



SHIRE OF DERBY WEST KIMBERLEY

SPECIAL MEETING OF COUNCIL

**HELD IN THE COUNCIL CHAMBERS, CLARENDON STREET, DERBY, ON
THURSDAY 11 FEBRUARY, 2016.**

MINUTES

Stephen Gash
CHIEF EXECUTIVE OFFICER

Date: 11/02/2016

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Our Guiding Values

Respectful

By being helpful, friendly and supportive

Integrity

Through honesty, accountability and ethical behaviour

Leadership

By the Shire at the local and regional level and through encouragement of community leaders

Knowledgeable

By being well informed and accurate in what we do

Building Good Relationships

By being communicative, responsive and inclusive

Disclaimer

No responsibility whatsoever is implied or accepted by the Shire of Derby West Kimberley (Shire) for any act, omission or statement or intimation occurring during Council or Committee meetings.

The Shire disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or Officer of the Shire during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire.

The Shire warns that anyone who has any application lodged with the Shire must obtain and should only rely on written confirmation of the outcome of the application and any conditions attaching to the decision made by the Shire in respect of the application.

Notes for Members of the Public

PUBLIC QUESTION TIME

The Shire of Derby West Kimberley extends a warm welcome to you in attending any Shire meeting. The Shire is committed to involving the public in its decision making processes whenever possible. The ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective. The Shire sets aside a period of 'Public Question Time' to enable a member of the public to put questions. Questions should only relate to the business of the Shire and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Presiding Member may either answer the question or direct it to an Officer to answer, or it will be taken on notice.

Any comments made by a member of the public become a matter of public record as they are minuted by Council. Members of the public are advised that they are deemed to be held personally responsible and legally liable for any comments made by them that might be construed as defamatory or otherwise considered offensive by any other party.

MEETING FORMALITIES

Local Government Council meetings are governed by legislation and regulations. During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation. Members of the public shall ensure that their mobile telephone or audible pager is not switched on or used during any Shire meeting.

Members of the public are hereby advised that the use of any electronic, visual or audio recording device or instrument to record proceedings of the meeting is not permitted without the permission of the Presiding Member.

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Notes for Elected Members

NATURE OF COUNCIL'S ROLE IN DECISION MAKING

Advocacy:	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
Executive/Strategic:	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
Legislative:	Includes adopting local laws, town planning schemes and policies.
Review:	When Council reviews decisions made by Officers.
Quasi-Judicial:	When Council determines an application/matter that directly affects a person's rights and interests. The Judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits and licences (for example under the Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

ALTERNATIVE MOTIONS

Councillors wishing to make alternative motions to officer recommendations are requested to provide notice of such motions in written form to the Executive Manager Corporate Services prior to the Council Meeting.

DECLARATIONS OF INTEREST

Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences. Section 5.60A of the Local Government Act states;

"a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person."

Section 5.60B states;

“a person has a proximity interest in a matter if the matter concerns –

(a) a proposed change to a planning scheme affecting land that adjoins the person’s land; or

(b) a proposed change to the zoning or use of land that adjoins the person’s land; or

(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person’s land.”

Regulation 34C (Impartiality) states;

“interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.”

2016 MEETING DATES

At its Ordinary Meeting of Council on 29 October, 2015, Council adopted the following meeting dates for 2016;

January			Council in recess
Thursday	25 February 2016	5.30 pm	Derby
Thursday	31 March 2016	1.00 pm	Fitzroy Crossing
Thursday	28 April 2016	5.30 pm	Derby
Thursday	26 May 2016	5.30 pm	Derby
Thursday	30 June 2016	1.00 pm	Fitzroy Crossing
Thursday	28 July 2016	5.30 pm	Derby
Thursday	25 August 2016	5.30 pm	Derby
Thursday	29 September 2016	1.00 pm	Community or Station (to be advised)
Thursday	27 October 2016	5.30 pm	Derby
Thursday	24 November 2016	1.00 pm	Fitzroy Crossing
Thursday	15 December 2016	5.30 pm	Derby

