



# **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, 27 July 2017

At

Council Chambers, Clarendon Street, Derby

Commencing at

05:30pm

Stephen Gash  
**CHIEF EXECUTIVE OFFICER**

Date: 21/07/2017

## **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 Elected 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, grants, and setting and amending budgets.
Legislative:	Includes adopting local laws, town planning schemes and policies.
Administrative:	When Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.
Review:	When Council reviews a decision made by Officers.
Information:	Includes items provided to Council for information purposed only that do not require a decision of Council (that is for 'noting').

### ALTERNATIVE MOTIONS

Councillors wishing to make alternative motions to officer recommendations are requested to provide notice of such motions in written form to the Director Corporate and Community Services prior to the Council meeting.

### DECLARATIONS OF INTERESTS

Elected 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 1995* 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 2016-2017 Ordinary and Special Council Meetings;

Councillor	28 Jul 2016	25 Aug 2016	29 Sept 2016	27 Oct 2016	24 Nov 2016	15 Dec 2016	09 Feb 2017	23 Feb 2017	30 Mar 2017	27 Apr 2017	25 May 2017	29 Jun 2017
	OCM	OCM	OCM	OCM	OCM	OCM	SCM	OCM	OCM	OCM	OCM	OCM
E Archer	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
P White	✓	✓	LOA	✓	✓	✓	✓	✓	✓	✓	✓	✓
P Coggins	✓	✓	✓	LOA	✓	✓	A	✓	✓	✓	LOA	✓
C Kloss	✓	✓	✓	✓	✓	✓	✓	✓	LOA	LOA	✓	✓
A Kogolo	AB	A	✓	A	A	LOA	A	A	✓	✓	✓	✓
P McCumstie	LOA	✓	✓	✓	LOA	✓	✓	✓	A	✓	✓	✓
J Oscar	✓	✓	LOA	✓	LOA	✓	A	A	Resigned 30/03/2017			
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 an Elected 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 an Elected Member records their apologies for the meeting. A failure to observe the requirements of the Act that relates to absence from meetings can lead to an Elected Member being disqualified should they be absent without leave for three consecutive meetings.

## SHIRE OF DERBY/WEST KIMBERLEY

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## **ORDINARY MEETING OF COUNCIL**

### **AGENDA**

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

The meeting was opened at ..... 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**

Nil

**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 COUNCIL MEETINGS**

#### **OFFICER RECOMMENDATION:**

**That the minutes of the ordinary meeting of the Shire of Derby/West Kimberley held at the Crossing Inn, Fitzroy Crossing, on 29 June 2017 be confirmed.**

### **8.2 COMMITTEE MEETINGS**

#### **COMPLIANCE AND STRATEGIC REVIEW COMMITTEE**

#### **OFFICER RECOMMENDATION:**

**That the minutes of the Compliance and Strategic Review Committee of the Shire of Derby/West Kimberley held at the Council Chambers, Clarendon Street, Derby, on 13 July 2017 be confirmed.**

## **9.0 RECOMMENDATIONS AND REPORTS OF COMMITTEES**

### **9.1 COMPLIANCE AND STRATEGIC REVIEW COMMITTEE**

Nil

## 10.0 REPORTS

### 10.1 EXECUTIVE SERVICES

#### 10.1 NUMBLA NUNGA – PROPOSED STAFF ACCOMMODATION DWELLINGS

<b>Location/Address:</b>	Reserve 28992 Lot 500 Sutherland Street, Derby
<b>Name of Applicant:</b>	Juniper
<b>File Reference:</b>	A108230
<b>Author:</b>	Noel Myers – Manager Planning Services
<b>Responsible Officer:</b>	Stephen Gash – Chief Executive Officer
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	20 July 2017
<b>Attachments:</b>	Nil
<b>Authority/Discretion:</b>	Administrative

#### **SUMMARY:**

For Council to note endorsement of Bush Fire Management Plan by the Chief Executive Officer (CEO).

#### **BACKGROUND:**

A Report was put to Council at the Ordinary Council Meeting held 25 May 2017. At that time the proponent was preparing a Bushfire Management Plan, required as the property is identified as being located within a Bushfire Prone Area as per the Department of Fire and Emergency Services (DFES) State-Wide Bushfire Mapping.

