



# **SHIRE OF DERBY/WEST KIMBERLEY**

## **NOTICE OF COUNCIL MEETING**

**Dear Elected Member,**

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

Thursday, 30 March 2017

At

The Crossing Inn, Fitzroy Crossing

At

1:00pm

Stephen Gash  
**CHIEF EXECUTIVE OFFICER**

Date: 17/03/2017

## **AGENDA**

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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.<br>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.”*

**2017 MEETING DATES**

At its Ordinary Meeting of Council on 24 November, 2016, Council adopted the following meeting dates for 2017;

|          |                   |         |   |
|----------|-------------------|---------|---|
| January  |                   |         | Council in Recess                               |
| Thursday | 23 February 2017  | 5.30 pm | Council Chambers, Derby                         |
| Thursday | 30 March 2017     | 1.00 pm | Fitzroy Crossing Inn, Fitzroy Crossing          |
| Thursday | 27 April 2017     | 5.30 pm | Council Chambers, Derby                         |
| Thursday | 25 May 2017       | 5.30 pm | Council Chambers, Derby                         |
| Thursday | 29 June 2017      | 1.00 pm | Fitzroy Crossing Inn, Fitzroy Crossing          |
| Thursday | 27 July 2017      | 5.30 pm | Council Chambers, Derby                         |
| Thursday | 31 August 2017    | 5.30 pm | Council Chambers, Derby                         |
| Thursday | 28 September 2017 | 1.00 pm | Aboriginal Community or Station (to be advised) |
| Thursday | 26 October 2017   | 5.30 pm | Council Chambers, Derby                         |
| Thursday | 30 November 2017  | 1.00 pm | Fitzroy Crossing Inn, Fitzroy Crossing          |
| Thursday | 14 December 2017  | 5.30 pm | Council Chambers, Derby                         |

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

**MEETING ATTENDANCE**

The following table provides information on attendance at the 2016-17 Ordinary and Special Council Meetings;

| Councillor  | 28<br>Jul<br>2016 | 25<br>Aug<br>2016 | 29<br>Sept<br>2016 | 27<br>Oct<br>2016 | 24<br>Nov<br>2016 | 15<br>Dec<br>2016 | 09<br>Feb<br>2017 | 23<br>Feb<br>2017 | 30<br>Mar<br>2017 | 27<br>Apr<br>2017 | 25<br>May<br>2017 | 29<br>Jun<br>2017 |
|-------------|-------------------|-------------------|--------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
|             | OCM               | OCM               | OCM                | OCM               | OCM               | OCM               | SCM               | OCM               | OCM               | OCM               | OCM               | OCM               |
| E Archer    | ✓                 | ✓                 | ✓                  | ✓                 | ✓                 | ✓                 | ✓                 | ✓                 |                   |                   |                   |                   |
| P White     | ✓                 | ✓                 | LOA                | ✓                 | ✓                 | ✓                 | ✓                 | ✓                 |                   |                   |                   |                   |
| P Coggins   | ✓                 | ✓                 | ✓                  | LOA               | ✓                 | ✓                 | A                 | ✓                 |                   |                   |                   |                   |
| C Kloss     | ✓                 | ✓                 | ✓                  | ✓                 | ✓                 | ✓                 | ✓                 | ✓                 |                   |                   |                   |                   |
| A Kogolo    | AB                | A                 | ✓                  | A                 | A                 | LOA               | A                 | A                 |                   |                   |                   |                   |
| P McCumstie | LOA               | ✓                 | ✓                  | ✓                 | LOA               | ✓                 | ✓                 | ✓                 |                   |                   |                   |                   |
| J Oscar     | ✓                 | ✓                 | LOA                | ✓                 | LOA               | ✓                 | A                 | A                 |                   |                   |                   |                   |
| I Prouse    | ✓                 | ✓                 | ✓                  | ✓                 | ✓                 | ✓                 | A                 | ✓                 |                   |                   |                   |                   |
| A Twaddle   | ✓                 | ✓                 | A                  | ✓                 | ✓                 | ✓                 | ✓                 | ✓                 |                   |                   |                   |                   |

**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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THURSDAY 30 MARCH 2017**

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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 ..... by.....

#### **2.0 RECORD OF ATTENDANCE**

##### **2.1 ATTENDANCE**

**ELECTED MEMBERS:**

**STAFF:**

**VISITORS:**

**GALLERY:**

##### **2.2 APOLOGIES**

##### **2.3 APPROVED LEAVE OF ABSENCE**

##### **2.4 ABSENT**

## **2.5 DISCLOSURE OF INTERESTS**

Section 5.65 and 5.70 of the *Local Government Act 1995* requires an Elected Member or Officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Elected 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.

An Elected 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 an Elected Member to speak, the extent of the interest must also be stated.

### **2.5.1 DECLARATIONS OF FINANCIAL INTERESTS**

### **2.5.2 DECLARATIONS OF PROXIMITY INTERESTS**

### **2.5.3 DECLARATIONS OF IMPARTIALITY INTERESTS**

## **3.0 APPLICATIONS FOR LEAVE OF ABSENCE**

## **4.0 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS**

## **5.0 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**6.0 PUBLIC TIME**

**6.1 PUBLIC QUESTION TIME**

**6.2 PUBLIC STATEMENTS**

**6.3 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS**

**7.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

**8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**8.1 ORDINARY MEETING OF COUNCIL HELD 23/02/2017**

**OFFICER RECOMMENDATION:**

**Moved:**

**Seconded:**

**That the minutes of the ordinary meeting of the Shire of Derby/West Kimberley held at the Council Chambers, Clarendon Street, Derby, on 23 February 2017 be confirmed.**

## 9.0 RECOMMENDATIONS AND REPORTS OF COMMITTEES

### 9.1 COMPLIANCE AUDIT REPORT

|                                    |  |
|------------------------------------|--|
| <b>Committee:</b>                  | Compliance and Strategic Review Committee              |
| <b>Meeting Date:</b>               | 29 March 2017  |
| <b>Authority Level:</b>            | No Delegated Authority                                 |
| <b>Location/Address:</b>           | N/A  |
| <b>Name of Applicant:</b>          | Shire of Derby/West Kimberley                          |
| <b>File Reference:</b>             | 4110 – Compliance (Audit Internal)                     |
| <b>Author:</b>                     | Ross Sullivan, Manager Commercial Services             |
| <b>Responsible Officer:</b>        | Martin Cuthbert – Executive Manager Corporate Services |
| <b>Disclosure of any Interest:</b> | Nil  |
| <b>Date of Report:</b>             | 17 March 2017  |
| <b>Attachments:</b>                | 1. 2016 Compliance Audit Return                        |
| <b>Authority/Discretion:</b>       | Executive  |

#### SUMMARY:

For Council to adopt the Compliance Audit Return (the Return) for 2016 and submit to the Department of Local Government and Communities (DLGC).

#### BACKGROUND:

The 2016 Return was made available to local government authorities by the DLGC via its centralised portal called Smart Hub.

The structure of the Return is similar to previous years and focuses on areas of compliance considered high risk. However questions relating to elections have been removed for this year given there were no elections held during 2016.

In accordance with the Local Government Act 1995 and Local Government (Audit) Regulations 1996 a local government is required to complete an annual Compliance Audit Return for the period 1 January to 31 December each year. The Return is to be forwarded to the Department of Local Government and Communities by 31 March each year after being presented to the Compliance and Strategic Review Committee and adopted by Council.

The Return contains the following compliance categories:

- ) Commercial Enterprises by Local Governments
- ) Delegation of Power/Duty
- ) Disclosure of Interest
- ) Disposal of Property
- ) Finance
- ) Local Government Employees
- ) Official Conduct
- ) Tenders for Providing Goods and Services

## **STATUTORY ENVIRONMENT:**

### ***Section 7.13(i) of the Local Government Act 1995***

#### ***7.13. Regulations as to audits***

*(1) Regulations may make provision —*

- (i) requiring local governments to carry out, in the prescribed manner and in a form approved by the Minister, an audit of compliance with such statutory requirements as are prescribed whether those requirements are —*
  - (i) of a financial nature or not; or*
  - (ii) under this Act or another written law.*

#### ***Local Government (Audit) Regulations 14 and 15:***

##### ***Regulation 14 – Compliance audits by local governments.***

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) After carrying out a compliance audit the local government is to prepare compliance audit return in a form approved by the Minister.*
- (3A) The local government’s audit committee is to review the compliance audit return and is to report to the Council the results of that review.*
- (3) After the audit committee has reported to the Council under sub regulation (3A) the compliance audit return is to be—*
  - (a) presented to the Council at a meeting of the Council; and*
  - (b) adopted by the Council; and*
  - (c) recorded in the minutes of the meeting at which it is adopted.*

**Regulation 15 – Compliance audit return, certified copy of etc. to be given to Executive Director.**

- (1) *After the compliance audit return has been presented to the Council in accordance with regulation 14(3) a certified copy of the return together with –*
  - (a) *a copy of the relevant section of the minutes referred to in regulation 14(3)(c);and*
  - (b) *any additional information explaining or qualifying the compliance audit, is to be submitted to the Executive Director by 31 March next following the period to which the return relates.*
- (2) *In this regulation certified in relation to a compliance audit return means signed by –*
  - (a) *the mayor or president; and*
  - (b) *the CEO.*

**POLICY IMPLICATIONS:**

There are no policy implications related to this report

**FINANCIAL IMPLICATIONS:**

There are no financial implications related to this report

**STRATEGIC IMPLICATIONS:**

| GOAL  | OUTCOME   | STRATEGY   |
|---|---|--|
| <b>4:</b> Leadership that provides strategic direction for the community, supported by efficient and effective service delivery | <b>4.1:</b> Effective governance and leadership | <b>4.1.3:</b> Strengthen the governance role of Councillors by informing, resourcing, skilling and supporting their role |
| <b>4:</b> Leadership that provides strategic direction for the community, supported by efficient and effective service delivery | <b>4.1:</b> Effective governance and leadership | <b>4.1.4:</b> Ensure governance policies and procedures are in accordance with legislative requirements                  |

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK   | LIKELIHOOD | CONSEQUENCE | RISK ANALYSIS | MITIGATION   |
|--|------------|-------------|---------------|--|
| <b>Legal and Compliance:</b><br>The Compliance Audit Return not endorsed by Council. | Unlikely   | Minor       | Low           | An extension of time would be requested from the DLGC.<br>CAR re-presented once concerns are adequately addressed. |

**CONSULTATION:**

Relevant Council officers were consulted for their areas of responsibility.

The Compliance and Strategic Review Committee considered the Compliance Audit Return prior to it being presented to Council.

Guidance has been communicated by the Department of Local Government and Communities via government circulars, guidelines and direct contact.

**COMMENT:**

The period examined by this audit is 1 January to 31 December 2016 and the completed return is required to be:

- ) Reviewed by the Audit Committee;
- ) Considered and adopted by Council;
- ) Certified by the President and CEO following Council adoption;
- ) Submitted together with a copy of the Council Minutes to the Department by 31 March 2017.

The CAR assists the Shire to monitor legislative compliance by examining a range of prescribed requirements under regulation 13 of the *Local Government (Audit) Regulations 1996* in detail. The CAR is attached.

The Shire’s audit findings must be recorded in the Compliance Audit Return proforma which is duly completed and provided as Attachment 1.

As required by regulation, the 2016 Compliance Audit has been reviewed by the Compliance and Strategic Review Committee and referred to the March Ordinary Meeting of Council for ratification.

