



SHIRE OF DERBY WEST KIMBERLEY

NOTICE OF COUNCIL MEETING

Dear Elected Member,

An Ordinary Meeting of the Council of the Shire of Derby West Kimberley is to be held on

Thursday, 30 June 2016
at
The Crossing Inn, Fitzroy Crossing
at
1:00pm

Stephen Gash
CHIEF EXECUTIVE OFFICER

Date: 23/06/2016

MINUTES

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Our Guiding Values

Respectful

By being helpful, friendly and supportive

Integrity

Through honesty, accountability and ethical behaviour

Leadership

By the Shire at the local and regional level and through encouragement of community leaders

Knowledgeable

By being well informed and accurate in what we do

Building Good Relationships

By being communicative, responsive and inclusive

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 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 Elected 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, setting and amending budgets.
Legislative:	Includes adopting local laws, town planning schemes and policies.
Review:	When Council reviews decisions made by Officers.
Quasi-Judicial:	When Council determines an application/matter that directly affects a person's rights and interests. The Judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits and licences (for example under the Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

ALTERNATIVE MOTIONS

Councillors wishing to make alternative motions to officer recommendations are requested to provide notice of such motions in written form to the Executive Manager Corporate Services prior to the Council Meeting.

DECLERATIONS OF INTERESTS

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. Section 5.60A of the Local Government Act states;

“a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.”

Section 5.60B states;

“a person has a proximity interest in a matter if the matter concerns –

- (a) a proposed change to a planning scheme affecting land that adjoins the person's land; or*
- (b) a proposed change to the zoning or use of land that adjoins the person's land; or*
- (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.”*

Regulation 34C (Impartiality) states;

“interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.”

2016 MEETING DATES

At its Ordinary Meeting of Council on 29 October, 2015, Council adopted the following meeting dates for 2016;

January			Council in recess
Thursday	25 February 2016	5.30 pm	Derby
Thursday	31 March 2016	1.00 pm	Fitzroy Crossing
Thursday	28 April 2016	5.30 pm	Derby
Thursday	26 May 2016	5.30 pm	Derby
Thursday	30 June 2016	1.00 pm	Fitzroy Crossing
Thursday	28 July 2016	5.30 pm	Derby
Thursday	25 August 2016	5.30 pm	Derby
Thursday	29 September 2016	1.00 pm	Community or Station (to be advised)
Thursday	27 October 2016	5.30 pm	Derby
Thursday	24 November 2016	1.00 pm	Fitzroy Crossing
Thursday	15 December 2016	5.30 pm	Derby

Council's Compliance and Strategic Review Committee and the Housing and Works Committee meet when required. Details of these meetings are advised as appropriate.

MEETING ATTENDANCE

The following table provides information on attendance at the 2015-2016 Ordinary and Special Council Meetings;

Councillor	30 Jul 2015	27 Aug 2015	24 Sept 2015	19 Oct 2015	29 Oct 2015	26 Nov 2015	17 Dec 2015	11 Feb 2016	25 Feb 2016	31 Mar 2016	28 Apr 2016	26 May 2016	30 Jun 2016
	OCM	OCM	OCM	SCM	OCM	OCM	OCM	SCM	OCM	OCM	OCM	OCM	OCM
E Archer	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
I Prouse	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
A Twaddle	✓	✓	✓	✓	✓	✓	✓	✓	✓	LOA	✓	✓	✓
J Oscar	✓	✓	LOA	A	✓	✓	A	✓	A	✓	✓	LOA	✓
A Kogolo	✓	✓	✓	A	A	✓	✓	A	✓	✓	A	A	✓
P White	Elected Oct 2015			✓	✓	✓	✓	✓	✓	✓	A	✓	✓
C Kloss	Elected Oct 2015			✓	A	✓	✓	✓	A	✓	✓	✓	✓
P Coggins	Elected Oct 2015			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
P McCumstie	Elected Oct 2015			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
C Travers	✓	✓	✓		Left Council 17 October 2015								

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 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 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 an elected member being disqualified should they be absent without leave for three consecutive meetings.

SHIRE OF DERBY WEST KIMBERLEY

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ORDINARY MEETING OF COUNCIL

MINUTES

1.0 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

The meeting was opened at 1.04pm by Cr. Elsia Archer.

2.0 RECORD OF ATTENDANCE

ELECTED MEMBERS:

Cr E Archer	Shire President
Cr P White	Deputy Shire President
Cr I Prouse	Councillor
Cr A Twaddle	Councillor
Cr J Oscar	Councillor
Cr P Coggins	Councillor
Cr P McCumstie	Councillor
Cr C Kloss	Councillor
Cr A Kogolo	Councillor

STAFF:

Mr S Gash	Chief Executive Officer
Mr W Neate	Executive Manager Technical and Development Services
Mr B Isbister	Executive Manager Community Development
Mr N Myers	Town Planner
Mr R Sullivan	Manager Commercial Services

VISITORS:

Mr Corey Aksenov	Director DnC Catering
Mr Joe Ross	DnC Catering (Support)

GALLERY:

Nil

APOLOGIES:

Mr M Cuthbert	Executive Manager Corporate Services
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ON LEAVE OF ABSENCE:

Nil

ABSENT:

Nil

3.0 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

3.1 MR. CHRIS TRAVERS – DERBY TOWNSITE

QUESTION 1:

The footpath in front of the Chinese Restaurant on Loch Street is in a state of disrepair with plants growing over the path creating a hazard. I believe this is the Shire's responsibility to maintain, if so will it be maintained?

RESPONSE:

Yes it is the Shire's responsibility to maintain and yes, work to clean up the footpath, trim the plants and repair garden beds will occur in the very near future.

QUESTION 2:

The area adjacent to the ANZ bank on Hardman Street has a very poor visual appearance with several dead palm trees. Will the Shire remediate the area?

RESPONSE:

The Shire has removed the two dead palm trees in the area indicated and is currently in the process of writing to the ANZ bank to ascertain what they wish to do with the area. We will be able to inform you of the outcome of these discussions in the near future.

4.0 PUBLIC QUESTION TIME

4.1 MR. JOE ROSS

QUESTION 1:

Is Council aware of the safety issues that exist at the Russ Rd/Geikie Gorge Rd intersection? Current alignment is unsafe and needs some modification. I intend to write making a formal request for the matter to be addressed.

RESPONSE:

Mr. W Neate: Currently a road safety audit is being undertaken of the intersection in question that will be used in support of a Black Spot funding application. If the Black Spot application is successful the work on this intersection will occur in the 2017/2018 financial year.

QUESTION 2:

Would Council be open to varying the requirements for future seasonal short stay development at Darlganaya having FFL's below that are stipulated in the Floodplain Management Strategy (FMS)?

RESPONSE:

Mr. N Myers: The FFL as stipulated by the FMS is the default position and any variation to that needs to be considered on its individual merits.

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6.0 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS**6.1 COREY AKSENOV AND JOE ROSS – ITEM 12.4.1 DNC CATERING**

Mr. Corey Aksenov, DnC Catering, addressed Council on Item 12.4.1 to seek support and provide information on his business. Mr. Aksenov spoke of the support DnC Catering had from other businesses around Fitzroy Crossing and his belief that he provided no competition to other businesses.

Mr. Joe Ross attended as a support person for DnC Catering and spoke of his support of the proposal and future options it provided for D.P.A.W.

7.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**MINUTE NO. 062/2016****Moved: Cr P McCumstie****Seconded: Cr J Oscar**

That the Minutes of the Ordinary Meeting of the Shire of Derby West Kimberley held at the Council Chambers, Derby, on 26 May 2016 be confirmed.

CARRIED 9/0**8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

Nil

9.0 DECLARATION OF MEMBERS INTERESTS

Section 5.65 and 5.70 of the Local Government Act requires a Member or Officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Member or Officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

A Member who makes a disclosure under Section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allows a Member to speak, the extent of the interest must also be stated.

9.1 DECLARATIONS OF FINANCIAL INTERESTS – LOCAL GOVERNMENT ACT 5.60A

9.2 DECLARATIONS OF PROXIMITY INTERESTS – LOCAL GOVERNMENT ACT 5.60B

9.3 DECLARATIONS OF IMPARTIALITY INTERESTS – ADMIN. REGULATIONS SECTION 34C

Cr P McCumstie declared an Impartiality Interest in Item 12.4.1

Cr C Kloss declared an Impartiality Interest in Item 12.4.2

Cr A Kogolo declared an Impartiality Interest in Item 12.4.3

10. MATTERS FOR WHICH MEETING MIGHT BE CLOSED

(Note: The matters that may be listed here are those considered by a Councillor or Councillors as being in addition to the items already identified by staff as needing to be considered behind closed doors.)

11. RECOMMENDATIONS AND REPORTS OF COMMITTEES

12.0 REPORTS

12.1 EXECUTIVE SERVICES

12.2 CORPORATE SERVICES

12.2.1 ACCOUNTS FOR PAYMENT

Location/Address:	N/A
Name of Applicant/Owner:	N/A
File Reference:	FM/28
Author:	Santhosh Nair, Creditors Officer
Interest Disclosure:	Nil
Date of Report:	20 June 2016
Attachments:	Cheque Reconciliation and Schedule of Accounts

SUMMARY:

The purpose of this report is to provide details of cheques drawn and direct debit entries made to Council's bank accounts during the month to be noted by Council and formally recorded.

BACKGROUND:

Each month the accounts for payment made from the Municipal and Trust funds of the local government are presented to Council for endorsement.

