



AGENDA

FOR THE

ORDINARY MEETING
OF COUNCIL

TO BE HELD ON

TUESDAY, 27 MARCH 2012

PLEASE READ THE FOLLOWING DISCLAIMER BEFORE PROCEEDING

Members of the public are cautioned against taking any action on Council decisions, on items in this Agenda in which they may have an interest, until such time as they have been advised in writing by Council staff.

NOTICE OF MEETING

PLEASE BE ADVISED THAT THE

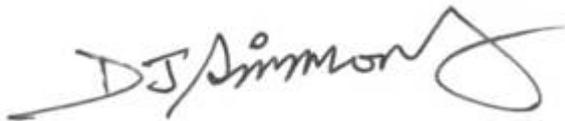
ORDINARY MEETING OF COUNCIL

COMMENCING AT 4.00PM

WILL BE HELD ON

TUESDAY, 27 MARCH 2012

IN COUNCIL CHAMBERS AT
13 WALDECK STREET, DONGARA WA



Darren Simmons
Chief Executive Officer

March 2012

DISCLAIMER

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Disclosure of Financial or Impartiality Interests Form

This form is provided to enable members and officers to disclose an interest in a matter in accordance with the requirements of Sections 5.65, 5.70 and 5.71 of the Local Government Act 1995 and Local Government (Administration) Regulation 34C

To: Chief Executive Officer

I hereby declare my interest in the following matter/s included on the Agenda paper for the Council/Committee meeting to be held on:

_____ (Date)

Item No.	Subject	Details of Interest	Type of Interest Impartial/Financial	Extent of Interest (see below)

Extent of Interest only has to be declared if the Councillor also requests to remain present at a meeting, preside, or participate in discussions of the decision making process (see item 6 below). Employees must disclose extent of interest if the Council or Committee requires them to.

 Name (Please Print)

 Signature

 Date

NB:

1. This notice must be given to the Chief Executive Officer prior to the meeting or at the meeting immediately before the matter in which you have declared an interest is discussed, Section 5.65(1)(a) & (b).
2. It remains Councillors'/Employees' responsibility to make further declaration to the Council if a matter arises during the course of a meeting and no previous declarations have been made.
3. It is a Councillors'/Employees' responsibility to ensure the interest is brought to the attention of Council/Committee when the Agenda item arises and to ensure that it is recorded in the minutes.
4. It remains the Councillor's responsibility to ensure that he/she does not vote on a matter in which a declaration has been made. The responsibility also includes the recording of particulars in the minutes to ensure they are correct when such minutes are confirmed.
5. It is recommended that when previewing the Agenda, Councillors mark Agendas with items on which an interest is to be declared and complete the declaration form at the same time.
6. Councillors may be allowed to remain at meetings at which they have declared an interest and may also be allowed to preside (if applicable) and participate in discussions and the decision making process upon the declared matter subject to strict compliance with the enabling provisions of the Act and appropriately recorded resolutions of the Council. Where Councillors request consideration of such Council approval the affected Councillor must vacate the Council Chambers in the first instance whilst the Council discusses and decides upon the Councillor's application.

Remember: The responsibility to declare an interest rests with individual Councillors/Employees. If in any doubt seek legal opinion or, to be absolutely sure, make a declaration

Office Use Only:

Date/Initials

1. Particulars of declaration given to meeting

2. Particulars recorded in the minutes

3. Signed by Chief Executive Officer

Leave of Absence Request Form

This form is provided to enable members and officers to apply for leave pursuant to the provisions of Section 2.25(4) of the Local Government Act 1995.

To: Chief Executive Officer

I hereby give notice that at the ordinary meeting of Council on _____
I intend to request that Council grant me a leave of absence for the following period:

From: _____ To: _____ (inclusive)

Councillor: _____
(Please print name in full)

Signed: _____

Guidance Notes to aid completion of Leave of Absence Request Form:

1. Once you have completed this form, please arrange for it to be delivered to the Chief Executive Officer (ideally before the commencement of the ordinary Council meeting at which the request is to be made)
2. If you are unable to attend the Council meeting at which the request for leave of absence is to be put forward, please complete this form and submit to the Chief Executive Officer as soon as is practicable, so that he can advise the Shire President to put forward the request on your behalf.
3. Any leave of absence approved by Council can only apply to subsequent meetings. Therefore, leave of absence cannot be granted for the ordinary Council meeting at which the approval is given.
4. Pursuant to the provisions of Section 2.25(4) of the Local Government Act 1995, an Elected Member who is absent throughout three (3) consecutive **ordinary** Council meetings, without first obtaining a leave of absence, is disqualified from continuing his or her membership of the Council.
5. Council cannot grant leave of absence in respect of more than six (6) consecutive ordinary meetings of the Council, without the approval of the Minister for Local Government.