The report was put to the Council on the basis that they would delegate authority to the CEO to issue the Development Approval once the Bushfire Management Plan was reviewed and cleared by DFES. Consequently, Council made the following resolution:

**MINUTE NO. 049/2017****Moved: Cr A Twaddle****Seconded: Cr I Prouse**

**That Council, BY AN ABSOLUTE MAJORITY, DELEGATES approval to the Chief Executive Officer to issue Development Approval to Juniper for the construction of fifteen dwellings on a portion of Reserve 28992 Lot 500 Sutherland Street, Derby in accordance with the application dated 14 September 2016 subject to the following conditions:**

- 1. A Bushfire Attack Level assessment is to be undertaken for the property in accordance with State Planning Policy 3.7 to determine the Bushfire Attack Level;**
- 2. Should the Bushfire Attack Level assessment required in Condition 1) above require a Bushfire Management Plan be prepared as per State Planning Policy 3.7, then that Plan will be referred by the Shire to the Department of Fire and Emergency Services for their review and endorsement;**
- 3. Upon the receipt of an endorsed Bushfire Management Plan if and as required under State Planning Policy 3.7, the Chief Executive Officer will issue the Development Approval subject to Conditions including but not limited to requiring the applicant to place a Notice on the Title to the Land in accordance with State Planning Policy 2.6 – *VULNERABLE COASTAL AREA – This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years.***

**CARRIED 7/0 BY AN ABSOLUTE MAJORITY**

The Bushfire Attack Level and Bushfire Management Plan (BMP) were subsequently prepared and submitted to DFES for review. DFES have completed their review and provided advice back to the Shire.

The BMP had identified that the main risk of bushfire risk emanated from the adjoining Lot 501 Sutherland Street which is the site of “old Numbla Nunga” which is a Reserve under management to WA Country Health.

As part of the mitigation strategy detailed within the BMP, the applicants have secured written permission from WA Country Health that they may enter their site being lot 501 for the purpose of clearing bush in order to maintain the necessary clearance zone from the location of the proposed new buildings which are to be constructed on lot 500.

DFES in their advices, have acknowledged this situation and have recommended that this arrangement be documented in an enforceable Legal Agreement – in perpetuity.

**COMMENT:**

The application submitted by Juniper has necessarily been delayed for an extended period of time, firstly whilst the issue of the Coastal Vulnerability Study was resolved so that a level of certainty could be quantified as to the risk the site may have had to coastal processes and has subsequently delayed further by the need to address the requirements of a further State Planning Policy being the Planning in Bushfire Prone Areas.

It is acknowledged that both these matters are policy driven rather than as a consequence of any locally driven concerns but notwithstanding there is a requirement for Council to have regard to State Planning Policies in determining any planning matter.

It is noted that DFES act in the role of an advisory body in these matters and is not the decision making agency, rather, that responsibility continues to lie with the responsible local government.

Prima facie, the recommendation of DFES is not an unreasonable approach as there is reliance upon continuous access to land outside the development site to implement the mitigating clearing strategies detailed within the BMP. This matter would become more critical if the adjoining lot was held in private ownership as access to the land would rely on the goodwill of that owner. However, in this instance, the permission is being granted by a government agency and therefore greater reliance can be taken from their written approval to access the land to undertake the requisite clearing.

Due to the various delays already experienced by the applicant there is hesitation in further delaying the application whilst the legal agreement was drawn and prepared when there are viable alternatives to hand that would achieve the same outcome.

In the event that WA Health were to dispose of the land (which has previously been identified as surplus to their requirements) then the Shire would exercise leverage through the rezoning and subdivision process to enforce a more formal agreement between the landowners regarding the right to access the land for the clearing as detailed in the BMP.

**STATUTORY ENVIRONMENT:**

- ) Town Planning Scheme No.5:
  - Table 2 – Zoning Table in regard to permissibility of uses;
- ) Planning and Development (Local Planning Scheme) Amendment Regulations 2015:
  - Deemed provisions relating to bushfire at part 10A;
- ) Residential Design Codes of WA:
  - Part 5 – Design elements for single and grouped dwellings.

) State Planning Policy 2.6 – State Coastal Planning Policy:

The overall purpose of SPP2.6 is to ensure that use and development within the coastal zone accounts for coastal processes and hazards and that areas of the coastal foreshore should be reserved, protected, conserved and enhanced where suitable.

) State Planning Policy 3.7 – Planning in Bush Fire Prone Areas:

SPP 3.7 provides the foundation for land use planning decisions in designated bushfire prone areas and local governments need to give due regard to the policy provisions.

