



SHIRE OF DERBY/WEST KIMBERLEY

ORDINARY MEETING OF COUNCIL

**HELD AT THE LOOMA COMMUNITY OFFICE
LOOMA COMMUNITY
THURSDAY 29 SEPTEMBER, 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.

DECLARATIONS 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.

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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APOLOGIES:

Cr Andrew Twaddle	Councillor
Mr Wayne Neate	Executive Manager Technical and Development Services

ON LEAVE OF ABSENCE:

Cr Paul White	Councillor
Cr June Oscar AO	Councillor

ABSENT:

Nil

3.0 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

3.1 MR CHRIS TRAVERS – OLD GOODS YARD

QUESTION 1:

What is the termination date of the lease on the Old Goods Yard? Is it up to date on rent? Who is responsible for the clean up?

RESPONSE:

The Crab Shed part of the Goods Yard was leased to Emama Nguda who surrendered the property in 2014. The jetty end has been leased to CMC Marine.

The whole precinct was considered as part of the Wharf Expression of Interest process that commenced in November 2014.

In January 2016 a Memorandum of Understanding was entered with CMC Marine to progress to lease subject to the Local Government Act and Minister for Transport approval. CMC will be responsible for clean up once the lease is finalised and they are up to date in rent payments for their pre-existing lease areas.

4.0 PUBLIC QUESTION TIME

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6.0 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS

6.1 COREY AKSENOV, DNC CATERING – ITEM 12.4.1

Mr Corey Aksenov, DNC Catering, addressed Council on Item 12.4.1 to seek support to extend his traders permit and increase the permitted trading hours at the Fitzroy Crossing Town Oval. Mr Aksenov spoke of his new purchase of a \$32,000 mobile pizza trailer, a trial agreement with Bayulu Kitchen as a location to prepare his meals and signatures of support collected via a hard copy petition and social media.

Mr Aksenov spoke of trading within Kurnangki Community. Mr Gash responded that depending on the exact location it may not require a Shire Trading Permit but the business will still need to meet the required Food Standards.

6.2 PETITION, DARREN JOHN SHELL SERVICE STATION – ITEM 12.3.4

Council received a petition with 233 signatures from Mr Darren John of Derby Shell Service Station that was non-compliant with the Local Government Act 1995. It was noted by Council the petition was in relation to Item 12.3.4 – Proposed Modification to Clarendon Street Median Isle on the Council Agenda.

7.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

7.1 ORDINARY MEETING OF COUNCIL HELD ON 25/08/2016

OFFICER RECOMMENDATION:

MINUTE NO. 095/2016

Moved: Cr P McCumstie

Seconded: Cr C Kloss

That the Minutes of the Ordinary Meeting of the Shire of Derby West Kimberley held at the Council Chambers, Derby, on 25 August 2016 be confirmed.

CARRIED 6/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

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 allow a Member to speak, the extent of the interest must also be stated.

9.1 DECLARATIONS OF FINANCIAL INTERESTS – LOCAL GOVERNMENT ACT 5.60A

Nil

9.2 DECLARATIONS OF PROXIMITY INTERESTS – LOCAL GOVERNMENT ACT 5.60B

Nil

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

Cr. A Kogolo declared an Impartiality Interest in Item 12.1.1.

Cr. P McCumstie declared an Impartiality Interest in Item 12.1.1.

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

Cr A Kogolo and Cr P McCumstie declared an Impartial Interest in Item 12.1.1 but were not required to leave the meeting.

12.1.1 FITZROY CROSSING ABORIGINAL COMMUNITIES WASTE DISPOSAL SERVICES

Location/Address:	N/A
Name of Applicant/Owner:	Department of Housing – Client Services North and Aboriginal Housing
File Reference:	7190
Author:	Stephen Gash – Chief Executive Officer
Interest Disclosure:	Nil
Date of Report:	15 August 2016

SUMMARY:

Council is asked to consider a request from the Housing Authority to provide waste disposal services to the Aboriginal Communities of Bayulu, Gillaroong, Karnparrmi and Joy Springs.

BACKGROUND:

In May 2016 Council Officers received a request from Mr Gary Young, Manager Municipal and Essential Services Aboriginal Housing Services, seeking to have the communities of Bayulu, Gillaroong, Karnparrmi and Joy Springs added to the Fitzroy Crossing weekly waste collection service.

At a subsequent meeting Mr Young advised Kimberley Regional Service Provider (KRSP) currently collect 9 trailers across the four communities per week (approx. 18m³), however the landfill previously used is full or no longer appropriate and disposal at Fitzroy Crossing landfill was requested using the Shires existing contractor, similar to the other Fitzroy Crossing town based communities.

STATUTORY ENVIRONMENT:

Health Act 1911

112. Local government to provide for removal of refuse and cleansing works

112(A) Local government may prescribe part of the district in which occupier of premises shall not remove rubbish without permission.

Section 112(A) of the Act allows the Local government to allow someone to remove their own rubbish. It also allows the Local government to prescribe an area where this may not occur without their approval. It also sets the way fees shall be recovered by Council's adopted fees and charges.

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Toxfree to charge costs to the Shire with the Shire recovering these costs from the Housing Authority.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
2: A balance between the natural and built environments.	2.8: Integrated waste management.	2.8.2: Manage rubbish collection and disposal services for the Shire's towns.

CONSULTATION:

Consultation has occurred between the Shire, the Housing Authority and Toxfree to establish a method of implementing a new arrangement including agreeing on the minimum number of services/bin lifts and costings.

The Shire has also had a contract meeting with Toxfree to discuss variations to the contract for waste services to include pickup, transport, handling and disposal of waste from the four communities mentioned above to Fitzroy Crossing landfill.

COMMENT:

The Regional Services Reform Unit is currently undertaking a pilot project examining services to town based communities and waste will be considered as part of the review. Housing confirmed that the issue with the four communities could not wait until the study was completed.

In the interim the Shire approved receiving waste from the communities, collected by KRSP, at the Fitzroy Crossing landfill under the standard volume fee.

Housing made an offer of a rate per premise, however, previous arrangements identify an average of 1.85 bins per household and if the Shire is charged on a per bin lift rate by the contractor but paid by Housing based on a set fee for the number of premises there would be significant additional cost to the Shire.

A separate rate is triggered under the contract to reflect the distance from the town and handling charges.

Following the contract meeting with Toxfree they have agreed in principle to consider waste services to Bayulu, Gillarong, Karnparrmi and Joy Springs subject to the following conditions:

1. A minimum fee based on once a week pick up from the number of premises/services below;
2. Additional lifts (above the minimum assumption of 1 bin per residence) to be done as an additional fee per bin with the numbers managed by Housing Authority; and
3. Toxfree to be paid directly by the Shire on a per lift basis with no liability for enforcing maximum number of bins.
4. Agreed contract variation to reflect the additional services and rates.

Services:

Bayulu

Dwellings – 68

Other Use – 5 (Store, Clinic, Church, Old Clinic, Workshop)

Gillarong

Dwellings – 10

Other Use – 2 (Office, Workshop)

Karnparrmi

Dwellings – 5

Other Use – 0

Joy Springs

Dwellings – 16

Other Use – 2 (Training Centre, Multi-purpose building)

Total Dwellings – 99

Min. Other Use – 9 (likely to be more additional non-residential bins than this)

A fee proposal from Toxfree is yet to be submitted to the Shire but as it will be passed on as cost recovery from the Shire to the Housing Authority, with no mark up, it has no financial implications to the Council and therefore does not impact the officer recommendation.

Housing Authority have been unable to commit to long term funding of the service due to the current reviews and budget cycle, and Council needs to consider the impact on this arrangement if funding was removed without a ‘regularised’ rating structure or alternative payment mechanism.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

MINUTE NO. 096/2016

Moved: Cr C Kloss

Seconded: Cr P Coggins

That the Council agree to a waste contract variation with Toxfree to service Bayulu, Gillaroong, Karnparrmi and Joy Springs on a cost recovery basis, subject to the Housing Authority’s agreement on charges.

CARRIED 6/0

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 Finance Officer
Interest Disclosure:	Nil
Date of Report:	15 September 2016
Attachment:	Cheque Reconciliation and Creditors 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:

Nil

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 **\$3,540,854.79** made as per the attached cheque reconciliation summary and creditors schedule of accounts reports.