Office Use Only:

Date/Initials

4. Particulars of leave of absence given to meeting

5. Particulars recorded in the minutes

6. Signed by Chief Executive Officer

Meetings Generally Open to the Public

LOCAL GOVERNMENT ACT 1995 – SECT 5.23

5.23. Meetings generally open to public

- (1) Subject to subsection (2), the following are to be open to members of the public —
 - (a) all council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
 - (a) a matter affecting an employee or employees;
 - (b) the personal affairs of any person;
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person,where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

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**AGENDA FOR ORDINARY COUNCIL MEETING
TO BE HELD IN THE COUNCIL CHAMBERS ON
TUESDAY, 27 MARCH 2012
COMMENCING AT 4.00PM**

PRESENT:	Councillors	Cr KJ Hepworth (Deputy Shire President) Cr J B Fitzhardinge Cr R T McClurg Cr J A R Porteus Cr B C Scott Cr M T Smith Cr I F West
	Staff	Mr D J Simmons – Chief Executive Officer Mr F A Neuweiler – Manager, Community Development Mrs H M Sternick – Acting Director Corporate Services Mr G F Coaker – Town Planner Mr A S Wootton – Works Manager Mrs C M Palmer - Executive Assistant (EA) (Minute Taker)
GUESTS:		-
APOLOGIES:		-
LEAVE OF ABSENCE:		Cr SC Chandler and Mr G M Peddie – Director, Corporate Services

-
- 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
 - 2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE**
 - 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
Nil.
 - 4. PUBLIC QUESTION TIME**
 - 5. APPLICATIONS FOR LEAVE OF ABSENCE**
 - 6. PETITIONS**

7. CONFIRMATION OF MINUTES

7.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 28 FEBRUARY 2012

A copy of the Minutes of the Ordinary Council Meeting held on 28 February 2012 has been provided to all Councillors under separate cover.

COUNCIL MOTION:

MOVED: Cr _____

SECONDED: Cr _____

That the Minutes of the Ordinary Council Meeting, held on 28 February 2012, be confirmed as a true and accurate recording of that meeting.

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

9. REPORTS

B.431

Subject: Renewal of Airstrip Lease Agreements
Proponent: N/A
Reporting Officer: Manager, Community Development
File Reference: Minute Book
Date Prepared: 19 March 2012
Voting Requirements: Simple

Report Purpose:

To seek Council's determination in respect of the renewal of two airstrips lease agreements.

Officers Recommendation:

That Council resolves to renew Mr Stephen Johns' and Mr Neil James' leases, relating to premises located on Reserve 26040, in accordance with clause 6 of the two current lease agreements for a further term of 5 years. Annual increase in accordance with CPI.

Body / Background:

In 2006 Mr Stephen Johns and Mr Neil James each signed a lease agreement with the Shire of Irwin in respect of their particular premises on Reserve 26040. The premises are located adjacent to the Port Denison airstrip and are used by the occupants to store their aircrafts in hangars.

The Schedule of the current lease includes an option to renew the lease for a further term of 5 years. Both Lessees have expressed an interest in renewing the current lease (please refer to the attachments).

Officers Comment:

Clause 6 of the current Lease sets out how the lease can be renewed (please refer to the relevant attachment). It is recommended that both leases are renewed for a further term in accordance with clause 6.

Financial Implications:

The lessees are currently paying \$120 per annum plus \$800 annual Council rates. It is proposed that the lease would continue to be increased annually in accordance with the CPI.

Clause 3 of the current lease provides that if the lessees disagree with the proposed rent the rental value shall be determined by a Valuer and the cost of the valuation shall be borne by the Lessee.

Clause 6 provides that the Lessees are responsible for the reasonable costs and disbursements relating to the lease renewals.

Statutory Environment:

Land Administration Act 1997.

19. Dealings or caveats in respect of Crown land not effective until registered or recorded

Subject to section 68 of the TLA, a dealing or caveat in respect of Crown land created or lodged under this Act or the TLA does not become effective until that dealing is registered or that caveat is recorded, as the case requires.