Development applications in designated bushfire prone areas are required to be accompanied by a BAL assessment.

**POLICY IMPLICATIONS:**

There are no policy implications relating to this item.

**FINANCIAL IMPLICATIONS:**

There are no financial implications relating to this item.

**STRATEGIC IMPLICATIONS:**

GOAL	OUTCOME	STRATEGY
<p><b>1:</b> Community wellbeing A diverse, caring and safe community providing opportunities for all its people</p>	<p><b>1.3:</b> Access to affordable housing</p>	<p><b>1.3.1:</b> Encourage affordable housing through town planning, zoning and land release</p>
<p><b>1:</b> Community wellbeing A diverse, caring and safe community providing opportunities for all its people</p>	<p><b>1.7:</b> Quality of life for the aged and disabled</p>	<p><b>1.7.1:</b> Lobby for support services and infrastructure for the aged and disabled</p>
<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>2.1:</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>

**RISK MANAGEMENT CONSIDERATIONS:**

The primary risk to the Shire in this matter is ensuring that any approval granted enables the mitigating strategies as recommended within the BMP are able to be



implemented by the proponent which requires them to access adjoining land. Whilst it is not the responsibility of the Council to implement the BMP, it is incumbent to ensure that the approval includes conditions that are able to be implemented.

The letter of undertaking from current holders of the land being WA Country Health facilitates that, albeit not in the form of DFES's recommendation but nevertheless still achieves the intended outcome.

As detailed above, should there be a proposed disposal of the land, then the Shire will have leverage to enforce the informal arrangement to a more formal arrangement through the rezoning and subdivision process.

It is also highlighted that the area of the adjoining lot that needs to be accessed by Juniper to implement the BMP lies on a portion of Lot 501 that would be regarded as largely unsuitable for future development and realistically would always be retained as open space.

The risk associated with this approach is therefore regarded as being low with a suitable strategy available to implement the actions proposed within the BMP.

#### **CONSULTATION:**

N/A

#### **RECOMMENDATION:**

It is recommended that there is sufficient scope for the Shire to rely upon the written permission of WA Country Health for Juniper to access the land for the interim period and should the land be disposed of in the future then the access arrangement can be formalised through the rezoning process. The granting of access to Juniper now would be regarded as tacit approval.

There are several other modifications required to address the recommendations from DFES in respect to the BMP that are currently being attended to by the Bushfire Consultant. These are primarily procedural and are matters that are able to be readily resolved without having a material effect on the validity of the BMP.

Having regard to the matters outlined above, a recommendation was put to the CEO by Planning Services that there was reasonable grounds for the CEO to accept reliance upon the written approval from WA Country Health for Juniper to access their land to implement clearing for the interim period whilst they hold the management order over the land in lieu of that agreement being formally documented. The CEO's endorsement to this particular aspect of the BMP is consistent with Council's resolution as per Minute 049/2017 that had delegated authority to the CEO to issue the Development Application upon satisfaction of the BMP.

The proposed arrangement has been discussed with the applicant and they are supportive of the approach and are agreeable to having the access arrangement legally documented should it become necessary in the future.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. ENDORSES the actions of the Chief Executive Officer to accept the conditions of the bushfire management plan to carry out Council Resolution 049/2017;**
- 2. NOTES that in exercising this authority, it is done so on the condition that should there be a proposed change to the ownership and rezoning of Lot 501 Sutherland Street away from WA Country Health, the undertakings given by WA Country Health to the benefit of Lot 500 Sutherland Street will be required to be documented in a legal agreement as per the recommendations detailed within Department Fire and Emergency Services assessment of the Bushfire Management Plan prepared for Lot 500 Sutherland Street, Derby.**

## 10.2 CORPORATE SERVICES

### 10.2.1 ACCOUNTS FOR PAYMENT – MAY 2017

<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	N/A
<b>File Reference:</b>	5110 – Accounts Payable
<b>Author:</b>	David Evans, Finance Officer – Expenditure
<b>Responsible Officer:</b>	Martin Cuthbert, Director Corporate and Community Services
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	18 July 2017
<b>Attachments:</b>	1. 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 June 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 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> 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 June 2017. Lists detailing the payments made are appended as an attachment.