**VOTING REQUIREMENT:**

Simple majority



**OFFICER RECOMMENDATION:**

**That Council:**

- 1. ADOPTS the completed Compliance Audit Return for the period 1 January 2016 to 31 December 2016, forming attachment 1;**
- 2. AUTHORISE a copy to be signed and certified by the President and Chief Executive Officer; and**
- 3. In accordance with regulation 15 of the *Local Government (Audit) Regulations 1996*, SUBMITS the completed Compliance Audit Return, and any additional information explaining or quantifying the compliance audit, to the Department of Local Government and Communities before 31 March 2017.**

**9.2 2016-17 MID-YEAR BUDGET REVIEW**

|                                    |   |
|------------------------------------|---|
| <b>Committee:</b>                  | Compliance and Strategic Review Committee             |
| <b>Meeting Date:</b>               | 29 March 2017   |
| <b>Authority Level:</b>            | No Delegated Authority                                |
| <b>Location/Address:</b>           | N/A   |
| <b>Name of Applicant:</b>          | Shire of Derby/West Kimberley                         |
| <b>File Reference:</b>             | 5122 – Budget Review                                  |
| <b>Author:</b>                     | Gary O’Neil, Manager Corporate Services               |
| <b>Responsible Officer:</b>        | Martin Cuthbert, Executive Manager Corporate Services |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 21 March 2017   |
| <b>Attachments:</b>                | 2. 2016-17 Mid-Year Budget Review                     |

**SUMMARY:**

For Council to consider and accept the 2016-17 Mid-Year Budget Review.

**BACKGROUND:**

Local governments are required to conduct a budget review between 1 January and 31 March each financial year which is a requirement covered by regulation 33A of the *Local Government (Financial Management) Regulations 1996*.

This report presents an indicative summary of the 2016-17 mid-year budget review. The review is an opportunity to reevaluate the current budget and allocate funding for emerging community and social priorities, allowing the organisation to respond and provide the best result for the Shire. There are also other factors and urgent matters that affect the operational activities and revenue streams which have resulted in budget variations and are discussed further in this report.

Budget reviews provide a tool for decision making for current and future activities and they are a key component of prudential financial management practices in order to mitigate financial risk exposure to Council. In conjunction with compliance with legislation, the review aims to reconsider all budget items and review them by taking into account any changes in the macro or minor economic variables and any other relevant information.

**STATUTORY ENVIRONMENT:*****Local Government Act 1995******6.8. Expenditure from municipal fund not included in annual budget***

*(1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*

*(a) is incurred in a financial year before the adoption of the annual budget by the local government; or*

*(b) is authorised in advance by resolution\*; or*

*(c) is authorised in advance by the mayor or president in an emergency.*

*\* Absolute majority required.*

### **Local Government (Financial Management) Regulations 1996**

#### **33A. Review of budget**

*1. Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.*

*2A. The review of an annual budget for a financial year must —*

*(a) consider the local government’s financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and*

*(b) consider the local government’s financial position as at the date of the review; and*

*(c) review the outcomes for the end of that financial year that are forecast in the budget.*

*2. Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*

*3. A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

*\*Absolute majority required.*

*4. Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.*

### **POLICY IMPLICATIONS:**

There are no policy implications related to this report

**FINANCIAL IMPLICATIONS:**

The mid-year budget review has identified an increased expenditure requirement to address immediate community and business needs coupled with a reduction in some revenue streams. However, figures presented in this report are indicative and subject to change following further review and prioritisation between financial years, which will be undertaken prior to being brought back for Council consideration.

**STRATEGIC IMPLICATIONS:**

| GOAL   | OUTCOME  | STRATEGY   |
|--|--|--|
| <p><b>4:</b> Good governance and an effective organisation<br/>Leadership that provides strategic direction for the community, supported by efficient and effective service delivery</p> | <p><b>4.4:</b> Financial sustainability and accountability for performance</p> | <p><b>4.4.4:</b> Provide resources to support the Shire’s operations and to meet planning, reporting and accountability requirements</p> |

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK  | LIKELIHOOD | CONSEQUENCE | RISK ANALYSIS | MITIGATION   |
|---|------------|-------------|---------------|--|
| <p><b>Legal and Compliance:</b><br/>That the review not be submitted to the DLGC within 30 days after the review has been finalised.</p>    | Unlikely   | Moderate    | Medium        | Accept officer recommendation and submit to DLGC   |
| <p><b>Organisational Operations:</b><br/>Non approval of the budget review would result in significant delays to achieving deliverables</p> | Unlikely   | Moderate    | Medium        | In the short term the existing annual budget would continue to apply and proposed amendments would not apply |
| <p><b>Reputation:</b><br/>Non approval of the budget review would result in significant delays to achieving deliverables</p>                | Unlikely   | Moderate    | Medium        | Accept officer recommendation with any amendments (as specified by Council)                                  |

**CONSULTATION:**

Department of Local Government and Communities guidelines were reviewed in the preparation of this report.

Shire of Derby/West Kimberley Executive Leadership Team have collectively considered the impact of any increased expenses and decreased revenue streams to identify areas of savings available for re-allocation to enable the inclusion of any initiatives to benefit the community and keep within the budget guidelines of a balanced budget.

All managers with budget responsibility were consulted in the preparation of the mid-year budget review.

**COMMENT:**

The focus of the 2016-17 mid-year budget review has been to consider any changes in Councils operating environment since the beginning of the financial year with a view to forecasting the financial impacts likely to arise for the remainder of the financial year and make a determination in relation to prevailing economic conditions and the most likely impact on the Councils financial position.

Council needs to ensure there is sufficient operational capacity to deliver the services and budget programs as set out in the adopted 2016-17 budget and accommodate events and issues that have arisen since budget adoption.

One of the main variations identified is an improvement in the actual surplus brought forward from 2015-16 which is significantly higher than the budget estimate. Council is still waiting on written confirmation from the auditors on the final figure, however it is expected to be in the vicinity of \$1.2m. This offsets the projected 2016-17 total variance of \$1.28m and maintains a balanced budget.

A separate report to Council will be provided to the April Council meeting on budget amendments incorporating more detail than provided in this review. Future monitoring will be required and further budget adjustments may be required later in the financial year.

Annual budgets are by nature predictions of what will happen during the term of the budget. Though budgets are carefully prepared unexpected circumstances and external influences result in the need to review the proposed activities during the entire budget term.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. In accordance with regulation 33A of the Local Government (Financial Management) Regulations 1996, accepts the 2016-17 Mid-Year Budget Review, forming attachment 5;**
- 2. Forwards a copy of the determination and said report to the Department of Local Government and Communities within 30 days.**

## 10.0 REPORTS

### 10.1 EXECUTIVE SERVICES

#### 10.1.1 PROPOSED WORKSHOP – MARRA WORRA WORRA, FITZROY CROSSING

|                                    |   |
|------------------------------------|---|
| <b>Location/Address:</b>           | Portion Reserve 38602 Lot 315 Great Northern Highway, Fitzroy Crossing. |
| <b>Name of Applicant:</b>          | Marra Worra Worra   |
| <b>File Reference:</b>             | A600275   |
| <b>Author:</b>                     | Noel Myers – Shire Planner  |
| <b>Responsible Officer:</b>        | Stephen Gash – Chief Executive Officer                                  |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 13 March 2017   |
| <b>Attachments:</b>                | 3. Location Plan<br>4. Site Plan/Floor Plan/Elevations                  |
| <b>Authority/Discretion:</b>       | Administrative  |

#### SUMMARY:

For Council to grant Development Approval for the construction of a Motor Vehicle Workshop.

#### BACKGROUND:

Proposal is to construct a workshop for the servicing of motor vehicles and other plant and equipment.

|                   |   |
|-------------------|---|
| <b>Location:</b>  | The building is to be located on a portion of Reserve 38602, Lot 315 Great Northern Highway which is located on the southern side of the Great Northern Highway, Fitzroy Crossing. The workshop is proposed to be constructed immediately to the west of the existing Marra Worra Worra administrative complex; |
| <b>Applicant:</b> | Marra Worra Worra Aboriginal Corporation;   |
| <b>Owner:</b>     | Reserve 38602 is vested to Marra Worra Worra for the Use and Benefit of Aboriginal Inhabitants;   |
| <b>Zoning:</b>    | The development is proposed to be generally located within the area of the Reserve that is designated for ‘Community Purposes’ within the Fitzroy Futures Town Plan;  |
| <b>Site Area:</b> | Reserve 38602 has an overall area of 151ha;   |

The Shire has previously issued Planning Approval No.63/12 dated 23/07/2013 for the construction of a Workshop for similar purposes in similar location. That project proposed a much larger building in terms of floor area than the current application and was not progressed. The approval expired 23/07/2015.

**STATUTORY ENVIRONMENT:**

Interim Development Order No.8: Pt 1 (c) – requires that approval be obtained prior to carrying out of certain development;

Fitzroy Futures Town Plan: Policy based approach to land use control and development.

**POLICY IMPLICATIONS:**

Not applicable

**FINANCIAL IMPLICATIONS:**

Not applicable

**STRATEGIC IMPLICATIONS:**

| GOAL   | OUTCOME  | STRATEGY  |
|--|--|---|
| <p><b>Goal 2:</b> A balance between the natural and built environment Sustainable environments that meets the needs of the community and supports growth</p> | <p><b>2.1:</b> Appropriate development that enhances the unique character and heritage of the Shire’s township</p> | <p><b>2.1.4:</b> Ensure quality, consistent and responsive development and building assessment approval processes and enforcement</p> |

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK   | LIKELIHOOD | CONSEQUENCE | RISK ANALYSIS | MITIGATION                    |
|--|------------|-------------|---------------|-------------------------------|
| <p><b>Environment:</b><br/>Discharge contaminated stormwater</p> | Rare       | Minor       | Low           | Condition to comply with WQPN |

There is minimal risk to the Shire in determining this application subject to the conditions detailed within the officer recommendation.

**CONSULTATION:**

At the date of this report, preliminary consultation has been undertaken with the applicant (via their nominated contractor) regarding development issues and need for updated plans that detail ground levels, stormwater management and revised access issues, however, no external consultation has yet been initiated.



Upon receipt of amended plans that have been requested, consultation will be undertaken with:

- ) Main Roads WA Derby office in respect to access onto Great Northern Highway;
- ) Department of Water in respect to Fitzroy River Floodplain Management Strategy and development within P3 water source protection area.

**COMMENT:**

Marra Worra Worra are seeking approval to construct a 577 square metre workshop adjacent to their existing administrative complex. The building will incorporate four servicing bays, an office and store room that will be used to service Marra Worra Worra's (MWW) own motor vehicle fleet and plant and also provide opportunities for the delivery of automotive training. The proposed site sits between the existing workshop and the carpark and driveway that provides access to BP Ngarli Service Station. The new building will be fully fenced to provide a storage and parking area at the front of the building and will form a natural extension to the MWW Administration complex.

**Land Use:**

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

The subject lot is located within the area that is identified as 'Community Uses' and is complimentary to the existing range of land uses within this zone. The adjoining land uses include the BP Ngarli Service Station to the west and the Mindie Radi community is located approximately 150 metres to the north-west.

The proposed use in the location is regarded as being consistent with the existing development and is sufficiently separated from the adjacent sensitive land uses.

**Built Form:**

The proposed building is a single storey building that will be constructed immediately adjacent to the existing workshop. The service yard that is located at the front of the building is to be screened with a colourbond fence that will assist to screen stored vehicles and plant from view from the Great Northern Highway.

The workshop is set behind the building line of the main administrative building which means the building will not be the dominant structure in the streetscape as viewed from the Great Northern Highway.

**Carparking:**

The Fitzroy Futures Town Plan is silent on development controls for new developments and as a consequence guidance on car parking requirements is taken from Town Planning Scheme No.5. Car parking requirements are typically calculated on the gross floor area of a building which for Service Industry uses is calculated at 1 bay per 50m<sup>2</sup>

which demands a total of 8 bays being provided. In this case, the primary use of the building will be to service the MWW vehicle fleet and as such vehicles will be brought to the site directly as services or repairs are required. A service yard is being provided at the front of the building that will accommodate this need and invariably vehicles once serviced would be either collected directly or returned to the adjacent administrative building.

Having regard to the above matters, it is considered that the building is adequately serviced with vehicle parking and storage areas.

