

Special Council Meeting

Minutes for Tuesday 16 July 2019

UNCONFIRMED



**city of
kalamunda**

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1. Official Opening

The Presiding Member opened the meeting at 6:27pm and welcomed Councillors, Staff and Members of the Public Gallery.

2. Attendance, Apologies and Leave of Absence Previously Approved

Councillors

South East Ward

John Giardina - (Mayor) (Presiding Member)

Geoff Stallard

South West Ward

Lesley Boyd

Allan Morton

Brooke O'Donnell

North West Ward

Sara Lohmeyer (arrived at 6:37pm)

Dylan O'Connor (arrived at 6:37pm)

North Ward

Cameron Blair

Kathy Ritchie

Margaret Thomas

Members of Staff

Executive Team

Gary Ticehurst - Director Corporate Services

Chris Thompson - Acting Director Asset Services

Management Team

Nicole O'Neill - Manager Customer & Public Relations

Administration Support

Darrell Forrest - Governance Advisor

Donna McPherson - Executive Assistant

Members of the Public 14

Members of the Press Nil.

Apologies

Rhonda Hardy

Cr Michael Fernie

Leave of Absence Previously Approved

Cr David Almond – Leave of Absence

3. 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 meeting. For the purposes of Minuting, these questions and answers will be summarised.

3.1 Nil.

4. Petitions/Deputations

4.1 A deputation has been approved from Mr John Milton regarding Item 8.1.1 Consideration of Funerals in Public Places. Mr Milton spoke against the Recommendation.

4.2 A deputation has been approved from Mr Justin Hazebroek regarding Item 8.1.1 Consideration of Funerals in Public Places. Mr Hazebroek spoke against the Recommendation.

4.3 A deputation has been approved from Ms Melanie Arnott regarding Item 8.1.1 Consideration of Funerals in Public Places. Ms Arnott spoke against the Recommendation.

4.4 A deputation has been approved from Mr Geof Irvin regarding Item 8.1.1 Consideration of Funerals in Public Places. Mr Irvin spoke against the Recommendation.

5. Announcements by the Member Presiding Without Discussion

5.1 Nil.

6. Matters for Which the Meeting may be Closed

6.1 Nil.

7. Disclosure of Interest

7.1. Disclosure of Financial and Proximity Interests

a. Members must disclose the nature of their interest in matter to be discussed at the meeting. (Section 5.56 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. (Section 5.70 of the *Local Government Act 1995*.)

7.1.1 Nil.

7.2. 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.

7.2.1 Nil.

8. Reports to Council

8.1. Chief Executive Officer Reports

8.1.1. Consideration of Funerals in Public Places

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

Previous Items	N/A
Directorate	Office of the CEO
Business Unit	Customer & Public Relations
File Reference	
Applicant	Provided in confidential Attachment 1
Owner	N/A
Attachments	Nil Confidential particulars of request to the City to hold a funeral service at Stirk Park Kalamunda

EXECUTIVE SUMMARY

1. The purpose of this report is to consider a request to hold a funeral service including the presence of a coffin, at Stirk Park in Kalamunda on 22 July 2019.
2. In consideration of the request, the City has ascertained and considered the particulars of the request on balance with community need and perception and additionally, the standard conditions and that would be applied to similar sized events, together with past precedent.
3. This report recommends the application be declined for the reasons stated herein, however additionally recommends that, given the request and the potentiation for similar to follow, the Council request the Chief Executive Officer give consideration to an appropriate policy position to apply to applications for funeral services in public locations going forward.

BACKGROUND

4. As a preliminary point, it is noted that the personal details of the applicant have been omitted from this report on the basis that it is the request itself, together with its attributes, that requires Council consideration only. For completeness, the personal details of the applicant are however included for Council's information in confidential Attachment 1.
5. On Thursday 11 July 2019, the City received a written request by email for the City to approve the use of Stirk Park for a Funeral at 2:00pm on Monday 22 July 2019 in which a coffin would be present (Request).
6. The City declined the Request on the basis that Stirk Park is a public venue, used by people of all different ages, religions and walks of life, and it was deemed not to be an appropriate use of such a public space, particularly if a coffin is present.

