



# **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 November 2017  
At Karrayili Adult Education Centre  
Fitzroy Crossing  
Commencing at  
01:00pm

Stephen Gash  
**CHIEF EXECUTIVE OFFICER**

Date: 24/11/2017

## **AGENDA**

**This page has been left intentionally blank**

## **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.

### **COPYRIGHT**

Any plans or documents contained within this agenda may be subject to copyright law provisions (*Copyright Act 1968*, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction. It should be noted that copyright owners are entitled to take legal action against any persons who infringe their copyright. A reproduction of material that is protected by copyright may represent a copyright infringement.

## 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."*



Councillor	27 Jul 2017	31 Aug 2017	28 Sept 2017	26 Oct 2017	30 Nov 2017	14 Dec 2017	22 Feb 2018	29 Mar 2018	26 Apr 2018	31 May 2018	28 Jun 2018
	OCM	OCM	OCM	OCM	OCM	OCM	OCM	OCM	OCM	OCM	OCM
E Archer	✓	✓	✓	Term expired 21 October 2017							
P White	✓	✓	✓	✓							
P Coggins	✓	✓	✓	✓							
C Kloss	✓	✓	✓	✓							
A Kogolo	AB	A	A	Term expired 21 October 2017							
P McCumstie	LOA	✓	✓	✓							
I Prouse	✓	✓	✓	✓	LOA						
A Twaddle	✓	✓	✓	✓							
G Davis	Elected 21 Oct 2017			✓							
G Haerewa	Elected 21 Oct 2017			✓							
D Andrews	Elected 21 Oct 2017			✓							

**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

### TABLE OF CONTENTS ORDINARY MEETING OF COUNCIL THURSDAY 30 NOVEMBER 2017

---

<b>1.0</b>	<b>DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS.....</b>	<b>1</b>
<b>2.0</b>	<b>RECORD OF ATTENDANCE .....</b>	<b>1</b>
2.1	ATTENDANCE.....	1
2.2	APOLOGIES .....	1
2.3	APPROVED LEAVE OF ABSENCE .....	1
2.4	ABSENT .....	1
2.5	DISCLOSURE OF INTERESTS.....	2
2.5.1	DECLARATIONS OF FINANCIAL INTERESTS.....	2
2.5.2	DECLARATIONS OF PROXIMITY INTERESTS.....	2
2.5.3	DECLARATIONS OF IMPARTIALITY INTERESTS .....	2
<b>3.0</b>	<b>APPLICATIONS FOR LEAVE OF ABSENCE .....</b>	<b>2</b>
<b>4.0</b>	<b>ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS .....</b>	<b>2</b>
<b>5.0</b>	<b>RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....</b>	<b>2</b>
<b>6.0</b>	<b>PUBLIC TIME .....</b>	<b>3</b>
6.1	PUBLIC QUESTION TIME .....	3
6.2	PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS .....	3
<b>7.0</b>	<b>ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION .....</b>	<b>3</b>
<b>8.0</b>	<b>CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS.....</b>	<b>3</b>
<b>9.0</b>	<b>RECOMMENDATIONS AND REPORTS OF COMMITTEES.....</b>	<b>3</b>
<b>10.0</b>	<b>REPORTS .....</b>	<b>4</b>
10.1	EXECUTIVE SERVICES .....	4
<b>10.1.2</b>	<b>RETROSPECTIVE APPROVAL – 2 X OUTBUILDINGS. LOT 191 BELL CREEK WAY, DERBY.....</b>	<b>9</b>
<b>10.1.3</b>	<b>ENDORSEMENT AND ADOPTION OF DERBY TOWNSITE COASTAL HAZARD RISK MANAGEMENT AND ADAPTION PLAN (CHRMAP).....</b>	<b>13</b>
<b>10.1.4</b>	<b>TELECOMMUNICATION BASE STATION FACILITY – YUNGNORA COMMUNITY.....</b>	<b>26</b>
10.2	CORPORATE SERVICES.....	31
<b>10.2.1</b>	<b>ACCOUNTS FOR PAYMENT – OCTOBER 2017 .....</b>	<b>31</b>
<b>10.2.2</b>	<b>STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 31 OCTOBER 2017 .....</b>	<b>35</b>
<b>10.2.3</b>	<b>REVIEW OF ORDINARY COUNCIL MEETING SCHEDULE FOR 2018 .....</b>	<b>40</b>
<b>13.2.4</b>	<b>REPRESENTATION ON COMMITTEES AND WORKING PARTIES/GROUPS .....</b>	<b>44</b>
13.3	TECHNICAL SERVICES.....	57
13.4	DEVELOPMENT SERVICES .....	57



<b>13.4.1</b>	<b>APPLICATION FOR TRADERS PERMIT – AMPORN’S THAI FOOD (FOOD VAN)</b> .....	<b>57</b>
13.5	COMMUNITY DEVELOPMENT AND RECREATION SERVICES .....	62
<b>14.0</b>	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b> .....	<b>62</b>
<b>15.0</b>	<b>NEW BUSINESS OF AN URGENT NATURE</b> .....	<b>63</b>
<b>16.0</b>	<b>MATTERS FOR WHICH THE MEETING MAY BE CLOSED (CONFIDENTIAL MATTERS)</b> .....	<b>63</b>
16.1	DERBY PORT DEVELOPMENT AND LEASES.....	63
<b>17.0</b>	<b>CLOSURE</b> .....	<b>63</b>
17.1	DATE OF NEXT MEETING.....	63
17.2	CLOSURE OF MEETING.....	63

## **ORDINARY MEETING OF COUNCIL**

### **AGENDA**

---

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

The meeting was opened at .....pm by the Shire President

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

##### **2.1 ATTENDANCE**

**ELECTED MEMBERS:**

**STAFF:**

**VISITORS:**

**GALLERY:**

##### **2.2 APOLOGIES**

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

Cr Iris Prouse

##### **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 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS**

**7.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

**8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**OFFICER RECOMMENDATION:**

**Moved: Cr**

**Seconded: Cr**

**That the minutes of the ordinary meeting of the Shire of Derby/West Kimberley held at the Council Chambers, Derby, on 26 October 2017 be confirmed.**

**9.0 RECOMMENDATIONS AND REPORTS OF COMMITTEES**

Nil

## 10.0 REPORTS

### 10.1 EXECUTIVE SERVICES

#### 10.1.1 RETROSPECTIVE PLANNING APPROVAL – HOME BUSINESS: KIMBERLEY TILT-N-TOW

<b>Location/Address:</b>	Lot 143 Knowsley Street East, Derby
<b>Name of Applicant:</b>	D & C O'Meara
<b>File Reference:</b>	A104530
<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>	21 November 2017
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Composite Image</li><li>2. Applicants Submission</li></ol>
<b>Authority/Discretion:</b>	Administrative

#### SUMMARY:

Applicant is seeking retrospective approval to operate the administration office of Kimberley Tilt-n-Tow from their residential property located at lot 143 Knowsley Street East.

Additionally, applicant is seeking permission to park and operate two recovery vehicles at the premises.

#### BACKGROUND:

Council became aware that owners had been using the property for the above purposes and also had been occupying adjoining Lot 144 Knowsley Street East which is a parcel of Unallocated Crown Land (UCL) to store various items of plant and equipment associated with the towing and another earthmoving/landscaping business.

Note – the occupation and use of the UCL – Lot 144 Knowsley Street East is a separate matter to this request before Council.

#### STATUTORY ENVIRONMENT:

Town Planning Scheme No.5 and the *Planning and Development (Local Planning Scheme) Regulations 2015* identifies the applicable zoning that applies to land and then identifies the several uses permitted in the various zones.

The subject property is zoned Residential.

There is the opportunity to consider some limited commercial activity from a residential property on the basis that the proposed use is consistent with the Zone Objectives and Zone policies which are set out with TPS No.5. The Zone Objective and Policy for the Residential Zone are:

### **Zone Objectives**

- (a) To designate land for residential development to meet the needs of the town in locations that can be economically serviced and are environmentally suitable.
- (b) To provide a range in housing and lifestyle choice and protect the amenity and character of residential areas.

### **Zone Policies**

- (i) To promote development that is suitable for the local climate, designed to minimise energy consumption and reinforces the character of the residential precinct within which it is located;
- (ii) To ensure that necessary physical and social infrastructure is provided in conjunction with residential development;
- (iii) To promote residential development consistent with the Residential Planning codes or any variations to those codes as set out in this scheme;
- (iv) To limit the height and scale of any residential development to that of a domestic character consistent with surrounding residential development.

As detailed above, the Scheme and the Planning Regulations do make some provision for limited commercial activity to be undertaken from a residential property and such activities are defined as either a Home Business or a Home Occupation. The Scheme dictates that a Home Business should conform to the following definition:

**Home Business** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession —

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 50 m<sup>2</sup> ; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and

- (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil

**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>2.1:</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:**

It is Administration’s view that there are minimal risks to Council and the Shire’s business function when Council exercises its discretionary power to determine a planning application.

**CONSULTATION:**

Owners of surrounding properties have been written to, notifying them of the proposal and a 14 day period was provided for submissions to be made.

One written submission was received which raised concern regarding the proposal and the potential for noise/visual amenity/appropriateness of location for business of this sort and potential future enforcement issues of any conditions that may be applied to any approval.

**COMMENT:**

The applicant has been operating a tow and recovery business from the premises that at different times has involved the storage of recovered vehicles on the site (and also next door on the vacant parcel of UCL). In addition the property is used as the location where the administrative functions associated with the operation of the business has taken place.

The use of the property as the administrative office for the business raises no concern from a planning perspective. This would largely involve communications with clients via phone or email and may involve people calling to the property from time to time to complete documentation and the like, but would not be of a scale or regularity that would likely to cause any adverse impact upon the amenity of the area.

The applicant in their submission has undertaken that should the request for the Home Business be approved, no recovered vehicles would be stored at the property but they are seeking the permission of the Council to consider allowing them to park and operate the two recovery vehicles from the property. One vehicle has a weight of 6.5 tonnes and the other is 10 tonnes.

The property is developed with a single residential dwelling and other ancillary outbuildings at the rear and the assembly of the buildings on the site means that there is no access to the rear of the property from the street. As such, this would mean that the recovery vehicles would need to be parked at the front of the dwelling or alternatively on the verge at the front of the property. Lot 143 Knowsley Street East has no legal right of access over the adjoining Lot 144 Knowsley Street East.