Policy Implications: N/A

CEO.473

Subject: New Position – Shared Community Emergency Services Manager
Reporting Officer: Chief Executive Officer (CEO)
File Reference: ES.LE
Date Prepared: 21 March 2012
Voting Requirements: Simple Majority

Report Purpose:

To consider the establishment of a new shared Community Emergency Services Manager position between the Shires of Carnamah, Coorow and Irwin and the Fire and Emergency Services Authority of Western Australia (FESA)

Officer's Recommendation:

That Council:

1. Agrees to establish and share a new staff position of Community Emergency Services Manager with the Fire and Emergency Services Authority of Western Australia (FESA) and the Shires of Carnamah and Coorow;
2. Commits to funding 10% of the costs of employing a Community Emergency Services Manager on a recurrent basis; and
3. Authorises the Chief Executive Officer to sign a Memorandum of Understanding between FESA and the Shires of Carnamah, Coorow and Irwin for the provision of a shared Community Emergency Services Manager.

Body/Background:

FESA has partnered with a number of Western Australian local governments through the joint funding of Community Emergency Services Manager (CESM) positions in either a standalone (i.e. FESA and one local government) or employed by one local government but shared with more than one local government with the local government contribution shared amongst the partnering local governments.

CESM's are fulltime emergency service professionals whose role includes the provision of volunteer support, emergency management planning, supervision of financial reporting, professional and courteous community liaison, maintaining fire control, undertaking general inspection patrols, and attending to relevant administrative requirements.

For some time, the CEO and the Director Corporate Services has been in discussion with senior officers of the Midwest/Gascoyne Regional Headquarters of FESA in respect to the establishment of CESM position for the Shire of Irwin, particularly in view of an identified need to support the Shire's Chief Bushfire Control Officer.

Emanating from these discussions, it has been difficult for the Shire's executive officers to justify a business case for the establishment of a fulltime CESM position for the Shire of Irwin only. However, an opportunity to share the role with the Shires of Carnamah and Coorow has now arisen and which, it is suggested, worthy of consideration.

Officer's Comment:

Local emergency service arrangements (especially support and coordination of bushfire incidents and the administration of emergency plans etc) have historically been carried out by volunteers and Shire personnel. It has become increasingly challenging for this work to be carried out on this basis.

The Shires of Carnamah, Coorow and Irwin share a particularly volatile part of the region, principally west of Brand Highway. This area continues to be exposed to bushfires of some ferocity and of long duration. The limitation of volunteer capacity often results in FESA taking management control of the fire.

When incidents of this nature occur, a significant coordination effort is required in supporting volunteers and liaising with landholders and numerous agencies including FESA, Police, Department of Environment, Main Roads WA and railways.

The role of the CESM includes that of providing support to Chief Bushfire Control Officers and incident controllers by taking responsibility for coordination efforts, ensuring that bush fire brigades and volunteers have access to and participate in training, administer the provisions of the Bushfires Act and ensure compliance thereto with respect to firebreaks, administer joint local emergency management arrangements, ensure serviceability of vehicles and communication equipment and in times of emergency, coordinate recovery arrangements.

It is suggested that through the establishment of a shared CESM position, Council would progress significantly in respect to meeting its statutory requirements under both the Bushfires Act and Emergency Management Act.

Furthermore, with FESA offering to fund 70% of the positions costs with the remaining 30% shared equally between the 3 Shires, it represents excellent value and aligns with Council's desire to share resources with neighbouring local governments where there is demonstrated public benefit.

The operation of the shared position would be governed by a Memorandum of Understanding of which a draft is provided as an attachment.

Financial Implications:

The annual cost to employ a CESM is around \$125,000 however Council's annual commitment would be approximately \$12,500 per year under the current proposal which includes the Shire of Irwin assuming the role of 'host' and employing Council.

Statutory Environment:

Local Government Act 1995
Bushfires Act 1954
Emergency Services Act 2005
Local Government Industry Award 2010

Policy Implications:

Nil.

CDO.013

Subject: Sponsorship Dongara Irwin Race Club Inc
Reporting Officer: Community Development Officer
Date of Report: 20 March 2012
File Reference: RC.EV.2
Voting Requirements: Simple Majority

Report Purpose:

To consider a request for sponsorship from Dongara Irwin Race Club Inc for assistance to hold Fashions of the Field for the Easter Saturday races being held 7 April 2012.

Officer's Recommendation:

That Council supports the Dongara Irwin Race Club to the value of \$1500, and works in partnership with the Race Club on the day to set up a Marquee and facilitate on-course public announcements to promote community participation in the development of the Shire's 10+ year Strategic Community Plan.

Body/Background:

Correspondence has been received from the Dongara Irwin Race Club Inc requesting sponsorship of \$1000.00. The Dongara Irwin Race Club Inc wishes to hold Fashions of the Field, on race day at the Easter Saturday Race Day 7 April 2012.

