



AGENDA

and

Notice of Special Council Meeting

to be held on

Thursday 8 April 2021

at

6.00pm

in the

Shire of Irwin Council Chambers

11-13 Waldeck Street, Dongara

The purpose of the meeting is to consider the response to Request for Tender 3-2020/21 – Moreton Terrace Upgrade – Civil Construction and Council to withdraw funds from the Asset Management Reserve.

5.30pm – Agenda Briefing

6.00pm – Special Council Meeting

Shane Ivers
Chief Executive Officer

08 April 2021

Disclaimer

The Shire of Irwin advises that the purpose of an Ordinary Council Meeting is to discuss and, where possible, make resolutions about items appearing in the agenda. No person should rely or act on the basis of any decision, advice or information provided by a Member or Officer, or on the content of any discussion occurring during the course of the meeting. No person should rely on the decisions made by Council until formal written advice of the Council is received by that person.

The Shire of Irwin expressly disclaims any liability for any loss or damage 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.

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SPECIAL COUNCIL MEETING

to be held on

Thursday 8 April 2021

at 6.00pm

AGENDA

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Members

Councillor M T Smith	President
Councillor B Wyse	Deputy President
Councillor G F Eva	
Councillor A J Gillam	
Councillor M Leonard	
Councillor I Scott (<i>via teleconference</i>)	
Councillor H M Wells	

Staff

Mr S D Ivers	Chief Executive Officer
Mr P Godfrey	Manager Finance
Miss N A M'Leane	Development & Executive Officer

Apologies

Councillor I F West

Approved Leave of Absence

Nil.

3. DECLARATION OF PURPOSE OF MEETING

The purpose of the meeting is for Council to consider;

- *Utilising reserve funds for the SIHI Aged Appropriate Housing Project, instead of the previously budgeted loan funding;*
- *Changing the Self Supporting Loan funds source for the Dongara Denison Bowling & Recreation Club Inc. artificial bowling green surface project; and*
- *Awarding Tender 3-2020/21 Moreton Terrace – Civil Construction.*

4. DECLARATIONS OF INTEREST

5. PUBLIC QUESTION TIME

6. OFFICER REPORTS

CORPORATE AND COMMUNITY		CC01-04/21S
Subject:	CC01-04/21S Change of source of funds for SIHI Aged Appropriate Housing Project	
Author:	P Godfrey, Manager Finance	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0314	
Voting Requirements:	Absolute Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive** The substantial direction setting and oversight role of the Council e.g. performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative** Includes adopting local laws and local planning schemes.
- 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 obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

For Council to consider utilising reserve funds for the Aged Appropriate Housing Project, instead of the previously budgeted loan funding.

Background:

In July 2016 the Shire was advised that surplus funding was available within the Department of Regional Development, through Royalties for Regions, Southern Inland Health Initiative (SIHI) Stream 6 funding – Residential Aged Care and Dementia Investment Program. The Shire was invited to submit an Expression of Interest (EOI) to use the funding if there was a project identified that met the criteria. Using information from the Councillors' Workshop held in June 2016 an EOI was submitted. This application was approved in December 2016 with several variations. The Shire was successful in receiving a WA Country Health Service (WACHS) Grant Funding Agreement TG-14014-035 January 2017 for \$2,419,000 including GST to construct a minimum of 6 double bedroom Age Appropriate accommodation units.

It was discovered in 2018 that there would be a funding shortfall of approximately \$450,000 as it was unforeseen that there would be two lots of GST payments. As rightfully permitted in the agreement, in August 2018 the Shire approached WACHS to reduce the number of units delivered by the project to accommodate the GST shortfall. WACHS placed the project on hold and were not able to reach a resolution for approximately two years. The Shire decided to seek a WA Treasury Corporation (WATC) loan to cover the GST shortfall to build the required 6 units as per the original project scope and after further deliberation, WACHS permitted the project to proceed late 2020. WACHS has further stipulated that the project be completed in its entirety by 31 December 2021.

During this time, the Shire received a second round of funding through a Financial Assistance Agreement from the Department of Primary Industries and Regional Development (DPIRD) through the Royalties for Regions Project. The final signed funding agreement was received March 2019 for

\$2,500,000 excluding GST. The DPIRD funding agreement included 6 Independent Living Units (ILU), a communal area, landscaping and the provision to share in the civil construction costs for the 2 Henry Road site. The 6 ILU units including civil and landscaping works were completed 2020. The communal area is outstanding and must be completed 31 December 2021. The Shire proposed a WATC loan to the value of \$250,000 to build a small scale hydrotherapy pool within the communal area where the additional funding was to sourced from matched grant funding.

Officer’s Comment:

The Shire submitted a loan application in January 2021 with WATC for the \$700,000 and at this time a decision has not been reached on the approval or rejection of the application. The project needs to be started urgently to meet the completion deadline 31 December 2021. Meeting this deadline will prevent triggering contract clauses such as not receiving the final funding payments and even the possibility of the funding bodies recovering part or all funding. The current shortage of building materials and escalating costs due to the current building boom within the housing sector that are further complicating the 31 December 2021 deadline.

An alternative source of funding is required, one way to do this is for Council to withdraw the funds from the Asset Management Reserve (the Reserve). The budgeted loan amount is \$700,000, if the loan is approved these funds could then be return to the Reserve. The budgeted loan amount included an allowance to build a communal area of \$250,000, but it is proposed to reduce this to \$100,000 and build a basic communal area plus the amount of \$450,000 for the housing leaving a total amount required to complete the project of \$550,000.

The current balance of the Asset Management Reserve is \$642,391 (after allowing for the bowling green project) less the amount of \$550,000 leaving a balance of \$92,391. As the new units will be rented out to an estimated value of \$150,000 per year, any net revenue could be returned to the Reserve.

Consultation:

Nil.

Statutory Environment:

Local Government Act 1995

- Section 6.2 Power to Borrow
- Section 6.21 Restrictions on borrowing

Policy Implications:

Nil.

Risk Implications:

The reporting officer has considered some possible alternative options available to Council and the associated risks:

1. Do Nothing:

• Risk Implications -

- a. Insufficient time to build the units by 31 December 2021, which may trigger contractual defaults within the respective agreements
- b. Escalating material prices
- c. Inability to source materials
- d. failure to complete the DPIRD scope within the agreement would trigger Clause 11.3 where no further funding would be provided and the possibility of recovery of part or all funding within twenty (20) Business Days

2. Depleted Reserves:

• Risk Implications –

- a. Lack of ability to deal with any other urgent matters
- b. May impact the Shire’s financial position

Financial/Resource Implications:

Net revenue of an estimated \$150,000 per year from renting of the units may be transferred to the Reserve.

Strategic Implications:

Strategic Community Plan 2017 – 2027

Attachments:

Nil.

Officer Recommendation:

RECOMMENDED:

That Council by Absolute Majority, authorises the withdrawal of \$550,000 from the Asset Management Reserve for the purpose of completing the Aged Appropriate Housing Project.

CORPORATE AND COMMUNITY		CC02-04/21S
Subject:	CC02-04/21S Self Supporting Loan, change of source of funds for Dongara Denison Bowling & Recreation Club Inc.	
Author:	P Godfrey, Manager Finance	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00073	
Voting Requirements:	Absolute Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive** The substantial direction setting and oversight role of the Council e.g. performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative** Includes adopting local laws and local planning schemes.
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- Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

For Council to consider changing the Self Supporting Loan funds source for the Dongara Denison Bowling & Recreation Club artificial bowling green surface project.

Background:

The Dongara Denison Bowling & Recreation Club (DB&RC) has become an important sporting and social establishment within the Shire of Irwin and hosts one of the largest sporting events in the Shire being the May Carnival, the DB&RC also provides a facility from which other local clubs and groups can hold fundraising events.

DB&RC received confirmation 4 January 2021 that they were successful with their Community Sporting and Recreation Facilities Fund (CSRFF) funding application, which the Shire committed in Council recommendation 060620 to firstly endorse the project and secondly finance two thirds of the project through a Self Supporting Loan from the WA Treasury Corporation (WATC). The CSRFF application included the removal and disposal of two (2) of the current three (3) natural Tifdwarf grass greens and replacing them with two (2) high quality synthetic bowling green playing surfaces, inclusive of the relevant associated works such as sub-soil drainage, upgrading of the sprinkler irrigation system, replacement of the existing ditch plinths with galvanised steel plinth edging, synthetic aprons around the two (2) greens and associated paving to surrounds.

The CSRFF funding application was based on commencing the project immediately after either the January 2021 or May 2021 bowling club carnivals. Minister approval was given to commence the project before 1 July 2021, as the funding is formally available from this date.

It currently costs DB&RC \$146,549 per year to maintain the current greens, which would reduce by approximately \$100,000 per year leaving adequate financial capacity to repay the Self Supporting Loan over a 10 year period.

Officer's Comment:

The delay in the WATC loan approval has impacted the delivery of this project where the post January 2021 carnival opportunity for the works has now been missed. Without immediate action, the post May 2021 carnival opportunity will also be missed, as orders for the synthetic turf need to be placed now. An alternative source of funding is required to progress the project to achieve the approved post May 2021 carnival opportunity for the works. The loan application was lodged in January 2021 and at this time a decision has not been reached on the approval or rejection of the application.

An alternative source of funding is required, one way is for Council to withdraw the funds from the Asset Management Reserve and to progress the project. If the loan of \$355,010 is approved the funds could then be returned to the Reserve. The current balance of the Reserve is \$997,401 less the amount of \$355,010 leaving a balance of \$642,391. The Council would then enter into a loan agreement with the club for \$355,010 to be repaid over 10 years at 2.1%.

Consultation:

Nil.

Statutory Environment:

Local Government Act 1995

- Section 6.2 Power to Borrow
- Section 6.21 Restrictions on borrowing

Policy Implications:

Nil.

Financial/Resource Implications:

The Club will be wholly responsible for the repayment of the principal, interest and all associated fees and charges where the club would repay \$355,010 over 10 years at 2.1%.

Should the Club fold or become unable to meet the requirements of the loan, the Shire would be responsible for the repayment of the outstanding loan principal and interest.

Strategic Implications:

Strategic Community Plan 2017 – 2027

Strategy 3.2.2 Support the Strong Sporting Culture that shapes the Shire of Irwin's identity and lifestyle

Strategy 3.2.3 Support community-initiated projects and activities

Attachments:

Nil.

Officer Recommendation:

RECOMMENDED:

That Council by Absolute Majority;

- Authorises the withdrawal of \$355,010 from the Asset Management Reserve; and**
- Enters into a loan agreement for \$355,010 with the Dongara Denison Bowling and Recreation Club Inc. to be repaid over a 10 year term at a fixed rate of 2.1%.**

OFFICE OF CEO		CEO01-04/21S
Subject:	CEO01-04/21S Request for Tender 3-2020/21 Moreton Terrace Upgrade – Civil Construction	
Author:	S Ivers, Chief Executive Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0215	
Voting Requirements:	Absolute Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive** The substantial direction setting and oversight role of the Council e.g. performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
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- 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 obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

Award Request for Tender 3-2020/21 Moreton Terrace Upgrade – Civil Construction work as advertised and recorded in the Tender Register.

Background:

The Shire of Irwin is resealing Moreton Terrace and renewing the kerbing and drainage as part of its asset management program funded by the Regional Road Group (RRG) program. The scope of works for this procurement activity is the civil construction work for Moreton Terrace, the Cemetery carpark, Midlands/Tabletop Road intersection with the Hosken Street, Town Park Car Park, Community Resource Centre Car Park and the Dongara Hotel Precinct options.

Public tenders were invited from suitably experienced contractors for the civil construction works associated with the proposed upgrade works where statewide public notice was given in The West Australian newspaper dated 6 March 2021, with the tender closing date of 1 April 2021. The tender closing date was amended to 5:00pm 7 April 2021 as per Addendum issued 30 March 2021.

Three employees undertook the opening of tenders at 5:02pm on 7 April 2021.

An evaluation panel comprising three voting members of staff individually assessed each tender submission. Evaluation Panel Members formally met on 8 April 2021, developed the consensus evaluation, ranking of respondents and recommendation that resulted in the finalised Evaluation Panel Report, provided as Confidential Attachment 3.

Two tender submissions were received at the close of tenders. Of these, both met the required compliance criteria and were assessed against the qualitative criteria, before pricing was applied in the evaluation to determine the best value for money and most advantageous tender as recommended in the Evaluation Report provided in Confidential Attachment 3.

Officer's Comment:

The submission by Respondent B met the qualitative criteria as set out in the RFT document. For full details of the scores and ranking refer to the RFT Evaluation Report for final scores and ranking as provided in Confidential Attachment 3.

For further details regarding the compliance and qualitative criteria, refer to the attached RFT Evaluation Report as provided in Confidential Attachment 3.

It is recommended that Council award Tender 3-2020/21 Moreton Terrace Upgrade – Civil Construction to Respondent B to the contract value of \$526,912 (including GST) with the option to proceed with the some or all optional packages to the value of \$296,356 (including GST) subject to the availability of Council approved funds.

Consultation:

Nil.

Statutory Environment:

Local Government Act 1995

3.57. Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

Local Government (Function and General) Regulations 1996

11A. Purchasing policies for local governments

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.
- (2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).
- (3) A purchasing policy must make provision in respect of —
 - (a) the form of quotations acceptable; and
 - (ba) the minimum number of oral quotations and written quotations that must be obtained; and
 - (b) the recording and retention of written information, or documents, in respect of
 - (i) all quotations received; and
 - (ii) all purchases made.

Local Government (Function and General) Regulations 1996

11. When tenders have to be publicly invited

- (1A) In this regulation —

state of emergency declaration has the meaning given in the *Emergency Management Act 2005* section 3.
- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —

(a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or

(aa) the supply of the goods or services is associated with a state of emergency; or

(b) the supply of the goods or services is to be obtained through the WALGA preferred Supplier Program; or

[(ba) deleted]

(c) within the last 6 months —

(i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or

(ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;

or

(d) the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government; or

(e) the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or

(ea) the goods or services are to be supplied —

(i) in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and (ii) by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;

or

(f) the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or

(g) the goods to be supplied under the contract are —

(i) petrol or oil; or

(ii) any other liquid, or any gas, used for internal combustion engines;

or

(h) the following apply —

(i) the goods or services are to be supplied by —

(I) a person registered on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia Limited ABN 96 929 977 985; or

(II) a person registered with the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) ABN 50 134 720 362;

and

(ii) the consideration under the contract is \$250 000 or less, or worth \$250 000 or less; and

(iii) the local government is satisfied that the contract represents value for money;

or

- (i) the goods or services are to be supplied by an Australian Disability Enterprise; or
- (j) the contract is a renewal or extension of the term of a contract (the original contract) where —

- (i) the original contract was entered into after the local government, according to the requirements of this Division, publicly invited tenders for the supply of goods or services; and
- (ii) the invitation for tenders contained provision for the renewal or extension of a contract entered into with a successful tenderer; and
- (iii) the original contract contains an option to renew or extend its term; and
- (iv) the supplier's tender included a requirement for such an option and specified the consideration payable, or the method by which the consideration is to be calculated, if the option were exercised;

or

- (ja) the contract is a renewal or extension of the term of a contract (the original contract) where —

- (i) the original contract is to expire within 3 months;
and
- (ii) the renewal or extension is for a term of not more than 12 months from the expiry of the original contract; and
- (iii) the contract for renewal or extension is entered into at a time when there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;

or

- (k) the goods or services are to be supplied by a pre-qualified supplier under Division 3.

- (3) For the purposes of subregulation (2)(aa) a supply of goods or services is associated with a state of emergency if —
 - (a) the contract for the supply is entered into while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;
and
 - (b) the local government considers that the goods or services are required for the purposes of addressing a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates.

Policy Implications:

CP20 – Purchasing

CP01 – Localised Purchasing (Regional Price Preference)

Financial/Resource Implications:

Award of Tender 3-2020/21 Moreton Terrace Upgrade – Civil Construction is within the 2020/21 annual budget allocation for the civil construction component of the Moreton Terrace Upgrade Project.

Strategic Implications:

Strategic Community Plan 2017 – 2027

Strategy 2.1.3 Identify, provide and manage Shire assets (including community infrastructure, Shire controlled reserves and freehold land) in accordance with agreed service levels.

Attachments:

Attachment Booklet – SCM April 2021

CEO01-04/21S Attachment 1 – RFT 3-2020/21 Moreton Terrace Upgrade – Civil Construction

CEO01-04/21S Attachment 2 – RFT 3-2020/21 Evaluation Matrix

CONFIDENTIAL Attachment Booklet – SCM April 2021

CEO01-04/21S Attachment 3 – Evaluation Panel Report circulated as separate confidential attachment as per s.5.23(2)(ii)(iii)

Officer Recommendation:

RECOMMENDED:

That Council by Absolute Majority:

1. **Accepts the tender submission for Tender No. 3-2020/21 Moreton Terrace Upgrade Civil Construction, received from {_____}, named as ‘Respondent B’ in the Evaluation Panel Report recommendation detailed in Confidential Attachment 3 and identified as the most advantageous, to the contract value of \$526,912 (including GST) with the option to proceed with the some or all optional packages to the value of \$296,356 (including GST) subject to the availability of Council approved funds.**
2. **If within 6 months of this resolution a contract is unable to be formed for Tender No. 3-2020/21 Moreton Terrace Upgrade Civil Construction as advertised and recorded in the Tenders Register with Respondent B identified in Evaluation Panel Report recommendation shown in Confidential Attachment 3 as the most advantageous, then the Shire of Irwin accepts the tender submission received from Respondent A, identified as the next most advantageous in the Evaluation Panel Report recommendation shown in Confidential Attachment 3.**
3. **Authorises the Chief Executive Officer to execute the contract for awarding Tender No. 3-2020/21 Moreton Terrace Upgrade Civil Construction as advertised and recorded in the Tenders Register in accordance with s.9.49A of the *Local Government Act 1995*.**
4. **Delegates the Chief Executive Officer in accordance with s.5.42(1) of the *Local Government Act 1995*, authority to negotiate minor variations to the contract for Tender No. 3-2020/21 Moreton Terrace Upgrade Civil Construction as advertised and recorded in the Tenders Register before and / or after its execution in accordance with Regulations 20 and 21A of the *Local Government (Functions and General) Regulations 1996*.**

7. MATTERS FOR WHICH THE MEETING IS CLOSED TO THE PUBLIC

Nil.

8. CLOSURE

Declaration of Interest

This form is provided to enable members and officers to disclose an interest in a matter in accordance with the requirements of the Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007.

Note: Use one form per declaration of interest

To: Chief Executive Officer

I hereby declare my interest in the following matter/s included on the Agenda paper for the Council/Committee meeting to be held on: [Click here to enter the Council/Committee meeting date](#)

Agenda Item No.	Subject	Type of Interest Impartial/Financial
Click here to enter the Agenda Item number	Click here to enter the Agenda item subject.	<input type="checkbox"/> Financial pursuant to Section 5.60A of the Local Government Act 1995 <input type="checkbox"/> Proximity pursuant to Section 5.60B of the Local Government Act 1995 <input type="checkbox"/> Indirect Financial pursuant to Section 5.61 of the Local Government Act 1995 <input type="checkbox"/> Impartiality pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

Extent of Interest only has to be declared if the Councillor also requests to remain present at a meeting, preside, or participate in discussions of the decision making process. Employees must disclose extent of interest if the Council or Committee requires them to.

The extent of my interest is: Click or tap here to enter the extent of interest.

Click here to enter your name.		Click here to enter the date.
Name (Please Print)	Signature	Date

- NB:**
- This notice must be given to the Chief Executive Officer prior to the meeting or at the meeting immediately before the matter in which you have declared an interest is discussed.
 - The responsibility to declare an interest rests with individual Councillors/Employees. If in any doubt seek legal opinion or, to be absolutely sure, make a declaration.

Office Use Only:	Date/Initials
Particulars of declaration given to meeting	
Particulars recorded in the minutes	
Signed by Chief Executive Officer	