



SHIRE OF DERBY/WEST KIMBERLEY

ORDINARY MEETING OF COUNCIL

**HELD AT THE COUNCIL CHAMBERS
CLARENDON STREET, DERBY
THURSDAY 27 OCTOBER, 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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ORDINARY MEETING OF COUNCIL

AGENDA

1.0 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

The meeting was opened at 5.38pm by Elsia Archer, Shire President.

2.0 RECORD OF ATTENDANCE

ELECTED MEMBERS:

Cr Elsia Archer OAM, JP	Shire President
Cr Paul White	Deputy President
Cr Andrew Twaddle	Councillor
Cr Peter McCumstie	Councillor
Cr June Oscar AO	Councillor
Cr Iris Prouse	Councillor
Cr Chris Kloss	Councillor (via phone link)

STAFF:

Stephen Gash	Chief Executive Officer
Martin Cuthbert	Executive Manager Corporate Services
Brad Isbister	Executive Manager Community Development
Wayne Neate	Executive Manager Technical and Development Services
Ross Sullivan	Manager Commercial Services

VISITORS:

Nil

GALLERY:

Chris Travers	Terri Buckley
Peter Jackson	Rachel Atkins

APOLOGIES:

Noel Myers	Shire Planner
Cr Annette Kogolo	Councillor

ON LEAVE OF ABSENCE:

Cr. Peter Coggins

Councillor

ABSENT:

Nil

2.1 ATTENDANCE VIA TELEPHONE

In accordance with regulation 14A of the *Local Government (Administration) Regulations 1996* Council must approve (by absolute majority) the attendance of a person, not physically present at a meeting of Council, by audio contact. The person must be in a 'suitable place' as approved (by absolute majority) by Council. A 'suitable place' means a place that is located in a townsite or other residential area and 150km or further from the place at which the meeting is to be held.

OFFICER RECOMMENDATION:**MINUTE NO. 115/2016****Moved: Cr A Twaddle****Seconded: Cr P White****That Council:**

- 1. Approves Councillor C Kloss's attendance at the Council Meeting via telephone communication in accordance with regulation 14A(1) of the *Local Government (administration) Regulations 1996*;**
- 2. Approves Perth, Western Australia, as a suitable place for Councillor C Kloss's attendance in accordance with regulation 14A(4) of the *Local Government (Administration) Regulations 1996*.**

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

5.40pm – Cr Chris Kloss joined the meeting via phone.

3.0 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.0 PUBLIC QUESTION TIME**4.1 CHRIS TRAVERS**

QUESTION 1:

I received the letter from the CEO regarding my previous question about the lights on Alfonsas Street being on 24 hours a day. I have noticed the lights are still on, Horizon Power don't seem to be doing anything about it?

RESPONSE:

Wayne Neate – I have been in contact with Jodie Lynch at Horizon Power this week and have submitted a second report.

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Councillor Peter Coggins submitted an application for Leave of Absence for the October Ordinary Meeting of Council.

COUNCIL DECISION:

MINUTE NO. 116/2016

Moved: Cr J Oscar Seconded: Cr P McCumstie
That Leave of Absence is granted to Councillor Coggins for the October 2016 Ordinary Meeting of Council.
CARRIED 7/0

Councillor June Oscar submitted an application for a leave of absence for the November Ordinary Meeting of Council.

COUNCIL DECISION:

MINUTE NO. 117/2016

Moved: Cr. I Prouse Seconded: Cr. P White
That Leave of Absence is granted to Councillor Oscar for the November 2016 Ordinary Meeting of Council.
CARRIED 7/0

6.0 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS

7.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

7.1 ORDINARY MEETING OF COUNCIL HELD ON 29/09/2016

OFFICER RECOMMENDATION:

MINUTE NO. 118/2016

Moved: Cr C Kloss Seconded: Cr I Prouse

That the Minutes of the Ordinary Meeting of the Shire of Derby West Kimberley held at the Looma Community Office, on Thursday 29 September 2016 be confirmed.