The above event is popular and is keenly contested on the day. The Race Club is run by a small group of enthusiastic members who contribute and work hard to make the day a success and attracts large crowds to Dongara over the Easter weekend.

Officer's Comment:

The Shire is encouraging the Irwin Community to have its say in the preparation of a new 10+ year Strategic Plan that is being developed. The Easter Saturday Race Day is an opportunity to encourage residents and visitors to Town to have their say for the future development of the Shire of Irwin.

Financial Implications:

The financial implication to the Shire would be \$1500.00 which could come from community sponsorship from the Community Development budget.

Statutory Environment:

Nil

Policy Implications:

Nil

DCS.403

Subject: Accounts for Payment
Reporting Officer: Director Corporate Services
Date of Report: 27 March 2012
File Reference: Minute Book
Voting Requirements: Simple Majority

Report Purpose:

To receive the list of accounts paid under delegated authority during February 2012.

Officer's Recommendation:

That the Accounts paid during February 2012, represented by Municipal Cheque Numbers 28495-28535, EFT payment numbers 12646 – 12797 totalling \$419,733.96, Police Licensing Payment No's PLO10212-PL270212 totalling \$42,951.75, Trust No: 2289 totalling \$1,000.00 be received.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of February 2012.

Policy Implications:

Under Delegation C3 Council has delegated authority to the Chief Executive Officer to authorise all payments by Council.

Statutory Implications:

13. Lists of accounts
- (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.

DCS.404

Subject: Financial Statements for the Period ending 29/02/2012
Reporting Officer: Director Corporate Services
File Reference: Minute Book
Date Prepared: 27 March 2012
Voting Requirements: Simple Majority

Report Purpose:

To consider and receive the Monthly Financial Statements for the period 1 July 2011 to 29 February 2011.

Officers Recommendation:

That the Monthly Financial Statement for the period 1 July 2011 to 29 February 2012 be received.

Body / Background:

The Monthly Financial Report to the 29 February 2012 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Rate Setting Statement
- Statement of Comprehensive Income by Program
- Statement of Comprehensive Income by Nature & Type
- Statement of Financial Position
- Statement of Changes in Equity
- Statement of Cash Flows
- Disposal of Assets
- Information on Borrowings
- Reserve Funds
- Net Current Assets
- Rating Information
- Trust Fund Summary
- Statement of Bank Reconciliations
- Capital Works Program
- Restricted Assets Statement
- Schedules 3 – 14 Budget vs Actuals Comparison
- APU Operating Statement

Officers Comment:

Nil.

Financial Implications:

Nil.

Statutory Environment:

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.

DCS.405

Subject: Local Government Compliance Audit Return
Reporting Officer: Director Corporate Services
File Reference: FM.AD
Date Prepared: 6 March 2012
Voting Requirements: Simple Majority

Report Purpose

To consider and recommend to Council the adoption of the 2011 Compliance Audit Return.

Officers Recommendation:

That the Compliance Audit Return for the 2011 calendar year , as presented, be recommended as the official return of Council and a certified copy of the return, along with the relevant section of the minutes be submitted to the Department.

COMMITTEE DECISION:

MOVED: Cr Hepworth

SECONDED: Cr Fitzhardinge

That the Compliance Audit Return for the 2011 calendar year , as presented, be recommended as the official return of Council and a certified copy of the return, along with the relevant section of the minutes be submitted to the Department, subject the Finance section question 2, relating to Section 7.1B, being amended to N/A.

CARRIED UNANIMOUSLY

VOTING DETAILS:

3/0

Body / Background:

The Local Government Act requires each local authority to carry out a compliance audit for the period 1 January 2011 to 31 December 2011 in regards to the sections of the Local Government Act and associated Regulations as specified in the Compliance Audit Return. The Compliance Audit Return is to be prepared and presented to the Audit Committee for its review and the results of the review are to be reported to the Council.

The Compliance Audit Return is then:

- a) presented at a meeting of the Council,
- b) adopted by the Council, and
- c) recorded in the minutes of the meeting at which it is adopted.

The Audit Committee met on 13 March 2012 and adopted the return as presented with one amendment. The return is now presented to Council for adoption.

After the Compliance Audit Return has been presented to Council, a certified copy of the return, along with the relevant section of the minutes is to be submitted to the Department by 31 March 2012.

Officers Comment:

A copy of the completed return is provided indicating the officer responsible for completion of each section.