Creditor's outstanding as at 31 August 2016 is \$576,465.67

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:**MINUTE NO. 097/2016**

Moved: Cr P McCumstie

Seconded: Cr C Kloss

That Council receives the list of payments:

EFT Payments	EP#40012 - EP#40277	\$1,913,636.66
Municipal Cheques	54527 - 54552	\$37487.31
Trust Fund Cheques	6393 - 6402	\$18,538.03
Direct Debits	Payroll	\$72,092.58
Direct Debits	Fees and Charges	\$260,898.17
Manual cheques	288 – 297	\$1,238,202.04

Total value for the period ending 31 August 2016 is \$3,540,854.79

CARRIED 6/0

12.2.2 MONTHLY FINANCIAL MANAGEMENT REPORT JULY 2016

File Reference:	5152 – Monthly Financial Reports
Author:	Myra Henry, Senior Finance Officer
Interest Disclosure:	Nil
Date of Report:	22 September 2016
Attachment:	Monthly Financial Report July 2016

SUMMARY:

The purpose of this report is to present the July 2016 Monthly Financial Report to Council. This report incorporates the Statement of Financial Activity as required by the Local Government Act 1999.

BACKGROUND:

The following reports are for Council's adoption for the period ending 31 July 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. 098/2016

Moved: Cr I Prouse

Seconded: Cr A Kogolo

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

CARRIED 6/0

12.2.3 MONTHLY FINANCIAL MANAGEMENT REPORT AUGUST 2016

File Reference:	5152 – Monthly Financial Reports
Author:	Myra Henry, Senior Finance Officer
Interest Disclosure:	Nil
Date of Report:	22 September 2016
Attachment:	Monthly Financial Report August 2016

SUMMARY:

The purpose of this report is to present the August 2016 Monthly Financial Report to Council. This report incorporates the Statement of Financial Activity as required by the Local Government Act 1999.

BACKGROUND:

The following reports are for Council's adoption for the period ending 31 August 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;

- f) annual budget estimates;
- g) budget estimates to the end of the month;
- h) actual amounts of expenditure to the end of the month; and

- i) material variances between b) and c);
 - j) 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;
- d) 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
 - e) an explanation of each of the material variances referred to in sub-regulation (1)(d); and
 - f) 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. 099/2016

Moved: Cr P Coggins

Seconded: Cr I Prouse

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

CARRIED 6/0

12.2.4 PROPOSED LEASE – FITZROY HELICOPTERS

Location/Address:	Lease Area 3, Fitzroy Crossing Airport
Name of Applicant/Owner:	Dan Elliot, Fitzroy Helicopters Pty Ltd
File Reference:	A300098
Author:	Ross Sullivan
Interest Disclosure:	NIL
Date of Report:	24 August 2016
Attachment:	Lease Area 3 Map

SUMMARY:

This item seeks Council endorsement for a proposed lease of Lease Area 3 at the Fitzroy Crossing Airport between the Shire of Derby West Kimberley and Daniel Elliot of Fitzroy Helicopters Pty Ltd (Fitzroy Helicopters).

BACKGROUND:

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. Dan Elliot of DJ Helicopters (trading as Fitzroy Helicopters) commenced operations from Lease Area 3 in April 2016 whereupon they entered into a sublease arrangement with Helidoc Pty Ltd from that time. The validity of this arrangement was questionable given that Helidoc did not have a current lease in place for Lease Area 3 to provide assignment thereof. At the June 2016 OMC, Council approved the lease for Helidoc on Lease Area 4.

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, advertising and Councils solicitors 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.

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 1,320sq metre area would yield an annual lease payment of \$7,260 (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 Fitzroy Helicopters with regards to proposed terms and conditions of leases for Lease Area 3 and has requested a lease term of 10 years with a further term of 10 years – requested by proponent.

Advertising of the arrangement will be part of the disposal by lease proposal, with Council required to consider any submissions.

COMMENT:

Fitzroy Helicopters have operated from Lease Area 3 at the Fitzroy Crossing Airport since April 2016 through an arrangement with Helidoc who themselves did not have a formal lease in place – Helidoc Pty Ltd does not have any future interest in this particular space. This lease will bring formality giving clarity to Council regarding tenancies at Fitzroy Crossing Airport and security of tenure for Fitzroy Helicopters to invest and provide air services to the Fitzroy Crossing area and Kimberley region generally.

VOTING REQUIREMENT:

Absolute majority.

OFFICER RECOMMENDATION:

MINUTE NO. 100/2016

Moved: Cr I Prouse

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 3 at the Fitzroy Crossing Airport to Fitzroy Helicopters 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 negotiate and execute 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;**

(v) Other standard terms and conditions of Shire lease agreements.

(vi) 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 Fitzroy Helicopters Pty Ltd for Lease Area 3 at the Fitzroy Crossing Airport.

CARRIED 6/0

CARRIED BY AN ABSOLUTE MAJORITY

12.3 TECHNICAL SERVICES

12.3.1 DEDICATION OF LAND AS A ROAD & NAMING OF ROAD-FITZROY CROSSING

Location/Address:	Flynn Drive, Fitzroy Crossing
Name of Applicant/Owner:	SDWK
File Reference:	7020
Author:	Noel Myers – Shire Planner
Interest Disclosure:	Nil
Date of Report:	19 September 2016
Attachment:	Proposed “Flynn Drive” Dedication Map

SUMMARY:

The purpose of this report is to seek Council’s endorsement to have the access road that currently provides access to the Fitzroy Crossing District High School and Kimberley Training Institute formally dedicated as a road and that the road be named Flynn Drive.

The road forms the natural extension of Flynn Drive north of the Fallon Road intersection and the alignment is consistent with the future planning for Fitzroy Crossing as detailed within the Fitzroy Future Town Plan.

BACKGROUND:

The subject section of road was constructed in part by the Department of Education to provide access to the new Fitzroy Crossing High School and was subsequently extended when the new Kimberley Training Institute (KTI) was developed immediately to the north of the of the High School to provide access to their facility.

The underlying tenure on which the road has been constructed includes two parcels of Unallocated Crown Land being Lots 502 & 504. The northern half of the road lies on a portion of the Aboriginal Lands Trust Reserve – Reserve 9656. It is the understanding of the Shire that the Department of Education (DoE) and Department of Workforce and Training Development (DoTWD) had negotiated an approval with the Bunuba Native Title applicants and other stakeholders for approval to construct the road on this alignment.

The current action would extinguish Native Title over the area of land to be created as the new road reserve which is a matter known to the Bunuba Native Title holders and had been a subject of discussion during meetings concerning the progression of the native title claim, however, the finalisation of that issue would be managed by the Department of Lands as part of their internal process once Council had made its resolution and request to dedicate the road.

The initial construction of the road had been undertaken without the necessary consultation with the Shire to ensure that the standard of the road constructed would meet with Shire specifications that would allow the Shire to take on the management and future maintenance of the road post its construction and warranty period as is typically done with roads constructed by third parties.

As a consequence, Council has not been willing to take on the management of the road until such time all defects have been rectified and to this end Council's Technical Services section had a road audit completed to identify faults and subsequently a defects list was created and those defects have since been rectified. An agreed maintenance/warranty period post completion of the rectification works has now expired and Council is now being requested to formally dedicate the road that will see Council assume responsibility for the road once the Minister has granted his approval.

The proposed northern extension of Flynn Drive has had visibility in the community for some time now given its inclusion within the Fitzroy Futures Town Plan which has been developed to provide the basis for future land use and planning decisions in Fitzroy Crossing. The existent road by virtue of its orientation and alignment with the section of Flynn Drive that is located to the south of Fallon Road is already broadly accepted and referred to as being part of Flynn Drive and therefore it is proposed that name be adopted when seeking the Minister's approval for the dedication of the road.

STATUTORY ENVIRONMENT:

-) Land Administration Act 1997 - Section 56 (1) (a) :- Dedication of land as road.
-) Land Administration Regulations 1998 section 8 – Local government request to dedicate land as a road (Acts.56), requirements for.
-) Fitzroy Futures Town Plan – basis for land use and planning decisions in Fitzroy Crossing.

-) Land Administration Act 1997: Part 2 deals with naming of streets.
-) Local Government (Miscellaneous Provisions) Act Sec 295 deals with naming of streets.