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

MEETING ATTENDANCE

The following table provides information on attendance at the 2015-2016 Ordinary and Special Council Meetings;

Councillor	30 Jul 2015	27 Aug 2015	24 Sept 2015	19 Oct 2015	29 Oct 2015	26 Nov 2015	17 Dec 2015	11 Feb 2016	25 Feb 2016	31 Mar 2016	28 Apr 2016	26 May 2016	30 Jun 2016
	OCM	OCM	OCM	SCM	OCM	OCM	OCM	SCM	OCM	OCM	OCM	OCM	OCM
E Archer	✓	✓	✓	✓	✓	✓	✓						
I Prouse	✓	✓	✓	✓	✓	✓	✓						
A Twaddle	✓	✓	✓	✓	✓	✓	✓						
J Oscar	✓	✓	LOA	A	✓	✓	A						
A Kogolo	✓	✓	✓	A	A	✓	✓						
P White	Elected Oct 2015			✓	✓	✓	✓						
C Kloss	Elected Oct 2015			✓	A	✓	✓						
P Coggins	Elected Oct 2015			✓	✓	✓	✓						
P McCumstie	Elected Oct 2015			✓	✓	✓	✓						
C Travers	✓	✓	✓		Left Council 17 October 2015								

APPLICATIONS FOR LEAVE OF ABSENCE

In accordance with Section 2.25 of the Local Government Act 1995, an application for leave requires a Council resolution granting leave requested. Council may grant approval for Leave of Absence for a member for Ordinary Council Meetings for up to but not more than six consecutive meetings. The approval of the Minister is required for leave of absence greater than six ordinary Council meetings.

This approval must be by Council resolution and differs from the situation where a member records their apologies for the meeting. A failure to observe the requirements of the Act that relates to absence from meetings can lead to an elected member being disqualified should they be absent without leave for three consecutive meetings.

SHIRE OF DERBY WEST KIMBERLEY

TABLE OF CONTENTS

SPECIAL MEETING OF COUNCIL 11 FEBRUARY 2016

1.0	DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS	1
2.0	RECORD OF ATTENDANCE	1
3.0	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	2
4.0	PUBLIC QUESTION TIME	2
5.0	APPLICATIONS FOR LEAVE OF ABSENCE.....	2
6.0	PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS.....	2
7.0	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS.....	2
8.0	ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION	2
9.0	DECLARATION OF MEMBERS INTERESTS	2
9.1	DECLARATIONS OF FINANCIAL INTERESTS	2
9.2	DECLARATIONS OF PROXIMITY INTERESTS.....	2
9.3	DECLARATIONS OF IMPARTIALITY INTERESTS	2
10.0	MATTERS FOR WHICH MEETING MIGHT BE CLOSED	3
11.0	RECOMMENDATIONS AND REPORTS OF COMMITTEES	3
12.0	REPORTS	3
12.1	EXECUTIVE SERVICES.....	3
12.1.1	REQUEST FOR FINANCIAL ASSISTANCE FOR COMMERCIAL CROSSOVER.....	3
12.2	CORPORATE SERVICES.....	6
12.3	TECHNICAL SERVICES	7
12.3.1	RE-ALLOCATION OF ROADS TO RECOVERY AND FEDERAL ASSISTANCE GRANT FUNDS.....	7
12.4	DEVELOPMENT SERVICES.....	12
12.4.1	AUTHORISATION OF USE OF COMMON SEAL ON STRATA PLAN FOR LOT 1294 WOOLLYBUTT CORNER	12
12.5	COMMUNITY DEVELOPMENT AND RECREATION SERVICES	14
13.0	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	14
14.0	QUESTIONS BY MEMBERS FOR WHICH DUE NOTICE HAS BEEN GIVEN.....	14
15.0	NEW BUSINESS OF AN URGENT NATURE APPROVED BY PRESIDING PERSON OR BY DECISION OF MEETING	14
16.0	MATTERS BEHIND CLOSED DOORS	14
17.0	CLOSURE OF MEETING	14

SPECIAL COUNCIL MEETING

AGENDA

1.0 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

The Shire President declared the Meeting open at 3:02 pm.

