



# **SHIRE OF DERBY/WEST KIMBERLEY**

## **NOTICE OF COUNCIL MEETING**

**Dear Elected Member,**

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

Thursday, 24 November 2016

At

The Crossing Inn, Fitzroy Crossing

At

1:00pm

Stephen Gash  
**CHIEF EXECUTIVE OFFICER**

Date: 28/11/2016

## **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

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#### 1.0 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

The meeting was opened at 1.00pm by Cr. Elsia Archer.

#### 2.0 RECORD OF ATTENDANCE

##### ELECTED MEMBERS:

Cr Elsia Archer	Shire President
Cr Paul White	Deputy President
Cr Peter Coggins	
Cr Andrew Twaddle	
Cr Iris Prouse	
Cr Chris Kloss	

##### STAFF:

Mr Stephen Gash	Chief Executive Officer
Mr Martin Cuthbert	Executive Manager Corporate Services
Mr Brad Isbister	Executive Manager Community Development
Mr Wayne Neate	Executive Manager Technical and Development Services
Mr Noel Myers	Shire Planner
Mr Ross Sullivan	Manager Commercial Services
Mrs Belinda Storer	Fitzroy Crossing Area Manager

##### VISITORS:

Nil

##### GALLERY:

Nil

##### APOLOGIES:

Cr Annette Kogolo

**ON LEAVE OF ABSENCE:**

Cr June Oscar AO  
Cr Peter McCumstie

**ABSENT:**

Nil

**3.0 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**4.0 PUBLIC QUESTION TIME**

Nil

**5.0 APPLICATIONS FOR LEAVE OF ABSENCE**

Councillor Peter McCumstie submitted an application for Leave of Absence for the November Ordinary Meeting of Council.

**COUNCIL DECISION:**

**MINUTE NO. 128/2016**

**Moved: Cr P White                      Seconded: Cr C Kloss**

**That Leave of Absence is granted to Councillor McCumstie for the November 2016 Ordinary Meeting of Council.**

**CARRIED 6/0**

**6.0 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS**

**7.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**7.1 ORDINARY MEETING OF COUNCIL HELD ON 27/10/2016**

**OFFICER RECOMMENDATION:**

**MINUTE NO. 129/2016**

**Moved: Cr A Twaddle                      Seconded: Cr C Kloss**

**That the Minutes of the Ordinary Meeting of the Shire of Derby/West Kimberley held at the Council Chambers, Clarendon St, Derby on Thursday 27 October 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**

### **9.2 DECLARATIONS OF PROXIMITY INTERESTS – LOCAL GOVERNMENT ACT 5.60B**

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

## **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.)

Derby Port – Warburton Group MOU Extension.

## **11. RECOMMENDATIONS AND REPORTS OF COMMITTEES**

### **12.0 REPORTS**

#### **12.1 EXECUTIVE SERVICES**

#### **12.2 CORPORATE SERVICES**

##### **12.2.1 ACCOUNTS FOR PAYMENT**

<b>Location/Address:</b>	N/A
<b>Name of Applicant/Owner:</b>	N/A
<b>File Reference:</b>	5110 – Accounts Payable
<b>Author:</b>	Santhosh Nair Finance officer
<b>Interest Disclosure:</b>	Nil
<b>Date of Report:</b>	15 November 2016
<b>Attachments:</b>	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:**

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:**

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 **\$1,798,424.40** made as per the attached cheque reconciliation summary and creditors schedule of accounts reports.

Creditor's outstanding as at 31 October 2016 is \$434,177.77

**VOTING REQUIREMENT:**

Simple majority.

**OFFICER RECOMMENDATION:****MINUTE NO. 130/2016****Moved: Cr A Twaddle                      Seconded: Cr P White****That Council receives the list of payments:**

<b>EFT Payments</b>	<b>EP#40544 – EP#40664</b>	<b>\$1,304,835.77</b>
<b>Municipal Cheques</b>	<b>54566 - 54570</b>	<b>\$18,598.79</b>
<b>Trust Fund Cheques</b>	<b>6415 – 6418</b>	<b>\$1,781.98</b>
<b>Direct Debits</b>	<b>Payroll</b>	<b>\$68,565.71</b>
<b>Direct Debits</b>	<b>Fees and Charges</b>	<b>\$404,642.15</b>

**Total value for the period ending 31 October 2016 is \$1,798,424.40****CARRIED 6/0**



## **12.2.2 MONTHLY FINANCIAL MANAGEMENT REPORT OCTOBER 2016**

<b>Location/Address:</b>	N/A
<b>Name of Applicant/Owner:</b>	N/A
<b>File Reference:</b>	5152 – Monthly Financial Reports
<b>Author:</b>	Myra Henry, Senior Finance Officer
<b>Interest Disclosure:</b>	Nil
<b>Date of Report:</b>	16 November 2016
<b>Attachments:</b>	Monthly Financial Report October 2016

### **SUMMARY:**

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

### **BACKGROUND:**

The following reports are for Council's adoption for the period ending 31 October 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:**

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

#### **CONSULTATION:**

Nil

**COMMENT:**

Nil

**VOTING REQUIREMENT:**

Simple majority.