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Upon formal dedication the road would form part of Council's road network and be included within road maintenance budgets.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
<p>3: A strong and diverse local economy.</p> <p>A strong local economy that is supported by a broad industry base with opportunities for business development and employment</p>	<p>3.4: Appropriate infrastructure that supports economic development.</p>	<p>3.4.1: Promote release of serviced industrial, commercial and residential land.</p>

CONSULTATION:

Consultation has occurred between Council Officers and the Department of Lands as to the appropriate process to follow in respect to the road dedication given underlying tenure and background issues to the road construction.

COMMENT:Dedication of land as road:

The dedication of this road is an action that is consistent with the future planning for Fitzroy Crossing that will in the future see Flynn Drive extended further north to the point where it will intersect with Scrivner Road. The construction of that new link will facilitate the future development of the land referred to as Bunuba Heights and will also provide alternative access to those living areas north of Fallon Road during those periods when access along Forrest Road is not possible due to peak floodwaters. In the interim, the road serves an important function in providing vehicular access to the new high school and KTI facility.

The action to dedicate the road will enable the Council to include the road into its long term road management plan and undertake the necessary maintenance practices when required. It is proposed that approval would be sought to have the existing road dedicated within a 20m road reserve, consistent with current Shire practices and that approval would sought to dedicate the road to the most northern extent to which the road has been constructed. It is apparent that portions of the turning circle that has been constructed to facilitate buses being able to turn around at the current terminus of the road would fall outside the 20m road reserve, however, it is not proposed to seek the formalisation of those areas given that turning area would become redundant in the future once the road was extended further north to Scrivener Road.

The road has been the subject of close scrutiny by Council staff given the history surrounding its construction, however, the agreed schedule of rectifications have now been satisfactorily completed by the DoE and the DoTWD and the road is in a condition that enables it to be ‘taken on’ by Council and integrated into the Shire’s road network.

Road naming:

The selection of names is at local government discretion. As previously described, it is considered appropriate that this section of road be named as Flynn Drive and a request will be put to the Geographic Names Committee (GNC) seeking approval for the new road to be so named.

The matter has been discussed generally with staff from the GNC who had advised that approvals to the naming of what are extensions of existing roads is a fairly straight forward matter. In this instance the geometry of the roads makes the continued use of Flynn Drive north of the Fallon Road intersection appropriate.

In order to progress this matter the Council is required to:

-) seek approval from the Geographic Names Committee to name the new road “Flynn Drive”;
-) make a formal resolution requesting the Minister to dedicate the land as a road;

Whilst the matters of road naming and the road dedication are being presented to Council as a joint matter, staff will need to progress the naming of the proposed road in advance of requesting the dedication of the road.

Having regard to the matters outlined above, it is recommended that the Council initiate's actions to seek the approval the Minister to dedicate the land on which the current section of road has been constructed as a road and that approval be sought to name that section of road as Flynn Drive.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

MINUTE NO. 101/2016

Moved: Cr C Kloss Seconded: Cr P Coggins

- 1. That Council, pursuant to section 56(1) of the Land Administration Act 1997, resolves to request that the Minister for Lands dedicates the land on which the current access road to the Fitzroy Crossing High School and Kimberley Training Institute has been constructed (but excluding the access driveway into the High School site), specifically being Unallocated Crown Lots 502 & 504 Fitzroy Crossing and the portion of Lot 329 on Reserve 9656 Fitzroy Crossing.**
- 2. That Council, in making the request and in accordance with section 56 (4) of the Land administration Act 1997 indemnifies the Minister for Lands against any claim for compensation in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request.**
- 3. That the Council endorses the use of the name Flynn Drive for the new section of road that is to be dedicated north of the Fallon Road intersection to the point of its current terminus as shown on the attached plan and seeks approval for the use of this name from the Geographic Names Committee.**

CARRIED 6/0

1.44pm Ross Sullivan left the meeting.

1.45pm Stephen Gash left the meeting.

12.3.2 TENDER T9-2016 NERRIMA AND GNH-GEE GULLY ROADS RESHAPING AND GRAVEL RE-SHEETING

Location/Address:	Derby
Name of Applicant/Owner:	Shire of Derby / West Kimberley
File Reference:	0481
Author:	Chris Hurstfield – Manager Engineering Services
Interest Disclosure:	Nil
Date of Report:	19 September 2016
Attachments:	T9 Confidential Price Scoring

SUMMARY:

This item is for Council to consider the awarding of tender T9-2016 being Reshape and Gravel Re-sheet works (pavement) on the Nerrima and GNH - Gee Gully Roads. It is proposed that the tender be awarded to Buckley's Earthworks and Paving.

BACKGROUND:

As adopted in Council's 2016-2017 budget, funding has been allocated for improvement works to reshape and gravel re-sheet Nerrima and GNH - Gee Gully Roads. Following the tender advertisement, fourteen requests were made for the applicable tender documents.

At the close of tenders on 9th September 2016, submitted tender documents were received from:

Buckleys Earthworks and Paving
Jenkins Earthmoving and Transport
Jenkins Earthmoving and Transport (Alternative)

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:

Funds for the undertaking of this work are contained within the adopted 2016-2017 budget for Nerrima and GNH - Gee Gully Roads.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
2: Sustained natural and built environments that meet the needs of the community and support future growth.	2.3: Reliable and safe transport infrastructure	2.3.1: Develop a road maintenance and upgrading strategy

CONSULTATION:

Tender T9-2016 being Nerrima and GNH - Gee Gully Roads improvement works was advertised in local and state-wide newspapers, with the tender closing 2.00pm on Tuesday 6th September 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 construction site. Council officers have carried out several inspections on the section of road concerned to ascertain the most appropriate locations for treatment.

COMMENT:

For the purposes of the project the scope of works was split into separate components as follows;

Gravel Reshape and re-sheet,

SLK 29.70 – 34.60 Nerrima Road

SLK 41.50 – 43.60 Nerrima Road

SLK 37.58 – 39.30 GNH – Gee Gully Road

SLK 66.40 – 67.88 GNH – Gee Gully Road

SLK 98.20 – 98.50 GNH – Gee Gully Road

SLK 146.40 – 147.20 GNH – Gee Gully Road

It is recommended 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 prices submitted by both Buckley's Earthworks & Paving and Jenkins Earthmoving & Transport.

The criteria and weighting for this tender were as follows;

Criteria	%
Related Experience	25
Key Personnel and Experience	15
Tenderer's Resources	15
Demonstrated Understanding	25
Price	20

A score summary is shown below;

Buckleys Earthworks and Paving	C1
Jenkins Earthmoving and Transport	C2
Jenkins Earthmoving and Transport (Alternative)	C3

		C1	C2	C3
Related Experience 25%	Weighted Score	20.7	20.2	20.2
Key Personnel & Experience 15%	Weighted Score	12.8	11.2	11.2
Tenderer's Resources 15%	Weighted Score	13.7	11.2	11.2
Demonstrated Understanding 25%	Weighted Score	21.7	20.2	20.2
Total non-price (qualitative) criteria	Total out of 80%	68.8	62.7	62.7
Area 1				
Normalised Price	20%	20.0	16.8	15.6
Totals	100%	88.8	79.4	78.3

COMMENT:

As Buckley's Earthworks and Paving was awarded the highest Total Score in the Assessment Criteria for T9-2016 Nerrima and GNH – Gee Gully Roads Reshaping and Gravel Re-sheeting, it is recommended that this contract be awarded to Buckley's Earthworks and Paving.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

MINUTE NO. 102/2016

Moved: Cr P Coggins

Seconded: Cr I Prouse

That Council award TENDER T9-2016 Nerrima and GNH – Gee Gully Roads Reshaping and Gravel Re-sheeting to Buckley's Earthworks and Paving.

CARRIED 6/0

1.47pm Stephen Gash returned to the meeting.

12.3.3 PROPOSED PARTIAL ROAD CLOSURE – FORREST ROAD, FITZROY CROSSING

Location/Address:	Forrest Road, Fitzroy Crossing
Name of Applicant/Owner:	Bunuba
File Reference:	5481
Author:	Noel Myers – Shire Planner
Interest Disclosure:	Nil
Date of Report:	21 September 2016
Attachment:	Forrest Road Closure Maps

SUMMARY:

The purpose of this report is to seek Council's endorsement to endorse the partial closure of Forrest Road to reduce the width of the road from 30m to 20m in accordance with the Fitzroy Futures Town Plan (FFTP).