CARRIED 7/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil

9.0 DECLARATION OF MEMBERS INTERESTS

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

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

9.2 DECLARATIONS OF PROXIMITY INTERESTS – LOCAL GOVERNMENT ACT 5.60B

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

Cr E Archer and Cr A Twaddle declared a Impartiality Interest in Item 12.4.1.

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

Nil

12.2 CORPORATE SERVICES

12.2.1 ACCOUNTS FOR PAYMENT

Location/Address:	N/A
Name of Applicant/Owner:	N/A
File Reference:	5110 – Accounts Payable
Author:	Santhosh Nair – Finance Officer
Interest Disclosure:	Nil
Date of Report:	18 October 2016
Attachments:	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 **\$1,851,548.12** made as per the attached cheque reconciliation summary and creditors schedule of accounts reports.

Creditor's outstanding as at 30 September 2016 is \$426,333.80

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:**MINUTE NO. 119/2016****Moved: Cr J Oscar****Seconded: Cr P White****That Council receives the list of payments:**

EFT Payments	EP#40278 - EP#40543	\$1,470,350.13
Municipal Cheques	54556 - 54565	\$38,196.04
Trust Fund Cheques	6403 - 6414	\$12,220.65
Direct Debits	Payroll	\$69,370.09
Direct Debits	Fees and Charges	\$261,411.21

Total value for the period ending 30 September 2016 is \$1,851,548.12

CARRIED 7/0

12.2.2 MONTHLY FINANCIAL MANAGEMENT REPORT SEPTEMBER 2016

File Reference:	5152 – Monthly Financial Reports
Author:	Myra Henry, Senior Finance Officer
Interest Disclosure:	Nil
Date of Report:	19 October 2016
Attachments:	Monthly Financial Report September 2016

SUMMARY:

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

BACKGROUND:

The following reports are for Council's adoption for the period ending 30 September 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.

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. 120/2016

Moved: Cr I Prouse Seconded: Cr A Twaddle

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

CARRIED 7/0

12.3 TECHNICAL SERVICES

12.3.1 AWARDING OF TENDER T6-2016 CONSTRUCTION OF YOUTH CENTRE ABLUTION BLOCK

Location/Address:	Reserve 6929, Lot 500 Hardman Street, Derby
Name of Applicant/Owner:	Shire of Derby/West Kimberley
File Reference:	0460 – Community Development Projects
Author:	Wayne Neate, Executive Manager Technical and Development Services
Interest Disclosure:	Nil
Date of Report:	20 October 2016
Attachments:	Confidential Price Scoring Sheet

SUMMARY:

This item is for Council to consider the awarding of the tender T6-2016 for the construction of the Youth Centre ablution block on Reserve 6929, lot 500 Hardman Street, Derby to H&M Tracey Constructions Pty Ltd (H&M).

BACKGROUND:

Staff developed plans for the redevelopment of the Youth Centre ablution block back in 2012 with the plans being finalised in 2013. Estimated prices for construction were sought at the time with most estimates coming in well in excess of the Shire's budget for the project at the time. This may have been due to the fact that Derby was in the height of its building boom and prices were slightly inflated. During the last year prices for construction work and other work have eased off and the funding for this project was nearing time for acquittal. It was introduced into this budget with the hope of gaining a competitive price along with completion and acquittal of the grant.

The existing ablution facility is dated and requires on average an increasing maintenance budget each year to maintain it. The new ablution facility is also included in the long term strategy for the youth precinct.

STATUTORY ENVIRONMENT:

Local Government Act– 3.57 Tenders for the providing goods or services, and Regulation Part 4 Tenders for providing goods or services

POLICY IMPLICATIONS:

Section 8 – page 15; Purchase of Goods and Services

Regional Price Preference Policy AF33 Page 21.1

FINANCIAL IMPLICATIONS:

In the Shire of Derby/West Kimberley adopted Budget 2016/17 a budgeted amount of \$240,000 has been set aside for the project to occur. The tendered amount is within the budget for the project.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
2: A balance between the natural and built environments.	2.4: Shire buildings and facilities that meet community needs	2.4.2: Develop new buildings and facilities in accordance with asset management principles and based on a planned and prioritised approach.