2.0 RECORD OF ATTENDANCE

ELECTED MEMBERS:

Cr E Archer	Shire President
Cr P White	Deputy Shire President
Cr A Twaddle	Councillor
Cr P Coggins	Councillor
Cr P McCumstie	Councillor
Cr I Prouse	Councillor
Cr C Kloss	Councillor
Cr J Oscar (3:04 pm)	Councillor

STAFF:

Mr S Gash	Chief Executive Officer
Mr M Cuthbert	Executive Manager Corporate Services
Mr R Sullivan	Manager Commercial Services
Mr B Isbister	Executive Manager Community Development

VISITORS:

Mr Ron Back

GALLERY:

Sasha and Scott McArthur (left 4:05pm)

APOLOGIES:

Cr A Kogolo, Councillor
Mr W Neate, Executive
Manager Technical and
Development Services

ON LEAVE OF ABSENCE:

Nil

ABSENT:

Nil

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

There were no questions Taken on Notice at the previous Meeting.

4.0 PUBLIC QUESTION TIME

Nil.

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6.0 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS

Nil.

7.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Nil

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil.

9.0 DECLARATION OF MEMBERS INTERESTS

9.1 DECLARATIONS OF FINANCIAL INTERESTS

Nil.

9.2 DECLARATIONS OF PROXIMITY INTERESTS

Nil.

9.3 DECLARATIONS OF IMPARTIALITY INTERESTS

Nil.

10.0 MATTERS FOR WHICH MEETING MIGHT BE CLOSED

(Note: The matters that may be listed here are those considered by a Councillor or Councillors as being in addition to the items already identified by staff as needing to be considered behind closed doors.)

Nil.

11.0 RECOMMENDATIONS AND REPORTS OF COMMITTEES

Nil

12.0 REPORTS

12.1 EXECUTIVE SERVICES

12.1.1 REQUEST FOR FINANCIAL ASSISTANCE FOR COMMERCIAL CROSSOVER

Location/Address:	138 Loch Street, Derby
Name of Applicant/Owner:	Scott McArthur - BP Colac Service Station
File Reference:	A105910
Author:	Stephen Gash, Chief Executive Officer
Interest Disclosure:	Nil
Date of Report:	1 February 2016

SUMMARY:

BP Colac have made application to the Shire for financial assistance to asphalt crossovers to their property at 138 Loch Street, Derby.

BACKGROUND:

A written request was made to the Chief Executive Officer in a letter dated 12 January 2016, for financial assistance to resurface the asphalt at the front of the premises of BP Colac encompassing the area where the gazetted road meets the property. This request was for an area up to 1,000 m² but did not specify the value of the contribution or support being sought.

A review of Shire Crossover Policy W1 revealed the Chief Executive Officer does not have Delegated Authority to authorise work under this policy and the matter is referred to Council for a decision.

STATUTORY ENVIRONMENT:

Local Government Act (1995)

Main Roads WA Guide to Road Design for Driveways

POLICY IMPLICATIONS:

W1 – Crossover Policy. This policy provides crossover standards for Rural and Residential properties. There is also a provision for a Council contribution towards construction costs to be calculated at 50% of either gravel or concrete standard, any standard above concrete (i.e. brick paving) to be paid at the rate of a concrete driveway.

The SDWK crossover subsidy application form states that residential owners can apply for a subsidy for up to half of the cost of a standard crossover (1st for property) to a maximum of \$1,800.

The Crossover Policy is silent on commercial premises and also on repairs subsequent to the initial installation.