BACKGROUND:

The Fitzroy Futures Town Plan (2009) provides the basis for future planning and land use decisions for the Fitzroy Crossing town site and surrounds. At the time the plan was prepared, Forrest Road was not aligned within the existing road reserve and the FFTP included an action to regularise the tenure to have the road properly dedicated with the Shire to assume management responsibility in the usual manner.

The FFTP proposed that the section of Forrest Road around the Old Mission area would be created with a 20m wide road reserve. The Department of Lands subsequently progressed the dedication of Forrest Road, Skuthorp and Scrivner Roads (independently) as part of the ongoing Bunuba No.2 Native Title negotiations and created the road with a width of 30m in lieu of the 20m envisaged in the FFTP.

It had since transpired that Bunuba Operations AC (formally Bunuba Inc.) progressed with the construction of two new dwellings on lots located in what is referred to as the Old Mission Area, adjacent to the ex-high school site and proceeded with construction on the premise that the Forrest Road Reserve was 20m as per the FFTP rather than the 30m width it has been formally dedicated as.

This has resulted in the buildings being set out incorrectly and the slabs of the two dwellings under construction are encroaching into the road reserve. It is this situation that has been the catalyst for the current request that will rectify the situation with the building encroachments and also ensure that the road reserve is consistent with the future planning for the area.

The Council agreed to initiate the closure of the road at the Ordinary Meeting of Council held on the 30th October 2014. The decision of the Council at that meeting was:

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 11.4.2

MINUTE NO. 169/2014:

Moved: Cr. A. Twaddle Seconded: Cr. C. Travers

1. That Council, pursuant to section 58 of the Land Administration Act 1997, resolves to initiate actions to effect the partial closure of the western side of Forrest Road road reserve from the point adjacent to southern boundary of Lot 76 Forrest Road to the most northern extents of the dedicated road reserve as shown on attached Plan No. 83810/04/04;

2. That the motion to partially close the portion of road described in 1) above, be advertised for a period of not less than 35 days in a newspaper circulating within the district;

3. That subject to the final approval from the Minister for the partial closure of the road, the land to be excised from the road reserve be amalgamated into the adjoining lots being Lots 76 & 67 Forrest Road, Portion Reserve 30810, Lot 66 Forrest Road and portion of Reserve 9656 Lot 318 Forrest Road, Fitzroy Crossing as shown on Plan No. 83810/04/04 to be used for residential purposes as proposed under Fitzroy Futures Town Plan – Old Mission Outline Development Plan;

4. That the applicant (Bunuba Operation AC) provides an undertaking to assume all costs incurred by the Council in advertising and finalising the road closure.

CARRIED 6/0

STATUTORY ENVIRONMENT:

Land Administration Act 1997 - section 58 pertaining to the closure of roads

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

All costs with advertising of the closure have been met by Bunuba.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
<p>3: 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</p>	<p>3.4: Appropriate infrastructure that supports economic development.</p>	<p>3.4.1: Promote release of serviced industrial, commercial and residential land.</p>

CONSULTATION:

In accordance with Land Administration Regulations 1998, the proposed closure has been advertised for a minimum period of 35 days.

A notice was placed in the West Australian on Saturday 20th August 2016 with the closing dates for comments being Friday 23 September 2016 – a total of 35 days.

In addition, a notice was placed on the Council website and the Department of Aboriginal Affairs (DAA) were directly notified given that they will be the recipient agency of the land being excised from the road reserve and preliminary consultation was undertaken with the DAA at officer level. Service agencies being, Water Corporation, Horizon Power; Telstra were notified directly.

As at date of preparing this report, the last day for submissions had not closed and in addition the DAA have advised that the proposal needs to be submitted to the ALT board for consideration at the next available meeting which is likely to be 21 October 2016. They further advise that it may be several weeks after the meeting until the board decision is released. Any submissions received in the interim period will be circulated to Council under separate cover and prior to the Council meeting.

In order to finalise Council's obligations under the LAA in the most timely and efficient manner, it is recommended that the Council endorse the road closure process on the condition that the ALT board agree to the proposed transfer of the land and that delegated authority is given to the CEO to finalise the matter on that basis. Should any issues arise that are contrary to the intent of the closure or that cause risk to the Council, then the matter would be referred back to the Council for determination.

COMMENT:

The proposed partial road closure is not considered to be problematical from the perspective that it is clear of any major infrastructure and is consistent with the future planning for the area. The Shire has recently reconstructed the northern portion of Forrest Road having due regard to the proposed reconfiguration and also to accommodate the two dwellings.

The action will facilitate the future development of the land in accordance with the endorsed Old Mission Outline Development Plan contained within the FFTP and also assists in regularising the current building encroachments.

There is a degree of urgency to resolve the land tenure issue so that new Building Permits can be issued to enable the partially completed dwellings to be completed. To minimise the suite of issues associated with the road closure process, it is recommended that the road closure process be staged.

This initial closure process will only apply to the section of the road from its northern terminus to a point equal to the fenced area of the most southern of the two dwellings in question. The rationale for this is that there are other tenure considerations that would arise with portions of the road being excised and amalgamated into the lots described in Council's initial resolution made in October 2014. Staging the closure as being proposed will simplify the process and assist with achieving a quicker resolution so that new Building Permits can be issued. Plans comparing the original and revised portions of road to be closed are provided as Attachment 2.

The request to close the road has been progressed in accordance with section 58 of the LAA and Regulation 9 of the Land Administration Regulations 1998 which deals with the public advertising of the proposed closure.

As those actions have now been completed (noting comments in the Consultation section of this report proposing to delegate authority to the CEO post receipt of ALT advice and receipt of any other submissions), the application is referred back to the Council for final consideration and endorsement.

VOTING REQUIREMENT:

Simple majority. Absolute where indicated.

OFFICER RECOMMENDATION:**MINUTE NO. 103/2016****Moved: Cr C Kloss****Seconded: Cr A Kogolo**

- 1. That Council, in accordance with section 58(2) of the Land Administration Act 1997, after due consideration of submissions received concerning the proposed partial road closure, resolves to request the Minister to approve the partial closure of Forrest Road from the northern terminus of the road to the point equal to boundary fence constructed on the most southern of the two dwellings as shown on the attached plan dated 20/90/2016;**
- 2. That the Minister be advised that the Council by ABSOLUTE MAJORITY supports the amalgamation of the portion of land to be excised from the Forrest Road road reserve into the adjoining Reserve 9656, portion of lot 118 on Deposited Plan 220930,**
- 3. That Council by ABSOLUTE MAJORITY delegates to the Chief Executive Officer authority to endorse the closure process once confirmation has been provided from the Aboriginal Lands Trust board that they are willing to accept the amalgamation of the portion of land to be excised from the Forrest Road road reserve. Authority is delegated on the basis that there aren't any issues arising that are contrary to the intent of the closure or that cause risk to the Council that could not be satisfactorily resolves, otherwise the matter would be referred back to the next available Council meeting for determination.**

CARRIED 6/0**CARRIED BY AN ABSOLUTE MAJORITY**

COUNCIL DECISION:

MINUTE NO. 104/2016

Moved: Cr C Kloss Seconded: Cr P Coggins
That the meeting be closed to the general public to discuss Agenda Item 12.3.4 pursuant to the Local Government Act 1995 Section 5.23 (2)(d) relating to legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.
CARRIED 6/0

1.50pm Gallery left the meeting.

COUNCIL DECISION:

MINUTE NO. 105/2016

Moved: Cr. C Kloss Seconded: Cr. A Kogolo
That the meeting be again open to the general public.
CARRIED 6/0

2.01pm Gallery returned to the meeting. Only Kevin Pettingill returned.

COUNCIL DECISION:

MINUTE NO. 106/2016

Moved: Cr. C Kloss Seconded: Cr. P Coggins
That the Standing Orders be suspended for discussion on Item 12.3.4.
CARRIED 6/0

2.15pm Taryn Dyer left the meeting.
2.17pm Taryn Dyer returned to the meeting.
2.20pm Brad Isbister left the meeting.
2.22pm Brad Isbister returned to the meeting.
2.26pm Ross Sullivan returned to the meeting.

