



MINUTES

of the

Ordinary Council Meeting


held

Tuesday 28 July 2020

in the

Council Chambers
11-13 Waldeck Street, Dongara

I certify that this copy of the Minutes is a true and correct record of the meeting held on Tuesday 28 July 2020

Signed: .....
Presiding Elected Member

Date: 25/8/20

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

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ORDINARY COUNCIL MEETING

held

Tuesday 28 July 2020

at 6.00pm

MINUTES

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President welcomed Councillors and Staff and opened the meeting at 6.00pm.

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Members

Councillor M T Smith	Shire President
Councillor B Wyse	Deputy Shire President
Councillor G S Eva	
Councillor A J Gilliam	
Councillor M Leonard	
Councillor I Scott	
Councillor H M Wells	
Councillor I F West	

Staff

Mr S D Ivers	Chief Executive Officer
Mr B Jeans	Manager Regulatory Services
Mrs J Goodbourn	Supervisor Finance
Mrs S Pratt-King	Coordinator Infrastructure & Asset Services
Mrs Y Robb	Process Improvement Coordinator
Mrs D K Chandler	Governance & Executive Coordinator

Approved Leave of Absence

Nil.

Apologies

Nil.

Gallery

J Arden – Premier Circle, Port Denison
L Beatty – Geraldton Newspapers

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

Nil.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS AND DEPUTATIONS

Nil.

7. CONFIRMATION OF MINUTES

7.1. Minutes of the Ordinary Council Meeting held 23 June 2020

A copy of the minutes of the 23 June 2020 Ordinary Council Meeting have been provided to all Councillors under separate cover.

COUNCIL DECISION 010720:	
MOVED: Cr Eva	SECONDED: Cr Gillam
That the Minutes of the Ordinary Council Meeting, held 23 June 2020, as previously circulated, be adopted as a true and accurate recording of that meeting.	
VOTING DETAILS:	Carried 8/0

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Functions, Meetings & Events

22 June 2020	Cr West and CEO attended the Northern Country Zone of WALGA meeting in Mingenew
8 July 2020	Attended a Coastal Nodes Site Meeting
14 July 2020	Met with the Hon. Mick Murray, Minister for Seniors & Aging, Volunteering and Sport & Recreation
27 July 2020	Inspection of the Two Henry Road independent living units

Correspondence In

22 June 2020	Letter from the Dongara Golf Club thanking Council for support and sponsorship of the Winter Golf Season Opening event attended by Cr Wyse on Sunday 21 June.
29 June 2020	Letter from the Minister for Emergency Services; Corrective Services thanking the Shire for their support for a Midwest based emergency rescue helicopter. This provision will be reviewed in 2021 in consultation with key stakeholders including the Department of Health.
3 July 2020	Letter from Mr Ian Payne acknowledging the outstanding work, decisions and administrations in keeping the Shire in 'wonderful working order', in spite of the constant criticism conveyed through social media platforms.
7 July 2020	Letter from the Public Sector Commission regarding the role of local government in WA's COVID-19 pandemic recovery.

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY		CC01- 07/20
Subject:	CC01-07/20 Accounts for Payment	
Author:	S Clarkson, Finance Officer	
Responsible Officer:	J Goodbourn, Supervisor Finance	
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 June 2020.

Background:

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

CC01 Attachment 1: Accounts for Payment – June 2020

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 020720:

MOVED: Cr Leonard

SECONDED: Cr Wyse

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

Payment Type/Numbers	Total Amount
EFT 26058 – 26172	\$349,935.93
Muni Cheques – 31988 – 31989	\$905.05
Direct Debit – Telstra	\$3,307.49
Direct Debit – WA Treasury Corporation	\$41,296.79
Direct Debit – Solar Panel Repayments 06/20	\$1,947.66
Direct Debit – Credit Card	\$1,296.63
Direct Debit – Superannuation	\$51,568.49
Grand Total	\$450,258.04

VOTING DETAILS:

Carried 8/0

CORPORATE AND COMMUNITY		CC02-07/20
Subject:	CC02-07/20 Monthly Financial Statements for the Period Ended 30 June 2020	
Author:	J Goodbourn, Supervisor Finance	
Responsible Officer:	S Ivers, Chief Executive Officer	
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 consider and receive the Monthly Financial Statements for the period 1 July 2019 to 30 June 2020.

Background:

The Monthly Financial Statements to 30 June 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 June 2020 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

30/06/2020		YTD Actual	Variance to YTD Budget
	Operating Revenue	8,088,364	1%
	Operating Expenditure	(11,333,883)	2%
	Net Operating	(3,245,519)	
	Non-Operating Revenue	2,117,386	14%
	Non-Operating Expenditure	(4,589,274)	6%
	Net Non-Operating	(2,471,888)	
	Cash at Bank	1,650,476	
	Cash at Bank Restricted	562,263	
	Reserve Bank	1,292,763	
	Total Cash Funds	3,505,502	

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 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 – July 2020

CC02 Attachment 1: Financial Statements for the Period Ended 30 June 2020

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 030720:

MOVED: Cr West

SECONDED: Cr Leonard

That Council receives the Monthly Financial Statements for the period 1 July 2019 to 30 June 2020 as presented in Attachment Booklet – July 2020.

VOTING DETAILS:

Carried 8/0

CORPORATE AND COMMUNITY		CC03-07/20
Subject:	CC03-07/20 Shire of Irwin 2020/21 Annual Budget	
Author:	J Goodbourn, Supervisor Finance	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0200	
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:

To consider and adopt the Shire of Irwin Annual Budget ("Budget") for the 2020/21 financial year together with supporting schedules, including imposition of rates and minimum payments, adoption of fees and charges, setting of elected members fees for the year and other consequential matters arising from the budget papers.

Background:

The Shire of Irwin 2020/21 Budget has been compiled based on the principles contained in the Strategic Community Plan but also with a major focus on the consequences of the COVID-19 pandemic and the likely impact this will have on Shire operations and the community.