**OFFICER RECOMMENDATION:**

**MINUTE NO. 131/2016**

**Moved: Cr I Prouse                      Seconded: Cr P Coggins**

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

**CARRIED 6/0**

### **12.2.3 REVIEW OF ORDINARY COUNCIL MEETING SCHEDULE FOR 2017**

<b>Location/Address:</b>	N/A
<b>Name of Applicant/Owner:</b>	Shire of Derby/West Kimberley
<b>File Reference:</b>	4150 – Meeting Procedures
<b>Author:</b>	Martin Cuthbert, Executive Manager Corporate Services
<b>Interest Disclosure:</b>	Nil
<b>Date of Report:</b>	4 November 2016
<b>Attachments:</b>	Nil

#### **SUMMARY:**

The *Local Government (Administration) Regulations 1996* requires a local government to give local public notice of the dates, times and place at which the Ordinary Meetings of Council are to be held for the next 12 months.

#### **BACKGROUND:**

At the Ordinary Meeting of Council held on 29 October 2015, Council determined its meeting dates up to and including the 15 December 2016, and will now need to consider meeting dates for the next 12 months in accordance with the *Local Government (Administration) Regulations 1996*. It is recommended that Council continue holding its Ordinary Meetings of Council on the last Thursday of each month (excluding January when Council is in recess).

Seven meetings were scheduled to be held in Derby, three in Fitzroy Crossing (March, June and November) and one at an Aboriginal Community (September).

It is recommended that Council continue holding Ordinary Meetings of Council on the last Thursday of each month and to advertise this information to the public by way of public notices as per statutory regulations, and to upload it on the Shire's website.

With regard to the December 2017 meeting, it is proposed to hold it on the second Thursday of the month, being 14 December 2017, as opposed to the last Thursday, being 28 December 2017, to ensure availability of Elected Members in the lead up to the Christmas holiday period.

The Easter holiday period for 2017 commences Friday 14 April. Therefore the Ordinary Council Meetings for both March and April can remain on the standard last Thursday of the month.

### **STATUTORY ENVIRONMENT:**

*Local Government (Administration) Regulations 1996 – Regulation 12*

**12. Meetings, public notice of (Act S 5.25(1)(g))**

*(1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which—*

*(a) the ordinary council meetings; and*

*(b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.*

*(2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).*

### **POLICY IMPLICATIONS:**

Council Policy C5 – Council Meetings – Date, Time and Venue.

### **FINANCIAL IMPLICATIONS:**

Nil

### **STRATEGIC IMPLICATIONS:**

<b>GOAL</b>	<b>OUTCOME</b>	<b>STRATEGY</b>
<b>4:</b> Good governance and an effective organisation	<b>4.1:</b> Effective governance and leadership	<b>4.1.4:</b> Ensure governance policies and procedures are in accordance with legislative requirements

### **CONSULTATION:**

These dates have been discussed with the Governance Team and it was agreed that these dates are the most suitable taking public holidays and other meetings into consideration.

Once dates are approved by Council they will be advertised throughout the Shire in accordance with legislation.

### COMMENT:

Below are the annual events that need to be taken into consideration when adopting Council Meeting dates. It does not appear that any of them will interfere with Councils traditional meeting dates (i.e. last Thursday of each month).

- ) Joint Pilbara/Kimberley Forum – 2016 Forum was held 11 – 13 April 2016;
- ) Easter is Friday 14 April 2017 – Monday 17 April 2017;
- ) Anzac Day is Tuesday 25 April 2017;
- ) National General Assembly of Local Government in Canberra – 2016 was held Sunday 19 June 2016 – Wednesday 22 June 2016; and
- ) Local Government Week in Perth (date not yet announced but traditionally held in the first week of August).

