



# AGENDA

FOR THE

ORDINARY MEETING  
OF COUNCIL

TO BE HELD ON

TUESDAY, 25 OCTOBER 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.

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# NOTICE OF MEETING

PLEASE BE ADVISED THAT THE  
  
**ORDINARY MEETING OF COUNCIL**

COMMENCING AT 4.00PM

WILL BE HELD ON

TUESDAY, 25 OCTOBER 2016

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



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Darren Simmons  
Chief Executive Officer

20 October 2016

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## **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.

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## AGENDA FOR ORDINARY COUNCIL MEETING TO BE HELD IN THE COUNCIL CHAMBERS, 11-13 WALDECK STREET, DONGARA ON TUESDAY, 25 OCTOBER 2016 AT 4.00PM

<b>PRESENT:</b>	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 Ms E Greaves – Coordinator Executive Services Ms S L Pratt-King – Coordinator Technical Services

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- 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 John Rossiter asked the following questions of Council:

1. Further to Question (a) regarding shade sails. It cost \$6,800 this year for shade sails. Why are they being taken down?

*Response: As per previous advice to Mr Rossiter, the shade sails are removed during the winter months to minimise damage caused by adverse weather events (which are more prevalent during winter months) and to enable repairs to be carried out for damage to some of the shade sails incurred during the summer season and is included within the \$6,800 payment.*

2. Further to Question (e) when did you ever get a refund from LGIS?

*Response: Council received \$17,857.73 as a Local Government Insurance Scheme (Scheme) member dividend on 30 October 2015 and a \$2,212.78 Good Driver rebate on 23 December 2015 from LGIS. The Shire will receive a further Scheme member dividend within the coming weeks based on information received from a recent meeting between the Shire CEO and the LGIS CEO.*

*Any refunds are included as part of the surplus at year end and are offset against insurance costs the following year.*

3. From the Late Kevin Dennis: Why is it that we employ staff members for their professional qualifications and ability and then have them contracting outside organisations to do the work for them?

*Response: Whilst the Shire is committed to increasing the capacity of internal staff through ongoing personal and professional development there will inevitably be some occasions where, due to the diversity and complexity of the Shire's business, the Shire is required to outsource some activities, services and expertise in order to deliver effective and efficient services to Council and Community.*

4. From the expenses passed at the August Ordinary Council Meeting, why did it cost \$8,800 for a plant and equipment valuation from Pickles Auctioneers?

*Response: The Shire is required to undertake a fair value valuation of each of its asset classes every 3 years to meet the financial provisions of the Local Government Act (the Act) and Regulations. In 2015/16 the plant and equipment asset class was due for review and Pickles Auctioneers were contracted to carry out an independent and qualified valuation of all plant and equipment assets listed on the Shire's Asset Register to meet the requirements of the Act and to the satisfaction of the Shire's Auditors.*

5. Why did we get a Geraldton company to do the annual service of the air conditioners in the Admin Centre, when there are two local contractors that could do the same this without the travel component?

*Response: The air conditioners were maintained by Ocean Air as part of the building contract during the 12 month defects liability period. The annual servicing of air conditioners in the Admin building was awarded to Ocean Air after quotes were obtained from both local and regional service providers, in line with Council's policies. Both the service agreements have recently expired and the Shire will commence requests for quotations from both local and regional service providers in the coming weeks.*

The Deputy Shire President advised that the above questions would be taken on notice.

**4. PUBLIC QUESTION TIME**

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

**6. PETITIONS**

Nil.

**7. CONFIRMATION OF MINUTES**

**7.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 27 SEPTEMBER 2016**

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A copy of the Minutes of the Ordinary Council Meeting held on 27 September 2016 has been provided to all Councillors under separate cover.

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**COUNCIL MOTION:**

**MOVED:** Cr \_\_\_\_\_

**SECONDED:** Cr \_\_\_\_\_

***That the Minutes of the Ordinary Council Meeting, held on 27 September 2016, be confirmed as a true and accurate recording of that meeting.***

**8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

The Presiding Member will undertake the annual Ratepayers Prize Draw.

NOTE: In 2015 the Presiding member confirmed that there was no objection to Councillors or staff being eligible to receive a prize should they meet the entry requirements and be drawn.

## 9.1 OFFICER REPORTS

### CORPORATE AND COMMUNITY

CC01 – 10/16

**Subject:** Accounts for Payment  
**Reporting Officer:** Manager Customer 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.
- 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 receive the list of accounts paid under delegated authority during September 2016.

#### Officer's Recommendation:

That Council receives the Accounts paid during September 2016, represented by:

Payment Type/Numbers	Total Amount
EFT 19836 - 19949	\$282,994.32
Cheques 31267 - 31288	\$2,400,667.50
Direct Debit - Credit Card	\$3,824.20
Direct Debit - Click Super	\$29,338.50
Direct Debit - Transport PL300816 - PL280916	\$60,131.55
<b>Grand Total</b>	<b>\$2,776,956.07</b>

#### Attachment:

[Accounts for Payment – September 2016](#)

#### Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of September 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:**

The likelihood of risk arising from accounts for payment is expected to be rare and the consequences would be insignificant. Therefore the risk is low.

