



# AGENDA

and

## Notice of Ordinary Council Meeting

to be held

**Tuesday 25 August, 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](http://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](http://www.irwin.wa.gov.au) within ten (10) working days after the Meeting.

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# ORDINARY COUNCIL MEETING

to be held

**25 August 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 B Jeans  
Mrs J Goodbourn  
Mrs S Taylor  
Mrs D K Chandler

Chief Executive Officer  
Manager Regulatory Services  
Supervisor Finance  
Community Development Officer  
Governance & Executive Coordinator

#### **Approved Leave of Absence**

Nil.

#### **Apologies**

Nil.

#### **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 28 July 2020

A copy of the Minutes of the Ordinary Council Meeting held 28 July 2020 have been provided to all Councillors under separate cover.

<b>RECOMMENDED:</b>
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<b>That the Minutes of the Ordinary Council Meeting, held 28 July 2020, as previously circulated, be adopted as a true and accurate recording of that meeting.</b>
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## 8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

### Functions, Meetings & Events

- |                |  |
|----------------|--|
| 30 July 2020   | Met with Mrs Alyssa Hayden MLA, Shadow Minister for Tourism; Small Business  |
| 31 July 2020   | Attended the Geraldton Stakeholder Session for the Carnarvon to Muchea road train extension at Main Roads, Geraldton |
| 18 August 2020 | Met with Iluka Eneabba   |
| 24 August 2020 | Attended the Northern Country Zone of WALGA meeting in Mingenew with Cr West and the CEO                             |

### Correspondence Out

- |               |  |
|---------------|--|
| 6 August 2020 | Letter to the Hon Mark McGowan MLA, Premier of WA regarding the positive impact the housing stimulus package has had on jobs in the building and construction industry in the Shire of Irwin |
|---------------|--|

## 9. REPORTS

### 9.1. Officer Reports

<b>CORPORATE AND COMMUNITY</b>		<b>CC01- 08/20</b>
<b>Subject:</b>	<b>CC01-08/20 Accounts for Payment</b>	
<b>Author:</b>	<b>S Clarkson, Finance Officer</b>	
<b>Responsible Officer:</b>	<b>J Goodbourn, Supervisor Finance</b>	
<b>File Reference:</b>	<b>Minute Book</b>	
<b>Voting Requirements:</b>	<b>Simple Majority</b>	

#### 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 July 2020.

#### Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of July 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 CEO3 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 – August 2020*

Attachment CC01 - Accounts for Payment – July 2020

**Officer Recommendation:**

**RECOMMENDED:**

**That Council receives the Accounts paid during July 2020 as presented in Attachment Booklet – August 2020, represented by:**

<b>Payment Type/Numbers</b>	<b>Total Amount</b>
<b>EFT 26173 – 26291</b>	<b>\$665,921.11</b>
<b>Muni Cheques – 31990 – 31996</b>	<b>\$55,748.77</b>
<b>Direct Debit – Telstra</b>	<b>\$1,916.89</b>
<b>Direct Debit – WA Treasury Corporation</b>	<b>\$32,948.57</b>
<b>Direct Debit – Solar Panel Repayments 07/20</b>	<b>\$1,947.66</b>
<b>Direct Debit – Superannuation</b>	<b>\$30,038.90</b>
<b>Grand Total</b>	<b>\$788,521.90</b>



<b>CORPORATE AND COMMUNITY</b>		<b>CC02-08/20</b>
<b>Subject:</b>	<b>CC02-08/20 Monthly Financial Statements for the Period Ended 31 July 2020</b>	
<b>Author:</b>	<b>J Goodbourn, Supervisor Finance</b>	
<b>Responsible Officer:</b>	<b>S Ivers, Chief Executive Officer</b>	
<b>File Reference:</b>	<b>Minute Book</b>	
<b>Voting Requirements:</b>	<b>Simple Majority</b>	

**Council Role:**

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**Report Purpose:**

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

**Background:**

The Monthly Financial Statements to 31 July 2020 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 July 2020 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

31/07/2020		YTD Actual	Variance to YTD Budget
	Operating Revenue	176,964	1%
	Operating Expenditure	(633,255)	-29%
	Net Operating	(456,291)	
	Non-Operating Revenue	0	100%
	Non-Operating Expenditure	(24,525)	-90%
	Net Non-Operating	(24,525)	
	Cash at Bank	1,347,398	
	Cash at Bank Restricted	561,602	
	Reserve Bank	1,293,367	
	Total Cash Funds	3,202,367	

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 will take place during August/September. The final accounts will be confirmed by the auditor and presented to Council as part of the annual financial report for 2019/20.

**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 – August 2020*

CC02 Attachment 1: Financial Statements for the Period Ended 31 July 2020

**Officer Recommendation:**

**OFFICER RECOMMENDATION:**

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

<b>CORPORATE AND COMMUNITY</b>		<b>CC03-08/20</b>
<b>Subject:</b>	<b>CC03-08/20 Community Assistance Scheme and Events Committee – Community Members</b>	
<b>Author:</b>	<b>S Taylor, Community Development Officer</b>	
<b>Responsible Officer:</b>	<b>S Ivers, Chief Executive Officer</b>	
<b>File Reference:</b>	<b>3.0016</b>	
<b>Voting Requirements:</b>	<b>Absolute Majority</b>	

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- 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 appoint two (2) community members to join the Community Assistance Scheme and Events (CASE) Committee.