FUND	DETAILS	AMOUNT
<b>Municipal Account</b>		
EFT Payments	EP# 42156 – EP# 42376	\$1,683,336.09
Municipal Cheques	54633 – 54637	\$15,281.23
Direct Debits	Fees, Charges, Credit Card Payments, Payroll and Payroll Liabilities	\$685,262.80
<b>Trust Account</b>		
Trust Cheques	006460 – 006463	\$3,574.25
	<b>Total</b>	<b>\$2,387,454.37</b>

Creditor’s outstanding as at 30 June 2017 totalled \$550,360.01.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council NOTES the Chief Executive Officer's list of accounts for June 2017 paid under Delegated Authority in accordance with regulation 13(1) of the *Local Government (Financial Management) Regulations 1996* forming Attachment 1 to Report 10.2.1, totalling \$2,387,454.37.**

**10.2.2 STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 31  
MAY 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 of Finance
<b>Responsible Officer:</b>	Martin Cuthbert, Director Corporate and Community Services
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	18 July 2017
<b>Attachments:</b>	2. Monthly Financial Report June 2017
<b>Authority/Discretion:</b>	Information

**SUMMARY:**

For Council to note the statement of financial activity for the period ended 30 June 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 30 June 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 30 June 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 30 June 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 30 June 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> 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	<p>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>
<p><b>Reputation:</b> 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	<p>Manage by monitoring progress towards project completion</p>

**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 30 June 2017 forming Attachment 2 to Report 10.2.2.**

### **10.3 TECHNICAL SERVICES**

Nil

## 10.4 DEVELOPMENT SERVICES

### 10.4.1 APPLICATION FOR TRADERS PERMIT – THE LEGEND SHOP

<b>Location/Address:</b>	Loch Street Derby (Adjacent to the Town Oval in front of the Old Basketball Courts)
<b>Name of Applicant:</b>	Kanchana Langford trading as The Legend Shop
<b>File Reference:</b>	7072 Permits – Traders
<b>Author:</b>	Stephen Gash – Chief Executive Officer; and Jody Clouten – Environmental Health Officer
<b>Responsible Officer:</b>	Wayne Neate – Director Technical and Development Services
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	19 July 2017
<b>Attachments:</b>	Nil
<b>Authority/Discretion:</b>	Legislative

#### SUMMARY:

To consider an application by Kanchana Langford, business owner of 'The Legend Shop' to operate under a Traders Permit selling carnival toys and novelties, jewellery and baseball caps from an area in front of the old basketball courts, adjacent to the Town Oval situated on Loch Street, Derby.

It is recommended that Council not approve this application.

#### BACKGROUND:

Kanchana Langford is the registered business owner of The Legend Shop. The applicant has applied for, and been granted Traders Permits previously by Council, normally as part of a larger event such as the Mardi Gras or the Fitzroy Crossing Festival.

The application is before Council as it is not appropriate to consider under any delegation due to the:

- limited ability for officers to seek comment from potentially impacted residences and businesses given the short lead time;
- extended trading hours; and
- precedent of using the site to compete against existing business in extended hours, rather than being linked to a specific event. This has implications under Council Policy H2.

The permit application was initially lodged on 12 July 2017, and proposed trading hours submitted 14 July 2017 to allow assessment to commence.

**STATUTORY ENVIRONMENT:**

The area requested for trading is regarded as a ‘public place’ and requires a permit under the Shire of Derby/West Kimberley Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law detailed below.

**6.5 Relevant considerations in determining application for permit**

*(1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—*

- (a) any relevant policies of the local government;*
- (b) the desirability of the proposed activity;*
- (c) the location of the proposed activity;*
- (d) the principles set out in the Competition Principles Agreement; and*
- (e) such other matters as the local government may consider to be relevant in the circumstances of the case.*

*(2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—*

- (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;*
- (b) that the applicant is not a desirable or suitable person to hold a permit;*
- (c) that—*
  - i. the applicant is an undischarged bankrupt or is in liquidation;*
  - ii. the applicant has entered into any composition or arrangement with creditors; or*
  - iii. a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant’s undertakings or property;*
- (d) that the needs of the district, or the part for which the permit is sought, are adequately catered for by established shops or by persons who have valid permits to carry on trading or to conduct a stall; or*
- (e) such other grounds as the local government may consider to be relevant in the circumstances of the case.*

**6.6 Conditions of permit**

*(1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—*

- (a) the place, the part of the district, or the thoroughfare to which the permit applies;*
- (b) the days and hours during which a permit holder may conduct a stall or trade;*
- (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;*

