with section 8 of the Mining Act 1978 the Shire is deemed to be the owner of the land.

### **Financial Implications**

The initial deed endorsed by the Council had no positive or negative financial implications to the Council. There are minimal rates applicable to the leases

It is proposed to include in the approval a clause to enable the applicant to agree to a contribution towards Community Infrastructure as determined by the Chief Executive Officer.

### **Conclusion**

It is proposed to recommend approving the extension of the three year option effective from 13 February 2009 with the original conditions and amendments.

The amendments to include but not limited to the following;

- (a) Lodgement of a traffic management plan to control the ingress and egress of traffic from the site;
- (b) Lodgement of a rehabilitation plan being structured to facilitate the development of industry on the site;
- (c) The agreement of the applicant to a contribution towards Community Infrastructure as determined by the Chief Executive Officer.

### **Voting Requirements**

Simple.

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## **RECOMMENDATION**

**That the application from Aquacarotene Limited to extend the deed between the Shire and Aquacarotene be granted for a three year period effective from 13 February 2009 subject to the original conditions contained within the deed and the following amendments including but not limited to the following:**

- 1. The lodgement of a traffic management plan that ensures the safe ingress and egress of traffic to the site;**
  - 2. Lodgement of a rehabilitation plan that facilitates the development of industry on the site;**
  - 3. The agreement of the applicant to a contribution towards Community Infrastructure as determined by the Chief Executive Officer and the details of the agreement to pay the contribution towards Community Infrastructure be documented in a deed to extend and vary the deed between the Shire and Aquacarotene dated 12 December 2002.**
  - 4. The Shire in accordance with clause 3 of the deed dated 12 December 2002 consents to the request from Aquacarotene to approve the joint venture with Carr Civil in regard to the operations at Mining Leases 47/397 and 47/450.**
-

5.1.2 ATTACHMENT 2 – SHIRE OF ROEBOURNE DEED 2002

DATED \_\_\_\_\_ 2000

AQUACAROTENE LIMITED  
(ACN 074 969 056)

- AND -

SHIRE OF ROEBOURNE

---

DEED

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McLEOD & CO  
Solicitors  
222 Stirling Highway  
CLAREMONT WA 6010

Telephone: 9383 3133  
Reference: McL/R11 10990 (10990DEED/FC/O)

Handwritten signature or initials in the bottom right corner of the document.

THIS DEED is made 12<sup>th</sup> day of December

*2000*

**BETWEEN:**

AQUACAROTENE LIMITED (ACN 074 )  
969 056) of PO Box 335, West Perth in the )  
State of Western Australia ("Aquacarotene") )

AGN 66 012 878 629  
WESTERN AUSTRALIA STAMP DUTY  
MOR 15/09/03 13:59 002027118-005  
FEE \$ \*\*\*\*\*2,000  
SD \$ \*\*\*\*\*5.00 PEN \*\*\*\*\*.00

**AND**

○ SHIRE OF ROEBOURNE of Welcome )  
Road, Karratha in the said State ("the )  
Shire") )

**RECITALS:**

- A. On 13 February 2001 the Department of Minerals and Energy ("DOME") granted Aquacarotene mining leases ML47/397 and ML47/450 ("the Mining Leases") over the land shown hachured in the sketches annexed hereto ("the Land").
- B. The Land is in the district of the Shire and is a "townsite" within the meaning of the Land Administration Act 1997.
- C. As the Shire has the lawful control and management of the Land, the Shire is deemed by virtue of section 8 of the Mining Act 1978 ("the Act") to be an "owner" of the Land.
- D. An applicant for a mining lease must pursuant to section 74(3) of the Act serve on the owner of the land to which the application relates notice of the application within the period prescribed by the Act to allow the owner to lodge with the Office of the Mining Registrar an objection to the grant of such lease.

