



AGENDA

FOR THE

ORDINARY MEETING
OF COUNCIL

TO BE HELD ON

TUESDAY, 22 MARCH 2016

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, 22 MARCH 2016

IN THE COUNCIL CHAMBERS,
11-13 WALDECK STREET, DONGARA WA



Darren Simmons
Chief Executive Officer

17 March 2016

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.

INDEX-ORDINARY COUNCIL MEETING 22 MARCH 2016

1.	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	1
2.	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE	1
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	1
4.	PUBLIC QUESTION TIME	4
5.	APPLICATIONS FOR LEAVE OF ABSENCE	4
6.	PETITIONS	4
7.	CONFIRMATION OF MINUTES	4
7.1	MINUTES OF ORDINARY COUNCIL MEETING HELD 23 FEBRUARY 2016	4
8.	ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION	4
9.	REPORTS	5
CC01 – 03/16	Accounts for Payment	5
CC02 – 03/16	Financial Statements for the Period ending 29 February 2016	7
CC03 – 03/16	Draft Age Friendly Communities Plan	10
CC04 – 03/16	Irwin Rec Storage Facility Location	13
PI01 – 03/16	Plant Committee Terms of Reference	15
PI02 – 03/16	Town Street Sealing Works	17
PI03 – 03/16	Community Safety and Crime Prevention Plan	19
PI04 – 03/16	Nine Holiday Accommodation Units on Reserve 25412, Lot 94 Church Street, Dongara.	21
PI05 – 03/16	Draft Local Planning Policy: Sea Containers	24
PI06 – 03/16	Proposed Outbuilding No.1 Cousins Street, Port Denison	26
PI07 – 03/16	Retrospective Development Application for an Animal Establishment and Signage at No. 30240 Brand Highway, Dongara	29
CEO01 – 03/16	Local Law Review	34
10.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	39
10.1	General Practitioner (GP) Services Financial Assistance	39
11.	QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	39
12.	URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION	39
13.	MATTERS BEHIND CLOSED DOORS	39
14.	CLOSURE	39



AGENDA FOR ORDINARY COUNCIL MEETING TO BE HELD IN THE COUNCIL CHAMBERS, 11-13 WALDECK STREET, DONGARA ON TUESDAY, 22 MARCH 2016 AT 4.00PM

PRESENT:	President	Cr I F West
	Councillors	Cr M T Smith (Deputy President) Cr S F Gumley Cr D R Kennedy Cr M Leonard Cr M G Meares Cr B C Scott Cr B R Thompson
	Staff	Mr D J Simmons - Chief Executive Officer Mr G M Peddie – Director Corporate and Community Ms S van Aswegen – Director Planning and Infrastructure Mr D Fotheringham – Manager Planning Services Miss C E Morrison – Planning Officer Ms E Greaves – Coordinator Executive 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**

Mr Dennis submitted several questions to Council prior to the Ordinary Council meeting held 23 February 2016 which were taken on notice. A copy of the response provided to Mr Dennis is summarised below;

1. Will Council outline the reason for offering redundancy packages

Response

The Shire provided all staff with a one-off voluntary redundancy scheme with the aim of reducing staff numbers by 10% to assist in reducing operating expenditure.

2. Why is Council offering financial packages to persons holding position that are not being made redundant i.e. Shire mechanic and outside workers such as town maintenance.

Response

All positions of employees that have had their request for voluntary redundancy accepted are being made redundant.

3. What salaried positions are being offered similar deals and are these positions also to become redundant.

Response

As stated previously, the voluntary redundancy scheme was offered to all staff.

4. Is this strategy a recommendation via the Services & Organisational Review process and yet to be tabled at Council.

Response

No.

5. Is the result of this review to be made available to the rate paying community as, item 13 of the December meeting was not precise on the next stage of the process as I believe the review has been completed and submitted to Council Executive for decision.

Response

Actions under the Service and Organisational Review will be made public in due course.

6. When can the Shire of Irwin expect to have our promised multipurpose health facility completed on Lot 13 Pt. Leander Drive.

Response

The Shire understands that the construction is waiting on Ministerial approval under the Aboriginal Heritage Act which is due within the next 3-4 weeks.

7. A question was asked at the July 2015 meeting on the design and costing of the Shire funded car park at this facility. My question in writing was: (Are these works to be included in the 2015/2016 budget and have these works been designed and costed).

Response

These works, which have been subject to external engineering design, were not included in the 2015/16 Budget. This was because the sale of Lot 13 still had to go ahead and the construction of the new facility was not likely to be commenced within that Budget period. If the construction of this facility starts in this current budget year (2015/16) the funds are available from the sale of Lot 13 to do these works. If this proves to be the case the over budget expenditure will go to Council for approval.

8. Has the Shire of Irwin purchased or proposed (MOU) any real estate in Port Denison.

Response

No.

Mr Rossiter submitted a number of questions to Council at the Ordinary Council meeting held 23 February 2016 which were taken on notice. A copy of the response provided to Mr Rossiter is summarised below;

1. Why do all WA residents have to comply with water restrictions but the Shire of Irwin does not?

The Shire President requested that this question be taken on notice but did indicate that it was likely that local governments are subject to different arrangements.

Response

Council, like other land owners, are not exempt from water restrictions.

All of Council's bores have water allocations on them and are licensed under the WEMPS (Water Efficiency Management Plan) set up by the Department of Water. These bores are monitored frequently and meter readings and sampling is done annually and sent to the

Department of Water to make sure there is no overuse and salt levels in the bores are not rising.

Council's parks and gardens are all reticulated but because of the area that requires watering it is near impossible to water the whole areas on one or two days of the week unless they run all day.

The foreshore area has approximately 30 stations and to water the whole area it is done over 3 days, by the time the cycle finishes it is time to start again. So while it may appear as though the Council is over watering, in reality, it is only spreading its water allocation out over a number of days to make watering more efficient.

The only time the Council have been charged for watering outside of their allocated times was due to power outages and battery backups have been flat in the units.

2. How long has the 'Doctor's House' in Kennedy Heights been vacant, with Doctor Okezie having left Batavia Health in 2014?

This question was also taken on notice.

Response

The Shire understands that Dr Okezi vacated the property in October or November 2014 and was used for temporary accommodation by Batavia Health in early 2015.

3. Why is the Shire continuing to pay Batavia Health the doctors housing subsidy of \$2,200 a month?

The Shire has financial and in-kind arrangements with Batavia Health in regards to the provision of doctor housing. The Chief Executive Officer outlined that the Shire will be in a position to review the arrangements with the new Medical Centre on Lot 13 Point Leander Drive.

Response

In January 2010 Council resolved to provide the local medical practice access to a house plus a monthly financial assistance payment in order to retain a local GP service. Whilst this position has subsequently been continued and confirmed by Council as part of the annual Budget process, it is open to Council to change its position by resolution.

4. Why is a single person living in a 3 bedroom house in Kennedy Heights and the Shire is paying \$300 per week for a unit in Port Denison for another single person, when they could share a house or move into the vacant doctors house?

This question was referred to the Chief Executive Officer who indicated that the expenditure of \$300 refers to staff housing and these payments are fully reimbursed through the payroll system as is the arrangement for staff living in Council-owned property.

Question 4 was responded to at the meeting.

5. Is there a current Occupancy Certificate for the Council Chambers building?

This question was taken on notice.

Response

The occupancy permit (certificate) was issued by the Shire of Coorow’s Building Surveyor prior to us moving into and occupying the renovated building.