7. In 2016 and 2018, the City received at least two similar requests and likewise declined them on the same basis.
8. The City has however allowed funeral services in which a coffin was present in City venues that can be adequately secured and not open to the public. As such, funeral service with a coffin present, have been held at Lesmurdie Hall. Wakes have also been held in City of Kalamunda Halls, including the Woodlupine Community Centre, Forrestfield Hall and Cyril Road Hall.

DETAILS

9. Stirk Park, Kalamunda, is a District Level Park and a popular community location in the City. To date, no funerals with or without the presence of a coffin have ever been permitted by the City in Stirk Park.
10. The City sought further information from the applicant in regard to the Request and was advised as follows:
 - a) the funeral is expected to commence in Stirk Park at 2:00pm on Monday 22 July 2019 and be attended by 200+ persons;
 - b) the applicant is considering a possible viewing before the funeral service at the Kalamunda Bowling Club;
 - c) the hearse would then travel to the Stirk Park Sound Stage, where the funeral service would be held;
 - d) a marquee would be set up in Stirk Park in case of inclement weather;
 - e) the hearse would then travel from Stirk Park back to the Kalamunda Bowling Club where reflection and a wake would take place; and
 - f) after a short time, the Funeral Directors would leave with the coffin and return to their premises, the family and mourners would stay for the wake.
11. In order to determine the full details of the Request, prior to making a determination, the City considered past requests of a similar nature, including attributes such as the proposed location, time frame and number of persons. The City also considered what kinds of conditions would be placed on another event (not being a funeral) of similar size and applied the same to the Request for comparison and Council's information.
12. Conditions that would be placed on any other private event in Stirk Park, where expected numbers were likely to be around 200+, would be as follows:
 - a) the applicant would be required to complete and return a '*Venue Hire Form*' and pay the relevant fees to secure the Stirk Park Sound Shell & surrounding area for private use;
 - b) if any electrical equipment was to be used, a licensed electrical contractor would need to complete a '*Certificate of Testing for Portable Electrical Equipment*';

- c) all flexible cords, portable outlet devices and residual current devices would require certification of testing and be tagged as such within 6 months of the event;
- d) electrical cabling would require management, or be kept away from the public;
- e) event related vehicles would not be allowed onto Stirk Park without permits pursuant to the *Shire of Kalamunda Local Government Property Local Law*, which would include strict conditions including appropriate marshalling into and out of the park to ensure the safety of the general public and event patrons;
- f) event noise, if amplified, would be required to be kept to within 85dB(A) as measures 1m from the microphone;
- g) Certificates of Structural Integrity would be required for any marquee or tent;
- h) a site plan of the event showing the proposed layout of the event noting all exits, toilets, stages, tents, marquees and the like would be required at least 14 days prior to the event;
- i) a parking plan showing the proposed locations of all event patron parking and how the organisers would manage parking on the day would be required at least 14 days prior to the event;
- j) an approved event notification letter would be required to be provided to all surrounding residents at least 14 days prior to the event and would specifically need to include details of the nature and times of the event and a contact telephone number that would be manned at all times during the event; and
- k) notification signage would need to be installed.

STATUTORY AND LEGAL CONSIDERATIONS

13. *Cemeteries Act 1986, Shire of Kalamunda Local Government Property Local Law*

POLICY CONSIDERATIONS

14. There is currently no applicable Council policy.

COMMUNITY ENGAGEMENT REQUIREMENTS

Internal Referrals

15. The City's Legal & Governance team considered and advised upon the Request.

External Referrals

16. Community Consultation has not been undertaken given there has been insufficient time to do so since receiving the Request and the determination that the Request would be considered by the Council via a Special Council Meeting.
17. The City has however consulted with other local governments in Western Australia to determine if they currently allow funerals in public places, and if so what considerations are given. The City also asked local governments if they had any policy position on similar matters.
18. The City of Gosnells advised they were not aware of any requests for funerals having ever been received in regard to any of their parks.
19. The City of Vincent advised they allow memorial services, but they do not allow coffins in the park.
20. The Shire of Serpentine Jarrahdale advised they do not have a policy. They advised however that there was one service held some years ago at Briggs Park Reserve.
21. The City of Mandurah has a Policy in place which establishes criteria to be taken into consideration in relation to the assessment of applications and approvals to conduct funeral services at Community Halls or within the City of Mandurah's parks and reserves. That policy allows funerals to take place at the following City of Mandurah community halls and reserves only:-
 - a) Old Mandurah Yacht Club
 - b) Marlee Reserve
 - c) Henry Sutton Grove
 - d) Lakes Lawn Cemetery – Pergola