Financial Implications:

Nil

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

DCS.406

Subject: CSRFF Small Grants – Dongara Cricket Club
Reporting Officer: Director Corporate Services
Date of Report: 9 March 2012
File Reference: GS.PR.1
Voting Requirements: Simple Majority

Report Purpose:

To consider all applications from Clubs for the Department of Sport and Recreation CSRFF Small Grants (Winter Round) and list in priority order for submission to DSR.

To consider the merits of an application from the Dongara Cricket Club to replace the existing pitch and install an additional pitch on Dongara Oval.

Officer's Recommendation:

That Council supports the application from the Dongara Cricket Club for funding through the Department of Sport and Recreation's CSRFF Small Grants Summer Round to replace the existing cricket pitch and install an additional cricket pitch on Dongara Oval and make provision of \$6,000 in the 2012/13 budget as Council's contribution.

Body/Background:

The Department of Sport and Recreation has a number of programme categories within its Community Sport and Recreational Facilities Fund (CSRFF) to assist community groups and local government authorities to develop basic infrastructure for sport and recreation, including a small grant category. A full copy of the CSRFF guidelines is provided for Councillors information in the attachments.

The small grant category is designed to assist projects which require a basic level of planning, it has a total project value of \$5,000 to \$150,000 and examples of projects quoted include cricket pitch and practice wickets. There are two rounds each year, closing in March and August. The small grant, if successful, may provide funding of up to one third of the total project funding with the balance being met by the Club or the Club and the local government.

The Local Government is required to assess all the applications received for each round and rate and rank all applications in order of priority. The applications are presented to Council and then lodged at the Department of Sport and Recreation Regional Office by the due date.

Officer's Comment:

One application has been received from the Dongara Cricket Club for funding in the current round of the CSRFF small grants programme. The Club is applying for \$5713.12 from CSRFF (1/3) and a similar amount from Council (1/3) and paying the remaining third from their resources. The Club will supplement their contribution with the provision of voluntary labour.

The Club has applied to Council for approval to replace the existing cricket pitch on Dongara Oval to a new position to the west. The current pitch has two large cracks creating the need for this replacement and an opportunity for it to be moved. There is also a suggestion through the Club and the Geraldton Junior Cricket Association that due to a shortage of cricket facilities in Geraldton, and the recent increase in junior participation, there is a need to install an additional cricket pitch on Dongara Oval to cater for additional junior games. The second pitch will be installed in a location east of the existing and will cater for junior cricket. It will have a boundary of 45 metres from the pitch, which will result in a small overlap with the main pitch if a senior game is being played using a 50 metre boundary. It is not anticipated that such an event will occur often and the only sport affected is cricket. Some of the area on the eastern side of the new pitch may not be reticulated and the Cricket Club are also aware that this may continue.

Other Sporting Clubs that use the Dongara Oval were contacted for their comment and /or submission to determine what affect the relocation of the existing pitch and the installation of a new pitch would have on their sports. The Dongara Vets Football Club and the Dongara Softball Club did not provide any objection. Other Clubs such as the Rovers Soccer Club train at the oval and the North Midlands Hockey Association hold a final at the ground each year and it is suggested that the changes will still cater for their requirements.

Financial Implications:

The grant funding application, should it be successful, will be available in the 2012/13 financial year and, therefore, it is necessary for Council to commit to its contribution in 2012/13 if the project is supported. It is suggested that a provision of \$6,000 will be sufficient to allow for any cost increases that occur during the interim.

Statutory Environment:

Nil

Policy Implications:

Nil

TP.531

Subject: Request for Waiver of Planning Fee
Reporting Officer: Town Planner and Chief Executive Officer
Date of Report: 21 March 2012
File Reference: CR.SP and P352
Voting Requirements: Simple Majority

Report Purpose:

To consider an application by the Returned and Services League Dongara Sub Branch (RSL) to waive the planning fee for their development application at 10 Waldeck Street, Dongara and to provide assistance with the construction works associated with that application.

Officer's Recommendation:

That Council provides a donation to the Returned and Services League Dongara Sub Branch of \$475.20, being the cost of the planning fee for application number P352, and subject to approval of that application, provides minor civil works within the capacity of Council's operations team as part of Council's donation sponsorship.

Body/Background:

Background

At its meeting held on the 22 November 2011, Council considered correspondence from the Dongara RSL seeking permission to erect a retaining wall and to back fill and level the lot at 10 Waldeck Street.

Council's resolution from that meeting was as follows:

'That Council supports the request from Dongara Returned Services League for the erection of retaining wall and backfill and leveling of the block at 10 Waldeck Street with the intention to increase parking space.'