The Budget has been prepared in accordance with the presentations made to Councillors at the two budget workshops held in June 2020.

The proposed differential general rates have been kept at the same rate in the dollar as last year and therefore in accordance with the *Local Government (COVID-19 Response) Order 2020* – Clause 9 it was not necessary to obtain Ministerial approval for this financial year.

Officer's Comment:

The Budget has been prepared to include information required by the *Local Government Act 1995*, *Local Government (Financial Management) Regulations 1996* and Australian Accounting Standards.

Following direction from the Department of Local Government; Heritage, Culture and the Arts and the *Local Government (COVID-19 Response) Order 2020* issued 21 April 2020, there has been no increase to annual rates or fees and charges.

The penalty interest rate will be capped at 8% compared to 11% previously, and the interest on the option to pay by instalments will be 5.5%.

The Shire of Irwin is adopting a financial hardship policy which will enable assessment of applications from residential and small business ratepayers that are suffering financial hardship due to the

consequences of the COVID-19 pandemic.

Any person considered to be suffering hardship will not be charged penalty interest or instalment interest during the 2020-2021 financial year.

The main features of the Budget include:

- No change to the rates in the dollar; all categories are the same rates in the dollar as those imposed in 2019/20.
- Under the various modified sections of the Act (s6,33, s.6.35, s.36) following the *Local Government (COVID-19 Response) Order 2020*, Council did not have to advertise the proposed differential rates, reasons and objectives for setting rates, or obtain Ministerial approval if Council resolved to keep the rates in the dollar the same as those imposed in 2019/20. Council resolved to keep the rates in the dollar the same as those imposed in 2019/20 at the 23 June 2020 Ordinary Council Meeting. The differential general rates and minimum payments were published on the Shire of Irwin website on 25 June 2020 as required.
- Fees and charges have not been increased and overall remain at the same level as those imposed in 2019/20. New charges for the *Two Henry Road* independent living units have been included along with introduction of fees for the coastal nodes at Cliff Head, Freshwater Point and Knobby Head. Recreation Centre fees have been reviewed to simplify the charging structure.
- Household and commercial waste charges and charges for depositing refuse at the Shire of Irwin Transfer Station are being maintained at the same level as 2019/20 with no increases.
- The operating budget includes an overall decrease in estimated expenditure of 9.1% on last year's actuals (although individual line items may vary from this based on specific factors affecting each of these) and continues the focus on improved service delivery to the community.
- A capital works program totalling \$5.1M for investment in infrastructure, land and buildings, plant and equipment and furniture and equipment is planned. Expenditure on road infrastructure is the major component of this (\$1.7M) in line with Council's strategy to increase the investment in road and associated assets. An amount of \$2.25M is provided to complete the Aged Housing Project. The Pump Track, which commenced in June 2020, will be completed utilising the \$250,000 Lotterywest grant.
- An estimated deficit of \$168,015 is anticipated to be brought forward from 30 June 2020, with an estimated deficit of \$26,100 at 30 June 2021.
- A transfer from Reserve of \$20,000 is budgeted to assist with the establishment of the container deposit scheme.
- The Budget includes two new self- supporting loans for local community groups:
 - \$355,010 for the Denison Bowling & Recreation Club to install synthetic greens; and
 - Up to \$40,000 for the Dongara Golf Club to build a cart shed.

Both loans would be facilitated by the Shire via the WA Treasury Corporation with all principal, interest and associated fees being repaid by the clubs themselves.

- The Budget also includes a new loan of \$700,000 to enable full completion of the 12 independent living units at *Two Henry Road*.
- Principal additional grant funding for the year is estimated to be received from:
 - Main Roads WA - \$969,525
 - Roads to Recovery - \$585,465
 - Commonwealth Stimulus - \$250,934

- Lotterywest - \$250,000
- Aged Housing Project - \$480,481

The economic impacts of COVID-19 have required the Shire of Irwin to review and reprioritise Strategic Community Plan objectives and reprioritise and rationalise budgets to ensure essential services are maintained whilst the full impact is assessed. The Budget is of a conservative nature, focusing on grant-funded projects and core service elements.

Consultation:

Extensive internal consultation has occurred with all departments followed by management team workshops and meetings at various times during May and June 2020.

Two budget workshops with elected members were also held during June 2020.

Statutory Environment:

Local Government Act 1995

- Section 6.2(1) Local government to prepare annual budget
- Section 6.12(1) Power to defer, grant discounts, waive or write off debts
- Section 6.16 Imposition of fees and charges
- Section 6.32 Rates and service charges
- Section 6.45(3) Options for payments of rates or service charges
- Section 6.50 Rates or service charges due and payable
- Section 6.51 Accrual of interest on overdue rates or service charges

Local Government (Financial Management) Regulations 1996

- Regulation 68 Maximum interest component prescribed
- Regulation 70 Maximum rate of interest prescribed (Act s. 6.51)

Local Government (COVID-19 Response) Order 2020

- Section 6.13 modified Interest on money owing to local governments
- Section 6.33 modified Differential general rates
- Section 6.34 modified Limit on revenue or income from general rates
- Section 6.35 modified Minimum payment
- Section 6.36 modified Local government to give notice of certain rates
- Section 6.45 modified Options for payment of rates or service charges
- Section 6.51 modified Accrual of interest on overdue rates or service charges

Policy Implications:

While the plans and strategies that underpin Council's Integrated Planning Framework are normally the core documents used to inform the resourcing requirements and financial capacity in preparation of the Annual Budget, the financial management of COVID-19 impacts has in large underpinned the formation and structure of the 2020-21 budget.

Financial/Resource Implications:

Specific financial implications are outlined in the Officer's Comment section of this report and are itemised in the Shire of Irwin 2020/21 Budget presented to Council for adoption.