The following is a list of public holidays for Western Australia in 2017:

### WESTERN AUSTRALIA PUBLIC HOLIDAYS 2017

Holiday	Date	Holiday Type	Area
New Year's Day	Sunday, 1 January 2017	Public	WA Wide
New Year's Day Additional Holiday	Monday, 2 January 2017	Public	WA Wide
Australia Day	Thursday, 26 January 2017	Public	WA Wide
Labour Day	Monday, 6 March 2017	Public	WA Wide
Good Friday	Friday, 14 April 2017	Public	WA Wide
Easter Monday	Monday, 17 April 2017	Public	WA Wide
ANZAC Day	Tuesday, 25 April 2017	Public	WA Wide
Western Australia Day	Monday, 5 June 2017	Public	WA Wide
Queen's Birthday*	Monday, 25 September 2017	Public	WA Most Areas
Christmas Day	Monday, 25 December 2017	Public	WA Wide
Boxing Day	Tuesday, 26 December 2017	Public	WA Wide

\* Alternate dates for the Queen’s Birthday Public Holiday are proclaimed in the following areas:  
Town of Port Hedland, City of Karratha, Shire of East Pilbara (Marble Bar, Nullagine and Newman).

Councils Compliance and Strategic Review Committee and Housing and Works Committee meet when required. Details of those meetings will be advertised at the appropriate times.

### **VOTING REQUIREMENT:**

Simple majority.

### **OFFICER RECOMMENDATION:**

### **MINUTE NO. 132/2016**

**Moved: Cr P White                      Seconded: Cr I Prouse**

**That with respect to the 2017 Ordinary Meeting of Council Schedule, Council:**

- 1. Approve the following Ordinary Meeting of Council dates, times and venues for the year ahead:**

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>VENUE</b>
January	<b>Council in Recess</b>		
Thursday	<b>23 February 2017</b>	<b>5.30pm</b>	<b>Council Chambers, Derby</b>
Thursday	<b>30 March 2017</b>	<b>1.00pm</b>	<b>Fitzroy Crossing Inn</b>
Thursday	<b>27 April 2017</b>	<b>5.30pm</b>	<b>Council Chambers, Derby</b>
Thursday	<b>25 May 2017</b>	<b>5.30pm</b>	<b>Council Chambers, Derby</b>
Thursday	<b>29 June 2017</b>	<b>1.00pm</b>	<b>Fitzroy Crossing Inn</b>
Thursday	<b>27 July 2017</b>	<b>5.30pm</b>	<b>Council Chambers, Derby</b>
Thursday	<b>31 August 2017</b>	<b>5.30pm</b>	<b>Council Chambers, Derby</b>
Thursday	<b>28 September 2017</b>	<b>1.00pm</b>	<b>Aboriginal Community, TBC</b>
Thursday	<b>26 October 2017</b>	<b>5.30pm</b>	<b>Council Chambers, Derby</b>
Thursday	<b>30 November 2017</b>	<b>1.00pm</b>	<b>Fitzroy Crossing Inn</b>
Thursday	<b>14 December 2017</b>	<b>5.30pm</b>	<b>Council Chambers, Derby</b>

- 2. Request that the Chief Executive Officer or his authorised officer advertise the approved dates by Public Notice and on the Shire of Derby/West Kimberley website.**

**CARRIED 6/0**





## 12.3 TECHNICAL SERVICES

### 12.3.1 RESTRICTIONS ON USE OF LOW LEVEL CROSSING AT FITZROY CROSSING

<b>Location/Address:</b>	Low Level Crossing, Fitzroy Crossing
<b>Name of Applicant/Owner:</b>	Shire of Derby/West Kimberley
<b>File Reference:</b>	8155 – Maintenance – Roads and Bridges
<b>Author:</b>	Chris Hurstfield – Manager Engineering Services
<b>Interest Disclosure:</b>	Nil
<b>Date of Report:</b>	8 November 2016
<b>Attachments:</b>	Low Level Crossing, Fitzroy Crossing, Structural Condition Report – Merit Engineers Main Roads WA Level 2 Inspection of the Low Level Crossing at Fitzroy Crossing

#### SUMMARY:

This item is for Council to consider the future of access across the Low Level Crossing at Fitzroy Crossing.

#### BACKGROUND:

The original deck on the Low Level Crossing at Fitzroy Crossing was designed to be used by vehicles no larger than 10 tonne trucks with a maximum drive axle weight of 6.7 tonnes. The upper deck was designed to be used by trucks with a maximum drive axle weight of 7.2 tonnes. The largest four wheel drive buses being used by tourist operators have a maximum drive axle weight of 9.0 tonnes.