FINANCIAL IMPLICATIONS:

Estimates provided by the applicant based on a quoted area of 1,000 m² @ \$57.35 total \$57,350. The amount sought from Council has not been specified.

STRATEGIC IMPLICATIONS:

GOAL 2	OUTCOME 2.3	STRATEGY 2.3.3
A balance between the natural and built environments Sustainable natural and built environments that meet the needs of the community and support future growth	Reliable and safe transport infrastructure	Develop and implement a strategy for road kerbing, footpaths, drainage, signage and lighting

CONSULTATION:

Council’s Engineering Department have inspected the site, provided estimates on construction costs in accordance with industry practice and a history of crossover applications in the Derby townsite. Council’s Shire Planner has also been consulted, providing background on commercial developments and private works.

COMMENT:

The crossover area that is the subject of this request is shown in Figure 1 below.



Figure 1: Crossover areas subject to request for financial assistance.

Loch Street is a Main Roads controlled road whereby the Shire is responsible for the management of infrastructure outside the pavement to property boundaries in accordance with a long standing Memorandum of Understanding.

Council's Crossover Policy provides for residential crossovers, however is silent on those to commercial premises. Council has not previously subsidised any commercial development, rather requiring proponents to meet the cost of carparks installed within road reserves and existing developments to rectify carparks/crossovers/kerbing where they are in poor condition.

Both Council Development Approval conditions and Main Roads Driveway Policy require the property owner to be responsible for the cost to design and construct the driveways and associated works and to maintain the driveways.

The crossover policy is also silent on the maintenance of crossovers to commercial premises. We note that the Shire has already set a precedent by writing to other commercial operators requiring maintenance.

The Shire is supporting this project indirectly by grouping its own asphalt projects to help reduce mobilisation costs to others who tap onto the Derby run. The Shire will also review the drainage from the cross over to help with runoff.

Officers view there is limited ability to contribute further in the form of cash contribution based on previous policy and precedent, however Council may also wish to consider this request differently and use it as the basis for a policy review with respect to commercial premises.

VOTING REQUIREMENT:

Absolute majority.

COUNCIL DECISION – SUSPEND STANDING ORDERS – MINUTE NO. 001/2016:

Moved: Cr A Twaddle

Seconded: Cr P White

That Standing Orders be suspended for discussion on Item 12.1.1.

CARRIED 7/0

COUNCIL DECISION – RESUME STANDING ORDERS – MINUTE NO. 002/2016:

Moved: Cr P White

Seconded: Cr I Prouse

That Standing Orders be resumed.

CARRIED 8/0

OFFICER RECOMMENDATION:

That Council advise Mr Scott McArthur, Director of BP Colac that under current Council Policy they are unable to support his request for financial assistance for resurfacing of asphalt at 138 Loch Street, Derby.

COUNCIL DECISION – MINUTE NO. 003/2016

Moved: Cr C Kloss

Seconded: Cr P White

That Council advise Mr Scott McArthur, Director of BP Colac that a contribution to a maximum of \$10,000 will be made for asphalt resurfacing of the internal Road Reserve component at 138 Loch Street. Funds to be allocated from Council's Drainage Maintenance Budget 124403. Council will seek recompenses from Main Roads WA for costs incurred.

Reason for Change to Officer Recommendation:

That council considers these works to be a critical drainage component and on the main entrance to town rather than a crossover matter.

12.2 CORPORATE SERVICES

Nil.

12.3 TECHNICAL SERVICES

12.3.1 RE-ALLOCATION OF ROADS TO RECOVERY AND FEDERAL ASSISTANCE GRANT FUNDS

Location/Address:	Shire of Derby/West Kimberley
Name of Applicant/Owner:	Shire of Derby/West Kimberley
File Reference:	5120
Author:	Wayne Neate – Executive Manager of Technical and Development Services
Interest Disclosure:	Nil
Date of Report:	1 February 2016
Attachments:	Copy of Page 95 of Councils adopted Budget List of Proposed Projects

SUMMARY:

This item proposes the re allocation of Roads to Recovery and Federal Assistance Grant funds to a list of new projects.