COUNCIL DECISION:

MINUTE NO. 107/2016

Moved: Cr. C Kloss Seconded: Cr. P Coggins
That the Standing Orders be resumed.
CARRIED 6/0

12.3.4 PROPOSED MODIFICATION TO CLARENDON ST MEDIAN ISLE

Location/Address:	Clarendon Street, Derby
Name of Applicant/Owner:	Darren John, Proprietor of Shell Service Station
File Reference:	Clarendon 46 A101930 Lot 331 (Shell Service Station, Derby Fuels, Derby Tyre and Exhaust)
Author:	Wayne Neate – Executive Manager of Technical and Development Services
Interest Disclosure:	Nil
Date of Report:	6 September 2016
Attachments:	Clarendon Street Road Safety Audit, Initial and Final Designs, Crash Data Map

SUMMARY:

This item is to consider a request to modify the centre median isle of Clarendon Street, Derby to allow vehicle traffic to exit the Shell Service station in a right hand turn to head east down Clarendon Street.

The officer recommendation is to keep the median island in place and not allow the right hand turning movement from the Shell Service station.

BACKGROUND:

Following a number of accidents in Clarendon Street a safety audit (Attachment 1) was conducted to advise what changes could be made to better ensure the safety of all users of the area. The road safety audit was undertaken in 2009 by the Senior Road Safety Auditor at Main Roads WA Derby along with several other Main Roads WA personal, a Police representative and a Shire representative Greg Stephens who was an observer.

-) The audit was conducted at the request of the Shire as a result of an over representative right angle crash incident rate, local concerns and a severe crash involving pedestrians.
-) The issues raised during the audit were wide spread and extended from Nevill Street to Hardman Street of which a number of different solutions were offered.

-) The area has a lot of pedestrian traffic and an Average Daily Traffic count of 1500 vehicles per day in 2009. This count had increased to 1830 following further data being gathered in 2012.

These concerns became more apparent when there was an incident between a vehicle and pedestrians in early 2010. As a result of the audit an outcome was the installation of the roundabout at the intersection of Nevill and Clarendon Streets.

UDLA were engaged to initiate the streetscape project of Clarendon St of which Donald Veal consultants were engaged to provide advice on traffic matters taking into consideration those issues that were raised in the safety audit from 2009. The issues raised in the safety audit became the basis of the designs of the streetscape plans.

The initial workshop with the community suggested parallel parking to reduce the risk of accidents when reversing from a parking bay. This was rejected by the community and Council due to the loss of parking spaces and angled parking was maintained but preventing any turning movements that would add to the collision risk (i.e. the median).

The culmination of these events began the process of revitalising the town centre with it finally coming before Council on 26 February 2015 as per minute number 13/2015.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 11.4.6

MINUTE NO. 13/2015:

Moved: Cr. A. Twaddle

Seconded: Cr. I. Prouse

- 1. That Council receives the draft Derby Town Centre Directions Plan;**
- 2. That Council by ABSOLUTE majority delegates authority to the Chief Executive Officer to develop a Public Consultation Plan and then proceed to undertake public consultation in accordance with that plan, after which the draft Derby Town Centre Directions Plan will be referred back to Council for endorsement;**
- 3. That Council authorises staff to proceed with engineering designs of Stage 1 of the Derby Town Centre Directions Plan as it applies to the road**

modifications to Clarendon Street in accordance with the Main Roads Western Australia Road Project Grant.

CARRIED 7/0

CLAUSE 2 CARRIED BY AN ABSOLUTE MAJORITY

At this point the design (see Attachment 2) and the decision of Council directed Staff to begin the engineering component of the design. This engineering component included the modification of the parking nibs and the extension of the central median strip as per the initial recommendations of the Road Safety audit.

Further consultation occurred with the business owners in the immediate area and the general community to gauge what is or is not important in the design and how the streetscape should look. This design (see attachment 3) was endorsed by Council at the October meeting in 2015 as per minute number 129/2015 below.

MINUTE NO. 129/2015

Moved Cr A Twaddle

Seconded Cr P White

1. That Council
 - a) Endorses the Verge Treatment Plan Stage 2 Clarendon Street Upgrade (Ref:SC3a I 2015-10-19); and
 - b) Authorises staff to proceed with the endorsed Stage 2 – Verge Treatment Plan.

CARRIED 7/0

The work has been carried out in accordance with the adopted plans of Council and the current concerns were raised regarding the central island in August 2016, several months after its completion.

STATUTORY ENVIRONMENT:

Local Government Act 1995

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

The cost of installing the options listed in the comments section are as follows;

1. Modified Nib - \$2,000 approx.
2. Large break in Central Island - \$75,000.
3. Protected Turning pocket - \$150,000.
4. One way - Advertising and printing costs \$2,000 approx.

Options 2 and 3 are approximations only and will require further work if adopted as an option. Please also note that a budget amendment will need to be adopted as this is a substantial change to the current budget item and will require an absolute majority decision of Council.

STRATEGIC IMPLICATIONS:

The proposed activity and recommendation is consistent with the following:

GOAL	OUTCOME	STRATEGY
2: A Balance between the natural and built environments	2.3: Reliable and safe transport infrastructure	n/a

CONSULTATION:

The community and business owners have been heavily consulted within the two years prior to August this year and continually throughout the construction phase. Given the timeframe regarding these proposed amendments there has been no opportunity to consult with the wider community.

Options 2 and 3 may also have parking implications for the Ray White, CWA, and arcade buildings that need further discussion.

COMMENT:

A presentation was given by the lease holder of the Shell Service Station Mr Darren John prior to the August Council meeting which raised concerns regarding the ability for vehicles to exit the service station. The difficulty arises from larger vehicles such as caravans and boat owners who try to exit and conduct a left hand turn causing problems.

At the meeting officers advised that they would adjust the curve radius of the nib at the service station corner to allow better left hand turn. This work commenced 20 September 2016.

There are several options to consider and they have been summarised in a table below along with their advantages and dis-advantages.

Option	Advantages	Disadvantages
1. Adjust Nib on corner of Hardman and Clarendon to allow better Left hand turns	Simple low cost solution. Allows better left hand exits Keeps traffic disruption to a minimum	none
2. Break in central Island	Will allow right hand turns	Will also allow right hand turns (RHT) from traffic heading east along Clarendon St. Potential for crashes to occur is increased from RHT (both ways). Potential to block traffic on Clarendon St west bound. Issues with island break and compliance standards (distance to intersection)
3. Protected pocket in Central Island	Will allow right hand turns and protect vehicle turning right	Cost. Potential to block traffic on Clarendon St west bound. Increase in side swipe crashes. Not supported by Austroads standards.
4. One way – Left Hand turn off Clarendon into	Simple low cost solution. Allows the best traffic flow.	Potential to block traffic on Clarendon St west

Service station ONLY – exit via Hardman St.		bound. Not what the Proprietor has requested.
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Some other points to note when considering the proposal are that:

-) There have not been any crashes reported in the section between IGA and Hardman St since the extension of the central median;
-) The distance from the centre of the Shell driveway to the centre of the Clarendon / Hardman Streets roundabout is only 30m; and
-) The additional time taken to turn left onto Clarendon St when exiting Shell, travel to the roundabout and make the 180° turn to head back down Clarendon St towards Nevill St is approximately 10 seconds.

Officers had requested that the Senior Road Safety Auditor at Main Roads WA Derby, review both options for the break in the central median to allow right turn movements for traffic exiting the Shell Service Station onto Clarendon Street. The officer provided the following advice:

-) *The proposals raise several concerns including the likelihood of the re-introduction of right angle and sideswipe crashes to the area which is of significant concern, given the principal aim of the project which was to improve the safety of everybody using this section of road.*
-) *The close proximity of the roundabout to the driveway is not considered desirable to have a gap in the median, which will increase the likelihood of right angle crashes.*
-) *It is recommended that the island remains in place and no gap in the median is installed, allowing left in and left out turning manoeuvre.*
-) *The preferred option would be to have the Clarendon Street driveway entrance to the shell Service Station left in, Entry only and the Hardman Street driveway as Exit only, which will assist with improving the traffic flow on Clarendon Street.*

Officers have also sought advice from a Road Design Engineer from the Rural Technical Engineering Branch of Main Roads WA. The engineer made comment from a Main Roads perspective on what they would or would not allow in accordance with the Austroads guidelines which is the standard used by the department.