- E. On 14 December 1998 the Shire reconsidered an application for the Mining Leases based on fresh information supplied by Aquacarotene and in light of other mining tenements operating within townsites.
- F. The Shire had on previous occasions objected to the grant of mining leases to Aquacarotene on the basis that the proposed leases were within the Karratha Townsite boundary and could result in the sterilisation of land which could be required for townsite expansion in the future.
- G. On 14 December 1998 the Shire agreed to support the grant of the Mining Leases subject to the following conditions:
1. (a) lodgment of an operation plan which demonstrates that dust and noise will be contained to prevent off site impacts;
  - (b) lodgment of a rehabilitation plan which identifies contouring and re-vegetation form and techniques;
  - (c) the term of the lease being for five years with three year options, with renewals being subject to Council endorsement;
  - (d) standard engineering, building and health conditions.
2. reiterate to the Department of Minerals and Energy that Council do not support the issue of general (ie 21 year) tenements within the townsite area for the reasons previously stated."
- H. The Shire's decision to support the grant of the Mining Leases was based on information provided to it by DOME to the effect that the Mining Leases could be granted for a period less than 21 years.



- I. Pursuant to s.78(1) of the Act a mining lease remains in force for a period of 21 years and where an application is made for renewal for a further 21 years.
- J. On 30 June 1999 Aquacarotene applied to the Shire for the extension of the Mining Leases from five years to eight years.
- K. On receipt of Aquacarotene's application the Shire received further advice from DOME advising that it could only grant mining leases for a period of 21 years and that the Shire should consider approaching Aquacarotene with a view to entering into a formal legal agreement as a means of limiting the terms of the Mining Leases.
- L. On 12 July 1999 the Council of the Shire resolved to:
- "1. advise Aquacarotene that any agreement on ML 47/397 should have an initial term of eight years and renewable every three (3) years thereafter;
  2. seek explanation from the Department of Minerals and Energy for the conflicting advice received by Council on the ability to restrict the terms of Mining Leases."
- M. The Shire requires Aquacarotene to enter into the Deed to limit the terms of the Mining Leases in accordance with the resolution of 12 July 1999 and to satisfy the Shire's requirements.
- 

**OPERATIVE PART :**

1. **DEFINITIONS AND INTERPRETATION**
- 1.1 **Interpretation**

Unless expressed to the contrary:

- (a) words importing:
  - (i) the singular include the plural and vice versa;
  - (ii) any gender include the other gender;
- (b) if a word or phrase is defined cognate words and phrases have corresponding definitions;
- (c) a reference to:
  - (i) a person includes a firm, unincorporated association, corporation and a government or statutory body or authority;
  - (ii) a person includes its legal personal representatives, successors or assigns;
  - (iii) a statute, ordinance, code, regulation, award or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
  - (iv) a right includes a benefit, remedy, discretion, authority or power;
  - (v) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (vi) provisions or terms of this deed or another document, agreement, understanding or arrangement include a reference to both express and implied provisions and terms;
  - (vii) time is to be local time in Perth, Western Australia;
  - (viii) "\$" or "dollars" is a reference to the lawful currency of Australia;

- (ix) this or any other document includes the document as varied or replaced and notwithstanding any change in the identity of the parties;
- (x) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes facsimile transmissions;
- (xi) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them.



**Headings**

Headings do not affect the interpretation of this deed.

**Schedule**

The Schedule and Annexures form part of this deed

2. **AQUACAROTENE'S COVENANTS**



Aquacarotene **HEREBY COVENANTS AND AGREES** with the Shire that it will execute and deliver to the Shire in registrable form surrenders of the Mining Leases:

- (a) on the expiration of eight years from the commencement date of the Mining Leases in the event that the Shire does not consent to renew the Mining Leases for a further three year period ("the renewed term"); or
- (b) on the expiration of the renewed term in the event that the Shire consents to renew the Mining Leases or on such alternative date as the Shire may agree to in writing.



3. **NO DISPOSAL**

Unless otherwise agreed in writing by the Shire Aquacarotene shall not transfer, mortgage, charge, assign or otherwise dispose of or encumber its interest in the Mining Leases or any part thereof or any interest therein to any person without the prior written consent of the Shire, which consent shall not be unreasonably withheld if the person to whom any such right or interest in the Mining Leases is to be granted has entered into a deed (or in the case of a mortgagee a specific undertaking in a form approved by the Shire) with the Shire at the cost of Aquacarotene, whereby such person covenants to observe and perform the covenants on the part of Aquacarotene herein contained.