The definition of a Home Business specifically limits the size of vehicle that can be involved with a Home Business to no more than one vehicle of 4.5 tonnes. This is to limit the impact of the business on the amenity of the adjoining residents and to preserve the residential amenity of a location. In this case the applicant is seeking to store two vehicles, both significantly above the permitted weight provided for by the Scheme definition. The movement of the vehicles to and from the property may occur across the full extent of the week and potentially at any time of day or night.

It is considered that the storage and operation of two recovery vehicles from the property is neither consistent with the scale and type of business activity permitted under the definition of a Home Business and nor is it consistent with the Zone Objective and Policy that seeks to preserve the character and amenity of the residential zone. The scale and nature of this activity is one which is reasonably regarded as being more appropriately located and operated from a property with a Light Industry zoning.

**SUMMARY:**

Having regard to the above matters, it is the recommendation of the Administration that Council agree to the retrospective request to operate a Home Business from the property being lot 143 Knowsley Street East subject to the condition that;

- a) No vehicles used in the recovery of vehicles are to be stored at or operated from the property;
- b) No recovered vehicles are to be stored for any length of time at the property or within the adjacent road reserves or any other lot adjacent to the subject land.



**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council approves the application for retrospective development approval to operate a Home Business being Kimberley Tilt-N-Tow from Lot 143 Knowsley Street East, Derby subject to the following conditions:**

- i) No vehicles used in the recovery of vehicles are to be stored at or operated from the property or from the adjacent road reserve;**
- ii) No recovered vehicles are to be stored at the property or within the adjacent road reserves or any other lot adjacent to the subject land;**
- iii) The home business is not to employ more than 2 people who are not members of the occupier's household;**
- iv) The office associated with the Home Business is not to occupy an area greater than 50 m<sup>2</sup>;**
- v) No additional advertising signs are permitted to be displayed without first applying to and obtaining the approval of Council.**

**10.1.2 RETROSPECTIVE APPROVAL – 2 X OUTBUILDINGS. LOT 191 BELL CREEK WAY, DERBY**

<b>Location/Address:</b>	Lot 191 Bell Creek way, Derby
<b>Name of Applicant:</b>	Kerrie-Ann Stanley
<b>File Reference:</b>	A101470
<b>Author:</b>	Noel Myers – Manager Planning Services
<b>Responsible Officer:</b>	Stephen Gash – Chief Executive Officer
<b>Disclosure of any Interest:</b>	None
<b>Date of Report:</b>	22 November 2017
<b>Attachments:</b>	1. Location Plan 2. Site Plan 3. Images
<b>Authority/Discretion:</b>	Administrative

**SUMMARY:**

Application for the retrospective approval of two outbuildings (1 x 40ft and 1 x 20ft sea containers) has been received from the owner of Lot 191 Bell Creek Way, Derby.

**BACKGROUND:**

The applicant has installed two sea containers (outbuildings) on the above property that are used for the storage of their personal belongings without first obtaining the approval of the Council.

The subject property is located within the Hamlet Grove subdivision and is zoned Rural Residential. The property has an overall area of 2.2ha, is developed with a single residential dwelling and one other approved outbuilding.

The property has two frontages to Bell Creek Way, is lightly vegetated and there is a clear line of site from the adjoining road towards the two sea containers in question and also towards the dwelling.

**STATUTORY ENVIRONMENT:**

- ) Town Planning Scheme No.5;(TPS No.5)
- ) Planning and Development (Local Planning Scheme) Regulations 2015 (Regulations)
- ) The Planning Regulations are automatically adopted into all local planning schemes. Part 7, Clause 60 of the Planning regulations states that a person must not commence or carry out any works in the Scheme area unless they have obtained the development approval of the local government or the form of development is exempt;

- ) There are no exemptions to the requirement for the applicant to have first obtained approval from the Council for the installation of the two sea containers (Outbuildings);
- ) Part 7, Clause 65 enables Council to consider the subsequent approval of development already carried out.

**POLICY IMPLICATIONS:**

None

**FINANCIAL IMPLICATIONS:**

None

**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>2.1:</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:**

It is Administration’s view that there are minimal risks to Council and the Shire’s business function when Council exercises its discretionary power to determine a planning application.

**CONSULTATION:**

No external consultation has been undertaken in regard to this matter.

**COMMENT:**

As previously described, the applicant has installed two sea containers which are used for the storage of their various items of personal equipment. The containers are set down on footings and properly secured to the site.

Neither of the sea containers have had any remedial or upgrade work undertaken on them and both appear to remain in their original condition. One container is painted a faded cobalt blue while the other is painted in a brown palette with visible rusted areas. Neither structure would be regarded as creating or having any positive contribution toward the streetscape or the amenity of the area.

Any new development proposal is assessed against the relative Zone Objectives and Policies as set out within TPS No.5. The Zone Objectives and Policies for the Rural Residential zone are:

**Zone Objective**

- (a) To provide for development of closer rural settlement on land suitable for such a purpose in a form that protects the rural character and environmental values of the area, provides a high level of residential amenity and encourages continued productive agricultural use.

**Zone Policies**

- (i) To ensure that proposed land uses and lots sizes will not be detrimental to the amenity and rural character of an area;
- (ii) To discourage development of a scale or nature more appropriately located within the urban zones;
- (iii) To provide for the protection of any areas of environmental value in the design of a development or subdivision;
- (iv) When considering applications for resubdivision of rural residential lots to have regard for the original subdivision plan and only support subdivisions where the rural and residential character is protected or enhanced;
- (v) To ensure the adequate provision of required services and community facilities to all rural residential development.

Part 4, Clause 4.10.1 places limits on the size of Outbuildings in the Rural Residential zone to 60m<sup>2</sup>, however, Council has previously recognised that this is an overly restrictive limitation to the size of outbuildings in this zone and has generally been supportive of larger outbuildings being located on rural residential lots. This has been in recognition that the larger land parcels are more able to accommodate the bulk and size of larger outbuildings and the lifestyle and needs of residents in these area areas generally creates a demand for larger structures.

In this particular situation, from a planning perspective there is no specific objection to the retention of the two sea containers on the property. The overall developed site cover is very low and the need to have storage for personal equipment is acknowledged. The larger land area and lifestyle of residents within the subdivision makes the use of second sea containers more appropriate in the rural residential zones than it would in the more urbanised areas.

Notwithstanding that general support, if an application had been submitted prior to the installation of the containers, invariably a condition would have been applied that required the structures to be upgraded and 'made good'. The location of the two containers on the lot makes them clearly visible from the road and the relatively poor condition of the structures is contrary to the Zone Objectives and Policies that seek to ensure land uses and developments are not contrary to the amenity of the area.

The fact that the owner has installed the structures already should not preclude them now upgrading the structures by either painting them externally or cladding them to make them compatible with the standard and appearance that a new shed would present in the streetscape.

**SUMMARY:**

Having regard to the matters outlined above, it will be the recommendation of the Administration that Council grants approval to the owner to retain the Two Outbuildings (Containers) subject to conditions relating to them being suitably upgraded.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council approves the application for development approval for Two Outbuildings (Sea Containers) on Lot 191 Bell Creek Way, Derby as per the application and plans dated 25 October 2017 subject to the following condition;**

- 1. The external profiles of the buildings are to be upgraded. The final design, materials and colours applied to the buildings are to be matched to the satisfaction of the Manager Planning Services by either painting the structures or cladding the structures and will generally be compatible with the finishes of the dwelling on the property.**

### 10.1.3 ENDORSEMENT AND ADOPTION OF DERBY TOWNSITE COASTAL HAZARD RISK MANAGEMENT AND ADAPTION PLAN (CHRMAP)

<b>Location/Address:</b>	Derby Town site and surrounds
<b>Name of Applicant:</b>	SDWK
<b>File Reference:</b>	2302
<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>	22 November 2017
<b>Attachments:</b>	Nil
<b>Authority/Discretion:</b>	Legislative

#### SUMMARY:

The purpose of this report is for the Council to **endorse and adopt** the CHRMAP following it being referred to the Department of Planning, Lands and Heritage (DPLH) for final approval in accordance with the Coastal Management Plan Assistance Program Funding Agreement.

The DPLH confirmed the CHRMAP was acceptable and hence approved on 16 November 2017 (subject to two minor formatting corrections).

The CHRMAP is a substantial sized document and is accessible on the Shire website

<https://www.sdwk.wa.gov.au/library/file/planning-development/planning/CHRMAP/Derby%20Chramp%20Doc%20v4%20-%20Final.pdf>

#### BACKGROUND:

In 2015 Council received a Coastal Vulnerability Study for the Derby townsite which identified that portions of the townsite are at risk of coastal inundation and coastal erosion in the period to 2110. State Planning Policy 2.6 – State Coastal Planning Policy requires that Coastal Hazard Risk Management and Adaptation Planning (Adaptation Planning) be undertaken where the risk of coastal hazards has been identified.

The Shire subsequently secured grant funding from the Department of Planning's Coastal Management Plan Assistance Program to prepare a Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) for the Derby townsite, reflecting the outcomes of the Coastal Vulnerability Study. The CHRMAP provides a coordinated approach to Adaptation Planning which considers broader community values and the impact potential adaptation options will have on adjacent sections of the coastline.

The draft CHRMAP had been prepared and advertised to the local community and was presented to Council for at the **Ordinary Meeting of Council held on 31 August 2017**. The decision of the Council at that meeting was:

**MINUTE NO. 091/2017**

**Moved: Cr P White**

**Seconded: Cr P McCumstie**

**That Council RECEIVES the Coastal Hazard Risk Management and Adaption Plan.**

**CARRIED 8/0**

The Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) has been prepared over the Derby town site following the identification of coastal hazards within the Derby Coastal Vulnerability Study completed in 2015. The study area for both the CVS and CHRMAP includes all land within the Derby town site as identified within the Shire's Town Planning Scheme No. 5, Town Planning Scheme No. 7 and future expansion areas outlined within the Local Planning Strategy. In addition, assets located within the Derby Wharf Area, located approximately 2km from the town site, have also been included with the identification and assessment of coastal hazard risk.

This CHRMAP allows the Shire to analyse and evaluate the coastal hazards identified within the CVS, and develop suitable risk management and adaptation measures. Both the CVS and CHRAMP have been undertaken consistent with the guidance provided within SPP2.6 and the Coastal Guidelines. More generally, this CHRMAP is a mechanism for the Shire to communicate with the wider community and affected stakeholders about the nature and extent of coastal hazards impacting the town site. This communication has been used to determine local values and acceptance of coastal hazards, and to develop and review potential management and adaption measures over time. It is important to note that SPP2.6 adopts a precautionary principle and is therefore conservative in its nature. Therefore, State policy measures need to be implemented with fair consideration of local factors to avoid negative impacts on the local community. Management and adaptation measures need to be understood in the context of the:

- Identified hazard risk levels resulting from coastal erosion and inundation on public and private assets;
- Level of certainty/ technical knowledge of the coastal hazards;
- Appropriateness of the State Planning Policy Framework to provide guidance for the local context; and
- Readiness and awareness of the local community and Shire.