An inspection of the damage to the concrete surface on the Low Level Crossing was carried out in March 2016. It is possible that the damage to the kerbs was caused by trucks/buses traversing the Low Level Crossing with axle weights exceeding the design limits, as well as vehicles traversing whilst the deck was under water.

Following this inspection, Merit Engineers were commissioned to carry out a structural engineering inspection and report on the Low Level Crossing.

The report prepared by Merit Engineers made the following recommendations based on the current structural condition and likely ongoing deterioration of the crossing:

- i. All vehicular traffic should be prohibited from using the crossing until a comprehensive risk assessment is conducted;

- ii. Conduct a detailed risk assessment to establish if the crossing should remain open to vehicular traffic;
- iii. Evaluate repair and maintenance options including a cost benefit analysis; and
- iv. Install signage prohibiting vehicular access. Robust concrete bollards should also be installed at the top of both access ramps to ensure no vehicles attempt to use the crossing, particularly when submerged.

Clarification was sought from Malcolm Watson, Merit Engineers' Managing Director, regarding the implications of opening the Low Level Crossing to vehicular traffic before a detailed risk assessment is completed. Malcolm confirmed that the recommendations in the report were over cautious as he was unable to fully inspect the upper and lower decks of the crossing to enable an accurate structural assessment to be completed. This was due to debris lodged against the upstream side of the crossing, as well as the depth of the water still passing through the channels. Malcolm advised that if Council resolved to keep the Low Level Crossing open, it would be appropriate to impose a maximum weight restriction of 4 tonne Gross Vehicle Mass (weight of vehicle legally loaded to capacity). This would limit access to a maximum of four wheel drive size cars with no allowance for towing trailers or caravans across the Low Level Crossing.

### **STATUTORY ENVIRONMENT:**

Local Government Act 1995 – Closing Certain Thoroughfares to Vehicles and Local Government (Functions and General) Regulations 1996 Part 2 Thoroughfares.

### **POLICY IMPLICATIONS:**

Asset Management Policy AF3

Risk and Opportunity Management Policy AF6

### **FINANCIAL IMPLICATIONS:**

Preliminary approximate estimates have been obtained to carry out the maintenance works that were recommended in the Conservation Plan prepared for the Low Level Crossing. These costs include:

- ) Application of octyl triethoxy silane based sealant recommended in the Conservation Plan will reduce moisture penetration and improve concrete durability. This option has been discounted as Merit Engineers advised that its effectiveness will be somewhat diminished by the erosion of the outer surface leading to exposure and corrosion of reinforcement.

- ) Application of a protective coating designed to penetrate the concrete and inhibit internal corrosion is estimated to cost approximately \$490,000.
- ) Replacement of the kerbs along each side with the same profile and finish as existing kerb is estimated to cost approximately \$495,000.
- ) Replacement of the approach slabs on each side of the crossing is estimated to cost approximately \$340,000.
- ) Installation of additional support legs between the lower and upper decks is estimated to cost approximately \$275,000.
- ) Construction and maintenance of a cofferdam will be required for each of the above items. This is estimated to cost approximately \$80,000 per week (included in price for application of protective coating).

A grant application has been made to carry out a comprehensive safety and risk assessment required to ascertain the condition of both the upper and lower decks of the low level crossing, as per the recommendation in Merit Engineers' report. This work is estimated to cost approximately \$525,000.

#### **STRATEGIC IMPLICATIONS:**

<b>GOAL</b>	<b>OUTCOME</b>	<b>STRATEGY</b>
<b>2:</b> Sustained natural and built environments that meet the needs of the community and support future growth.	<b>2.5:</b> Assets and infrastructure managed over the long term to meet current and future needs.	<b>2.5.1:</b> Develop and implement long-term asset management plans for all Shire assets, having regard for current and future asset needs and the Shire's long-term financial plan.

#### **CONSULTATION:**

Public notice of the imposition of any weight restrictions and/or long term closure of the Low Level Crossing will need to be undertaken. This will allow affected parties, including residents, owners of properties in Yurabi Rd and tourist operators, to make comment on the proposed changes to access across the Low Level Crossing.

#### **COMMENT:**

If the grant application is unsuccessful, options regarding the future use of the Low Level Crossing will be referred back to Council for consideration.

**VOTING REQUIREMENT:**

Simple majority.