CONSULTATION:

Consultation has occurred between the designers and relevant staff at the Shire to develop the plans for the property.

Tender T6-2016 being the Construction of the Youth Centre ablution block on Reserve 6929, lot 500 Hardman Street, Derby was advertised in local and state-wide newspapers for a minimum of 21 days.

There were four (4) tenders received from a total of nine (9) initial requests for the tender documentation.

COMMENT:

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

The Regional Price Preference Policy AF33 was applied to the price submitted by H&M Tracey and Archer Builders.

The criteria and weighting for this tender were as follows;

Criteria	%
Related Experience	30
Key Personnel and Experience	10
Tenderer's Resources	10
Demonstrated Understanding	25
Price	25

A score summary is shown below;

Murray River North Pty Ltd	C1
H&M Tracey Pty Ltd	C2
Archer Builders Pty Ltd	C3
WA North West Builders	C4

		C1	C2	C3	C4
Track History & Record 30%	Weighted Score	15.0	23.7	21.7	17.0
Skills & Experience 10%	Weighted Score	6.7	8.7	8.0	6.7
Resources 10%	Weighted Score	6.3	8.7	8.0	3.7
Demonstrated Understanding 25%	Weighted Score	15.3	20.3	20.0	14.7
Total non-price (qualitative) criteria	Total out of 75%	43.3	61.4	57.7	42.1
Area 1					
Normalised Price	25%	25.0	22.4	15.8	16.5
Totals	100%	68.3	83.8	73.5	58.6
		BEST OVERALL TOTAL			

H&M have extensive experience in the Kimberley and Pilbara and have completed works previously for the Shire being the Woollybutt house and the units on Clarendon Street. Both of these contracts went well for the Shire with a very good product being produced. They have an extensive contractor base and more than enough capital to undertake the work.

VOTING REQUIREMENT:

Simple Majority

OFFICER RECOMMENDATION:

MINUTE NO. 121/2016

Moved: Cr P White Seconded: Cr I Prouse

That Council award Tender T6-2016 Construction of the Youth Centre ablution block on Reserve 6929, Lot 500 Hardman Street, Derby to H&M Tracey Pty Ltd.

CARRIED 7/0

12.4 DEVELOPMENT SERVICES

Cr A Twaddle and Cr E Archer declared an Impartiality Interest in Item 12.4.1 but were not required to leave the meeting.

12.4.1 ADDITIONS – MARY ISLAND FISHING CLUB

Location/Address:	Reserve 10831 Lot 639 Elder Street, Derby
Name of Applicant/Owner:	Mary Island Fishing Club Inc.
File Reference:	A102875
Author:	Noel Myers – Shire Planner
Interest Disclosure:	Nil
Date of Report:	19 October 2016
Attachments:	Mary Island Fishing Club Extension Plans, 2060 and 2110 Inundation and Erosion Maps.

SUMMARY:

Development approval is sought for additions to existing club facilities.

BACKGROUND:

The Mary Island Fishing Club Inc. has operated from the subject site since approximately the year 2000 and has a current sublease from the Shire that expires 9/2021 with a further ten year option.

The site is located within the Derby Port and the land is zoned “Port Industry” under Town Planning Scheme No.5.

The use of the land as a ‘Club Premises” by the Fishing Club within the Port Industry zone is regarded as a non-conforming use given that a ‘Club Premises’ is not currently a permitted use within the Port Industry zone, however, as the activity was commenced prior to the gazettal of TPS No.5 the Council may consider the application as an extension to a non-conforming use under the Scheme. Council may approve the development if it considers the use is consistent with the objectives of the zone and policies relating to the zone.

The subject land is not part of the Harbour Reserve but rather is vested directly to the Shire with a Management Order which means that the use and development of the land is not subject to the approval of the Minister for Transport.