The report also made the comment that an application for planning approval would need to be made under the Shire's Local Planning Scheme before any work could commence.

On the 27th of February 2012, the Dongara RSL lodged an application for planning approval with the Shire of Irwin. The application is consistent with the previous correspondence from the Dongara RSL in that it proposes to construct limestone retaining walls around to the perimeter of the lot, and then to back fill the retaining walls and level the site consistent with the floor level of the existing building. The applicable fee for the application is \$475.20.

Request for Waiver

Attached is a copy of the request from the Dongara RSL to waive the planning fee. The request contends that the works will raise the assets of the property, both visual and financial, and will compliment the administration precinct of the town centre.

There is also a request for assistance in the form of works and equipment for the purpose of excavation, backfill and levelling of the site.

Officer's Comment:

In relation to the planning fee, it is suggested that the request for waiver not be agreed to. However, on the basis of the contribution the sub branch provides to our local community in the form of veteran support and assistance, ANZAC day commemoration services and also on the basis of the contribution individual members have provided in their serving our nation, it is recommended in this instance that Council provide a donation equivalent to the cost of the planning fee.

In addition, it is suggested that minor civil works within the capacity of Council's operations team be approved as part of Council's donation sponsorship.

Any assistance from Council however, should not be considered as approval of the application. The proposal will still be required to undergo the usual statutory planning assessment process.

Financial Implications:

Cost of covering planning application fee of \$475.20. Plus any in-kind contribution from the Shire in assisting with the civil works (primarily the delivery of fill) subject to the issuing of planning approval.

Statutory Environment:

Nil.

Policy Implications:

Nil.

TP.532

Subject: Amended Application – Proposed Outbuilding on Lot 1771 Wye Farm Road, Yardarino
Reporting Officer: Town Planner
Date of Report: 21 March 2012
File Reference: LS.L1 / A9047 / P339
Voting Requirements: Simple Majority

Report Purpose:

To consider an amendment to the application for an outbuilding (shed) on Lot 1771 Wye Farm Road, Yardarino (Dongara Downs), specifically in relation to the proposed access to the lot.

Officer's Recommendation:

That Council affirms its previous decision relating to the proposed Outbuilding (shed) on Lot 1771 Wye Farm Road, Yardarino, including Condition No. 2 relating to constructed access.

Body/Background:

On the 12th of September 2011 the Shire received an application for planning approval to construct a shed on the above lot. The property does not have frontage to a constructed road. The application proposed access via a combination of an existing unconstructed private easement and an unconstructed Shire road reserve.

Council considered the application at its meeting held on 22nd November 2011, and determined to approve the application subject to conditions, including Condition No 2 that requires the access be constructed to the Shire's rural standard. Condition No 2 of the approval states as follows:

2. *Prior to the issue of a building license on Lot 1771 Wye Farm Road, Yardarino ("the Land"), the owner of the Land shall:*
 - (a) *ensure that the easement over Lot 1289, between Wye Farm Road and the unconstructed road reserve abutting the eastern boundary of Lot 1289 ("the Road), shall be in a form satisfactory to the Shire, including a minimum width of 20 metres, and shall be registered at Landgate with the effect that any easement is shown as a benefit on the certificate of title to the Land; and*
 - (b) *construct within the area of the easement and the Road referred to in condition 2(a) above, for the entire length of the Road and the easement from the Land to Wye Farm Road, to the Shire's rural standard as provided in Council Policy E1-Land Development Design & Construction Criteria, and to the satisfaction of the Shire.'*

The applicant appealed the decision to the State Administrative Tribunal (SAT), initially seeking review of a range of issues including that the Shire was negligent in its advice regarding the need for constructed road access to the property prior to development.

A mediation session was held on 21 Dec 2011 whereby the issues were narrowed down to the proposed access to the lot and Condition 2 of the Shire's approval. At that mediation session, the applicant agreed to submit a revised proposal to the Shire, proposing access to Lot 1771 via private easement arrangements across two neighbouring lots and without using any of the Shire's unconstructed road reserves.

Orders were subsequently made by the SAT as follows:

- the applicant is to provide a revised proposal to the Shire by the 20th January 2012;

- pursuant to s 31(1) of the *State Administrative Tribunal Act 2004 (WA)* the Shire is invited to reconsider its decision by the 24th February 2012;
- the matter be adjourned to a further mediation session to be held on the 28th February 2012 (if needed).

The applicant failed to submit a revised proposal by 20th January 2012.

A revised proposal was submitted on the 31st January 2012 proposing a new access route to the lot via private easement arrangements over two neighbouring lots, in accordance with outcome of the SAT mediation session. The revised proposal however, did not include both signatures of the adjoining lot owners over whose land the easement would have applied. Without the consent of both of the affected adjoining landowners, the submission did not form a legitimate revised proposal.

On the 9th March 2012, the applicant emailed the Shire advising that the signatures of both landowners required for the above suggested easement proposal could not be obtained. A third proposal for accessing the lot was included with the email (see attached).

This third proposal is the focus of this report and for Council's consideration. The route proposed for this proposal corresponds with the original access considered by Council at its meeting held on 22nd November 2011, however the applicant has specified that he intends to construct the existing easement and has requested that the Shire construct the unconstructed road at the Shire's expense.

The applicant has indicated that the access easement would be constructed as follows:

'The track will be located on the existing easement which is 20m wide, and approximately 600m long and will consist of 100mm limestone or gravel, the track will be an easement not a constructed road.'

At the applicant's request, the next mediation session has now been relisted and is scheduled to be held on the 30th March 2012.

Statutory Environment:

Clause 5.14 of the Shire of Irwin Local Planning Scheme No 5 (the Scheme) relates to development of land without constructed road frontage and states the following:

'Notwithstanding any other provisions of the Scheme, the local government's Planning Approval is required for the development of land abutting an unconstructed Crown road reserve or a lot which does not have frontage to a Crown road reserve.'

In considering such an application, the local government may:-

- (a) *refuse the application until the road has been constructed or access by means of a constructed road is provided; or*
- (b) *grant approval to the application subject to a condition requiring the applicant to pay a sum of money in or towards the cost of constructing the road or part thereof and any other condition it considers fit to impose; or*
- (c) *require other legal arrangements are made for permanent access, to the satisfaction of the local government.*

In addition, Council in determining an application is required to have regard for the matters stipulated in cl. 10.2 of the Scheme, which includes the following:

- 'p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles.'*

For determining standards of road construction, Council's Policy E1 – 'Land Development Design and Construction Criteria' states that for land zoned 'rural' under the Scheme (Lot 1771 is zoned 'General Farming') the following is applicable:

'Generally, the minimum standard, unsealed rural road shall be required for rural subdivisions unless a higher standard can be shown to be warranted by studies of anticipated traffic counts. Drainage shall be via table drains, soakage therein, and culverts to sumps or natural watercourses as appropriate.'

The policy further states:

*'The **Minimum Standard Rural Road** shall be 9.0 m wide, 180 mm thick, compacted, gravel base course; or 9.0 m wide, 100 mm thick, compacted, crushed rock or limestone with 100 mm compacted gravel surface.'*

In regards to Council's invitation from the SAT to review its decision of 22 November 2011 (specifically Condition No 2 of the approval), section 31 of the *State Administrative Tribunal Act 2004 (WA)* states the following:

'31. Tribunal may invite decision –maker to reconsider

- (1) At any stage of a proceeding for the review of a reviewable decision, the Tribunal may invite the decision-maker to reconsider the decision.*
- (2) Upon being invited by the Tribunal to reconsider the reviewable decision, the decision-maker may –*
- (a) affirm the decision;*
 - (b) vary the decision; or*
 - (c) set aside the decision and substitute its new decision.*
- (3) If the decision-maker varies the decision or sets it aside and substitutes a new decision, unless the proceedings for a review is withdrawn it is taken to be for the review of the decision as varied or the substituted decision.'*

Officer's Comment:

In considering the applicant's request for the Shire to construct a road in the unconstructed road reserve, and to bear the costs for such, the following comments are offered.

The cost to the Shire to construct this portion of road, which is approximately 600 metres in length, would be in the order of \$30,000. The Shire's Works Manager has advised this cost would be inclusive of materials, wages and plant to construct a road of this length to the Shire's rural standard.

It should be noted that the Shire is under no obligation to construct this road. Pursuant to s.55(2) of the *Land Administration Act 1997*, the Shire is vested with the care, control and management of all roads within its district, other than main roads and government roads. This in itself however, does not mean there is any specific requirement for the Shire to construct any such road reserve, this is a matter for the discretion of the Shire.

Considering this particular road reserve is one of many within the Shire that is unconstructed, has come about due to a historical anomaly that is by no means the fault of the Shire and the fact the Shire had no control over the recent sale of Lot 1771, or any opportunity to impose conditions relating to access prior to its sale, it is therefore recommended that Council does not agree to construct this road at its own cost. The cost would also represent a significant unbudgeted expense and would be of considerable financial burden to the Shire.