**COUNCIL DECISION:**

**MINUTE NO. 133/2016**

**Moved: Cr P White                      Seconded: Cr P Coggins**

**That Standing Orders be suspended for discussion on Item 12.3.1.**

**CARRIED 6/0**

**COUNCIL DECISION:**

**MINUTE NO. 134/2016**

**Moved: Cr P Coggins                      Seconded: Cr A Twaddle**

**That Standing Orders be resumed.**

**CARRIED 6/0**

**OFFICER RECOMMENDATION:**

**That Council note the continued closure of the Low Level Crossing in Fitzroy Crossing to all vehicular traffic until a comprehensive safety and risk assessment is carried out and a detailed structural report with recommendations regarding future accessibility is presented to Council for consideration.**

**COUNCIL DECISION:**

**MINUTE NO. 135/2016**

**Moved: Cr C Kloss                      Seconded: Cr A Twaddle**

**That Council guide the CEO to do whatever practicable to maintain the Low Level Crossing in Fitzroy Crossing open to vehicles under 4 tonne and to expedite an insurance risk assessment.**

**CARRIED 6/0**

Advice Note:

Noting the normal seasonal closure due to the wet season.

Reason for Change to Officer Recommendation:

An update was provided from the CEO post discussions with Council's Insurers since the report was prepared.

## 12.4 DEVELOPMENT SERVICES

### 12.4.1 REGISTRATION OF NUMBALA NUNGA IN THE STATE REGISTRAR OF HERITAGE PLACES

<b>Location/Address:</b>	Reserve 28992 Lot 500 (37) Sutherland Street, Derby.
<b>Name of Applicant/Owner:</b>	State Heritage Office
<b>File Reference:</b>	A108230
<b>Author:</b>	Noel Myers – Shire Planner
<b>Interest Disclosure:</b>	Nil
<b>Date of Report:</b>	7 November 2016
<b>Attachments:</b>	Numbala Nunga Heritage Assessment

#### SUMMARY:

The State Heritage Office (SHO) is seeking the Shire's comments on the proposed entry of Numbala Nunga in the State Registrar of Heritage Places.

The SHO has also invited the Council to nominate a person to attend the meeting (in person or via electronic communication) at which entry on the State Heritage Register will be considered.

#### BACKGROUND:

The SHO has written to the Shire of Derby/West Kimberley seeking comments on the registration on the State Heritage Register of Numbala Nunga referenced by the SHO as P9743 and located at Lot 500 Sutherland Street, Derby.

- ) The Heritage Council of Western Australia has resolved that the subject property is of cultural heritage significance in terms of the *Heritage of Western Australia Act 1990*. A copy of the assessment is attached.
- ) The property is included within the Shire's Municipal Inventory of Heritage Places (MI). The Statement of Significance identifies the place as being ***of great significance to the development of Derby as the site of the government residency, police facilities, first hospital and aboriginal hospital over the period of the town's history.***

- )] The Management Statement identifies: ***A historic site without built features. Recognise for example with a plaque, place name or reflection in urban or architectural design.***
- )] More recently, the Health Department, the agency to which the land is vested has determined that the property is surplus to their requirements and have sought to dispose of the property through the State’s Property Clearing House process. The intent is to rezone the property to residential, and then offer it to the market. Landcorp undertake this responsibility of behalf of the State.
- )] The progression of this matter has been deferred whilst the Shire completes its Coastal Hazard Risk Management and Adaption Plan (CHRMAP) which has been deemed necessary given the land had been identified in the completed Coastal Vulnerability Study as being potentially affected by coastal processes.

The scheme amendment proposal will be considered as a separate matter to the issue at hand.

**State Heritage Office Statement of Significance:**

The Statement of Significance prepared by the SHO states that Numbala Nunga has cultural significance for the following reasons;

- )] The place represents over 120 years of measures undertaken by the Western Australian government to provide health care to the Aboriginal population of the State’s North West and therefore government policies and social attitudes towards health and well-being of Aboriginal people throughout the twentieth century;
- )] The place is indicative of the impact that colonial settlement had on the Aboriginal population of Western Australia and the consequential need to provide health care to treat diseases that they would not have otherwise encountered;
- )] The place was the site of a ‘Lock Hospital’, one of only four in Western Australia and is representative of the Government policy from the late 1900s of the relocation, isolation and treatment of Aboriginal people suffering from venereal diseases;
- )] The place was the site of the leprosy hospital in the 1920s and the 1930s and is representative of Government policy of the relocation, isolation and treatment of leprosy patients;