STATUTORY ENVIRONMENT:

Regulation 13 – Local Government Financial Management Regulation (1996) Section 13.

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

Nil

CONSULTATION:

N/A

COMMENT:

In accordance with Regulation 13, schedules of all payments made through Council's bank accounts are to be presented to Council for inspection. The list includes details for each account paid incorporating:-

- (a) payee's name
- (b) amount of the payment
- (c) date of payment
- (d) sufficient information to identify the transaction

Invoices supporting all payments are available for inspection at the Council's Administration Office.

Payments totalling **\$2,217,513.05** made as per the attached cheque reconciliation summary and creditors schedule of accounts reports.

Creditor's outstanding as at 31 May 2016 is \$463,619.83

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:**MINUTE NO. 063/2016**

Moved: Cr I Prouse		Seconded: Cr A Twaddle
That Council receives the list of payments:		
EFT Payments	EP#39275 - EP#39547	\$1,696,953.78
Municipal Cheques	54496 - 54507	\$41,902.01
Trust Fund Cheques	6371-6377	\$17,188.28
Direct Debits	Payroll	\$64,925.11
Direct Debits	Fees and Charges	\$396,543.87
Total value for the period ending 31 May 2016 is \$2,217,513.05		
CARRIED 9/0		

12.2.2 MONTHLY FINANCIAL MANAGEMENT REPORT MAY 2016

File Reference:	5152 – Monthly Financial Reports
Author:	Myra Henry, Senior Finance Officer
Interest Disclosure:	Nil
Date of Report:	20 June 2016
Attachment:	Monthly Financial Report May 2016

SUMMARY:

The purpose of this report is to present the May 2016 Monthly Financial Report to Council. This report incorporates the Statement of Financial Activity as required by the Local Government Act 1995.

BACKGROUND:

The following reports are for Council's adoption for the period ending 31 May 2016:

- Statement of Financial Activity for the Month
- Notes to and forming part of the Statement of Financial Activity:
 1. Net Current Asset Position
 2. Identification of Material Variances
 3. Schedule of Committed Assets and Restricted Assets
- Statement of Financial Activity by Nature/Type
- Schedule of Investments
- Visual Graph displaying Net Current Asset Position
- Rates Outstanding Report
- Sundry Debtors Outstanding Report
- Statement of Financial Position
- Bank Reconciliation
- Visual Graphs displaying Operating and Capital Income and Expenditure

STATUTORY ENVIRONMENT:

The Local Government (Financial Management) Regulations 1996 Section 34 requires that a local government prepare and adopt each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail;

- a) annual budget estimates;
- b) budget estimates to the end of the month;
- c) actual amounts of expenditure to the end of the month; and
- d) material variances between b) and c);
- e) the net current assets at the end of the month to which the statement relates.

Each statement of financial activity is to be accompanied by documents containing;

- a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
- b) an explanation of each of the material variances referred to in sub-regulation (1)(d); and
- c) such other supporting information as is considered relevant by the local government.

The information in a statement of financial activity may be shown according to nature and type classification; or by program; or by business unit. Each financial year, a local government is to adopt a percentage, or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
4: Good Governance and an effective organisation.	4.1: Effective Governance and Leadership.	4.1.4: Ensure governance policies and procedures are in accordance with legislative requirements.

CONSULTATION:

Nil

COMMENT:

Nil

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

MINUTE NO. 064/2016

Moved: Cr P McCumstie

Seconded: Cr P White

That the Monthly Financial Management Report incorporating the Statement of Financial Activity for the month of May 2016 be adopted by Council.

CARRIED 9/0

12.2.3 PROPOSED LEASE – HELIDOC PTY LTD

Location/Address:	Lease Area 4, Fitzroy Crossing Airport
Name of Applicant/Owner:	Anthea Henwood, Helidoc Pty Ltd
File Reference:	A300098
Author:	Ross Sullivan
Interest Disclosure:	NIL
Date of Report:	22 June 2016
Attachment:	Fitzroy Crossing Airport Lease Area 4 Map

SUMMARY:

This item seeks Council endorsement for a proposed lease of Lease Area 4 at the Fitzroy Crossing Airport between the Shire of Derby/West Kimberley and Anthea Henwood of Helidoc Pty Ltd (Helidoc). There has been an absence of executed lease arrangements for various parcels of land at Fitzroy Airport for an extended time which has created a lack of certainty for operators and the Shire alike. Bringing these areas into formal leases will provide certainty and security of tenure to businesses and consistency across Shire lease areas.

BACKGROUND:

Helidoc operates All North Helicopters (helicopter charter and survey) with bases at Fitzroy Crossing and Derby Airports. The proponent also holds a lease at Derby Airport through Fitzroy Heli Maintenance Pty Ltd.

Initially commencing as BB Helicopters, Helidoc has operated from Lease Area 3 since 1994. Helidoc acquired Lease Area 4 through purchase of a hangar located on the site from John Mitchell in July 2012 and subsequently assumed occupancy of the site while also continuing to operate from Lease Area 3.

Until recently, Helidoc also operated Fitzroy Helicopters which it sold to Dan Elliot of DJ Helicopters (trading as Fitzroy Helicopters) in April 2015 whereupon they entered into a sublease arrangement of Lease Area 3 from Helidoc from that time. The validity of this arrangement is questionable given that Helidoc does not have a current lease in place for Lease Area 3 to provide assignment thereof. DJ Helicopters is currently in negotiations to create a lease directly with the Shire.

STATUTORY ENVIRONMENT:

Section 3.58 of the Local Government Act 1995 (the Act) governs the disposal of property and if the Council endorses this proposal, Shire officers will be required to proceed in accordance with the Act.

The Occupiers Liability Act (1985) prescribes the standard of care owed by occupiers and landlords of premises to persons and property on the premises.

POLICY IMPLICATIONS:

Council Policy AF 35 – Establishment of Leases and User Agreements, outlines the Council's requirement that all entities occupying Shire controlled premises do so by virtue of a lease agreement with the Shire.

FINANCIAL IMPLICATIONS:

It is proposed that the Lessee shall pay expenses including:

1. All service charges (including charges for water, gas, electricity, telephone, sewage and waste disposal) whether charged by the Shire of Derby/West Kimberley or otherwise; and
2. Council's costs associated with the preparation, negotiation and execution of the proposed lease including surveying, valuation, advertising and Councils solicitor's fees.

Council will derive rental income through an annual lease fee. Earlier this year the Shire commissioned and subsequently received a formal valuation of Lease Area 3 at Fitzroy Crossing Airport dated 8th February 2016. Given the proximity and similarity of land use of Lease Area 3 and Lease Area 4, rather than undertaking a separate valuation this report will form the basis of determining the valuation to progress a lease.

As per the February 2016 valuation's Market Rental Assessment on a Ground Lease Unimproved basis, a rate per square metre of land area of \$5.50 applied against the 750sq metre area would yield an annual lease payment of \$4,125 (ex GST).

STRATEGIC IMPLICATIONS:

A Strong and Diverse Local Economy – A strong local economy that is supported by a broad industry base with opportunities for business development and employment'

GOAL	OUTCOME	STRATEGY
3: A strong and diverse local economy	3.4: Appropriate infrastructure that supports economic development	3.4.1: Promote release of serviced industrial, commercial and residential land

CONSULTATION:

Shire Officers have been in discussions with Helidoc with regard to proposed terms and conditions of leases for Lease Area 4 and has requested a lease term of 10 years with a further term of 10 years.

COMMENT:

Helidoc Pty Ltd have occupied Lease Area 4 at the Fitzroy Crossing Airport since July 2012 without any formal lease agreement and would like to secure tenure at the airport and continue to grow the business providing air services to the Fitzroy Crossing area and West Kimberley region generally.

VOTING REQUIREMENT:

Absolute majority.

OFFICER RECOMMENDATION:**MINUTE NO. 065/2016**

Moved: Cr A Twaddle

Seconded: Cr C Kloss

That the Council;

1. Delegate authority to the Chief Executive Officer to commence the process of disposition of property in accordance with Section 3.58 of the Local Government Act by giving local public notice of its intention to Lease Area 4 at the Fitzroy Crossing Airport to Helidoc Pty Ltd.
2. Subject to no objections being received by the close of the submission period, Council delegate authority to the Chief Executive Officer to finalise a lease which will include the following:
 - (i) Lease term of 10 years with a further term of 10 years;
 - (ii) Lessee to pay for all costs associated with preparing the lease including but not limited to legal, advertising and survey fees;
 - (iii) Rental based on an independent market rental valuation and reviewed annually on the anniversary of the commencement date;
 - (iv) No overnight accommodation is permitted.
3. Delegate authority to the Chief Executive Officer to negotiate any lease wording and variations other than the advertised price and points 2(i-iv) above.

- 4. Delegates authority to the Chief Executive Officer and Shire President to sign and affix the Common Seal to the lease agreement between the Shire of Derby West Kimberley and Helidoc Pty Ltd for Lease Area 4 at the Fitzroy Crossing Airport.**

CARRIED 9/0

CARRIED BY AN ABSOLUTE MAJORITY

12.3 TECHNICAL SERVICES

12.3.1 AWARDING OF TENDER T4-2016 CLEANING OF SHIRE OFFICE BUILDINGS

Location/Address:	N/A
Name of Applicant/Owner:	Shire of Derby/West Kimberley
File Reference:	0450
Author:	Wayne Neate – Executive Manager of technical and Development Services
Interest Disclosure:	Nil
Date of Report:	20 June 2016
Attachments:	Confidential Price Schedule (provided under separate cover)

SUMMARY:

This item is for Council to consider the awarding of tender T4-2016 being the cleaning of various Shire owned office buildings.