The applicant is preparing an amended site plan to ensure that proposed service court at the front of the building accords with the appropriate design considerations to facilitate the safe movement of vehicles to and from the building. Any approval would be subject to a condition requiring that plans comply with the relevant design considerations as set out under Australian Standard AS2890.1.

#### Stormwater Management:

The site is located within the P3 water catchment area and therefore the site needs to be developed in accordance with the recommendations detailed within Department of Water – Water Quality Protection Note 28 (WQPN) – mechanical servicing and workshops and also have regard to the Fitzroy Crossing Water Source Protection Plan (WSPP). The focus of the WQPN and WSPP is to ensure that best environmental management practices are set in place to manage any spills and the manner in which stormwater is managed before it is discharged from the site.

The applicant is required to submit a suitably designed stormwater management plan that is consistent with the above documents and the application will also be referred to the Department for Water for advice on the Fitzroy Floodplain Management Strategy. Whilst the building is not a habitable building, advice on what the required finished floor level would assist in developing a suitable stormwater management plan. These matters are proposed to be conditions applied to any approval granted by the Council.

#### Access:

Developments that front and take access from Main Roads WA (MRWA) controlled roads are referred for MRWA comment. This matter has yet to be done as the applicant is preparing a modified site to deal with internal traffic movement. Once completed the plan will be referred, however, given that the access to the site is via the internal driveway that also services the adjacent roadhouse rather than connecting directly to the GNH, it is not anticipated that any substantial issues will arise. Notwithstanding, the amended site plan will be referred and be vetted to ensure that it accords with relevant standards to ensure the safe movement and vehicles and pedestrians to and from the site. This would form a condition of any approval granted by the Council.

**SUMMARY:**

The proposed development is considered to be consistent with the purpose intent of the land where it will be located and the recommended conditions will ensure that the development is able to be undertaken in a manner that addresses the relevant environmental, traffic safety and amenity issues and is accordingly is recommended for approval.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council, pursuant to Interim Development Order No.8, ISSUES Planning Consent for the development of a Workshop on a portion of Reserve 38602 – Lot 315 Great Northern Highway, Fitzroy Crossing, subject to the following conditions;**

- 1. All development is to be in accordance with the approved plan dated 18 January 2017;**
- 2. The Planning Consent is valid for two years from the date of this 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;**
- 3. A Building Licence application under the provisions of the *Local Government (Miscellaneous Provisions) Act 1960* must be submitted to and approved by Council prior to the commencement of any on-site works whatsoever. Development under a Building Licence must be substantially commenced within 12 months and completed within two years;**
- 4. The development being connected to the town's reticulated water supply and sewer system to the requirements of the Water Corporation;**
- 5. A stormwater management plan is to be submitted that details the manner in which stormwater is to be disposed of both on-site and off-site and is to be in compliance with Department of Water Quality Protection Note 23 – Mechanical Servicing and Workshops and also Water Quality Protection Note 25. Stormwater management systems are to be designed and constructed in accordance with the Department of Water Stormwater Management Manual and Decision process for stormwater management in Western Australia. Final plans are to be submitted and be to the satisfaction of the Shire Planner and once endorsed will form part of the this Development Approval;**

- 6. An amended site plan is to be provided that details existing and finished ground and floor levels. Once received, the plan will be referred to the Department for Water for advice as to recommended finished floor levels of the workshop as per the Fitzroy Floodplain Management Strategy as measure to mitigate against the risk of flooding and contamination of stormwater. Any amendments required to the plans are to be to the satisfaction of the Shire Planner and once endorsed will form part of this Development Approval;**
- 7. The Service Yard located in front of the workshop is to be fenced so that the area is screened from view. Details of the proposed fencing style are to be provided and be to the satisfaction of the Shire Planner and once endorsed will form part of this Development Approval;**
- 8. An amended site plan is required that demonstrates that the parking and access way meets with Australian Standard AS2890.1. Once received, the plan will be referred to Main Roads Western Australia for comment and advice in respect to traffic accessing the site from the Great Northern Highway. Should there be any recommendations and or requirements, these modifications are to be made to the plan and be to the satisfaction of the Executive Manager Technical and Development Services.**

## **10.1.2 PROPOSED INITIATION OF SCHEME AMENDMENT 25 TO TPS5 – REZONING OF LOTS 4(12), 632 (10) RUSS STREET AND LOT 634 (17) CONWAY STREET**

|                                    |   |
|------------------------------------|---|
| <b>Location/Address:</b>           | Lot 4 (12), 631 (10) Russ Street and Lot 634 (17)<br>Conway Street, Derby |
| <b>Name of Applicant:</b>          | RFF Pty Ltd   |
| <b>File Reference:</b>             | 0185 – Town Planning Scheme 5   |
| <b>Author:</b>                     | Noel Myers, Shire Planner   |
| <b>Responsible Officer:</b>        | Stephen Gash, Chief Executive Officer                                     |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 21 March 2017   |
| <b>Attachments:</b>                | 5. Scheme Amendment Report  |
| <b>Authority/Discretion:</b>       | Legislative   |

### **SUMMARY:**

A Scheme Amendment is proposed to amend the Shire of Derby/West Kimberley Town Planning Scheme No. 5 (TPS5) by rezoning Lot 4 (12) Russ Street, Lot 631 (10) Russ Street and Lot 634 (17) Conway Street, Derby from the respective 'Rural Residential', 'Special Use – S10' and 'Rural' zones to a 'Light Industry' zone, and deletion of reference to Special Use – S10 within Appendix 3.

This report recommends that Council initiate Scheme Amendment 25 for the purpose of advertising for public comment and government agency referral.

### **BACKGROUND:**

The Shire has received a request on behalf of the landowners of Lot 4 (12) Russ Street, Lot 631 (10) Russ Street and Lot 634 (17) Conway Street to rezone their properties to 'Light Industry'.

The amendment area comprises an area of approximately 5.54 hectares on the periphery of the Derby town site. The amendment area is generally surrounded by 'General Industry' to the west and northwest, 'Light Industry' to the north, 'Rural Residential' to the east and a 'Parks and Recreation' reserve to the south.

In 2010, the Shire supported a Scheme Amendment to rezone Lot 631 (10) Russ Street from 'Rural' to 'Special Use – S10' to allow a range of light industrial uses on an existing 'Rural Residential' lot. Support for the amendment was provided to increase the productivity of the site but limit the impact on adjacent properties in lieu of a strategy for the area. In 2013 the Shire's Local Planning Strategy was endorsed by the Western Australian Planning Commission (WAPC). The Local Planning Strategy specifically identifies an action to *review the status of Rural zoned lots located within the General*

*Industry area and to consider alternative zonings that would enable lots to be put to more productive uses.*

The proposed amendment provides an opportunity to implement identified actions within the Local Planning Strategy and resolve potential future land use complications. Figures 1 and 2 below show the location of the proposed amendment.



Figure 1 - Wider Context of the Amendment Area



Figure 2 - Local Context of the Amendment Area



**STATUTORY ENVIRONMENT:**

- ) *Planning and Development Act 2005*
- ) *Planning and Development (Local Planning Schemes) Regulations 2015*
- ) Town Planning Scheme No.5
- ) Local Planning Strategy
- ) State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- ) State Planning Policy 4.1 – State Industrial Buffer Policy

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

Initiation of the amendment will require public advertising. Any costs associated with public advertising will be borne by the applicant.

**STRATEGIC IMPLICATIONS:**

| GOAL  | OUTCOME   | STRATEGY  |
|---|---|---|
| <p><b>2:</b> A balance between the natural and built environments<br/>Sustainable natural and built environments that meet the needs of the community and support future growth</p> | <p><b>2.1:</b> Appropriate development that enhances the unique character and heritage of the Shire’s townships</p> | <p><b>2.1.1:</b> Review, update and implement the Shire’s Local Planning Strategy</p>   |
| <p><b>2:</b> A balance between the natural and built environments<br/>Sustainable natural and built environments that meet the needs of the community and support future growth</p> | <p><b>2.1:</b> Appropriate development that enhances the unique character and heritage of the Shire’s townships</p> | <p><b>2.1.4:</b> ensure quality, consistent and responsive development and building assessment approval processes and enforcement</p> |
| <p><b>4:</b> Good governance and an effective organisation</p>  | <p><b>4.1:</b> Effective governance and leadership</p>  | <p><b>4.1.4:</b> Ensure governance policies and procedures are in accordance with legislative requirements</p>                        |

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK | LIKELIHOOD | CONSEQUENCE | RISK ANALYSIS | MITIGATION |
|------|------------|-------------|---------------|------------|
| N/A  |            |             |               |            |

**CONSULTATION:**

Should Council resolve to initiate the amendment, advertising and referral will be undertaken in accordance with a Standard Amendment as identified with the Planning and Development (Local Planning Schemes).

**COMMENT:**

The proposed amendment seeks to rezone Lot 4 (12) Russ Street, Lot 631 (10) Russ Street and Lot 634 (17) Conway Street from the respective 'Rural Residential', 'Special Use' and 'Rural' to 'Light Industry'.

**Type of Amendment**

Under the *Planning and Development (Local Planning Schemes) Regulations 2015*, proposed amendments to local planning schemes are classified as either Basic, Standard or Complex.

Under the provisions of the Regulations, the proposed amendment is defined as a Standard amendment as it is:

- *An amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
- *An amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment; and*
- *An amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.*

**Site Context**

The proposed amendment area is located on the periphery of the Derby town site surrounded by a mixture of undeveloped bushland (north), low density rural residential developments (east and south) and various industrial operations (west).

Land directly to the west and northwest of the amendment area comprises the main general industrial area of Derby. Fitzroy and Russ Street are the main connection routes between the general industrial area and Derby Highway being the major road connecting Derby to the wider region. The amendment area and land immediately adjacent to the east are currently utilised for a mixture of rural residential, rural pursuit and some light industrial operations. Lots to the north have approvals in place for a 26 lot light industrial subdivision (Landcorp).

In light of the above, the locality surrounding the proposed amendment area is already generally impacted by industrial operations.



## Planning Context

Under the provisions of the Town Planning Scheme No. 5 (TPS5), the amendment area comprises a mixture of 'Rural', 'Rural Residential' and 'Special Use' zones. All of these zones have the capability of accommodating sensitive land uses consistent with TPS5. The 'Special Use – S10' zone on Lot 631 (10) Russ Street was created through a Scheme Amendment in 2010 to increase the productive use of the property by including a range of light industrial land uses, while including development controls to ensure that the industrial land uses were suitably setback from adjoining properties.

Land to the north and west of the amendment area is zoned for 'Light Industry' and 'General Industry'. The continuation of the current rural zonings within the amendment area, which by their nature accommodate sensitive land uses, could prevent future approvals for industrial operations on the adjacent 'General Industrial' land due to the potential conflict with sensitive land uses. The proposed 'Light Industry' zone provides a buffer between industrial operations potentially requiring off-site buffers and rural residential land uses to the east. The 'Light Industry' zone under the provisions of TPS5 only permits industrial operations:

- a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and
- b) the establishment of which will not or the conduct of which does not impose an undue load on any existing or projected service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services.

The proposed 'Light Industrial' zone will transition heavy industrial operations to lighter operations with limited emissions. In addition, restricting the proposed amendment area to the three identified lots, retains 'Rural Residential' zoned properties along Derby Highway to preserve the rural town amenity for locals and visitors entering the Derby town site.

The Local Planning Strategy identifies the need to provide an adequate supply of residential, commercial and industrial land to cater for future growth. The existing supply of 'Light Industrial' zoned land within the town is either taken up or has not yet been constructed. Therefore, there is limited project ready 'Light Industrial' zoned land within the Derby town site. Strategic Action 30 within the Local Planning Strategy directly identifies the amendment area for consideration as identified as:

30. Review status of Rural zoned lots located within the existing General Industry area. These currently serve as buffers between rural residential lots. Consider alternative zonings that would enable lots to be put to more productive uses.