## OBJECTIVES

In light of the above, the specific objectives developed for this CHRMAP were to:

1. Identify the range of assets (natural and man-made) in potentially impacted by coastal hazards.
2. Interpret the outcomes from the CVS to better understand the likelihood and consequence of coastal hazards across the Derby town site and determine the levels of hazard risk.
3. Consult with the community and stakeholders to inform, educate and collaborate on coastal hazards and what decision making should be undertaken (e.g. what the level of hazard risk is acceptable/ tolerable).
4. Identify possible management and adaptation actions and incorporate into short and longer term decision-making consistent with SPP2.6.
5. Ensure any proposed action is developed in a transparent and collaborative manner.
6. Undertake multi-criteria analysis in determining management and adaptation measures.
7. Resolve the identified coastal hazard risk(s) to provide suitable direction for the preparation and implementation of statutory planning mechanisms to guide future land use and development.

## SCOPE

The scope of this CHRMAP is consistent with the scope outlined within the Coastal Guidelines, as follows:

*The CHRMAP should be focussed on the coastal zone, meaning the areas of water and land that may be influenced by coastal processes (SPP2.6) within the planning horizon/ timeframe. It does not include assessment of possible impacts or adaptation strategies outside the coastal zone.*

*The CHRMAP is specifically designed to address potential adverse impacts from erosion and inundation hazards (in particular where they will be amplified by climate change and sea level rise) upon assets in the coastal zone. It should specifically target coastal risks that are identified as unacceptable/ intolerable, and ensure management and adaptation measures are formulated to reduce these risks down to tolerable or acceptable levels.*

SPP2.6 and the Coastal Guidelines focus only on the use and development of assets within the coastal zone and not in relation to the protection of human life. Therefore, the consideration of coastal hazard risk to human life is not within the scope of this CHRMAP.



**STATUTORY ENVIRONMENT:**

## State Planning Policy 2.6 – State Coastal Planning Policy (SPP2.6)

The overall purpose of SPP2.6 is to ensure that land use and development within the coastal zone accounts for coastal processes and hazards, and that areas of the coastal foreshore are reserved, protected, conserved and enhanced where suitable. Schedule One within SPP2.6 outlines the methodology for calculating coastal processes in respect to different coastal classifications. The examination of coastal processes impacting the study area was undertaken within through the CVS.

**POLICY IMPLICATIONS:**

The CHRMAP provides commentary on the need for the development of a future Planning Policy.

The highly detailed coastal hazard mapping delivered through the Coastal Vulnerability Study allows for the assessment of land use and development to be determined on a case by case basis. A Local Planning Policy will provide a flexible mechanism for the Shire to clarify the application and requirements for land use and development within the 'SCA'. The application of development standards within the Town Planning Scheme is considered too restrictive and does not provide the flexible to develop performance based solutions to accommodate coastal hazards over time.

The development of a Town Planning Policy will need to be undertaken in accordance with the requirement of TPS.5 which requires further engagement and consultation with the community.

**FINANCIAL IMPLICATIONS:**

The current level of coastal hazard risk does not require any significant allocation of Shire resources to accommodate the identified risk. Over the next 5 years the majority of identified actions can be undertaken through the allocation of existing Shire resources.

However, the Shire will require additional support to ensure that appropriate monitoring/examination and community awareness is undertaken over time. There are a number of State funding opportunities directly aligned with coastal adaptation and management that can increase the capacity of the Shire to undertake these identified actions.

The Shire will receive the final \$2,227.50 distribution of the grant from DPLH following the Council's endorsement and adoption of the plan.

**STRATEGIC IMPLICATIONS:**

<b>GOAL</b>	<b>OUTCOME</b>	<b>STRATEGY</b>
<b>2:</b> A balance between the natural and built environments	<b>2.5:</b> Assets and Infrastructure managed over the long term to meet current and future needs	<b>2.5.1:</b> develop and implement long term asset management plans for all Shire assets having regard for current and future asses needs and Shire’s long term financial plan
	<b>2.6:</b> Protection of the natural environment	<b>2.6.1:</b> provide effective management of the Shire’s land and reserves

**RISK MANAGEMENT CONSIDERATIONS:**

Coastal hazard risk management and adaptation planning will provide the Shire with an appropriate risk assessment and management planning framework for incorporating coastal hazard considerations into decision-making processes. The establishment of Special Control Areas as advocated for within the recommendations of the CHRMAP will clearly identify land that is predicted to be affected by coastal hazards until 2110, while the CHRMAP and subsequent Policy that is to be developed will provide guidance on the decision making process involving land that is at risk from coastal erosion and inundation. Through risk identification, analysis and evaluation the Shire will be better placed to address coastal hazard risk.

In terms of consequence, the risk of not taking action is considered Extreme in terms of potential impact on health, Shire finances, property and reputation. There may also be adverse environmental impacts, however, without undertaking a full environmental assessment, it is difficult to understand the true impact.

There could also be a liability risk if the Shire fails to take into account the outcomes of the CHRMAP in the decision making process. It is considered that the Shire has a duty of care to prevent the loss or injury to people or property, especially in instances where there risks have been made clear, and risk management and adaptation options are available.

By undertaking a systematic approach to coastal hazards through the CHRMAP, and putting in place controls to manage coastal hazard risk in association with the affected community and stakeholders, the Shire is able to reduce the risk to property and life, whilst also respecting the natural processes that create coastal erosion and inundation. Therefore by undertaking the CHRMAP, the Shire will reduce its risk from Extreme to Moderate.

**CONSULTATION:**

**STAKEHOLDERS AND ENGAGEMENT:**

A consultation strategy was prepared to guide communication with the community and affected stakeholders. The approach adopted aligns with SPP2.6 and the Coastal Guidelines. The stakeholder analysis outlined a total of 32 specific stakeholder groups including government agencies, property/business owners, local residents and community groups. These stakeholders were then analysed and grouped in order to determine appropriate communication mechanisms. A description of these stakeholder groups are outlined in Table 6 below.

**STAKEHOLDERS AND ENGAGEMENT**

A consultation strategy was prepared to guide communication with the community and affected stakeholders. The approach adopted aligns with SPP2.6 and the Coastal Guidelines. The stakeholder analysis outlined a total of 32 specific stakeholder groups including government agencies, property/ business owners, local residents and community groups. These stakeholders were then analysed and grouped in order to determine appropriate communication mechanisms. A description of these stakeholder groups are outlined in Table 6 below.

**Table 6 - Identified Stakeholder Groups.**

Internal	High	Directly impacted by the project as asset/ landowner, or responsibility to make decisions on project direction and outcomes.
	Medium	Directly impacted by the project by the need to consider project outcomes as part of existing service delivery.
	Low	Directly impacted by the project by the need to administer policies and convey information to the community and stakeholders on delivery of the project.
External	High	Directly impacted by the project by owning an affected property and/ or asset, or may have a high level of interest in a natural/ cultural feature.
	Medium	Directly impacted by the project by owning an affected property and/ or asset affected but is exempt from the Shire provisions.
	Low	Not directly impacted by the project but may have a general interest/ concern.

**COMMUNITY ATTITUDE:**

While best endeavours were made to mitigate potential barriers for community participation, there was a limited level of engagement achieved through the project. While there was representation from the local community and stakeholder groups, this represented less than 1% of the local population. While this level of engagement is low, it is not surprising considering the population characteristics within Derby. The factors contributing to the low level of interest and/ or concern from the local community is understood to be influenced by:

- The limited extent of the potential coastal hazards identified within the CVS and the respective limited number of properties potentially impacted;
- A general mistrust/ disbelief of the technical studies in respect to local experience and historic knowledge of coastal impacts; and
- The significant transient population in Derby comprising seasonal workers and/ or government contracted workers with limited vested interest in the town. However, there was a small minority of the population concerned about the level of potential coastal risk posed to Derby. In addition, due to a number of social barriers it is considered that there is an additional percentage of the population who were not able to be reached within the scope of community consultation. In light of all of the above, ongoing commitments need to be made to ensure ongoing community engagement and awareness.

The methodology adopted to engage with the community involved writing directly to all land owners whose properties may be potentially impacted, placing notices on the Shire website and Facebook site. Two workshops were undertaken, the first being at the ignition of the project to ascertain community perceptions and values and then a further workshop to close out the proposed findings of the CHRMAP.

#### **COMMENT:**

Through this CHRMAP, potential coastal erosion and coastal inundation hazards have been identified, analysed and evaluated in accordance with the methodology outlined within State Planning Policy 2.6 – State Coastal Planning (SPP2.6) and the Coastal Hazard Risk Management and Adaptation Plan Guidelines.

In addition to the coastal classification under SPP2.6, the coastal area around Derby is comprised of a unique combination of geomorphology, climate and natural environmental factors. The combination of these factors, including the joint probability of climatic and astronomic events, results in the dominant coastal hazard impacting the study area being from single storm events occurring across the 100-year planning timeframe, as opposed to long term coastal recession and/ or permanent inundation. However, under the methodology within the State Planning Policy Framework, the likelihood and consequence of both coastal erosion and coastal inundation impacting the study area has been evaluated through three time scenarios; the present (2010), medium term (2060) and long term (2110). The identified coastal inundation and coastal erosion hazards have been evaluated and mapping individually under each of the three time scenarios.

In relation to **coastal erosion**, the analysis and evaluation undertaken has determined a **low level** of hazard risk impacting all assets within the Derby town site across the 100-year planning timeframe. The technical investigation undertaken through the CVS, outlined that the current level of consequence from coastal erosion on the study area is insignificant. In addition, the historical analysis undertaken through the CVS demonstrated that the shoreline surrounding the Derby town site

exhibits a stable shoreline, with no evidence of significant erosion since 1949. As such, it is **considered very unlikely/rare that coastal erosion hazards** will impact the study area as a result of sea level rise over the 100-year planning timeframe. However, additional modelling undertaken to support this CHRMAP outlined that the storm surge associated with a significant storm event may result in might result in a small extent of coastal erosion, extending up to 5m. This extent of coastal erosion would not impact any assets within the Derby town site. In light of the above, the potential coastal erosion is considered to be an **acceptable hazard risk** across the 100-year planning timeframe. As such, no specific adaptation measures are proposed within this CHRMAP, other than to ensure ongoing monitoring and examination be undertaken to ensure decisions making continues to be informed by the most up-to-date technical knowledge.