**Background:**

The role of the CASE Committee is to administer, assist and evaluate the distribution of the Community Assistance Scheme funding within budgetary guidelines approved annually by Council. The Committee assesses applications received against selection criteria before submitting the committee’s recommendation to Council for consideration at the next Ordinary Council Meeting.

The CASE Committee also liaises with event organisers to ensure events meet the needs of the community and offer the best opportunity for economic gain and potential to market Dongara and Port Denison outside the Shire.

The CASE Committee’s Terms of Reference, last amended 26 January 2018, state that the CASE Committee will consist of up to five members:

- Manager Community Capacity;
- 2 x Elected Members; and
- 2 x Community Members

Please note that the CASE Committee Terms of Reference will be reviewed and amended at the first CASE Committee meeting after appointment of the two new community members.

At the 26 November 2019 Ordinary Council Meeting, Cr Wells and Cr Eva were appointed as Council delegates on the CASE Committee.

In July 2020, the Shire advertised for Expressions Of Interest (EOI) to fill the community member committee positions. A total of seven (7) responses were received and are presented to Council for review.

The candidates are:

- Ian Payne
- Jon Arden
- Jessie Finlay
- Mick Counce
- Kellie Wilson
- Ann Heitman
- Karina Clifford

**Officer’s Comment:**

To ensure transparency and fairness, information about the seven (7) candidates have been provided to Council under separate confidential cover (Attachment 1), to consider and select two candidates to appoint to the CASE Committee.

**Consultation:**

It is recommended that all Councillors vote for the two new CASE Committee members by secret ballot.

**Statutory Environment:**

*Local Government Act 1995*

- Section 5.8 Establishment of committees

**Policy Implications:**

Nil.

**Financial/Resource Implications:**

At the 28 July 2020 Ordinary Council Meeting, Council adopted the 2020/21 Budget including a \$35,000 allocation to the Community Assistance Scheme. The CASE Committee will make recommendations to Council for the expenditure of this allocation.

**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:**

*CONFIDENTIAL Attachment Booklet – August 2020*

CC03 Attachment 1: CASE Committee Member candidate information

**Officer Recommendation:**

It is recommended that the Shire President invite any candidates present to address Council.

It is recommended that the Shire President conduct a secret ballot.

**RECOMMENDED:**

That Council, by Absolute Majority, appoint \_\_\_\_\_ and \_\_\_\_\_ as community members of the Community Assistance Scheme and Events (CASE) Committee.

<b>OFFICE OF CEO</b>		<b>CEO01-08/20</b>
<b>Subject:</b>	<b>CEO01-08/20 Codes of Conduct Review</b>	
<b>Author:</b>	<b>D Chandler, Governance &amp; Executive Coordinator S Potts, Coordinator Administration</b>	
<b>Responsible Officer:</b>	<b>S Ivers, Chief Executive Officer</b>	
<b>File Reference:</b>	<b>3.00121</b>	
<b>Voting Requirements:</b>	<b>Simple Majority</b>	

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**Report Purpose:**

For Council to consider the reviewed and amended Codes of Conduct for:

- Council Members
- Committee Members
- Employees

**Background:**

In accordance with Section 5.103 of the *Local Government Act 1995* (the "Act"), every local government is to prepare or adopt a code of conduct to be observed by council members, committee members and employees.

Existing Council Policy E11 Code of Conduct was last amended and adopted at the 12 December 2015 Ordinary Council Meeting. It has now been reviewed again in line with changes in legislation and three new Codes have been prepared for consideration by Council:

- *Council Member Code of Conduct*
- *Committee Member Code of Conduct*
- *Employee Code of Conduct*

**Officer's Comment:**

The *Council Member Code of Conduct* (Attachment 1) has been amended only slightly to provide more clarity for Councillors and for the purpose of separating the three Codes. It has also been prepared as a publication rather than a Council policy as there is no requirement for it to be a Council policy. The Code will therefore not be included in Council's Policy Manual and it is recommended to delete Council Policy E11 Code of Conduct (Attachment 4).

The Department of Local Government, Sport and Cultural Industries (DLGSC) consulted with WA local governments on a proposed Code of Conduct for council members, committee members and candidates as well as CEO standards. This consultation period closed on 6 December 2019 and the feedback is now being incorporated into the drafting of regulations. If the new regulations are implemented, a new Code of Conduct for council members, committee members and candidates will be prepared to comply with these

changes.

The *Committee Member Code of Conduct* (Attachment 2) has been prepared as a separate publication and is to be observed by Council Committee members that are not already Council Members or employees. It has been prepared separately to the Council Member Code of Conduct for clarity and simplification.