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 – 2020/21 Annual Budget – July 2020

CC03 Attachment 1: Shire of Irwin 2020/21 Draft Budget

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 040720:

MOVED: Cr Wyse

SECONDED: Cr Gillam

PART A – MUNICIPAL FUND BUDGET FOR 2020/21

That Council, by Absolute Majority and pursuant to the provisions of Section 6.2 of the *Local Government Act 1995* and Part 3 of the *Local Government (Financial Management) Regulations 1996*, adopts the Shire of Irwin 2020/21 Budget, as presented in Attachment Booklet – 2020/21 Budget – July 2020.

VOTING DETAILS:

Carried by Absolute Majority 8/0

OFFICER RECOMMENDATION AND COUNCIL DECISION 050720:

MOVED: Cr West

SECONDED: Cr Wyse

PART B – GENERAL AND MINIMUM RATES, INSTALMENT PAYMENT ARRANGEMENTS

That Council, by Absolute Majority;

1. For the purpose of yielding the deficiency disclosed by the Municipal Fund Budget adopted at Part A above and pursuant to sections 6.32, 6.33, 6.34 and 6.35 of the *Local Government Act 1995*, imposes the following differential general rates and minimum payments on Gross Rental and Unimproved Values:

1.1 General Rates

- | | |
|---------------------------------|-----------------------------|
| • Residential (GRV) | 11.1808 cents in the dollar |
| • Commercial / Industrial (GRV) | 11.1808 cents in the dollar |
| • Rural (UV) | 1.4193 cents in the dollar |
| • Mining (UV) | 18.9882 cents in the dollar |

1.2 Minimum Payments

- | | |
|---------------------------------|---------|
| • Residential (GRV) | \$1,021 |
| • Commercial / Industrial (GRV) | \$1,021 |
| • Rural (UV) | \$1,021 |
| • Mining (UV) | \$1,021 |

2. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 64(2) of the *Local Government (Financial Management) Regulations 1996*, nominates the following due dates for payment in full or by instalments:

- | | |
|---|-------------------|
| • Issue Date | 11 August 2020 |
| • <u>Option 1</u> – to pay in full by the date: | 15 September 2020 |
| • <u>Option 2</u> – to pay in two instalments | |
| 1 st half instalment due date: | 15 September 2020 |
| 2 nd half instalment due date: | 16 November 2020 |
| • <u>Option 3</u> – to pay in four instalments | |
| 1 st quarterly instalment due date: | 15 September 2020 |
| 2 nd quarterly instalment due date: | 16 November 2020 |
| 3 rd quarterly instalment due date: | 18 January 2021 |
| 4 th quarterly instalment due date: | 18 March 2021 |

3. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 67 of the *Local Government (Financial Management) Regulations 1996*, adopts an instalment administration charge where the owner has elected to pay rates (and service charges) through an instalment option of \$5 for each instalment after the initial instalment is paid (i.e. 3 x instalments = \$15.00).
4. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 68 of the *Local Government (Financial Management) Regulations 1996*, adopts an interest rate of 5.5% where the owner has elected to pay rates and service charges through an instalment option.
5. Pursuant to Section 6.51(1) and subject to Section 6.51(4) of the *Local Government Act 1995* and Regulation 70 of the *Local Government (Financial Management) Regulations 1996*, adopts an interest rate of 8% for rates (and service charges) and costs of proceedings to recover such charges that remain unpaid after becoming due and payable.
6. Interest on overdue and unpaid rates and instalment interest will not be charged during the 2020-2021 financial year to a person deemed to be suffering hardship as a consequence of the COVID-19 pandemic.

VOTING DETAILS:

Carried by Absolute Majority 8/0

OFFICER RECOMMENDATION AND COUNCIL DECISION 060720:

MOVED: Cr Wyse

SECONDED: Cr Leonard

PART C – FEES AND CHARGES FOR 2020/21

That Council, by Absolute Majority and pursuant to Section 6.16 of the *Local Government Act 1995*, adopts the Schedule of Fees and Charges as provided in the Shire of Irwin 2020/21 Budget, presented in Attachment Booklet – 2020/21 Budget – July 2020.

VOTING DETAILS:

Carried by Absolute Majority 8/0

OFFICER RECOMMENDATION AND COUNCIL DECISION 070720:

MOVED: Cr Eva

SECONDED: Cr Leonard

PART D – ELECTED MEMBERS' FEES AND ALLOWANCES FOR 2020/21

That Council, by Absolute Majority;

1. Pursuant to Section 5.99 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Administration) Regulations 1996*, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:
 - Shire President \$10,000
 - Councillors \$7,612
2. Pursuant to Section 5.98(5) of the *Local Government Act 1995* and Regulation 33 of the *Local Government (Administration) Regulations 1996*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:
 - Shire President \$10,000

3. Pursuant to Section 5.98A of the *Local Government Act 1995* and Regulation 33A of the *Local Government (Administration) Regulations 1996*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:

- Deputy Shire President \$2,500

VOTING DETAILS:

Carried by Absolute Majority 8/0

OFFICER RECOMMENDATION AND COUNCIL DECISION 080720:

MOVED: Cr West

SECONDED: Cr Leonard

PART E – NEW LOANS FOR 2020/21

That Council, in accordance with Section 6.20(4) of the *Local Government Act 1995* adopts the proposed new loans included in the Shire of Irwin 2020/21 Budget, as presented in Attachment Booklet – 2020/21 Budget – July 2020 and approve the application to the Western Australian Treasury Corporation for funding of these loans:

- \$700,000 – for completion of the *Two Henry Road* independent living units
- \$355,010 – for the Denison Bowling & Recreation Club self-supporting loan for synthetic greens
- \$40,000 – for the Dongara Golf Club self-supporting loan for a cart shed.

VOTING DETAILS:

Carried 8/0

OFFICER RECOMMENDATION AND COUNCIL DECISION 090720:

MOVED: Cr Gillam

SECONDED: Cr Eva

PART F – MATERIAL VARIANCE REPORTING FOR 2020/21

That Council, in accordance with Regulation 34(5) of the *Local Government (Financial Management) Regulations 1996* and *AASB 1031 Materiality*, adopts the level to be used in statements of financial activity in 2020/21 for reporting material variances, to be 10% or \$10,000, whichever is the greater.