The amendment area currently contains a mixture of 'Rural', 'Rural Residential' and 'Special Use' zones all of which have the right to accommodate a range of sensitive land uses (e.g. 'Single House') under the provisions of TPS5. The current adjoining 'General Industry' zone has the as of right to accommodate a range of heavy and noxious industries which may require off-site buffers. As such, the proposed 'Light Industry' zone, in accordance with Action 30 within the LPS, will serve as a buffer between these two contrasting zones. In addition, the existing 'Special Use' zone within the amendment area already permits a range of light industrial land uses. The proposed amendment provides an opportunity to resolve the current 'Special Use' use into a more transparent zoning.

In light of all of the above, it is recommended that Council initiate Scheme Amendment No. 25 to TPS5 for the purpose of advertising.

#### **VOTING REQUIREMENT:**

Simple majority

#### **OFFICER RECOMMENDATION:**

##### **That Council:**

- 1. Pursuant to section 75 of the *Planning and Development Act 2005*, amend the Shire of Derby/West Kimberley Town Planning Scheme No. 5 to:
  - a) Rezone Lot 4 (12) Russ Street, Lot 631 (10) Russ Street and Lot 634 (17) Conway Street from the respective 'Rural Residential', 'Special Use' and 'Rural' zones to a 'Light Industry' zone by amending the scheme maps accordingly; and**
  - b) Deleting text in reference to S10 from Appendix 3 – Special Site Schedule.****
- 2. Accept Scheme Amendment No. 25 as a Standard Amendment under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 as it is:
  - a) An amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;**
  - b) An amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment; and**
  - c) An amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.****

### **10.1.3 FITZROY CROSSING AERODROME LIGHTING PROJECT – GRANT ACCEPTANCE**

|                                    |   |
|------------------------------------|---|
| <b>Location/Address:</b>           | Fitzroy Crossing Airport  |
| <b>Name of Applicant:</b>          | Shire of Derby/West Kimberley   |
| <b>File Reference:</b>             | 5286 – Grants – Transport – Airport Development   |
| <b>Author:</b>                     | Ross Sullivan, Manager Commercial Services  |
| <b>Responsible Officer:</b>        | Stephen Gash, Chief Executive Officer   |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 15 March 2017   |
| <b>Attachments:</b>                | 6. Confidential – Funding Agreement – Department of Infrastructure and Regional Development, Regional Aviation Access Programme<br>7. Fitzroy Crossing Aerodrome 2017 Annual Technical Inspection – Electrical Report |
| <b>Authority/Discretion:</b>       | Executive   |

#### **SUMMARY:**

This report seeks approval of Council to adopt an amendment in the 2016-17 budget in light of an offer of funding from the Federal Department of Infrastructure and Regional Development under the Regional Aviation Access Program (RAAP). This funding is to upgrade the Airfield Ground Lighting (AGL) at Fitzroy Crossing Airport limited to runway/taxiway lighting and Illuminated Wind Direction Indicator (IWDI – wind sock) – the apron lighting is deemed fit for purpose.

The total project value is \$440,000 whereby the Shire is required to contribute \$240,000 (includes a \$40,000 contingency component that is not grant funded). The time parameter for completion is 30 June 2018, however it is anticipated that it will be combined with the Derby RADS AGL project in a single tender that will be undertaken in concert with the Derby Airport Redevelopment.

#### **BACKGROUND:**

The AGL is operated through the Pilot Activated Lighting Control (PALC) whereby a pilot can turn on the runway/taxiway/IWDI lights from the aircraft using their radio handset. This enables aircraft to switch the lights on from the aircraft at any given time without requiring ground staff to attend.

A number of issues were raised in the Aerodrome Technical Inspection – Electrical (ATI – Electrical) undertaken on 19 January 2016 concerning the performance of the

runway lighting illumination and circuitry infrastructure. Similarly, the 9 January 2017 inspection reiterated these issues which gives clear inference that the AGL has reached its end of useful life having been installed circa 2001.

In situations where the lights are unavailable, staff are required to set out emergency portable lights to enable aircraft landing. However if there is an extended outage, a NOTAM advising all aircraft that the runway is unavailable at night must be raised. Both of these interim measures are inadequate as the aerodrome is frequently utilised at night by RFDS and they are less efficient and effective than an operating PALC system.

An upgrade of the infrastructure will also provide the opportunity to install modern LED technology which meets aviation regulatory standards and serve to reduce power consumption costs.

## **STATUTORY ENVIRONMENT:**

### **Pertaining to AGL:**

- ) Civil Aviation Safety Authority (CASA) Civil Aviation Safety Regulations (CASR);
- ) Manual of Standards (MOS) part 139 chapter 9:

#### *9.1.4 Minimum Lighting System Requirements*

*9.1.4.1 At an aerodrome opened for night operations, at least the following facilities must be provided with appropriate lighting:*

- (a) runways, taxiways and aprons intended for night use;*
- (ab) for taxiways used only by aeroplanes of code A or B — at least 1 such code A or B taxiway between the runway and the apron, with retroreflective markers permitted on the other code A or B taxiways;*
- (b) at least one wind direction indicator;*
- (c) if an obstacle within the applicable OLS area of the aerodrome is determined by CASA as requiring obstacle lighting, the obstacle lighting.*

- ) International Civil Aviation Organisation (ICAO) Aerodrome design manual;

### **Pertaining to expenditure not included in annual budget:**

*Local Government Act 1995 part 6 – Financial Management*

#### *6.8. Expenditure from municipal fund not included in annual budget*

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
  - (a) is incurred in a financial year before the adoption of the annual budget by the local government; or*

- (b) *is authorised in advance by resolution\**; or
- (c) *is authorised in advance by the mayor or president in an emergency.*

*\* Absolute majority required.*

*(1a) In subsection (1) –*

*additional purpose means a purpose for which no expenditure estimate is included in the local government’s annual budget.*

*(2) Where expenditure has been incurred by a local government –*

- (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and*
- (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.*

### **Pertaining to affixing of Seal**

*Local Government Act 1995, part 9 – Miscellaneous Provisions, Division 3 – Documents*

*9.49A. Execution of documents:*

- (1) A document is duly executed by a local government if –*
  - (a) the common seal of the local government is affixed to it in accordance with*  
*subsections (2) and (3); or*
  - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.*
- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.*
- (3) The common seal of the local government is to be affixed to a document in the presence of –*
  - (a) the mayor or president; and*
  - (b) the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.*
- (4) A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.*

- (5) *A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.*
- (6) *A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.*

**POLICY IMPLICATIONS:**

The Shire has an existing policy concerning the Common Seal but the Act was subsequently amended as above and points (1) and (2) in particular, require that authorisation by the Council.

**FINANCIAL IMPLICATIONS:**

As outlined in the background above, Council’s contribution to the project is \$240,000 which includes a contingency amount of \$40,000. This item is not currently budgeted for and requires a budget amendment.

**STRATEGIC IMPLICATIONS:**

| GOAL  | OUTCOME   | STRATEGY   |
|---|---|--|
| <p><b>2:</b> A balance between natural and built environments<br/>Sustainable natural and built environments that meet the needs of the community and support future growth</p> | <p><b>2.3:</b> Reliable and safe transport infrastructure</p>   | <p>No specific outcome applicable to Fitzroy Crossing Airport.</p> |
| <p><b>2:</b> A balance between natural and built environments<br/>Sustainable natural and built environments that meet the needs of the community and support future growth</p> | <p><b>2.5:</b> Assets and infrastructure managed over the long term to meet current and future needs.</p> | <p>No specific outcome applicable to Fitzroy Crossing Airport.</p> |

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK  | LIKELIHOOD | CONSEQUENCE | RISK ANALYSIS | MITIGATION                              |
|---|------------|-------------|---------------|---|
| <b>Business Interruption:</b><br>Extended outages require a NOTAM advising runway is unavailable at night         | Likely     | Major       | High          | Upgrade infrastructure                  |
| <b>Community:</b><br>Landing of aircraft unavailable to the community   | Likely     | Major       | High          | Upgrade infrastructure                  |
| <b>Finance:</b><br>Project not completed Council loses grant funding  | Unlikely   | Severe      | High          | Accept grant and upgrade infrastructure |
| <b>Legal and Compliance:</b><br>Council does not comply with CASA Regulations                                     | Unlikely   | Moderate    | Medium        | Upgrade infrastructure                  |
| <b>Organisational Operations:</b><br>Staff required to set out emergency portable lights to enable landing        | Possible   | Minor       | Medium        | Upgrade infrastructure                  |
| <b>People, Health and Safety:</b><br>Aircraft accident occurs due to failed lighting RFDS cannot land at airstrip | Rare       | Severe      | Medium        | Upgrade infrastructure                  |

**CONSULTATION:**

The 2016 and 2017 ATI – Electrical documents provide the technical data and recommended actions of remediation. The 2017 ATI – Electrical report attachment to this agenda item presents the key findings and recommendations in summary at the front of the document with detail further throughout.

An application to the Federal Department of Infrastructure and Regional Development under the Regional Aviation Access Program (RAAP) was successful which is conditional upon the associated Council funding being adopted into the 2016-17 budget.

**COMMENT:**

Fitzroy Crossing Airport is a key regional aerodrome for the town and outlying communities providing aviation access to a range of industries including tourism, mining, agriculture, general aviation and medical services. In particular, RFDS frequently utilise the aerodrome at nights for emergency evacuations and any

disruptions to the lighting availability requires Council staff to set out emergency portable lighting.

Aerodromes must be operated and maintained in accordance with a number of legislative and regulatory requirements in particular Civil Aviation Safety Regulations (CASR) – Mandatory Operating Standards (MOS) 139.

It incumbent upon the Shire to address matters that are raised through the mandatory annual inspection process. Prioritisation of such matters are assessed with regard given to risk and safety. AGL is highly critical to both these elements as illustrated in the above table and it is therefore recommended that Council adopt a budget item for these works and accept the funding proposal from the Federal Department of Infrastructure and Regional Development.

#### **VOTING REQUIREMENT:**

Absolute majority

#### **OFFICER RECOMMENDATION:**

**That Council, BY AN ABSOLUTE MAJORITY:**

- 1. ACCEPTS the offer of funding from the Federal Department of Infrastructure *Regional Aviation Access Programme – Remote Airstrip Upgrade Funding Component* and authorises the Chief Executive Officer to affix the Common Seal;**
- 2. AMENDS the 2016-17 budget to include the income of \$200,000 as a grant from the Federal Department of Infrastructure;**
- 3. AMENDS the 2016-17 budget to include expenditure of \$440,000 to undertake the upgrade of the Fitzroy Crossing Airfield Ground Lighting, funded by \$200,000 grant funds and \$240,000 Council contribution.**



## 10.1.4 AWARDING OF TENDER T2-2017 DERBY JETTY MAINTENANCE WORKS

|                                    |   |
|------------------------------------|---|
| <b>Location/Address:</b>           | Derby Jetty   |
| <b>Name of Applicant:</b>          | Shire of Derby/West Kimberley   |
| <b>File Reference:</b>             | 0490 – Tenders and Contracts - Ports  |
| <b>Author:</b>                     | Ross Sullivan, Manager Commercial Services  |
| <b>Responsible Officer:</b>        | Stephen Gash, Chief Executive Officer   |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 17 March 2017   |
| <b>Attachments:</b>                | 8. Confidential – Tender Evaluation Report by Infrapro<br>9. 2016 Structural Condition Report – Merit Engineers |
| <b>Authority/Discretion:</b>       | Executive   |

### SUMMARY:

This report seeks to award the Tender T2-2017 to Saunders International to carry out maintenance works identified in the structural condition inspection undertaken by Merit Engineers in 2016.

### BACKGROUND:

Coming out of a comprehensive structural inspection undertaken by Merit Engineers on the wharf in August last year, a prioritised maintenance works program has been developed to address areas requiring attention.

Council engaged Malcom Watson from Infrapro Consulting (previously with Merit Engineers) as project manager for these works. Malcolm has extensive and intimate knowledge of the wharf having managed the previous maintenance programs in 2000, 2009 and 2012 as well as undertaking a number of structural inspections over this time.