**Strategic Implications:**

Strategic Community Plan 2012 - 2022

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



**CORPORATE AND COMMUNITY**

**CC02 – 10/16**

**Subject:** Financial Statements for the Period ending 30 September 2016  
**Reporting Officer:** Manager Customer 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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**Report Purpose:**

To receive the Monthly Financial Statements for the period 1 July 2016 to 30 September 2016.

**Officer's Recommendation:**

**That Council receives the Monthly Financial Statement for the period 1 July 2016 to 30 September 2016, as outlined in the Attachments Booklet – October 2016.**

**Attachment:**

[Financial Statements for the month ending 30 September 2016.](#)

**Background:**

The Monthly Financial Report to the 30 September 2016 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Summary Information and Graphs
- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature and Type
- Statement of Cashflows
- Statement of Capital Acquisitions and Capital Funding
- Significant Accounting Policies
- Explanation of Material Variances
- Net Current Funding Position
- Cash and Investments
- Budget Amendments
- Receivables
- Cash Backed Reserves

- Capital Disposals
- Rating Information
- Information on Borrowings
- Grants and Contributions
- Trust Fund
- Detailed of Capital Acquisitions
- Detailed Accounts by Program
- Restricted Assets
- Port Denison Retirement Village Financial Activity

**Officer's Comment:**

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

Operating Revenue	\$6,349,865	0.7% positive variance
Operating Expenditure	(\$1,650,679)	8.7% positive variance
Net Operating	4,699,186	
Capital Revenue	\$197,866	0% variance
Capital Expenditure	\$23,908	90.8% negative variance
Cash at Bank – Municipal	\$2,741,449	
Cash at Bank – Reserve	\$2,268,869	
Total Funds Invested	\$4,278,833	
Net Rates Collected	63.86%	
Receivables Outstanding	\$118,053	

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 – 10/16**

**Subject:** Disposal of Snooker Table  
**Reporting Executive:** Director Corporate and Community  
**File Reference:** PL.DI  
**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 resolve the future use or disposal of the snooker table inherited as part of the acquisition of Denison House

**Officer's Recommendation:**

**That the snooker table, obtained as part of the acquisition of Denison House, be disposed of in its current dismantled state**

**Attachment:**

[Register of Submissions](#)  
[Community Consultation Advertisement](#)

**Background:**

When the Shire of Irwin took possession of Denison House some years ago, it included a full size 12' x 6' snooker table (in poor condition) in one of the living rooms, which needed to be dismantled and placed in storage whilst the building was being privately rented.

Whilst in storage the snooker table continues to depreciate and at the May Forum Council considered its options for the future use or disposal of the table. Prior to considering a formal report at a Council meeting to determine its future it was agreed that the community be informed of the situation and to seek comments and/or submissions from the public to assist the Council in making a final decision.

One public comment/submission was received by the closing date of 3 October 2016 as included in the Register of Submissions in the attachments and suggesting that the table be reassembled and located in the Shire Hall for use by members of the Irwin Autumn Social Club and possibly the public when an Autumn Centre member is present. The writer also requested that the submission period be extended to allow the Autumn Centre sufficient time to meet and resolve whether it

supported this suggestion. The submission period was subsequently extended to close on 17 October 2016 at the request of the Autumn Centre.

On 17 October the Autumn Centre advised the Shire that they did not support the proposal to place the snooker table in the Shire Hall. It should be noted that agreement has been reached between the Council and the Autumn Centre for the use of the Shire Hall on an ongoing basis to commence when the Hall has been repaired to a useable condition.

**Officer's Comment:**

Information received from a company based in Perth that specialises in such tables suggests that a full restoration of the snooker table would cost approximately \$7,500.

Another company in Melbourne suggests that if all the parts are available they could restore the table for \$12,500 including freight.

Both of these proposals are estimates based on a verbal description by the Officer. A firm cost would not be available until they have seen the parts and can make a more certain assessment of the restoration works required. Whilst in storage the table parts continue to depreciate and therefore it is necessary to consider the options for the future of the table, including:

- Dispose of it in its current state by sale or other means,

The table is of little value in its current state except for possible other uses for the slate and timber. The parts can be included in the planned sale of surplus items being stored in the Shire Hall.

- Reassembled and Sold

The repairers have noted it is not worth restoring unless of sentimental value. If all parts are available then it could possibly be restored and sold, but firm costs are not available without sending it to Perth or Melbourne etc. There is also a substantial risk that it may not attract a buyer and the Shire is left with the restoration cost and an unwanted item for further storage.

- Reassembled and placed in a community facility available for use by the community

Council may consider whether there is a demand from the community for the use of a snooker table, either by a club or individually. In this circumstance the Shire would be liable for the restoration cost for little income returned. The main consideration with this option relates to where the table could be located for community use given that a large reasonably sealed room is required and due to the heavy nature of the table cannot easily be moved once in position.