Although not expressly suggested by the applicant in the amended application, it is also not recommended that a standard of construction less than that of Council Policy E1 be applied to the Shire's road reserve. On its face, the requirement to construct the access to the Shire's rural standard for a proposed shed development may seem excessive. However, it is justified on the basis that vehicle access from the public road system to the lot is essential (in accordance with orderly and proper planning and the provisions of the Scheme), that the need to construct the access arises solely from the proposed development and the need to access that development, and that Council has previously stipulated what it believes is the minimum standard for road access in rural areas through Policy E1.

It is noted that considerations of potential liability are not relevant to the determination of applications for planning approval, however there may be some potential risk of tortious liability to the Shire in circumstances where inadequate road construction caused or contributed to a person sustaining personal injury or loss. This provides the basis for the standard prescribed by Policy E1 which has been carefully designed to ensure safe and unobstructed travel within Shire road reserves.

In relation to the applicant's proposal to construct the access easement to a 'track' standard of 100mm limestone (no width specified), the following comments are offered.

Condition No 2 of the approval currently requires that this access easement also be constructed to the Shire's rural standard under Council Policy E1. Although the easement is a private access arrangement over Lot 1289, the Shire's rural road standard of construction is considered appropriate on the basis that it will provide a connection between Wye Farm Road and the road to be constructed in the Shire's road reserve. Together, these road reserves and the easement will provide the permanent access route to Lot 1771. It would be undesirable to have the Shire's road reserve to Lot 1771 (once constructed) isolated from the remainder of the road network and only connected by a limestone track. If the access easement is constructed to the same standard as the Shire's minimum rural standard, there may be an opportunity to convert the easement to a public access easement, or easement in gross permanence, under the *Land Administration Act 1997*. This would allow the easement to become part of the public road network and for the Shire to assume responsibility for its maintenance. It may also then provide a viable option to other landholders to the north of Lot 1771 to extend the road network and provide constructed road access to their lots.

Being that the access easement is also approximately 600 metres in length, the cost to construct this portion of the access would similarly be in the order of \$30,000.

Advice from McLeods Barristers and Solicitors (Shire's preferred legal counsel on planning matters) has been sort in relation to this matter, and which provides the basis for some of the arguments presented above. Copies of that advice are available to Council upon request. In consideration of the above, and the advice received from McLeods, it is therefore recommended that Council affirm its previous decision.

Financial Implications:

Nil.

Policy Implications:

Nil.

W.177

Subject: Proposed Removal of Mount Horner West Road from the Restricted Access Vehicle (RAV) Network

Reporting Officer: Works Manager

Date of Report: 21 March 2012

File Reference: RD.LI.1

Voting Requirements: Simple Majority

Report Purpose:

To consider a proposal from Main Roads WA Mid West, to remove Mount Horner West Road from the Restricted Access Vehicle Network.

Officer's Recommendation:

That council notes Main Roads WA's audit and agrees to the proposal to remove that part of Mt Horner West Road which is of concern from the Restricted access Vehicle Network, but allow access between Table-top Road and Piggery Lane.

Body/Background:

The Shire received a letter from Main Roads dated 13 March 2012 advising they had conducted an audit of Mount Horner West Road. The letter advised that Mount Horner West Road does not meet the current guidelines for Restricted Access Vehicle Network (RAV) because of steep inclines that include gradients of 12.5%, 8.4%, 7.1% and 6.3%. The maximum gradient allowed within the guide lines is 8.0% for sealed roads and 5.0% for gravel surfaces.

Mount Horner West Road is currently approved for access to Network 7 type vehicles up to 36.5metres in length with mass weight of 107.5 tonnes. This road when first classified was to supply access to the Mount Horner oil field and wouldn't of had the traffic that it currently has.

Officer's Comment;

The inclines along Mount Horner West Road commence one kilometer east of Water Supply Road to the Brand Highway. Most of the traffic on this road would be through traffic as there not a lot of heavy farming within this section requiring this size vehicle access.

Heavier farming is carried out east of Water Supply Road, so these farmers would be affected from a total closure. It may be possible to restrict the RAV classes between Tabletop Rd and the Water Valley Farm gateway or Piggery Lane.

Financial Implications:

To consider leaving the road open would mean substantial costs in trying to reduce the inclines, and not to mention liabilities that may incur if there is an accident.

To close the road totally or leave a section open will have no financial implications.

Statutory Environment:

Nil

Policy Implications:

Nil

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

13. MATTERS BEHIND CLOSED DOORS

14. CLOSURE

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

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