Blocked in three stages across ten years, this tender will address those works identified in the report as *priority one* based on their potential to become exponentially costly within a relatively short time frame if not remedied. The scope of these works include repairs to the concrete deck, corroded steel on sections of the edge beams on both abutments as well as the lower deck and main berthing face. Additionally, repairs to a number of piles, light poles and the removal of the boat landing access stairs to the dolphin will be undertaken.

The second and third prioritised blocks will go on to address other key areas such as sandblasting and painting the under-deck (soffits), painting head stocks and pile caps,

anode replacement, replacing timber handrails and renewing chafing beams on the fender piles along with a number of other items that effectively form an ongoing maintenance regime.

**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:**

- ) AF1 – Procurement of Goods and Services
- ) AF33 – Regional Price Preference Policy

**FINANCIAL IMPLICATIONS:**

These works will be funded out of loan funds adopted in the 2016-17 budget.

**STRATEGIC IMPLICATIONS:**

| GOAL   | OUTCOME  | STRATEGY  |
|--|--|---|
| 2: Sustainable natural and built environments that meet the needs of the community and support future growth | 2.3: Reliable and safe transport infrastructure  | 2.3.5: Maintain wharves and lobby for funding   |
| 2: Sustained natural and built environments that meet the needs of the community and support future growth   | 2.5: Assets and infrastructure managed over the long term to meet current and future needs | 2.5.1: 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 |

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK  | LIKELIHOOD | CONSEQUENCE | RISK ANALYSIS | MITIGATION                            |
|---|------------|-------------|---------------|---------------------------------------|
| <b>Business Interruption:</b><br>Wharf unable to serve users if works not completed | Likely     | Major       | High          | Undertake repairs                     |
| <b>Community:</b><br>Facility considered key asset by community                     | Unlikely   | Major       | Medium        | Community information regarding works |

|   |          |          |         |   |
|---|----------|----------|---------|---|
| <b>Finance:</b><br>Cost of works could increase rapidly if works not undertaken in a timely manner  | Likely   | Severe   | Extreme | Review budget implications                |
| <b>Legal and Compliance:</b><br>Structure fails to meet DoT requirements                            | Likely   | Severe   | Extreme | Undertake repairs                         |
| <b>Organisational Operations:</b><br>Delay in works being completed, facility unable to be utilised | Possible | Moderate | Medium  | Undertake repairs                         |
| <b>Property:</b><br>Cost of works could increase rapidly if works not undertaken in a timely manner | Likely   | Major    | High    | Undertake repairs                         |
| <b>Reputation:</b><br>Facility considered key asset by community                                    | Likely   | Major    | High    | Information dissemination to stakeholders |

### CONSULTATION:

Tender documents were placed in the Western Australian on 19 January 2017 and originally specified to close on 9 February 2017. The closing date was subsequently extended on two occasions as follows:

- ) Extended to Friday 24 February 2017 as requested by tenderers;
- ) Extended to Friday 3 March 2017 due to road closures affecting mail delivery to Derby.

A total of twenty four requests for tender documents were received prior to the mandatory site inspection where twelve proponents attended, effectively eliminating those not present. At close of tenders five formal tender submissions were received from the following organisations:

- ) Archer Builders
- ) Duratec Australia Pty Ltd
- ) DWA Industrial Resources
- ) Saunders International
- ) United Industrial/Marine Solutions

All tenderers were assessed against the five weighted qualitative criteria:

- ) Relevant Experience – 25%
- ) Key Personnel – 15%
- ) Resources – 15%
- ) Demonstrated Understanding – 25%
- ) Pricing – 20%

The weighted values based on the above and scores out of 5 for each criterion are as shown in the table below:

### Assessed Score

| Description                     | Weighting | Archer | DWA | Duratech | Saunders | UIS |
|---------------------------------|-----------|--------|-----|----------|----------|-----|
| Relevant Experience             | 0.25      | 5      | 5   | 5        | 5        | 5   |
| Key Personnel skills/experience | 0.15      | 5      | 5   | 5        | 5        | 5   |
| Resources                       | 0.15      | 5      | 5   | 5        | 5        | 5   |
| Demonstrated Understanding      | 0.25      | 5      | 5   | 5        | 5        | 5   |
| Price                           | 0.20      | 3      | 4   | 2        | 5        | 3   |

### Weighted Score

| Description                     | Weighting | Archer | DWA  | Duratech | Saunders | UIS  |
|---------------------------------|-----------|--------|------|----------|----------|------|
| Relevant Experience             | 0.25      | 1.25   | 1.25 | 1.25     | 1.25     | 1.25 |
| Key Personnel skills/experience | 0.15      | 0.75   | 0.75 | 0.75     | 0.75     | 0.75 |
| Resources                       | 0.15      | 0.75   | 0.75 | 0.75     | 0.75     | 0.75 |
| Demonstrated Understanding      | 0.25      | 1.25   | 1.25 | 1.25     | 1.25     | 1.25 |
| Price                           | 0.20      | 0.6    | 0.8  | 0.4      | 1        | 0.6  |
| Total Weighted Score            |           | 4.6    | 4.8  | 4.4      | 5        | 4.6  |

### COMMENT:

Based upon the above assessment with them achieving the highest score, Saunders International were selected as preferred tenderer. Several clarifications were sought from Saunders to confirm full allowance for scope of works and ability to complete the works in the shortest possible timeframe.

Saunders confirmed full allowance for all access and safety issues on the contract, a clear understanding of the scope of works and committed to complete the works in 12 weeks from award of contract subject to weather conditions.

### VOTING REQUIREMENT:

Simple majority

### OFFICER RECOMMENDATION:

**That Council AWARD Tender T2-2017 Derby Jetty Maintenance Works Work Package No 1. General Deck Repairs to Saunders International.**

## 10.2 CORPORATE SERVICES

### 10.2.1 ACCOUNTS FOR PAYMENT – FEBRUARY 2017

|                                    |   |
|------------------------------------|---|
| <b>Location/Address:</b>           | N/A   |
| <b>Name of Applicant:</b>          | N/A   |
| <b>File Reference:</b>             | 5110 – Accounts Payable                               |
| <b>Author:</b>                     | Myra Henry, Senior Finance Officer                    |
| <b>Responsible Officer:</b>        | Martin Cuthbert, Executive Manager Corporate Services |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 17 March 2017   |
| <b>Attachments:</b>                | 10. Cheque reconciliation and schedule of accounts    |
| <b>Authority/Discretion:</b>       | Information   |

#### SUMMARY:

For Council to note the list of accounts paid under the Chief Executive Officer's delegated authority during the month of February 2017.

#### BACKGROUND:

Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the Shire's municipal and trust funds. In accordance with regulation 13 of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the Chief Executive Office is to be provided to Council.

#### STATUTORY ENVIRONMENT:

*Local Government (Financial Management) Regulations 1996*

##### **12. Payments from municipal fund or trust fund, restrictions on making**

12(1) *A payment may only be made from the municipal fund or a trust fund –*

- (a) if the local government has delegated to the Chief Executive Officer the exercise of its power to make payments from those funds – by the CEO: or*
- (b) otherwise, if the payment is authorised in advance by a resolution of the council.*

*The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.*

##### **13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.**

(1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid*

*by the CEO is to be prepared each month showing for each account paid since the last such list was prepared –*

- (a) the payee’s name; and*
- (b) the amount of the payment; and*
- (c) the date of the payment; and*
- (d) sufficient information to identify the transaction.*

*(2) A list of accounts for approval to be paid is to be prepared each month showing –*

- (a) for each account which requires council authorisation in that month –*
  - (i) the payee’s name; and*
  - (ii) the amount of the payment; and*
  - (iii) sufficient information to identify the transaction; and*
- (b) the date of the meeting of the council to which the list is to be presented.*

*(3) A list prepared under subregulation (1) or (2) is to be –*

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and*
- (b) recorded in the minutes of that meeting.*

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

All expenditure from the municipal fund was included in the annual budget as adopted or revised by Council.

**STRATEGIC IMPLICATIONS:**

| <b>GOAL</b>  | <b>OUTCOME</b>  | <b>STRATEGY</b>   |
|--|---|---|
| <b>4:</b> Good governance and an effective organisation<br>Leadership that provides strategic direction for the community, supported by efficient and effective service delivery | <b>4.4:</b> Financial sustainability and accountability for performance | <b>4.4.4:</b> Provide resources to support the Shire’s operations and to meet planning, reporting and accountability requirements |

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK   | LIKELIHOOD | CONSEQUENCE | RISK ANALYSIS | MITIGATION  |
|--|------------|-------------|---------------|---|
| <p><b>Legal and Compliance:</b><br/>                     In accordance with section 6.8 of the <i>Local Government Act 1995</i>, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council</p> | Rare       | Minor       | Low           | Expenditure to only be incurred in accordance with budget parameters, which have been structured on financial viability and sustainability principles |

**CONSULTATION:**

Internal consultation within the corporate services department.

**COMMENT:**

All municipal fund expenditure included in the list of payments is incurred in accordance with the 2016-17 Annual Budget as adopted by Council at its meeting held 25 August 2016 (Minute No. 089/2016 refers) and subsequently revised or has been authorised in advance by the President or by resolution of Council as applicable.

The table below summarises the payments drawn on the funds during the month of February 2017. Lists detailing the payments made are appended as an attachment.

| FUND                     | DETAILS   | AMOUNT                |
|--------------------------|---|-----------------------|
| <b>Municipal Account</b> |   |                       |
| EFT Payments             | EP# 41343 – EP# 41548   | \$1,594,943.33        |
| Municipal Cheques        | 54596 – 54604   | \$42,302.66           |
| Direct Debits            | Fees, Charges, Credit Card Payment, Payroll and Payroll Liabilities | \$408,116.30          |
|                          |   |                       |
| <b>Trust Account</b>     |   |                       |
| Trust Cheques            | 6436 – 6451   | \$5,567.14            |
|                          |   |                       |
|                          | <b>Total</b>  | <b>\$2,050,929.43</b> |

Creditors outstanding as at 28 February 2017 totalled \$198,929.79.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council NOTES the Chief Executive Officer's list of accounts for February 2017 paid under Delegated Authority in accordance with regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, forming Attachment 13, totalling \$2,050,929.43.**



**10.2.2 STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 28  
FEBRUARY 2017**

|                                    |   |
|------------------------------------|---|
| <b>Location/Address:</b>           | N/A   |
| <b>Name of Applicant:</b>          | N/A   |
| <b>File Reference:</b>             | 5152 – Monthly Financial Reports                      |
| <b>Author:</b>                     | Gary O’Neil, Manager Corporate Services               |
| <b>Responsible Officer:</b>        | Martin Cuthbert, Executive Manager Corporate Services |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 17 March 2017   |
| <b>Attachments:</b>                | 11. Monthly Financial Report January 2017             |
| <b>Authority/Discretion:</b>       | Information   |

**SUMMARY:**

For Council to note the statement of financial activity for the period ended 28 February 2017 as required by the *Local Government Act 1995* (‘the Act’).

Pursuant to section 6.4 of the *Local Government Act 1995* and regulation 34(4) of the *Local Government (Financial Management) Regulations 1996* (‘the Regulations’), a local government is to prepare, on a monthly basis, a statement of financial activity that reports on the Shire’s financial performance in relation to its adopted/amended budget.

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the Shire’s financial performance on a year to date basis for the period ending 28 February 2017.

**BACKGROUND:**

At its meeting held 25 August 2016 (Minute No. 089/2016 refers), Council adopted the annual budget for the 2016-17 financial year. The figures in this report are compared to the adopted budget.

It should be noted that these reports do not represent a projection to the end of year position or that there are funds surplus to requirements. It represents the year to date position to 28 February 2017 and results from a number of factors identified in the report. There are a number of factors that influence any variances, but it is predominately due to the timing of revenue and expenditure compared to the budget estimates. The notes to the statement of financial activity identify and provide commentary on the individual key material revenue and expenditure variances to date.