It would appear from the feedback received from the community that there is little interest in restoring the table for disposal or for recreation use. It is therefore considered that it is not in Council's interest, or the community's, in taking a risk in restoring the table at a likely financial loss.

**Stakeholder Engagement:**

Public consultation with the community occurred through an advertisement in local media advising of the table and options available for its future treatment. One submission was received.

**Financial/Resource Implications:**

No budget allocation has been made for the restoration or disposal of the snooker table.

**Statutory Environment:**

Disposal of the snooker table would be undertaken in accordance with the requirements of the Local Government Act.

**Policy Implications:**

Nil

**Risk Implications:**

It is considered that any risk associated with disposing of the table in its current state would be insignificant or minor and unlikely in all measures of consequence and therefore the overall risk rating would be low.

**Strategic Implications:**

Strategic Community Plan 2012 - 2022

Strategy 3.1.3 Review current use and rationalise community infrastructure assets.

**PLANNING AND INFRASTRUCTURE**

**PI01 – 10/16**

**Subject:** Proposed Road Closure – unconstructed road reserve adjacent to Lots 1824, 1887, M345 and to the west of M347 Wye Farm Road  
**Reporting Officer:** Planning Officer  
**Responsible Executive:** Director Planning and Infrastructure  
**File Reference:** RD.RO/A9166  
**Voting Requirements:** Simple Majority

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**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:**

For Council to consider a request to close a portion of an unconstructed road reserve adjacent to Lots 1824, 1187, M345 and to the west of M347 Wye Farm Road, Yardarino.

**Officer's Recommendation:**

**That Council, under Section 58 of the Land Administration Act 1997, initiate the road closure process for a proposal to close a portion of an unconstructed road reserve adjacent to Lots 1824, 1187, M345 and to the west of M347 Wye Farm Road, Yardarino, as presented in the Attachment Booklet – October 2016, under a separate cover.**

**Attachment:**

[Request for Road Closure](#)  
[Area Plan of Proposed Road Reserve Closure](#)

**Background:**

The Shire has received a road closure application for a portion of an unconstructed road reserve. The proponent, who owns M347 Wye Farm Road, is aiming to close the road and acquire land to incorporate it into M347. Eventually this will provide access to an easement currently being created under administrative process. The future easement will allow the landowners to have direct access to a constructed road reserve.

The unconstructed road reserve is 20m wide, running from point A to point B (Attachment 2), to provide a battle-axe type access to Lot M347 Wye Farm Road, Yardarino.

**Officer's Comment:**

The proposal requires advertising, in accordance with the Land Administration Act 1997 and referral to relevant neighbours and government agencies. Following closure of the advertising period, all submissions shall be considered and a recommendation would be made to Council. Initiating the road closure process will enable Officers and Council to properly assess the application.

Therefore, it is recommended that Council initiate the road closure process by resolving to advertise the proposal.

**Stakeholder Engagement:**

Should Council agree to initiate the process, the proposal will be advertised for a period of 35 days, as in accordance with Section 58(3) of the Land Administration Act 1997 by referring the application to relevant neighbours and government agencies, and placing a notice in the Midwest Times.

**Financial/Resource Implications:**

If the road closure process is initiated, the application fee will cover advertising and administration costs.

**Statutory Environment:**

Land Administration Act 1997 – Part 5, Division 1, Section 58 – Closing Roads:

- (1) When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
- (3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*

Shire of Irwin Local Planning Scheme No. 5. Clause 5.15 – Development of Land without Constructed Road Frontage:

*Notwithstanding any 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 context to c) above, on 24 February 2015 Council resolved “to support the use of registered easements as an acceptable land access measure for properties without constructed road frontage where landowners ensure all weather access is provided and maintained” – Minute 200215 point 3.)



**Policy Implications:**

Nil

**Risk Implications:**

The likelihood of risk arising from Council agreeing to initiate the road closure process by advertising the proposal is expected to be rare and the consequences insignificant. Therefore, the risk is low.

**Strategic Implications:**

Strategic Community Plan 2012 - 2022

Strategy 2.6.1 Maintain road assets and ancillary infrastructure.

**PLANNING AND INFRASTRUCTURE**

**PI02 – 10/16**

**Subject:** Proposed Single Dwelling, Outbuilding (Shed), Retaining Walls and Site Works (Fill), No. 45 Seahorse Loop, Port Denison  
**Reporting Officer:** Planning Officer  
**Responsible Executive:** Director Planning and Infrastructure  
**File Reference:** A8123/P653  
**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 a development application for a single dwelling, outbuilding (shed), site works and retaining walls at Lot 814 (45) Seahorse Loop, Port Denison.