In relation to **coastal inundation**, the extent of the hazard impacting assets within the study area **ranges from no impact, to either acceptable or tolerable levels of risk** within the present day scenario. Over the medium and long term scenarios, the extent of coastal inundation increases principally resulting from the increasing impact of sea level rise on top of the modelled storm event. However, even in the long term scenario the majority of assets within the Derby town site have been evaluated as having acceptable to tolerable levels of hazard risk. In the case of private residential, commercial and industrial properties, there are individual properties which may experience a higher level of coastal inundation hazard risk. Therefore, while the public level of risk can be managed through existing mechanisms, accommodation actions have been outlined to ensure that the level of hazard risk on individual properties is reduced and maintained at acceptable levels. The implementation of accommodation actions will be considered on a case by case basis using the detailed coastal hazard mapping prepared within the CHRMAP.

In addition to the implementation of accommodation actions on individual private properties, there are a number of public owned assets which may experience coastal inundation impacts over the 100-year planning timeframe. While the majority of the public owned assets experience acceptable/ tolerable levels of hazard risk, the Derby Airport, Derby Wharf and the Wharf Foreshore may experience increasingly levels of risk, resulting in a potential intolerable level of hazard risk within the long term scenario. Adaptation measures for all publicly owned assets will be implemented through the Shire's asset management policies and procedures in consideration of the hazard level over time, the forecast asset life and the whole of life maintenance costs.

In light of the above, Table 1 below presents the increasing levels of coastal inundation hazard risk as it relates to specific assets impacted within the study area through the present, medium and long term scenarios.

Table 1 - Coastal Inundation Hazard Risk through the 100-year Planning Timeframe.

ASSET	Present (2015)	Medium Term (2060)	Long Term (2110)
<b>WHARF AREA</b>			
Wharf Structure	Accept	Tolerable/Accept	Intolerable
Wharf Foreshore	Tolerable/Accept	Tolerate	Intolerable
Wharf Café	Accept	Accept	Tolerable/Accept
Recreational Ramps	Accept	Accept	Accept
<b>ACCESS TO WHARF AREA</b>			
Local Roads	Accept	Accept	Tolerable/Accept
Loch Street	No Impact	No Impact	Accept
Jetty Road	Accept	Tolerable/Accept	Tolerable/Accept
<b>TOWN SITE</b>			
Derby Highway	No Impact	No Impact	Tolerable/Accept
Cattle Race	Accept	Tolerable/Accept	Tolerable/Accept
Wool Shed & Tramway	No Impact	Accept	Accept
Wharfinger's House	No Impact	No Impact	Tolerable/Accept
Picture Gardens	No Impact	No Impact	Accept
Fishing Club	Accept	Accept	Tolerable/Accept
Shooters Precinct	No Impact	Accept	Accept
Town Centre Properties	No Impact	Accept	Tolerable/Accept
Residential Properties	No Impact	Accept	Accept
Aged Care facilities	No Impact	No Impact	Accept
Caravan Park	Accept	Accept	Tolerable/Accept
Aboriginal Communities	Accept	Accept	Tolerable/Accept
Derby Airport	Accept	Tolerable/Accept	Intolerable

As detailed above, the generally low level of risk is the result of the highly protective nature of the local environment and the low joint occurrence probability of climatic and astronomical factors impacting the study area. This is further reflected in a low level of interest and/ or concern shown from the local community in regards to either coastal erosion or coastal inundation hazards. Nevertheless, coastal hazards have been identified and while the current level of risk is generally acceptable/ tolerable, the Shire needs to ensure that suitable management and/ or adaptation actions are put in place to maintain the level of risk. These management and/ or adaptation actions have been considered and adopted within the CHRMAP.

Table 2 - Project Success Criteria.

	Local Factors	Success Criteria
1	Local concern with potential limitations for growth of Derby by the imposition of the State Planning Policy Framework.	Ensure the State Planning Policy Framework does not negatively impact future growth of Derby.
3	Limited guidance within the State Planning Policy Framework to consider the unique local environment.	Develop and implement a program of ongoing monitoring/ examination through a multiagency approach to ensure future decision making is reflective of local factors, and informs a review of the State Planning Policy Framework.
3	Low level of community knowledge and acceptance.	Ensure community knowledge and awareness is developed through ongoing community consultation. Increase the current level of community knowledge prior to proposing any major adaptation works.
4	Limited Shire resources and revenue.	Ensure the level/ experience of Shire resources is incorporated into the determination of proposed actions.
5	Available funding/ grant opportunities available to undertake coastal planning and implement adaptation actions.	Identify funding opportunities to ensure specific adaptation actions, monitoring and further investigation can be undertaken as required and prior to coastal hazards impacting becoming intolerable.
6	No existing controls in place to consider development and use within areas potentially at risk of coastal hazards.	Ensure a transparent and equitable approach is undertaken in developing a mechanism to guide land use and development decision making.
7	Shire currently developing holistic Asset Management Plan.	Ensure identified coastal hazards are considered within ongoing strategy development and asset management processes, including the Strategic Community Plan and Asset Management Plan.

In consideration of the local factors and the generally acceptable/ tolerable level of coastal erosion and coastal inundation hazard risk across the 100-year planning timeframe, it has been determined that **no major adaptation actions should be undertaken within the scope of this CHRMAP**. Moving into the medium/ long term, further assessment and consideration of adaptations options will need to be undertaken for assets at the Derby Airport and Derby Wharf Area. In the immediate to short term, **accommodation adaptation actions can be undertaken to maintain the level coastal inundation hazard risk levels at acceptable/ tolerable levels**. In addition, ongoing monitoring and examination of the shoreline and the impacting coastal hazards should be undertaken to maintain the most up-to-date technical knowledge informs future decision making.

Following the methodology imposed through SPP2.6, the following accommodation actions have been determined as the most suitable given the current level of hazard risk and local factors. Further details regarding the implementation of these actions is outlined within this CHRMAP:

- Update the Shire of Derby / West Kimberley Town Planning Scheme to ensure that the extent of the hazard prone area is mapped and set objectives to ensure land use and development within the hazard prone area has the appropriate consideration of coastal hazard risk.
- Develop a range of suitable development standards through a local planning policy to ensure applications for existing, infill and greenfield land use and development appropriately accommodates the associated level of coastal inundation risk while not negatively impacting the local community.



- Notifications are placed on property titles at the time of subdivision and / or development application to ensure that both existing and future landowners area notified of the specific coastal hazards related to their property.
- Update the Shire of Derby / West Kimberley Asset Management Plan to ensure that the construction and/ or maintenance of public assets incorporates the relative level and extent of coastal inundation over the life of the asset.
- Develop an ongoing monitoring/ examination program of the Derby shoreline and coastal hazards is prepared in collaboration with a range of qualified stakeholders and is implemented.
- Develop a targeted public communication/ education program in collaboration with a range of qualified stakeholders to increase community knowledge and awareness of coastal hazards.
- Seek opportunities to secure funding which allows additional monitoring, examination and consultation to be undertaken prior to hazard risk levels reaching intolerable levels.
- Incorporate measurable actions within the Shire of Derby / West Kimberley Strategic Community Plan that focus on; increasing community awareness; including coastal hazards within asset management planning; including coastal hazards within land use and development decision making; and ongoing monitoring/ examination of the shoreline and coastal hazards to inform future decision making.

**IMPLEMENTATION:**

Critical to the success of any study is the implementation strategy. To this end the CHRMAP includes an implementation strategy that has been developed to respond to the requirements of SPP2.6 and to the peculiarities of the Derby environment and community profile.

Under SPP2.6 and the Coastal Guidelines, is recommended that management and adaptation planning needs to consider the 100-year planning timeframe. However, given the low level of community awareness, the inherent uncertainty in coastal processes and the need to undertake decision making on the most up to-date technical knowledge a five-year review has been articulated. This five-year review provides an opportunity to incorporate additional technical knowledge and community awareness into coastal hazard risk management and adaption planning for the future.



Table 22: Five Year Implementation Plan

Action/ Strategy	Responsibility	Timing
<b>Responding to Land Use and Development</b>		
<b>1. Modifications to Town Planning Scheme</b>		
a. Ensure the new Town Planning Scheme Mapping incorporates the areas at risk of coastal inundation and coastal erosion within a 'Special Control Area'.	SDWK	2018
b. Develop suitable objectives and development controls for the 'Special Control Area' and incorporate within the new Town Planning Scheme Text.	SDWK	2018
<b>2. Development of Local Planning Policy</b>		
a. Liaise with other local government authorities and the West Australian Local Government Association to understand the suitability development controls to manage coastal inundation.	SDWK	2017
b. Development a Local Planning Policy to guide the assessment of development applications for properties at risk of coastal inundation.	SDWK	2017
<b>3. Implementation of Notifications on Title</b>		
a. Develop suitable notifications which consider the range and extent of coastal hazards impacting properties.	SDWK	2017
b. Peer review the proposed notifications to determine extent to mitigate liability and equitability for landowners.	SDWK	2017
c. Implement Notifications on Title through the assessment of development applications.	SDWK	Ongoing
<b>4. Property Settlement Enquires</b>		
a. Identify coastal hazards on Property Settlement Enquiries.	SDWK	Ongoing
<b>Asset Management</b>		
<b>1. Asset Management</b>		
a. Incorporate the identified coastal hazard risk within current asset management planning	SDWK	2017
b. When considering maintenance and/ or development of new assets ensure coastal hazards are considered and suitable adaption/ management actions implemented.	SDWK	Ongoing
c. Establish a coastal hazard adaptation and management fund to provide mechanism to allocating funding when and if required.	SDWK	2017
<b>Improving Knowledge and Awareness</b>		
<b>1. Monitoring/ Examination</b>		
a. Establish multiagency reference group to outline a scope of works consistent with SPP2.6	SDWK	2017
b. Undertake reference group meeting(s) to development scope of works including where, when and how monitoring and investigation should be undertaken.	SDWK & Reference Group	2017 - 2018
c. Finalise scope of works and indicative costings and apply for funding from CMPAP and/ or CAP.	SDWK	2018
d. Appoint consultant team and implement monitoring/ examination.	SDWK & Consultant Team	2018 - 2022
<b>2. Communication Program</b>		
a. Approve CHRMAP and upload documents to Shire website.	SDWK	2017
b. Prepare and distribute CHRMAP project summary and FAQ.	SDWK	2017
c. Presentation within Local Emergency Management Committee (LEMC) to share information and discuss opportunities for ongoing monitoring and information sharing.	SDWK & LEMC	2017
d. Develop Community Awareness Plan to: <ul style="list-style-type: none"> <li>- Strengthen profile of coastal hazards and climate change within the community.</li> <li>- Increase awareness of businesses and property owners at risk of coastal hazards to increase preparation</li> <li>- Establish/ strengthen relationships with community members/ groups to facilitate monitoring activities,</li> <li>- raise awareness of adaptation options.</li> </ul>	SDWK	2017 - 2022
<b>3. Ensure local strategies/ plans incorporate coastal hazard risk.</b>		
Incorporate measurable actions within the Shire's Strategic Community Plan in regards to: <ul style="list-style-type: none"> <li>- Increased community awareness of coastal hazards.</li> <li>- Inclusion of coastal hazards within asset management.</li> <li>- Ongoing monitoring and examination of coastal hazards.</li> </ul>	SDWK	2017 - 2018
<b>4. Review and update CHRMAP</b>		
a. Collate existing information and prepare scope of works to undertake review of CHRMAP	SDWK	2021
b. Apply for funding from CMPAP and/ or CAP to appoint a suitably qualified consultant team to review the CHRMAP.	SDWK	2021
c. Prepare Request for Tender, appoint consultant team and undertake review of the CHRMAP.	SDWK & Appointed Consultant	2022