STATUTORY ENVIRONMENT:

-) Land Administration Act – Management Order in respect to use and conditions of use that land is put toward
-) Town Planning Scheme No.5 regarding land use
-) Local Planning Strategy regarding future use and development of the land
-) State Coastal Planning Policy No.2.6

POLICY IMPLICATIONS:State Planning Policy 2.6 – State Coastal Planning Policy

State Planning Policy 2.6 – State Coastal Planning Policy (SPP2.6) provides guidance for decision-making within the coastal zone including managing development and land use change. It is recommended that SPP2.6 is used by local governments to understand the aspects of state planning policy concerning the coastal zone that should be taken account in planning decision-making. The objectives of SPP2.6 are outlined as:

1. *Ensure that development and the location of coastal facilities takes into account coastal processes, landform stability, coastal hazards, climate change and biophysical criteria;*
2. *Ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities;*
3. *Provide for public coastal foreshore reserves and access to them on the coast; and*
4. *Protect, conserve and enhance coastal zone values, particularly in areas of landscape, biodiversity and ecosystem integrity, indigenous and cultural significance.*

The relevant policy measures outlined within SPP2.6 that relate to the proposed development relate to Building Height Limits, Coastal Hazard Risk Management and Adaptation Planning and Infill Development. These matters have been addressed within the Comment section of this report.

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

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

CONSULTATION:

None

COMMENT:

Proposed Development:

The scope of works proposed under this application are:

-) Placement of a second hand transportable amenities buildings;
-) Construction of new decking and shade areas;
-) Installation of playground and basketball court
-) Installation of new perimeter fencing; and
-) Relocation of existing sea containers (storage) on the site

The purpose and intent of the above works is to improve the functionality and amenity of the premises for members. A plan of the proposed improvements is attached as Annexure 1.

Land Use Permissibility:

As previously described, the use of the land for as a Club premises is regarded as being a ‘non-conforming’ use under TPS No.5 and therefore the Council in considering the application needs to have regard to the desirability of permitting the current use to expand beyond its current extent whilst having regard to the zone objectives and policies and also to the future planning of the area.

The activities of the Mary Island Fishing Club is considered to be an associated marine activity and therefore the presence of the club within the Port Industry zone is considered an appropriate land use in this area. The use of the land and the extension of the facilities thereon does not introduce a land use that would prejudice the surrounding lots being used for Port Industry purposes and therefore the use can be considered to be consistent with the Scheme policy and objectives for the area.

Further, whilst a Club Premises is a use not permitted under the current scheme, the Council is in the process of preparing a new Local Planning Scheme that will supersede TPS No.5 and the new scheme is being guided by the endorsed Local Planning Strategy. *Action 18, Section 3.2 – Strategies and Actions – Derby* within the LPS recommends that investigations be undertaken to identify *alternate higher uses on the Elder Street site* and it is suggested that further development that has a significant community benefit from a social point of view would be consistent with that objective.

Built Form:

Whilst the additional buildings being brought onto the site are second hand transportables, they are in good order and repair and it is considered that the buildings and other improvements have the appropriate level of finish that will make a positive contribution to the streetscape and amenity of the immediate area. The buildings will be connected with decking and other shade treatments that ensures that the built form has the appropriate level of presentation. All buildings will need to conform to the requirements of the Disability Access Provisions of the BCA in respect to pedestrian access and vehicular parking and a properly designed and constructed disabled parking bay will need to be provided within the site.

Development on the adjacent eastern side of Elder Street is a mix of commercial and retail uses with some limited residential uses. The further development of the site and the increase in activity that may accrue from the improved facilities would be unlikely to cause significant adverse impact upon the amenity of those properties given the limited times the club operates, the setback of the buildings and the predominantly commercial nature of surrounding development. Further, the land is zoned for a range of industrial activities and the proposed use is likely to be less intrusive than could other legitimate land uses.