- ) The place was the first and only Nursing Home in the Kimberley region from 1968 until the late 1980s, serving residents that were predominantly of Aboriginal descent and as such the facility worked to retain Aboriginal cultural links where possible;
- ) As the site of the Government Residency (1884) the place is representative of the settlement of the Kimberley by colonists from the mid-1880s and the important first step in establishing a government in the region;
- ) As the site of a Native Hospital from 1925 to 1966, the place is representative of the then government policy of treating Aboriginal and non-Aboriginal patients in separate medical facilities;
- ) As a nursing home, the place was established with funding from the Commonwealth's Aboriginal Advancement Trust Account which aimed to help improve Aboriginal health services across Australia following the 1967 referendum when the Commonwealth first became directly engaged in Aboriginal affairs;
- ) As a Nursing Home, the establishment of the place for elderly Aboriginal patients requiring geriatric care in the North West was a direct result of the implementation of the Pastoral Industry Awards of 1968

The assessment documentation provided by the State Heritage Office identifies that the place has a number of unique values. These values are outlined below and expanded in full within the assessment document:

- ) Historic,
- ) Social;
- ) Rarity; and
- ) Representativeness' values.

It is noted that in accordance with the SHO criteria, the assessment needs to only meet a minimum of one value to meet the threshold for entry into the State Register.

#### **STATUTORY ENVIRONMENT:**

Town Planning Scheme No.5

Planning and Development (Local Planning Scheme) Regulations 2015

Heritage of Western Australia Act 1990

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil to Council

**STRATEGIC IMPLICATIONS:**

GOAL	OUTCOME	STRATEGY
2: Balance between the natural and built environments	2.1: Appropriate development that enhances the unique character and heritage of the Shire's townships	2.1.6: Support the conservation and maintenance of heritage buildings, heritage items and places of interest.

**CONSULTATION:**

The heritage registration of the property and the resultant consultation with owners is a SHO process set out under the *Heritage Act of Western Australia 1990*.

Accordingly, consultation on this matter has been undertaken by officers from the SHO and has extended to engagement with;

- ) The current landowners - Health Dept. of WA.
- ) Landcorp.
- ) Warrwa Native Title Registered Claimant Group
- ) Winun Ngari Aboriginal Corporation

The *Heritage of Western Australia Act 1990* (Sections 23 [4] and [5]) requires that the relevant local government be invited to nominate a person to attend the meeting at which the proposed registration of a place will be considered. The Shire's representative becomes a voting member of the Register Committee when registration of Numbala Nunga is considered, and will be asked to present the views of the local government on the proposed registration.

**COMMENT:**

As outlined in the draft assessment, although the Register committee resolved that the place is of State significance it should be noted that the existing buildings are of little significance. Instead its importance lies in its intangible heritage values,



particularly its history and use for over 120 years as the site of the provision of medical and other services to Aboriginal people.

The Statement of Significance prepared by the SHO states Numbala Nunga is important for representing several important periods in the history of Aboriginal Health Care in Western Australia, however many of those periods are not physically represented on the site as the buildings from those eras have been demolished. These structures include the Government Residency (1884) Derby Hospital (including Leprosy and Lock Hospital facilities) (1890's) and Derby Native Hospital (1925).

Although no built fabric remains on the site from the earlier periods, the place is still significant for being the site where these facilities were located. While the place is considered to be significant, the existing buildings ('the fabric') are less so. The continuous and evolutionary use as a site for the provision of health care and its intangible values as such are the significant element.

Places with intangible values are recognised on the National Heritage List and under that *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) it is the National Heritage Values, including intangible values of a National Heritage place that are protected rather than the place itself. Aboriginal places are often recognised to have intangible value to specific groups and may or may not also include other physical evidence of their significance. This approach towards places with intangible values is also applied by UNESCO.

Whilst the registration of intangible values for places to the State Register of Heritage Places is not yet common, there are other examples where places of importance have been listed without identifying significant physical elements. Examples of this has been the registration of former primary schools sites, churches and other community places that are often listed on local municipal inventories. Other examples include memorial sites where significant events have occurred.

#### **SUMMARY:**

The assesment report prepared by the SHO identifies that Numbala Nunga is the locale of several important phases in the history of Aboriginal health care in Western Australia and the place retains its significance to Aboriginal people and the broader community regardless of the presence of the remaining buildings on the site.

The action to recognise the importance of the site is consistent with the inclusion of the place within the Shire’s Municipal Register of Heritage Places.

The SHO assessment documentation for Numbala Nunga demonstrates that the place has significance at a State level and the administration of the Shire supports the inclusion onto the heritage register.

#### **VOTING REQUIREMENT:**

Simple majority.