**SUMMARY:**

In response to State Planning Policy 2.6 – State Coastal Planning, the Shire of Derby West / Kimberley (Shire) engaged a consultant team to undertake a Coastal Vulnerability Study (CVS) over the Derby town site and immediate surrounds. The CVS collated the findings of various technical reports and identified potential coastal erosion and coastal inundation hazards impacting the study area over the 100-year planning timeframe.

It must be noted that the CVS was undertaken in response to SPP2.6 rather than in response to a local concern of coastal hazards. This Coastal Hazard Risk Management and Adaption Plan (CHRMAP) has been prepared to provide management and adaptation actions to address the potential coastal hazards identified within the CVS. The preparation of this CHRMAP is consistent with the methodology outlined within SPP2.6 and the supporting Coastal Hazard Risk Management and Adaptation Planning Guidelines (Costal Guidelines). In addition to the State Planning Policy Framework, the proposed management and adaptation responses have been developed in recognition of the unique social, environmental, economic and governance factors.

As previously highlighted, the CHRMAP has now been reviewed by DPLH who have confirmed that the CHRMAP is acceptable and hence approved.

Having regard to the matters outlined above, it is the recommendation of the Administration that the Council receives the CHRMAP.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council:**

**Endorses and adopts the Derby Coastal Hazard Risk Management and Adaption Plan.**

## 10.1.4 TELECOMMUNICATION BASE STATION FACILITY – YUNGNORA COMMUNITY

<b>Location/Address:</b>	Portion Lot 10 Calywynyardah-Noonkanbah Road, Mount Hardman (Lot 64 Yungnora Community Layout Plan No.2)
<b>Name of Applicant:</b>	Telstra Corporation Ltd C/- Visionstream Pty Ltd
<b>File Reference:</b>	A500320
<b>Author:</b>	Noel Myers – Manager Planning Services
<b>Responsible Officer:</b>	Stephen Gash – Chief Executive Officer
<b>Disclosure of any Interest:</b>	None
<b>Date of Report:</b>	21 November 2017
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Site Plan</li> <li>2. Plans</li> <li>3. Environmental EME Reports</li> </ol>
<b>Authority/Discretion:</b>	Administrative

### SUMMARY:

Visionstream have lodged application with Council for the installation of a new telecommunications tower at the Yungnora Community.

### BACKGROUND:

The project involves the installation of a 41.85m high lattice tower with associated panel antennas, equipment shelter and fencing. The tower is being installed on behalf of Telstra as part of their Mobile Blackspot Program that is being rolled out to improve regional mobile coverage.

The tower is to be located within the Yungnora Community on a vacant site that is nominated for Public Utility use within the Yungnora Community Layout Plan No.2.

### STATUTORY ENVIRONMENT:

The installation of communications infrastructure is undertaken with regard to:

- ) Statement of Planning Policy 5.2 Telecommunications Infrastructure; (WAPC)
- ) Telecommunications Act 1997;
- ) SDWK Interim Development Order No.8; and
- ) Yungnora Community Layout Plan.
- ) State Planning Policy 3.7 – Planning for Bushfire Prone Areas

The proposal has been assessed against the various guiding principles for the location and development of telecommunications infrastructure as set out within SPP5.2 and also the Yungnora Community Layout Plan No.2.

**Interim Development Order No.8 (IDO No.8):**

IDO No.8 enables the Council to call in and issue development approvals for certain classes of development. Part 6 of IDO No.8 identifies that the construction of any single residential dwelling that is consistent with an approved Layout Plan. There is no exemption under the IDO for telecommunications infrastructure. Notwithstanding the proposed location is considered to be appropriate from the perspective of proper and orderly planning.

**Telecommunications Act 1997 (TACT 1997):**

The Telecommunications (Low Impact Facilities) Determination 1997 works in parallel with the TACT 1997 to ascertain if a facility is deemed to be a low impact facility. Low impact facilities are those that are unlikely to cause significant community disruption during their installation or operation. Typically this definition applies to antennas and the like that are affixed to existing towers, buildings and the like. The subject proposal that includes the construction of a 41m high tower does not meet the low impact definition and therefore is not exempt from approval and must obtain Development Approval from the local government once regard is had to the relevant policy framework.

**State Planning Policy 3.7 – Planning in Bush Fire Prone Areas (SPP3.7):**

The Yungnora Community is wholly identified as being in a bush fire prone area as mapped by Department Fire and Emergency Services (DFES) Bushfire Prone Areas Mapping. The Map of Bush Fire Prone Areas (Map) identifies properties that are subject to, or likely to be subject to bush fire attack. These areas are identified by the presence of and proximity to bushfire prone vegetation. Those areas designated as bush fire prone include a 100 metre buffer from the bushfire prone vegetation.

SPP3.7 provides the foundation for land use planning to address bushfire risk management in Western Australia. Strategic planning documents or proposals, subdivision and development applications within a bushfire prone area need to demonstrate that proposal can proceed without causing danger to lives and property against the threat of bushfires.

Notwithstanding the classification of a site being designated as being within a bush fire prone area, there are certain exemptions from the requirements of SPP 3.7 and the deemed provisions of the Planning regulations should be applied pragmatically by the decision maker. Planning Bulletin No. 111/2016 issued by the WAPC provides guidance notes on the implementation of SPP3.7.

In particular, the Planning Bulletin notes: *If the proposal does not result in the intensification of development (or land use), does not result in an increase of residents or employees; or does not involve the occupation of employees on site for any considerable amount of time, then there may not be any practicable reason to require a BAL Assessment. Exemptions may apply to infrastructure including roads, telecommunications and dams; and to rural activities, including piggeries and*

*chicken farms which do not involve employees on site for a considerable amount of time.*

The subject application would be regarded as meeting the criteria that would make it exempt from the requirements of SPP3.7. Mobile phone stations operate automatically and would only require staff to attend intermittently to undertake repairs or upgrades. Given the nature of the proposal, its proposed location and the manner it will be operated it is a reasonable and considered judgement that the construction of the facility will not create a bushfire risk and the application can be reasonably exempted from having to comply with the requirements of SPP3.7.

**Health and Safety:**

The subject facility is to ultimately be operated by Telstra who along with all mobile phone carriers must strictly adhere to Commonwealth legislation and regulations regarding mobile phone facilities and equipment administered by the Australian Communications and Media Authority (ACMA).

The ACMA set a technical standard for continuous exposure of the general public to emissions from mobile base stations. The Standard operates by placing a limit on the strength of a signal that can be transmitted to and from a base station. As such, the general public health standard is not based on distance limitations or the creation of buffer zones, rather the environmental standard restricts the signal strength to a level low enough to protect everyone at all times and it has a significant safety margin or precautionary approach built into it. The assessment of the signal strength (EME) that this facility will emit has been assessed at 0.25% of the public exposure limit and thus the maximum environmental EME level predicted from this proposed facility is substantially within the allowable limit under the prevailing health standards (ARPANSA).

A copy of the Environmental EME Report on the site has been provided by the applicant along with an information form on Communications Towers, Radio Transmitters and Safety issued from Department of Communications.

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

N/A

**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>2.1:</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:**

It is Administration’s view that there are minimal risks to Council and the Shire’s business function when Council exercises its discretionary power to determine a planning application.

**CONSULTATION:**

It is usual practice that a development of this nature would be advertised to surrounding property owners and a period would be provided submission for public submissions to be made.

In the current situation, the land owner is Yungnora Association Inc. and a copy of the executed ground lease has been provided as evidence of the agreement of the land owner for the development to proceed. As the overall landowner and responsible authority for the community, it would be incumbent upon the Yungnora Community Council as to how they chose to disseminate information to the residents of community about the proposal.

**COMMENT:**

The proposal is deemed to meet with the principles that generally seek to minimise the impact that telecommunications facilities can have on an area. The subject site is appropriately located and close to other existing community infrastructure including the elevated water tower/tank and is well setback from sensitive uses, will achieve the desired coverage objectives for the area and operates within the regulatory framework of the commonwealth, state and local government.

The proposed location is located over 300m from the community school and located toward the western periphery of the community. Future land releases and housing are orientated toward the eastern boundary of the community and therefore the structure should continue to enjoy good separation from the creep of sensitive land uses.

The installation of the new infrastructure will have a direct benefit by providing more reliable telecommunications to the Yungnora community and surrounding areas. The

proposed works will provide the community with 4G access which in turn supports the various rural and tourist industries in the region.

The assessment of the proposal demonstrates that the proposal represents sound and proper town planning considerations.

Having regard to the above, it will be the recommendation of the Administration that Council Grants Development Approval for the proposed Telecommunications Facility.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council approves development approval for the proposed Telecommunications Facility consisting of a 41.85m high lattice tower, triangular headframe, six panel antennas, six remote radio units, equipment shelter, cabling and security perimeter fencing - on portion of Lot 10 Calwynyardah-Nooknabah Road, Mount Hardman (also known as Lot 64 on Yungnora Layout Plan No.2).**

## 10.2 CORPORATE SERVICES

### 10.2.1 ACCOUNTS FOR PAYMENT – OCTOBER 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, Director Corporate and Community Services
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	21 November 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 October 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
<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	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 2017-18 Annual Budget as adopted by Council at its meeting held 31 August 2017 (Minute No. 097/2017 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 October 2017. Lists detailing the payments made are appended as an attachment.