It is noted that Marlee Reserve is near the Lakes Lawn Cemetery. The Old Mandurah Yacht Club and Henry Sutton Grove are also near one another.
22. The City of Mandurah policy sets out date and time parameters including that *'The approval for the funeral service at the requested time will be at the sole discretion of the City and it should be noted a service will only be approved between the hours of 9am and 3pm, Monday to Friday (excluding Public Holidays).'*
23. The City of Canning does not have a policy. The City did recently approve a funeral service at a riverfront location. Several conditions were imposed relating to parking, traffic management and access.
24. The City also contacted Councils in the Eastern States, with responses from the Fraser Coast Regional Council, Tweed Shire Council and Maroondah City Council as at the time of this report being finalised.

25. Fraser Coast Regional Council had an item go to Council on 26 June 2019 in regard to the use of parks for funeral services, following a resolution of Council on 28 November 2018 to approve a list of locations to be put to public consultation. Of 73 responses from the community consultation process in regard to the item;
- a) 35.62% of respondents supported funeral services being conducted in Parks, Reserves or Open Spaces, whilst 64.38% did not;
 - b) 26.76% supported the locations that Council advertised for funerals to be held in; and
 - c) 30.56% thought it was acceptable to have closed caskets present onsite during funeral services at the parks and reserves.
26. Ultimately, in the case of Fraser Coast, it was determined that a significant majority of respondents are against the concept of funerals in parks and a deeper analysis of written responses received provided that the majority of these concerns were tied directly to high profile/high visitation areas, specifically those areas immediately adjacent to their Esplanade, or other areas frequented by families for recreational purposes (i.e. playground, BBQs etc.).
27. Tweed Shire Council actively operates three park like Cemetery sites - Tweed Lawn Cemetery, Murwillumbah Lawn Cemetery and Tweed Valley Cemetery, incorporating the Tweed Valley Crematorium and Memorial Gardens. As such the Tweed Shire Council advised bookings are treated like any other booking, with the extra provisions of no open casket and ideally no coffin on site for services held in local parks.
28. Maroondah City Council advised they do not have a policy but sometimes have funeral services held at their Karralyka Conference and Performing Arts Centre in Ringwood.
29. In Victoria, the Mount Alexander Shire has received complaints about funerals in public parks, including one that was held close to a walking track at a public garden. The matter received media attention.

FINANCIAL CONSIDERATIONS

30. Not applicable

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

31. *Kalamunda Advancing Strategic Community Plan to 2027*

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

SUSTAINABILITY

Social Implications

- 32. The hosting of a funeral in a public place, such as Stirk Park, has the potential to have a negative impact on other community members who may attend the site on that day for other purposes, such as a birthday, picnic or playing in the playground and may not be comfortable to carry out their celebrations due to a funeral occurring in the space at the same time.

Economic Implications

- 33. Not applicable

Environmental Implications

- 34. Not applicable

RISK MANAGEMENT CONSIDERATIONS

35.	Risk: A funeral held in a public place, including Stirk Park, may cause community concern, complaints and deter use of local Parks and public places.		
	Likelihood	Consequence	Rating
	Action/Strategy		
	Decline applications for any funeral service in Stirk Park or any other public reserve until such time as the City has had the opportunity to provide Council with a proposed policy position for its consideration and the community has been adequately consulted.		

OFFICER COMMENT

- 36. Council must very carefully consider requests of this nature on balance with the wider community opinion, which at present has not been sought, nor received.
- 37. Predominantly, parks and reserves are used for passive or active recreation. In this regard, the City is required to manage and make reserves reasonably available for use by the public.
- 38. With all events of more than 200+ people, consideration needs to be given to a number of factors, which are assessed as a part of event applications, including traffic management, parking, risk management, provision of facilities and levels of noise.
- 39. It was noted in terms of comparison local governments, that of those who did allow funerals (Casket or not Casket) most operated only in school time, between 9am and 3pm week days only.