Council's Policy *TP 10 – Transportable/Relocated Dwellings* does not apply to this proposal as that policy applies to residential proposals but notwithstanding, the current application generally accords with the purpose and intent of that policy in seeking to ensure that resultant buildings are appropriate to the location they are being placed. The policy is silent on the use of second hand buildings within the Port Industry zone.

Coastal Hazard Risk Management and Adaptation Planning (CHRMAP):

The Shire completed a CVS in 2015 providing an assessment of the coastal hazard from erosion and inundation that will affect Derby's coastal areas in future planning periods to the year 2110. The CVS is prepared in accordance with the Department of Planning State Coastal Planning Policy No. 2.6.

The Shire is currently undertaking a Coastal Hazard Risk Management and Adaption Plan (CHRMAP) to manage the potential hazards. The CHRMAP process involves stakeholder and community engagement to:

-) Consider coastal hazards and evaluate their likelihood and the consequence for specific assets;
-) Identify realistic and effective management and adaption responses to those risks; and
-) Prioritise potential management and adaption responses.

This understanding will allow the Shire to make informed decision-making on land-use planning including the designation of coastal reserves, new development and infrastructure, establishing building set-backs and stormwater drainage.

In the absence of a CHRMAP being prepared over the subject site, a number of considerations are presented in relation to the proposed development.

The proposed development seeks to provide additional infrastructure to support a recreational fishing club premises located on Shire controlled land. As discussed previously, the subject site has been leased to the fishing club for a period of 10 years with an additional option for a further 10 years. Therefore, the Shire has ultimate control over future development and use of the subject site. This will allow the Shire to monitor coastal hazards over time to ensure the objectives of SPP2.6 are achieved. Therefore, it is considered that the 50-Year planning timeframe is sufficient to consider in the context of the proposed development.

Over the 50-Year period it is considered the subject site will not experience any impacts from erosion. In terms of inundation the subject site will experience a low level of risk immediately increasing to a high level of risk over the 50-Year period. This has been determined in relation to the likelihood and consequence of the identified hazards. The outlined level of risk from inundation is considered tolerable under the

methodology supported by SPP2.6 with immediate to short-term action required to reduce the risk.

In response to the outlined level of risk, the following position should be taken consistent with policy measures outlined within SPP2.6:

- The proposed development should be located on the least vulnerable portion of the subject site;
- The form of the buildings (transportable) have a relatively limited useable life compared to a building constructed insitu. The useable life of the buildings may not extend to or beyond the 2060 period when the site becomes vulnerable to inundation. It is generally recognised that transportable type dwellings have a around fifty per cent less useable life than a traditionally constructed dwelling. As such, site conditions would be monitored in the intervening period post approval of the buildings and it would be open to Council if it supported any future requests for redevelopment of the land;
- Land tenure – the Shire holds land as a Reserve and therefore is better placed to control future use and development of the land and manage risk than if the land were held privately in freehold title;
- The proposed development is non-residential and does not include a residential component which reduces the risk profile to people.
- The finished floor level of the building could be set to a level that is above the anticipated depth of inundation to minimise damage to the asset; and
- Conditions/notifications can be applied to the Development Approval that inform the proponents of the risk and an amendment could be made to the Lease to include notifications of the risk so that future committees of the Club would be informed of the risk.

In addition to the above, the single storey height of the proposed development is consistent with other developments on the subject site and the immediate surrounds. Therefore, the proposed development is consistent with the Building Heights Limits outlined within SPP2.6.