**Officer's Recommendation:**

**That Council refuses the Development Application for a Single Dwelling, Outbuilding (Shed), Retaining Walls and Site Works (Fill) at No. 45 Seahorse Loop, Port Denison, as presented in the Attachments Booklet – October 2016, for the following reasons:**

1. **Due to the variations to the Deemed-To-Comply Criteria of the Residential Design Codes of Western Australia; and**
2. **The cumulative bulk of the proposed development likely causing an adverse amenity impact on neighbouring properties.**

**Attachment:**

[Aerial View](#)  
[Site Plan, Floor Plans and Elevations](#)  
[Site Photos](#)  
[Neighbour Submissions](#)  
[Justification of Proposal](#)

**Background:**

The subject land is located on Seahorse Loop, Port Denison (Attachment 1). The lot is currently vacant, and slopes downwards from east to west. The lot has one northern neighbour, one western neighbour and two southern neighbours. The proposal is to fill the lot to meet the existing ground level of the front (east) of the lot, requiring retaining walls along the north, south and west of the

proposed development, and to build a single dwelling and an outbuilding (shed) for the purpose of storing a boat and a caravan (Attachment 5). The verge of this property is approximately 6m wide. Currently, the western property and one of the southern properties is undeveloped. The northern property has a single dwelling and outbuilding, and one of the southern properties has a single dwelling and outbuilding. Site photos can be viewed in attachment 3.

**Officer’s Comment:**

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

Where the proposed development does not comply with the relevant Deemed-To-Comply Criteria of the R Codes, the proposal must comply with the corresponding Design Principle. The proposed single dwelling, outbuilding (shed), retaining walls and site works does not comply with the Deemed-To-Comply Criteria for the following clauses of the R Codes:

- 5.1.2 Street Setback,
- 5.1.3 Lot Boundary Setback (of the single dwelling),
- 5.1.4 Open Space,
- 5.3.7 Site Works,
- 5.3.8 Retaining Walls, and
- 5.4.3 Outbuildings – with regard to:
  - Wall Height,
  - Ridge Height, and
  - Setback.

After an initial assessment and neighbour referral (see Stakeholder Engagement below), Regulatory Services informed the applicant and landowner of the objection and discussed the option to make changes to the proposed outbuilding. The landowner and applicant indicated they prefer not to make any changes to the proposed outbuilding and have provided further justification of the proposed variations (Attachment 5). The landowner would like to progress the application as originally submitted. They have indicated that the current location and size is required for storage and manoeuvring of a boat and caravan (Attachment 5).

The following table provides an assessment against the relevant Deemed-To-Comply Criteria and Design Principles for the proposed Single Dwellings, Outbuilding (Shed), Retaining Walls and Site Works.

Clause	Officer Assessment
<p><b>5.1.2 Street Setback</b></p>	<p>Variation is sought for the Deemed-To-Comply minimum street setback. The minimum street setback, in accordance with the Deemed-To-Comply Criteria is 7.5m. The proposed minimum setback for house is 3.78m. There is no additional area within lot boundary setbacks to allow for the averaging of the street setback.</p> <p>The street setback, however, is consistent with the established streetscape, and provides for the adequate use of the lot (re: open space) and accommodates for all parking and utilities. The design of the house contributes to the streetscape and uses design features to lessen the impact of the façade on the street. The proposed variation complies with the Design Principles, and therefore, is supported.</p>
<p><b>5.1.3 Lot Boundary Setback</b></p>	<p><i>Northern Boundary Setback</i></p> <p>Variation is sought for the Deemed-To-Comply minimum lot setback, with regard to the garage wall. The minimum lot setback, in accordance with the Deemed-To-Comply Criteria is 1.5m. The proposed minimum setback is 0m. The design of the garage allows for adequate ventilation</p>

	<p>and direct sunlight on neighbouring properties. The design minimises the risk of overlooking on neighbouring properties, and allows for the effective use of space. It is unlikely that the reduced setback will have an adverse amenity impact on neighbouring properties. The proposed variation complies with the Design Principles, and may be supported. However, the cumulative impact of the building bulk from the varied setback of the garage wall, the proposed outbuilding and retaining walls, is likely to have a detrimental impact on the amenity of the adjoining property. Therefore, the proposed variation is not supported.</p> <p><i>Southern Boundary Setback</i> There is no variation sought for the Deemed-To-Comply minimum lot boundary setback. Therefore, the proposed setback complies.</p> <p><i>Rear (Western) Boundary Setback</i> There is no variation sought for the Deemed-To-Comply minimum lot boundary setback. Therefore, the proposed setback complies.</p>
<b>5.1.4 Open Space</b>	Variation is sought for the minimum open space Deemed-To-Comply Criteria. The minimum open space required is 55% of the lot. The proposed open space is 47% of the lot. The proposed design provides the dwelling with access natural sunlight, provides opportunity for residents to effectively use the open space of the lot. The proposed variation complies with the Design Principles and is therefore supported.
<b>5.1.6 Building Height</b>	There is no variation sought for the Deemed-To-Comply maximum building height. Therefore, the proposed building height complies.
<b>5.2.1 Setback of Garages and Carports</b>	There is no variation sought for the Deemed-To-Comply minimum garage setback. Therefore, the proposed garage setback complies.
<b>5.2.2 Garage Width</b>	There is no variation sought for the Deemed-To-Comply maximum garage width. Therefore, the proposed garage width complies.
<b>5.2.3 Street Surveillance</b>	There is no variation sought for the Deemed-To-Comply Street Surveillance Criteria. Therefore, the proposal complies.
<b>5.3.1 Outdoor Living Areas</b>	There is no variation sought for the Deemed-To-Comply Outdoor Living Area Criteria. Therefore, the proposed Outdoor Living Areas comply.
<b>5.3.3 Parking</b>	There is no variation sought for the Deemed-To-Comply Parking Criteria. Therefore, the proposed parking complies.
<b>5.3.5 Vehicular Access</b>	There is no variation sought for the Deemed-To-Comply Vehicular Access Criteria. Therefore, the proposed vehicular access complies.
<b>5.3.7 Site Works</b>	<p>Variation is sought for the Deemed-To-Comply Criteria in regard to the maximum height of site works (fill). The maximum height of site works (fill) within 1m of the lot boundary is 0.5m. The proposed height of site works (fill) within 1m of the northern lot boundary varies from 0.194m to 1.414m.</p> <p>The proposed site works (fill) are necessary for the proposed single dwelling. The proposed site works (fill) respect the Natural Ground Level at the lot boundary as viewed from the street, as the proposed site works (fill) are to meet the level of the lot frontage. The proposed variation complies with the Design Principles, and is therefore supported.</p>
<b>5.3.8 Retaining Walls</b>	<p>Variation is sought for the Deemed-To-Comply Criteria of the maximum retaining wall height. The maximum retaining wall height within 1m of the lot boundary is 0.5m. The proposed retaining wall within 1m of the northern lot boundary varies from 0.2m to 1.4m.</p> <p>The proposed retaining walls allow for the effective use of the lot. The</p>