BACKGROUND:

Council adopted its 2015/16 Budget at the Ordinary Meeting on the 27th August 2015 **MINUTE NO. 87/2015**. Within this budget it listed a number of roads to be upgraded and to have capital expenditure carried out on them and the sources of funds from which the capital expenditure was being obtained (see Attachment 1 - page from 2015/16 Budget).

A number of these projects have now been completed namely being the work in Fitzroy Crossing around Sandford Rd, Millard Rd, McDonald Wy, Emanuel Wy and Loch St in Derby with the work budgeted at \$993,200 but with work being completed the actuals came in at \$231,648 on these particular roads. Some of the surplus funds (\$291,552) from the original budgeted amounts have been used on other existing road projects to increase the scope of work which means that there is a remaining balance of nearly \$470,000 of available funds to be reallocated.

The reasons why there was such an under expenditure from the budgeted amounts is assumed to be attributed to the financial down turn in the economy, lower oil

prices and the more competitive nature of the industry. The figures for the 2015/16 budget were based upon rates for works undertaken in the 2014/15 budget year.

STATUTORY ENVIRONMENT:

Local Government Act 1995 6.8 1b

6.8. Expenditure from municipal fund not included in annual budget

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

* *Absolute majority required.*

- (1a) In subsection (1) —

additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.
- (2) Where expenditure has been incurred by a local government —
 - (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
 - (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

There is no direct cost to Council as it is a re-allocation of Grant funds from two sources being the Roads to Recovery fund and the Federal Assistance Grants (Roads portion).

These funds are only to be spent on roads or capital projects relating to roadways and therefore cannot be used for any other purpose and need to be spent in the financial year of 2015/16 or the funds are lost.

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
2 A balance between the natural and built environments	2.3 Reliable and Safe Transport infrastructure	2.3.1 Develop a road maintenance and upgrading strategy

CONSULTATION:

Has occurred with some residents on the proposed roads regarding some of the issues they have raised.

COMMENT:

As the funding needs to be spent within the 2015/16 financial year a list of further projects has been attached (Attachment 2) for further consideration to ensure the funds from Roads to Recovery and the roads portion of the Financial Assistance Grant are spent.

Projects number 1 through 7 are currently being priced as part of tenders that are out for consideration and it is considered that the estimates as per the attached Additional projects sheet are still conservative and therefore to offset any further savings projects 8 through 18 have been added as the next in priority should funding become available. Projects 8 through to 18 will only commence if residual funds are available from projects 1-7 or any other budgeted works and will be managed to maximise expenditure of grant funds without any further cost to Council.

VOTING REQUIREMENT:

Absolute majority.

OFFICER RECOMMENDATION/COUNCIL RESOLUTION - MINUTE NO. 004/2016:

Moved: Cr P White

Seconded: Cr I Prouse

That Council approve the adding of projects listed 1 through to 18 on the attachment labelled “additional projects for 2015/16 budget” and approve expenditure on these projects to a maximum of \$1,972,389 for Roads to Recovery Funds and \$460,361 for the Roads portion of the Federal Assistance Grant.