#### **OFFICER RECOMMENDATION:**

- 1. That Council advises the State Heritage Office that it supports the registration of Numbala Nunga at Lot 500 Sutherland Street, Derby referenced as P9743, in the Register of Heritage Places maintained under the Heritage of Western Australia Act 1990;**
- 2. That Council authorises the Chief Executive Officer (or his nominee) to attend the meeting of the Register Committee of State Heritage Office to support the registration of Numbala Nunga in the Register of Heritage Places.**

#### **COUNCIL DECISION:**

##### **MINUTE NO. 136/2016**

**Moved: Cr P Coggins**

**Seconded: Cr C Kloss**

- 1. That Council advises the State Heritage Office that it supports the registration of Lot 500 Sutherland Street, Derby referenced as P9743, in the Register of Heritage Places maintained under the Heritage of Western Australia Act 1990;**
- 2. That Council authorises the Chief Executive Officer (or his nominee) to attend the meeting of the Register Committee of State Heritage Office to support the registration of Lot 500 Sutherland Street, Derby in the Register of Heritage Places.**

**CARRIED 6/0**

Advice Note:

Council notes the registration relates to the land only and not the built form.

Reason for Change to Officer Recommendation:

To clarify the land, not the building, is being considered for registration.

## 12.5 COMMUNITY DEVELOPMENT AND RECREATION SERVICES

### 12.5.1 ADOPTION OF DISABILITY ACCESS INCLUSION PLAN 2016 – 2021

<b>Location/Address:</b>	Shire of Derby/West Kimberley
<b>Name of Applicant/Owner:</b>	Bradley Isbister - Executive Manager Community Development
<b>File Reference:</b>	6340 – Disability Inclusion
<b>Author:</b>	Bradley Isbister – Executive Manager Community Development
<b>Interest Disclosure:</b>	Nil
<b>Date of Report:</b>	1 November 2016
<b>Attachments:</b>	Disability Access Inclusion Plan 2016 – 2021

#### SUMMARY:

This report seeks Council’s endorsement of the Disability Access Inclusion Plan 2016-2021 (DAIP).

#### BACKGROUND:

It is a requirement of Local Government under the *Disability Services Act 1993* and *Disability Services Regulations 2004* that Council have a Disability Access and Inclusion Plan (DAIP) in place. Council currently has a DAIP that expires this year. Attached is the revised DAIP that will be in place until 2021 and builds on the progress made over the past five years.

The DAIP is generally a document that guides Council in its processes to consider all those factors that may affect people with disabilities. It also provides mechanisms for those people with disabilities to be heard and have a voice in what Council is planning and working towards to make sure that they are not discriminated against. It is important to note that in the context of the plan and legislation, disabled people include the elderly, people who are injured (i.e. on crutches), wheelchair bound, reliant upon motorised carts and mothers with children etc. due to their mobility restrictions caused by prams.

The seven major outcomes the document addresses are:

1. People with disability have the same opportunities as other people to access the services of, and any events organised by Shire of Derby/West Kimberley.
2. People with disability have the same opportunities as other people to access the buildings and other facilities of the Shire of Derby/West Kimberley.
3. People with disability receive information from the Shire of Derby/West Kimberley in a format that will enable them to access the information as readily as other people are able to access it.
4. People with disability receive the same level and quality of service from the staff of the Shire of Derby/West Kimberley.
5. People with disability have the same opportunities as other people to make complaints to the Shire of Derby/West Kimberley.
6. People with disability have the same opportunities as other people to participate in any public consultation by the Shire of Derby/West Kimberley.
7. People with disability have the same opportunities as other people to obtain and maintain employment with the Shire of Derby/West Kimberley.

**STATUTORY ENVIRONMENT:**

The *Western Australian Disability Services Act (1993) amended 2004* part 5 requires State Government agencies and Local Governments to develop and implement a Disability Access and Inclusion Plan (DAIP).

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

The implementation plan requires Council to allocate funds to specific items such as footpaths, automatic doors and modifications to existing facilities for example. Each item will be considered as part of a normal budget submission procedure and in some cases require external funding to assist with costs.

**STRATEGIC IMPLICATIONS:**

GOAL	OUTCOME	STRATEGY
1: Community Wellbeing	1.7: Quality of life for aged and disabled	1.7.2: Implement Disabled Access Inclusion Plan

**CONSULTATION:**

In 2016, the Shire undertook to review its DSP, consult with key stakeholders and draft a new DAIP to guide further improvements to access and inclusion.