The *Employee Code of Conduct* (Attachment 3) has also been prepared as a separate publication and has had significant amendments including the following:

- Greater emphasis on the Shire's values and behaviours;
- Enhanced clarity around employees' obligations as a public officer in accordance with legislation;
- Increased guidance for employees on ethics in practice, including personal behaviour, integrity, ethics and professional conduct; and
- Compliance requirements in relation to gifts and conflicts of interest.

By adopting the three new Codes of Conduct, Council will be complying with Section 5.103 of the Act and associated regulations. Having the three codes as separate publications will provide clarity for the user and reduce the risk of non-compliance.

It is proposed to include the three new Codes on a new Code of Conduct page on the Shire of Irwin website. This page will also explain code of conduct, outline conduct issues, refer to the *Local Government (Rules of Conduct) Regulations 2007* and include the Shire's Complaints Register in accordance with section 5.121(3) of the *Local Government Act 1995*.

It is proposed to review the three Codes of Conduct once every 3 years or as legislative requirements change.

**Consultation:**

The review was undertaken in consultation with legislation, other local government leaders in governance and an independent Human Resources advisor.

**Statutory Environment:**

*Local Government Act 1995*

- Section 5.103 Code of conduct

*Local Government (Administration) Regulations 1996*

- Part 9 – Codes of conduct for employees

*Local Government (Rules of Conduct) Regulations 1996*

*Local Government Act 1995 and Regulations*

*Occupational Safety and Health Act 1984*

*Fair Work Act 2009*

*Freedom of Information Act 1992 Corruption, Crime and Misconduct Act 2003*

*State Records Act 2003*

*Disabilities Services Act 1993*

**Policy Implications:**

Proposed deletion of Council Policy E11 Code of Conduct.

**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 4.3.5 Promote workplace health, safety and well-being

**Attachments:**

*Attachment Booklet – August 2020*

CEO01 Attachment 1: Council Member Code of Conduct

CEO01 Attachment 2: Committee Member Code of Conduct

CEO01 Attachment 3: Employee Code of Conduct

CEO01 Attachment 4: Council Policy E11 Code of Conduct

**Officer Recommendation:**

**RECOMMENDED:**

**That Council:**

- 1) Authorise the Chief Executive Officer to delete Council Policy E11 Code of Conduct and update the Council Policy Manual accordingly;**
- 2) Adopt the *Council Member Code of Conduct* provided as Attachment 1 in Attachment Booklet – August 2020;**
- 3) Adopt the *Committee Member Code of Conduct* provided as Attachment 2 in Attachment Booklet – August 2020;**
- 4) Adopt the *Employee Code of Conduct* provided as Attachment 3 in Attachment Booklet – August;**
- 5) Authorise the Chief Executive Officer to publish these new Codes of Conduct on the Shire of Irwin website; and**
- 6) Authorise the Chief Executive Officer to make administrative amendments to the Employee Code of Conduct that do not affect the intent of the Code.**



<b>OFFICE OF CEO</b>		<b>CEO02-08/20</b>
<b>Subject:</b>	<b>CEO02-08/20 Council Policy – CP44 Councillor Training &amp; Continuing Professional Development</b>	
<b>Author:</b>	<b>D Chandler, Governance &amp; Executive Coordinator</b>	
<b>Responsible Officer:</b>	<b>S Ivers, Chief Executive Officer</b>	
<b>File Reference:</b>	<b>3.00079</b>	
<b>Voting Requirements:</b>	<b>Absolute Majority</b>	

**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 a new policy – CP44 Councillor Training and Continuing Professional Development. The policy has been developed in accordance with section 5.128 of the *Local Government Act 1995*.

**Background:**

On 27 June 2019, changes to the Local Government Act 1995 were passed by Parliament which require all council members to undertake training within the first 12 months of being elected. Included in the changes, each council is now required to prepare and adopt a policy, by Absolute Majority, covering the continuing professional development of its council members. The policy is to be published on the local government's website.

Universal training has been introduced because Council Members have a unique and challenging role. The reform is the key to providing council members with the skills and knowledge to perform their role as leaders in the district.

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:**

Advice from the Department of Local Government, Sport & Cultural Industries (DLGSC) states that the content of the policy is to be determined by Council, however should include developmental opportunities for each councillor and a statement for the extent of payment by the local government.

Policy CP44 Councillor Training and Continuing Professional Development (Attachment 1) has been developed for Council's consideration. The policy includes:

- Prescribed training requirements in accordance with Part 10 of the *Local Government (Administration) Regulations 1996*;
- Continuing professional development opportunities;
- Completing training in accordance with annual budget allocation; and

- Reporting on training in accordance with section 5.127 of the *Local Government Act 1995*.

*Guideline 05 Councillor Training* (Attachment 2) has also been developed for Council's consideration. The guideline is to be read in conjunction with the policy and provides further procedural information.

**Consultation:**

The policy and guideline were developed in consultation with the DLGSC.