The following reports are for Council to note for the period ending 28 February 2017.

- ) 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

Additionally, and pursuant to regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year. At its meeting of 25 August 2016, the Council adopted (Minute No. 089/2016 part G refers) the following material variance reporting threshold for the 2016-17 financial year:

*In accordance with regulation 34(5) of the Local Government (Financial Management) Regulations 1996, and AASB 1031 Materiality, the level to be used in Statements of Financial Activity in 2016-17 for reporting material variances shall be 10%, with a minimum reportable value amount of \$30,000.*

#### **STATUTORY ENVIRONMENT:**

Section 34 of the *Local Government (Financial Management) Regulations 1996* provides:

#### **34. Financial activity statement required each month (Act s. 6.4)**

- (1) *A local government is to prepare 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, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and*
  - (b) *budget estimates to the end of the month to which the statement relates; and*
  - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and*
  - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*

- (e) *the net current assets at the end of the month to which the statement relates.*
- (2) *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 subregulation (1)(d); and*
  - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity may be shown —*
  - (a) *according to nature and type classification; or*
  - (b) *by program; or*
  - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
  - (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
  - (b) *recorded in the minutes of the meeting at which it is presented.*
- (5) *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:**

AF14 – Significant Accounting Policies

AF18 – Sundry Debtors Collection

AF19 – Outstanding Rates Collection

FM4 – Reserve Accounts

FM7 – Cashflow Management

FM8 – Investments

**FINANCIAL IMPLICATIONS:**

Expenditure for the period ending 28 February 2017 has been incurred in accordance with the 2016-17 budget parameters, which have been structured on financial viability and sustainability principles.

Details of any budget variation in excess of \$30,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

**STRATEGIC IMPLICATIONS:**

| GOAL   | OUTCOME  | STRATEGY   |
|--|--|--|
| <p><b>4:</b> Good Governance and an effective organisation Leadership that provides strategic direction for the community, supported by efficient and effective service delivery</p> | <p><b>4.1:</b> Effective Governance and Leadership</p> | <p><b>4.1.4:</b> Ensure governance policies and procedures are in accordance with legislative requirements</p> |

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK   | LIKELIHOOD | CONSEQUENCE | RISK ANALYSIS | MITIGATION   |
|--|------------|-------------|---------------|--|
| <p><b>Finance:</b><br/>The Shire is exposed to a number of financial risks. Most of these risks exist in respect to recurrent revenue streams which are required to meet current service levels. Any reduction in these revenue stream into the future is likely to have an impact on the Shire’s ability to meet service levels or asset renewal funding requirements, unless the Shire can replace this revenue or alternatively reduce costs.</p> | Possible   | Major       | High          | Risk assessments have been completed in relation to a number of higher level financial matters. The timely and accurate completion of monthly financial reporting enabling Council to make fully informed decisions is a control that assists in addressing this risk. |
| <p><b>Reputation:</b><br/>The Shire currently has unspent grant funding, including Country Local Government Fund and various Road Project Funds. This funding is associated with capital works programs. If the Shire does not expend and acquit the funding in a timely manner the funding bodies may not approve carry-over into future years and the funding could potentially be lost. This could also damage future funding opportunities.</p>  | Possible   | Moderate    | Medium        | Manage by monitoring progress towards project completion   |

**CONSULTATION:**

Internal consultation within the corporate services department.

In accordance with section 6.2 of the *Local Government Act 1995*, the annual budget was prepared having regard to the Strategic Community Plan, prepared under section 5.56 of the *Local Government Act 1995*.

**COMMENT:**

All expenditure included in the financial statements is incurred in accordance with Council's adopted budget or subsequent approval in advance.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council NOTES the Monthly Financial Management Report incorporating the Statement of Financial Activity for the period ending 28 February 2017 forming Attachment 14.**

## 10.3 TECHNICAL SERVICES

### 10.3.1 INSTALLATION OF WATER BUBBLER TO COOLIBAH PARK

|                                    |   |
|------------------------------------|---|
| <b>Location/Address:</b>           | Reserve 50073, Lot 33 Coolibah Way, Derby                             |
| <b>Name of Applicant:</b>          | Emily Ford on behalf of the Ford Family                               |
| <b>File Reference:</b>             | A900198   |
| <b>Author:</b>                     | Wayne Neate – Executive Manager of Technical and Development Services |
| <b>Responsible Officer:</b>        | Stephen Gash – Chief Executive Officer                                |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 20 March 2017   |
| <b>Attachments:</b>                | Nil   |
| <b>Authority/Discretion:</b>       | Administrative  |

#### SUMMARY:

This report seeks Council's approval for the addition of a water bubbler to the park now known as "Madi's Playground" with all of the equipment supplied and installed by the Ford family in memory of their daughter.

#### BACKGROUND:

The Ford family have been fundraising over a period of time to provide a memorial playground for their daughter and as per Council Minute No. 194/2014 have installed a playground and swing set in the reserve.

#### COUNCIL DECISION AND OFFICER RECOMMENDATION – ITEM 11.5.1

##### MINUTE NO. 194/2014:

**Moved: Cr A Twaddle                      Seconded: Cr A Kogolo**

##### That Council:

- 1. Receives the donation of playground equipment from the Ford Family;**
- 2. Authorises the installation of the boat themed playground equipment and swing set at Coolibah Park by the Ford family and;**
- 3. Agrees in principle to a future amendment to the budget to allow for the modification of the reticulation and ongoing maintenance of the playground in Coolibah Park once costs are determined.**

**CARRIED 5/1**

**CR C TRAVERS VOTED AGAINST THE MOTION**

The playground along with some seating and signage is now fully compliant and the Ford family wish to add a water bubbler to the park for the convenience of the park users.

**STATUTORY ENVIRONMENT:**

Nil

**POLICY IMPLICATIONS:**

The initial request for the playground equipment was in line with Council’s Playground Strategy and the installation will further enhance the playground.

**FINANCIAL IMPLICATIONS:**

The purchase of the water bubbler and installation will be facilitated by the Ford family. Once installed the water bubbler will become part of Council’s playground stock and therefore require maintenance and replacement into the future.

Annual Maintenance – \$200-\$300 p/a

Replacement Costs – \$3000 10-15 years

If cooled running costs – \$150 p/a

**STRATEGIC IMPLICATIONS:**

| GOAL  | OUTCOME  | STRATEGY  |
|---|--|---|
| <p><b>2:</b> A balance between the natural and built environments<br/>Sustainable natural and built environments that meet the needs of the community and support future growth</p> | <p><b>2.2:</b> Attractive streetscapes, open spaces, parks and gardens</p> | <p><b>2.2.1:</b> Manage and maintain the Shire’s parks and gardens and open spaces at appropriate standards</p> |

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK     | LIKELIHOOD | CONSEQUENCE   | RISK ANALYSIS | MITIGATION   |
|----------|------------|---------------|---------------|--|
| Property | Unlikely   | Insignificant | Low           | Damage may occur once installed and community will expect functioning water bubbler once in place. |

**CONSULTATION:**

Correspondence has occurred between the Ford family and the Executive Manager of Technical and Development Services regarding the installation of the water bubbler.

**COMMENT:**

Since the installation of the playground equipment in June 2016 work has continued installing signage, seating and a plaque. The installation of a water bubbler will improve the amenity of the park however is not critical to its operation and will be an expense for Council into the future.

It however should not be forgotten that this park pays tribute to a member of the Ford family and it is their wish that the park be as good as it can be for the enjoyment of all and a place that provides many happy moments to other children. It is therefore their wish to provide a water bubbler for the amenity of others.

The exact model has not been chosen by the Ford family as yet but staff can work with the family to ensure the most appropriate type is installed. Having regard to the above matters it is recommended that Council receives the donation and installation of the water bubbler.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. Receives the donation of the water bubbler from the Ford family and;**
- 2. Authorises the installation of the water bubbler to Coolibah Park by the Ford family.**



**10.3.2 AWARDING OF TENDER T4-2017 BITUMEN ROAD RESEALING**

|                                    |   |
|------------------------------------|---|
| <b>Location/Address:</b>           | Derby / Camballin / Fitzroy Crossing            |
| <b>Name of Applicant:</b>          | N / A   |
| <b>File Reference:</b>             | 0481  |
| <b>Author:</b>                     | Chris Hurstfield                                |
| <b>Responsible Officer:</b>        | Chris Hurstfield – Manager Engineering Services |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 20 March 2017                                   |
| <b>Attachments:</b>                | 12. Confidential – T4-2017 Price Schedule       |
| <b>Authority/Discretion:</b>       | Executive                                       |

**SUMMARY:**

This item is for Council to consider the awarding of tender T4-2017 being Bitumen Road Resealing in Derby, Camballin and Fitzroy Crossing. It is proposed that the tender be awarded to Bitumen Sealing Services.

**BACKGROUND:**

As adopted in Council's 2016-17 budget, funding has been allocated for improvement works to reconstruct town streets in Derby and Fitzroy Crossing. Following the tender advertisement, fourteen requests were made for the applicable tender documents.

At the close of tenders at 2:00pm 14 March 2017, submissions were received from the following companies:

- ) Bitumen Sealing Services
- ) Buckley's Earthworks and Paving
- ) Buckley's Earthworks and Paving (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, division 2 Tenders for Providing Goods or Services.

**POLICY IMPLICATIONS:**

Regional Price Preference Policy AF33

**FINANCIAL IMPLICATIONS:**

Funds for the undertaking of this contract are contained within the proposed 2016-17 budget for the resealing programme (\$352,996 from Roads to Recovery and \$83,853 from Direct Grants).

**STRATEGIC IMPLICATIONS:**

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

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK                              | LIKELIHOOD     | CONSEQUENCE | RISK ANALYSIS | MITIGATION  |
|-----------------------------------|----------------|-------------|---------------|---|
| <b>Business Interruption:</b>     | Almost certain | Moderate    | High          | Contractor to advertise works and liaise closely with affected businesses to minimise disruptions |
| <b>Community:</b>                 | Almost certain | Moderate    | High          | Contractor to advertise works and liaise closely with affected businesses to minimise disruptions |
| <b>Environment:</b>               | Unlikely       | Minor       | Low           | Contractor to have in place a current Environmental Management Plan approved by SDWK              |
| <b>Finance:</b>                   | Unlikely       | Minor       | Low           | Work to be completed within approved budget   |
| <b>Legal and Compliance:</b>      | Unlikely       | Minor       | Low           | Employ professional contractors to minimise likelihood  |
| <b>Organisational Operations:</b> | Unlikely       | Minor       | Low           | Work to be completed by Contractor  |
| <b>People, Health and Safety:</b> | Possible       | Moderate    | Medium        | Contractor to have in place current Safety and Traffic Management Plans approved by SDWK          |
| <b>Property:</b>                  | Unlikely       | Moderate    | Medium        | Contractor to have in place current Safety and Traffic Management Plans approved by SDWK          |
| <b>Reputation:</b>                | Possible       | Minor       | Medium        | Contractor to advertise works and liaise closely with affected properties to minimise disruptions |

**CONSULTATION:**

Tender T4-2017 being Bitumen Road Resealing was advertised in local and state-wide newspapers, with the tender closing 2.00pm on Tuesday 14<sup>th</sup> March 2017. 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;

Road Resealing

- ) SLK 0.00 to 0.39 Archer Street
- ) SLK 0.00 to 0.30 Blythe Street
- ) SLK 0.00 to 0.54 Delawarr Street
- ) SLK 0.00 to 0.87 Heytesbury Street
- ) SLK 0.18 to 0.36 Juld Street
- ) SLK 0.00 to 0.50 Mimosa Street
- ) SLK 0.54 to 1.24 Rowan Street
- ) SLK 0.77 to 1.05 Stanley Street
- ) SLK 0.01 to 0.09 Camballin Road
- ) SLK 1.70 to 7.00 Camballin-Myroodah 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 Buckley’s Earthworks and Paving for the components of the tender sourced locally.