CARRIED: 8/0

Attachment 1 - Page from 2015/16 Budget

**SHIRE OF DERBY WEST KIMBERLEY
NOTES TO AND FORMING PART OF THE BUDGET
FOR THE YEAR ENDED 30 JUNE 2016**

CAPITAL EXPENDITURE - SOURCES OF FUNDING

TOTALS	Road Grants	Remote AAR FAGS	Remote AAR MRWA	Regional Road Group Funds	Direct Road Grants	Roads to Recovery	Special Capital Grants	Country Local Government Fund	Regional Country Local Government Fund	Specific Contributions	Loan Funds	Reserves	Sale of Assets	Restricted Monies (Grants)	Council Funds (Rates etc)
Transport - Road Construction															
Rural Road Construction															
Camballin - Myroodah	207,646			134,646		73,000								40,832	0
Kayleeda Road	40,832														0
Camballin Road	268,500	50,000				218,500									0
Gee Gully - Koorabye Intersection	467,516													371,083	96,433
Calwinyardah - Noonkanbah Road	200,000					200,000									0
Drainage Remediation	95,000	50,000			45,000										0
Flood Damage Rural Roads	1,389,478						1,246,278								143,200
Noonkanbah - Millijidee Road	207,000	138,000	69,000												0
Mt Anderson Road	145,000	80,000	40,000												25,000
Camballin Street Construction															
Durack Road	250,000					250,000									0
Fitzroy Street Construction															
Sandford Street	484,000	116,661				367,339									0
Millard Road	26,600					26,600									0
McDonald Way	318,000					60,000				258,000					0
Emanuel Way	65,600					65,600									0
Derby Street Construction															
Clarendon St Stage 2	536,667	200,000		266,667											70,000
Clarendon St Stage 1	352,424			64,000										128,424	160,000
Ashley Street	168,000			98,000		70,000									0
Steel Street Crossover	45,000														45,000
Hardman Street	43,300					43,300									0
Wodehouse Street	88,000	43,700				44,300									0
Stanwell Street	17,750					17,750									0
McClarty Road	27,500				27,500										0
Loch Street	99,000					99,000									0
Guildford Street	44,000					44,000									0
Waycott Street	17,000					17,000									0
Stanley Street	250,000					250,000									0
Miniritchie Street	49,000					49,000									0
Villers Street	77,000					77,000									0
Total - Road Construction	5,979,813	460,361	218,000	109,000	563,313	72,500	1,972,389	1,246,278	0	258,000	0	0	0	540,339	539,633
Transport - Sts/Rds/Bridges															
Derby Depot Office Stores Building	150,000											150,000			0
Derby Depot Shed	650,000											550,000			100,000
Perimeter Fencing Derby	22,000														22,000
Perimeter Fencing Fitzroy Crossing	55,000														55,000
Fitzroy Crossing Chemical Container	45,000														45,000
Total - Sts/Rds/Bridges	922,000	0	0	0	0	0	0	0	0	0	0	700,000	0	0	222,000

Attachment 2 – Further Projects

Additional Projects for 2015/16 Budget								
Project No	Road N ^o .	Road Name	SLK 0	SLK From	SLK To	Treatment	Estimate	Total
1	0086	Bell Creek Way	Windjana Rd	0	1420	Detail Survey	\$10,000.00	\$10,000.00
2		Broome St	Knowsley St East	170	200	Asphalt overlay	\$20,000.00	\$30,000.00
3	0041	Juld St	Loch St	30	170	Partial Reconstruction	\$60,480.00	\$90,480.00
4	0036	Marmion St	Anderson St	590	800	Partial Reconstruction	\$90,720.00	\$181,200.00
5	0161	Woollybutt Cnr	Mimosa St	100	200	Partial Reconstruction	\$43,200.00	\$224,400.00
6	0152	Bloodwood Cres	Mimosa St	210	230	Partial Reconstruction	\$3,600.00	\$228,000.00
7	0162	Kurrajong Lp	Bloodwood Cres (west end)	210	230	Partial Reconstruction	\$3,600.00	\$231,600.00
8	0079	Lovegrove St	Knowsley St East	270	290	Partial Reconstruction	\$457,980.00	\$689,580.00
9	0112	Guildford Rd	Ashley St	0	1130	Reseal	\$95,208.00	\$784,788.00
10	0112	Guildford Rd	Ashley St	0	3250	Rehabilitate gravel shoulders	\$146,250.00	\$931,038.00
11	0025	Fairfield - Leopold Downs Rd	Gibb River Rd	41640	41680	Construct concrete floodway	\$76,000.00	\$1,007,038.00
12	0025	Fairfield - Leopold Downs Rd (Wesley - Yiramalay School entrance)	Gibb River Rd	84450	85000	Construct cement stabilised floodway & reconstruct road through creek	\$79,600.00	\$1,086,638.00
13	0122	Brearley St	Wells St	0	220	Rehabilitate gravel shoulders	\$9,900.00	\$1,096,538.00
14		Conway St	Derby Hwy	0	650	Rehabilitate gravel shoulders	\$29,250.00	\$1,125,788.00
15		Fitzroy St	Ashley St	0	2380	Rehabilitate gravel shoulders	\$107,100.00	\$1,232,888.00
16		Le Lievre St	Derby Hwy	0	330	Rehabilitate gravel shoulders	\$14,850.00	\$1,247,738.00
17		Millard St	Guildford Rd	0	660	Rehabilitate gravel shoulders	\$29,700.00	\$1,277,438.00
18		Rodgers St	Fitzroy St	0	830	Rehabilitate gravel shoulders	\$37,350.00	\$1,314,788.00
19		Russ St	Derby Hwy	0	650	Rehabilitate gravel shoulders	\$29,250.00	\$1,344,038.00
20		Steel St	Guildford Rd	0	330	Rehabilitate gravel shoulders	\$14,850.00	\$1,358,888.00
21	0055	Wodehouse St	Ashley St	0	1040	Rehabilitate gravel shoulders	\$46,800.00	\$1,405,688.00