	<p>proposed retaining walls, in conjunction with the proposed variation to the side setback of the garage wall and outbuilding, and the height and bulk of the outbuilding, is likely to have a detrimental impact on neighbouring properties. Therefore, the proposed variation is not supported.</p>
<b>5.3.9 Stormwater Management</b>	<p>A condition will be imposed to ensure that all stormwater will be retained on site, ensuring compliance with the Deemed-To-Comply Stormwater Management Criteria.</p>
<b>5.4.1 Visual Privacy</b>	<p>There is no variation sought for the Deemed-To-Comply Visual Privacy Criteria. Therefore, the proposal complies.</p>
<b>5.4.3 Outbuildings</b>	<p>Variation is sought for a number of the outbuilding Deemed-To-Comply Criteria.</p> <p><i>Wall and Ridge Height*</i>                  Variation is sought for the Deemed-To-Comply maximum wall and ridge height of the proposed outbuilding. The maximum wall height, in accordance with the Deemed-To-Comply Criteria, is 2.4m. The proposed wall height varies from 4.7m (eastern side) to 5.5m (western side). The maximum ridge height, in accordance with the Deemed-To-Comply Criteria is 4.2m. The proposed ridge height varies from 5.504m (eastern side) to 6.304m (western side).                  *When assessing the wall and ridge height of the outbuilding, the heights are determined from Natural (existing) Ground Level (NGL). Therefore, for this assessment, the proposed wall and ridge height includes the proposed retaining wall height and outbuilding slab.</p> <p><i>Setback</i>                  Variation is sought for the Deemed-To-Comply minimum lot boundary setback for the northern lot boundary. The minimum side setback, in accordance with the Deemed-To-Comply Criteria, is 1.5m. The proposed northern side setback is 1m. The proposed variation is for the manoeuvring of the boat and caravan into the outbuilding. There is no variation sought for the rear lot setback.</p> <p><i>Floor Area</i>                  There is no variation sought for the Deemed-To-Comply maximum outbuilding floor area. Therefore, the proposed floor area complies.</p> <p><i>Use of Outbuilding</i>                  The outbuilding proposed use is for the storage of a boat and caravan, as well as other household items.</p> <p>In addition to the proposed retaining walls and site works, and the size of the proposed dwelling, the proposed outbuilding will be likely to have an adverse impact on the amenity and use of neighbouring properties. The building bulk of the proposed outbuilding is likely to have an adverse amenity impact on adjoining properties. The proposed outbuilding does not meet the Design Principles, therefore, the proposal is not supported.</p>
<b>5.4.5 Utilities and Facilities</b>	<p>A condition will be imposed to ensure clothes drying area is out of view from public road, ensuring compliance with the Deemed-To-Comply Utilities and Facilities Criteria.</p>

The outcome of the officer assessment is that the cumulative impact of the building bulk due to the variations to the Deemed-To-Comply Criteria of the R Codes exceeds what is considered

acceptable for Residential Density R12.5, as the proposal will result in a detrimental impact on the amenity and use of adjoining properties. The contribution of the size of the dwelling, the site works (fill) and retaining wall height, and the outbuilding height and variation to setback from the northern boundary is likely to contribute to the adverse amenity impact. Due to the cumulative bulk of the proposal and the detrimental impact it is likely to have on neighbouring properties, it is recommended that Council refuse the application.