VOTING DETAILS:

Carried 8/0

CORPORATE AND COMMUNITY		CC04-07/20
Subject:	CC04-07/20 Council Policy CP41 - Financial Hardship for a Declared State of Emergency	
Author:	J Goodbourn, Supervisor Finance	
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. 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 adoption of a CP41 Financial Hardship Policy and note associated procedures to support the community during the COVID-19 pandemic.

Background:

Local Governments are being requested by the WA Premier and Minister for Local Government to consider developing a policy to support communities in meeting the unprecedented challenges arising from the COVID-19 pandemic that may result in financial hardship for businesses and families during this difficult time.

The policy outlines the criteria for applications for financial hardship, which is intended to be flexible in its approach, to consider a range of individual circumstances.

The procedures have been developed to allow implementation of the policy and utilise the Financial Hardship application form and Financial Hardship checklist to allow decisions to be made based on information supplied.

Officer’s Comment:

The policy is intended to provide support for the whole community and ensure that we offer this in a fair, equitable, consistent and dignified manner while treating all members of the community with respect and understanding.

It is a reasonable expectation that those ratepayers with the capacity to pay their rates will continue to do so. The policy is intended to provide rate relief for those ratepayers who are able to provide evidence of financial hardship.

The *Local Government (COVID-19 Response) Order 2020*, which came into effect on 21 April 2020, orders that those residential and small business ratepayers that are suffering financial hardship because

of the consequences of the COVID-19 pandemic will not be charged interest in the 2020/2021 financial year.

If Council does not have a relevant hardship policy, it will be difficult to determine eligibility of ratepayers. Also, under the Order – *Clause 13: Section 6.45 modified – Options for payment of rates or service charges* – Local governments will not be able to charge excluded persons interest for payment by instalments. If a local government does not have in place a financial hardship policy, the interest rate they can charge other ratepayers for payment by instalments will be capped at 3%.

Local governments that have a policy in place that addresses the manner in which the local government will deal with financial hardship will be able to charge up to 5.5% on instalments.

Consultation:

WA Local Government Association (WALGA)

Statutory Environment:

Local Government (COVID-19 Response) Order 2020

Policy Implications:

Council does not currently have a policy in relation to financial hardship.

Financial/Resource Implications:

This will impact on the 2020/2021 financial year. The amount will depend on how many people are assessed as suffering from financial hardship and the amount of penalty interest that is waived. This variant has been taken into account during the preparation of the 2020/2021 budget. This will be monitored throughout the year by quarterly budget reviews.

Strategic Implications:

Strategic Community Plan 2017 - 2027
Strategy 4.3.3 Adopt and follow better practice processes

Attachments:

Attachment Booklet – July 2020
CC04 Attachment 1: CP41 – Financial Hardship for a declared State of Emergency
CC04 Attachment 2: FRM Financial Hardship Application

CONFIDENTIAL Attachment Booklet – July 2020
CC04 Attachment 3: Financial Hardship Checklist
CC04 Attachment 4: Financial Hardship Procedure Manual

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 100720:

MOVED: Cr Scott

SECONDED: Cr West

That Council adopts policy CP41 – Financial Hardship for a declared State of Emergency, presented as Attachment 1 in Attachment Booklet – July 2020 and notes the associated financial hardship application, checklist and procedure manual.

VOTING DETAILS:

Carried 8/0

CORPORATE AND COMMUNITY		CC05-07/20
Subject:	CC05-07/20 Charitable Rates Exemption - Community Housing Ltd	
Author:	S Bonny, Finance Officer	
Responsible Officer:	J Goodbourn, Supervisor Finance	
File Reference:	3.0679	
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:

To consider Community Housing Limited's (CHL) application for a charitable rate exemption.

Background:

Section 6.26(2)(g) of the *Local Government Act 1995* provides a rate exemption for 'land used exclusively for charitable purposes'. 'Charitable purposes' is not currently defined in the *Local Government Act 1995* or other statutes; rather charity is defined through common law.

Although the *Local Government Act 1995* does not provide a definition, the Western Australian Local Government Association (WALGA) and WA Rates Officers Association have produced a Best Practice Guideline and within this document given a definition of "charitable purpose".

The Western Australian case law (arising from both the Courts and the State Administrative Tribunal) summarise that for a purpose to be charitable –

- a) It must fall within the preamble to the Statute of Elizabeth I enacted in 1601, and the judgement by Lord MacNaghten in *Commissioners for Special Purposes of Income Tax v Pemsel*, which classified the categories of charitable as follows –
 - Trusts for the relief of poverty;
 - Trusts for the advancement of education;
 - Trusts for the advancement of religion; and
 - Trusts for other purposes beneficial to the community.
- b) There must be a public benefit, being a benefit directed to the general community, or to a sufficient section of the community to amount to the public.

CHL is objecting to the rate record under section 6.76 of the *Local Government Act 1995*, specifically section (1)(a)(ii) "on the basis that the land or part of the land is not rateable land". They suggest that

the property at 8 Church Street, Dongara is not rateable land as the 'land is used exclusively for charitable purposes', namely providing housing for seniors aged 55 or over, since February 2011.

CHL is a not-for-profit organisation which provide affordable housing for people on lower to middle incomes. All financial surpluses remain in the company to be reinvested in quality affordable housing for people in need. Originating in Australia in 1993, CHL is a registered charity, Public Benevolent Company, is registered with the Australian Charities and Not-for-Profits Commission and endorsed to access the following tax concessions:

- Income Tax Exemption;
- GST Concession; and
- FBT Exemption.

The mission of CHL is:

Working to ensure the provision of affordable and sustainable housing for all by:

- *Providing housing which is affordable, has long term tenure and appropriate services to live comfortably;*
- *Assisting residents to access housing and to maintain links with their communities;*
- *Ensuring that the development of housing improves social, economic and environmental sustainability;*
- *Creating employment and training opportunities in the development of housing wherever possible; and*
- *Assisting the development and sustainability of strong communities with social diversity by fostering community building initiatives to improve the health and wellbeing of disadvantaged people.*

Council considered a previous application from CHL for rate exemption on this property at the 28 February 2017 Ordinary Council Meeting. Council assessed the land and resolved to decline the request due to the use of the land as not being "exclusively for charitable purposes".

Officer's Comment:

Research has shown that the current rent paid by the tenants at the units is well below current market value, when compared with private rentals via local real estate agents for properties of a similar size and quality.

Tenants must meet the Community Housing Income and Asset Limits Policy (as established by the WA Housing Authority through the Department of Communities) in order to qualify. On that basis it is considered that the property meets the requirements of Section 6.26 (2)(g) of the *Local Government Act 1995* as land used exclusively for a charitable purpose. It is also considered that aged housing is a charitable purpose and is a purpose beneficial to the public.

CHL own 12 properties within the City of Greater Geraldton which have been assessed as meeting the criteria and have therefore been granted rate exemption.

If the application is refused, under s.6.76 of the *Local Government Act 1995*, the applicant may object to the rate record, on the basis that the land or part of the land was not rateable land. Further, the applicant has the right to appeal a decision made under s.6.76, through the State Administrative Tribunal (SAT).

It is recommended to grant CHL a charitable rate exemption for the 2020/2021 rating period with future rate exemptions to be assessed each year upon application.

Consultation:

Nil.

Statutory Environment:

Local Government Act 1995

- Section 6.26 Rateable Land
 - (2) *The following land is not rateable land —*
 - (g) *land used exclusively for charitable purposes; and*
- Section 6.76 Grounds of objection
 - (1) *A person may, in accordance with this section, object to the rate record of a local government on the ground —*
 - (a) *that there is an error in the rate record —*
 - (ii) *on the basis that the land or part of the land is not rateable land;*

Policy Implications:

Nil.

Financial/Resource Implications:

The application, if approved, will result in a rate revenue loss of \$6,419 annually, based on the 2019/2020 rate billing for 8 Church Street, Dongara.

Strategic Implications:

Strategic Community Plan 2017 – 2027

Strategy 3.1.1 Identify and support services, events and programs for building capacity, social inclusion and wellbeing (including those catering for families, youth and seniors).

Strategy 4.3.3 Adopt and follow better practice processes.

Attachments:

CONFIDENTIAL Attachment Booklet – July 2020

CC05 Attachment 1: CHL rate exemption application

Officer Recommendation:

The Officer's Recommendation was moved by Cr Scott and seconded by Cr Gillam.

The Shire President invited Cr Scott as the Mover, to speak to the motion.

Cr Scott spoke to the motion.

The Shire President invited Cr Gillam as the Secunder, to speak to the motion.

Cr Gillam declined to speak.

The Shire President invited any other Councillors to speak for or against the motion.

Cr Leonard spoke against the motion.

Cr Wyse spoke against the motion.

Cr Wells questioned whether CHL are able to apply for an exemption through the Financial Hardship Policy process. The Shire President invited J Goodbourn, Supervisor Finance to respond. J Goodbourn advised that applications are open to individuals and small businesses.

The Shire President invited any other Councillors to speak for or against the motion.

The Shire President invited Cr Scott to speak to close the debate.

Cr Scott spoke for the motion to close the debate.

The motion was put to vote with the result being tied 4/4.

To enable a result, the Shire President cast a second vote and voted for the motion. Therefore the motion was CARRIED 5/4.

OFFICER RECOMMENDATION AND COUNCIL DECISION 110720:

MOVED: Cr Scott

SECONDED: Cr Gillam

That Council, pursuant to Section 6.26(2)(g) of the Local Government Act 1995, grant a charitable rate exemption, effective 1 July 2020 to 30 June 2021, to Community Housing Limited for the property at 8 Church Street, Dongara, being assessment A8510, on the basis that the land is used exclusively for charitable purposes.

VOTING DETAILS:

Carried 5/4

CORPORATE AND COMMUNITY		CC06-07/20
Subject:	CC06-07/20 Council Policy – CP14 Debt Recovery	
Author:	S Bonny, Finance Officer	
Responsible Officer:	J Goodbourn, Supervisor Finance	
File Reference:	3.00079	
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 adoption of revised policy *CP14 Debt Recovery* which has been reviewed and developed to ensure the efficient and effective recovery of outstanding debts while maintaining consistency, compliance and quality customer service.

Background:

All council policies have been highlighted for an in-depth process review which encompasses legislative and implementation requirements.

Council’s Debt Collection Policy was last reviewed 7 June 2017. It was identified that the policy was not currently reflective of the Shire’s debt recovery process. This review takes into consideration better practice and how the Shire can reasonably meet customer expectations whilst achieving appropriate levels of debt recovery.

As part of the in-depth review of Council to CEO delegations in line with the Register of Delegations template provided by the WA Local Government Association (WALGA), it has been identified that Council requires a debt collection policy to support several new delegations in the new Register of Delegations – Council to CEO.

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:

Due to the development of a new policy for Financial Hardship for a declared State of Emergency and the updating of the Council to CEO Delegations Register, it was identified that CP14 Debt Collection policy also needed to be reviewed to ensure compliance and consistency in order to support both the financial hardship policy and Council to CEO Delegations.

This policy has been amended to better reflect current practice and align with current legislation. This policy also provides guiding principles for collecting debts that are outstanding to the Shire, ensuring consistency and appropriate debt recovery for the organisation.

The following policy was amended:

C14 Debt Collection – renamed to CP14 Debt Recovery

This policy provides compliance with the *Local Government Act 1995* and is to be read in conjunction with the following Council to CEO delegations:

- CEO123 – Agreement as to Payment of Rates and Service Charges
- CEO125 – Recovery of Rates or Service Charges
- CEO126 - Recovery of Rates – Lessee to Pay Rent
- CEO127 – Recovery of Rates Debts – Actions to Take Possession of the Land

Consultation:

This policy was reviewed in consultation with the CEO and relevant legislation.

Statutory Environment:

Local Government Act 1995

- s 6.50 Rates or service charges due and payable
- s 6.51 Accrual of interest on overdue rates or service charges
- s 6.56 Rates or service charges recoverable in court
- s 6.64 – 6.75 Actions to be taken
- s 6.60 & 6.61 Local government may require lessee to pay rent
- s 6.55 Recovery of rates and service charges
- s 6.56 Rate or service charges recoverable in court

Policy Implications:

Adoption of CP14 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:

No financial impact, the policy will ensure better practice and procedures.

Strategic Implications:

Strategic Community Plan 2017 - 2027

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

Strategy 4.2.3 Adopt a risk and asset management approach

Strategy 4.3.3 Adopt and follow better practice processes.

Attachments:

Attachment Booklet – July 2020

CC06 Attachment 1: Council Policy CP14 Debt Recovery

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 120720:

MOVED: Cr Leonard

SECONDED: Cr West

That Council adopts the revised Council Policy – CP14 Debt Recovery, as presented in Attachment Booklet – July 2020.

VOTING DETAILS:

Carried 8/0

OFFICE OF CEO		CEO01-07/20
Subject:	CEO01-07/20 New Register of Delegations – Council to CEO	
Author:	Y Robb, Process Improvement Coordinator D Chandler, Governance & Executive Coordinator	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0219	
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 adopt the new Register of Delegations – Council to CEO (the ‘Register’), provided as Attachment 1.

Background:

To delegate is to appoint another person to exercise a power or discharge a duty. A delegation does not strip the person making the delegation of the right to exercise the delegated power or discharge the delegated duty. Local Governments are required to keep a register of delegations and to review the delegations at least once every financial year, as per the *Local Government Act 1995* s5.18 and s5.46.

At the 23 June 2020 Ordinary Council Meeting, Council reviewed and adopted the existing Register of Delegations – Council to CEO, in light of the fact that an in-depth review of these delegations was underway and would be presented for adoption at the 28 July 2020 Ordinary Council Meeting.

At the 23 June 2020 Councillor Discussion Session, Councillors were presented with an overview of the draft register and an update on the review process thus far.

Officer’s Comment:

The in-depth review of the Council to CEO delegations is now complete and has taken place in conjunction with the Department of Local Government, Sport & Cultural Industries (DLGSC) Guidelines, WA Local Government Association (WALGA) template and an independent governance advisor. It was found that the Shire was missing many delegations as well as having blanket delegations with reduced detail, therefore making interpretation difficult.

The new Register contains a total of 81 Council to CEO delegations classified as follows:

- Local Government Act 1995 Delegations
- Building Act 2011 Delegations
- Bush Fires Act 1954 Delegations
- Cat Act 2011 Delegations
- Dog Act 1976 Delegations

- Food Act 2008 Delegations
- Graffiti Vandalism Act 2016 Delegations
- Public Health Act 2016 Delegations

These new delegations will allow clarity for both Council and the delegate in relation to the specific powers or duties being delegated, limitations on delegation and Council conditions, therefore ensuring compliance. It also provides guidance on associated subsidiary legislation, related policies and sub-delegation.

The new Register will enable consistent, transparent and streamlined decision-making moving forward and will be reviewed and presented to Council before June 30 each year in accordance with section 5.46 of the *Local Government Act 1995*. To assist with the annual delegations review, all Council to CEO delegations will be uploaded into *Integrity Attain* compliance software which will be accessible by Councillors and Staff. This software will be used to maintain the Register throughout the year after which a summary will be presented to Council for review and adoption.

Delegations relating to the *Planning and Development Act 2005*, *Health (Miscellaneous Provisions) Act 1911* and Shire of Irwin Local Laws will be reviewed, developed and presented to Council in due course.

Consultation:

Staff have reviewed and developed the new Register in consultation with the DLGSC Guidelines, WALGA's delegations register template, the City of Greater Geraldton's Council to CEO delegations, independent governance advisor, relevant staff and the CEO.

Statutory Environment:

Local Government Act 1995

- s5.42 Delegations of some powers and duties to CEO
- s5.43 Limits on delegations to CEO
- s5.46 Register of, and records relevant to, delegations to CEO and employees

Policy Implications:

The Register of Delegations – Council to CEO will link with and guide some Council policies. Upon adoption of the new Register, new policies will need to be developed and presented to Council for adoption. Reference to the relevant Council Policy for each delegation is made within the Register.

Financial/Resource Implications:

Nil.

Strategic Implications:

Strategic Community Plan 2017 - 2027

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

Attachments:

Attachment Booklet – Register of Delegations – July 2020

CEO01 Attachment 1: Register of Delegations – Council to CEO – July 2020

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 130720:

MOVED: Cr Gillam

SECONDED: Cr Leonard

That Council, by Absolute Majority, adopt the 'Register of Delegations – Council to CEO – July 2020, as presented in Attachment Booklet – Register of Delegations – July 2020.

VOTING DETAILS:

Carried by Absolute Majority 8/0

OFFICE OF CEO		CEO02-07/20
Subject:	CEO02-07/20 Council Policy – CP43 Disposal of Property	
Author:	Y Robb, Coordinator Process Improvement	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00079	
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:

For Council to consider the adoption of a new policy – CP43 Disposal of Property. The policy has been developed to provide guidance for employees with regards to disposal requirements and in conjunction with the new delegation Disposal of Property.

Background:

All council policies have been highlighted for an in-depth process review which encompasses legislative and implementation requirements.

As part of the in-depth review of Council to CEO delegations in line with the Register of Delegations template provided by the WA Local Government Association (WALGA), it has been identified that Council requires a policy in place regarding the disposal of property to support several new delegations in the new Register of Delegations – Council to CEO.

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:

Considering the advice from WALGA to create a supporting disposal of property policy and in review of other Council’s policies, the Shire has developed Council Policy *CP43 Disposal of Property* (Attachment 1).

The policy applies to the disposal of assets and minor property by providing reference to legislation applicable to the disposal of property and guidance to the disposal of property that is exempt from legislative requirements. The policy also provides guiding principles when disposing of property which will ensure consistency and compliance for the organisation moving forward.

CP43 is considered to be an essential council policy and is to be read in conjunction with the following Council to CEO delegations:

- CEO108 – Declare Vehicle is Abandoned Wreck
- CEO109 – Confiscated or Uncollected Goods
- CEO110 – Disposal of Sick or Injured Animals
- CEO119 – Disposal of Property
- CEO505 – Dispose of or Sell Dogs Liable to be Destroyed

Consultation:

This policy was reviewed in consultation with the CEO and relevant legislation.

Statutory Environment:

Local Government Act 1995

- s3.47 Confiscated or uncollected goods, disposal of
- s3.58 Disposing of property

Local Government (Function and General) Regulations 1996

- Regulation 30 Dispositions of property excluded from Act s.3.58

Policy Implications:

Adoption of CP43 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:

No financial impact, the policy will ensure better practice and procedures.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 4.2 Effective governance, management and prudent financial responsibility.

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 – July 2020

CEO02 Attachment 1: Council Policy CP43 Disposal of Property

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 140720:

MOVED: Cr West

SECONDED: Cr Gillam

That Council adopts Council Policy CP43 – Disposal of Property, as presented in Attachment Booklet – July 2020.

VOTING DETAILS:

Carried 8/0

REGULATORY SERVICES		RS01-07/20
Subject:	RS01-07/20 Request to extend power to lease – Seaspray Caravan Park	
Author:	B Jeans, Manager Regulatory Services	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0099	
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 submitting a request to the Minister for Lands to extend the power to lease period of Reserve 25412 (Seaspray Caravan Park) from 30 years to 50 years.

Background:

A large portion of Seaspray Caravan Park is situated on Crown Reserve 25412 (illustrated in the figure below), which is to be managed by the Shire on behalf of the Crown for the purpose of ‘Caravan Park’. Management of this reserve includes the Shire’s power to lease. In 2009 this power to lease term was extended from 21 years to 30 years. The Shire has leased the site since 1999 with the current lease due to expire in 2029.



Council approved, subject to some minor modifications, the Seaspray Caravan Park Local Development Plan at the 24 September 2019 Ordinary Council Meeting. A Local Development Plan (LDP) guides development of the site and is generally revised every 10 years to remain relevant with changes to the planning framework or site conditions. The Department of Planning, Lands and Heritage (DPLH), whom administer these requests for the Minister, have taken the position to accept a LDP as an acceptable business case that is required for such requests to Crown Reserves.

In June 2020 the Lessee made a request to the Shire to submit a formal request to DPLH to extend the power to lease term from 30 years to 50 years. The Lessee has advised that the longer lease period sought would provide greater investment security which can facilitate the further development of the site in accordance with the approved LDP.

Officer's Comment:

The Lessee has indicated the desire for a longer lease term for some time and has been advised, as per DPLH advice that a LDP would need to be approved for the Department to consider the request. The Lessee has carried out the preparation and approval process for the LDP which will then be forwarded to DPLH.

DPLH have confirmed the process is generally as follows:

1. The Shire approve a LDP for the reserve site.
2. The Shire make a request to DPLH for the Minister for Lands to grant extension to the power to lease term, using the LDP as a business case for the site.
3. Should DPLH (Minister for Lands) support the amendment to the Management Order permitting a longer lease term, the Shire can then follow the process set out in Section 3.58 of the *Local Government Act 1995* for a renewed lease of the site.

Should the Management Order of the reserve be amended to allow for a 50 year lease term, discussions will commence with the lessee for a new lease document to be prepared. This process is strictly legislated by the *Local Government Act 1995* and therefore it is recommended that Council also authorise the Chief Executive Officer to commence this statutory process, such as carrying out a new market valuation and public notice in accordance with the Act. Following public notice, finalisation of the new lease would be presented to Council for consideration.

Consultation:

Seaspray Caravan Park Lessee
Department of Planning, Lands and Heritage

Statutory Environment:

Land Administration Act 1997

- Section 46 Dealings or caveats as to Crown land to be registered or recorded within transitional period

Local Government Act 1995

- Section 3.58 Disposing of property – *This section provides for leasing arrangements*

Policy Implications:

Nil.

Financial/Resource Implications:

Should the power to lease term be extended to 50 years, any costs associated with the preparation of a new lease is to be borne by the lessee.

The power of an extended leasing term would provide long term economic benefit to the Shire, by facilitating the commercial use and investment of the site for its intended purpose, and to the local economy that is reliant on tourism accommodation.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 1.1.5 Leverage opportunity and investment, and promote retail development.

Attachments:

Nil.

Officer Recommendations:

OFFICER RECOMMENDATION AND COUNCIL DECISION 150720:

MOVED: Cr Gillam

SECONDED: Cr Wyse

That Council authorises the Chief Executive Officer to submit to the Minister for Lands a request to extend the Shire's power to lease of Reserve 25412, from 30 years to 50 years.

VOTING DETAILS:

Carried 8/0

OFFICER RECOMMENDATION AND COUNCIL DECISION 160720:

MOVED: Cr Gillam

SECONDED: Cr Eva

That Council authorises the Chief Executive Officer to commence the statutory process for a new lease for a 50 year term, to the extent of public advertising, in accordance with Section 3.58 of the Local Government Act 1995.

VOTING DETAILS:

Carried 8/0

INFRASTRUCTURE AND OPERATIONS		IO01-07/20
Subject:	IO01-07/20 Kennedy Heights - Sale by Tender	
Author:	S Pratt-King, Coordinator Infrastructure & Asset Services	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00059	
Voting Requirements:	Absolute Majority	

Council Role:

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

Report Purpose:

For Council to consider the Sale by Tender submission for of Lot 60 (No. 2) Kennedy Heights and Lot 61 (No. 4A & No. 4B) Kennedy Heights, Port Denison.

Background:

At the 24 March 2020 Ordinary Council Meeting, Council authorised the Chief Executive Officer to commence the disposal process of Lot 60 (No. 2) Kennedy Heights and Lot 61 (No. 4A & No. 4B) Kennedy Heights, Port Denison through Sale by Tender.

Local real estate agent, Ray White was engaged to manage the Sale by Tender process.

Marketing

A five-week marketing strategy, commencing 12 June 2020, was implemented in the lead up to the tender period, advertising the properties both online and via print media throughout the region.

As of 20 July 2020, the following data was collated:

2 Kennedy Heights:

- 1,710 online views
- 9 enquiries
- 3 inspections
- 4 tender documents handed to interested buyers

4A & 4B Kennedy Heights:

- 1,482 online views
- 8 enquiries
- 4 inspections
- 2 tender documents handed to interested buyers

Feedback from potential buyers indicated a reluctance to engage in a Sale by Tender process, with preference towards the more traditional and transparent Sale by Offer and Acceptance with a set listing price. Of the two properties there was significant interest in the owner occupier market for Lot 60 (No. 2) Kennedy Heights, with less demand in the investor market for Lot 61 (No. 4A & No. 4B) Kennedy Heights, being two residences on a single title.

Investigation into subdivision potential for Lot 61 (No.4A & No.4B) Kennedy Heights to maximise the resale value and broaden the potential sales market was undertaken. Under the existing zoning of Residential R12.5 the minimum site area per single house required for Residential R12.5 as per the State Planning Policy 7.3 Residential Design Codes Volume 1 is 800sqm. Lot 61 being 900sqm in total does not meet the minimum area of 1,600sqm required for a two-lot subdivision. Formal advice from the Department of Planning, Lands and Heritage (DPLH) confirmed that a two-lot subdivision would likely not be approved by the WA Planning Commission.

It should be noted that the existing grouped dwelling on Lot 61 is permitted under the Shire's Local Planning Scheme, which allows for a maximum of two grouped dwelling houses to the R20 density (average 450sqm site per house) on R12.5 lots.

Valuation

Independent valuations were conducted on both properties based on sales of comparable properties (market value) provided as Attachment 1 and 2 respectively in Confidential Attachment Booklet – July 2020.

The anticipated selling period as provided in the valuation reports is *“six months - this is typical for locality and or market segment conditions. COVID-19 could have an adverse effect on marketability due to market uncertainty, restrictions on public inspections and auctions resulting in longer selling periods and fewer transactions”*.

Sale by Tender

Of the six expression of interest tender packages provided to interested buyers, one submission was received at the tender closing time of 22 July 2020, provided as Attachment 3 in Confidential Attachment Booklet – July 2020.

Officer's Comment:

The limited tender response supports buyer feedback, of uncertainty and reluctance to engage in a Sale by Tender process. It is anticipated that a set price listing on the open market would generate confidence in the owner occupier market and increase potential offers on the properties.

Due to no acceptable tender submission being received, it is recommended that the properties be listed at a set price on the market, with Ray White Dongara for a further three months with a review thereafter.

Leasing the properties on the rental market in the interim, could provide Council with a temporary income source. However, it should be noted that professional advice from the real estate agent has indicated that this would deter potential owner occupier buyers. In line with professional advice and in order to adequately test the market, it is recommended that Council consider leaving the properties vacant for a further three months with a review thereafter.

Consultation:

The following organisations/departments were consulted during the preparation of this report:

- Opteon Property Group
- Ray White Dongara
- Department of Planning, Lands and Heritage

Statutory Environment:

Local Government Act 1995

- Section 3.58

Policy Implications:

Draft Council Policy – CP43 Disposal of Property – being considered at this meeting.

Financial/Resource Implications:

All expenditure associated with the disposal of properties will be managed in line with the 2020/21 Annual Budget.

Strategic Implications:

Strategic Community Plan 2017 - 2027

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:

CONFIDENTIAL Attachment Booklet – July 2020

IO01 Attachment 1: Valuation Report 2 Kennedy Heights, Port Denison

IO01 Attachment 1: Valuation Report 4 Kennedy Heights, Port Denison

IO01 Attachment 3: Tender Submission

Officer Recommendations:

A: OFFICER RECOMMENDATION AND COUNCIL DECISION 170720:

MOVED: Cr Eva

SECONDED: Cr West

That Council accepts the valuation reports for Lot 60 (No. 2) Kennedy Heights and Lot 61 (No. 4A & No. 4B) Kennedy Heights, provided as Attachments 1 and 2 respectively in Confidential Attachment Booklet – July 2020, as true and accurate representations of current market values.

VOTING DETAILS:

Carried 8/0

B: OFFICER RECOMMENDATION AND COUNCIL DECISION 180720:

MOVED: Cr Wyse

SECONDED: Cr Leonard

That Council, by Absolute Majority, declines the tender offer for Lot 61 (No. 4A & No. 4B) Kennedy Heights, provided as Attachment 3 in Confidential Attachment Booklet – July 2020.

VOTING DETAILS:

Carried by Absolute Majority 8/0

C: OFFICER RECOMMENDATION AND COUNCIL DECISION 190720:

MOVED: Cr Leonard

SECONDED: Cr West

That Council, by Absolute Majority:

- 1. Authorises the Chief Executive Officer to commence the disposal process of Lot 60 (No. 2) Kennedy Heights and Lot 61 (No. 4A & No. 4B) Kennedy Heights through Sale by Offer and Acceptance with a set listing price, reflective of the independent market valuation.**
- 2. Should no acceptable offer to purchase be received within three months, approves the leasing of Lot 60 (No. 2) Kennedy Heights and Lot 61 (No. 4A & No. 4B) Kennedy Heights, until such time as a formal Contract for Sale of Land is executed.**

VOTING DETAILS:

Carried by Absolute Majority 8/0

9.2. Committee Reports

Nil.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

Nil.

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

Nil.

14. CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 6.25pm.

An electronic copy of the Minutes are available for download from the Shire's website
<http://www.irwin.wa.gov.au/Agendas-Minutes.aspx>