FUND	DETAILS	AMOUNT
<b>Municipal Account</b>		
EFT Payments	EP# 43026 – EP# 43208	\$1,854,990.88
Municipal Cheques	54664 – 54675	\$108,099.82
Direct Debits	Fees, Charges, Credit Card Payments, Payroll and Payroll Liabilities	\$603,178.90
Manual Cheques	Nil	\$0
<b>Trust Account</b>		
Trust Cheques	006482 – 006487	\$15,695.05
	<b>Total</b>	<b>\$2,581,964.65</b>

Creditor's outstanding as at 31 October 2017 totalled \$759,495.95.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council NOTES the Chief Executive Officer's list of accounts for October 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 \$2,581,964.65.**

## **10.2.2 STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 31 OCTOBER 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>	21 November 2017
<b>Attachments:</b>	2. Monthly Financial Report October 2017
<b>Authority/Discretion:</b>	Information

### **SUMMARY:**

For Council to note the statement of financial activity for the period ended 31 October 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 31 October 2017.

### **BACKGROUND:**

At its meeting held 31 August 2017 (Minute No. 097/2017 refers), Council adopted the annual budget for the 2017-18 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 2018 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 31 October 2017.

- ) Summary Graphs – Financial Activity
- ) Statement of Financial Activity by Program
- ) Statement of Financial Activity by Nature or Type
- ) Notes –
  - ) Significant Accounting Policies
  - ) Net Current Funding Position
  - ) Capital – Acquisitions, Funding and Disposal
  - ) Cash and Investments
  - ) Receivables
  - ) Payables
  - ) Cash Backed Reserves
  - ) Rating Information
  - ) Information on Borrowings
  - ) Grants and Contributions
  - ) Budget Amendments
  - ) Trust Fund
  - ) Material Variances

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 31 August 2017, the Council adopted (Minute No. 097/2017 part 7 refers) the following material variance reporting threshold for the 2017-18 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 2017-18 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 31 October 2017 has been incurred in accordance with the 2017-18 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	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> 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.

The Statement of Financial Activity is presented monthly, being generated by our off-site Accountants, Moore Stephens, and then printed in our office.

Once the reports are received by Moore Stephens, comments are added to various sections of the report to provide additional information or explanation. Explanations for any material variance identified in the reports are provided in Note 13 – Explanation of material Variances.

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That Council NOTES the Monthly Financial Management Report incorporating the Statement of Financial Activity for the period ending 31 October 2017 forming Attachment 2 to Report 10.2.2.**



**10.2.3 REVIEW OF ORDINARY COUNCIL MEETING SCHEDULE FOR 2018**

<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	Shire of Derby/West Kimberley
<b>File Reference:</b>	4150 – Meeting Procedures
<b>Author:</b>	Martin Cuthbert - Director Corporate and Community Services
<b>Responsible Officer:</b>	Stephen Gash - Chief Executive Officer
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	16 October 2017
<b>Attachments:</b>	Nil
<b>Authority/Discretion:</b>	Administrative

**SUMMARY:**

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

**BACKGROUND:**

At the Ordinary Meeting of Council held on 24 November 2016, Council determined its meeting dates up to and including the 14 December 2017, and will now need to consider meeting dates for the next 12 months in accordance with the *Local Government (Administration) Regulations 1996*. It is recommended that Council continue holding its Ordinary Meetings of Council on the last Thursday of each month (excluding January when Council is in recess).

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

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

With regard to the December 2018 meeting, it is proposed to hold it on the second Thursday of the month, being 13 December 2018, as opposed to the last Thursday, being 27 December 2018, to ensure availability of Elected Members in the lead up to the Christmas holiday period.

The Easter holiday period for 2018 commences Friday 30 March. Therefore the Ordinary Council Meetings for both March and April can remain on the standard last Thursday of the month.

**STATUTORY ENVIRONMENT:**

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

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

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

*(a) the ordinary council meetings; and*

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

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

**POLICY IMPLICATIONS:**

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

**FINANCIAL IMPLICATIONS:**

Nil

**STRATEGIC IMPLICATIONS:**

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

**RISK MANAGEMENT CONSIDERATIONS:**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<p><b>Legal and Compliance:</b>                      Local Public Notice is not given of the dates and times at which the Ordinary Council Meetings will be held.                      Failure to set and advertise meeting dates will contravene the requirements of the <i>Local Government Act 1995</i></p>	<p>Unlikely</p>	<p>Moderate</p>	<p>Medium</p>	<p>Noting dates and times may be subject to change, the proposed Council and Committee Meeting times and dates are approved for the purpose of public advertising</p>

**CONSULTATION:**

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

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

**COMMENT:**

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

- ) Joint Pilbara/Kimberley Forum – 2017 Forum was held 15 – 16 May 2017;
- ) Easter is Friday 30 March 2018 – Monday 2 April 2018;
- ) Anzac Day is Wednesday 25 April 2018;
- ) National General Assembly of Local Government in Canberra – Sunday 17 June 2018 – Wednesday 20 June 2018; and
- ) Local Government Week in Perth (date not yet announced but traditionally held in the first week of August).

The following is a list of public holidays for Western Australia in 2018:

**WESTERN AUSTRALIA PUBLIC HOLIDAYS 2018**

Holiday	Date	Holiday Type	Area
New Year's Day	Monday 1 January	Public	WA Wide
Australia Day	Friday 26 January	Public	WA Wide
Labour Day	Monday 5 March	Public	WA Wide
Good Friday	Friday 30 March	Public	WA Wide
Easter Monday	Monday 2 April	Public	WA Wide
ANZAC Day	Wednesday 25 April	Public	WA Wide
Western Australia Day	Monday 4 June	Public	WA Wide
Queen's Birthday*	Monday 24 September	Public	WA Most Areas
Christmas Day	Tuesday 25 December	Public	WA Wide
Boxing Day	Wednesday 26 December	Public	WA Wide

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

**VOTING REQUIREMENT:**

Simple majority

**OFFICER RECOMMENDATION:**

**That with respect to the 2018 Ordinary Meeting of Council Schedule, Council:**

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

<b>2. DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>VENUE</b>
January	Council in Recess		
Thursday	22 February	5.30pm	Council Chambers, Derby
Thursday	29 March	1.00pm	Karrayili Adult Education Centre, Fitzroy Crossing
Thursday	26 April	5.30pm	Council Chambers, Derby
Thursday	31 May	5.30pm	Council Chambers, Derby
Thursday	28 June	1.00pm	Karrayili Adult Education Centre, Fitzroy Crossing
Thursday	26 July	5.30pm	Council Chambers, Derby
Thursday	30 August	5.30pm	Council Chambers, Derby
Thursday	27 September	1.00pm	Council Chambers, Derby
Thursday	25 October	5.30pm	Council Chambers, Derby
Thursday	29 November	1.00pm	Karrayili Adult Education Centre, Fitzroy Crossing
Thursday	13 December	5.30pm	Council Chambers, Derby

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

**4. NOTE that community meetings by Council will now be part of the forum/briefing session schedule to allow more flexible scheduling and all communities will be invited to express interest in hosting a Council Forum for 2018.**

### 13.2.4 REPRESENTATION ON COMMITTEES AND WORKING PARTIES/GROUPS

<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	Shire of Derby/West Kimberley
<b>File Reference:</b>	4285 – Nominations and Appointments to Committees
<b>Author:</b>	Martin Cuthbert, Director Corporate and Community Services
<b>Responsible Officer:</b>	Stephen Gash, Chief Executive Officer
<b>Disclosure of any Interest:</b>	Nil
<b>Date of Report:</b>	16 October 2017
<b>Attachments:</b>	Nil
<b>Authority/Discretion:</b>	Administrative

#### SUMMARY:

As a result of the recent Local Government election held on 21 October, 2017, membership of Elected Members to various Council appointed committees was declared vacant. There are 4 current committees established in this manner and their status is outlined in the Comment section of this report:-

- ) CEO Performance Review Committee
- ) Compliance and Strategic Review Committee
- ) Housing and Works Committee
- ) Shire of Derby West Kimberley Recovery Committee

It would also be prudent at this time to review membership of external committees requiring Elected Member representation, as well as membership to the working parties/groups Council has previously formed to assist on various issues.

#### BACKGROUND:

The last full review of committee representation was at the meeting of Council held 29 October, 2015. There have been various bodies established since that time, which are detailed in this report. Such representation requires review in light of the recent Council elections.

#### STATUTORY ENVIRONMENT:

*Local Government Act 1995 Subdivision 2 – Committees and their meetings*

*Section 5.8 Establishment of committees*

*A local government may establish\* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

*\* Absolute majority required.*

### **5.9. Committees, types of**

*In this section – other person means a person who is not a council member or an employee.*

*A committee is to comprise –*

- (a) council members only; or*
- (b) council members and employees; or*
- (c) council members, employees and other persons; or*
- (d) council members and other persons; or*
- (e) employees and other persons; or*
- (f) other persons only.*

### **5.10. Committee members, appointment of**

*A committee is to have as its members –*

- (a) persons appointed\* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
- (b) persons who are appointed to be members of the committee under subsection (4) or (5).*

*\*Absolute majority required.*

*At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or*

*(b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*

- (3) Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or*

*her wish to be a member of the committee, the local government is to appoint the major or president to be a member of the committee.*

*(5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish –*

*(a) to be a member of the committee; or*

*(b) that a representative of the CEO be a member of the committee, the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.*

#### **5.11A. Deputy committee members**

*(1) The local government may appoint\* a person to be a deputy of a member of a committee and may terminate such an appointment\* at any time.*

*\*Absolute majority required.*

*(2) A person who is appointed as a deputy of a member of a committee is to be*

*(a) if the member of the committee is a council member – a council member; or*

*(b) if the member of the committee is an employee – an employee; or*

*(c) if the member of the committee is not a council member or an employee – a person who is not a council member or an employee; or*

*(d) if the member of the committee is a person appointed under section 5.10(5) – a person nominated by the CEO.*

*A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.*

*A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.*

#### **5.11. Committee membership, tenure of**

*Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until –*

*(a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or*

*(b) the person resigns from membership of the committee; or*

*(c) the committee is disbanded; or*

*(d) the next ordinary elections day, whichever happens first.*

*(2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person’s membership of the committee continues until –*

*(a) the term of the person’s appointment as a committee member expires; or*

*(b) the local government removes the person from the office or committee member or the office of committee member otherwise becomes vacant; or*

*(c) the committee is disbanded; or*

*(d) the next ordinary elections day. whichever happens first.*

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil

**STRATEGIC IMPLICATIONS:**

<b>GOAL</b>	<b>OUTCOME</b>	<b>STRATEGY</b>
<p><b>Goal 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>Outcome 4.1:</b> Effective governance and leadership</p>	<p><b>Strategy 4.1.1:</b> Provide leadership in balancing the needs of the community, government, industry and the environment</p>
<p><b>Goal 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>Outcome 4.1:</b> Effective governance and leadership</p>	<p><b>Strategy 4.1.2:</b> Support strategic alliances, stakeholder forums and advisory committees that assist the Shire in policy development and service planning</p>
<p><b>Goal 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>Outcome 4.1:</b> Effective governance and leadership</p>	<p><b>Strategy 4.1.3:</b> Strengthen the governance role of Councillors by informing, resourcing, skilling and supporting their role</p>



**RISK MANAGEMENT CONSIDERATIONS:**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<p><b>Business Operation:</b> Members are not appointed to Committees</p>	Unlikely	Moderate	Medium	Elected Members are appointed to Committees at a future Council meeting Officer reports and recommendations will be considered by Council at Ordinary Council Meetings

**CONSULTATION:**

Nil

**COMMENT:**

Establishment of committees requires an absolute majority decision of Council. When Council establishes a committee it is required to detail what authority (if any) is delegated to that committee. A formal committee established in this manner is required to observe Council’s Standing Orders and the *Local Government Act 1995* in its meetings: for example all meetings are required to be advertised, produce a formal agenda and minutes, and include a public question time.