BACKGROUND:

As per Council's future adoption of the 2016/17 budget tender documents were prepared for the cleaning of various Council owned office buildings. The tender was duly advertised and twelve requests were made for the documents.

At the tender closing time, 2.00pm on the 8th of June 2016, seven submitted tender proposals for the Shire to consider were received from the following companies;

- Pilbara Cleaning & Gardening Services
- Golden Fern Enterprises
- Derby Cleaning Services
- Pioneer Facility Services
- Kimberley Cleaning
- Lalgardi Enterprises
- Skippers Cleaning

STATUTORY ENVIRONMENT:

Local Government Act 1995 – 3.57 Tenders for the providing goods or services and Local Government (Functions and General) Regulations 1996 Part 4 Tenders for providing goods or services.

POLICY IMPLICATIONS:

Section 8 – Purchase of Goods and Services – Regional Price preference policy AF33.

FINANCIAL IMPLICATIONS:

Amount will have to be allowed for in 2016/17 and 2017/18 budgets as the contract is for two years. Prices shown in confidential attachment are for one year only.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
2. A balance between the natural and built environment – sustainable environment that meets the needs of the community and supports growth.	2.6 Shire buildings and facilities that meet community needs	2.6.2 Ensure Shire buildings, facilities and public amenities are provided and maintained to an appropriate standard

CONSULTATION:

Tender T4-2016 being the Cleaning of various Shire office buildings was advertised in local and state-wide newspapers, with the tender closing 2.00pm on Wednesday 8th June 2016.

The advertised Tender allowed for a minimum of fourteen days for individuals or companies to submit tenders, which included the opportunity to view and inspect the buildings within the tender.

COMMENT:

We recommend the tender be awarded to the contractor with the highest average score given by three assessors, using the Approved Tender Scoring Criteria that falls within the allocated budget.

The Regional Price Preference Policy AF33 was applied to the price submitted by;

- Golden Fern Enterprises
- Derby Cleaning Services
- Lalgardi Enterprises
- Skippers Cleaning

The criteria and weighting for this tender were as follows;

Criteria	%
Track History and Record	30
Key Personnel and Experience	25
Tenderer's Resources	20
Price	25

A score summary is shown below;

Pilbara Cleaning & Gardening Services	C1							
Golden Fern Enterprises	C2							
Derby Cleaning Services	C3							
Pioneer Facility Services	C4							
Kimberley Cleaning	C5							
Lalgardi Enterprises	C6							
Skippers Cleaning	C7							
		C1	C2	C3	C4	C5	C6	C7
Track History & Record 30%	Weighted Score	20.7	5.0	19.3	17.3	20.7	18.3	24.0
Skills & Experience 25%	Weighted Score	5.0	4.7	13.7	16.7	18.7	16.0	19.0
Resources 20%	Weighted Score	7.0	4.0	10.0	15.0	15.0	15.0	15.0
Total non-price (qualitative) criteria	Total out of 75%	32.7	13.7	43.0	49.0	54.4	49.3	58.0
Normalised Price	25%	10.9	24.8	11.2	25.0	7.4	23.8	17.0
Totals	100%	43.6	38.5	54.2	74.0	61.8	73.1	75.0
		BEST OVERALL TOTAL						

Pilbara Cleaning and Gardening Services along with Golden Fern Enterprises lacked a lot of detail within their respective tenders that shows within the scores shown above.

Officers have worked with the three highest ranked tenderers, with Lalgardi Enterprises currently undertaking this contract and Pioneer Facility services holding the contract for cleaning other Shire facilities. Lalgardi Enterprises and Pioneer Facility services have had issues with staffing and performance under the current contracts with certain contractual obligations not being met. It is proposed that meetings be held with the successful contractor to ensure that all parties are clear on their obligations prior to commencement of the new contract.

Skippers Cleaning have undertaken the cleaning of houses after vacating and also before incoming tenants arrive, they have also been undertaking the cleaning of the

Consultant/Councillor unit on Clarendon Street. Staff have found the work to be of a high standard and the Skippers management easy to work with.

Of the three highest scoring tenders the following discounts are being offered from;

- Lalgardi Enterprises – If awarded both Tenders a 5% discount will be offered on the combined price.
- Pioneer Facility Services – If awarded both Tenders a 2% discount will be offered on the combined price.

For Council's information the current contract has been extended till the end of July to allow a smooth transition should the current contractor not be awarded the contract.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

MINUTE NO. 066/2016

Moved: Cr P White

Seconded: Cr P Coggins

That Council awards Tender T4-2016 being the cleaning of Shire office buildings to Skippers Cleaning for the period of 1st August 2016 to the 30th June 2018.

CARRIED 9/0

12.3.2 AWARDING OF TENDER T5-2016 CLEANING OF VARIOUS SHIRE FACILITIES

Location/Address:	N/A
Name of Applicant/Owner:	Shire of Derby/West Kimberley
File Reference:	0450
Author:	Wayne Neate – Executive Manager of technical and Development Services
Interest Disclosure:	Nil
Date of Report:	21 June 2016
Attachments:	Confidential Price Schedule (provided under separate cover)

SUMMARY:

This item is for Council to consider the awarding of tender T5-2016 being the cleaning of various Shire owned facilities within Derby.

BACKGROUND:

As per Council's future adoption of the 2016/17 budget tender documents were prepared for the cleaning of various Council owned facilities being the Derby Airport, public toilets, swimming pool, recreation centre and the like. The tender was duly advertised and twelve requests were made for the documents.

At the tender closing time, 2.00pm on the 8th of June 2016, six submitted tender proposals for the Shire to consider were received from the following companies;

- Pilbara Cleaning & Gardening Services
- Golden Fern Enterprises
- Pioneer Facility Services
- Kimberley Cleaning
- Lalgardi Enterprises
- Skippers Cleaning

STATUTORY ENVIRONMENT:

Local Government Act 1995 – 3.57 Tenders for the providing goods or services and Local Government (Functions and General) Regulations 1996 Part 4 Tenders for providing goods or services.

POLICY IMPLICATIONS:

Section 8 – Purchase of Goods and Services – Regional Price preference policy AF33.

FINANCIAL IMPLICATIONS:

Amount will have to be allowed for in 2016/17 and 2017/18 budgets as the contract is for two years. Prices shown in confidential attachment are for one year only.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
2. A balance between the natural and built environment – a sustainable environment that meets the needs of the community and supports growth.	2.6 Shire buildings and facilities that meet community needs	2.6.2 Ensure Shire buildings, facilities and public amenities are provided and maintained to an appropriate standard

CONSULTATION:

Tender T4-2016 being the Cleaning of various Shire office buildings was advertised in local and state-wide newspapers, with the tender closing 2.00pm on Wednesday 8th June 2016.

The advertised Tender allowed for a minimum of fourteen days for individuals or companies to submit tenders, which included the opportunity to view and inspect the buildings within the tender.

COMMENT:

It is the recommendation of the administration that the tender be awarded to the contractor with the highest average score given by three assessors using the Approved Tender Scoring Criteria that falls within the allocated budget.

The Regional Price Preference Policy AF33 was applied to the price submitted by;

- Golden Fern Enterprises
- Derby Cleaning Services
- Lalgardi Enterprises
- Skippers Cleaning

The criteria and weighting for this tender were as follows;

Criteria	%
Track history and Record	30
Key Personnel and Experience	25
Tenderer's Resources	20
Price	25

A score summary is shown below;

Pilbara Cleaning & Gardening Services	C1						
Golden Fern Enterprises	C2						
Pioneer Facility Services	C3						
Kimberley Cleaning	C4						
Lalgardi Enterprises	C5						
Skippers Cleaning	C6						
		C1	C2	C3	C4	C5	C6
Track History & Record 30%	Weighted Score	20.3	5.0	17.3	20.7	18.3	24.0
Skills & Experience 25%	Weighted Score	5.0	4.7	16.7	18.7	16.0	19.0
Resources 20%	Weighted Score	7.0	4.0	15.0	15.0	15.0	15.0
Total non-price (qualitative) criteria	Total out of 75%	32.3	13.7	49.0	54.4	49.3	58.0
Normalised Price	25%	11.3	16.6	15.1	4.4	25.0	14.6
Totals	100%	43.6	30.3	64.1	58.8	74.3	72.6
		BEST OVERALL TOTAL					

Pilbara Cleaning and Gardening Services along with Golden Fern Enterprises lacked a lot of detail within their respective tenders that shows within the scores shown above.

Officers have worked with the three highest ranked tenderers, with Pioneer Facility services currently undertaking this contract and Lalgardi Enterprises holding the contract for cleaning Shire office buildings. Lalgardi Enterprises and Pioneer Facility services have had issues with staffing and performance under the current contracts with certain contractual obligations not being met. It is proposed that meetings be held with the successful contractor to ensure that all parties are clear on their obligations prior to commencement of the new contract.

Skippers cleaning have undertaken the cleaning of houses after vacating and also before incoming tenants arrive, they have also been undertaking the cleaning of the

consultant/Councillor unit on Clarendon Street. Staff have found the work to be of a high standard and the Skippers management easy to work with.

Of the three highest scoring tenders the following discounts are being offered from;

- Lalgardi Enterprises – If awarded both Tenders a 5% discount will be offered on the combined price.
- Pioneer Facility Services – If awarded both Tenders a 2% discount will be offered on the combined price.