**Statutory Environment:**

*Local Government Act 1995*

- S5.126 Training for council members
- S5.127 Report on training
- S5.128 Policy for continuing professional development

*Local Government (Administration) Regulations 1996*

- Part 10 - Training

**Policy Implications:**

Adoption of CP44 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:**

The policy allows for an annual budget allocation for Councillors for continuing professional development.

**Strategic Implications:**

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and best practice principles

Strategy 4.3.1 Ensure elected members and employees are trained to meet the needs of the community

Strategy 4.3.2 Adopt and follow better practice processes

**Attachments:**

*Attachment Booklet – August 2020*

CEO02 Attachment 1: Council Policy CP44 Councillor Training & Continuing Professional Development

CEO02 Attachment 2: Guideline 05 Councillor Training

**Officer Recommendation:**

**RECOMMENDED:**

**That Council, by Absolute Majority, adopts Council Policy CP44 – Councillor Training and Continuing Professional Development and notes Guideline 05 Councillor Training, presented as Attachments 1 and 2 respectively in Attachment Booklet – August 2020.**

<b>OFFICE OF CEO</b>		<b>CEO03-08/20</b>
<b>Subject:</b>	<b>CEO03-08/20 Council Policy – CP45 Attendance at Events (Council Members and CEO)</b>	
<b>Author:</b>	<b>D Chandler, Governance &amp; Executive Coordinator</b>	
<b>Responsible Officer:</b>	<b>S Ivers, Chief Executive Officer</b>	
<b>File Reference:</b>	<b>3.00079</b>	
<b>Voting Requirements:</b>	<b>Absolute Majority</b>	

**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 a new policy – CP45 Attendance at Events (Council Members and CEO). The policy has been developed in accordance with section 5.90A of the *Local Government Act 1995*.

**Background:**

Section 5.90A of the Local Government Act requires that local governments have an attendance at events policy. The purpose of the policy is for the council to actively consider the purpose of and benefits to the community from council members and CEOs attending events.

Advice from the Department of Local Government, Sport and Cultural Industries (DLGSC) states that ultimately, it is the decision of the council as to what is contained within the policy and this will vary between local governments.

In developing the policy, there are a number of matters which need to be considered. Principally, the council needs to consider what is the benefit to the community or local government in having members of council or the CEO attend the event. The Attendance at Events policy is to enable council members to attend events as a representative of council without restricting their ability to participate in council meetings. It is not intended to be used as a mechanism to avoid conflict of interest provisions where significant matters are likely to come before council from the provider of the invitation.

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 CP45 Attendance at Events – Council Members and CEO (Attachment 1) has been developed for Council's consideration. The policy includes:

- Identification of entities where disclosure of interest of invitations or gifts is not required by Council Members and the CEO;
- Provision of tickets to events;
- Approval of attendance; and

- Payments in respect of attendance.

*Guideline 06 Attendance at Events* (Attachment 2) has also been developed for Council's consideration. The guideline is to be read in conjunction with the policy and provides further procedural information relating to pre-approved events and factors to consider when approving attendance at events.

**Consultation:**

This policy and guideline were developed in consultation with the DLGSC.

**Statutory Environment:**

*Local Government Act 1995*

- S5.90A Policy for attendance at events

**Policy Implications:**

Adoption of CP45 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:**

Nil.

**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 – August 2020*

CEO03 Attachment 1: Council Policy CP45 Attendance at Events (Council Members and CEO)

CEO03 Attachment 2: Guideline 06 Attendance at Events

**Officer Recommendation:**

**RECOMMENDED:**

**That Council, by Absolute Majority, adopts Council Policy CP45 – Attendance at Events (Council Members and CEO) and notes Guideline 06 Attendance at Events, presented as Attachments 1 and 2 respectively in Attachment Booklet – August 2020.**

REGULATORY SERVICES		RS01-08/20
<b>Subject:</b>	RS01-08/20 Review of Dog Exercise Areas and Dog Prohibited Areas	
<b>Author:</b>	B Jeans, Manager Regulatory Services	
<b>Responsible Officer:</b>	S Ivers, Chief Executive Officer	
<b>File Reference:</b>	3.0378	
<b>Voting Requirements:</b>	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 adopt the revised Dog Exercise Areas and Dog Prohibited Areas.

**Background:**

It was recently identified that the Dog Exercise Areas (DEA) had not been reviewed for several years and with legislative changes introduced in 2013/14 that affected the administration and implementation of these areas, it was considered appropriate to undertake a review.

In the Shire, over 800 dogs are currently registered. As a tourist orientated town there are seasonal influxes of visitor dogs that aren't registered with the Shire that would represent a significant portion of dogs in public areas, which is important to take into account.

**Officer's Comment:**

Previously, DEAs or areas where dogs are prohibited were designated by Local Government Local Laws. In 2014 the changes brought in by the *Dog Amendment Act* removed a local government's ability to make local laws relating to dog exercise and prohibited areas. The changes to the *Dog Act 1976* now require these areas to be established by Council Resolution rather than by local law. This change provides local governments with greater flexibility and less strain on the lengthy administrative process involved with amending local laws. This flexibility will allow for more frequent reviews to better respond and adapt to changing circumstances.