- (d) the goods or services in respect of which a permit holder may conduct a stall or trade;*
- (e) the number of persons and the names of persons permitted to conduct a stall or trade;*
- (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;*
- (g) whether and under what terms the permit is transferable;*
- (h) any prohibitions or restrictions concerning the—*
  - i. causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;*
  - ii. the use of amplifiers, sound equipment and sound instruments;*
  - iii. the use of signs; and*
  - iv. the use of any lighting apparatus or device;*
- (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;*
- (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;*
- (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;*
- (l) the acquisition by the stallholder or trader of public risk insurance.*
- (m) the period for which the permit is valid; and*
- (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.*

**POLICY IMPLICATIONS:**

Officer comment has regard to Council Policy H2 Traders and Stallholders Permits. The policy objective is *'to allow for the operation of trading activities in thoroughfares and public places in such a manner that they do not conflict with or prejudice the Shire's permanent retail and service base, or other normal functions of the towns located within the Shire'*.

Where the location or type of activity proposed does not fall within the scope of an adopted policy, the Council may consider the application in the light of the desirability of the proposed activity and its location, and the general circumstances of the case.

**FINANCIAL IMPLICATIONS:**

The monthly fee for a Traders Permit is currently \$257 and the applicant has chosen this option to cover the nine separate days trading requested and to date, has paid a part-payment of \$101. The remaining fee of \$156 will be required prior to any permit being issued if approved by Council.

**STRATEGIC IMPLICATIONS:**

GOAL	OUTCOME	STRATEGY
<p><b>3:</b> A strong and diverse local economy A strong local economy that is supported by a broad industry base with opportunities for business development and employment</p>	<p><b>3.1:</b> Local business development and employment opportunities</p>	<p><b>3.1.1:</b> Support the Chamber of Commerce and Small Business Centre to encourage business development</p>

**CONSULTATION:**

Normally the surrounding residents and businesses are contacted by the Shire for feedback on trading applications. The requested trading date has required consideration at the July 2017 Ordinary Council meeting with the short time not allowing any feedback to be considered in this report.

**COMMENT:**

The applicant seeks to sell carnival toys and novelties, jewellery and baseball caps from the Shire reserve Loch Street Derby adjacent to the Town Oval, (in front of the old basketball courts).

Proposed hours are 9:00am to 8:00pm from Wednesday 23 August 2017 to Saturday 26 August 2017, and Tuesday 05 September 2017 to Saturday 09 September 2017.

While the proposed site has been supported in the past for trading linked to events, fundraising, and short term trading, this application covers an extended period which includes normal business hours and may have the potential to impact local businesses selling similar products.

The short lead time of the application means officers have limited ability to request comment from other businesses, sporting clubs using the oval for training, and nearby residences.

The requested extended trading times overlap normal business hours and requires consideration of Section 6.8(1)(a) of the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* that would prevent 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 stallholder or trader.

The location is 380m from the boundary of Woolworths, 430m from BP Colac, and 500m from Derby Home and Electrical. Other businesses in Clarendon and Loch St that could potentially raise objection are between 1300 and 1400m from the site.

Council may:



- a) Approve the permit application with conditions in accordance with Section 6.6(1) of the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* and Council Policy H2; or
- b) Refuse to approve the permit application with reasons, having regard to Section 6.5(2) of the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*.

Based on the extended trading hours overlapping normal business hours of other shops in town, Officers recommend Council not approve the application pursuant to Section 6.5(2)(d) of the Shire of Derby / West Kimberley *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, that the needs of the district, or the part for which the permit is sought, are adequately catered for by established shops or by persons who have valid permits to carry on trading or to conduct a stall.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council pursuant to Section 6.5(2)(d) of the Shire of Derby West Kimberley- Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law, NOT APPROVE the application for a Traders Permit for The Legend Shop.**

## **10.5 COMMUNITY SERVICES**

Nil

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

## **12.0 NEW BUSINESS OF AN URGENT NATURE**

### **12.1 WA PARLIAMENT INQUIRY INTO THE COST OF REGIONAL AIRFARES**

A draft submission on the Parliament inquiry into the cost of regional airfares will be submitted at the meeting.

## **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 will be held Thursday, 31 August 2017 in the Council Chambers, Clarendon Street Derby.

**14.2 CLOSURE OF MEETING**

The Presiding Member closed the meeting at      pm

**These minutes were confirmed at a meeting on**

.....

**Signed:** .....

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

**Date:** .....