An acceptable alternative to the establishment of committees per the *Local Government Act 1995* is the formation of working parties, working groups, or teams. Such bodies are not delegated specific authority from Council and therefore act as an advisory body only. Recommendations from such bodies are presented to Council through officer reports.

Somewhat confusingly there are also bodies that have been previously established by Council which are referred to as ‘committees’, but are not established per the *Local Government Act 1995*.

The following information details the various committees that Council has established or is represented upon. Council is requested to review its representation on such bodies, whether to disband some internal working parties and to nominate elected members to those bodies to which Council wishes to continue providing representation.

Council Committees (formed per s5.8 of the *Local Government Act 1995*)

CEO Performance Review Committee (prior to 21 October, 2017 – Crs Archer, White, Oscar, Kloss and Prouse): originally established in January 2002, the Committee undertakes the performance review of the CEO and negotiates changes to the CEO’s contract of employment for subsequent Council approval.

Compliance and Strategic Review Committee, formally Audit Committee and Policy Review Committee (prior to 21 October, 2017 – Crs Archer, Twaddle, White and Prouse) established in May, 2005 to comply with legislation and to oversee financial issues. Change of Committee name and Terms of Reference occurred in March 2015 to reflect changes to the *Local Government (Audit) Regulations 1996* to expand the focus of the Committee to provide effective corporate governance through the review of systems and procedures relating to risk management, internal control and legislative compliance.

Shire of Derby West Kimberley Recovery Committee (prior to 21 October, 2017 – Crs Archer, Twaddle, Coggins and McCumstie) originally established in March, 2013 to oversee local government procedures following an emergency event.

Housing and Works Committee (prior to 21 October, 2017 – Crs Archer, White, Twaddle, CEO Stephen Gash and DTDS Wayne Neate) established in August 2015 to prioritise works in accordance with the Shires asset management principles and the *Local Government Act 1995*. The Committee has delegated authority to allocated funds from specific accounts identified within the Terms of Reference.

### External Representation

Listed below are the external committees/organisations to which Council currently provides representation. In brackets are the names of the Councillors who represented Council prior to 21 October, 2017:-

ORGANISATION	REPRESENTATIVE/S
Derby Visitor Centre Board of Management	Cr P Coggins
Pastoralists and Graziers Assoc.	Cr A Twaddle Proxy – Cr C Kloss
Kimberley Zone Control Authority	Cr A Twaddle
Derby Chamber of Commerce/Small Business Centre	Cr A Twaddle
Land Conservation District Committees West and North Kimberley	Cr C Kloss
Regional Roads Group	Cr P White Proxy – P Coggins
Fitzroy Futures Governing Committee	Cr J Oscar
Derby Aboriginal Health Service – Local Advisory Committee	Cr E Archer
District Health Advisory Council – Derby	Cr E Archer Proxy Cr P McCumstie
District Health Advisory Council – Fitzroy Crossing	Cr J Oscar Proxy – Cr A Kogolo

WALGA Kimberley Country Zone	Cr E Archer (Member) Cr P White (Deputy Member)
Regional Collaborative Group Board	Cr E Archer (Member) Cr P White (Deputy Member)
Local Government Development Assessment Panel	Cr A Twaddle (Member 1) Cr P Coggins (Member 2) Cr P White (Proxy 1) Cr C Kloss (Proxy 2)

### Working Parties/Working Groups

There are a number of working parties which Council has previously formed. Councillors appointed prior to 21 October, 2017 are shown in brackets:

Native Title Working Party (Crs E Archer, I Prouse and J Oscar); established in March 2003 this working party was formed to advise Council on native title matters and claims.

Community Grants Working Group (Crs E Archer, C Kloss and P Coggins); established April, 2010. The Working Group was formed to assist with the consideration and prioritisation of annual community grant applications.

Ports Project Group (Crs E Archer, P White, A Twaddle, P McCumstie and P Coggins). Formed in 2013 to guide the direction of the three strategic ports projects the Shire has involvement with.

Kimberley Planning Infrastructure Framework (KPIF) Working Group (Crs E Archer, I Prouse, CEO Stephen Gash and Shire Planner Noel Myers) formed 15 May 2014 to review the Draft Kimberley Regional Planning and Infrastructure Framework Summary – March 2014 and provide feedback to the Western Australian Planning Commission.

### Additional Portfolios

Prior to 21 October, 2017 nominated elected members also had responsibility for the following general portfolios which do not come under the headings as listed above:-

ORGANISATION	REPRESENTATIVE/S
Youth Affairs – Derby	Cr I Prouse
Youth Affairs – Fitzroy Crossing	Cr J Oscar
Aged and Seniors – Derby	Cr P White
Aged and Seniors – Fitzroy Crossing	Cr A Kogolo
Education – Derby	Cr P White
Education – Fitzroy Crossing	Cr J Oscar

Community Safety and Crime Prevention	Cr C Kloss
Community Safety and Crime Prevention	Cr J Oscar
Sport and Recreation – Derby	Cr P Coggins
Sport and Recreation – Fitzroy Crossing	Cr A Kogolo
Regional Prison Reference Group	Cr P White
Mining and Exploration	Crs P White and P McCumstie
Derby Volunteer Marine Rescue Group	Crs A Twaddle and P McCumstie
Derby Aboriginal Short Stay Accommodation Advisory Group	Cr E Archer

### Kimberley Development Commission Board Nomination

Council has received a request from the Kimberley Development Commission seeking nominations for one (1) local government representative on its Board. In accordance with the *Regional Development Commission's Act 1993*, nominees for the vacancy must be members of the Council of a local government in the region and are to be nominated by Local Governments in the region.

The four Kimberley local governments are each invited to nominate two Councillors.

Cr E Archer has been the Local Government Representative from 2012 to 2017.

### Kimberley Zone Representatives

The Shire of Derby/West Kimberley is currently represented by Cr E Archer and Cr P White. This item is seeking nominations of representatives. Noting a WALGA State Council representative needs to be a Zone Delegate.

### **VOTING REQUIREMENT:**

Absolute majority.

**OFFICER RECOMMENDATION:**

**That all Elected Member representation prior to 21 October, 2017 on Council Committees, External Committees/Organisations, Internal Working Parties/Groups and Miscellaneous Portfolios be dissolved.**

**COUNCIL COMMITTEES**

**CEO Performance Review Committee (no delegated power)**

**That by Absolute Majority Council APPOINTS all Elected Members to the CEO Performance Review Committee.**

**Compliance and Strategic Review Committee (no delegated power)**

**That by Absolute Majority Council APPROVES four elected members to be appointed to the Compliance and Strategic Review Committee.**

**That by Absolute Majority Council APPOINTS the following Elected Members to Compliance and Strategic Review Committee. (Note. This action appoints the Councillors to the Committee).**

**Cr G Haerewa**

**Cr A Twaddle**

**Cr P White**

**Cr C Kloss**

**Building and Works Committee (has delegated power)**

**That by Absolute Majority Council APPOINTS the following Elected Members and Staff to Shire of Derby West Kimberley Recovery Committee. (Note. This action appoints the Councillors to the Committee).**

**Cr G Haerewa**

**Cr A Twaddle**

**Cr P Coggins**

**CEO, Stephen Gash**

**DTDS, Wayne Neate**

**EXTERNAL REPRESENTATION – COMMITTEES/ORGANISATIONS**

**That Council APPROVES the nomination of the following Elected Members to the external Committees/Organisations as detailed below:**