For Councils information the current contract has been extended to the end of July to allow a smooth transition should the current contractor not be awarded the contract.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

MINUTE NO. 067/2016

Moved: Cr A Twaddle

Seconded: Cr I Prouse

That Council awards Tender T5-2016 being the cleaning of Various Shire facilities to Lalgardi Enterprises Cleaning for the period of 1st August 2016 to the 30th June 2018.

CARRIED 9/0

12.4 DEVELOPMENT SERVICES

Cr P McCumstie declared an Impartiality Interest in Item 12.4.1

1:35pm Cr P McCumstie left the room and did not participate in the discussion or vote on the Item.

12.4.1 APPLICATION FOR TRADERS PERMIT – DNC CATERING

Location/Address:	Nine specified locations within the Fitzroy Crossing town site
Name of Applicant/Owner:	Corey Aksenov
File Reference:	7072 Permits - Traders
Author:	Caitlin Levey, Environmental Health Officer
Interest Disclosure:	Nil
Date of Report:	21 June 2016
Attachments:	Trading Proposal from DNC Catering, DNC Catering Pty Ltd Food Act Certificate of Registration, Current Monthly Traders Permit for DNC Catering Pty Ltd, Objection Letters, Map of Fitzroy Crossing

SUMMARY:

The purpose of this agenda item is for Council to consider an application by Mr Corey Aksenov, proprietor of the registered mobile food premises DNC Catering, to operate the mobile food business selling coffee and various take-away snacks and pre-packaged food from 9 specified locations within the Fitzroy Crossing town site.

It is recommended that Council approves the application with conditions.

BACKGROUND:

The mobile food business, DNC Catering Pty Ltd, is currently registered as a Low Risk Food Business with the City of Gosnells. As per the current registration certificate, the business is permitted to sell tea, coffee cold drinks, pies, sausage rolls, hot dogs, sandwiches and baked potatoes from a vehicle with the registration 1DCC 109. The extent of food operations that are permitted to occur within the mobile food business include:

- Preparing hot and cold drinks;
- Reheating pies, sausage rolls and sandwiches; and
- Assembling hot dogs and baked potatoes with toppings.

Over the past two months, DNC Catering Pty Ltd has been approved to trade at various events being held within Fitzroy Crossing including the CKFL games, Junior Football games, Crossing Inn Markets and the markets held at the Fitzroy Crossing Visitor Centre. In addition a monthly Traders Permit has also recently been granted to DNC Catering that permits the business to sell coffee and snacks to passengers on the Greyhound Bus Service when it pulls into the Fitzroy Crossing Visitors Centre at 11.00pm and 1.15am.

On the 23rd May 2016, a trading proposal for DNC Catering Pty Ltd was received from Mr Aksenov. The proposal outlined the proprietor's plan to trade at various businesses and facilities within Fitzroy Crossing with the intention of serving staff at these sites. The original proposal lacked detailed information regarding trading locations and times. A more detailed submission, which included written permission from some of the owners/occupiers of Mr Aksenov's proposed trading sites was subsequently requested. On the 7th June 2016 Mr Aksenov submitted a more thorough proposal that detailed his intention to trade from various sites and businesses within Fitzroy Crossing for approximately fifteen to forty-five minutes at a time, Monday to Friday. The proposed locations and approximate times for trading are outlined below:

Location	Hours
Fitzroy Crossing Football Oval	7.00 am
Fitzroy Crossing Police Station	7.30 am
Nindilingarri Cultural Health Services	8.30 am
Fitzroy Crossing Waste Management Facility	9.15 am
Mac's Mechanical, Emanuel Way	9.45 am
Crossing Auto & Towing, Bell Road	10.00 am
Fitzroy Crossing Hospital Car Park	10.15 am
Nindilingarri Cultural Health Services	10.30 am
Men's Shed, Bell Road	11.30 am
Fitzroy Crossing Visitors Centre	12.00 pm
Fitzroy Crossing Hospital Car Park	1.00 pm

As part of the proposal, an email was received from Alan Scott; CEO of Fitzroy Valley Men's Shed that outlined his support for DNC Catering to trade from the Men's Shed.

An email was also received from Hayden McCumstie, Supervisor of Waste Services Toxfree that outlined Toxfree’s support for DNC Catering in Fitzroy Crossing.

Although no written confirmation was received from Mac’s Mechanical or Crossing Auto & Towing, signatures from staff at these sites do appear on the movement sheet submitted by Mr Aksenov as part of his proposal.

STATUTORY ENVIRONMENT:

- *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*
- *Food Act 2008*
- Australian New Zealand Food Standards Code
- Planning control in Fitzroy Crossing is implemented via Interim Development Order No.8 (IDO No.8) and reference to the endorsed Fitzroy Futures Town Plan (FFTP) which is a policy based approach to land use planning.

POLICY IMPLICATIONS:

Council Policy H2 Traders and Stallholders Permits assist Council in determining suitability of applications in relation to Council’s Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

FINANCIAL IMPLICATIONS:

An annual fee of \$1,545 per financial year is applied to Traders Permits.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
1: Community wellbeing	1.2: Public Health and environmental health protection	1.2.3: Undertake food safety and public health promotion

CONSULTATION:

During the assessment of the trading proposal received by the Environmental Health section, the Shire’s Planner, Acting Manager of Development Services and Fitzroy Crossing Area Manager were engaged.

The Applicant, Mr Aksenov was also consulted on various occasions throughout the application process.

As per the Shire’s Traders and Stallholders Policy, a formal letter with notice of DNC Catering’s trading proposal was sent to relevant permanent food businesses and the owners/occupiers of the proposed trading sites. Written comments to the proposal were invited within a 10 day timeframe. By the close of the consultation period, three objections were received that raised some areas of concern relating to traffic and pedestrian safety; the already limited car parking spaces at certain locations; the fragility of the existing food business sector in Fitzroy Crossing, and the questionable need for another food business in Fitzroy Crossing. Copies of the letters of objection are attached.

A telephone conversation with the Operations Manager of Derby and Fitzroy Valley Health Services on 21st June 2016 confirmed that they were still in the process of determining if they would permit DNC Catering to attend the Fitzroy Crossing Hospital/ Nindilingarri car park to trade.

COMMENT:

The proposal to trade from a number of the nominated locations around the town site raises several concerns from an amenity and safety perspective that are discussed below;

Location	Officer Comment	Recommendation
Fitzroy Crossing Police Station	Landowner has refused permission.	Location not supported
Fitzroy Crossing Football Oval	<p>The town oval provides an area which satisfies the requirements of the <i>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law</i>. The parking area inside facility (off Fallon Rd) provides suitable space for the mobile food premises to park and operate. Customers accessing the location by car or foot could do so safely.</p> <p>Community and sporting events are often held at the Town Oval. Many of the sporting clubs/organisations also operate a canteen or kiosk at the event for the purpose of fundraising. Allowing DNC Catering to trade at this location, outside of pre-approved event trading, could impinge on fundraising opportunities for the</p>	<p>Location support with the following conditions:</p> <p>Trading is not permitted during pre-booked events or sporting games being held at the Town oval (unless permission is granted from the event manager or sporting club).</p> <p>Trading is restricted to Monday-Friday mornings from the hours of 7am – 10am to have minimal financial impact on the existing permanent retail base.</p>

	organisations or clubs and clash with events held at the facility.	
Fitzroy Crossing Hospital Car Park	Landowner has not approved trading from this location.	Location not supported at this stage. DNC Catering Pty Ltd must obtain written permission from the Operations Manager of the Fitzroy Crossing Hospital. This approval must be forwarded to SDWK's Environmental Health Section for confirmation.
Nindilingarri Cultural Health Services	As above.	Location not supported DNC Catering Pty Ltd must obtain written permission from the Operations Manager of the Fitzroy Crossing Hospital. This approval must be forwarded to SDWK's Environmental Health Section for confirmation.
Fitzroy Crossing Waste Management Facility	As per Council Policy H2- Traders and Permits, Policy (4) Trading activities should be appropriate to the character and functions of the area in which they are proposed to be located. Allowing a food business to trade at this industrial location would not be consistent with this policy. In addition as per Council Policy H2- Traders and Permits, Policy (10), In assessing an application for a licence to trade in food, the Council will consider the suitability of the proposed site for that purpose, having particular regard to health requirements and standards or any other matter considered necessary for the satisfactory operation of the activity. Given the nature of land use of this location and open nature of the DNC Catering food	Location not supported

	van, dust and other contaminants could be considered to pose a food contamination risk.	
Mac's Mechanical, Emanuel Way	<p>In accordance with clause 6.8 (2) (a) of the <i>Activities on Thoroughfares and Trading in thoroughfares and Public Places Local Law</i>, a trader shall not attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the trader. This location is within 300m of the food business, Shell Roadhouse which currently provides both take-away coffee and take-away food items. The proposed trading hours would conflict with the operating hours of the Shell Roadhouse.</p> <p>An application for the development of land on Emanuel Way which included a food business has also been received by the Shire of Derby/West Kimberley and the matter is included as an Agenda Item for this meeting.</p>	Location not supported
Fitzroy Crossing Visitors Centre	<p>As above.</p> <p>The proposed operating hours would also conflict with the operating hours of food business, BP Ngilyali.</p>	Location not supported
Crossing Auto & Towing, Bell Road	In addition, the proposed location would conflict with the operating hours of food businesses IGA and Fitzroy Tasty Tucker.	Location not supported
Men's Shed, Bell Road	As above.	Location not supported
Derby and Fitzroy Valley Health Services (Late submission)	The operations manager of Fitzroy Crossing Health Services	Location supported with the following conditions:

received on the 27 th June 2016)	<p>has not opposed DNC Catering from trading at the Fitzroy Crossing Hospital. However an agreement must be met between the operator and Fitzroy Valley Health Services.</p> <p>The hospital provides an area which satisfies the requirements of the <i>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law</i>.</p>	<p>DNC Catering Pty Ltd must undertake a formal agreement and arrangement with Fitzroy Valley Health Services in order to trade at the Fitzroy Crossing Hospital. A written copy of this agreement must be forwarded onto the Shire of Derby/West Kimberley before permission to trade at this location can be granted.</p>
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It is also recommended that the initial approval of the Traders Permit be limited to three months, during which time the trading will be monitored by the Shire's authorised officers. After the three month timeframe, the approval is to be reassessed by Council. The initial three month trading may be cancelled if the Permit Holder fails to comply with the Permit Conditions or the trading activities or are considered to be causing a detrimental impact to surrounding amenities and/or land users.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