The criteria and weighting for this tender were as follows;

| <b>Criteria</b>              | <b>%</b>  |
|------------------------------|-----------|
| Related Experience           | <b>25</b> |
| Key Personnel and Experience | <b>15</b> |
| Tenderer's Resources         | <b>15</b> |
| Demonstrated Understanding   | <b>25</b> |
| Price                        | <b>20</b> |

A score summary is shown below;

|  |           |
|--|-----------|
| Bitumen Sealing Services                     | <b>C1</b> |
| Buckleys Earthworks and Paving               | <b>C2</b> |
| Buckleys Earthworks and Paving (Alternative) | <b>C3</b> |

|  |                  | C1   | C2   | C3   |
|--|------------------|------|------|------|
| Track History and Record 25%           | Weighted Score   | 21.3 | 21.7 | 21.7 |
| Skills and Experience 15%              | Weighted Score   | 10.3 | 12.3 | 12.3 |
| Resources 15%                          | Weighted Score   | 13.0 | 13.7 | 13.7 |
| Demonstrated Understanding 25%         | Weighted Score   | 20.0 | 22.0 | 22.3 |
| Total Non-Price (qualitative) Criteria | Total out of 80% | 64.7 | 69.7 | 70.0 |
| <b>Area 1</b>                          |                  |      |      |      |
| Normalised Price                       | 20%              | 20.0 | 14.1 | 13.8 |
| Totals                                 | 100%             | 84.7 | 83.8 | 83.8 |

As seen in the table above, Bitumen Sealing Services was awarded the highest Total Score in the Assessment Criteria for T4-2017 Bitumen Road Resealing, it is recommended that this contract be awarded to Bitumen Sealing Services.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council AWARD tender T4-2017 Bitumen Road Resealing to Bitumen Sealing Services.**

### 10.3.3 AWARDING OF TENDER T5-2017 RECONSTRUCTION OF TOWN STREETS

|                                    |   |
|------------------------------------|---|
| <b>Location/Address:</b>           | Derby/Fitzroy Crossing                          |
| <b>Name of Applicant:</b>          | N/A   |
| <b>File Reference:</b>             | 0481  |
| <b>Author:</b>                     | Chris Hurstfield                                |
| <b>Responsible Officer:</b>        | Chris Hurstfield – Manager Engineering Services |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 20 March 2017                                   |
| <b>Attachments:</b>                | 13. Confidential – T5-2017 Price Schedule       |
| <b>Authority/Discretion:</b>       | Executive                                       |

#### SUMMARY:

This item is for Council to consider the awarding of tender T5-2017 being Reconstruction of Town Streets in Derby and Fitzroy Crossing. It is proposed that the tender be awarded to Buckley's Earthworks and Paving.

#### BACKGROUND:

As adopted in Council's 2016-17 budget, funding has been allocated for improvement works to reconstruct town streets in Derby and Fitzroy Crossing. Following the tender advertisement, fourteen requests were made for the applicable tender documents.

At the close of tenders at 2:00pm 14 March 2017, submissions were received from the following companies:

- ) WA Stabilising
- ) WA Stabilising (Alternative 1)
- ) WA Stabilising (Alternative 2)
- ) Buckley's Earthworks and Paving
- ) Buckley's Earthworks and Paving (Alternative)
- ) Jenkins Earthmoving and Transport
- ) Comiskey's Contracting Pty Ltd

#### 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, division 2 Tenders for Providing Goods or Services.

#### POLICY IMPLICATIONS:

Regional Price Preference Policy AF33

**FINANCIAL IMPLICATIONS:**

Funds for the undertaking of this contract are contained within the 2016-17 budget for the resealing programme (\$323,648 from Roads to Recovery and \$22,176 from Direct Grant).

**STRATEGIC IMPLICATIONS:**

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

**RISK MANAGEMENT CONSIDERATIONS:**

| RISK                              | LIKELIHOOD     | CONSEQUENCE | RISK ANALYSIS | MITIGATION  |
|-----------------------------------|----------------|-------------|---------------|---|
| <b>Business Interruption:</b>     | Almost certain | Moderate    | High          | Contractor to advertise works and liaise closely with affected businesses to minimise disruptions |
| <b>Community:</b>                 | Almost certain | Moderate    | High          | Contractor to advertise works and liaise closely with affected businesses to minimise disruptions |
| <b>Environment:</b>               | Unlikely       | Minor       | Low           | Contractor to have in place a current Environmental Management Plan approved by SDWK              |
| <b>Finance:</b>                   | Unlikely       | Minor       | Low           | Work to be completed within approved budget   |
| <b>Legal and Compliance:</b>      | Unlikely       | Minor       | Low           | Employ professional contractors to minimise likelihood  |
| <b>Organisational Operations:</b> | Unlikely       | Minor       | Low           | Work to be completed by Contractor  |
| <b>People, Health and Safety:</b> | Possible       | Moderate    | Medium        | Contractor to have in place current Safety and Traffic Management Plans approved by SDWK          |
| <b>Property:</b>                  | Unlikely       | Moderate    | Medium        | Contractor to have in place current Safety and Traffic Management Plans approved by SDWK          |
| <b>Reputation:</b>                | Possible       | Minor       | Medium        | Contractor to advertise works and liaise closely with affected properties to minimise disruptions |

**CONSULTATION:**

Tender T5-2017 being reconstruction of town streets was advertised in local and state-wide newspapers, with the tender closing 2.00pm on Tuesday 14 March 2017. 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;

Road Reconstruction

- ) SLK 0.02 to 0.59 Marmion St
- ) SLK 0.00 to 0.16 Field St
- ) SLK 0.00 to 0.47 Fallon Rd (originally SLK 0.00 to 0.72), Fitzroy Crossing
- ) SLK 0.00 to 0.20 Swain St
- ) SLK 0.29 to 0.43 Villiers St
- ) SLK 1.14 to 1.40 Villiers St
- ) Various small pavement failures in Flynn Drive, Fitzroy Crossing
- ) 2 small pavement failures in Emanuel Way, Fitzroy Crossing

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 and Paving and Jenkins Earthmoving and Transport for the components of the tender sourced locally.

The criteria and weighting for this tender were as follows;

| <b>Criteria</b>              | <b>%</b>  |
|------------------------------|-----------|
| Related Experience           | <b>25</b> |
| Key Personnel and Experience | <b>15</b> |
| Tenderer's Resources         | <b>15</b> |
| Demonstrated Understanding   | <b>25</b> |
| Price                        | <b>20</b> |

A score summary is shown below;

|  |           |
|--|-----------|
| WA Stabilising                               | <b>C1</b> |
| WA Stabilising (Alternative 1)               | <b>C2</b> |
| WA Stabilising (Alternative 2)               | <b>C3</b> |
| Buckleys Earthworks and Paving               | <b>C4</b> |
| Buckleys Earthworks and Paving (Alternative) | <b>C5</b> |
| Jenkins Earthmoving and Transport            | <b>C6</b> |
| Comiskey’s Contracting Pty Ltd               | <b>C7</b> |

|  |                  | C1   | C2   | C3   | C4   | C5   | C6   | C7   |
|--|------------------|------|------|------|------|------|------|------|
| Track History and Record 25%           | Weighted Score   | 19.3 | 19.3 | 19.3 | 21.7 | 21.7 | 17.7 | 14.0 |
| Skills and Experience 15%              | Weighted Score   | 13.0 | 13.0 | 13.0 | 13.3 | 13.3 | 11.0 | 9.0  |
| Resources 15%                          | Weighted Score   | 13.7 | 13.7 | 13.7 | 13.7 | 13.7 | 12.0 | 9.7  |
| Demonstrated Understanding 25%         | Weighted Score   | 21.0 | 19.3 | 18.7 | 22.0 | 22.0 | 18.7 | 15.3 |
| Total non-price (qualitative) criteria | Total out of 80% | 67.0 | 65.3 | 64.7 | 70.7 | 70.7 | 59.3 | 48.0 |
| <b>Area 1</b>                          |                  |      |      |      |      |      |      |      |
| Normalised Price                       | 20%              | 11.0 | 8.4  | 18.0 | 20.0 | 20.0 | 18.3 | 13.5 |
| Totals                                 | 100%             | 78.0 | 73.8 | 82.7 | 90.7 | 90.7 | 77.7 | 61.5 |

As seen in the table above, Buckley’s Earthworks and Paving was awarded the highest total score in the assessment criteria for T5-2017 reconstruction of town streets, it is recommended that this contract be awarded to Buckley’s Earthworks and Paving.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council AWARD Tender T5-2017 to Buckley’s Earthworks and Paving.**



## 10.4 DEVELOPMENT SERVICES

### 10.4.1 APPLICATION FOR TRADERS PERMIT – BLACK VAN FOOD

|                                    |  |
|------------------------------------|--|
| <b>Location/Address:</b>           | Reserve 38602 Lot 315, Great Northern Highway, Fitzroy Crossing (BP Ngiyali Roadhouse Carpark)<br>Lot 114 Skuthorp Road, Fitzroy Crossing (The Crossing Inn Carpark)<br>Reserve 28401 Lot 288 (Geikie Gorge Carpark)<br>Reserve 39737 2 Forrest Road, Fitzroy Crossing |
| <b>Name of Applicant:</b>          | Robert J Lee, James Chang and Eileen Torres  |
| <b>File Reference:</b>             | 7072 Permits – Traders   |
| <b>Author:</b>                     | Stuart Martin, Acting Manager Development Services   |
| <b>Responsible Officer:</b>        | Wayne Neate, Executive Manager Technical and Development Services  |
| <b>Disclosure of any Interest:</b> | Nil  |
| <b>Date of Report:</b>             | 20 March 2017  |
| <b>Attachments:</b>                | 14. Black Van Food – Cooking Van Proposal (BP Ngiyali Roadhouse)<br>15. Black Van Food – Cooking Van Proposal (Geikie Gorge)<br>16. Consultation responses   |
| <b>Authority/Discretion:</b>       | Administrative   |

#### SUMMARY:

The purpose of this agenda item is for Council to consider an application made by Robert J Lee, James Chang and Eileen Torres, proprietors of the food business Black Van Food, for a Traders Permit to operate the mobile food business selling various take-away meals from two specified locations in the Fitzroy Crossing town site and at the Geikie Gorge National Park Carpark.

It is recommended that Council approve the application subject to conditions.

#### BACKGROUND:

The mobile food business, Black Van Food, is currently based in Fitzroy Crossing and is registered as a Medium Risk Food Business with the Shire of Derby/West Kimberley pursuant to the *Food Act 2006*. As per the current registration certificate, the business is permitted to store, prepare and sell a range of ready to eat “bush” food using “bush”

herbs and spices including curries, roasts, stir fries, pizzas, desserts and drinks, from a vehicle with the registration 1TOT142.

The Black Van Food proposals were received and identified three potential trading locations that would require a Traders Permit under the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law being the car park areas of the BP Ngiyali Roadhouse, the Crossing Inn and the Geikie Gorge National Park. The proposed locations and trading times are outlined below:

| Location                     | Mon       | Tue       | Wed        | Thu        | Fri           | Sat        | Sun |
|------------------------------|-----------|-----------|------------|------------|---------------|------------|-----|
| Reserve 39737 (2 Forrest Rd) | 7am – 4pm | 7am – 4pm | 7am – 4pm  |            |               | 7am – 4pm  |     |
| BP Ngiyali Roadhouse         |           |           | 8pm – 11pm | 8pm – 11pm |               | 8pm – 11pm |     |
| Geikie Gorge National Park   |           |           |            | 7am – 4pm  | 7am – 4pm     |            |     |
| The Crossing Inn             |           |           |            |            | 9:30pm – 12am |            |     |

Letters of support for the proposal and land use permission have been received from BP Ngiyali Roadhouse management and Marra Worra Worra as owner of the BP Ngiyali Roadhouse site. Support and land use permission has also been received from management at the Crossing Inn.