4. **CHARGE AND CAVEAT**

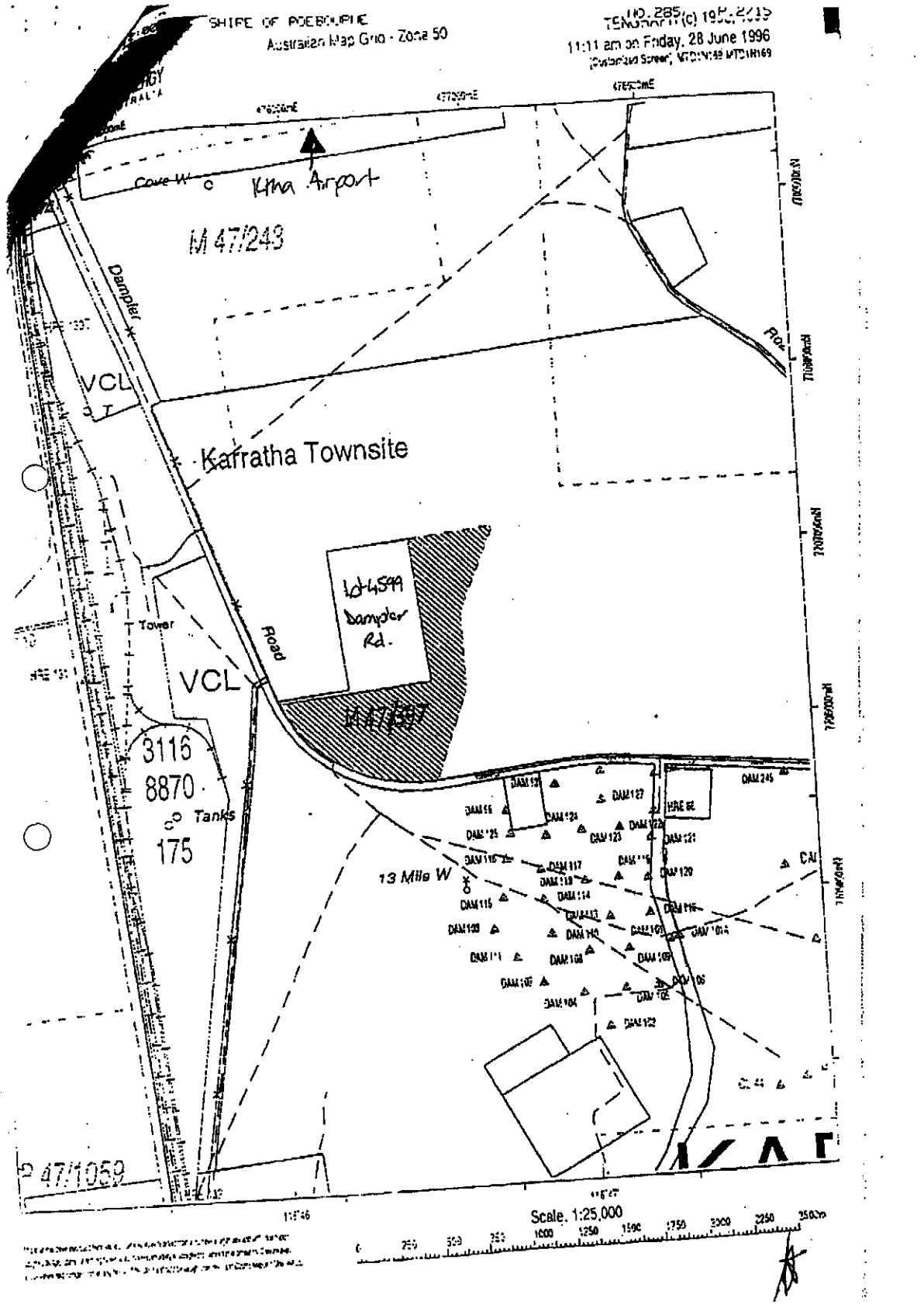
Aquacarotene **HEREBY CHARGES** its interests in the Mining Leases in favour of the Shire with the performance of the obligations entered into pursuant to this Deed and authorises the Shire to lodge an absolute caveat at DOME against the Mining Leases for the purpose of securing such obligations.