Moved: Cr C Kloss

Seconded: Cr P White

- 1. Pursuant to Division 1, clause 6.5, subclause 1 of the Local Law, it is recommended that Council approves the application for a Traders Permit with conditions.**
- 2. Pursuant to Division 1, clause 6.6, subclause 1 of the Shire of Derby/West Kimberley's *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Law*. It is recommended that Council consider the following conditions:**
 - a. Trading be restricted to the Fitzroy Crossing Town Oval, Monday-Friday between the hours of 7am – 10am.**
 - b. Trading will not be permitted at the Town Oval during community or sporting events being held at the Town Oval which DNC Catering is not associated with.**
 - c. The initial period for which the Traders Permit is granted is 3 months. The approval to extend the permit is to be reassessed by Council.**

d. If trading activities of DNC Catering are considered to be causing a nuisance or having a detrimental impact on the surrounding amenities, the Council may rescind the approval for a Traders Permit.

RECOMMENDATION AMENDED

Reason for Change to Officer Recommendation:

Due to a late submission from the Operations Manager of the Derby and Fitzroy Valley Health Services the Officer Recommendation has been amended to include a further condition on the Traders Permit.

NEW OFFICER RECOMMENDATION / COUNCIL DECISION:

MINUTE NO. 068/2016

Moved: Cr C Kloss

Seconded: Cr J Oscar

1. Pursuant to Division 1, clause 6.5, subclause 1 of the Local Law, it is recommended that Council approves the application for a Traders Permit with conditions.

2. Pursuant to Division 1, clause 6.6, subclause 1 of the Shire of Derby/West Kimberley's *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Law*. It is recommended that Council consider the following conditions:

a. Trading be restricted to the Fitzroy Crossing Town Oval, Monday-Friday between the hours of 7am – 10am.

b. Trading will not be permitted at the Town Oval during community or sporting events being held at the Town Oval which DNC Catering is not associated with.

c. The initial period for which the Traders Permit is granted is 3 months. The approval to extend the permit is to be reassessed by Council.

d. If trading activities of DNC Catering are considered to be causing a nuisance or having a detrimental impact on the surrounding amenities, the Council may rescind the approval for a Traders Permit.

e. Trading permit to be amended to include the location of Fitzroy Crossing Hospital once a formal agreement and arrangement has been finalised between the operator and Fitzroy Valley Health Services. A written copy of this agreement must be forwarded onto the Shire of Derby/West Kimberley for verification.

CARRIED 8/0

1:44pm Cr P McCumstie returned to the meeting and was advised of the outcome.

Cr C Kloss declared an Impartiality Interest in Item 12.4.2

1:44pm Cr C Kloss left the room and did not participate in the discussion or vote on the Item.

12.4.2 LOT 24 FITZROY STREET CHANGES TO APPROVED 'ADDITIONAL USE – BUS DEPOT'

Location/Address:	Lot 24 Fitzroy Street, Derby
Name of Applicant/Owner:	D Dunbar
File Reference:	A102890
Author:	Noel Myers – Shire Planner
Interest Disclosure:	Nil
Date of Report:	14 June 2016
Attachment:	Lot 24 Fitzroy St, Derby Location Plan

SUMMARY:

To consider a change to approved 'Additional Use - Bus Depot' and allow the property to be used for the storage of Trucks and Machinery.

BACKGROUND:

The subject property is zoned Rural-Residential under Town Planning Scheme No.5 and has an overall area of approximately 4ha. Existing development consists of a single residential dwelling and a number of outbuildings.

Scheme Amendment No.1 was initiated to Town Planning Scheme No.5 to allow a 1 ha portion of the lot be developed and used as a Bus Depot. The Amendment was approved by the Minister for Planning on the 7th March 2004.

The site has never been developed for this purpose as the proponent secured an alternative property in the interim period. Notwithstanding, the Additional Use right continues to apply to the land.

STATUTORY ENVIRONMENT:

Town Planning Scheme No.5 - Clause 3.4 Additional Uses

Notwithstanding anything contained in the Zoning Table, the land specified in Appendix No. 2 (Schedule of Additional Uses), and as identified on the scheme maps, may, subject to compliance with any condition specified in the Schedule with respect

to the land, be used for the purpose set against the land. The use so specified is in addition to the other uses permitted in the zone in which the land is situated unless any of those uses is excluded or modified by a condition specified in that Schedule.

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
2: A balance between the natural and built environment – sustainable environments that meets the needs of the community and supports growth	2.1: Appropriate development that enhances the unique character and heritage of the Shire’s township	2.1.4: Ensure quality, consistent and responsive development and building assessment approval processes and enforcement

CONSULTATION:

Nil

COMMENT:

Amendment No.1 was initiated and approved so as to allow a portion of the property to be developed and used as a Bus Depot, however, the proponent secured another premises and now operates his Bus Hire business from that property.

The report drawn in support of the ‘additional use’ application identified that up to 13 buses would be garaged on and operated from the site. The ultimate development was to comprise an office, roofed bus parking area and a three bay lock-up workshop to service and repair facility for vehicles that formed part of the bus service.

The current request before Council is to use the site in fundamentally the same manner; however, the site would be used for the storage and maintenance of *trucks and earthmoving equipment* as opposed to *buses* and would require the same type of supporting infrastructure as if it were a bus depot. It is highlighted that the site would not be used as a freight depot whereby there would be a constant stream of goods

being delivered and collected and nor would the approval extend to stockpiling of bulk materials. Rather it would be used for the storage, maintenance and repair of the plant and equipment held by the lessee that is then driven or loaded and taken away to the site where contracts are being undertaken.

At this stage, Council is only being requested to consider the minor variation to the type of vehicle to be stored on the site - that is trucks and earthmoving equipment as opposed to buses.

From a land use perspective there would appear to be little discernible change to the manner in which the site would be used. A bus depot would typically entail a high frequency of traffic movements to and from the property and the nature of a bus hire operation would extend into the weekends and regularly begin before and finish after what is regarded as standard working hours. Conversely, the proposed use is likely to result in a lower overall level of activity from the site on a daily level as the majority of earthmoving and contract work is undertaken outside the town which means machinery is mobilised and taken to site where it is kept until the satisfaction of the contract.

Ultimately, a Development Application would need to be submitted and approved prior to the property being used for any use and it would be through that process that issues surrounding the proper and orderly use of the land would be managed. This would capture issues of access, building siting, amenity and stormwater management and the like. This approach to managing the potential impacts of using the site as Depot was acknowledged by the Minister when approving Amendment No.1.

SUMMARY:

Having regard to the above comments, it is considered that the Council can reasonably assess that the use of the land as a depot for the storage of Trucks and Earthmoving equipment is consistent with the Additional Use - Bus Depot for the following reasons:

- The size and scale of machinery - bus vs truck is compatible;
- There is consistency in how the property will be used;
- The storage of trucks and earth moving equipment will not introduce any additional impacts above and beyond what would a bus depot;

- The frequency and timing of vehicle movements from the site would be expected to be considerably less than if the site was being used as bus depot;
- A Development Application will be required to be submitted for approval prior to the land being used for any purpose and this may be subject to consultation with surrounding property owners prior to its approval.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

MINUTE NO. 069/2016

Moved: Cr P White

Seconded: Cr A Twaddle

That Council, in accordance with Town Planning Scheme No.5 advises the owner of Lot 24 Fitzroy Street, Derby that;

- i) It is considered that the future use of the site for the storage of plant and earthmoving equipment to be consistent with the Additional Use Right - Bus Depot and is willing to accept a future Development Application proposing the development and use of the site for that purpose**
- ii) That the agreement to accept a Development Application does not infer or construe any approval.**

CARRIED 8/0

1:47pm Cr C Kloss returned to the meeting and was advised of the outcome.

Cr A Kogolo declared an Impartiality Interest in Item 12.4.3

12.4.3 YARRANGI RIWI YOOWARNI GOONIYANDI NATIVE TITLE CLAIM – DRAFT CONSENT DETERMINATION

Location/Address:	Yarrangi Riwi Yoowarni Gooniyandi Native Title Claim Area (WAD274/2012)
Name of Applicant/Owner:	N/A
File Reference:	6055
Author:	Noel Myers – Shire Planner
Interest Disclosure:	Nil
Date of Report:	23 May 2016
	Yarrangi Riwi Yoowarni Gooniyandi Native Title Claim Area Map
Attachment:	Confidential Minute of Proposed Consent Determination of Native Title (provided under separate cover)

SUMMARY:

The Shire of Derby/West Kimberley is responding to a request from the Federal Court of Australia concerning the progression of the Yarrangi Riwi Yoowarni Gooniyandi (YRYG) Native Title Application to endorse the Draft Minutes of Consent Determination Document as it applies to Claim Area B.