The draft DEA map advertised to the public suggested several areas of potential changes from what is prescribed in the Local Law, subject to consideration of community feedback. The areas on the map included:

- Notation of a potential future dog park (fenced purpose-built space) within an existing public open space on Canny Place;
- On lead dog path around the Recreation Centre oval for consideration;
- Prohibiting dogs at Grannies Beach;
- Maintain prohibiting dogs on the beach to the north of the Surf Club at South Beach;
- Identifying dog exercise (off lead) areas further south and north of the South Beach vehicle access; and

- Mapping popular trails/paths on the map to affirm the popular on lead public areas.

As a result of the community feedback, a final revised DEA map has been developed for Council's consideration (Attachment 2), which has amended:

- Removal of the dog prohibited (transit) zone to the beach north of the Surf Club at South Beach;
- Extension of the on lead section south of the South Beach access;
- Reinforcement of the Recreation Centre oval surface as a prohibited dog area (this is in line with the Shire's local law) and maintaining the proposed on lead for the perimeter oval track;
- Removal of potential dog parks (in blue) as these would be added to the map should funding become available for construction; and
- Addition of more detailed maps of Grannies Beach and South Beach areas.

Following the finalisation of this review, the Shire will enter the next phase of investigating and implementing improved signage relating to dogs in public places, with a higher priority for South Beach.

### **Consultation:**

Local governments are required to give 28 days notice of the intention to specify dog exercise areas and dog prohibited areas in accordance with section 31 of the *Dog Act 1976*.

In December 2019 to February 2020 the Shire carried out public consultation of the draft Dog Exercise Area map with the objective of raising awareness of dog exercise areas and to take on community feedback of specific areas. This consultation included a public notice in the Dongara Denison Local Rag 27 November 2019 edition, an advertisement on the Shire of Irwin website and a Shire of Irwin Facebook post (including an additional reminder posted in January 2020).

In total, the Shire received 15 submissions by way of email and Facebook messages. The submissions have been listed in the Schedule of Submissions (Attachment 3), which includes Officer responses to each submission.

In summary the consultation period provided mixed responses on the various areas and changes proposed. This was to be expected as there is often opposing views from dog owners and residents that don't own dogs. Whilst the map may not adequately address all individual concerns or requests, it is considered there is a balance for all users of public areas.

It was also evident during the consultation process that residents were not fully aware of the existing dog exercise and prohibited areas. This was in part due to a lack of clear information easily accessible to the public, therefore the process has been valuable in identifying this.

### **Statutory Environment:**

#### ***Local Government Act 1995***

#### ***Dog Act 1976 (the Act)***

##### *31. Control of dogs in certain public places*

*(1) A dog shall not be in a public place unless it is —*

*(a) held by a person who is capable of controlling the dog; or*

*(b) securely tethered for a temporary purpose,*

*by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.*

*(2A) Despite subsection (1), a dog shall not be in a public place —*

*(a) at all if the place is specified under subsection (2B) as a place where dogs are prohibited at all times;*  
*or*

*(b) at a time when the place is specified under subsection (2B) as a place where dogs are prohibited at that time.*

*(2B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited —*

*(a) at all times; or*

*(b) at specified times.*

*(2) A dog is exempt from the requirements of subsection (1) if —*  
*(a) it is in a dog exercise area specified under subsection (3A); or*  
*(b) it is in a public place that is in an area of the State outside the metropolitan region or outside a townsite, and that is not a rural leashing area specified under subsection (3B); or*  
*(c) it is in or on a vehicle; or*  
*(d) it is being exhibited for show purposes; or*  
*(e) it is participating in an obedience trial or classes conducted under the auspices of the body known as the Canine Association of Western Australia (Inc.) or a body approved by the local government in whose district the obedience trial or classes are conducted; or*  
*(f) it is registered as being bona fide used in the droving or tending of stock and is being so used or is going to or returning from a place where it will be, or has been, so used; or*  
*(g) it is a foxhound in a pack bona fide engaged in hunting or hound exercise or in going to or returning from hunting or hound exercise; or*  
*(h) it is being used for retrieving, duck hunting or other customary sporting purposes.*

*(3A) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.*

*(3B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place that is under the care, control or management of the local government to be a rural leashing area.*

*(3C) At least 28 days before specifying a place to be —*  
*(a) a place where dogs are prohibited at all times or at a time specified under subsection (2B); or*  
*(b) a dog exercise area under subsection (3A); or*  
*(c) a rural leashing area under subsection (3B), a local government must give local public notice as defined in the Local Government Act 1995 section 1.7 of its intention to so specify.*

*(3) If a dog is at any time in any public place in contravention of subsection (1) or (2A), every person liable for the control of the dog at that time commits an offence unless the person establishes a defence under section 33B. Penalty: a fine of \$5 000.*

*(4) This section does not apply to a dangerous dog.*

*(5) A local government must specify under subsection (3A) such dog exercise areas as are, in the opinion of the local government, sufficient in number, and suitable, for the exercising of dogs in the district.*

### **Shire of Irwin Dogs Local Law 2001**

Part 5 of the Shire's Dogs Local Law was previously used to designate dog exercise and dog prohibited areas in public places.