**Kimberley Zone Representatives**

**Member: Cr G Haerewa**

**Deputy Member: Cr P White**

**Proxy: Cr C Kloss**

**Proxy: Cr G Davis**

**Regional Collaborative Group Board**

**Member: Cr G Haerewa**

**Deputy Member: Cr P White**

**Proxy: Cr C Kloss**

**Proxy: Cr G Davis**

**Kimberley Development Commission Board Nomination**

**Cr G Haerewa**

**Cr G Davis**

**Local Government Development Assessment Panel (DAP)**

**Member 1: Cr A Twaddle**

**Member 2: Cr P Coggins**

**Proxy 1: Cr P White**

**Proxy 2: Cr C Kloss**

**Regional Roads Group**

**Member: Cr P White**

**Proxy: Cr G Haerewa**

**Proxy: Cr G Davis**

**Derby Visitors Centre Board of Management**

**Cr C Kloss**

**Pastoralists and Graziers Association**

**Kimberley Zone Control Authority**

**Land Conservation District Committee (West Kimberley and North Kimberley)**

**Cr A Twaddle**

**Derby Chamber of Commerce/Small Business Centre**

**Cr G Haerewa**

**Cr A Twaddle**

**Fitzroy Futures Governing Committee**

**Cr G Davis**

**Cr D Andrews**

**Derby Aboriginal Health Service – Local Advisory Committee**

**Cr P McCumstie**

**District Health Advisory Council for Derby**

**Cr P McCumstie**

**Proxy: Cr G Haerewa**

**District Health Advisory Council for Fitzroy Crossing**

**Cr D Andrews**

**Proxy: Cr G Davis**

**Roadwise Committee**

**Cr C Kloss**

**Local Emergency Management Committee (LEMC)**

**Cr G Haerewa**

**Liquor Accord**

**Cr C Kloss**

**Womens Shelter**

**Cr I Prouse**



**MISCELLANEOUS PORTFOLIOS**

**Youth Affairs**

**Derby**

**Cr I Prouse**

**Proxy: Cr P McCumstie**

**Fitzroy Crossing**

**Cr G Davis**

**Proxy: Cr D Andrews**

**Aged and Seniors**

**Cr P White**

**Education**

**Derby**

**Cr I Prouse**

**Proxy: Cr G Haerewa**

**Education and Sport and Recreation – Fitzroy Crossing**

**Cr G Davis**

**Proxy: Cr D Andrews**

**Sport and Recreation – Derby**

**Cr P Coggins**

**Proxy: Cr P McCumstie**

**Regional Prison**

**Cr P McCumstie**

**Proxy: Cr G Haerewa**

**Mining and Exploration**

**All Councillors**

**Derby Volunteer Marine Rescue Group**

**Cr A Twaddle**

**Proxy: P Coggins**

**13.3 TECHNICAL SERVICES**

Nil

**13.4 DEVELOPMENT SERVICES**

**13.4.1 APPLICATION FOR TRADERS PERMIT – AMPORN’S THAI FOOD (FOOD VAN)**

<b>Location/Address:</b>	Reserve 25977 Lot 85, Durack Street, Camballin (Camballin Campers Base)
<b>Name of Applicant:</b>	Amporn Promkhan and Lance Singh
<b>File Reference:</b>	7072 – Permits – Traders
<b>Author:</b>	Taryn Dyer, 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>	16 October 2017
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Amporn’s Thai Food – written submission, Looma Community Inc. Council land approval Letter of support to allow Thai Food Van to be operational in Camballin WA 6728</li> <li>2. Consultation responses,</li> <li>3. Food Act 2008 Certificate of Registration of A Food Business for Amporn’s Thai Food (Mobile Food Vehicle BM 12681)</li> </ol>
<b>Authority/Discretion:</b>	Administrative

**SUMMARY:**

The purpose of this agenda item is for Council to consider a proposal made by Amporn Promkhan and Lance Singh, proprietors of the food business Amporn's Thai Food, for a Traders Permit to operate the mobile food business selling Thai take-away meals from the specified location of the Camballin Campers Base located at Lot 85 Durack Street, Camballin.

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

**BACKGROUND:**

The mobile food business, Amporn's Thai Food, is currently based in Camballin and is registered as a Medium Risk Food Business with the Shire of Derby/West Kimberley pursuant to the *Food Act 2008*. As per the current registration certificate, the business is permitted to store, prepare and sell a range of Thai Style takeaway foods including fried rice, steamed rice, curry puffs, spring rolls, satay, noodles, stir fry, chicken and pork Penang curries and other meat and vegetable Thai curries, from a vehicle with the registration BM 12681. Amporn's Thai Food proposal identified the Camballin Campers Base as the potential trading location that would require a Traders Permit under the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*. The proposed location and trading times are outlined below:

Location	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Camballin Campers Base	4.30pm – 8.30pm	4.30pm – 8.30pm	4.30pm – 8.30pm	4.30pm – 8.30pm	4.30pm – 8.30pm	4.30pm – 8.30pm	4.30pm – 8.30pm

A letter of support to allow Thai food to be operational in Camballin WA 6728 has been received with 34 signatures from people in the surrounding area of Looma, Jarlmadangah and Camballin in support of the proposal. Land use permission has been given by Looma Community Inc. who are the registered property owners of Camballin Campers Base by way of formal letter addressed to the Councillors of the Shire of Derby/West Kimberley.

It is proposed that additional storage room of a large chest freezer needed for Amporn's Thai Food to trade 7 days a week will occur at the house where the Registered Food Van is stored and that is 2 Coleman Street, Camballin. Section 110 of the *Food Act 2008* states that the appropriate enforcement agency (the Shire in this instance) may register a food business in respect of any premises. This means that the food business itself is registered – not the food premises and therefore gives the ability to condition the current Certificate of Registration of a Food Business for Amporn's Thai Food to include storage at 2 Coleman Street, Camballin.

**STATUTORY ENVIRONMENT:**

- ) *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*
- ) *Food Act 2008*
- ) Australian New Zealand Food Standards Code
- ) Interim Development Order No.8

**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
<b>1:</b> Community wellbeing A diverse, caring and safe community providing opportunities for all its people	<b>1.2:</b> Public Health and environmental health protection	<b>1.2.3:</b> Undertake food safety and public health promotion

**RISK MANAGEMENT CONSIDERATIONS:**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Environment:</b> Littering as a result of product sold from the trader	Possible	Minor	Medium	Condition permit to require trader to clean surrounding area at the end of each trading session Condition trader to provide waste bins near the trading location
<b>Reputation:</b> Negative feedback from applicants if declined a permit	Possible	Minor	Medium	Communicate the justification and reasoning to the applicant

**CONSULTATION:**

During the assessment of the trading proposal received by the Environmental Health section, the Shire’s Manager Planning Services, Director Technical and Development Services and Manager Development Services were engaged. The Manager Planning Services was also involved throughout the process and relevant comments and information have been included within this report.

The applicants, Amporn Promkhan and Lance Singh 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 Amporn's Thai Food trading proposal was sent to the Camballin Corner Store, the only relevant (to this proposal) permanent food business and stakeholder located in Camballin. Any written comments to the proposal were invited within a two week timeframe. By the close of the consultation period correspondence was received from Camballin Corner Store that did not support the proposal. It must be noted that an objection letter from Camballin Corner Store was also received prior to the consultation period. Both correspondence letters from Camballin Corner Store against the proposal have been attached.

The nature of the objections raised by Camballin Corner Store are regarding the impact that a reduction in trade which could occur from the opening of a second food business in a small township is likely to have on their business. The operating expenses of a fixed food premises are likely to be significantly higher than those of a mobile food premises meaning that any reduction in trade will impact their business greatly. The Camballin Corner Store have listed their operating expenses, potential impacts and their 20 years plus of service to the local community in Camballin and surrounding areas in the attached correspondence.

Further to this both the proponents and the owner/operators of the Camballin corner store were invited to the Council's agenda briefing meeting on the 16<sup>th</sup> November 2017 to provide further information to the Council and answer any questions Councillors may have had in regards to the proposal.

#### **COMMENT:**

##### Land use:

At present there is no statutory Local Planning Scheme that captures the Camballin townsite. Rather, development control is managed via Interim Development Order No.8. Notwithstanding the absence of a local planning scheme, land use within Camballin has evolved in a logical manner and there is a clear delineation between residential, commercial and light industrial land uses. The Camballin Campers Base is reasonably regarded as a commercial activity and is as far as practicable separated from the residential land uses.

The proposal to operate the food van from the property is considered to be complimentary and incidental to the predominate use of the site and is not uncommon that caravan parks include small shops and food outlets that service not only guests but also the surrounding area generally. As such, in the context of the Camballin townsite, the site is considered to be well suited to the proposed use and is one which may be supported from a land use perspective.

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 Camballin Campers Base (the proposed location) is within 300m of the current fixed food business Camballin Corner Store that operates from Lot 32 Durack Street. Consideration by the applicant of Amporn's Thai Food of the current trading hours of the Camballin Corner Store have been thought of as they propose to start trading from 4:30pm. As the Camballin Corner Store is not open on Monday and trading concludes at 4:30pm from Tuesday – Friday and 4pm on Saturday and Sunday the proposal is not in direct conflict with the normal operating hours of Camballin Corner Store. The menu offering of Amporn's Thai Food is specifically Thai food and therefore different to takeaway foods offered at Camballin Corner Store. Furthermore, the traders permit will be conditioned to not allow the sale of cold drinks to reduce any conflict with the existing business.

Should the proposal be accepted, the chest freezer storage area located at 2 Coleman Street for Amporn's Thai Food will be subject to an inspection by the Shire Environmental Health Officer twice per year to ensure compliance with Food Safety Standard 3.2.2 clause 6 'Food storage' of the Australian New Zealand Food Standards Code.

Given the very modest equipment and volumes of food that would be involved, the use of that property for the storage of food does not raise any concerns from a land use perspective.

It is understood that the applicant has a home market garden producing various fruit and vegetables. Their *Food Act 2008* registration will be amended so that home grown produce cannot be used in food sold under this registration. The current registration has been classified as Medium Risk and therefore seafood cannot be sold or used in food produced under this Medium Risk registration.

#### **SUMMARY:**

The Council has several options in respect to this application.

Council may support the objections to the proposal that the activity is contrary to Council Policy and/or will have an unacceptable impact upon the amenity of the area and refuse the application;

Deem that the application is consistent with Council Policy/Local Law and is located on a site that is an appropriate one from a land use perspective and approve the application.

Whilst acknowledging the objection to the proposal, it is the assessment of the Administration that the proposal is compliant with Council's policy/local law and is to be operated from a property that is suitable to the intended use. Any approval that is granted can be conditioned so that the approval can be rescinded at a future time if

the land use was deemed to be causing nuisance or unacceptable impact to the amenity of the area generally.

Having regard to the above, it is the recommendation of the Administration that Council may adopt Option 2 and approve the application subject to the conditions as set out in the officer recommendation.

#### **VOTING REQUIREMENT:**

Simple majority

#### **OFFICER RECOMMENDATION:**

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

- 1. Pursuant to Division 1, clause 6.5, subclause 1 of the Shire of Derby/West Kimberley's *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, it is recommended that Council APPROVE the application for an annual Traders Permit for Amporn's Thai Food to trade at the Camballin Campers Base located at Lot 85 Durack Street Camballin with conditions.**
- 2. Pursuant to Division 1, clause 6.6, subclause 1 of the Shire of Derby/West Kimberley's *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 at Camballin Campers Base be restricted to the following times 4:30pm – 8:30pm.**
  - b. Only food items listed in the menu provided as part of the traders permit application are to be sold. The sale of drinks is not permitted.**
  - c. If trading activities of Amporn's Thai Food are in the opinion of the Council 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.**

### **13.5 COMMUNITY DEVELOPMENT AND RECREATION SERVICES**

Nil

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

**15.0 NEW BUSINESS OF AN URGENT NATURE**

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

**16.1 DERBY PORT DEVELOPMENT AND LEASES**

Confidential agenda item to be provided under separate cover.

**17.0 CLOSURE**

**17.1 DATE OF NEXT MEETING**

The next ordinary meeting of Council will be held Thursday, 14 December 2017 at the Council Chambers, Derby.

**17.2 CLOSURE OF MEETING**

The Presiding Member closed the meeting at   pm

<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>
--