The process included:

- ) Examination of the initial DSP and subsequent review reports to see what had been achieved and what still needs work;
- ) Examination of other Shire documents and strategies;
- ) Investigation of contemporary trends and good practice in access and inclusion;
- ) Consultation with key staff; and
- ) Consultation with the community.

The *Disability Services Act Regulations (2004)* set out the minimum consultation requirements for public authorities in relation to DAIPs. Local governments must call for submissions (either general or specific) by notice in a newspaper circulating in the local district of the local government, under the *Local Government Act (1995)*, or on any website maintained by or on behalf of the Local Government. Other mechanisms may also be used.

In February 2016 the Community was informed that the Shire was reviewing its DAIP to address the barriers that people with disability and their families experience in accessing information, services and facilities. The community was advised via:

- ) Advertising the DAIP on 6DBY via advertising and interviews on the subject.
- ) Advertising the opportunity for community consultation in the Muddy Waters.
- ) Consultation documents were provided to service agencies to discuss directly with clients. Agencies included KISFA and Seniors Homes.

) Advertised on the Shire’s website, with public comment sought. Public comment forms were provided at SDWK facilities including the Administration offices, Swimming Pool and Libraries.

Seven public submissions were received regarding the plan and identified issues within the Shire.

**COMMENT:**

It is a requirement of legislation that this plan be adopted by Council and implemented as a guidance tool for all staff and Councillors. It has become a useful tool by which programs can be initiated and changes made to Council operations, built assets and equipment.

The consultation found that many areas still require improvement throughout the Shire and inclusion in the new plan. The new plan should not only address current access barriers but also reflect contemporary values and practices, such as striving for inclusion and meeting more than the minimum compliance with access standards. It must also keep abreast of legislative and regulatory changes.

The area’s most requiring improvement were footpaths, carparks and access to buildings as well as improved access to tourism facilities.

**VOTING REQUIREMENT:**

Simple majority.

**OFFICER RECOMMENDATION:**

**MINUTE NO. 137/2016**

**Moved: Cr P Coggins      Seconded: Cr P White**

**That Council adopts the Disability Access and Inclusion Plan (DAIP) 2016-2021.**

**CARRIED 6/0**

**13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**14.0 QUESTIONS BY MEMBERS FOR WHICH DUE NOTICE HAS BEEN GIVEN**

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

**COUNCIL DECISION:**

**MINUTE NO. 138/2016**

**Moved: Cr C Kloss                      Seconded: Cr P White**

**That the Meeting be closed to the general public to discuss Agenda Item 15.1 and 16.1 pursuant to the Local Government Act 1995 Section 5.23(2).**

**CARRIED 6/0**

**15.1 DERBY PORT – WARBURTON GROUP MOU EXTENSION**

**OFFICER RECOMMENDATION:**

**MINUTE NO. 139/2016**

**Moved: Cr P White                      Seconded: Cr C Kloss**

**That Council:-**

- 1. Acknowledge the Warburton Group satisfactory completion of Phase 2 milestones under the Memorandum of Understanding (MOU) for Derby Port and Airport development.**
- 2. Approve extension to the MOU with the Warburton Group to reflect Phase 3 undertakings between 1 December 2016 and 30 November 2017.**
- 3. Permit direct negotiation between Warburton Group and the State Government on Port and Airport land tenure options for development.**
- 4. Acknowledge further variation of the MOU will be required to reflect future phases and form of tenure.**

**CARRIED 6/0**

**16.0 MATTERS BEHIND CLOSED DOORS**

**16.1 SALE OF LAND – UNPAID RATES**

**OFFICER RECOMMENDATION:**

**MINUTE NO. 140/2016**

**Moved: Cr C Kloss                      Seconded: Cr P Coggins**

**That Council, pursuant to Section 6.64 of the Local Government Act 1995, resolve to proceed to sell the property A102490 which has rates and charges in arrears of three years or more and demolition costs and distribute the proceeds of the sale of the land in accordance with Schedule 6.3 of the Local Government Act 1995.**

**CARRIED 6/0**

**CARRIED BY ABSOLUTE MAJORITY**

**COUNCIL DECISION:**

**MINUTE NO. 141/2016**

**Moved: Cr A Twaddle                      Seconded: Cr P White**

**That the meeting again be open to the general public.**

**CARRIED 6/0**

**17.0 CLOSURE OF MEETING**

The Presiding Member closed the meeting at 1.38pm.

**These minutes were confirmed at a meeting on**  
  
.....  
  
**Signed: .....**  
  
**Presiding Person at the meeting at which these minutes were confirmed.**  
  
**Date: .....**