#### **Policy Implications:**

Nil

#### **Financial/Resource Implications:**

There are no financial implications associated with the endorsement of Dog Exercise Areas. Through the review process there were minor costs associated with the newspaper advertising and design/production of the new map.

Incidental costs, that are subject to future budget considerations, will include the implementation of additional signage to improve relevant information associated with dog control in various public places.

#### **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 – August 2020*

RS01 Attachment 1: Dog Exercise Areas Map (as advertised)

RS01 Attachment 2: Dog Exercise Areas Map (final)

RS01 Attachment 3: Schedule of Submissions

**Officer Recommendation:**

<b>RECOMMENDED:</b>
<b>That Council, by Absolute Majority, resolves to endorse the amended Dog Exercise Areas and Dog Prohibited Areas presented as Attachment 2 in Attachment Booklet – August 2020.</b>



<b>REGULATORY SERVICES</b>		<b>RS02-08/20</b>
<b>Subject:</b>	<b>RS02-08/20 Delegated and Authorised Actions for July 2020 – Regulatory Services</b>	
<b>Author:</b>	<b>B Jeans, Manager Regulatory Services</b>	
<b>Responsible Officer:</b>	<b>S Ivers, Chief Executive Officer</b>	
<b>File Reference:</b>	<b>3.00125</b>	
<b>Voting Requirements:</b>	<b>Simple Majority</b>	

**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:**

To inform Council of officer actions made under delegated authority and authorisation in the Regulatory Services 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 Regulatory Services department under delegated authority or authorisation for the period 1 July to 31 July 2020.

The table in Attachment 2 provides a detailed development update 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 – August 2020*

RS02 Attachment 1: Table of Delegated Actions for July 2020, Regulatory Services

*CONFIDENTIAL Attachment Booklet – August 2020*

RS02 Attachment 2: CONFIDENTIAL Development Update

**Officer Recommendation:**

**RECOMMENDED:**

**That Council accepts the Delegated and Authorised Actions for July 2020 as set out in RS02 Attachment 1 in Attachment Booklet – August 2020 and Attachment 2 in CONFIDENTIAL Attachment Booklet – August 2020.**

<b>REGULATORY SERVICES</b>		<b>RS03-08/20</b>
<b>Subject:</b>	<b>RS03-08/20 Shire of Irwin Coastal Management Plan</b>	
<b>Author:</b>	<b>B Jeans, Manager Regulatory Services</b>	
<b>Responsible Officer:</b>	<b>S Ivers, Chief Executive Officer</b>	
<b>File Reference:</b>	<b>3.0347</b>	
<b>Voting Requirements:</b>	<b>Simple Majority</b>	

**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 support the commencement of public advertising of the draft Coastal Management Plan.

**Background:**

In April 2018, the Shire applied for the Coastal Management Plan Assistance Program (CMPAP) grant to prepare a Coastal Management Plan (CMP). It was identified that our existing Coastal Development Strategy from 2000 was no longer relevant with the new coastal planning policies and with the Shire’s Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) adopted in 2016, it was considered an integral part of the Shire’s long term planning, management and use of coastal land.

In July 2018, the Shire was successful in receiving a grant of \$40,000 to assist in the development of a new CMP. Following the Request for Quotation (RFQ) process, the Shire appointed Land Insights in April 2019 to prepare the CMP.

In July 2019, Council supported the Stakeholder and Community Engagement Plan (SCEP) which outlines the proposed consultation process for the CMP. The objective of the SCEP was to emphasise and provide greater opportunity for community engagement in line with Council’s Policy C5 and the Shire’s Strategic Community Plan 2017-2027. It is believed the engagement proposed with the addition of community workshop/information sessions and the use of an online interactive tool will deliver on this.

Following the development of the SCEP a survey was circulated and a community workshop was held in October 2019 to engage the community and seek their thoughts and values relating to the project. This was done intentionally prior to the consultants commencing work on the CMP content to ensure the initial feedback informed the CMP. The participation rate and feedback received exceeded expectations, highlighting the importance of coastal planning and management within the community.

A draft CMP has been prepared by the consultants for advertising.

**Officer’s Comment:**

The CMP document itself has been developed from the ground up with consideration given to a suite of state and local policies, strategies and plans as identified in the Literature Review section of the CMP. The

consultants have prepared a high-quality comprehensive draft CMP taking into consideration the public feedback already received from the community survey and workshop.

In a brief summary, the CMP will provide actions for the management of the Shire's coastal areas for the next 10 years, with a focus on areas with issues such as coastal hazards and land use pressures. The CMP provides closer focus on areas such as the Coastal Nodes in the south of the Shire and other hotspots such as Grannies Beach and Surf Beach in Port Denison.

Following the extensive consultation period, the CMP will be further revised with more details and presented back to Council for adoption.