On balance and having regard to the above matters, it is considered that suitable mitigating factors exist that would enable the Council to support the proposal in this instance.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:**MINUTE NO. 122/2016****Moved: Cr P White****Seconded: Cr J Oscar**

That Council, pursuant to Town Planning Scheme No.5, grants Development Approval for additions and alterations at the Mary Island Fishing Club, located on Reserve 10831 Lot 639 Elder Street, Derby, subject to the following conditions;

- i. All development is to be in accordance with the approved plan dated 19 October 2016;**
- ii. The Planning Consent is valid for two years from the date of the approval letter. This approval shall expire if the development works have not been substantially commenced within this two-year period or within any extended period for which the Council has granted consent;**
- iii. A Building Permit under the provisions of the Building Act 2011 must be submitted to and approved by Council prior to the commencement of any on-site works whatsoever. Development under a Building Permit must be substantially commenced within 12 months and completed within two years;**
- iv. Plans submitted for the Building Permit are to detail all storm water and roof run-off disposal and be designed so as to ensure storm water is not able to flow onto adjoining properties. Engineering plans will need to detail what retaining methods are to be employed around the perimeter of the site and be to the satisfaction of the Executive Manager Technical and Development Services;**
- v. Details of effluent disposal for the new buildings are to be provided with the application for the Building Permit and will need to be in accordance with the relevant Health Legislation and Regulations;**
- vi. A parking bay and access points servicing the development is to be designed in accordance with Australian Standard for Off-Street Car Parking for People with Disabilities (AS/NZS2890.6 2009 as amended). Such areas are to be constructed, drained and marked prior to the development being occupied and thereafter maintained to the satisfaction of the Executive Manager Technical and Development Services**
- vii. All buildings are to be secured to the footings immediately on its relocation to the site or be no longer than that period as permitted by the Building Code of Australia;**

viii. That the Deed of Lease between the Mary Island Fishing Club and the Shire of Derby/West Kimberley be amended to include a notification clause that the land may be subject to coastal process and inundation at sometime within the period of the Lease and that the final wording of the amendment be negotiated by and to the satisfaction of the Chief Executive Officer.

CARRIED 7/0

ADVICE NOTE:

It is recommended that the finished floor levels are set in accordance with the findings of the Shire of Derby/West Kimberley Coastal Vulnerability Study to minimise the potential for damage caused by inundation.

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

Nil

16.0 MATTERS BEHIND CLOSED DOORS

Item 16.1 is to be closed to the public under section 5.23(2)(e)(iii) of the *Local Government Act 1995*; a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person.

COUNCIL DECISION:

MINUTE NO. 123/2016

Moved: Cr A Twaddle

Seconded: Cr J Oscar

That the Meeting be closed to the general public to discuss Agenda Item 16.1 pursuant to the Local Government Act 1995 Section 5.23(2)(e)(iii) relating to a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person.

CARRIED 7/0

5.48pm Gallery left the meeting.

16.1 DERBY PORTS PROJECT GROUP MEETING MINUTES

Confidential Minutes and attachments to be provided under separate cover.

OFFICER RECOMMENDATION:

MINUTE NO. 124/2016

Moved: Cr P McCumstie Seconded: Cr A Twaddle

That Council receive the Minutes of the Derby Ports Project Group Meeting held at the Council Chambers, Derby on 17 October, 2016.

CARRIED 7/0

COMMITTEE RECOMMENDATION:

MINUTE NO. 125/2016

Moved: Cr P White Seconded: Cr A Twaddle

That Council:

- 1. Request formal presentation from CMC to update Council on project status.**
- 2. Require a written development overview to progress the lease with Department of Transport.**

CARRIED 7/0

COMMITTEE RECOMMENDATION:

MINUTE NO. 126/2016

Moved: Cr C Kloss Seconded: Cr J Oscar

That Council allow a 6 month licence to CMC to occupy the goods yard and crabs shed areas while the larger sub-lease is finalised.

CARRIED 7/0

COUNCIL DECISION:

MINUTE NO. 127/2016

Moved: Cr P White Seconded: Cr J Oscar

That the meeting be again open to the general public.

CARRIED 7/0

5.51pm Gallery returned to the meeting and was advised of the outcome by the Presiding Member.

17.0 CLOSURE OF MEETING

The Presiding Member closed the meeting at 5.52pm.

<p>These minutes were confirmed at a meeting on</p> <p>Signed:</p> <p>Presiding Person at the meeting at which these minutes were confirmed.</p> <p>Date:</p>