-) Driveways near roundabouts – 25m minimum, and shall be located as far as partial from the roundabout*
-) As a general rule, median openings solely for a service station driveways shall not be provided – Main Roads WA standard*
-) Option 3 – not allowed*
-) Option 2 – possible but would need to prevent right turn into the service station from east bound traffic on Clarendon St. Need further clarification working on this option.*
-) Given the roundabout is so close access from all directions is still possible.*

Local Government Insurance Services (LGIS) was consulted about the ability for the applicant to indemnify the Shire to protect against any claims arising from undoing a solution that addressed crashes from a specific type of turning movement.

LGIS advised that the Shires duty of care in this instance is to the public safety and cannot be transferred to any other party. Further detail on the advice and liability issues arising will be circulated under a separate confidential memo.

In summary the critical points to remember when considering any change to the central island in Clarendon St. The extension of the central island was put in place for the following reasons;

-) Recommendation from the safety audit conducted in 2009.*
-) Section of Clarendon St that previously had no central island was over represented in crash statistics (see attachment 4) in the Kimberley. There have been no crashes in this section of the road since the island has been in place.*
-) The engineering work undertaken by Donald Veal consultants recommended this extension due to road rules not being obeyed therefore causing the increased crash data.*
-) It was undertaken as a decision by Council and the community for this extension to occur.*
-) Improve traffic flow throughout the area.*
-) Make it safer for the large volume of pedestrian traffic that moves through the area.*

To modify the central island to have a cut through to allow right hand turning traffic from the Shell Service Station we need to consider the following;

-) It goes against the recommendation of the safety audit of 2009 and the auditor's current viewpoint.
-) Potentially could cause traffic flow problems.
-) Potentially could an increase in crash statistics in the area.
-) The right hand turn movement needs to be prevented, which may require work with the police to prevent this occurring as signage is generally ignored.
-) There are viable alternative methods (redesign of nib to facilitate left hand turn) available to the owner of the business to better manage the flow of traffic into and from his business that would accommodate longer and larger vehicles and modifications have already been to the design of verge by the Council to better facilitate the left hand turn onto Clarendon Street.

By the time this report is presented to Council, the nib modification should have been completed. This modification has been installed to assist larger vehicles exiting the service station to merge into the traffic and potentially could alleviate the need for the cut in the centre median isle.

However, should the Council decide to put a right hand turning cut through the central island, the design should be put through a full design and safety audit process to ensure its functionality and adherence to Austroads guidelines.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

MINUTE NO. 108/2016

Moved: Cr C Kloss

Seconded: Nil

That Council note the nib modification on the corner of Clarendon and Hardman Streets to allow better left hand turns and advise the Proprietor of the Shell Service Station, Mr Darren John that the central median island will be maintained in its current form.

MOTION LAPSED DUE TO ABSENCE OF A SECONDER

The applicant forwarded a list of questions to all Councillors which were touched on by Councillors during debate on the item. These were not received by officers and were taken on notice.

Subsequent review of the questions identified statements contrary to the Local Government (Rules of Conduct) Regulations in relation to staff, that would have otherwise been ruled out of order if presented by the applicant during public question time as a matter of public record (noting that they were not presented in question time anyway). Officers requested right of reply and the ability to respond directly to the applicant with a copy to all Councillors.

COUNCIL DECISION:

MINUTE NO. 109/2016

Moved: Cr P McCumstie

Seconded: Cr C Kloss

That Council advise the Proprietor of the Shell Service Station, Mr Darren John that the central median island will be maintained in its current form until other potential options are considered by Council by the end of February 2017.

CARRIED 6/0

Reason for change to officer recommendation:

Council felt there were further options that needed to be considered.

12.4 DEVELOPMENT SERVICES

12.4.1 APPLICATION FOR TRADERS PERMIT – DNC CATERING

Location/Address:	Reserve 39671, Fitzroy Crossing Town Oval
Name of Applicant/Owner:	Corey Aksenov, DNC Catering Pty Ltd
File Reference:	Click here to enter file number
Author:	Caitlin Levey, Environmental Health Officer
Interest Disclosure:	Nil
Date of Report:	20 September 2016
Attachments:	Trading Proposal from DNC Catering, DNC Catering Pty Ltd Food Act Certificate of Registration, Current Traders Permit for DNC Catering Pty Ltd, Photos of DNC Catering’s Mobile Wood Fired Pizza Oven, Submissions Received During Consultation

SUMMARY:

The purpose of this agenda item is for Council to consider an application made by Mr Corey Aksenov, proprietor of the food business DNC Catering Pty Ltd, to increase the food businesses commercial operating hours at Reserve 39671, Fitzroy Crossing Town Oval.

DNC Catering also seeks to extend its current 3 month Traders Permit which allows him to trade at the Fitzroy Crossing Town Oval from 7am – 10am, Monday to Friday. This permit is due to expire 14 October 2016.

BACKGROUND:

The Fitzroy Crossing Town Oval and its associated facilities exist on Reserve 39671. Reservation is the setting aside of Crown Land for a specified purpose, generally a public purpose – in effect, the dedication of land to that purpose. Reserve 39671 is vested to the Shire of Derby West Kimberley for recreational purposes by way of a Management Order. A Management Order under the *Land Administration Act 1997* does not convey ownership of the land but conveys as much control as is necessary for the land’s management. The Department of Lands, aims to ensure that reserves are used for their designated purposes.

Mr Aksenov's recent application to the Shire requests for DNC Catering to sell wood-fired pizzas from a temporary stall set-up located at the Fitzroy Crossing Town Oval between the hours of 5pm to 10pm, four days a week. The proposed activity would be in addition to DNC Catering's current trading approval at Fitzroy Crossing Town Oval between the hours of 7am and 10am, Monday to Friday.

The wood-fired oven trailer which Mr Aksenov has recently acquired is currently registered as a low risk mobile food business. However in order to fulfil the requirements of the Australia New Zealand Food Standards Code, the trailer is to be operated in conjunction with a full stall set up (see attachments for an example). Mr Aksenov would be required to register the temporary food stall under the *Food Act 2008* as a medium risk mobile food business. This process has not yet been initiated by Mr Aksenov.

DNC Catering's proposed trading menu will include three types of pizza (Hawaiian, Vegetarian and Meat Lovers) for purchase from between twenty and twenty-five dollars and a garlic bread for three dollars.

STATUTORY ENVIRONMENT:

Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law Food Act 2008

Australian New Zealand Food Standards Code

Land Administration Act 1997

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:

TRADERS PERMIT	2016/2017 FEE
Annual	\$1,545.00
Monthly	\$247.00
Daily	\$52.00

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 Executive Manager of Technical Development Services; 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 existing retail food businesses and any relevant stakeholders within Fitzroy Crossing. Written comments to the proposal were invited within a 14 day timeframe. By the close of the consultation period, two letters of objection and one submission of support were received. The letters of objection outlined concern that the demand for the sale and supply of takeaway pizzas is already fulfilled by the existing permanent retail base within Fitzroy Crossing. All submissions are provided as attachments to this agenda item.

COMMENT:

As per Council Policy H2- Traders and Stallholders Permits Policy (3), applications to establish trading activities in public places will be subject to the same planning considerations as are applied to applications for the use of private land. Particular attention will be paid to the impact of the proposal on the public environment.

The Fitzroy Crossing Town Oval and its associated facilities exist on Reserve 39671. Under the existing Management Order, the Reserve is vested to the Shire of Derby/West Kimberley for recreational purposes. Incidental use of the Reserve from time to time is a matter which is reasonable and can be considered under the relevant Local Laws. In addition, trading or commercial activities which are associated with recreational activity at the Reserve could also be accommodated.

Although approval, in the form of a 3 month Traders Permit, has previously been granted to DNC Catering permitting limited commercial occupation of the reserve (3 hours a day; Monday-Friday), approving DNC Catering's application to establish a more permanent commercial presence at the Reserve (8 hours a day; 4 days a week) would be contrary to the recreational intent and purpose of the Reserve and inconsistent with the existing Management Order.

Another relevant consideration in determining Mr Aksenov's application would be that the needs for the district, or part for which the permit is sought, are adequately catered for by established shops. In accordance with clause 6.5 (2) of the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, local government may refuse to approve an application for a permit on such grounds.