**Consultation:**

Project Consultants  
Project Steering Group Committee  
Shire Officers  
Department of Planning, Lands and Heritage

The consultation proposed will be consistent with the Section 4.2 -Task 2.9 of the SCEP. In summary the following methods inviting feedback over a minimum 6 week period is proposed:

- Letters to relevant stakeholders and agencies;
- Website and social media adverts;
- Access to a new online engagement tool;
- Local and district newspaper adverts;
- Advert notices in Shire office and other public locations; and
- Open house evening information session.

**Statutory Environment:**

Nil

**Policy Implications:**

State Planning Policy 2.6 – State Coastal Planning Policy  
Council Policy C5 – Community Engagement and Public Consultation

**Financial/Resource Implications:**

The Coastal Management Plan project is part grant funded by the Department of Planning, Lands and Heritage as part of the Coastal Management Plan Assistance Program (CMPAP). All costs associated with the project have been budgeted for.

**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

Strategy 2.1.4 Prepare cutting edge land use strategies to guide future development

Strategy 4.1.2 Utilise contemporary communication strategies and tools to enhance public participation

**Attachments:**

*Attachment Booklet – Draft Coastal Management Plan*  
RS03 Attachment 1: Draft Coastal Management Plan

**Officer Recommendation:**

**RECOMMENDED:**

**That Council endorses the draft Coastal Management Plan, presented as Attachment 1 in Attachment Booklet – Draft Coastal Management Plan, for the purpose of public advertising.**

REGULATORY SERVICES		RS04-08/20
Subject:	RS04-08/20 Trader’s Permit Application – Ice Cream Van	
Author:	B Jeans, Manager Regulatory Services	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0406	
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.
- 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 the approval of a Trader’s Permit for the operation of an ice cream van at Grannies Beach and South Beach carpark.

**Background:**

The Shire received an application for a Trader’s Permit from a local resident to trade from an ice cream van as “Dongara Daisey” at various locations. The mobile van, as indicated in Attachment 1, (which is subject to some minor external cosmetic improvements) is in good condition and operates on battery/solar when idle, minimising noise emissions.

In the initial Trader’s Permit application the Applicant proposed to trade as an itinerant along the Denison foreshore and South Beach and trade more permanently in locations such as Grannies Beach, Obelisk, South Beach and at the rest bay at the intersection of Brand Highway and Midlands Road.

Following further liaison between the Shire and the Applicant, trading locations have been reduced based on the understanding that a policy will be developed to provide guidance on suitable designated trading locations. Further to this the trading location on the Brand Highway was not supported by Main Roads WA due to conflicts with their policy.

The Applicant now seeks approval to operate the van at two fixed locations at this time, being Grannies Beach and South Beach carpark. The Applicant also intends to trade as an itinerant along popular public places with the clear understanding of the separation requirement to established food premises in the Shire’s Local Law. Trading is proposed to occur from midday onwards predominantly towards the latter part of the week and weekends and potentially more frequently during holiday periods and warmer months.

**Officer’s Comment:**

The Shire’s Local Law relating to trading in public places is the principle statutory document that applies to the proposal. When considering traders in public places, the overarching considerations set out in 6.5 of the Local Law is taken into account, with particular relevance of 6.5(b), (c) and (d):

*(b) the desirability of the proposed activity*

The operation of mobile trading is a common and widely accepted activity. The desirability component is achieved through assessing the quality of the trader and equipment and the location (refer to (c)). The proposed van has been maintained in good condition and with the setup of battery and solar, will minimise undesirable noise emissions when stationary.

*(c) the location of the proposed activity*

The proposed locations sought for mobile trading are considered to complement the existing use of the public places.

Grannies Beach is well utilised throughout the year and contains an existing mobile trader selling coffee and hot foods. The proposed inclusion of another mobile van trading at the Grannies Beach location is not considered to be detrimental to the use of the site or present any traffic or pedestrian safety concerns.

The South Beach carpark location is proposed to be flexible to respond to the variations in use and activity of the site. In the absence of a policy, there is no specific designated trading location however the objectives of the Local Law ensure that trading is not to result in adverse impacts.

Itinerant trading is not considered to present a concern with the existing Local Law provisions in place, provided appropriate conditions are imposed.

*(d) the principles set out in the Competition Principles Agreement*

The principles of the Agreement are to ensure that during the application process consideration is to be given to the Agreement with the objective of minimising unfair direct competition (“competition neutrality”). It is considered the Shire’s Local Law provides for this with the ability to control multiple aspects of trading in public places such as location, times and type of goods sold. With respect to the two proposed locations and proposed trading periods, it is not considered to conflict with these principles.

In regards to the two locations proposed, in summary it is the Officer’s view that both locations have merit for support.

**Grannies Beach:**

- The site can cater for an additional mobile trader;
- The trading times/seasons in the year for the two traders offering different products would likely vary offering patrons variety; and
- A direct line distance of approximately 400m to the nearest established premises selling ice cream products meets the minimum 300m requirement.