40. Many of the local schools in the Kalamunda District commence Term 3 on Tuesday 23 July 2019, with Monday 22 July 2019 being a non-school attendance day.
41. Research has identified mixed views across the Sector, with some Councils prohibiting casket funerals and others allowing them in consultation with the industry and community at appropriate locations.
42. A common theme with all Councils (casket or no casket) is that the activity of conducting a funeral in a park or reserve needs to be carefully located away from main thoroughfares and higher public use areas.
43. There appears to be a trend towards funerals being requested in public places, when previously they were held at Funeral Homes, in Cemeteries and in Churches.
44. A Council Policy is required to determine what considerations need to be given in each case and ensure there is a clear position on funerals in public places in the City of Kalamunda moving forward.
45. As referred to earlier, and very importantly in regard to this matter, the City has not undertaken any community consultation in regard to funerals in public places.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. REQUEST the Chief Executive Officer develop a Policy for Council consideration in regard to the holding of Funerals in Public Places and that be put to the public for its consideration.
2. REQUEST the Chief Executive Officer to undertake community consultation in regards to development of the policy.
3. DECLINE any requests to hold funerals in parks or other areas that are publicly accessible until such time that a Policy is developed.

Moved:

Seconded:

Vote: **LAPSED**

The published Recommendation was changed to include an additional point prior to the meeting. The Recommendation did not receive a mover and LAPSED.

Cr Giardina moved an alternative motion which received a seconder. Pursuant to r11(da) of the *Local Government (Administration) Regulations 1996*, the reason for the Council decision is it considered that this event is a celebration of the life of a highly respected community member and this application should be approved.

Voting Requirements: Simple Majority

RESOLVED SCM165/2019

That Council:

1. REQUEST the Chief Executive Officer develop a Policy for Council consideration in regard to the holding of Funerals in Public Places and that be put to the public for its consideration.
2. REQUEST the Chief Executive Officer to undertake community consultation in regard to development of the policy - Funerals in Public Places.
3. APPROVE the request to conduct a funeral service in Stirk Park, Kalamunda on Monday 22 July 2019 at 2.00pm, subject to acceptance of the following event conditions by the applicant:-
 - a) the completion and return a *'Venue Hire'* to secure the Stirk Park Sound Shell & surrounding area for private use;
 - b) completion of a *'Certificate of Testing for Portable Electrical Equipment'* by a licensed electrical contractor, if any electrical equipment is to be used;
 - c) all flexible cords, portable outlet devices and residual current devices require certification of testing and be tagged as such within 6 months of the event;
 - d) appropriate management of electrical cabling, or such cabling be kept away from the public;
 - e) the obtaining of permits for event related vehicles pursuant to the *City (Shire) of Kalamunda Local Government Property Local Law*, which would include strict conditions including appropriate marshalling into and out of the park to ensure the safety of the general public and event patrons;
 - f) event noise, if amplified, is required to be kept to within 85dB(A) as measures 1m from the microphone;
 - g) Certificates of Structural Integrity is required for any marquee or tent;
 - h) a site plan of the event showing the proposed layout of the event noting all exits, toilets, stages, tents, marquees and the like is required to be submitted to the City by 12.00pm Friday 19 July 2019;
 - i) a parking plan showing the proposed locations of all event patron parking and how the organisers would manage parking on the day is required to be submitted to the City by 12.00pm Friday 19 July 2019;
 - j) an approved event notification letter is required to be provided to all surrounding residents by 12.00pm Friday 19 July 2019, which is to

include details of the nature and times of the event and a contact telephone number that would be manned at all times during the event; and

- k) installation of notification signage.

Moved: **Cr John Giardina**

Seconded: **Cr Dylan O'Connor**

Vote:	<u>For</u>	<u>Against</u>
	Cr Stallard	Cr Boyd
	Cr Morton	
	Cr O'Donnell	
	Cr Lohmeyer	
	Cr O'Connor	
	Cr Blair	
	Cr Ritchie	
	Cr Thomas	
	Cr Giardina	

CARRIED (9/1)

9. Meeting Closed to the Public

9.1 Nil.

10. Closure

There being no further business, the Presiding Member declared the Meeting closed at 7:09pm.

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

Signed: _____
Presiding Member

Dated this _____ day of _____ 2019.