BACKGROUND:

- The YRYG Native Title Claim was accepted for registration on the 15/02/2013 and is in two parts described as Part A and Part B;
- The claim area is approximately 2400km² and captures areas generally east of Fitzroy Crossing and to the north of the Great Northern Highway and extends into the Shire of Halls Creek
- Mediation to resolve the claim has been actively progressing since early 2014.
- Since that time there has been ongoing work and investigations by the Kimberley Land Council and the State Solicitors Office (SSO). Much of that work has revolved around the preparation, finalization and vetting of connection material, necessary to progress the claim and negotiating with the affected pastoralists;

- The Shire has liaised with the SSO identifying areas of interests to assist in the preparation of a preliminary Draft Consent Determination document;
- A draft Minute of Consent Determination has been referred to the Shire for comment and has also been referred internally to the Shire’s Native Title Working Party with recommendations 23/05/2016;

The State has completed its assessment of the connection material provided in support of this claim and is satisfied with the standard of evidence and documentation required to be provided. The State and the Federal Court have now commenced negotiations with a view to progressing the application toward finalising a Consent determination in late October 2016. As part of that process, Parties to the claim have been requested to state broadly their position in relation to a possible consent determination.

The Shire currently has limited interests in any of the lands within the claim area however may do so into the future and therefore has become and remained a party to the claim.

The claim exists in two parts with Area B generally located toward the west and Part A which captures a larger area of land being more toward the eastern boundary of the Claim

The overall claim area is located to the east of the Fitzroy Crossing townsite and to the north of the Great Northern Highway. A portion of Fossil Downs pastoral lease falls within Area B.

It has been identified that the Claim will be determined in two parts with Area B being the matter at hand. There are some outstanding issues in regards to the composition of the claimants for Area A that requires further investigation and resolution, however, there is no such dispute as to the claimants for Area B and it had been decided that this area of the Claim should be determined independently.

The draft documents that will be put before Council for endorsement are in two parts being the;

- Minute of Consent Orders; and
- Minute of Consent Determination of Native Title.

In brief, the Minute of Consent Orders is a covering document which is signed by all parties stating that the Minute of Consent Determination reflects the terms agreed to and requests the Court to make a determination in accordance with the agreed terms and gives an undertaking that the claimant group are working towards the creation of Prescribed Body Corporate that will assume carriage for the functions of a registered native title body under the Native Title Act.

The Minute of Consent Determination of Native Title details extent of the Native Title Claim in terms the area covered by the claim and the nature and extent of native title rights and interests being sought by the claimant group. The document also details areas excluded from the claim and other Rights and Interests in the land, which in the case of the Shire relates to the (future) ability to obtain access to existing gravel pits for the maintenance works on the roads bisecting the claim for which the Shire does and may assume responsibility for at some time in the future.

STATUTORY ENVIRONMENT:

Native Title Act 1993

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
Goal 4: Good governance and an effective organisation.	Outcome 4.1: Effective governance and leadership	Strategy 4.1.6: Negotiate with all Native Title Groups to consult and establish appropriate Indigenous Land Use Agreement's and Memorandums Of Understanding

CONSULTATION:

The matter has not been referred to Council's Solicitors for advice given the relative simplicity of the Council's involvement. The document has been drafted by the State Solicitors Office with a view to ensuring the Council's position is adequately covered and staff will ensure that the critical elements as they apply to the Shire are detailed within the final version of the document.

COMMENT:

The draft document has been vetted by staff and the Shire's Native Title Working Party and the Council have been briefed at Forums as to the progress of this claim from time to time.

The document has been examined to ensure that the Shire is able to undertake its statutory functions in an unfettered manner in the future should the Shire assume responsibility for the care and maintenance of aboriginal access roads. It should be noted that at present, the Shire does not have responsibility for aboriginal access roads and that all maintenance works are performed under contract by others. However, given the potential for this responsibility to transfer to the Shire under the Bilateral Agreement signed by the Australian and State Governments, it is considered prudent to make provision for this now should it eventuate in the future.

As previously stated, the document has not been referred to the Council's Solicitors for their opinion. It is the Officers opinion that the clauses within the consent document are sufficient to cover the Shire's future position and are consistent in their structure and form with clauses that have been included in other Determinations (Noonkanbah; Ngurrara; Gooniyandi and most recently Kurungal) that the Council has endorsed. It should also be recognised that the area of the Shire where the claim extends over is remote and there is a very low probability of the Shire being involved in any significant infrastructure projects in the area.

The following clauses are considered to be the key issues for the Council;

Draft Consent Determination:

- Schedule 6 – Other Interests

- Section 4 other rights and interests, clause (d) which provides for right for continued access to land in order to undertake legislative and statutory responsibilities.

The above provisions within the draft Consent determination are considered sufficient to ensure that the Shire is able to continue to fulfil its statutory obligations in regard to road maintenance and is consistent with the position adopted in regard to other claims that exist over the more remote areas of the Shire.

In providing support to the draft document at this juncture, it must be recognised that there will inevitably be further amendments to the Draft Consent Determination document in the lead up to the final hearing, however, it is anticipated that any future modifications to the document would not be of a nature that would impact upon the areas of interest to the Shire.

Accordingly, it will be the recommendation to Council that Council endorses the current version of the Draft Minutes of Consent Determination and that it delegates authority to the Chief Executive Officer and the Shire President to endorse and authorise any subsequent iterations of the document on the basis that the Shire's position is not diminished.

In addition, the Shire may be requested to sign other ancillary and procedural documents and authorities pertaining to the final Consent Determination meeting and it is also recommended that Council delegate authority for the CEO and Shire President to authorise necessary procedural documents so that the Shire can respond in a timely manner and ensure that the Courts' timetable is adhered to for the proposed Consent Determination Hearing in October 2016.

There are matters that are detailed within the Draft Consent Determination Document that should be regarded as Confidential and therefore whilst the Council's position and engagement is a matter of public interest and is set out within this report, the document itself will be distributed to Councillors as a "Confidential Matter" under separate cover.

RECOMMENDATION:

Having regard to the above matters, it is considered that the Draft Consent Determination document adequately addresses any future involvement the Council may have within the claim area. It is recommended that the Council endorses the draft document and the Council delegate approval to the Chief Executive Officer to endorse the final version of the document on the basis that there is no significant change made in the final version that would impact upon the Shire.

VOTING REQUIREMENT:

Simple majority. Absolute where indicated.

OFFICER RECOMMENDATION:**MINUTE NO 070/2016****Moved: Cr J Oscar****Seconded: Cr C Kloss**

- 1. That the Shire of Derby/West Kimberley endorses the Draft Minute of Consent Orders and Draft Minute of Consent Determination for the Yarrangi Riwi Yoowarni Gooniyandi Part A Native Title Claim; and**
- 2. By Absolute Majority, delegates authority to the Chief Executive Officer and Shire President to execute the final version of the Minute of Consent Orders and Minute of Consent Determination documents and affix the Common Seal to those documents as required on the condition that there is no significant amendment to the document that would adversely impact upon the Shire and further authorises the Chief Executive Officer and the Shire President to execute any procedural documents associated with the progression of the matter towards the Consent Determination Hearing.**

CARRIED 9/0**CARRIED BY AN ABSOLUTE MAJORITY****ADVICE NOTE:**

The nomenclature of the Consent Determination document in Condition 1 above identifies that the claim is being determined in two parts and does not describe the land area of the claim being determined.

12.4.4 MIXED USE DEVELOPMENT

Location/Address:	Lots 90 & 91 Emanuel Way Fitzroy Crossing
Name of Applicant/Owner:	Marra Worra Worra Aboriginal Corporation
File Reference:	A300010/20
Author:	Noel Myers – Shire Planner
Interest Disclosure:	Nil
Date of Report:	20 June 2016
Attachments:	Marra Worra Worra Hardware Site Development Application and Plans

SUMMARY:

Application has been submitted proposing a Mixed Use Development on the above properties which involves the following scope of works:

- Amalgamation of Lots 90 & 91 Emanuel Way;
- Construction of new commercial building with an overall floor area of 300m² providing three tenancies;
- Construction of eleven Self Storage Units;
- Construction of eight, two bedroom dwellings; and
- Construction of the requisite number of car parking bays within the Emanuel Way road reserve to service the new developments and formalise the existing parking within the road reserve that services the Hardware business.

BACKGROUND:

The subject lots are owned in freehold title by the Marra Worra Worra Aboriginal Corporation (MWW) and are located on and adjacent to the Emanuel Way/Forrest Road intersection, having frontages to both roads.

- The applicable land use under the Fitzroy Futures Town Plan (FFTP) is identified as Light Industry.
- Lot 91 is developed with a single commercial building from which the Fitzroy Hardware currently operates, along with ancillary buildings and a manager's residence.
- Lot 90 which abuts Lot 91 is developed with two buildings (sheds) and has been used for a variety of Light Industrial uses in the past.

STATUTORY ENVIRONMENT:

- Interim Development Order No.8 – Approval under this Order required for certain development;
- Fitzroy Futures Town Plan – Policy based approach to land use control
- Residential design codes of WA – Guidance on residential development component.