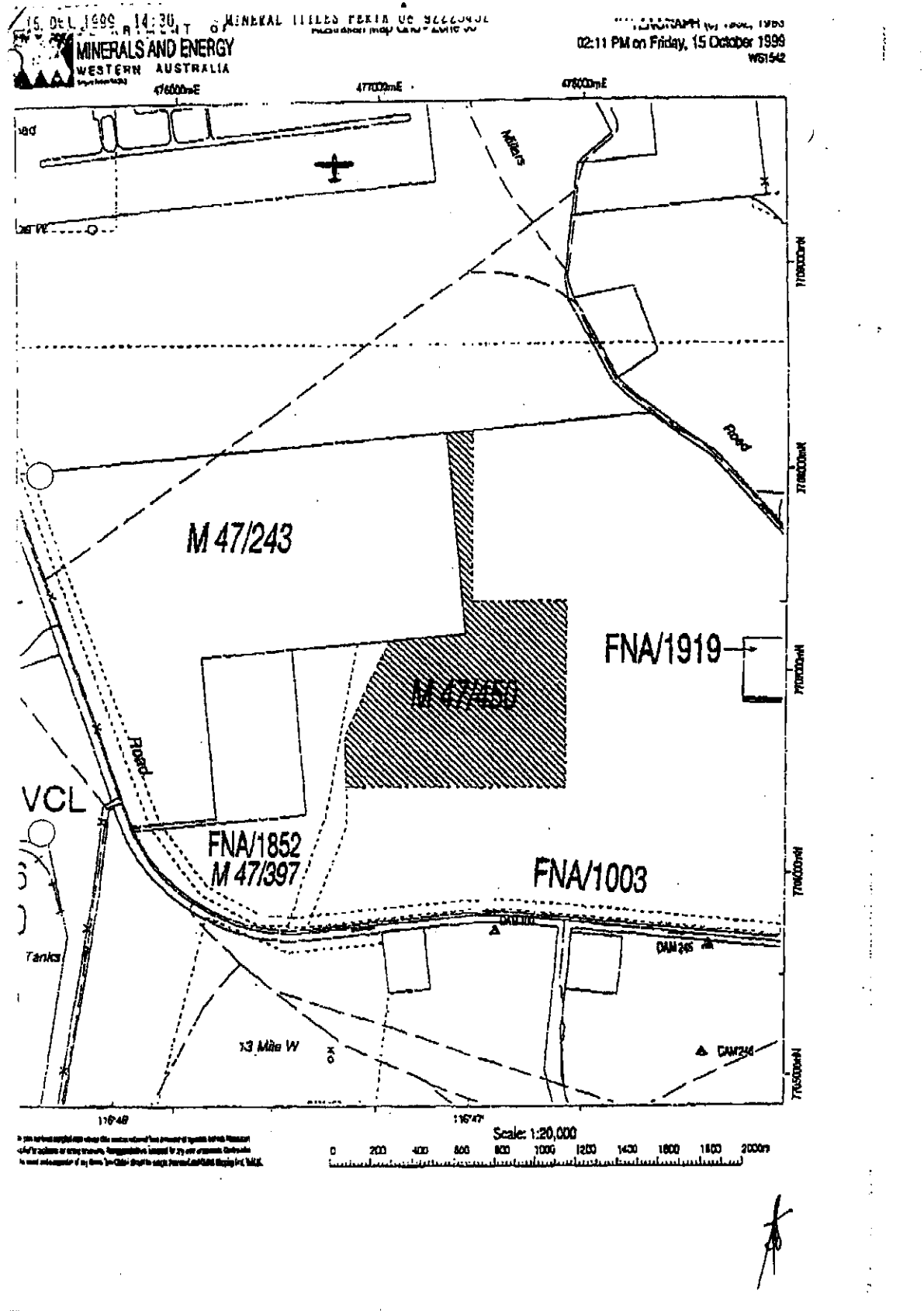
5. **COMPENSATION**

Aquacarotene **HEREBY ACKNOWLEDGES AND AGREES** that no claim lies against the Shire in respect of the surrender of the Mining Leases under the Act or any other statutory provision or otherwise and that the execution of this Deed shall act as a bar to any claim which Aquacarotene could or might have had against the Shire for or in respect of or in any way related to the surrender of the Mining Leases.