Approval is pending on an application that has been submitted to the Department of Parks and Wildlife seeking approval to operate from the Geikie Gorge National Park site. Bunuba are the Traditional owners of this location and have provided support for two days trading per week.

The site adjacent to the Coles Express Shell Roadhouse is located on a Reserve R39737, which is a Reserve vested in the Shire for the purposes of parking. There is no ability to lease any part of the site to a third party.

**STATUTORY ENVIRONMENT:**

- ) *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*
- ) *Food Act 2008*
- ) *Australian New Zealand Food Standards Code*
- ) *Fitzroy Futures Town Plan*
- ) *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:**

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

**STRATEGIC IMPLICATIONS:**

| GOAL   | OUTCOME   | STRATEGY   |
|--|---|--|
| <p><b>1:</b> Community wellbeing<br/>A diverse, caring and safe community providing opportunities for all its people</p> | <p><b>1.2:</b> Public and environmental health protection</p> | <p><b>1.2.3:</b> Undertake food safety and public health promotion</p> |

**RISK MANAGEMENT CONSIDERATIONS:**

The application has been assessed against the requirements of the *Activities on Thoroughfares and Trading in thoroughfares and Public Places Local Law* and Council Policy H2 – Traders and Stallholders Permits. There is minimal risk to the Shire in determining this application subject to the conditions detailed within the officer recommendations.

**CONSULTATION:**

During the assessment of the trading proposal received by the environmental health section, the Shire Planner and Executive Manager Technical and Development Services were engaged.

The Applicants, Mr Lee, Mr Chang and Ms Torres, were also consulted on various occasions throughout the application process.

As per the Shire’s Traders and Stallholders Policy, a formal letter with notice of the Black Van Food’s trading proposal was sent to relevant permanent food businesses and stakeholders located in Fitzroy Crossing. Any written comments to the proposal were invited within a two week timeframe. By the close of the consultation period responses were received from the Crossing Inn, Marra Worra Worra, BP Ngiyali Roadhouse, Coles Express Shell Roadhouse and Bunuba that supported the application subject to conditions around trading times. Copies of the correspondence has been attached.

The Officer in Charge, Fitzroy Crossing Police Station, Senior Sergeant Gene Wright has advised the Police have no objections to the entire proposal but has requested that the siting be designated at the BP Ngiyali Roadhouse site. This is to ensure that the van

is positioned away from the Highway to prevent cars parking along the Highway verge and subsequently restricting vision for passing motorists.

**COMMENT:**

Land use within the Fitzroy Crossing town site is controlled via Interim Development Order No. 8 and having reference to the Fitzroy Futures Town Plan. The proposal is consistent with the established retail use of the BP Ngiyali Roadhouse and Crossing Inn sites and therefore there is no conflict arising should a permit be approved.

The proposal to trade from the carpark at the BP Ngiyali Roadhouse mainly raises concerns around compliance with the *Activities on Thoroughfares and Trading in thoroughfares and Public Places Local Law* and a potential impact on the safety of pedestrians and road users depending on the final location utilised.

In accordance with clause 6.8 (2) (a) of the *Activities on Thoroughfares and Trading in thoroughfares and Public Places Local Law*, a trader shall not attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the trader. The BP Ngiyali Roadhouse, Coles Express Shell Roadhouse and Crossing Inn locations are within 300m of the fixed food businesses that operate from these locations, however the proposed trading hours will be outside the normal trading hours of the BP Ngiyali Roadhouse and Crossing Inn locations. Although the proposed trading hours on Reserve 39737 conflict with the adjacent to the Coles Express Shell Roadhouse food business, Roadhouse management have given their support for the activity. The menu offering of the Black Van Food is unique to the food offered for sale by the three businesses.

The site adjacent to the Coles Express Shell Roadhouse is located on Reserve No. 39737, which is a Reserve vested in the Shire for the purposes of Parking. The Management Order does not include the option to lease and thus there the Shire does not have the ability to lease any part of the site to a third party. This site is also in conflict with the *Activities on Thoroughfares and Trading in thoroughfares and Public Places Local Law* and Council Policy H2 – Traders and Stallholders Permits.

**VOTING REQUIREMENT:**

Absolute majority

**OFFICER RECOMMENDATION:**

**That Council, BY AN ABSOLUTE MAJORITY:**

- 1. Pursuant to Division 1, clause 6.5, subclause 1 of the Shire of Derby/West Kimberley *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, APPROVE the application for an annual Traders Permit for the BP Ngiyali Roadhouse and Crossing Inn locations with conditions.**
- 2. Pursuant to Division 1, clause 6.6, subclause 1 of the Shire of Derby/West Kimberley *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, it is recommended that Council issue the approval with the following conditions:**
  - a. Trading be restricted to the BP Ngiyali Roadhouse on Wednesday, Thursday and Saturday between the hours of 8.00pm – 11.00pm;**
  - b. Trading be restricted to the Crossing Inn on Friday between the hours of 9:30pm – 12.00am;**
  - c. If trading activities of Black Van Food are considered to be causing a nuisance or having a detrimental impact on the surrounding amenities, the Council may rescind the approval for a Traders Permit.**
- 3. Pursuant to Division 1, clause 6.5, subclause 1 of the Shire of Derby/West Kimberley *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, REFUSES the application for an annual Traders Permit for the location adjacent to the Coles Express Shell Roadhouse (Reserve 39737) based on the following grounds:**
  - a. The application is contrary to the Shire of Derby/West Kimberley *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 range of products available for purchase are already catered for in existing, established food businesses in the town.**
  - b. In accordance with the Shire of Derby/West Kimberley *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Law*, Subdivision 3, clause 6.8, subclause), a trader shall not attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the trader. Allowing Black Van Food to trade**

- from the Coles Express Shell Roadhouse location would be inconsistent with this clause.
- c. The application is contrary to the Shire of Derby/West Kimberley 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 which operate within Fitzroy Crossing.
  - d. The application is contrary to the Shire of Derby/West Kimberley Council Policy H2 – Traders and Stallholders Permits. As per Policy (4), trading activities should be appropriate to the character and functions of the area in which they are proposed to be located. The proposed Coles Express Shell Roadhouse site sites located within a public space.
  - e. The proposed location is on a Reserve vested to the Shire with a Management Order for the purposes of parking and there is no power to lease to a third party.
4. Resolve by ABSOLUTE MAJORITY to delegate decision powers to the Chief Executive Officer to issue approval and condition of a Traders Permit for the operation of Black Van Food at the Geikie Gorge National Park following confirmation from the Department of Parks and Wildlife that they have granted permission to Black Van Food to trade from the Geikie Gorge National Park car park.

## 10.4.2 APPLICATION FOR CLUB RESTRICTED LIQUOR LICENCE – DERBY SPEEDWAY CLUB INC

|                                    |   |
|------------------------------------|---|
| <b>Location/Address:</b>           | Part Lot 226 on Plan 187656 (Reserve 35129)<br>Derby Highway, Derby                 |
| <b>Name of Applicant:</b>          | Derby Speedway Club Inc.  |
| <b>File Reference:</b>             | A109152   |
| <b>Author:</b>                     | Stuart Martin, Acting Manager Development Services                                  |
| <b>Responsible Officer:</b>        | Wayne Neate, Executive Manager Technical and Development Services                   |
| <b>Disclosure of any Interest:</b> | Nil   |
| <b>Date of Report:</b>             | 17 March 2017   |
| <b>Attachments:</b>                | 17. Letter from Derby Speedway Club Inc<br>18. Proposed 2017 Racing Season calendar |
| <b>Authority/Discretion:</b>       | Advocacy  |

### SUMMARY:

The purpose of this item is for Council to consider an application by the Derby Speedway Club Inc (the Club) for support to gain a Club Restricted Liquor Licence at Part Lot 226 on Plan 187656 (Reserve 35129) Derby Highway, Derby. As the land is under the control of Council it is appropriate for the application to be put before Council for consideration.

### BACKGROUND:

The Club currently hold approximately 12 race meets per year in which they gain an Occasional Liquor Licence for each individual event. As this is quite a lengthy and expensive process it is their intention to apply for and gain a Club Restricted Liquor License to eliminate the need to apply for a license for each individual event.

The following hours of operation have been nominated in the licence application -

|                                   |                                 |
|-----------------------------------|---------------------------------|
| ) Generally:                      | Friday and Saturday, 6pm – 12am |
| ) Boab Spectacular Twilight Meet: | Saturday, 4pm – 12am            |

Although the Club has applied for the above mentioned operating hours, the application states that the bar will only be open in conjunction with the race meets identified on the 2017 Racing Season calendar (and not on a weekly basis).

Furthermore the Club has stated that they believe the club restricted liquor licence will support the operation of the Club that delivers the following benefits –

- ) Enhancement of regional tourism as the Derby Speedway works in conjunction with Kununurra, Broome and Karratha speedways.
- ) The children of Derby will also acquire potential skill paths to be mechanics, panel beaters or maybe even professional Speedway drivers. They have 12 junior Race Car Drivers this season.
- ) The Club prides itself on running an effective hassle free bar by adhering to all rules set in place and as a result sales are a major contributor to the Speedway’s success.
- ) Potential to privately hire the facility as a licenced premises

**STATUTORY ENVIRONMENT:**

*Public Health Act 2016* – for Public Building compliance and other health related requirements.

*Food Act 2008* – as liquor is classified as food for the purposes of the *Food Act 2008*.

*Local Government Act 1995* – for all associated Local Laws

*Building Act 2011*

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil

**STRATEGIC IMPLICATIONS:**

| GOAL   | OUTCOME                                       | STRATEGY   |
|--|---|--|
| 1.: Community Wellbeing<br>A diverse, caring and safe community providing opportunities for all its people | 1.4: An inclusive and participative community | 1.4.2: Actively promote and assist community groups and clubs                          |
| 1.: Community Wellbeing<br>A diverse, caring and safe community providing opportunities for all its people | 1.4: An inclusive and participative community | 1.4.3: A diverse, caring and safe community providing opportunities for all its people |

**RISK MANAGEMENT CONSIDERATIONS:**

There is minimal risk to Council in supporting this application as there will be no change to current activities undertaken by the Club.



**CONSULTATION:**

Consultation is to be conducted by the Department of Racing, Gaming and Liquor (the Department) with the Shire of Derby/West Kimberley, Police, surrounding land owners, and surrounding businesses. The consultation process will be initiated once the application is submitted to the department.

At this point in time approval is being sought from the Shire of Derby/West Kimberley as the land holder but giving this approval will also give our support to the consultation process as the time frames for objections in the departments' process will limit council's right of reply.

Once the consultation phase begins, the above mentioned stake holders have a 14 day period to make any submissions. During this process Council will be invited to comment at the same time as all other stakeholders and therefore will be limited in its response by the timeframes set by the department.

**COMMENT:**

The Club has approached Council for support to submit an application to the Department for a Club Restricted Liquor Licence. The Club requests support for this license so that they do not have to apply for individual Occasional Liquor Licences for each event they hold.

As stated in the consultation section although the consultation with various stakeholders is yet to be carried out Council needs to give their consideration at this stage of the process to ensure that future deadlines set by the Department can be met. It is generally felt that the request is warranted and would not affect any real change from current trading times or land use and will reduce the administrative burden on all involved agencies.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council:**

**Supports the application by the Derby Speedway Club Inc. to the Department of Racing, Gaming and Liquor to gain a Club Restricted Liquor Licence as the land holder and stakeholder.**

**10.5 COMMUNITY DEVELOPMENT AND RECREATION SERVICES**

Nil

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

**12.0 NEW BUSINESS OF AN URGENT NATURE**

**13.0 MATTERS FOR WHICH THE MEETING MAY BE CLOSED  
(CONFIDENTIAL MATTERS)**

**14.0 CLOSURE**

**14.1 DATE OF NEXT MEETING**

The next Ordinary meeting of Council is to be held Thursday, 27 April 2017 in the Council Chambers, Derby.

**14.2 CLOSURE OF MEETING**

The Presiding Member closed the meeting at .....pm

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