6. Is there an Occupancy Certificate for the Hall given that it has no public facilities?

The Shire President outlined that the matter of public facilities in the Hall has been addressed at previous Council meetings. The matter of an Occupancy Certificate for this building would need to be taken on notice.

Response

The Town Hall is currently not occupied. The maximum number of people will be re-calculated prior to the Hall being utilised by the designated user group by taking into consideration the ablution facilities available at the Autumn Centre. The term “Occupancy Permit” falls under the Building Act which is different to the public building certificate (issued under the Health Act).

7. Why have the rubbish bins been installed right next to the new seats located near the Obelisk?

This question was taken on notice.

Response

The bins were located near the seats and parking area to encourage pedestrians and those operating vehicles to dispose of their rubbish by using the bins.

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 23 FEBRUARY 2016

A copy of the Minutes of the Ordinary Council Meeting held on 23 February 2016 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 23 February 2016, be confirmed as a true and accurate recording of that meeting.

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

9. REPORTS

CORPORATE AND COMMUNITY

CC01 – 03/16

Subject: Accounts for Payment
Reporting Officer: Manager Corporate Services
Responsible Executive: Director Corporate and Community
File Reference: Minute Book
Voting Requirements: Simple Majority

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive** The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
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- Review** When Council reviews decisions made by Officers.
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Report Purpose:

To receive the list of accounts paid under delegated authority during February 2016.

Officer's Recommendation:

That the Accounts paid during February 2016, represented by Trust Cheques 3102-3103 and EFT18923-EFT18924 totalling \$123,399.40 Municipal Cheques 31118-31142, EFT 18925-19106 and EFT19142 totalling \$925,139.79, Police Licensing PL280116 – PL250216 totalling \$53,976.75, Credit Card Payments \$572.09, Vehicle Lease \$853.51 and Click Super \$36,007.84, be received.

Attachment:

[Accounts for Payment – February 2016](#)

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of February 2016.

Officer's Comment:

Nil

Stakeholder Engagement:

Nil

Financial / Resource Implications:

Nil

Statutory Environment:

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.

Policy Implications:

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

Risk Implications:

This report covers past events therefore the risk implications are low.

Strategic Implications:

Strategic Community Plan 2012 - 2022

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

CORPORATE AND COMMUNITY

CC02 – 03/16

Subject: Financial Statements for the Period ending 29 February 2016
Reporting Officer: Manager Corporate Services
Responsible Executive: Director Corporate and Community
File Reference: Minute Book
Voting Requirements: Simple Majority

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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- Review** When Council reviews decisions made by Officers.
- Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building licences, 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 Monthly Financial Statements for the period 1 July 2015 to 29 January 2016.

Officer's Recommendation:

That the Monthly Financial Statement for the period 1 July 2015 to 29 February 2016 as outlined in the Attachments Booklet – March 2016 under separate cover, be received.

Attachment:

[Financial Statements for the month ending 29 February 2016](#)

Background:

The Monthly Financial Report to the 29 February 2016 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Statement of Financial Activity by Nature & Type
- Statement of Financial Activity by Program
- Major Variances
- Statement of Cash Flows
- Schedules 3 – 14 Budget vs Actuals Comparison
- Graphical Representation – Statement of Financial Activity
- Net Current Funding Position
- Cash and Investments
- Receivables
- Cash Backed Reserves
- Information on Borrowings

- Capital Disposals and Acquisitions
- Non Operating Grants and Contributions
- Trust Fund
- Budget Amendments
- Restricted Assets
- Port Denison Retirement Village Operating Statement

Officer’s Comment:

The financial position to the end of February 2016 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

Operating Revenue	\$7,582,306	2.3% negative variance
Operating Expenditure	\$5,343,100	10.9% positive variance
Net Operating	\$2,239,206	
Capital Revenue	\$459,099	36.1% positive variance
Capital Expenditure	\$1,498,078	33.0% positive variance
Cash at Bank – Municipal	\$3,699,305	
Cash at Bank – Reserve	\$2,508,435	
Total Funds Invested	\$5,689,986	
Net Rates Collected	92.78%	
Receivables Outstanding	\$84,474	

The attached report provides explanatory notes for items greater than 10% or \$5,000. This commentary provides Council with an overall understanding of how the financial position is situated in relation to the adopted budget.

Stakeholder Engagement:

Nil

Financial/Resource Implications:

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

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

Risk Implications:

Due to the monthly financial statements reporting past events the risk implications are low.

Strategic Implications:

Strategic Community Plan 2012-2022

Strategy 4.2.1 Ensure compliance whilst embracing innovation and best practice principles

Strategy 4.3.3 Adopt best practice processes to achieve a high standard of governance and accountability.

CORPORATE AND COMMUNITY

CC03 – 03/16

Subject: Draft Age Friendly Communities Plan
Reporting Officer: Manager Community Services
Responsible Executive: Director Corporate and Community
File Reference: CM.PL
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 seek Council approval to advertise the Draft Age Friendly Communities Plan

Officer's Recommendation:

That Council advertises the Draft Age Friendly Communities Plan for the purpose of public consultation for a period of twenty one (21) days, in order to consider any submissions prior to final adoption, as presented in Attachment Booklet – March 2016 under separate cover.

Attachment:

[Draft Age Friendly Communities Plan](#)

Background:

The Shire of Irwin received funding from the Department of Local Government and Communities for the purpose of undertaking research using the World Health Organisation (WHO) framework for 'Age-Friendly Cities'.

This is a global framework that has been designed as a comprehensive approach covering all needs of older residents through eight essential features of an Age-Friendly Community.

The steps involved in the age-friendly community process will assist our community to identify the age-friendly features, age-friendly barriers and suggestions for improvement in relation to the physical and social environment in relation to eight domains:

- Outdoor spaces and buildings
- Transportation
- Housing
- Respect and inclusion

- Social participation
- Communication and information
- Civic participation and employment
- Community support and health services

An age-friendly community embodies a culture that anticipates and responds to the needs of its ageing population. Seniors and community participation in the consultation process was essential to the age-friendly approach to respond to demographic ageing.

The Shire engaged consultants SDF Global to facilitate and assist us to prepare an Age-Friendly Communities Plan that identified the age-friendly features, barriers, and provides suggestions for improvement against the eight domains within the Irwin Community.

This Age-Friendly Communities Plan provides Council with recommendations that will meet the needs of its ageing community and ensure that older people's needs are not ignored as the population growth continues.

Officer's Comment:

Like other communities around the world, the Shire of Irwin is forecast to experience a significant increase in population and a large proportion will be retirees.

At the grass roots level, local governments in Australia are recognising that they have some role to play in planning for the implication of an ageing population. By assessing how 'age friendly' a local community is, local governments are then better positioned to prioritise projects and plans that will cater for the needs of its ageing population. If the needs of older people are catered for, the whole community can benefit as a result.

It is expected that the implementation of the Age-Friendly Communities Plan will improve the life choices, health and wellbeing of all its residents as they age over the next five years.

As our population ages, there is a growing need for commitment and action from all sectors of the community to allow the community to age well, belong and contribute. Meeting the needs of an ageing population is a shared responsibility and requires careful planning.

Aged care remains a key issue within the Shire's Strategic Community and Corporate Business Plans particularly in respect to the lack of appropriate aged and disability care accommodation options and the services provided.

Stakeholder Engagement:

This item was discussed at the Senior Management Team meeting held on Wednesday 2 September 2015, and Consultants SDF Global facilitated the undertaking of written surveys, online surveys, workshops, telephone interviews and focus and reference group meetings.

Hard copies of the surveys were made available from the following locations, Shire Administration Building, Irwin Recreation Centre, Dongara Community Resource Centre and Visitors Centre or on the Shire's website. The item was also discussed at the Council Forum held on Tuesday 8 March 2016.

Financial/Resource Implications:

The Age-Friendly Communities Plan received funding from the Department of Local Government and Communities in June 2015 and as per 2015/2016 Budget Allocation.

Statutory Environment:

Local Government Act 1995

Policy Implications:

Nil

Risk Implications:

The likelihood of risk arising from Council approving the Draft Age-Friendly Communities Plan for advertising is expected to be rare and the consequences would be insignificant. Therefore the risk is low.

Strategic Implications:

Strategic Community Plan 2012 - 2022

Strategy 3.1 High Quality and Well Maintained Community

Strategy 3.2 Well Utilised, Efficient and Multi-Purpose Community Resources

Strategy 3.3 Increased Availability of Aged Care Facilities

Strategy 3.5 Maintain and Improve Medical and Health Services

CORPORATE AND COMMUNITY

CC04 – 03/16

Subject: Irwin Rec Storage Facility Location
Reporting Officer: Manager Recreation Services
File Reference: RC.PL
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.
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Report Purpose:

To seek Council support for the construction of a steel framed and clad Club Storage Facility to be located in close proximity to the North West corner of the Irwin Recreation Centre.

Officer's Recommendation:

That Council approves the construction of a new steel framed and clad Club Storage Facility in the location immediately south of the gas storage tank along the west boundary fence of the Irwin Recreation Centre Precinct, as illustrated in a site sketch presented in the Attachment Booklet March 2016 provided under separate cover.

Attachment:

[1/ Site sketch](#)

Background:

Lack of storage facilities for clubs has long been an issue; with clubs relying on committee members to store club equipment, records and history in private homes and sheds.

The Shire of Irwin Recreation Needs Analysis Final Report 2013, as presented by A Balanced View Leisure Consultants, identified a weakness through their SWOT analysis of the Irwin Recreation Centre as "Lack of equipment storage for clubs."

Several attempts to fund this project have been made in the past few years. A July 2013 Federal Government Funding application for the facility was unsuccessful due to the change of Government following the federal election and the subsequent withdrawal of the RADF funding. Recreation Services made provision for the project in the 2014/15 draft budget, however, because of budget pressures it was not included in the Final adopted budget.

Funding was allocated in the 2015/16 adopted budget and a grant application was submitted to the Department of Sport and Recreation (DSR) Community Sport and Recreation Facilities Fund

(CSRFF) small grants round. Notification of the success of the grant application was received 29 December 2015.

Officer’s Comment:

A storage facility located at the Irwin Recreation Centre would provide clubs with a central and secure location to store equipment, records and important club history.

The location of the storage facility would need to be accessible to all user groups and Irwin Recreation Centre staff. The indicated preferred site provides ease of access from the Rec Centre and is ideally located for our largest user group the Dongara Football Club.

The location will have very limited impact on the area immediately to the west of the Irwin Recreation Centre should this area be required for any future facilities development, given the south wall of the Recreation Centre is 85 metres in length.

Given the extra funds available as a result of the successful grant application, consideration was given to the construction of the facility from rendered brick to enhance security and aesthetics. Early indications from builders now suggest this option will be well over budget with one written estimation of \$120,000 whilst another verbal estimation was “could be around \$100,000.”

Quotes for a storage facility constructed from steel include colour bond ultra cladding and flashings.

Stakeholder Engagement:

This project was discussed at the Council Forum held on Tuesday 9 June 2015.

The storage facility location was also discussed at the Irwin Rec South Precinct Working Group meeting held 13 January 2016.

Contact and feedback has also been sought from the effected clubs; Dongara Senior Football Club, Dongara Junior Football Club, Dongara Netball Club, Dongara Senior Basketball Club and Dongara Junior Basketball Association.

Financial/Resource Implications:

The Department of Sport and Recreation’s contribution through CSRFF funding is one third of the project cost (\$11,648.00). The Shire of Irwin contribution is two thirds which has been allocated in the 2015/16 budget adopted by Council at its Ordinary Council Meeting Tuesday, 28 July 2015.

Statutory Environment:

Local Government act 1995.

Policy Implications:

Nil

Risk Implications:

Any risk implications are related to reputation should the location of the storage facility limit practical accessibility to user groups. This is considered to be unlikely with insignificant consequences, therefore the overall risk rating is low.

Strategic Implications:

Strategic Community Plan 2012 - 2022

Strategy 3.1 High quality and well maintained community infrastructure.

Strategy 3.6.6 Undertake a Recreation Needs Analysis.

PLANNING AND INFRASTRUCTURE

PI01 – 03/16

Subject: Shire of Irwin Plant Committee Terms of Reference
Reporting Executive: Director Planning and Infrastructure
File Reference: PL.FL.6
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 the recommendation from the Plant Committee to adopt its Terms of Reference

Officer's/Plant Committee Recommendation:

That Council adopts the Shire of Irwin Plant Committee Terms of Reference, as presented in Attachment Booklet – March 2016 under separate cover.

Attachment:

[Plant Committee Terms of Reference – March 2016](#)

Background:

A Terms of Reference for the Plant Committee was adopted by Council at its meeting held on 28 April 2015. As a result of Local Government Elections in October 2015, the composition of the Plant Committee has changed. The newly elected Plant Committee reviewed the Terms of Reference at its meeting held on 8 February 2016 and recommended it for Council adoption subject to an amendment being made to better reflect the function of the Committee as an Advisory Committee to Council. The required change has been made.

Officer's Comment:

The purpose of the Terms of Reference is to set the objectives, functions and duties, membership and general provisions of the Plant Committee. The Terms of Reference is to be reviewed at least on an annual basis.

Stakeholder Engagement:

Nil

Financial/Resource Implications:

Nil

Statutory Environment:

The Terms of Reference has been prepared with regard to the Local Government Act 1995, the Local Government (Administration) Regulations 1996 and the Shire of Irwin Standing Orders Local Law 2000.

Policy Implications:

Nil

Risk Implications:

The likelihood of risk arising from Council approving the Plant Committee Terms of Reference is expected to be rare and the consequences would be insignificant. Therefore the risk is low.

Strategic Implications:

Strategic Community Plan 2012 - 2022

Strategy 4.2 Effective governance, sound management and prudent financial responsibility.

PLANNING AND INFRASTRUCTURE

PI02 – 03/16

Subject: Town Street Sealing Works
Reporting Officer: Manager Works
Responsible Executive: Director Planning and Infrastructure
File Reference: RD.MA.3
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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- 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:

That Council consider the quotes received via WALGA E-Quotes for the annual supply and lay of Asphalt and or Slurry products.

Officer's Recommendation:

That Council awards the quote for the supply and lay of 25mm Asphalt to Downer EDI Works at a cost of \$284,760.68 exclusive of GST as provided under separate confidential cover.

Attachment:

Copies of the E-Quotes have been provided under separate confidential cover, as per Local Government Act 1995 s5.23 (2)(c).

Background:

Four Quotations were sought through the E-Quotes Vendor Panel and one (1) quote from outside the Vendor Panel.

Quotes were sought on 23 February 2016 for the provision of Asphalt and/or Slurry sealing of residential streets, as per the annual 2015/16 Sealing Program. Quotes were received from the following suppliers:

Supplier	Material Composition
Downer EDI Works	25 mm Asphalt
Downer EDI Works	12mm Slurry
Boral Asphalt	15mm Asphalt
Boral Asphalt	25mm Asphalt
Fulton Hogan	25mm Asphalt
Catwest	25mm Asphalt

Downer EDI Works and Catwest are based in the Midwest region.

Officer's Comment:

The quotation from Boral for 15mm Asphalt and the quotation from Downer EDI Works for Slurry are the only quotes that fit into the 15/16 budget finance wise as adopted by Council. However since adopting the budget it has come to light that Council's Roads to Recovery funding had been increased considerably this financial year. As a result by accepting the quotation from Downer EDI Works for the application of 25mm Asphalt Council will not only save money on the original budgeted figure but will also receive a higher quality product with a longer useful life, in line with better asset management practices.

Asphalt applied at 25mm has a general life span of between 25 and 30 years. Slurry applied at 12mm has a general life span of between 12 and 16 years. Asphalt at 15mm would possibly be equal or slightly higher in life span than that of slurry, however it is not a generally used thickness for the product.

Stakeholder Engagement:

The Contractor will as part of the quotation arrange public notices and also letter drops to residents 24 hours before proceeding with works in that particular street.

Financial/Resource Implications:

As per 2015/16 Budget allocations

Statutory Environment:

Local Government Act 1995

Policy Implications:

F2 Purchasing - Requests for quotations were invited in line with this purchasing policy.

Risk Implications:

The consequences of accepting Downer EDI Works quote are insignificant and the likelihood of there being significant consequences is rare, therefore the risk implications are low.

Strategic Implications:

Strategic Community Plan 2012 - 2022

Strategy 2.6 Physical assets are maintained efficiently and effectively.

PLANNING AND INFRASTRUCTURE

PI03 – 03/16

Subject: Community Safety and Crime Prevention Plan
Reporting Officer: Manager Community Safety
Responsible Executive: Director Planning and Infrastructure
File Reference: GR.SL.40
Voting Requirements: Simple Majority

Council Role:

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

Report Purpose:

For Council to approve the adoption of the revised Community Safety and Crime Prevention Plan 2016 – 2020.

Officer's Recommendation:

That Council approves the adoption of the revised Community Safety and Crime Prevention Plan 2016 – 2020, as presented in the Attachment Booklet – March 2016 under separate cover.

Attachment:

[Community Safety and Crime Prevention Plan 2016 – 2020](#)

Background:

In November 2004, the Irwin Shire Council agreed to enter into a Community Safety and Crime Prevention Partnership Agreement with other local agencies. The aim of this Partnership was to develop and regularly update a local Community Safety and Crime Prevention Plan which identifies local crime and safety issues and outlines strategies to address them.

Officer's Comment:

The Irwin Shire is in the fortunate situation of having experienced lower crime rates than the region and the State for all offence categories over the past 10 years. The current Community Safety and Crime Prevention Plan has been reviewed and updated; the review did not result in any major changes to the original document.

Stakeholder Engagement:

The revised plan has been considered at a Senior Management Team meeting and discussed at a recent Council Forum and amended accordingly.

Financial/Resource Implications:

Any projects resulting from this plan will need to be budgeted for.

Statutory Environment:

Local Government Act 1995

Policy Implications:

N/A

Risk Implications:

The likelihood of risk arising from Council adopting the reviewed version of the Community Safety and Crime Prevention Plan is expected to be unlikely and the consequence would be minor. Therefore the risk is low.

Strategic Implications:

Strategic Community Plan 2012 - 2022

Strategy 3.8.1 Review and update the Community Safety and Crime Prevention Plan.

PLANNING AND INFRASTRUCTURE

PI04 – 03/16

Subject: Nine Holiday Accommodation Units on Reserve 25412, Lot 94 Church Street, Dongara (Seaspray Beach Holiday Park).
Reporting Officer: Manager Planning Services and Planning Officer
Responsible Executive: Director Planning and Infrastructure
File Reference: A9329/P657
Voting Requirements: Simple Majority

Council Role:

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

Report Purpose:

To consider an application for proposed Holiday Accommodation Units on Lot 94 Church Street, Dongara.

Officer's Recommendation:

That Council approves the development of 9 Holiday Accommodation Units on Reserve 25412, Lot 94 Church Street, Dongara as presented in the Attachments Booklet – March 2016 provided under separate cover, subject to the following conditions and advice notes.

Conditions

- 1. The approved development shall be in accordance with the attached stamped approved plans.**
- 2. Prior to the commencement of the development, a satisfactory Fire Management Plan must be submitted to the Shire of Irwin (Building Services) for approval. Thereafter, the development shall be in accordance with the approved Fire Management Plan.**
- 3. The approved development shall be connected to an effluent disposal system to the satisfaction of the Shire of Irwin**
- 4. An emergency response plan (i.e. fire escape route maps) is required to be clearly displayed in a conspicuous location within the holiday accommodation units.**
- 5. Each unit is to be fitted with a hard wired smoke detector and a fire extinguisher (located in a clearly visible location and maintained in proper working order as prescribed in AS 1851).**
- 6. All stormwater and drainage runoff from all roofed and impervious areas is to be retained on site to the satisfaction of the Shire of Irwin (Infrastructure Services).**
- 7. Any soils disturbed or deposited on the site shall be stabilised and retained on site to the satisfaction of the Shire of Irwin.**

8. Landscaping is to be maintained to the satisfaction of the Shire of Irwin.

Advice Notes

- 1. In accordance with the Building Act, the approved development requires a Building Permit. Under AS 3959, the buildings are to be designed to Bushfire Attack Level 19 standard.**
- 2. It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Irwin will take no responsibility for incorrectly located buildings.**

Attachment:

[Attachment 1 – Application details](#)

[Attachment 2 – Technical Assessment](#)

Background:

The initial proposal was for 34 two-storey holiday accommodation on Lot 94 Church Street, Dongara. The proposal was then reduced to 16 two-storey holiday accommodation units, and subsequently reduced to 9 single-storey holiday accommodation units. The reduction of the number of holiday units was to ensure compliance with the Country Sewerage Policy. The existing effluent disposal unit does not have the capacity to accommodate 34 or 16 holiday unit developments. As connecting Seaspray Holiday Park to the sewerage system is financially unviable at this stage, the 9 unit development was proposed.

The proposed single-storey development is for 9 cabins are to be connected to existing ablution blocks, which currently service visiting caravans/campers. The proposed development will be clad and coloured similarly to the existing chalets in this location (see Attachment 1).

The land is Reserve 25412, which is vested in the Shire for the purposes of a 'Caravan/Park', and has been leased to McWhite Pty Ltd until 30 June 2029.

Officer's Comment:

The land is zoned 'Special Use' under Local Planning Scheme (LPS) No. 5, where Holiday Accommodation is a permitted use. Under LPS No. 5's land use definition for Holiday Accommodation, no person would be allowed to stay within a particular holiday unit for more than three (3) months in any twelve (12) month period. The proposal is consistent with the relevant provisions of LPS No. 5, the relevant Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 and the relevant state planning policies.

The Department of Planning – Bushfire Policy Team advised that, under State Planning Policy 3.7 Planning in Bushfire Prone Areas, the applicants must provide a Bushfire Attack Level (BAL) Assessment. A BAL Assessment was subsequently submitted which indicates the development area is BAL 19. This means that the buildings must be designed to BAL 19 standard at Building Permit Stage (BAL19 is a fairly low level and requires buildings to be designed to protect from ember attack e.g. shutters on windows etc). Due to this being a new requirement, a Fire Management Plan has not been submitted with the BAL Assessment. As the development is fairly minor in scale and the BAL is fairly low, the FMP is unlikely to be onerous and can be dealt with through condition of approval.

Stakeholder Engagement:

The proposal was referred to the Department of Health, Department of Planning – Bushfire Policy, Department of Planning – Policy and Priority Initiatives (Coastal Planning), Department of Water and the Water Corporation. No objections in principle were raised. Relevant comments are discussed in the Technical Assessment attached to this item (see Attachment 2).

The Shire's Development Control unit have no objections in principle. Relevant comments are discussed in the attached Technical Assessment.

Financial/Resource Implications:

Nil.

Statutory Environment:

Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015
Shire of Irwin Local Planning Scheme No. 5

Policy Implications:

The proposal is generally consistent with State Planning Policy 2.6 State Coastal Planning Policy, State Planning Policy 2.9 Water Resources. With regard to State Planning Policy 3.7 Planning in Bushfire Prone Areas, a satisfactory BAL Assessment is currently being prepared.

Risk Implications:

The likelihood of risk arising from Council approving the development is expected to be rare and the consequences would be minor. Therefore, the risk is low.

Strategic Implications:

Strategic Community Plan 2012 - 2022

Strategy 4.2.1 Ensure compliance whilst embracing innovation and best practice principles

PLANNING AND INFRASTRUCTURE

PI05 – 03/16

Subject: Draft Local Planning Policy: Sea Containers
Reporting Officer: Manager Planning Services, Planning Officer
Responsible Executive: Director Planning and Infrastructure
File Reference: LP.PL
Voting Requirements: Simple Majority

Council Role:

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

Report Purpose:

For Council to consider advertising a Local Planning Policy (LPP) for Sea Containers.

Officer's Recommendation:

That Council, pursuant to Division 2 – Making Local Planning Policies of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to advertise the draft Local Planning Policy: Sea Containers, as presented in the Attachments Booklet - March 2016 provided under a separate cover.

Attachment:

[Attachment 1 – Draft LPP: Sea Containers](#)

Background:

There is little guidance for sea container approval within the Shire's current planning framework. The draft LPP has been developed to provide the guidance needed to appropriately plan for Sea Containers within the Shire.

Officer's Comment:

The purpose of the draft LPP is to provide guidance in regards to the placement of Sea Containers, ensuring an acceptable standard of development is achieved and there are no adverse amenity impacts on the streetscape and locality. The draft LPP is consistent with Shire of Irwin Local Planning Scheme No. 5, and reflects the principles of proper and orderly planning.

Stakeholder Engagement:

If Council agree to advertise the policy, a newspaper advertisement will be placed seeking public comment. Feedback received during the advertising period will be considered before finalising the policy for Council's consideration to adopt.

The draft LPP has the support of the Shire's Development Control Unit.

Financial/Resource Implications:

The advertising costs are provided for within the Planning Services budget.

Statutory Environment:

Local Planning Scheme No. 5.

Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015

Policy Implications:

The proposed LPP will provide clear and consistent guidance for the planning and approval process of Sea Containers.

Risk Implications:

The likelihood of risk arising from Council advertising is expected to be rare and the consequences would be insignificant, therefore, the risk is low.

Strategic Implications:

Strategic Community Plan 2012 - 2022

Strategy 1.1.1 Implement an efficient and effective approval process.

PLANNING AND INFRASTRUCTURE

PI06 – 03/16

Subject: Proposed Outbuilding No.1 Cousins Street, Port Denison
Reporting Officer: Manager Planning Services, Planning Officer
Responsible Executive: Director Planning and Infrastructure
File Reference: A2378/P662
Voting Requirements: Simple Majority

Council Role:

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

Report Purpose:

To consider a development application for a proposed outbuilding (garage) at Lot 374 (1) Cousins Street, Port Denison.

Officer's Recommendation:

That Council approves the application for the proposed Outbuilding at No. 1 Cousins Street, Port Denison as presented in the Attachments Booklet – March 2016 provided under separate cover subject to the following conditions and advice notes:

Conditions

1. The approved development shall be in accordance with the attached stamped approved plans.
2. The approved outbuilding shall not be used for human habitation, commercial or industrial uses.
3. All stormwater and drainage runoff from all roofed and impervious areas is to be retained on site to the satisfaction of the Shire of Irwin (Infrastructure Services).
4. Any soils or disturbed or deposited on site shall be stabilised and retained on site to the satisfaction of the Shire of Irwin.

Advice Notes

1. In accordance with the Building Act, the approved development requires a Building Permit.
2. It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Irwin will take no responsibility for incorrectly located buildings.
3. It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants.

Attachment:

- [Attachment 1 – Site Plan and elevations](#)
- [Attachment 2 – Site Photos](#)
- [Attachment 3 – Further Information](#)
- [Attachment 4 – Neighbour Submissions](#)

Background:

The subject land is located on the corner of Cousins Street and Ocean Drive, Port Denison (Attachment 1). The proposal is for an outbuilding (garage), and is to be located on a flat area of land 2m from the front elevation from the house and 0.2m from the front boundary, near the existing 1.8m high colorbond fence. The outbuilding is to be cladded in colorbond and coloured cream. The verge in front of this property is approximately 4.5m wide. There are no outbuildings in the front setbacks of nearby properties. Site photos can be reviewed in Attachment 2.

Officer’s Comment:

Under Local Planning Scheme No. 5, the property is zoned Residential with a density coding of R12.5. Under the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, the application must be assessed against the relevant provisions of the Residential Design Codes of Western Australia (R-Codes).

Where a proposed development does not comply with the relevant Deemed-to-Comply Criteria of the codes, the proposal must comply with the corresponding Design Principle. Under clause 5.4.3 Outbuildings, the proposal complies with the Deemed-to-Comply Criteria for floor area, ridge height, open space and side/rear lot boundaries. However, it does not comply with the Deemed-to-Comply Criteria for the street (front) setback and the wall height.

After an initial assessment of the application, Planning Services discussed the possibility of increasing the street setback from 0.2m to 1m with the applicant. The applicant indicated that they prefer not to reduce the setback for the reasons set out in Attachment 3. The applicant would like to progress the application as originally submitted. They also indicated that the preferred location is necessary to maintain adequate access for the house, and that the visual impact of the proposal would be mitigated by the chosen colouring, which would match the existing house and fence.

The Deemed-to-Comply Criteria for street setback is 7.5m (this may be reduced to 3.75m where there is an adequate compensating area i.e. an open space beside the house, which can reduce the visual impact when viewed from the street). The proposed primary street setback is 0.2m. The Deemed-to-Comply Criteria for the wall height is 2.4m. The proposed wall height is 2.5m.

Noting that the wall height is a minor variation and the street setback variation is significant, the following table provides an assessment against the relevant Design Principle for Outbuildings.

Design Principle 5.4.3 Outbuildings P3	Officer Assessment
Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.	<p>When viewed from the south, the streetscape impacts of the proposed outbuilding are likely to be acceptable due to the:</p> <ul style="list-style-type: none"> • the significant width of the 4.5m wide verge; • the existing building line provided by the 1.8m high fence being maintained; and • mature vegetation on the subject land providing a backdrop to soften visual impact. <p>When viewed from the north the streetscape impacts of the proposed outbuilding are likely to be acceptable due to the:</p> <ul style="list-style-type: none"> • the significant width of the 4.5m wide verge; • existing building line provided by the 1.8m high fence being maintained.

	<p>When viewed from the west, the streetscape impacts of the proposed outbuilding are likely to be acceptable due to the:</p> <ul style="list-style-type: none"> • the significant width of the 4.5m wide verge; and • existing building form provided by the applicant's house providing a backdrop to soften visual impact. <p>When viewed by residents from neighbouring properties the proposed outbuilding is unlikely to have an adverse impact on the visual amenity of neighbouring properties due to:</p> <ul style="list-style-type: none"> • a relatively significant separation distance between the properties and the proposed development e.g. the nearest property (adjacent to the south) is located approximately 20m from the development site; and • the significant width of the 4.5m wide verge. <p>The applicant's contention that the colouring of the proposed outbuilding should mitigate its visual impact has some merit and is considered valid.</p> <p>Taking all of the above matters into consideration, the proposed outbuilding is considered to satisfactorily comply with Design Principle 5.4.3 P3, and conditional approval is recommended.</p>
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Stakeholder Engagement:

The development application was referred to 4 neighbouring properties. Two submissions were received during the consultation period see Attachment 4 (please note that the personal details of the submitters have been removed from the attachment to protect their privacy). One submission supports the proposal. The other submission expresses concern and is discussed in the table below:

Submission	Officer Comment
“My only concern about this is one of street appeal and property presentation. In my opinion it will be an eyesore.”	The proposed development is considered to satisfactorily comply with Design Principle 5.4.3 P3

The Shire's Development Control Unit has no objections in principle.

Financial/Resource Implications:

Nil.

Statutory Environment:

Planning and Development Act 2005
 Shire of Irwin Local Planning Scheme No. 5
 State Planning Policy 3.1 Residential Design Codes

Policy Implications:

Nil.

Risk Implications:

The likelihood of risk arising from Council recommending approval of the proposal is expected to be rare and the consequences insignificant. Therefore, the risk is low.

Strategic Implications:

Strategic Community Plan 2012 - 2022
 Strategy 4.2.1 Ensure compliance whilst embracing innovation and best practice principles.

PLANNING AND INFRASTRUCTURE

PI07 – 03/16

Subject: Retrospective Development Application for an Animal Establishment and Signage at No. 30240 Brand Highway, Dongara
Reporting Officer: Manager Planning Services
Responsible Executive: Director Planning and Infrastructure
Applicant: TPG Town Planning, Urban Design and Heritage
File Reference: P652 / A5030
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 licences, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

To consider and determine a retrospective development application for an Animal Establishment and Signage at No. 30240 Brand Highway, Dongara.

Officer's Recommendation:

That Council:

1. **refuses the retrospective development application for an Animal Establishment and Signage at No. 30240 Brand Highway, Dongara, due to potential adverse noise impacts from the proposed land use on the preservation of the amenity of the locality, which conflicts with Local Planning Scheme No. 5's aim to safeguard and enhance the character and amenity of the built and natural environment of the Scheme area and, therefore, the requirements of orderly and proper planning;**
2. **advises the landowner of No. 30240 Brand Highway, Dongara that, unless they can demonstrate to the Shire of Irwin that the illegal land use (Animal Establishment) on this property has ceased operations and that noise emitted by dingoes on this property complies with the Environmental Protection (Noise) Regulations 1997 by 30 April 2016, Council will initiate legal proceedings for a breach of the Planning and Development Act 2005 and for contravening the provisions of Local Planning Scheme No. 5; and**
3. **notifies the Department of Parks and Wildlife of Council's decision to refuse the retrospective development application.**

Attachment:

[Attachment 1 – Development Application](#)
[Attachment 2 – Noise Complaints](#)

[Attachment 3 – Agency Responses](#)

[Attachment 4 – Response to Shire request for amended details](#)

[Attachment 5 – Public Submissions](#)

Background:

In October 2015, Council refused a retrospective development application, submitted by Town Planning, Urban Design and Heritage (TPG) on behalf of Mr Phil Thurn, for an illegal land use and new signage, as follows:

COUNCIL DECISION 131015:

MOVED: Cr Thompson

SECONDED: Cr Leonard

That Council resolves to:

- 1. refuse the retrospective development application for an Animal Establishment and Signage at No. 30240 Brand Highway, Dongara, due to:**
 - a. potential adverse noise impacts from the proposed land use on the preservation of the amenity of the locality, which conflicts with Local Planning Scheme No. 5's aim to safeguard and enhance the character and amenity of the built and natural environment of the Scheme area; and**
 - b. the applicants failing to provide a noise impact assessment, as requested by the Shire of Irwin under clause 9.2 d) of Local Planning Scheme No. 5;**
- 2. advise the landowner of No. 30240 Brand Highway, Dongara that they:**
 - a. must cease operating the Animal Establishment by 31 December 2015; or**
 - b. submit another development application for the Animal Establishment, including a satisfactory noise impact assessment prepared by a suitably qualified acoustic consultant, by 31 December 2015.**

VOTING DETAILS:

CARRIED 8/0

In January 2016, a second retrospective development application was submitted by TPG on behalf of the landowner incorporating similar details to the first and a Noise Assessment (see Attachment 1). This application is to be determined under the relevant provisions of the Shire of Irwin's Local Planning Scheme (LPS) No. 5 and the deemed provisions of the Planning and Development (Local Planning Scheme) Regulations 2015. Under clause 67 of the deemed provisions, the most relevant matters to be considered are:

- 67 a) the aims and provisions of the scheme;
- 67 b) the requirements of orderly and proper planning;
- 67 n) the preservation of the amenity of the locality (in this case, potential noise impacts);
- 67 s) access and egress;
- 67 t) traffic impacts; and
- 67 y) any relevant submissions.

The retrospective proposal is for an Animal Establishment (Native Wolf Discovery Centre) and signage, the details of which are in Attachment 1. Under LPS No. 5, the definition for the proposed land use is as follows – "Animal Establishment: means premises, used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry – intensive or veterinary centre". The land is zoned 'General Farming'. In the zoning table the Animal Establishment is an 'A' use. The 'A' means the development application had to be advertised (see Stakeholder Engagement section below). Following advertising, the application can now be considered for determination.

The subject land is a flat piece of agricultural land adjacent and to the north of the Brand Highway, with an area of 1.7586 hectares. The landowner is currently operating two existing businesses from the land: Westfire Fire Protection and Dive Air Fills. It is adjoined to the east and north by similarly sized General Farming zoned lots. The adjoining lot to the east contains a single house, as do other lots to the east. The lot to the north is vacant. The adjoining land to the west is a larger lot, zoned General Industry, which contains a single house. There are a number of smaller Residential zoned lots across the highway to the south, most of which contain single houses. The development application includes an area plan that shows the separation distances between the dingo yard and nearby houses.

In May 2015 the Department of Parks and Wildlife (DPAW) issued a Licence to Keep Fauna for Educational Purposes to the landowner of No. 30240 Brand Highway, Dongara – Mr Phil Thurn. The licence is valid until 27 May 2016. The licence allows up to 10 dingoes (*Canis lupus dingo*) on the property under certain conditions. It is DPAW's responsibility to enforce the conditions, and not the Shire's responsibility.

Once DPAW informed the Shire that their licence has been issued, the Shire informed the landowner in writing that retrospective development application was required for a change in land use, and that the application should include details to demonstrate how noise management will comply with the Environmental Protection (Noise) Regulations 1997.

Prior to issuance of the DPAW licence and receipt of the initial retrospective development application, the Shire received 4 noise complaints regarding the dingoes between June 2014 and May 2015 from neighbours. Before issuance of the licence and the Shire's recognition of the change in land use, it was difficult for Officers to deal effectively with complaints regarding animal noise in an agricultural area (the land is in the General Farming zone), without submission of acoustic assessment carried out by a suitably qualified person.

The initial retrospective development application was submitted without a noise assessment. The applicant was then advised, in writing by the Shire's Planning Services, to provide a noise assessment and noise management plan, in order to demonstrate that the illegal land use complied with the Environmental Protection (Noise) Regulations 1997. The applicant did not submit the requested details.

The current retrospective development application includes a Noise Assessment. After submission of this application, on 23 February 2016, the Shire received another noise complaint from a neighbour in relation to noise emitted by the dingoes. This complaint also alleges that Mr Thurn has been erratically blowing an air horn at night.

Copies of all of the noise complaints referred to above are in Attachment 2 (personal details have been deleted to protect privacy).

Officer's Comment:

The most significant matter for Council to consider is the submitted Noise Assessment, which was referred to the Department Environment Regulations (DER) for comment. DER's response indicates that DER are unable to use the Noise Assessment to properly determine if noise from the Animal Establishment complies with the Environmental Protection (Noise) Regulations 1997 (see Attachment 3). The response then goes on to cite four technical matters within the Noise Assessment that are unsatisfactory. The Shire's Health Services discussed DER's comments with the relevant DER Officer. The DER Officer advised that data should be recorded from a neighbour's residence and analysed in accordance with a more satisfactory methodology. DER advised that the Shire should ask the applicant to provide a Noise Assessment that has been modified to incorporate a methodology that DER finds satisfactory.

Planning Services asked the applicant to provide an amended Noise Assessment and to discuss this with the DER Officer. Planning Services also advised the applicant to submit a statement outlining the future on-site management of the dingoes, in terms of their permanent locations on the site, as this is likely to affect noise impacts on the locality. The applicant indicated that they would prefer Council to determine the application without providing any further information.

In the interests of Mr Thurn and nearby neighbours, and in the interests of enabling a fair assessment of the development application, Planning Services then respectfully requested the applicant to reconsider their request to have the application determined without amending the details (see Attachment 4). Planning Services' request also suggested that the applicant stipulate an on-site management regime that locates a large number of dingoes in the rear enclosure and a small number of dingoes in the front enclosure, and implement the regime prior to recording new data for an amended Noise Assessment. The reason for advising this was to give the applicant the best possible opportunity to demonstrate that noise impacts were acceptable. The applicant determined not to follow this advice and reiterated their request to have the application determined with the unmodified application details.

Given that DER are unable to use the submitted Noise Assessment to properly assess noise impacts, it is recommended that the development application be refused due to potential adverse noise impacts from the proposed land use on the preservation of the amenity of the locality, which conflicts with Local Planning Scheme No. 5's aim to safeguard and enhance the character and amenity of the built and natural environment of the Scheme area and, therefore, the requirements of proper and orderly planning.

Council should also advise the landowner that, unless they can demonstrate to the Shire of Irwin that the illegal land use (Animal Establishment) on this property has ceased operations and that noise emitted by dingoes on this property complies with the Environmental Protection (Noise) Regulations 1997 by 30 April 2016, Council will initiate legal proceedings for a breach of the Planning and Development Act 2005 and for contravening the provisions of Local Planning Scheme No. 5.

Stakeholder Engagement:

The application was publicly advertised and referral letters were posted to the owners of properties in the surrounding area. During the advertising period 4 submissions were received, 2 submissions expressed concerns and 2 submissions are in support (see Attachment 4, personal details have been deleted for privacy purposes).

The application was also referred to DER and Main Roads WA. DER's response is discussed above. These two agencies made the most significant comments on the previous development application. Main Roads did not object but made some minor recommendations in regards to access and signage.

Financial/Resource Implications:

The application was publicly advertised using funds from Planning Services budget.

Statutory Environment:

Planning and Development Act 2005
Local Planning Scheme No. 5

Policy Implications:

The signage proposals are largely consistent with the Shire's Local Planning Policy for Advertising Signs. However, as the proposed land use change is not supported, the signage proposals, which include two Pylon Signs advertising the Native Wolf Discovery Centre, are also not supported.

Risk Implications:

The likelihood of risk arising from Council resolving to refuse the development application is expected to be rare and the consequences would be insignificant. Therefore the risk is low.

Strategic Implications:

Strategic Community Plan 2012 - 2022

Strategy 1.1.1 Implement an efficient and effective approval process.

OFFICE OF THE CEO

CEO01 – 03/16

Subject: Local Law Review
Reporting Officer: Coordinator Executive Services
Responsible Executive: Chief Executive Officer
File Reference: LE.LO
Voting Requirements: Absolute Majority

Council Role:

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

Report Purpose:

To consider any submissions received during the public consultation period and any comments provided by staff to determine whether the Shire's Local Laws should remain unchanged, be repealed or amended.

Officer's Recommendation:

That Council, in regards to the Local Law Review conducted in accordance with section 3.16 of the Local Government Act 1995;

- a) Approves no amendments to the Local Government Property Local Law;
- b) Commences the process for replacing the following Local Laws in accordance with section 3.12 of the Local Government Act 1995;
- Standing Orders Local Law
 - Dongara Public Cemetery Local Law
 - Activities on Thoroughfares & trading in Thoroughfares & Public Places Local Law
 - Parking & Parking Facilities Local Law
 - Bushfire Brigades Local Law
 - Dogs Local Law
 - Health Local Law
 - Prevention and Abatement of Sand Drift Local Law
 - Fencing Local Law
- (the current Local Laws would remain until such time as they are replaced with a gazetted new or amended Local Law);
- c) Commences the process for repealing the Extractive Industries Local Law which is to be replaced by the adopted Local Planning Policy: Extractive Industries (adopted 28 July 2015);

- d) Commences the process for repealing the Signs, Hoardings and Bill Posting Local Law which is to be replaced by the adopted Local Planning Policy: Advertising Signs (adopted 24 March 2015); and**
- e) Acknowledges the public submissions received and thanks them for their contribution.**

Background:

At the Ordinary Council Meeting on 24 August 2015, Council resolved to undertake a review of all of its Local Laws in accordance with the Local Government Act 1995 s3.16 and to give statewide and local public notice of its intent to undertake the review.

Section 3.16 of the Local Government Act requires periodic reviews of Local Laws. A Local Government is to carry out a review of a Local Law to determine whether or not it considers that it should remain unchanged, be repealed or amended. The review is to be conducted within 8 years from the day each Local Law commenced, or from when a report of a review of the Local Law was accepted under s3.16.

Officer's Comment:

As a Local Law Review has not taken place for more than 7 years and that there have been significant legislative, sector and organisational changes it is considered appropriate that the Local Laws are amended to reflect better practice and current circumstances as guided by legislation and sector advice to meet our individual community needs.

During the public consultation period, 8 submissions were received and all refer to the Extractive Industries Local Law, requesting that the Law incorporate a ban on horizontal or further vertical hydraulic fracturing in the Shire of Irwin. The Local Law currently in place does not provide for mining activities and is governed by state legislation, of which a local government cannot override. It seems that these comments are based on an assumption that the Shire issues licences/approvals for such activity and that is considered a relevant industry under the Local Law, which is not the case. The Discussion Paper was developed to assist community members in better understanding the Local Laws and further comment is provided below.

As outlined in the Local Law Review Discussion Paper, Council staff have given consideration to the current Local Laws and provide the following comments;

Standing Orders

The current Standing Orders Local Law does not feature content of more modern standing orders. The WALGA Meeting Procedures Local Law model is structured to provide more guidance and detail around meeting procedures and reflects current better practice.

This local law will affect all attendees at meetings of Council (including Committee meetings) which includes elected members, staff and members of the public.

Therefore the recommendation proposed is to repeal the existing local law and replace with a new Meeting Procedures Local Law that is based on the WALGA model.

Dongara Public Cemetery

A number of matters have been identified that are not relevant to our local cemetery and the Shire of Irwin, within the existing local law. It is also suggested that the schedule of penalties and minimum notice requirements for a burial could be amended.

Therefore the recommendation proposes to repeal and remake the Dongara Public Cemetery Local Law.

Extractive Industries

Extractive Industries have the land use definition of 'Industry-Extractive' within Local Planning Scheme No.5 and means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar materials from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include 'Industry-Mining'.

It is proposed that the Extractive Industries Local Law be repealed and be replaced by the already adopted Local Planning Policy: Extractive Industries (adopted 28 July 2015). The Local Planning Policy (LPP) has been adopted to dispose of the dual licence / planning application process.

Signs, Hoardings and Bill Posting

This local law prevents the proliferation of uncontrolled and unsightly signage to diminish the amenities of the local government area.

It is proposed that the Signs Local Law be repealed and be replaced by the already adopted Local Planning Policy: Advertising Signs (adopted 24 March 2015). The Local Planning Policy (LPP) has been adopted to dispose of the dual licence / planning application process.

Activities on Thoroughfares & Trading in Thoroughfares & Public Places

It is proposed that the Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law be remade to update definitions, remove unnecessary parts and clauses that are duplicated by Shire Local Planning Policies, to account for changes in legislation and to align with modern and better practices and principles.

Parking & Parking Facilities

Some minor changes to references to Standards, Codes and legislation are required for this Local Law and some possible changes to penalties.

It is recommended that the Parking & Parking Facilities Local Law be re-made.

Local Government Property

The purpose of the Local Government Property Local Law is to regulate the care, control and management of all property of the local government except thoroughfares. The effect is to control the use of local government property. Some activities are permitted only under a permit or under a determination and some activities are restricted or prohibited. Offences are created for inappropriate behaviour in or on local government property.

No need has been identified to either amend or repeal these Local Laws.

Bush Fire Brigades

The Bush Fire Brigades Local Law has been developed to make provisions about the organisation, establishment, maintenance and equipment of Bush Fire Brigades.

It is suggested that this Local Law would need to be remade to account for some minor amendments in legislation and better practice.

Dogs

The Dogs Local Law is been developed to provide statutory means to effectively control issues around the keeping of dogs. An amendment was made in 2001 to dog exercise designated areas.

As the Dog Regulations now provide for Council to set designated dog exercise areas outside of the Local Law process.

It is suggested that this Local Law would need to be remade to account for some minor amendments in legislation and better practice.

Health

The purpose and effect of the Health Local Law is to provide a statutory means to effectively control issues that have the ability to adversely impact on the health and wellbeing of the community.

It is suggested that this Local Law would need to be remade to account for some minor amendments in legislation.

Prevention and Abatement of Sand Drift

The purpose of these local laws is to contain sand upon an owner or occupier's property when there is the possibility that it may escape because of wind, water or any other cause. The effect of these local laws is to provide Council Officers with an effective tool to help police and regulate problems associated with sand drift and the like, that occur from time to time as a result of building excavations (or similar).

It is suggested that the penalties be reviewed and therefore the Local Law would need to be remade.

Fencing

The purpose of this Local Law is to provide guidance on determining a sufficient fence for the purposes of the Dividing Fences Act 1961 and to state the materials to be used and safety measures to be taken for some types of fencing. The laws expand on the requirements of the Local Government (Miscellaneous Provisions) Act 1960 in the erection and maintenance of fencing.

It is suggested that the penalties be reviewed and therefore the Local Law would need to be remade, including references to staff position titles, Australian Standards etc.

The process of adopting a new or remade local law is quite onerous and lengthy but one which has been developed to ensure that it goes through rigorous consultation with the community, Council and can be reviewed appropriately through the WA Parliamentary Joint Standing Committee responsible for examining all regulations, rules, Local Laws and other subsidiary legislation.

It should be noted that those Local Laws resolved to be repealed and remade, will remain in place until such time as a new local law is made.

Stakeholder Engagement:

Council considered a report at the August 2015 Ordinary Council Meeting at which it resolved to undertake a review of all of its Local Laws.

Statewide and local public notice was provided, with the consultation period open in September 2015 and provided until 21 December 2015.

The public consultation period included the release of a Discussion Paper which further outlined the process and provided insight into the research conducted by staff. The review covers a number of service areas and can be difficult to read therefore so assist community members to better comprehend the content and process the Paper was developed and made available.

A total of 8 submissions were received during the Local Law Review consultation period, all of which referred to incorporating a ban on horizontal or further vertical hydraulic fracturing into the Extractive Industries Local Law, as shown in the table below:

	Date Received	Submission Summary
1	15/10/2015	I am requesting the Irwin Shire Council to not allow any more Fracking operations within the Shire by modifying the Local Extractive Industries Laws to reflect this position.
2	26/10/2015	I would like to submit that the Extractive Industries Local Law should incorporate a ban on horizontal or further vertical hydraulic fracturing in the Shire of Irwin.
3	26/10/2015	I would like to submit that the Extractive Industries Local Law should incorporate a ban on horizontal or further vertical hydraulic fracturing in the Shire of Irwin.
4	26/10/2016	I would like to submit that the Extractive Industries Local Law should incorporate a ban on horizontal or further vertical hydraulic fracturing in the Shire of Irwin.
5	26/10/2015	I would like to submit that the Extractive Industries Local Law should incorporate a ban on horizontal or further vertical hydraulic fracturing in the Shire of Irwin.
6	26/10/2015	I would like to submit that the Extractive Industries Local Law should incorporate a ban on horizontal or further vertical hydraulic fracturing in the Shire of Irwin.
7	26/10/2015	I would like to submit that the Extractive Industries Local Law should incorporate a ban on horizontal or further vertical hydraulic fracturing in the Shire of Irwin.
8	26/10/2015	I would strongly encourage that the Extractive Industries Local Law should incorporate a ban on horizontal and vertical hydraulic fracturing in the Shire of Irwin.
9	15/10/2015	I am requesting the Irwin Shire Council to not allow any more Fracking operations within the Shire by modifying the Local Extractive Industries Laws to reflect this position.

Financial/Resource Implications:

A suitable budget allocation of \$1,500 has been provided for in the 2015/16 Budget, allowing for suitable administration costs associated with the Local Law Review.

Statutory Environment:

Section 3.16 of the Local Government Act requires periodic reviews of Local Laws. A Local Government is to carry out a review of a Local Law to determine whether or not it considers that it should remain unchanged, be repealed or amended. The review is to be conducted within 8 years from the day each Local Law commenced, or from when a report of a review of the Local Law was accepted under s3.16.

The process to make a Local Law is detailed in section 3.12 of the Local Government Act.

Policy Implications:

Nil

Risk Implications:

There are reputational, financial and compliance risks associated with a Local Law Review and associated practices. There are major compliance consequences to consider should Council resolve not to accept the Review or to ensure that its Local Laws are relevant, enforceable and prepared in accordance with legislation. This risk is considered to be unlikely therefore the overall risk rating is considered to be Moderate.

Strategic Implications:

Strategic Community Plan 2012 - 2022

Strategy 4.3.3 Adopt best practice processes to achieve a high standard of governance and accountability.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 NOTICE OF MOTION – General Practitioner (GP) Services Financial Assistance

Shire President's Motion

That Council suspends, with immediate effect, the existing accommodation and financial assistance package provided to Batavia Health for local General Practitioner (GP) services pending a staff report being presented to the April 2016 Council meeting outlining the current situation and future options for Council consideration.

Background:

In January 2010 Council resolved to provide access to a house plus a monthly financial assistance payment to attract and retain a local GP service.

Since then the Shire has continued to support this initiative, confirming it through the annual budget process.

Officer's Comment:

It is open for Council to change its position in regards to these arrangements.

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

Nil

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 _____.