**South Beach:**

- Currently no mobile trader operating at South Beach vicinity;
- The sale of soft serve ice cream would not directly conflict with the products of the nearby Starfish Café, however should this be the case, the 300m buffer would apply;
- Trading, due to the nature of the product, would be seasonal and not permanent;
- The proposed location would not result in traffic or pedestrian safety concerns; and
- Trading on the beach would be itinerant only.

Due to the absence of a Council Policy, it is proposed that approvals be limited to a 12 month period and reconsidered on renewal (as opposed to simply renewed). Within this time the Shire intends to develop and present a draft policy to Council relating to trading in public places.

**Consultation:**

Main Roads WA

**Statutory Environment:**

Shire of Irwin Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000

Part 6 Division 1 of the Local Law controls trading activities in public places and sets out the relevant considerations.

## 6.5 Relevant considerations in determining application for permit

- (1) *In determining an application for a permit for the purposes of this Division, the local government is to have regard to –*
- (a) *Any relevant policies of the local government;*
  - (b) *The desirability of the proposed activity;*
  - (c) *The location of the proposed activity;*
  - (d) *The principles set out in the Competition Principles Agreement; and*
  - (e) *Such other matters as the local government may consider to be relevant in the circumstances of the case.*

Section 6.5(2) of the Local Law sets out reasons where a permit may be refused. This is not the Officer's Recommendation.

## 6.6 Conditions of permit

- (1) *If the local government approves an application for a permit under this Division subject to condition, those conditions may include –*
- (a) *The place, the part of the district, or the thoroughfare to which the permit applies;*
  - (b) *The days and hours during which a permit holder may conduct a stall or trade;*
  - (c) *The number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;*
  - (d) *The goods or services in respect of which a permit holder may conduct a stall or trade;*
  - (e) *The number of persons and the names of persons permitted to conduct a stall or trade;*
  - (f) *The requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;*
  - (g) *Whether and under what terms the permit is transferable'*
  - (h) *Any prohibitions or restrictions concerning the –*
    - i. *Causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;*
    - ii. *The use of amplifiers, sound equipment and sound instruments;*
    - iii. *The use of signs; and*
    - iv. *The use of any lighting apparatus or device;*
  - (i) *The manner in which the permit holder's name and other details of a valid permit are to be displayed;*
  - (j) *The care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;*
  - (k) *The vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;*
  - (l) *The acquisition by the stallholder or trader of public risk insurance;*
  - (m) *The period for which the permit is valid; and*
  - (n) *The designation of any place or places where trading is wholly or from time to time prohibited by the local government.*

Section 6.8(2) of the Local Law further sets out trading conduct and controls:

## 6.8 Conduct of stallholders and traders

- (2) *A stallholder or trader shall not –*
- (a) *attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the stall holder or Trader.*
  - (b) *Deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;*
  - (c) *Act in an offensive manner;*
  - (d) *Use or cause to be used an apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or*
  - (e) *In the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.*

**Policy Implications:**

Nil.

**Financial/Resource Implications:**

The Trader's Permit application is subject to an administrative fee and subsequent periodic trading fee as per Council's adopted Fees and Charges for 2020-21.

**Strategic Implications:**

Strategic Community Plan 2017 - 2027

Strategy 1.1.1 Continuously improve approval processes

**Attachments:**

*Attachment Booklet – August 2020*

RS04 Attachment 1: Photos of Ice Cream Van

RS04 Attachment 2: Trading Locations

**Officer Recommendation:**

**RECOMMENDED:**

**That Council, in accordance with Clause 7.2 of the Shire of Irwin Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000, approves the application and authorises the Chief Executive Officer to issue a Trader's Permit to R Boelen, trading as "Dongara Daisey", subject to the following conditions:**

- 1. The permit shall be valid for 12 months from the date of approval.**
- 2. The Shire of Irwin reserves the right to revoke and/or make amendments to this permit at any time.**
- 3. The permit is not transferrable.**
- 4. The trader shall only operate on a fixed basis from Grannies Beach (Lot 947) and South Beach carpark locations within the approved trading areas, as per Attachment 2, subject to the satisfaction of the Shire of Irwin.**
- 5. The trader shall be registered and comply with the requirements of the Food Act 2008, Food Regulations 2009 and Food Standards Code.**
- 6. Any trading proposed at public events or gatherings on Shire-managed land shall require prior consent of the Shire.**
- 7. The trader may operate as an itinerant trader throughout the district, in accordance with Clause 6.8(2)(a), with the exception of Moreton Terrace, Dongara where no itinerant trading is permitted.**
- 8. The trader shall only sell and/or supply soft serve ice cream and related products.**
- 9. The trader shall make provision for a rubbish receptacle.**
- 10. The trader indemnifies Council against any claims that could result from operating the business.**
- 11. The trader shall maintain current public liability insurance at all times to a minimum value of \$10 million.**
- 12. The trader shall comply with the Environment Protection (Noise) Regulations 1997.**
- 13. Whilst stationary the trader shall not use amplified music which could cause a noise nuisance.**
- 14. The trader shall maintain the visual appearance of the vehicle in good condition.**



**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**