**Stakeholder Engagement:**

The development application was referred to two neighbouring properties between 20 September and 7 October for a period of 17 days. One submission was received during the consultation period, see Attachment 4 (please note that the personal details of the submitter have been removed from the attachment to protect their privacy). This submission objected to the variations of the Deemed-To-Comply Criteria of the R Codes. The submission is discussed in the table below:

Submission	Officer Comment
“The minimum garage setback should be maintained at 1.5m. A proposed nil setback will have a detrimental impact on my property and outdoor area.”	Due to the cumulative impact of both the outbuilding and garage varying the setback provisions, the proposal is likely to have an adverse amenity impact on the adjoining property (see Officer Assessment).
“Outbuilding should remain with a 1.5m setback, given proposed wall height and visual impact.” “The proposed wall height is unacceptable. This is a height for an ‘industrial’ shed. The proposal is twice the R Code maximum height...The building bulk is obtrusive and excessive.” “Same [as above] with the ridge height. This is a residential area, not ‘rural’ or ‘industrial’.”	Due to height of the proposed outbuilding in addition to the height of the retaining walls, the outbuilding is likely to have a high visual impact when viewed from neighbouring properties (see Officer Assessment).
“The outbuilding would have significant negative impact on my property from an aesthetic point of view and enjoyment. The retaining wall, finished floor level (FFL) and proposed wall heights are strongly opposed, [due to possible] issues with shading, sunlight, building bulk and ventilation by reducing breezes.”	While there are no likely issues with access to sunlight and ventilation, the cumulative impact of the entire development will be likely to have an adverse amenity impact on neighbouring properties (see Officer Assessment).

These comments were considered when undertaking the Development Assessment (see Officer Assessment).

**Financial/Resource Implications:**

Nil.

**Statutory Environment:**

Planning and Development Act 2005  
 Planning and Development (Local Planning Schemes) Regulations 2015  
 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 refusal of the proposal is expected to be low and the consequences insignificant. Therefore, the risk is low. It is likely that the applicant, if aggrieved by the determination of the Council, may apply to the State Administrative Tribunal (SAT) for a review of Council's decision under Part 14 of the *Planning and Development Act, 2005* however, it is prudent that the Council consider and make a decision based on planning considerations and not based on the likelihood of a SAT review.

**Strategic Implications:**

Strategic Community Plan 2012 - 2022

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

**PLANNING AND INFRASTRUCTURE**

**PI03 – 10/16**

**Subject:** Indemnity for the Minister of Lands for Compulsory Acquisition of Reserve 137  
**Reporting Officer:** Planning Officer  
**Responsible Executive:** Director Planning and Infrastructure  
**File Reference:** A9382  
**Voting Requirements:** Simple Majority

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**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 indemnify the Minister of Lands for Reserve 137, and request that the Minister of Lands amend the purpose of Reserve 137 to 'Recreation'.

**Officer's Recommendation:**

**That Council:**

1. Pursuant to Part 4 of the *Land Administration Act 1997*, indemnify and keep indemnified the State of Western Australia, the Department of Lands and the Minister for Lands (Indemnified Parties) and hold them harmless from and against all liabilities, obligations, costs, expenses or disbursements of any kind including, without limitation, compensation payable to any party as a result of the compulsory acquisition of Reserve 137 (Land) under the *Land Administration Act 1997* or the *Native Title Act 1993 (Commonwealth)* which may be imposed on, or incurred by the Indemnified Parties relating to or arising directly or indirectly from the acquisition of the Land.
2. A request be made to the Minister of Lands that the purpose of Reserve 137 be 'Recreation'.

**Attachment:**

[Aerial View of Reserve](#)

**Background:**

The Shire of Irwin previously had a Management Order over Reserve 137, Lot 11702 White Tops Road, Port Denison. This Management Order has expired. The Shire of Irwin have approached the



Department of Lands to enter into a new Management Order for the management of Reserve 137, Lot 11702 White Tops Road, Port Denison.

The Shire of Irwin and Department of Lands are currently going through the Notice of Intention to Take (NOITT) process. As part of this process, the Shire must indemnify the Minister of Lands against all liabilities, obligations, costs, expenses or disbursements of any kind that may occur during the time that the Shire has management over Reserve 137.

The current purpose of Reserve 137 is 'Recreation – Surf Club'. This purpose does not accurately reflect the current use of the land.

**Officer's Comment:**

For the NOITT process to continue, the Shire of Irwin must indemnify the Minister of Lands against all liabilities, obligations, costs, expenses or disbursements of any kind that may occur on Reserve 137. It is recommended that Council resolve to indemnify the Minister of Lands against all liabilities, obligations, costs, expenses or disbursements on Reserve 137.

As the current purpose of Reserve 137 does not accurately reflect the use of the Reserve, it is recommended that Council request the Minister for Lands to change the purpose of Reserve 137 to 'Recreation'.

**Stakeholder Engagement:**

This has been an ongoing process with the Department of Lands.

**Financial/Resource Implications:**

Nil.

**Statutory Environment:**

Land Administration Act 1997

**Policy Implications:**

Nil

**Risk Implications:**

The likelihood of risk arising from Council indemnifying the Minister of Lands for Reserve 137 is expected to be rare, and the consequences insignificant. Therefore, the risk is low.

**Strategic Implications:**

Strategic Community Plan 2012 - 2022  
Strategy 2.3.2 Continue to maintain Shire Reserves

**PLANNING AND INFRASTRUCTURE**

**PI04 – 10/16**

**Subject:** Approval of a Local Development Plan for the Dongara Tourist Park, 8 George Street, Port Denison  
**Reporting Officer:** Planning Officer  
**Responsible Executive:** Director Planning and Infrastructure  
**File Reference:** LP.SU.2/A1939  
**Voting Requirements:** Simple Majority

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**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 approve a Local Development Plan for Dongara Tourist Park, following public advertising.

**Officer's Recommendation:**

**That Council approves the Local Development Plan for Dongara Tourist Park, 8 George Street, Port Denison, as presented in the Attachment Booklet - October 2016.**

**Attachment:**

[Local Development Plan Report](#)  
[Local Development Plan Map](#)  
[Bushfire Management Plan](#)  
[Drainage Plan](#)  
[Stormwater Management Report](#)  
[Technical Assessment](#)

**Background:**

At the February Council Forum, a Local Development Concept Plan was presented to Council for discussion. The Council was generally supportive of the concept.

On 22 April, the Shire received the application for the Local Development Plan (LDP). At the May Ordinary Council meeting, Council agreed to ask the Western Australian Planning Commission (WAPC) to consider the submitted plan a Local Development Plan (rather than a Local Structure Plan). The WAPC agreed to this.

The LDP was publically advertised and referred to a number of State Government agencies for comment from 14 July 2016 to 1 August 2016 for a period of 19 days, meeting statutory requirements.

Following the advertising period, the applicant made some minor changes to the proposal and attached a Stormwater Management Report. Most significantly, a notation was included in regard to stormwater management stating:

*“In accordance with the report, a provision has been applied to the plan to ensure that any subsequent detailed storm water management designs to support future development to be submitted prior to works commencing should have regard for the recommendations of the Stormwater Management Report as prepared for the site dated September 2016.*

**Officer’s Comment:**

It is recommended that Council approve the final Local Development Plan for the Dongara Tourist Park, 8 George Street, Port Denison.

**Stakeholder Engagement:**

The Local Development Plan was advertised between 14 July 2016 and 1 August 2016, a total period of 18 days as per statutory requirements. No public submissions were received. The Shire received 9 submissions from State Government departments. There were no objections in principle from the departments. Some minor modifications have been made to the text.

**Financial/Resource Implications:**

Nil.

**Statutory Environment:**

Planning and Development Act 2005  
Planning and Development (Local Planning Schemes) Regulations 2015  
Local Planning Scheme No. 5

**Policy Implications:**

Nil.

**Risk Implications:**

The likelihood of risk arising from Council endorsing the Local Development Plan is expected to be rare and the consequences insignificant. Therefore, the risk is low.

**Strategic Implications:**

Strategic Community Plan 2012 - 2022  
Strategy 1.1.1 Implement an efficient and effective approval process  
Strategy 4.2.1 Ensure compliance whilst embracing innovation and best practice principles

**PLANNING AND INFRASTRUCTURE**

**PI05 – 10/16**

**Subject:** Request to Acquire Portion of Reserve 42281, Seahorse Loop, Port Denison  
**Reporting Officer:** Planning Officer  
**Responsible Executive:** Director Planning and Infrastructure  
**File Reference:** PK.AC  
**Voting Requirements:** Simple Majority

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**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 approve the Water Corporation request to acquire a portion of Shire Vested Reserve 42281, Seahorse Loop, Port Denison.

**Officer's Recommendation:**

**That Council, pursuant to Part 4 of the *Land Administration Act 1997*, consents to the Water Corporation acquiring a portion of Reserve 42281, Seahorse Loop, Port Denison, as identified in the Attachment Booklet – October 2016, under a separate cover.**

**Attachment:**

[Attachment 1 – Water Corporation Request](#)  
[Attachment 2 – Map](#)

**Background:**

The Water Corporation owns Reserve 42283, located behind the Shire Vested Reserve 42281 (see attachment 2). The Water Corporation Reserve accommodates their sewer pumping station. The Water Corporation have requested that they acquire a portion of Shire Vested Reserve, so they have adequate space to use the mobile crane to conduct maintenance work in the pump station.

The Reserve is currently being used as a drainage sump by the Shire of Irwin. As the proposed area is currently at a lower ground level and surrounded by a chain link fence, some works will be required before the Water Corporation may utilise this portion of the Reserve for the intended purpose. The Water Corporation will cover any associated costs with the works required.

**Officer's Comment:**

The proposal has been considered by the Shire's Development Control Unit, who have no objection to the proposal. Therefore, it is recommended that Council approve the request to acquire a portion of Shire Vested Reserve 42281.

**Stakeholder Engagement:**

The proposal has been discussed within the Shire's Development Control Unit and the Water Corporation.