Proposed land uses in Fitzroy Crossing are considered against the Fitzroy Futures Town Plan which whilst not a statutory town planning scheme has been adopted by the Shire and the State as the basis for informing land use proposals in Fitzroy Crossing.

The subject lot is located within the area that is identified as Light Industry and the range of commercial activities to be operated from the property are appropriate and compatible land uses within light industrial areas.

Limited residential accommodation on-site for staff directly employed by businesses being undertaken on the property in Light Industrial locations is typically a discretionary use and may be granted on the basis that there are conditions limiting the occupation to direct employees and that the accommodation component is incidental to the primary use of the site.

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
Goal 2: A balance between the natural and built environment – sustainable environments that meets the needs of the community and supports growth	2.1: Appropriate development that enhances the unique character and heritage of the Shire's township	2.1.4: Ensure quality, consistent and responsive development and building assessment approval processes and enforcement

CONSULTATION:

Preliminary consultation concerning servicing (sewer) and other development aspects such as the car parking (and requirement for a legal agreement) within the Emanuel Way road reserve and the requirement for the lots to be amalgamated have been undertaken with the applicant and property owner during the development of the plan for the application.

The application has been referred to adjoining landowners for comment.

At the time of preparing this report, no submissions had been received. Any submissions received in the intervening period will be circulated to Councillors. Further, as the last day for submissions to be received falls the day after the Council Meeting, it is proposed that Council delegate authority to the Chief Executive Officer to issue approval on the basis that no objections of a sustainable nature are received.

Should objections be received that are deemed to be valid land use objections and that can't be resolved satisfactorily, the application would be referred back to the next available council meeting for the Council to determine.

COMMENT:

The development intent by MWW is to undertake a comprehensive redevelopment of their land holdings that will see three new commercial tenancies created with supporting staff accommodation, along with a new commercial venture being the construction of the self-storage units.

The plans submitted show that one of the three tenancies is to be developed as a café/bakery that will incorporate an Alfresco garden area. The remaining two will be available for flexible commercial/office uses.

Five of the accommodation units are to be allocated towards providing staff housing for the employees of the Hardware Store and the new commercial outlets. The three remaining units are to be utilised as part of a Transitional Housing Training Program to be run by MWW. The aims of that project are aligned with similar projects being undertaken by the Department of Housing in Derby and Broome whereby programs are established to assist and support indigenous people through the housing

continuum with the objective of alleviating some of the adverse issues that accrue from overcrowding of housing.

Individual aspects of the plan regarding compliance are discussed in the following sections of this report:

Land Use

The development intent is to create a mixed use development that will consist of commercial and service industry uses in addition to the proposed residential component.

The subject land is located on the western periphery of the Light Industrial area and by virtue of its location does enjoy some degree of separation from the surrounding industrial uses.

The Fitzroy Hardware has operated from Lot 91 for many years and as such has reinforced the use of the site for retail uses and thus the introduction of further retail and commercial uses is consistent with the past and current use of the property. Adjoining lot 90 has been used sporadically over the years and most recently for a steel frame fabricating business and is developed with minimal infrastructure.

There is a degree of precedence for limited forms of accommodation within the Fitzroy Crossing industrial area which is reflective of the land supply issues in Fitzroy Crossing. The adjoining lot on which the Shell Road House is located has a dedicated Managers residence located on it and further accommodation is provided by the MWW operated Workers Camp. Staff accommodation is also provided on a number of the properties on the adjacent side of Emanuel Way

Whilst accommodation is not generally encouraged within or near to industrial areas, there is provision within most local planning schemes to allow for staff and caretaker accommodation to be provided on-site on the proviso there is a linkage between the business and the residences. The five units which are to be provided for that purpose can be seen to be consistent with that general arrangement. Similarly, the three units to be utilised as part of the transitional housing program could be supported insofar that persons who would be residing in those properties would be restricted to persons

in traineeships or similar with MWW and thus the link is established between the employer and resident and any prospective tenant would be aware that there would not be the usual level of residential amenity being provided if the residence was located within a residential area.

The plans show that the eleven self-storage units are to be constructed on the Emanuel Way frontage (which provides direct access for customers via the proposed access way) also serves to further screen and create a visual separation between the residential component and the surrounding industrial area.

The type of accommodation being provided is modest in size and form consisting of two bedroom units only which is likely to mean there is less likelihood of larger families being accommodated on the site which would be less desirable given the potential for land use conflict over amenity issues.

This new development and land use in the area is considered to be compatible with the surrounding land uses and will complement and expand upon the range of services and products available for sale within the town.

The Transitional Housing component of the development is considered to help address a specific housing and social issue that well recognised and all too prevalent in Fitzroy Crossing and the wider Kimberley Region. Land supply issues have precluded the DoH rolling out this project in Fitzroy Crossing as they have been able to in Derby and Broome and if there is to be some endeavour in addressing this issue then there needs to be a degree of pragmatism exercised in supporting projects such as this.

Built Form

The layout of the development proposes that all new commercial spaces will be orientated toward the Forrest Road and Emanuel Way frontages providing the appropriate exposure for a development of this type and the form of the commercial buildings have been appropriately designed to ensure that the development compliments and enhances the surrounding streetscape.

The residential buildings whilst modular in form are to be complemented with pitched roofs with extended eaves. The residential component of the development will enjoy

frontage towards Forrest Road (but take no access from that road) and the plans show that a complimentary 'feature fence' will be installed along that boundary. Each unit is to be provided with private courtyards and car parking is provided on-site.

The form of buildings provides high levels of both thermal and acoustic insulation which is an appropriate response to the particular location that are to be installed.

The overall assembly and form of the buildings on the lot will help create a much improved entry statement into the town.

Carparking

In order to gauge the overall potential demand for parking, the assessment of the parking requirements has been made of the total site including the existing Hardware business given the intent to amalgamate lots into one new parcel.

A total of 22 car bays have been proposed to meet the anticipated needs generated by the commercial activities being the Hardware and the new commercial tenancies. It is proposed that these parking bays would be provided within the Emanuel Way road reserve requiring the applicant to enter into legal agreements with the Shire over the construction and future maintenance arrangements.

Given that the new development will present a contiguous line of development along Emanuel Way frontage, it is reasonable to assume that customers of the new commercial outlets would avail of the existing carparks located outside the Hardware store and for this reason it is proposed that a condition be applied to any future approval that this area of parking will need to be upgraded to current standards rather than it remaining in its current informal state. This will also have the benefit of making the parking compliant with current legislation surrounding disability access issues.

An assessment of the adequacy of the parking has been made by assessing the overall floor area of the commercial uses and adopting the car parking ratios as detailed with the Town Planning Scheme No.5 and also utilising the standards detailed for residential development within the Residential Design Codes of WA.

Based on that assessment the total number of required bays would be as detailed in the table below:

Land Use	Ratio	Required Bays	Provided	Comment
Shop – 100m ²	1:20m ²	5		
Office – 200m ²	1:40m ²	5	9	Shortfall one bay considered satisfactory – further bays towards Forrest Rd not desirable from traffic safety perspective.
Hardware 800m ² approx.	1:20m ²	40	8	Application of 1:20 ratio is worst case scenario given the nature of goods sold through hardware and the floorplan of the building.
Residential	2 per dwelling	16	16	Complies
Visitor – residential	1 per dwelling in excess of four dwellings	1	Nil	Space exists to create a minimum of 1 visitor bay to service residential needs

Based on the above assessment there is a significant overall shortfall of parking, however, this figure is distorted by the inclusion of the existing Hardware site in the calculations and by adopting the ratio applicable for a shop. The Hardware has operated for many years and the nature of the business has meant that it attracts relatively low peak flows of vehicles and there have been no reported or repeated incidents of traffic congestion arising. The bulky nature of many of the goods sold within hardware shops means that whilst the building has a relatively large floor area to accommodate and display the stock, this does not automatically correlate to high numbers of customers arriving at one time.

An independent Traffic Impact Study of the proposed development has been undertaken by Auswide Consulting. The report has assessed the trip rates generated by the various uses within the development and has assessed the layout and configuration of the proposed parking bays to ensure they meet with relevant design considerations. Their report confirms parking and the layout is compliant.

Their assessment has calculated that trip generation from different land new land uses (ex the Hardware) would create an additional 14 trips per hour or an average of one additional trip every four minutes. On these assessments the impact on the surrounding road network would be considered negligible.

The R Codes of WA have been relied upon to assess the residential parking component and this advocates that some visitor parking be provided. Given that there is available space within the site, and there is limited other parking opportunities particularly during the day time, it is recommended that a condition be applied that one additional parking bay be provided to service that need. The parking bays to be developed along Emanuel way could be accessed by persons visiting residents after hours and over weekends when the demand for parking from the commercial outlets would be less.

It is proposed that should the Council be agreeable to the car parking being developed within the Shire managed road reserve, then a suitable legal agreement would be required to be entered into that established the construction of and future maintenance of the area would be the responsibility of the proponent and beneficiary of the carpark. Further detailed design of that area would be required to ensure that the area was designed and constructed to Council specifications and requirements.

Pedestrian Access

With due recognition that Emanuel Way is an industrial area that attracts associated industrial traffic, the plans provide for a pedestrian access path to be constructed so that pedestrian traffic to and from the site is properly managed. The construction of that pathway would be proposed to be a condition of any approval that was granted.