12.4 DEVELOPMENT SERVICES

12.4.1 AUTHORISATION OF USE OF COMMON SEAL ON STRATA PLAN FOR LOT 1294 WOOLLYBUTT CORNER

Location/Address:	Lot 1294 Woollybutt Corner
Name of Applicant/Owner:	Shire of Derby/West Kimberley
File Reference:	A106828
Author:	Wayne Neate
Interest Disclosure:	Nil
Date of Report:	1 February 2016

SUMMARY:

The purpose of this report is for the Council to authorise the Common Seal of the Shire to be affixed on the application for Strata plan for Lot 1294 Woollybutt Corner, Derby.

BACKGROUND:

As part of Councils Housing strategy and with funds from the Country Local Government Fund a second house was constructed on lot 1294 Woollybutt Corner, Derby. As part of the contract that was let to H&M Tracey all works were carried out to ensure that the new building could be strata titled to form a new lot and give the council the ability to sell either of the properties in the future.

STATUTORY ENVIRONMENT:

9.49A. Execution of documents:

- (1) A document is duly executed by a local government if —
 - (a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or
 - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.
- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.

(3) The common seal of the local government is to be affixed to a document in the presence of —

(a) the mayor or president; and

(b) the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.

(4) A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.

(5) A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.

(6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.

POLICY IMPLICATIONS:

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

FINANCIAL IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

GOAL	OUTCOME	STRATEGY
Goal 4 : Good governance and an effective organisation	Outcome 4.1: Effective governance and leadership.	Strategy 4.1.4: Ensure governance policies and procedures are in accordance with legislative requirements

CONSULTATION:

None required

COMMENT:

The application of the seal to the document will allow the Council the ability to sell either of the houses located on 1294 Woollybutt should it wish to do so.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION/COUNCIL DECISION – MINUTE NO. 005/2016:

Moved: Cr P McCumstie

Seconded: Cr I Prouse

That Council authorises the Shire President and Chief Executive Officer to sign and affix the Common Seal to the Application for Strata Plan for Lot 1294 on Deposited Plan 219388 Woollybutt Corner, Derby.

CARRIED: 8/0

12.5 COMMUNITY DEVELOPMENT AND RECREATION SERVICES

Nil

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

14.0 QUESTIONS BY MEMBERS FOR WHICH DUE NOTICE HAS BEEN GIVEN

Nil

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

Nil

16.0 MATTERS BEHIND CLOSED DOORS

17.0 CLOSURE OF MEETING

Meeting closed at 4:12 pm.