The objective of Council Policy H2-Traders and Stallholders Permits must also be taken into account when considering the application. The objective of the policy statement is to allow for the operation of trading activities in thoroughfares and public places in such a manner that they do not conflict with or prejudice the Shire's permanent retail and service base. In accordance with Policy 2, trading activities should also meet a demand for goods and services which is not already met by existing, permanent facilities.

The Fitzroy River Lodge currently sells 10 different types of pizza which are available as part of its Lounge Bar Menu from 12pm-2pm and 5pm-8.30pm, seven days a week. The pizzas are also available for takeaway. Tarunda IGA also sells hot, ready to eat takeaway pizzas until 6pm, Monday to Friday. Approval of DNC Catering's trading application to sell pizzas between the hours of 5pm-10pm would conflict with the hours that the Fitzroy River Lodge and Tarunda IGA currently offers pizza for purchase. Any approval would need to take into consideration the services already provided by both Fitzroy River Lodge and Tarunda IGA.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

- | |
|--|
| <p>1. Pursuant to Division 1, clause 6.5, subclause 2 of the Local Law, it is recommended that Council EXTEND the initial approval of DNC</p> |
|--|

Catering's Traders Permit, allowing the mobile coffee van 1DCC 109 to trade from Reserve 39671 between the hours of 7am and 10am, Monday to Friday, for an additional 3 months until 15 January 2016.

- 2. Pursuant to Division 1, clause 6.5, subclause 2 of the Local Law, it is recommended that Council REFUSES the application, made by Mr Aksenov for a Traders Permit to sell pizzas from the mobile trailer IYNI 821 between the hours of 5pm and 10pm, four days per week from Reserve 39671, based on the following grounds:**
 - i. The application is contrary to the Shire of Derby West Kimberley's *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Law* and conflicts with Division 1, clause 6.5, subclause 2(d) in that the needs of the district, or part for which the permit is sought, are adequately catered for by established shops. Currently the Fitzroy River Lodge and Tarunda IGA sell ready-to-eat takeaway pizzas seven days of the week.**
 - ii. The application is contrary to the Shire of Derby West Kimberley's Council Policy H2 - Traders and Stallholders Permits. As per Policy (2), trading activities should meet a demand for goods and services which are not already met by existing, permanent facilities. Approving the application would conflict with the operating hours of a number of existing, permanent food businesses that operate within Fitzroy Crossing and sell takeaway pizzas.**
 - iii. The application is contrary to the Shire of Derby West Kimberley's Council Policy H2 - Traders and Stallholders Permits. As per Policy (3), applications to establish trading activities in public places will be subject to the same planning considerations as are applied to applications for the use of private land. Approving an application for DNC Catering to establish a more permanent commercial presence at Reserve 39671 would be contrary to the recreational intent and purpose of the Reserve and inconsistent with the existing Management Order.**

Council agreed to split the above motion into two parts.

COUNCIL DECISION:**MINUTE NO. 110/2016****Moved: Cr C Kloss Seconded: Cr I Prouse**

- 1. Pursuant to Division 1, clause 6.5, subclause 2 of the Local Law, it is recommended that Council EXTEND the initial approval of DNC Catering’s Traders Permit, allowing the mobile coffee van 1DCC 109 to trade from Reserve 39671 between the hours of 7am and 10am, Monday to Friday, until 28 February 2017 to allow any further extension of the Traders Permit to be submitted to Council.**

CARRIED 6/0**MINUTE NO. 111/2016****Moved: Cr P Coggins Seconded: Cr E Archer**

- 2. Pursuant to Division 1, clause 6.5, subclause 2 of the Local Law, it is recommended that Council REFUSES the application, made by Mr Aksenov for a Traders Permit to sell pizzas from the mobile trailer IYNI 821 between the hours of 5pm and 10pm, four days per week from Reserve 39671, based on the following grounds:**
 - i. The application is contrary to the Shire of Derby West Kimberley’s Activities on Thoroughfares and Trading in Thoroughfares and Public Places Law and conflicts with Division 1, clause 6.5, subclause 2(d) in that the needs of the district, or part for which the permit is sought, are adequately catered for by established shops. Currently the Fitzroy River Lodge and Tarunda IGA sell ready-to-eat takeaway pizzas seven days of the week.**
 - ii. The application is contrary to the Shire of Derby West Kimberley’s Council Policy H2 - Traders and Stallholders Permits. As per Policy (2), trading activities should meet a demand for goods and services which are not already met by existing, permanent facilities. Approving the application would conflict with the operating hours of a number of existing, permanent food businesses that operate within Fitzroy Crossing and sell takeaway pizzas.**
 - iii. The application is contrary to the Shire of Derby West Kimberley’s Council Policy H2 - Traders and Stallholders Permits. As per Policy (3), applications to establish trading activities in public places will be subject to the same planning considerations as are applied to applications for the use of private land.**

Approving an application for DNC Catering to establish a more permanent commercial presence at Reserve 39671 would be contrary to the recreational intent and purpose of the Reserve and inconsistent with the existing Management Order.

CARRIED 6/0

ADVICE NOTE:

The Shire acknowledges that:

1. Mobile trailer IYNI 821 complies with the registration and compliance provisions of the Food Act 2008 in relation to mobile food premises;
2. Permission has been sought by the applicant to use the registered kitchen at the Bayulu Community Store; and
3. The Shire of Derby / West Kimberley Planning consent is not required for trading within Aboriginal Communities outside the gazetted town boundaries as long as:
 - a) Permission has been granted by the Community Council;
 - b) The trading does not impact traffic or signage on other public reserves; and
 - c) All preparation is in accordance with the Food Act 2008.

12.5 COMMUNITY DEVELOPMENT AND RECREATION SERVICES

Nil

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

14.0 QUESTIONS BY MEMBERS FOR WHICH DUE NOTICE HAS BEEN GIVEN

Nil

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

15.1 COMPLIANCE AND STRATEGIC REVIEW COMMITTEE MEETING

COUNCIL DECISION:

MINUTE NO. 112/2016

Moved: Cr C Kloss Seconded: Cr P Coggins
That Council receive the minutes of the Compliance and Strategic Review Committee meeting held 28 September 2016.
CARRIED 6/0

15.2 CORPORATE CREDIT CARD POLICY

Location/Address:	N/a
Name of Applicant/Owner:	N/a
File Reference:	4160
Author:	Stephen Gash – Chief Executive Officer
Interest Disclosure:	Nil
Date of Report:	16 September 2016

SUMMARY:

A review of the Corporate Credit Card policy has be undertaken to ensure compliance with Legislation and industry best practice.

BACKGROUND:

The Use of Corporate Credit Card management policy was last reviewed on 27 June 2013.

Since this time there have been amendments to the Local Government (Financial Management) Regulations and the Department of Local Government and Communities have reviewed the Local Government Operational Guidelines for the Use of Corporate Credit Cards.

STATUTORY ENVIRONMENT:*Local Government Act 1995*

-) Section 2.7(2)(a) and (b) of the Act requires the council to oversee the allocation of the local government's finances and resources and to determine the policies of the local government.
-) Section 6.5(a) of the Act requires the Chief Executive Officer (CEO) to ensure that proper accounts and records of the transactions and affairs of the local government are kept in accordance with regulations.

Local Government (Financial Management) Regulations 1996

-) Section 11(1)(a) requires local governments to develop procedures for the authorisation and payment of accounts to ensure that there is effective security and appropriate authorisations in place for the use of credit cards.
-) Section 12 outlines requirements for payments from a municipal fund or trust fund.
-) Section 13 requires payments from municipal fund or trust fund by the CEO to prepare a list of accounts paid and be presented to the Council at the next ordinary meeting of the council after the list is prepared and recorded in the minutes of that meeting.

Delegation of Authority

F1 – Payments from Municipal Fund – Incurring Liabilities and Making Payments.

POLICY IMPLICATIONS:

AF1 – Purchasing Policy.

FINANCIAL IMPLICATIONS:

Purchasing in accordance with legislation, Policy and Management Procedures.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
4.0 Good governance and an effective organisation.	4.1 Effective governance and leadership.	4.1.8: Develop and maintain risk management policies and procedures.

CONSULTATION:

Executive Management Group.

COMMENT:

The review of the Corporate Credit Card policy has provided an opportunity to align card usage with organisational function. In doing this there has been an opportunity to put in place measures that allow procurement probity ensuring impartiality, accountability and transparency.