Lot Assembly

As previously identified, there is a need to amalgamate Lots 90 & 91. The need to amalgamate the lots arises from advice the applicant has received from the Water Corporation regarding sewer connection. The amalgamation is also necessary as portions of the carpark and residential buildings encroach over the lot boundaries and this would preclude a Building Permit being issued.

As the WAPC is the responsible authority in Western Australia for the approval of subdivision and amalgamation of land, it will be necessary to condition any support

that the Council gives to this application to the approval and amalgamation of the titles being affected.

Vehicle Access

Plans submitted identify that a new slip lane is proposed on the Emanuel way frontage that would serve a dual function of providing access to the self-storage units and also provide a formalised unloading bay for the Hardware.

Given the relatively modest size of the self-storage units it is anticipated that these would more likely be taken up by domestic users rather than them being used for the warehousing of commercial goods that would generate higher trip movements. On this assumption it is likely that persons accessing their unit would do so after hours which would reduce the potential for conflict between users needing access. The construction of a properly formed and sealed access way will also resolve the issue where unloading is being undertaken on the verge which is causing damage to the road seal. The design of this slipway would be subject to detailed design and approval of Council and would also need to be captured in the legal agreement being drawn the development of car parking in the road reserve.

SUMMARY:

It is considered that the development will help activate the area and enhance both the immediate streetscape and help define an entry statement into Fitzroy Crossing. The inclusion of the transitional Housing component also will begin to assist addressing some of the existing social disadvantage that affects many people in Fitzroy Crossing.

The proposed development is considered to be generally consistent with the intended land use for the area as per the Fitzroy Futures Town Plan and the proposed conditions as detailed within the officer Recommendation will ensure that the resultant development is undertaken in accordance with the relevant standards concerning the design and operation of the facility.

It is considered that Council can support the application when the following matters are taken to account;

- The proposed development seeks to create a development finished to a high standard of presentation that will enhance the amenity of the streetscape and help define an entry statement into Fitzroy Crossing;
- The development will be undertaken comprehensively so that a uniformed standard of building and landscaping will be achieved;
- The development will increase the amount of residential development within close proximity to the town centre. From an urban planning perspective, this can be considered to be a desirable outcome as increased numbers of people help increase the vitality of town centres and increase passive surveillance of areas that can assist in decreasing anti-social behaviours that can occur in those periods after normal business hours;
- The development is consistent with the intent of previous approvals issued by Council for Mixed Use development in the industrial area;
- The inclusion of the Transitional Housing component also will begin to assist in addressing some of the existing social disadvantage that affects many people in Fitzroy Crossing;
- The development will provide a range of retail and office spaces of which there is a limited supply at present.

Having regard to the above issues, it is considered that the proposed development is generally consistent with the objectives for the area and that Council may support the development as proposed subject to matters as set out below and within the Officer Recommendation.

VOTING REQUIREMENT:

Simple majority. Absolute where indicated.

OFFICER RECOMMENDATION:

MINUTE NO. 071/2016

Moved: Cr P White

Seconded: Cr A Twaddle

- 1. That Council, agrees to issue Development Approval for a Mixed Use Development consisting of Commercial Shops and Offices, Eight Accommodation Units and Eleven Self Storage Units together with requisite car parking areas on Lots 90 & 91 Emanuel Way, Fitzroy Crossing in accordance with the application and plans dated 8th March 2016 and Amended Site Plan dated 10th May 2016 subject to the following:**

- a) The applicant causes a subdivision and amalgamation application to be lodged and approved by the Western Australian Planning Commission to have Lots 90 and 91 Emanuel Way, Fitzroy Crossing amalgamated and that the amalgamation process be finalised.**
- 2. That upon satisfaction of Condition 1 a). as stated above, Council by ABSOLUTE MAJORITY delegates authority to the Chief Executive Officer to issue Planning Consent for a Mixed Use Development consisting of Commercial Shops and Offices, Eight Accommodation Units and Eleven Self Storage Units together with requisite car parking areas on Lots 90 and 91 Emanuel Way, Fitzroy Crossing in accordance with the application and plans dated 8th March 2016 and amended site plan dated 10th May 2016 subject to the following:**
- i) All development is to be in accordance with the approved plans dated 8th March 2016 and the amended site plan dated 10th May 2016;**
 - ii) The Planning Consent will be valid for two years from the date of the issue of the letter. This approval shall expire if the development works have not been substantially commenced within this two-year period or within any extended period for which the Council has granted consent;**
 - iii) A Building Permit under the provisions of the Building Act 2011 must be submitted to and approved by Council prior to the commencement of any on-site works whatsoever. Development under a Building Permit must be substantially commenced within 12 months and completed within two years;**
 - iv) Plans submitted for the Building Permit are to detail all storm water and roof run-off disposal and be designed so as to ensure storm water is not is able to flow onto adjoining properties. Engineering plans will need to detail what retaining methods are to be employed around the perimeter of the site and be to the satisfaction of the Executive Manager Technical and Development Services;**
 - v) The development being connected to the town's reticulated water supply and sewer system to the requirements of the Water Corporation;**
 - vi) The parking bays, driveways and access points servicing the Office to be designed in accordance with Australian Standard for Off-street Car Parking in accordance with the Australian Standard for Off-street Car**

- Parking (AS/NZS2890.6 as amended) and Off-street Car Parking for People with Disabilities (AS/NZS2890.6 2009 as amended). Such areas are to be constructed, drained and marked prior to the development being occupied and thereafter maintained to the satisfaction of the Executive Manager, Technical & Development Services;**
- vii) The applicant is responsible for ensuring that all lot boundaries as shown on the approved plans are correct.**
 - viii) The vehicle crossover shall be constructed and sealed to Council's specification to connect site access to the existing road seal and designed as to not impact on the street drainage system and grade into the seal and is to be installed prior to the commencement of the occupation and use and of the site;**
 - ix) Prior to the final approval and installation of the new and upgraded parking areas within the Emanuel Way road reserve and the new sealed access way servicing the Hardware and the Self-Storage Units, the applicant/owner is to enter into a suitable legal agreement between the applicant and the Shire which confirms that the applicant/owner will be responsible for the future maintenance of the carpark and access way located within the road reserve. All costs associated with the preparation and execution of documents is to be for the care of the applicant and be to the satisfaction of the Chief Executive Officer of the Shire of Derby/West Kimberley;**
 - x) Prior to the commencement of the use, the applicant is to construct a footpath to Council specifications connecting the site to the existing footpath network on the western side of Forrest Road to the satisfaction of the Executive Manager, Technical & Development Services. The footpath is to extend from the driveway entrance to provide pedestrian linkage to the proposed footpath as shown on the plans on the northern boundary of the lot so as to provide contiguous pedestrian access to the development and all paths are to meet with Australian Standards for Disability Access;**
 - xi) Occupation of the Accommodation Units is restricted and limited to persons employed by the approved business's operating from the property and or those persons engaged in training or employment programs with the Marra Worra Worra Aboriginal Corporation;**
 - xii) All car parking areas servicing the accommodation units and pathways linking the area to accommodation units are to be provided with suitable lighting to the relevant Australian Standard;**
 - xiii) All pathways linking the accommodation units to the carpark areas and to the front of the property are to have a minimum dimension of**

1.5 metres and comply with disability access requirements;

- xiv) A Landscaping Plan is to be prepared and submitted to the satisfaction of the Shire Planner which when approved will be endorsed and form part of this Development Approval. The plan must be submitted and approved prior to the issue of a Building Permit and shall be installed and thereafter maintained in accordance with the approved plan;**
- xv) Suitable site investigations are to be undertaken prior to the use and development of Lot 90 Emanuel Way for residential purposes that there are no contaminants present from the prior use of the site for industrial purposes; and**
- xvi) A plinth is to be provided within the Emanuel Way road reserve for the placement and collection of rubbish bins and is to be to the satisfaction of the Executive Manger Technical and Development Services.**

3. That Council by ABSOLUTE MAJORITY delegates to the Chief Executive Officer, authority to approve the application once the proposal has been advertised for a period of 14 days. Authority is delegated on the basis that no sustainable objections to the development are received and in the case that an objection is received that cannot be satisfactorily resolved, the application is to be referred back to the next available Council meeting for determination.

CARRIED 9/0

CARRIED BY ABSOLUTE MAJORITY

12.5 COMMUNITY DEVELOPMENT AND RECREATION SERVICES

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

14.0 QUESTIONS BY MEMBERS FOR WHICH DUE NOTICE HAS BEEN GIVEN

15.0 NEW BUSINESS OF AN URGENT NATURE APPROVED BY PRESIDING PERSON OR BY DECISION OF MEETING

15.1 DERBY TOURIST BUREAU SOLAR PANELS - CONTRIBUTION GRANT

Information regarding the installation of solar panels circulated as a pre-cursor to an item at the July Council meeting.

COUNCIL DECISION:

MINUTE NO. 072/2016

Moved: Cr A Twaddle

Seconded: Cr E Archer

That Council suspend Standing Orders for discussion on Item 15.1.

CARRIED 9/0

COUNCIL DECISION:

MINUTE NO. 073/2016

Moved: Cr P White

Seconded: Cr C Kloss

That Council resume Standing Orders.

CARRIED 9/0

16.0 MATTERS BEHIND CLOSED DOORS

Nil

17.0 CLOSURE OF MEETING

The Presiding Member closed the meeting at 1.59pm.

These minutes were confirmed at a meeting on

.....

Signed:

Presiding Person at the meeting at which these minutes were confirmed.

Date: