



AGENDA

and

Notice of Ordinary Council Meeting

to be held

Tuesday 24 November, 2020

in the

Shire of Irwin Council Chambers

- 5.00pm – Agenda Briefing
- 5.15pm – Councillor Information Session
- 6.00pm – Ordinary Council Meeting

AGENDA & BUSINESS PAPERS

Welcome to the Ordinary Council Meeting of the Shire of Irwin.

Please be advised that Ordinary Council Meetings during 2020 will be held on the following dates in the Council Chambers at 11-13 Waldeck Street, Dongara, (unless otherwise advised) commencing at **6.00pm**.

DATES	
25 February 2020	28 July 2020
24 March 2020	25 August 2020
28 April 2020	22 September 2020
26 May 2020	27 October 2020
23 June 2020	24 November 2020
	8 December 2020

Members of the public are most welcome to attend the Agenda Briefing, the Councillor Information session and the Ordinary Council Meetings.

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.



Shane Ivers
CHIEF EXECUTIVE OFFICER

Council Meeting Information

1. Your Council generally handles all business at Ordinary or Special Council Meetings.
2. From time to time Council may form a Committee, Working Party or Steering group to examine specific subjects and then report to Council.
3. Generally, all meetings are open to the public; however, from time to time Council will be required to deal with personal, legal and other sensitive matters. On those occasions Council will generally close that part of the meeting to the public. Every endeavour will be made to do this as the last item of business of the meeting.
4. **Public Question Time:** It is a requirement of the Local Government Act 1995 to allow at least fifteen (15) minutes for public question time following the opening and announcements at the beginning of the meeting. Should there be a series of questions the period can be extended at the discretion of the Presiding Member. If presenting questions to Council please note the following, as guided by the *Shire of Irwin Meeting Procedures Local Law 2016*:
 - Public Question Time occurs early in the meeting so please arrive at least 5 minutes before the advertised meeting start time (Ordinary Meetings are scheduled for a **6.00pm** start, unless otherwise advised).
 - Record your full name and suburb of residence on the Attendance Form available in the public seating area.
 - When invited by the Presiding Member to ask your question/s, please state your full name for the benefit of the minute taker and those present.
 - Only questions can be addressed to Council, not statements.
 - A minimum of 15 minutes is allocated to Public Question Time. A member has 2 minutes to submit a question.
 - You may ask up to 2 questions before other members of the public will be invited to ask their questions to ensure all have an equal and fair opportunity to ask questions.
 - The Presiding Member may elect for written questions to be responded to as normal business correspondence.
 - The Presiding member may decide that a question shall not be responded to where:
 - the same or similar question has been asked at a previous meeting and a response has already been provided;
 - a statement has been made and is not reformed into a question; or
 - a question is offensive or defamatory in nature and is not reformed into a question.
 - A question may be taken on notice by Council for a later response. Responses will be provided in writing to the member and a summary will be included in the agenda of the next meeting of Council.
 - Members of the public are encouraged to raise matters relating to operations and administration through the Shire's Customer Request system.
 - At a Special Meeting of Council, only questions relating to the purpose of that meeting may be raised.
 - Should you wish to provide written questions prior to the meeting so that an appropriate response can be prepared, please submit them at least 72 hours prior to the Council meeting at which you wish them to be presented.
5. **Councillors** may from time to time have a financial interest in a matter before Council. Councillors must declare an interest and the extent of the interest in the matter on the Agenda. However, the Councillor can request the meeting to declare the matter **trivial, insignificant or in common with a significant number of electors or ratepayers**. The Councillor must leave the meeting whilst the matter is discussed and cannot vote unless those present agree as above.
6. **Members of staff**, who have delegated authority from Council to act on certain matters, may from time to time have a financial interest in a matter on the Agenda. The Officer must declare that interest and generally the Presiding Member will advise the Officer if he/she is to leave the meeting.
7. Agendas are delivered to Councillors within the requirements of the Local Government Act 1995, i.e. seventy-two (72) hours prior to the advertised commencement of the meeting.
8. Agendas for Ordinary Meetings are available to the public from the Shire of Irwin Administration Centre and on the website www.irwin.wa.gov.au seventy-two (72) hours prior to the meeting.
9. Agenda items submitted to Council will include a recommendation for Council consideration. Electors should not interpret and/or act on the recommendations until after they have been considered by Council and ideally received written confirmation of the outcome. Please note the Disclaimer in the Agenda (page 3).
10. Public Inspection of Unconfirmed Minutes (Reg 13): A copy of the unconfirmed Minutes of Ordinary and Special Meetings will be available for public inspection at the Shire of Irwin Administration Centre and on the website www.irwin.wa.gov.au within ten (10) working days after the Meeting.

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ORDINARY COUNCIL MEETING

to be held

24 November 2020

at 6.00pm

AGENDA

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Members

Councillor M T Smith
Councillor B Wyse
Councillor G S Eva
Councillor A J Gillam
Councillor M Leonard
Councillor I Scott
Councillor H M Wells
Councillor I F West

Shire President
Deputy Shire President

Staff

Mr S D Ivers
Mr P Traylen
Mrs D K Chandler
Mr B Jeans
Mrs S Potts
Mrs J Goodbourn
Ms S J Clarkson
Ms N A M'Leane

Chief Executive Officer
Acting Manager Infrastructure & Development
Acting Manager Corporate & Community
Manager Development
Human Resources Coordinator
Senior Finance Officer
Acting Senior Finance Officer
Development & Executive Officer

Approved Leave of Absence

Apologies

Gallery

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

6. PETITIONS AND DEPUTATIONS

7. CONFIRMATION OF MINUTES

7.1. Minutes of the Ordinary Council Meeting held 27 October 2020

A copy of the Minutes of the Ordinary Council Meeting held 27 October 2020 have been provided to all Councillors under separate cover.

RECOMMENDED:

That the Minutes of the Ordinary Council Meeting, held 27 October 2020, as previously circulated, be adopted as a true and accurate recording of that meeting.

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY		CC01-11/20
Subject:	CC01-11/20 Accounts for Payment	
Author:	S Clarkson, Acting Senior Finance Officer	
Responsible Officer:	D Chandler, A/Manager Corporate & Community	
File Reference:	Minute Book	
Voting Requirements:	Simple 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. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative** Includes adopting local laws, local 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 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:

To receive the list of accounts paid under delegated authority during October 2020.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of October 2020.

Officer's Comment:

Nil.

Consultation:

Nil.

Statutory Environment:

The Local Government (Financial Management) Regulations 1996 provides as follows:

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;*
 - (b) *the amount of the payment;*
 - (c) *the date of the payment; and*
 - (d) *sufficient information to identify the transaction.*
- (3) *A list prepared under sub-regulation (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:

Under Delegation CEO101 Council has delegated authority to the Chief Executive Officer to authorise all payments by Council.

Financial/Resource Implications:

Nil.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – November 2020

Attachment CC01 – Accounts for Payment – October 2020

Officer Recommendation:

RECOMMENDED:

That Council receives the accounts paid during October 2020 as presented in Attachment Booklet – November 2020, represented by:

Payment Type/Numbers	Total Amount
EFT 26519 – 26607	\$393,020.18
Muni Cheques – 32004 – 32013	\$14,906.81
Direct Debit – Telstra	\$1,827.36
Direct Debit – WA Treasury Corporation	\$91,170.76
Direct Debit – Solar Panel Repayments 10/20	\$1,947.66
Direct Debit – Insurance Premiums Repayment	\$28,344.32
Direct Debit – Credit Card	\$201.81
Direct Debit – Superannuation	\$30,422.11
Grand Total	\$561,841.01

CORPORATE AND COMMUNITY		CC02-11/20
Subject:	CC02-11/20 Monthly Financial Statements for the Period Ended 31 October 2020	
Author:	J Goodbourn, Senior Finance Officer	
Responsible Officer:	D Chandler, A/Manager Corporate & Community	
File Reference:	Minute Book	
Voting Requirements:	Simple Majority	

Council Role:

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Report Purpose:

To consider and receive the Monthly Financial Statements for the period 1 July 2020 to 31 October 2020.

Background:

The Monthly Financial Statements to 30 June 2021 are prepared in accordance with the requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996* and includes the following statutory reports:

- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature & Type
- Explanation of Material Variances
- Net Current Funding Position

The Statements also include various other financial information not required by legislation, but for Council information.

Officer’s Comment:

The financial position to the end of October 2020 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

31/10/2020		YTD Actual	Variance to YTD Budget
	Operating Revenue	6,763,745	101%
	Operating Expenditure	(3,516,587)	99%
	Net Operating	3,247,158	
	Non-Operating Revenue	304,971	18%
	Non-Operating Expenditure	(916,943)	52%
	Net Non-Operating	(611,972)	
	Cash at Bank	4,477,462	
	Cash at Bank Restricted	563,124	
	Reserve Bank	1,295,141	
	Total Cash Funds	6,335,727	

The attached statements provide explanatory notes for items greater than 10% or \$10,000. This commentary provides Council with an overall understanding of how the financial position is situated in relation to the adopted budget.

The actual 2019/20 opening amounts contained in the report are subject to final 2019/20 year end adjustment and audit and could possibly change following the annual audit which took place in August/September. The final accounts will be confirmed by the auditor and presented to Council as part of the 2019/20 Annual Report.

Due to recently gazetted amendments to the Local Government (Financial Management) Regulations requiring changes as at 30 June 2020 to certain asset classes, there has been a delay in the signing off by the Office of the Auditor General (OAG) for all local government annual financial statements. Upon advice from the OAG, it is expected to be resolved by the end of November 2020.

Consultation:

Nil.

Statutory Environment:

Local Government Act 1995

- Section 6.4 Financial report

Local Government (Financial Management) Regulations

- Section 34 Financial activity statement report provides as follows:

- (1) *A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, 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);*
 - (b) *budget estimates to the end of the month to which the statement relates;*
 - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
 - (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;*
 - (b) *an explanation of each of the material variances referred to in sub-regulation (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;*
 - (b) *by program; or*
 - (c) *by business unit.*

- (4) *A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be -*
 - (a) *presented to the council -*
 - (i) *at the next ordinary meeting of the council following the end of the month to which the statement relates; or*
 - (ii) *if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of the council after that meeting; and*
 - (b) *recorded in the minutes of the meeting at which it is presented.*

Policy Implications:

Nil.

Financial/Resource Implications:

Any issues in relation to expenditure and revenue allocations or variance trends are identified and addressed each month.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – November 2020

Attachment CC02 - Financial Statements for the Period Ended 31 October 2020

Officer Recommendation:

OFFICER RECOMMENDATION:

That Council receives the Monthly Financial Statements for the period 1 July 2020 to 31 October 2020 as provided in Attachment Booklet – November 2020.

OFFICE OF CEO	CEO01-11/20
Subject:	CEO01-11/20 Council Policy - CP32 Payments to Employees in Addition to a Contract or Award
Author:	S Potts, Human Resources Coordinator
Responsible Officer:	S Ivers, Chief Executive Officer
File Reference:	3.00079
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. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative** Includes adopting local laws, local 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 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 the adoption of the revised policy E9 Gratuity Payments, which has been renamed – CP32 Payments to Employees in Addition to a Contract or Award. The policy has been developed in accordance with section 5.50 of the *Local Government Act 1995*.

Background:

It is a prescribed requirement under the *Local Government Act 1995* section 5.50(1), that the Shire is to prepare a policy in relation to employees whose employment is ceasing with the Shire, and to set out those circumstances in which the local government will pay an employee an amount in addition to any amount under a contract or award.

In keeping with the Shire's mandate to review and update all of its policies, the current Council Policy - E9 Gratuity Payments has been reviewed against legislation and in conjunction with current Shire processes.

A new structure for the development of council policies has been created and was presented to Council in June 2019. The new structure assists with compliance and provides a clear structure for the requirements regarding creating and developing policies in accordance with the Strategic Community Plan 2017-2027.

Officer's Comment:

Policy CP32 Payments to Employees in Addition to a Contract or Award (Attachment 1) has been revised for Council's consideration.

The policy includes:

- Compliance in accordance with section 5.50 of the Local Government Act
- Framework for Severance, Gratuity and Recognition of Service payments
- Clear guidance to Council and employees regarding the value of gifts/payments

Consultation:

This policy was developed in consultation with the Chief Executive Officer and Human Resources Coordinator.

Statutory Environment:

Local Government Act 1995

- S5.50 Payments to employees in addition to contract or award

5.50. Payments to employees in addition to contract or award

(1) A local government is to prepare a policy in relation to employees whose employment with the local government is finishing, setting out —

(a) the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and

(b) the manner of assessment of the additional amount.

(1a) A local government must not make any payment of the kind described in subsection (1)(a) unless the local government has adopted a policy prepared under subsection (1).

Policy Implications:

Adoption of CP32 will provide the guiding policy under which legislative and supporting documentation will be established. Reference to the supporting documentation will be made within the policy control box.

Financial/Resource Implications:

Future annual budgets to ensure there is provision for severance, gratuity and service recognition payments for employees.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and best practice principles

Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – November 2020

CEO01 Attachment 1 – Council Policy CP32 Payments to Employees in Addition to a Contract or Award

Officer Recommendation:

RECOMMENDED:

That Council, by Absolute Majority, adopts Council Policy CP32 – Payments to Employees in Addition to a Contract or Award, presented as Attachment 1 in Attachment Booklet – November 2020.

OFFICE OF CEO	CEO02-11/20
Subject:	CEO02-11/20 Council Meeting Dates 2021
Author:	D Chandler, A/Manager Corporate & Community
Responsible Officer:	S Ivers, Chief Executive Officer
File Reference:	2.0073
Voting Requirements:	Simple 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:

For Council to consider and set Ordinary Council Meeting dates for 2021.

Background:

In the past, Council has held its Ordinary Council Meetings on the fourth Tuesday of each month except for January and December. In 2020, there was no Council Meeting scheduled for January.

As per Regulation 12 of the *Local Government (Administration) Regulations 1996*, Council is required to set the meeting dates for the next calendar year and make them available to the local public.

Officer’s Comment:

It is recommended to hold Ordinary Council Meetings for 2021 on the fourth Tuesday of each month, except in January and December.

As per last year’s schedule, it is recommended that there be no Council Meeting in January 2021.

The December 2021 Ordinary Meeting is recommended to be held on the second Tuesday in December to allow staff sufficient time to take appropriate action in regards to any Council decisions and prepare the minutes.

The approval of accounts for payment and financial statements normally provided in January would be scheduled for consideration at the February 2021 Ordinary Council Meeting. With regards to the presentation of statements of financial activity to Council, Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, provides the following:

- (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.

To improve community engagement whilst maximising knowledge and information sharing, it is proposed to continue with the existing format for monthly meetings of Council – Agenda Briefing, Councillor Information Session (open to the public) and Councillor Discussion Session (closed to the public).

Consultation:

Staff were consulted internally with regards to any events or potential risks that may affect any of the proposed dates. On two occasions in April and September, public holidays fall on the Monday prior to the meeting date however this was not considered a potential risk. No other potential risks affecting the proposed dates were identified.

Statutory Environment:

Local Government Act 1995

Local Government (Administration) Regulations 1996

- Regulation 12

Local Government (Financial Management) Regulations 1996

- Regulation 34

Policy Implications:

Nil.

Financial/Resource Implications:

Minor advertising costs will be incurred to provide local public notice of meeting dates.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles.

Attachments:

Nil.

Officer Recommendation:

OFFICER RECOMMENDATION:

That Council hold the 2021 Ordinary Council Meetings in accordance with the following schedule:

MONTH	ORDINARY COUNCIL MEETING DATE
February	23
March	23
April	27
May	25
June	22
July	27
August	24
September	28
October	26
November	23
December	14

With meetings to be held in the Council Chambers at 13 Waldeck Street, Dongara, commencing at 6.00pm.

INFRASTRUCTURE & DEVELOPMENT		ID01-11/20
Subject:	ID01-11/20 Delegated and Authorised Actions for October 2020 – Development	
Author:	B Jeans, Manager Development	
Responsible Officer:	P Traylen, A/Manager Infrastructure & Development	
File Reference:	3.00125	
Voting Requirements:	Simple Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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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:

To inform Council of officer actions made under delegated authority and authorisation in the Development department.

Background:

To increase transparency this report has been prepared for Council and includes actions performed under delegated authority and authorisation for:

- Development Approvals issued;
- Subdivision Clearances issued;
- Building Permits issued; and
- Health Approvals issued.

Officer’s Comment:

The table in Attachment 1 outlines the actions performed within the Development department under delegated authority or authorisation for the period 1 October to 31 October 2020.

The table in Attachment 2 provides further details in relation to actions performed under delegated authority and has been provided to Councillors under separate confidential cover.

Consultation:

Nil.

Statutory Environment:

Local Government Act 1995

Planning and Development Act 2005

- Part 10 Div. 2

Shire of Irwin Local Planning Scheme No.5

- Clause 11.3

Public Health Act 2016

Building Act 2011

Policy Implications:

Nil.

Financial/Resource Implications:

Nil.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – November 2020

ID01-11/20 Attachment 1 – Table of Delegated Actions for October 2020, Development

CONFIDENTIAL Attachment Booklet – November 2020

ID01-11/20 Attachment 2 – Detailed table of delegated actions for October 2020, Development

Officer Recommendation:

RECOMMENDED:

That Council receives the Delegated and Authorised Actions for October 2020 as set out in Attachment 1 in Attachment Booklet – November 2020.

INFRASTRUCTURE & DEVELOPMENT		ID02-11/20
Subject:	ID02-11/20 Big 4 Dongara Denison Beach Holiday Park – Formalise expansion and initiate lease renewal	
Author:	B Jeans, Manager Development	
Responsible Officer:	P Traylen, A/Manager Infrastructure & Development	
File Reference:	3.0091	
Voting Requirements:	Simple Majority	

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Report Purpose:

For Council to consider:

- a) supporting excising portion of adjacent Reserve 41088 for amalgamation into Reserve 25826 to facilitate the process to formalise the expansion of the Big 4 Dongara Denison Holiday Park; and
- b) initiating the disposal of property process for a revised lease of Big 4 Dongara Denison Holiday Park which is operated by Phobos Nominees Pty Ltd.

Background:

The Big 4 Dongara Denison Holiday Park (“the Park”) has operated on Reserve 25826 for over 20 years through a series of leases with the Shire. The Fowler Group manage the Park on behalf of Phobos Nominees Pty Ltd, being the Lessee. The current lease is due to expire in 2026 and the Lessee has requested a review and renewal of the lease.

The fenced area (as per Attachment 1) has been managed by the Park for a number of years as a semi-recreation space. From discussions with the Lessee it is understood it was fenced to separate and better manage this space. The fenced area portion (approximately 1000sqm) of Reserve 41088, directly adjacent to the north of Reserve 25826, is managed for a different purpose (Recreation).

Over the last several months the Shire has liaised with the Fowler Group to progress the matter and clarify the process involved with formalising the existing fenced expansion area and to lead into the review of the current lease capturing this area.



Officer’s Comment:

The two-part process extends into multiple areas covered by different legislation and department/agency approvals. To appropriately rationalise the site for its intended use and in support of a new lease, it is imperative these requirements be dealt with as one process.

Reserve Amalgamation

Reserve 25826 is managed by the Shire for the purpose of “Recreation, Camping & Caravan Park”. Adjoining Reserve 41088 is managed by the Shire for the purpose of “Recreation”. The area fenced off is within Reserve 41088 and is to be managed for the purpose of recreation.

There has been no issues or objection to the use of the fenced area by the Park, however due to the different purpose of Reserve 41088 for “Recreation”, further development of the Park cannot be supported. In liaison with Department of Planning Lands and Heritage (DPLH) and the Park operator, it has been determined that amalgamating the existing fenced area of Reserve 41088 into Reserve 25826 is the most appropriate and straightforward approach. The work involved to administer these changes include a survey company updating boundaries from a site survey and creation of a new Deposited Plan (survey costs and Landgate fees will apply).

DPLH have indicated support for this approach, with the following comments and advice:

- The land is located immediately adjacent to coastal shoreline and is within the study area of the Shire of Irwin’s Coastal Hazard Risk Management and Adaptation Plan (CHRMAP). In this instance, the subject land (Reserve 41088) is protected by a seawall which is anticipated to provide protection from coastal process in the medium to long-term, however, is forecasted to be

subject to inundation and erosion by 2070. Therefore, the ongoing use of the land for that purpose is appropriate in the interim.

- That the current (and future) lease agreement for Reserve 25826 is reviewed to include additional land within the leased area and, that the following clause, or similar wording to the same effect, is included “Development is to be removed or modified should it be threatened by coastal erosion or inundation during the approval period”.
- Any lease renewal and/or development application should also be based on an approval period which reflects the recommendation of the Shire’s CHRMAP and/or design life of the seawall. Should the Shire consider approving any permanent structures on the subject land, it should seek to have them located as far as practicable from the coastal shoreline to minimise exposure to coastal erosion and inundation.
- The Management Order for Crown Reserve 41088 includes “the power to lease for any term not exceeding 21 years, subject to the consent of the Minister for Lands being first obtained”. As such, the Shire will be requested to supply a Statutory Declaration – for that portion of Reserve 41088 subject to this proposal, confirming the Shire has not granted any rights or interests in the land to any third parties. Also, to confirm whether the Shire is aware of any contamination which may be present.

Local Planning

Through the consideration of the reserve amalgamation, it was also identified that the Shire’s Local Planning Scheme (“the Scheme”) will need to be amended (current Scheme map below). Reserve 25826 is classified as Special Use (SU 15) for the purpose of ‘Caravan/Chalet Park, Camping Ground and Incidental uses’ while the subject extended portion of land is classified in the Scheme as “Recreation/Conservation” reserve. It is expected the Special Use designation on the Scheme maps could be extended to include the new land, once amalgamated, during the review of the Shire’s Local Planning Scheme in 2021.



To support expansion and guide development of caravan/chalet parks, the Shire generally requires a Local Development Plan (LDP) to be prepared. Due to the limited expansion opportunities of the site and expansion area formalising an existing managed space, it is not considered necessary to require a LDP in this case. Further to this, the planning consideration of coastal hazard and risk to the site has been reviewed as part of discussions with DPLH for the reserve amalgamation process. Matters of bushfire risk, vegetation assessment or major expansion are not applicable in this case. Therefore it is proposed that any additional development on site be subject to Development Applications, where it is an expectation that new development be generally consistent with the existing and all relevant planning matters such as coastal hazard will be addressed. Additionally, development elements that are considered important can be incorporated into the new lease document, to ensure the expectations and

limitations of the site are clear.

Disposal of Property (Lease process)

The Lessee has indicated the desire to renew the lease, which is due to expire in 2026. The Management Order of Reserve 25826 provides the Shire (subject to Minister for Lands consent being first obtained) with the power to lease for periods up to 21 years. The *Local Government Act 1995* sets out a clear process for disposal of property which, following Section 3.58(3) of the Act, requires an up to date market valuation, public notice detailing the proposed disposition and Council consideration of any submissions prior to agreeing or disagreeing to the disposition.

Should Council support the Officer's Recommendation, a report will be presented back to Council following the process of public advertising for consideration of any submissions prior to determining whether to agree to the disposal of property.

Consultation:

Fowler Group of Companies (for Phobos Nominees Pty Ltd).

Department of Planning, Lands and Heritage (land use management, land use planning and coastal planning teams).

Statutory Environment:

Shire of Irwin Local Planning Scheme No.5

Land Administration Act 1997

51. Cancelling, changing etc. reserves, Minister's powers as to

Subject to sections 42, 43 and 45, the Minister may by order cancel, change the purpose of or amend the boundaries of, or the locations or lots comprising, a reserve.

Local Government Act 1995

3.58. Disposing of property

- (1) In this section —
dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
- (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

Policy Implications:

CP43 Disposal of Property

Financial/Resource Implications:

All costs associated with the reserve amalgamation (such as survey costs and Landgate fees) are to be borne by Phobos Nominees Pty Ltd. Costs associated with the disposal of property such as public notice and the required market valuation is to be borne by the Shire.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 1.1.5 Leverage opportunity and investment and promote retail development.

Attachments:

Attachment Booklet – November 2020

ID02-11/20 Attachment 1 – Site Plan

ID02-11/20 Attachment 2 – Letter request from Phobos Nominees Pty Ltd

Officer Recommendation:

RECOMMENDED:

That Council:

- 1. Authorises the Chief Executive Officer to progress the excision and amalgamation of Reserve 41088 into Reserve 25826 for the purposes of formalising the caravan park premises consistent with Attachment 1;**
- 2. In conjunction with point 1 above, indemnifies the Minister for Lands against any costs incurred in the process;**
- 3. Requires that all costs associated with point 1 above are to be borne by Phobos Nominees Pty Ltd; and**
- 4. Authorises the Chief Executive Officer to give public notice of the disposal of property by way of leasing Reserve 25826 to Phobos Nominees Pty Ltd, in accordance with Section 3.58(3) of the *Local Government Act 1995*.**

9.2. Committee Reports

Nil.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

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

14. CLOSURE