6. **COSTS**

The costs of and incidental to the preparation and stamping of this Deed together with any costs incurred in the preparation, stamping and registration of the




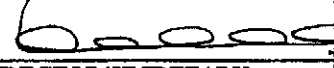



Surrenders pursuant to clause 2 and the registration of the caveat referred to in clause 4 shall be met by Aquacarotene and the Shire on a 50/50 basis.

EXECUTED BY the Parties as a Deed:


THE COMMON SEAL of )  
AQUACAROTENE LIMITED (ACN )  
074 969 056) was hereunto affixed in )  
the presence of: )

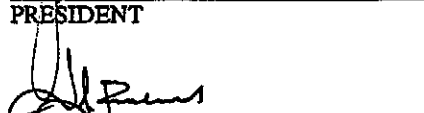
  
\_\_\_\_\_  
DIRECTOR

  
\_\_\_\_\_  
DIRECTOR/SECRETARY



THE COMMON SEAL of SHIRE OF )  
ROEBOURNE was hereunto affixed in )  
the presence of: )

  
\_\_\_\_\_  
PRESIDENT

  
\_\_\_\_\_  
CHIEF EXECUTIVE OFFICER



(10990DEED/PG/D)

## **6 CORPORATE SERVICES**

### **6.1 CORPORATE**

#### **6.1.1 PUBLIC TENDER - DISPOSAL OF 944A /944B HARDING WAY AND 38 NELLEY WAY**

<b>File No:</b>	<b>LP.97</b>
<b>Attachment(s)</b>	<b>Confidential Attachment - Evaluation &amp; Recommendation report</b>
<b>Responsible Officer:</b>	<b>Executive Manager Corporate Services</b>
<b>Author Name:</b>	<b>Executive Manager Corporate Services</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>

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#### **REPORT PURPOSE**

To consider public tenders received for the sale of 944A/944B Harding Way and 38 Nelley Way.

#### **Background**

Council resolved to dispose of 944A/944B Harding Way and 38 Nelley Way at its Ordinary Council meeting 15 February 2010 with net sale proceeds to be allocated to Council's housing reserve.

#### **Issues**

Local real estate agencies were contacted in regards to submitting quotes to hold the public tender on behalf of the Shire of Roebourne. Two quotes were received with Ray White being appointed to conduct the Public Tender process.

The submission period for public tenders closed 28 May 2010 with three submissions being received for 944A/944B Harding Way and two submissions for 38 Nelley Way.

#### **Options**

Council has the following options available:

1. To accept the recommendation of the Executive Manager Corporate Services.
2. To accept an alternative tender other than the recommendation of the Executive Manager Corporate Services.

#### **Policy Implications**

There are no relevant policy implications pertaining to this matter.

#### **Legislative Implications**

s.3.58 – Local Government Act 1995 – Disposal of Property

(1) In this section —

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not; property includes the whole or any part of the interest of a local government in property, but does not include money.



- (2) Except as stated in this section, a local government can only dispose of property to —
- (a) the highest bidder at public auction; or
  - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

### **Financial Implications**

As per the attached confidential report, the recommended tenders exceed the market valuations received by Council for both properties.

### **Conclusion**

The tenders process recommended for acceptance exceed the Market Valuations obtained by Council in February.

It is recommended that Council endorse the recommendation of the Executive Manager Corporate Services.

### **Voting Requirements**

Simple.

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### **RECOMMENDATION**

**That the recommendation submitted by the Executive Manager Corporate Services in the confidential evaluation report for the Public Tender of 944A/944B Harding Way and 38 Nelley Way be considered.**

**7 CLOSURE & DATE OF NEXT MEETING**

21 June 2010