A review of transactions has shown that the majority of usage is around travel. Efficiencies and consistency can be achieved by using the Executive Manager Corporate Service Corporate Credit Card for functions such as flights and accommodation. Other transactions are around the functions required by the Secretariat of the Kimberley Regional Group.

These amendments will result in an increase to the Executive Manager Corporate Services and Kimberley Regional Group Project Manager, and a reduction of the limit on the Executive Manager Community Development and Executive Manager Technical and Development Services.

In making these changes the structure of accountability and transparency is achieved in accordance with legislative requirements.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

MINUTE NO. 113/2016

Moved: Cr C Kloss

Seconded: Cr P McCumstie

That Council adopt the Corporate Credit Card Policy as attached.

CARRIED 6/0



**Shire of Derby /
West Kimberley**

POLICY

Corporate Credit Card

MANAGEMENT PRACTICE

Corporate Credit Card

DELEGATIONS

F1 – Payments from Municipal Fund – Incurring Liabilities and Making Payments

OBJECTIVE

Shire of Derby West Kimberley Corporate Credit Cards are provided to members of staff to enable the purchase of goods and services.

The objective of this policy is to:

1. Provide a clear framework to enable the use of corporate credit cards.
2. Provide staff issued with a Corporate Credit Card clear and concise guidelines outlining its use.
3. Reduce the risk of fraud and misuse of the corporate credit card.

The application of this policy is to be in conjunction with the Shire of Derby West Kimberley Code of Conduct, Department of Local Government and Communities Local Government Operational Guidelines – Use of Corporate Credit Cards and any legislative requirements of the *Local Government Act 1995* and subsidiary legislation that may be enforced.

15.3 RISK AND OPPORTUNITY MANAGEMENT POLICY

Location/Address:	N/a
Name of Applicant/Owner:	N/a
File Reference:	4160
Author:	Stephen Gash – Chief Executive Officer
Interest Disclosure:	Nil
Date of Report:	20 September 2016

SUMMARY:

A review Council's risk management Policy and Procedure has been undertaken to ensure compliance with Legislation and industry best practice. This has resulted in a proposed Risk and Opportunity and Management Policy for adoption by Council.

BACKGROUND:

Risk management framework is an accepted best practice approach that ensures consistent, efficient and effective assessment of risk in all planning, decision making and operational processes. In accordance with Regulation 17 of the *Local Government (Audit) Regulations 1996* a review of systems and procedures in relation to risk management was undertaken and is due again by December 2016.

STATUTORY ENVIRONMENT:

Local Government (Audit) Regulations 1996

17. CEO to review certain systems and procedures
 - (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —
 - (a) risk management; and
 - (b) internal control; and
 - (c) legislative compliance.
 - (2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.
 - (3) The CEO is to report to the audit committee the results of that review.

POLICY IMPLICATIONS:

Creation of a Council Policy to specifically address Council’s risk management in accordance with Australian/New Zealand Standard ISO 31000:2009 and legislative requirements.

FINANCIAL IMPLICATIONS:

There are no known financial implications on Council’s Budget.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
4.0 Good governance and an effective organisation.	4.1 Effective governance and leadership.	4.1.8: Develop and maintain risk management policies and procedures.

CONSULTATION:

Local Government Insurance Services, Senior Management Group, and the City of Albany.

COMMENT:

Officers seek endorsement of the model Department of Local Government and Communities Risk Management Policy to give the greatest flexibility of the current task of aligning various risk management requirements across directorates.

There are many aspects of the Shire operations that have had risk management procedures guided by third party contracts or statutory environments. This has made alignment under a single enterprise wide risk management approach difficult.

For example the operations below have separate requirements using different risk appetite parameters. This list is not exhaustive and only relates to operations outside what could be regarded as routine local government risks:

-)] Safety Management System for Airport Operations - CASA
-)] Risk Assessment of Civil Operations at a RAAF Airport under operating Deed
-)] Risk Assessment supporting RPT air service operator (Virgin)
-)] Fuel and Dangerous Goods as operator of Curtin Refuelling
-)] Risk Management and Compliance with Office of Transport Safety TMP

-) Risk Management of Port Infrastructure under lease from Department of Transport (State)
-) Risk Management of Port Operations assessed by Insurance underwriter
-) Maritime Security Planning through Department of Infrastructure (Federal)
-) Miscellaneous Mining Leases through Department of Mines and Petroleum at Port
-) Special Berthing Permits for Ammonium Nitrate
-) Shipping and Pilotage controls.

The adoption of this policy by Council will allow coordination of the assessment, management, and reporting of risk as part of an overarching Enterprise Risk Management approach, helping to ensure consistency and transparency to the process.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

MINUTE NO. 114/2016

Moved: Cr P Coggins

Seconded: Cr A Kogolo

That Council:

1. Adopt the Risk and Opportunity Management Policy as attached.



RISK AND OPPORTUNITY MANAGEMENT POLICY

1. INTENT

The Shire of Derby/West Kimberley is committed to organisation-wide risk management principles, systems and processes that ensure consistent, efficient and effective assessment of risk in all planning, decision making and operational processes.

2. DEFINITION OF 'RISK'

AS/NZS ISO 31000:2009 defines risk as "the effect of uncertainty on objectives."

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative, or a deviation from the expected. An objective may be financial, related to health and safety, or defined in other terms.

3. DEFINITION OF 'RISK MANAGEMENT'

The application of coordinated activities to direct and control an organisation with regard to risk.

4. PRINCIPLES – FRAMEWORK – PROCESS

The Shire of Derby/West Kimberley considers risk management to be an essential management function in its operations. It recognises that the risk management responsibility for managing specific risks lies with the person who has the responsibility for the function, service or activity that gives rise to that risk.

Council is committed to the principles, framework and process of managing risk as outlined in AS/NZS ISO 31000:2009.

The Shire of Derby West Kimberley will manage risks continuously using a process involving the identification, analysis, evaluation, treatment, monitoring and review of risks. It will be applied to decision making through all levels of the organisation in relation to planning or executing any function, service or activity.

In particular it will be applied to:

- Strategic planning
- Expenditure of large amounts of money
- New strategies and procedures
- Management of projects, tenders and proposals
- Introducing significant change, and
- The management of sensitive issues.

5. RISK MANAGEMENT OBJECTIVES

- The achievement of organisational goals and objectives
- The ongoing health and safety of all employees at the workplace
- Ensuring public safety within the Council's jurisdiction is not compromised
- Limited loss or damage to property and other assets
- Limited interruption to business continuity
- Positive public perception of Council and the Shire of Derby West Kimberley
- Application of equal opportunity principles in the workforce and the community

6. RESPONSIBILITIES

- Executives, managers and supervisors have the responsibility and accountability for ensuring that all staff manage the risks within their own work areas. Risks should be anticipated and reasonable protective measures taken.
- All managers will encourage openness and honesty in the reporting and escalation of risks.
- All staff will be encouraged to alert management to the risks that exist within their area, without fear of reprimand.
- All staff will, after appropriate training, adopt the principles of risk management and comply with all policies, procedures and practices relating to risk management.
- All staff and employees will, as required, conduct risk assessments during the performance of their daily duties.
- The level of sophistication of the risk assessment will be commensurate with the scope of the task and the associated level of risk identified.
- Failure by staff to observe reasonable directions from supervisors regarding the management of risks and/or failure of staff to take reasonable care in identifying and treating risks in the workplace may result in disciplinary action.
- It is the responsibility of every department to observe and implement this policy in accordance with procedures and initiatives that are developed by management.

- Council is committed morally and financially to the concept and resourcing of risk management.

7. MONITOR AND REVIEW

The Organisation will implement a robust reporting and recording system that will be regularly monitored to ensure closeout of risks and identification of ongoing issues and trends.

Risk management key performance indicators, relating to both organisational and personal performance will be developed, implemented and monitored, by the Shire of Derby/West Kimberley.

This Policy takes effect from the date of adoption by Council and shall remain valid until it is amended or deleted.

16.0 MATTERS BEHIND CLOSED DOORS

Nil

17.0 CLOSURE OF MEETING

The Presiding Member closed the meeting at 2.58pm.

These minutes were confirmed at a meeting on

.....

Signed:

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

Date: