



MINUTES

of the

Ordinary Council Meeting

held on

Tuesday 30 April 2019

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 30 April 2019

Signed:
Presiding Elected Member

Date:

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.

A handwritten signature in black ink, appearing to read 'Shane Ivers', is positioned above the typed name and title.

Shane Ivers
CHIEF EXECUTIVE OFFICER (Acting)

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ORDINARY COUNCIL MEETING

held on

Tuesday 30 April 2019

at 6.01pm

MINUTES

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President welcomed Councillors, Staff and Guests and opened the meeting at 6.01pm.

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Members

Councillor M T Smith	President
Councillor B Wyse	Deputy President
Councillor A J Gillam	
Councillor S F Gumley	
Councillor M Leonard	
Councillor I Scott	
Councillor I F West	
Councillor K L Wilson	

Staff

Mr S D Ivers	Chief Executive Officer (Acting)
Mr B Jeans	Manager Regulatory Services
Mrs D K Chandler	Governance & Executive Coordinator
Miss N A M'Leane	Regulatory & Governance Officer
Mr P Traylen	Operations Supervisor
Mr M Jones	Parks & Gardens Supervisor

Apologies

Nil

Approved Leave of Absence

Nil

Guests

Mr M Bekker	YouthCARE Area Chaplain – Midwest
Mr M Craine	Chaplain - Dongara District High School
Mrs J Calver	Principal – Dongara District High School
Mrs J Clement	Dongara YouthCARE

Gallery

Mr J Rossiter, Mr J Arden, Mr Geoff Vivian - 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 26 March 2019

RECOMMENDATION AND COUNCIL DECISION 010419:	
MOVED: Cr Wyse	SECONDED: Cr Gumley
That the Minutes of the Ordinary Council Meeting, held on 26 March 2019, be confirmed as a true and accurate recording of that meeting.	
VOTING DETAILS:	Carried 7/1

Cr Gillam was not present at the 26 March 2019 Ordinary Council Meeting, therefore wasn't in the position to confirm the minutes.

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Functions and Events

- | | |
|----------|---|
| 2 April | The Shire President and Acting CEO met with a ratepayer regarding the Dongara Medical Centre. |
| 4 April | The Shire President and Acting CEO had a meeting in relation to the Mitsui stakeholder feedback survey. |
| 12 April | The Shire President attended the Dongara District High School ANZAC Service. |
| 13 April | The Shire President presented at the Thungarra Art Trails launch. |
| 18 April | The members of the CEO Recruitment Advisory Group met with the CEO Recruitment Consultant regarding the applications received for the CEO position. |
| 25 April | The Shire President and Acting CEO represented the Shire of Irwin at the 11am ANZAC Day Service. |
| 30 April | The Shire President and Acting CEO met with Main Roads WA regarding an update on the Dongara Geraldton Northampton Project. |

WALGA Quarterly Report

To improve engagement with WALGA members and their respective communities, WALGA have prepared and issued quarterly reports in regards to services accessed, professional development opportunities and events, and industry matters that WALGA may be advocating on. I wish to table the Overview Report for Quarter 1 (January to March 2019) provided by WALGA, available in Attachment Booklet – April 2019.

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY		CC01 - 04/19
Subject:	Accounts for Payment	
Author:	S Clarkson, Finance Officer	
Responsible Officer:	S Ivers, Acting 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 receive the list of accounts paid under delegated authority during March 2019.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of March 2019.

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:

Accounts for Payment – March 2019

Officer Recommendation:

OFFICER RECOMMENDATION & COUNCIL DECISION 020419:																	
MOVED: Cr Leonard	SECONDED: Cr Wyse																
That Council receive the Accounts paid during March 2019 as presented in Attachment Booklet – April 2019, represented by:																	
<table border="1"><thead><tr><th>Payment Type/Numbers</th><th>Total Amount</th></tr></thead><tbody><tr><td>EFT 24035 – 24152</td><td>\$708,444.83</td></tr><tr><td>Muni Cheques - 31890 – 31897</td><td>\$76,592.26</td></tr><tr><td>Direct Debit – Solar Panel Repayments 03/19</td><td>\$1,947.66</td></tr><tr><td>Direct Debit – Credit Card</td><td>\$490.43</td></tr><tr><td>Direct Debit – Superannuation</td><td>\$30,511.68</td></tr><tr><td>Direct Debit - Transport – PL270219 – PL270319</td><td>\$64,499.75</td></tr><tr><td>Grand Total</td><td>\$882,486.61</td></tr></tbody></table>	Payment Type/Numbers	Total Amount	EFT 24035 – 24152	\$708,444.83	Muni Cheques - 31890 – 31897	\$76,592.26	Direct Debit – Solar Panel Repayments 03/19	\$1,947.66	Direct Debit – Credit Card	\$490.43	Direct Debit – Superannuation	\$30,511.68	Direct Debit - Transport – PL270219 – PL270319	\$64,499.75	Grand Total	\$882,486.61	
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VOTING DETAILS:	Carried 8/0																

CORPORATE AND COMMUNITY		CC02-04/19
Subject:	Financial Statements for the Period ending 31 March 2019	
Author:	J Dillon, Consultant	
Responsible Officer:	S Ivers, Acting 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.
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Report Purpose:

To consider and receive the Monthly Financial Statements for the period 1 July 2018 to 31 March 2019.

Background:

The Monthly Financial Report to the 31 March 2019 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Summary Information and Graphs
- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature & Type
- Statement of Cash Flows
- Statement of Capital Acquisitions and Capital Funding
- Significant Accounting Policies
- Explanation of Material Variances
- Net Current Funding Position
- Cash and Investments
- Budget Amendments
- Receivables
- Cash Backed Reserves
- Capital Disposals
- Rating Information
- Information on Borrowings
- Grants and Contributions
- Trust Fund
- Detailed of Capital Acquisitions

Officer’s Comment:

The financial position to the end of March 2019 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

Operating Revenue	\$7,470,471	0.6% positive variance
Operating Expenditure	\$7,087,793	5.9% positive variance
Net Operating	\$382,678	
Capital Revenue	\$1,821,761	7.8% negative variance
Capital Expenditure	\$2,018,644	33.5% positive variance
Cash at Bank – Municipal	\$973,336	
Cash at Bank – Reserve	\$1,662,664	
Total Funds Invested	\$2,636,000	
Net Rates Collected	88.74%	
Rates Receivables Outstanding	\$613,277	
Non Rates Receivables Outstanding	\$626,599	

The attached report provides 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.

Consultation:

Nil.

Statutory Environment:

Local Government Act 1995 - Section 6.4

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

Section 34 Financial activity statement report

- (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:

Financial Statements for the Month Ending 31 March 2019.

Officer Recommendation:

OFFICER RECOMMENDATION & COUNCIL DECISION 030419:	
MOVED: Cr Gumley	SECONDED: Cr Gillam
That Council receive the Monthly Financial Statement for the period 1 July 2018 to 31 March 2019 as provided in Attachment Booklet – April 2019.	
VOTING DETAILS:	Carried 8/0

REGULATORY SERVICES		RS01-04/19
Subject:	Amendments to Planning Policy – Sea Containers	
Author:	M Sullivan, Senior Planning Officer	
Responsible Officer:	B Jeans, Manager Regulatory Services	
File Reference:	LP.PO	
Voting Requirements:	Simple Majority	

Council Role:

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Report Purpose:

For Council to consider public advertisement of amendments to the existing *Local Planning Policy – Sea Containers*.

Background:

The Shire first adopted a Local Planning Policy for Sea Containers (‘the LPP’) in May 2016. The intention of the LPP is to provide guidance to officers on assessing Development Applications for sea containers, and to ensure that the containers do not detrimentally impact on the amenity of neighbouring properties.

Officers have noticed some issues arising in the implementation of the LPP which have warranted a review, and an amended policy is presented for Council’s consideration. It is noted that the proposed changes to the policy will not be applied retrospectively to shipping containers that are currently approved.

Officer’s Comment:

The major proposed changes to the LPP are summarised as follows:

Change	Rationale
<ul style="list-style-type: none"> • Amend the terminology used in the LPP from ‘sea container’ to ‘shipping container.’ 	This is consistent with the terminology commonly used in other local governments.
<ul style="list-style-type: none"> • Clarify that a shipping container modified for the purpose of human habitation (i.e. a ‘shipping container house’) is not covered by this policy and will be assessed under the Local Planning Scheme as a dwelling. 	The current LPP does not enable these forms of development to be considered.

<ul style="list-style-type: none"> Allow shipping containers to be located on a site for up to 14 days without approval, when associated with the temporary loading and unloading of goods. 	<p>The current LPP is silent on this matter and it can be assumed that Development Approval would be required for limited temporary use, which is not considered necessary.</p>
<ul style="list-style-type: none"> Allow shipping containers to be located on a site without approval if they are fully enclosed within an approved outbuilding. 	<p>A shipping container located in an approved outbuilding will have no impact on amenity and local government consideration is not necessary in these cases.</p>
<ul style="list-style-type: none"> Allow shipping containers to be located on 'General Farming' lots over 20ha in size without Development Approval, if the container meets all relevant Local Planning Scheme requirements and is not visible from any public place or road. 	<p>Reduces 'red tape' for development on large lots that will have no impact on amenity.</p>
<ul style="list-style-type: none"> Clarifies that shipping containers are not permitted on lots zoned 'Residential' and 'Special Residential,' except on a temporary basis of 14 days or less. 	<p>The intention of the current LPP was to restrict shipping containers in the 'Residential' zone to a two-year period whilst constructing a dwelling, however the wording does not make clear that they are not allowed on a residential property on a permanent basis. In practice, there has been difficulty enforcing the removal of sea containers at the end of the 2 year period, particularly in circumstances where a dwelling has been started, but not completed, within this time.</p> <p>Additionally, in recent months the Shire has received a number of enquiries about installing shipping containers permanently on developed residential lots as an alternative to a shed. This is not supported by officers due to the potential amenity impacts and it considered necessary to explicitly state in the LPP that such development will not be permitted.</p>
<ul style="list-style-type: none"> Sets standards for the maximum number of shipping containers on lots in the 'Rural Residential,' 'Rural Smallholdings,' 'Light Industry' 'Marine Industry,' 'Service Commercial' and 'Neighbourhood Centre' zones. 	<p>The current LPP is silent on this which makes it difficult to limit the number of containers.</p> <p>Within the 'Light Industry' and 'Marine Industry' zones, the draft LPP notes that the maximum numbers may be varied if the shipping container is an operational part of an approved land use.</p>
<ul style="list-style-type: none"> Allows shipping containers to be located on Local Reserves at the discretion of the Shire, as long as the use of the container relates to, and is ancillary to, the ultimate purpose of the reserve and all provisions of the LPP relating to preservation of amenity are met. 	<p>The current LPP prohibits shipping containers in all public places, however in some cases it may be appropriate to locate a shipping container on a reserve. It is noted that containers will continue to be prohibited in road reserves and on road verges.</p>

Consultation:

Public advertising will consist of a notice in the *Midwest Times*, the *Dongara-Denison Local Rag*, on the Shire website and in the Administration Office. Officers also intend to compile a short fact sheet summarising the major changes to display on the Shire website and in the Administration Office. Advertising will be conducted for a minimum of 21 days in accordance with Clause 4(2) of the Part 2 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

At the conclusion of the submission period any submissions will be presented to Council for its consideration.

Statutory Environment:

Planning and Development (Local Planning Schemes) Regulations 2015 – Deemed Provisions

4. Procedure for making local planning policy

- (1) *If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —*
 - (a) *publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of —*
 - (i) *the subject and nature of the proposed policy; and*
 - (ii) *the objectives of the proposed policy; and*
 - (iii) *where the proposed policy may be inspected; and*
 - (iv) *to whom, in what form and during what period submissions in relation to the proposed policy may be made;*
 - (b) *if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
 - (c) *give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*
- (2) *The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).*
- (3) *After the expiry of the period within which submissions may be made, the local government must —*
 - (a) *review the proposed policy in the light of any submissions made; and*
 - (b) *resolve to —*
 - (i) *proceed with the policy without modification; or*
 - (ii) *proceed with the policy with modification; or*
 - (iii) *not to proceed with the policy.*
- (4) *If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.*
- (5) *A policy has effect on publication of a notice under subclause (4).*
- (6) *The local government —*
 - (a) *must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and*
 - (b) *may publish a copy of each of those local planning policies on the website of the local government.*

5. Procedure for amending local planning policy

- (1) Clause 4, with any necessary changes, applies to the amendment to a local planning policy.
- (2) Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.

Policy Implications:

Once formally adopted by Council, the amended LPP will supersede the current LPP.

Financial/Resource Implications:

Nil.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 1.1.1 Continually improve approval processes.

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

Attachments:

RS01 – Attachment 1 – Existing Local Planning Policy

RS01 – Attachment 2 – Draft Amended Local Planning Policy

Officer Recommendation:

OFFICER RECOMMENDATION & COUNCIL DECISION 040419:	
MOVED: Cr Scott	SECONDED: Cr Leonard
That Council, pursuant to Part 2, Clause 5 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, resolve to publicly advertise the amendments to the ‘Local Planning Policy for Sea Containers,’ as set out in Attachment 2, for a period of not less than 21 days.	
VOTING DETAILS:	Carried 8/0

OFFICE OF CEO		CEO01-04/19
Subject:	Financial Management Review and Regulation 17 Audit	
Author:	D Chandler, Governance & Executive Coordinator	
Responsible Officer:	S Ivers, Acting Chief Executive Officer	
File Reference:	RM.RP.1, FM.AD.17.18	
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.
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Report Purpose:

To provide Council with the findings of and the follow up management actions resulting from the Financial Management Review and Regulation 17 Audit. This process reviews the appropriateness and effectiveness of the Shire’s risk management, internal controls and legislative compliance procedures and is undertaken in accordance with the requirements of the Local Government (Audit) Regulations 1996 and Local Government (Financial Management) Regulations 1996.

Background:

The Local Government (Financial Management) Regulations 1996 Section 5(2)(c) requires the Chief Executive Officer (CEO) to undertake a review of the appropriateness and effectiveness of the financial management systems and procedures of the Local Government regularly (and not less than once in every 3 financial years) and report to the Audit Committee the results of those reviews.

The last review of the financial management systems was completed in 2016 (2015/16 financial year).

Regulation 17 of the Local Government (Audit) Regulations 1996 requires that the CEO is to review the appropriateness and effectiveness of a Local Government’s systems and procedures in relation to:

- (a) Risk Management;
- (b) Internal control; and
- (c) Legislative compliance

The review may relate to any or all of the matters referred to above, but each of those matters is to be the subject of a review at least once every 3 financial years and the findings of the review are to be reported to the Audit Committee.

The last Regulation 17 review was also completed in 2016.

A Request for Quote was prepared in September to facilitate the procurement process for engaging a suitably qualified contractor to undertake the required reviews on behalf of the CEO. A total of four quotes were obtained and after evaluation, the contract was awarded to Paxon Business and Financial Services (Paxon Group).

The Audit Committee has reviewed the final report for the Financial Management Review and the Regulation 17 Audit prepared by Paxon Group on Tuesday 23 April 2019 and recommends that Council accept the Financial Management Review and Regulation 17 Audit Report – April 2019 and notes the management actions identified in the report.

Officer's Comment:

Paxon Group completed the Financial Management Review and Regulation 17 Audit and the final report is now presented as a separate attachment to Council for consideration.

The review included an examination of the systems and procedures for:

1. Property, Plant & Equipment
2. Procurement & Accounts Payable
3. Rates & Accounts Receivable
4. Cash & Bank Accounts
5. Payroll
6. General Ledger & Journals
7. Risk Management
8. Compliance with Legislation

The review covered the period from 1 January 2018 to 31 October 2018 and the Overall Report Rating is as follows:

Paxon Group can confirm that the Shire has a 'satisfactory' control environment in respect to Financial Management.

Paxon has reviewed the appropriateness and effectiveness of the Shire's systems and procedures, with attention to the following:

- *Risk Management;*
- *Internal Control; and*
- *Legislative compliance.*

As per section 5 'Detailed Findings' of this report, there are areas of improvement that the Shire should address, based on the recommendations provided. Including these findings, Paxon is satisfied that the Shire has a 'satisfactory' approach to the areas of review as per the Local Government (Audit) Regulations 1996 – Reg 17.

The Chief Executive Officer and the Shire of Irwin Audit Committee concur with this view and endorses the agreed management actions listed in the report.

Consultation:

Relevant staff assisted Paxon Business and Financial Services both on and off site whilst undertaking the review. Relevant staff were also involved in the development of agreed management actions in response to the findings in the report.

Statutory Environment:

The Local Government Act 1995, Local Government (Financial Management) Regulations 1996 and Local Government (Audit) Regulations 1996 set out the requirements for financial reporting to Council.

Policy Implications:

Nil.

Financial/Resource Implications:

Council will need to consider future resourcing implications with regards to undertaking the agreed management actions in response to Paxon’s findings in the review, particularly in the areas of Risk Management:

- Development, implementation and ongoing review of a Risk Management Framework;
- Development, implementation and ongoing review of a Risk Report; and

Better Practice Review to address the following areas of concern:

- Communication devices;
- Fraud control; and
- Information Technology.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Attachments:

CEO01 - Shire of Irwin Financial Management Review and Regulation 17 Audit Report – April 2019

Officer Recommendation:

OFFICER RECOMMENDATION & COUNCIL DECISION 050419:	
MOVED: Cr West	SECONDED: Cr Leonard
That Council, by Absolute Majority, accept the Financial Management Review and Regulation 17 Audit Report – April 2019 (as presented in Attachment Booklet – April 2019), prepared by Paxon Group and notes the management actions identified within the report.	
VOTING DETAILS:	Carried by Absolute Majority 8/0

OFFICE OF CEO	CEO02-04/19
Subject:	Compliance Audit Return (CAR) 2018
Author:	D Chandler, Governance & Executive Coordinator
Responsible Officer:	S Ivers, Acting Chief Executive Officer
File Reference:	FM.AD.1
Voting Requirements:	Absolute Majority

Council Role:

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

Report Purpose:

For Council to consider and adopt the 2018 Compliance Audit Return as per the Local Government Act 1995 s7.13 and the Local Government (Audit) Regulations – Regulation 14.

Background:

Local governments are required by legislation to complete a statutory compliance return (Compliance Audit Return or CAR) annually and have the return adopted by Council. The return is a checklist of a local government's compliance with the requirements of the Act and its Regulations, concentrating on areas of compliance considered "high risk".

The Audit Committee is to review the annual CAR and report to Council the results of that review, prior to adoption of the return by Council. After adoption the return is to be signed by the Shire President and the CEO prior to it being forwarded to the Department of Local Government, Sport and Cultural Industries (DLGSCI).

Officer's Comment:

The Audit Committee has considered the CAR along with this report in order to recommend its adoption by Council.

The following list provides an outline of each section addressed in the 2018 Compliance Audit Return;

Commercial Enterprises by Local Governments

As the Shire has not undertaken any commercial enterprises during 2018, a N/A response has been provided.

Delegation of Power / Duty

An investigation was undertaken to ensure that the Shire is meeting its statutory obligations in regards to Delegated Authority. A N/A response has been provided for questions relating to delegation of powers to Committees as there have been no delegations of this type. In regards to delegations from

Council to CEO and CEO to staff, processes around administering and recording these delegations are sound, although delegations across the organisation are currently being reviewed.

Disclosure of Interest

Recordkeeping practices for Disclosures of Interest are sound and staff have a number of practices/procedures in place to ensure compliance in this area.

Disposal of Property

The Shire disposed of a number of vehicles during 2018 by public auction – the questions relate to property disposed of by other means, therefore N/A responses were provided.

Finance

This section relates to the Audit Committee and its duties. For the reporting period the Shire is considered to be compliant in all areas.

Integrated Planning and Reporting

This section seeks input about Integrated Planning and Reporting and Regulation 17 of the Government (Audit) Regulations 1996. Council have adopted a recent Strategic Community Plan and Long Term Financial Plan. It has been identified previous to completion of the CAR, that a revised Corporate Business Plan, Asset Management Plan and Workforce Plan all need to be developed and adopted.

Local Government Employees

This section relates to the recruitment of the Chief Executive Officer (CEO) or designated senior employees. A N/A response has been provided for all questions relating to CEO recruitment as the Shire of Irwin has not been involved with this process during 2018.

Official Conduct

The Shire of Irwin has not received any Complaints relating to official conduct of Council members resulting in an action under s5.110(6)(b) or (c) during 2018.

Tenders for Providing Goods and Services

The Shire is considered to be compliant in all areas of this section.

The Compliance Audit Return was due for submission to the DLGSCI by 31 March 2019. As the DLGSCI do not issue extensions for submissions, written advice to the DLGSCI was provided explaining that the delayed submission has been due to a recent organisational restructure and that the CAR will be presented to Council at the 30 April 2019 Ordinary Council Meeting and submitted to the Department directly.

Adoption of the CAR is a statutory requirement of Council which could have major compliance implications for the Shire and is therefore considered to have a high risk rating, however the completion of this return annually helps to ensure that the local government is following good governance practices and complies with the relevant Acts and Regulations.

Consultation:

The CAR was presented to the Shire's Audit Committee on Tuesday 23 April 2019, to consider the results of the return and then make a recommendation to Council.

Statutory Environment:

The Local Government Act provides at Section 7.13:

7.13. Regulations as to audits

- (1) Regulations may make provision —
 - (i) requiring local governments to carry out, in the prescribed manner and in a form approved by the Minister, an audit of compliance with such statutory requirements as are prescribed whether those requirements are —

- (i) of a financial nature or not; or
- (ii) under this Act or another written law.

The Local Government (Audit) Regulations provides at Regulation 14:

14. Compliance audits by local governments

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.
- (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.
- (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.
- (3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —
 - (a) presented to the council at a meeting of the council; and
 - (b) adopted by the council; and
 - (c) recorded in the minutes of the meeting at which it is adopted.

15. Compliance audit return, certified copy of etc. to be given to Executive Director

- (1) After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —
 - (a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and
 - (b) any additional information explaining or qualifying the compliance audit,is to be submitted to the Executive Director by 31 March next following the period to which the return relates.
- (2) In this regulation —

certified in relation to a compliance audit return means signed by —

 - (a) the mayor or president; and
 - (b) the CEO.

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 4.3.3 Adopt and follow better practice processes

Attachments:

CEO02 - Compliance Audit Return 2018

Officer Recommendation:

OFFICER RECOMMENDATION & COUNCIL DECISION 060419:	
MOVED: Cr Wyse	SECONDED: Cr West
That Council, by Absolute Majority, adopt the Shire of Irwin’s Compliance Audit Return for the 2018 calendar year, as presented in Attachment Booklet – April 2019.	
VOTING DETAILS:	Carried by Absolute Majority 8/0

INFRASTRUCTURE AND OPERATIONS		IO01-04/19
Subject:	Supply and Lay Asphalt – Point Leander Drive, Port Denison	
Author:	P Traylen, Operations Supervisor	
Responsible Officer:	S Ivers, Acting Chief Executive Officer	
File Reference:	FM.CO	
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 seek Council approval to award the contract for eQuote Tender VP132633 *Supply and Lay of Asphalt Point Leander Drive - Port Denison*, which includes the car parking upgrade. In addition to the award of the contract, this report also seeks approval for the associated footpaths from SLK 2.78 - 3.28 on Point Leander Drive as specified in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800 including the removal of the existing carparks and replacing with reticulated lawn.

Background:

The Shire developed a Port Denison Foreshore concept masterplan in 2013 and later revised it in 2016, but was unsuccessful in its bid for funding. Work commenced in the second half of 2018 to simplify the masterplan into affordable packages where the majority of the low cost activities could be funded internally over an extended period and the high cost activities packaged such that they are attractive to external funding grant opportunities. A major theme of the simplified masterplan is to protect the iconic family-friendly foreshore greenspace and any proposed improvement elements enhancing this major theme.

One of the first opportunities to deliver a high cost package is to combine the scheduled Regional Road Group (RRG) funded resealing works that are due this financial year for Point Leander Drive, together with any proposed on-street parking. Previous masterplans were reviewed and it was noted that there was some on-street parking, but referring to the design provided as Attachment 1, an obvious opportunity to enhance the foreshore greenspace was to convert the current carparks to on-street parking. Early design work suggested that the number of both car parks and long bays could be increased whilst increasing the foreshore greenspace by approximately 5000 square metres. This would also improve vehicle and pedestrian interaction in terms of safety, and eliminate the costly maintenance renewal of these car parks, which is currently well overdue.

On this basis, the design was progressed to a sufficient level such that it could be presented to Council for discussion. The design was presented to Councillors at the Asset Management Advisory Committee Meeting held 13 November 2018. Councillors supported the concept provided that the

Shire held community consultation sessions to engage with, and receive feedback from the community. Two (2) community consultation sessions were held in December 2018 and resulted in positive engagement with the community.

At the 26 February 2019 Ordinary Council Meeting, council approved the foreshore car parking plan to allow commencement of the tendering process.

Officer's Comment:

The total value of the supply and lay of asphalt and foreshore car parking upgrade is \$996,243. The value of the supply and lay of asphalt contract is \$871,243 ex GST, which is from SLK 0.30 - 1.34 and SLK 2.78 - 3.28 on Point Leander Drive and includes the foreshore car parking upgrade as specified in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800. The balance of funds is to replace the existing carparks with lawn plus the installation of new footpaths, line marking and signage as shown in Attachment 1.

The approved 2018/19 Budget funding from Regional Road Group was \$788,000 including the one third municipal contribution from the Shire, but around \$50,000 of the Regional Road Group portion of the funding falls outside of the funding guidelines and cannot be used thus reducing the total available funding to \$738,000.

The balance of \$258,576 required to complete the works is proposed to be drawn from the Asset Management Reserve. These works specifically include:

- Balance of \$133,576 to complete the supply and lay of asphalt and foreshore car parking upgrade from SLK 2.78 - 3.28 as specified in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800 that are not supported by Regional Road Group and that the Shire must fund. This work will be managed as part of the contract.
- Removal of existing car parks shown in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800, (except the car park immediately adjacent to the Fisherman's Hall on the north side), including filling the area with quality soil, harvesting existing lawn, replanting the runners using suitable equipment and installing reticulation. The value of this work is \$40,000, which is separate to the contract and will be managed by the Shire's request for quote procurement process.
- Install new footpaths as shown in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800. The value of this work is \$75,000, which is separate to the contract and will be managed by the Shire's request for quote procurement process.
- Miscellaneous activities includes line marking, signage, traffic management, minor drainage and service locating. The value of this work is \$10,000, which is separate to the contract and will be managed by the Shire's request for quote procurement process.

In terms of the contract award, the tender submission from *Roads 2000* met all the qualitative criteria requirements, clearly outlining their capacity to meet the Shire's requirements specific to this project. Refer to the attached tender evaluation worksheet for further details regarding the compliance and qualitative criteria for all tenders submitted.

Consultation:

- Stakeholder engagement occurred throughout the Foreshore Master Plan concept phase in 2013.
- Further community engagement including Council workshops occurred during 2016.
- Two (2) community consultation sessions were held in December 2018, the outcome from these consultation processes was provided to Council at the 26 February 2019 Ordinary Council Meeting.

Statutory Environment:

Local Government Act 1995 provides as follows:

Section 5.42 Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the *Planning and Development Act 2005* section 214(2), (3) or (5).

* *Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

Section 9.49A (4)

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

The Local Government (Functions and General) Regulations 1996 provides as follows:

Section 20 Variation of requirements before entry into contract

- (1) If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.

Section 20(2)

If —

- (a) *the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or*
- (b) *the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement,*

that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.

Section 21A Varying a contract for the supply of goods or services

If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless —

- (a) *the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or*
- (b) *the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j).*

Policy Implications:

C12 Localised Purchasing

C13 Purchasing

Financial/Resource Implications:

Funds are proposed to be sourced from the Asset Management Reserve, with a current balance of \$790,762. The transfer from the Asset Management Reserve is to support the supply and lay of asphalt, car parking upgrade and associated footpaths from SLK 2.78 - 3.28 on Point Leander Drive as specified in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800 including the removal of the existing carparks and replacing with reticulated lawn.

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 1 – Foreshore Car Parking Design
- Attachment 2 – RFQ – Supply and Lay Asphalt – Point Leander Drive, Port Denison
- Attachment 3 – Minor Work Contract – Irwin Pt Leander Dr v1
- Attachment 4 – CONFIDENTIAL – VP132633 Evaluation Report
- Attachment 5 – CONFIDENTIAL – VP132633 Evaluation Summary

Officer Recommendation:

OFFICER RECOMMENDATION & COUNCIL DECISION 070419:	
MOVED:	Cr Gillam
	SECONDED: Cr Scott
That Council, by Absolute Majority:	
1. Accept the most advantageous tender, being that submitted by <i>Roads 2000</i>, to form a contract to the value of \$871,243 ex GST for eQuotes Tender VP132633 Supply and Lay Asphalt Point Leander Drive from SLK 0.30 - 1.34 and SLK 2.78 - 3.28, which includes the foreshore car parking upgrade as specified in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800.	
2. Delegate, in accordance with section 5.42 of the Local Government Act 1995, authority to the Chief Executive Officer to negotiate in regard to the contract for eQuotes Tender VP132633 Supply and Lay Asphalt Point Leander Drive – Port Denison:	
a) Minor variations before entry into the contract, in accordance with Regulation 20 of the Local Government (Functions and General) Regulations 1996; and	
b) Variations, after the contract has been entered into, limited to variations which do not change the scope of the contract and which do not increase the contract value beyond 10%, in accordance with Regulation 21A of the Local Government (Functions and General) Regulations 1996.	
3. Authorise the Chief Executive Officer, in accordance with section 9.49A(4) of the Local Government Act 1995, to execute the contract for eQuotes Tender VP132633 Supply and Lay Asphalt Point Leander Drive – Port Denison.	
4. Approve the transfer of \$258,576 from the Asset Management Reserve to the Municipal Fund in the 2018/19 financial year and amend the Budget accordingly in order to support:	
a) \$143,576 of the eQuotes Tender VP132633 Supply and Lay Asphalt Point Leander Drive from SLK 2.78 - 3.28 of foreshore car parking improvements as specified in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800 that are not supported by Regional Road Group and that the Shire must fund.	
b) \$40,000 for the removal of existing car parks shown in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800, (except the car park immediately adjacent Fisherman’s Hall on the north side), including filling the area with quality soil, harvesting existing lawn, replanting the runners using suitable equipment and installing reticulation.	
c) \$75,000 for the installation of the footpaths shown in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800.	

- d) \$10,000 for miscellaneous activities including line marking, signage, traffic management, minor drainage and service locating.**

VOTING DETAILS:

Carried by Absolute Majority 8/0

Cr Leonard moved a motion to amend for the purpose of releasing funds for other critical works as well as reducing the sudden impact of black asphalt nearly doubling the width of the road between CH500 and CH640.

MOTION TO AMEND:

MOVED: Cr Leonard

SECONDED: Cr Wyse

That Council add to the original motion the following:

- 5. Do not make any changes between CH500 and CH640, therefore leaving existing infrastructure as is, realise the cost benefits and authorise the CEO to make the appropriate contract adjustments.**

VOTING DETAILS:

Lost 3/4

Formal debate continued with the Original Motion.

Cr Wilson moved a motion to amend by removing 4 c). \$75,000 for the installation of the footpaths shown in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800. The purpose being to release funds for higher priority projects.

MOTION TO AMEND:

MOVED: Cr Wilson

SECONDED: Cr Leonard

That Council remove from the Original Motion: 4 c). \$75,000 for the installation of the footpaths shown in Attachment 1 Foreshore Car Parking Design from CH 300 to CH 800.

VOTING DETAILS:

Lost 1/7

The Original Motion was put and carried.

9.2. Committee Reports

Shire of Irwin Audit Committee Meeting held Tuesday 23 April 2019.

AUDIT COMMITTEE RECOMMENDATION:	
MOVED: Cr Leonard	SECONDED: Cr Wyse
That Council receives the Minutes of the Shire of Irwin Audit Committee meeting held Tuesday 23 April 2019.	

Cr West moved a motion to amend by adding: “and acknowledge that the Audit Committee recommendations in relating to the FMR and Reg 17 Audit and Compliance Audit Return have been dealt with under Items CEO01-04/19 and CEO02-04/19 in these Council Minutes.” The purpose being to clarify the recommendations arising from the Audit Committee meeting.

MOTION TO AMEND & COUNCIL DECISION 080419:	
MOVED: Cr West	SECONDED: Cr Wyse
That Council add: “and acknowledge that the Audit Committee recommendations in relation to the FMR and Reg 17 Audit and Compliance Audit Return have been dealt with under Items CEO01-04/19 and CEO02-04/19 in these Council Minutes.”	
VOTING DETAILS:	Carried 7/1

The Original Motion as amended being:

COUNCIL DECISION 090419:	
MOVED: Cr Leonard	SECONDED: Cr Wyse
That Council receives the Minutes of the Shire of Irwin Audit Committee meeting held Tuesday 23 April 2019 and acknowledge that the Audit Committee recommendations in relation to the FMR and Reg 17 Audit and Compliance Audit Return have been dealt with under Items CEO01-04/19 and CEO02-04/19 in these Council Minutes.	
VOTING DETAILS:	Carried by Absolute Majority 8/0

AUDIT COMMITTEE RECOMMENDATION & COUNCIL DECISION 100419:	
MOVED: Cr Leonard	SECONDED: Cr Gumley
That Council, by Absolute Majority and with regards to Business Issues 6 and 7 in the Financial Management Review and Regulation 17 Audit Report – April 2019, consider a 2019/20 budget allocation for outsourcing to consultants the development and implementation of a Risk Management Framework and Risk Reporting tasks, aiming for completion by the end of October 2019.	
VOTING DETAILS:	Carried by Absolute Majority 8/0

The following recommendation was withdrawn due to the Financial Management Review and Regulation 17 Audit being dealt with at item CEO01-04/19.

COMMITTEE RECOMMENDATION TO COUNCIL:

That Council, by Absolute Majority, accept the Financial Management Review and Regulation 17 Audit Report – April 2019 (as presented in Attachment Booklet – April 2019), prepared by Paxon Group and notes the management actions identified within the report.

The following recommendation was withdrawn due to the Compliance Audit Return for the 2018 calendar year being dealt with at item CEO02-04/19.

COMMITTEE RECOMMENDATION TO COUNCIL:

That Council, by Absolute Majority, adopt the Shire of Irwin’s Compliance Audit Return for the 2018 calendar year, as presented in Attachment Booklet – April 2019.

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 6.38pm.

An electronic copy of the Minutes are available for download from the Shire’s website

<http://www.irwin.wa.gov.au/Agendas-Minutes.aspx>