**Financial/Resource Implications:**

The Water Corporation will cover any costs associated with the relocation of the boundary, fencing and fill required.

**Statutory Environment:**

Local Government Act 1995  
Land Administration Act 1997

**Policy Implications:**

Nil.

**Risk Implications:**

The likelihood of risk arising from Council approving 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**

**PI06 – 10/16**

**Subject:** Approval to Install Water Pipeline in Shire Road Reserve – Francisco Road  
**Reporting Officer:** Manager Technical Services  
**Responsible Executive:** Director Planning and Infrastructure  
**File Reference:** WS.LI.1  
**Voting Requirements:** Simple Majority

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**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:**

Seek approval for the installation of a water pipeline in the Francisco Rd Shire Road Reserve.

**Officer's Recommendation:**

That Council approves the installation of a water pipeline in Shire Road Reserve to enable the residents at 19 Francisco Rd to access scheme water, subject to:

- a) The pipeline being designed to the relevant codes and standards such as WSA 03-2011.
- b) The designs being submitted to the Shire for review and approval, to the satisfaction of the Manager Technical Services, before fabrication and installation of the pipeline.
- c) The pipeline is fabricated and installed to the relevant codes and standards such as WSA 03-2011.
- d) The Shire inspecting the pipeline before being buried.
- e) Where relevant, the Shire is provided with the fabrication certificates including material test certificates.

**Attachment:**

[Attachment One – Water Corporation “Agreement for a Water Supply Service” Template](#)

**Background:**

The residents of 19 Francisco Road do not have scheme water. Scheme water is available along Brennand Road to the intersection of Francisco Road. The residents of 19 Francisco Road have liaised with the Water Corporation for the provision of scheme water to their property. The Water Corporation has agreed to place a water meter on the corner of Brennand Road and Francisco Road for the residents to access scheme water, but have requested them to obtain Shire approval to run a pipeline from the meter to their property as per Section C4 a) of the Water Corporation

“Agreement For a Water Supply Service”. The actual application resides with the Water Corporation and a template of the agreement has been provided for information. The length of the water pipeline is approximately 130 metres. The residents are to pay all the associated costs for the design, fabrication and installation of the pipeline.

**Officer’s Comment:**

It is recommended that Council approve the installation of the pipeline subject to the pipeline being design and installed to the relevant codes and standards such as WSA 03-2011.

**Stakeholder Engagement:**

The Shire is being consulted by the residents of 19 Francisco Road as directed by the Water Corporation for the approval of the pipeline.

**Financial/Resource Implications:**

Nil

**Statutory Environment:**

Local Government Act 1995

**Policy Implications:**

Nil

**Risk Implications:**

For the section of pipeline in the Shire’s road reserve, it is essential that the design, fabrication and installation:

- Does not deliver a maintenance liability in the unlikely event the Shire becomes responsible for this asset
- The location of the pipeline does not interfere with future road maintenance such as maintenance grading
- The location of the pipeline does not interfere with future verge slashing and vegetation pruning

Having due regard to the Officer’s recommendation and the conditions of approval, the likelihood of risk is expected to be rare and the consequences insignificant. Therefore, the risk is low.

**Strategic Implications:**

Strategic Community Plan 2012 - 2022

2.6.1 Maintain road assets and ancillary infrastructure

**CORPORATE AND COMMUNITY**

**CEO01 – 10/16**

**Subject:** 2015/16 Annual Report and Auditor's Report  
**Reporting Officer:** Coordinator Executive Services/Manager Customer Services  
**Responsible Executive:** Chief Executive Officer  
**File Reference:** CM.RE.1/FM.AD.15.16  
**Voting Requirements:** Absolute Majority

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**Council Role:**

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

**Report Purpose:**

To consider and accept the Shire of Irwin Annual Report for the year ending 30 June 2016.

**Officer's Recommendation:**

**That Council;**

- a) receives the Audit Report from Council's Auditors, Moore Stephens, for the year ending 30 June 2016;
- b) accepts the 2015/16 Annual Report by Absolute Majority vote, as presented in Attachment Booklet – October 2016, for the year ended 30 June 2016; and,
- c) holds the Annual Electors Meeting at 5.30pm on Tuesday, 22 November 2016 in the Council Chambers.

**Attachment:**

[Annual Report 2015/16](#)

**Background:**

The Local Government Act 1995 requires Councils to prepare and accept an Annual Report for each financial year by 31 December after that financial year.

The Annual Report highlights the Shire of Irwin's achievements from the Strategic Community Plan in the 2015/16 Financial Year.

The Local Government Act 1995 requires Council to hold a general meeting of electors once every financial year and not more than 56 days after accepting the annual report from the previous financial year. Council traditionally holds the Annual Meeting of Electors following the Ordinary Council Meeting in November.



**Officer's Comment:**

The Annual Report, prepared in accordance with the requirements of the Local Government Act, is enclosed with the agenda papers for Councillors' perusal, consideration and acceptance.

Council's Auditors, Moore Stephens, have completed an audit of Council's financial records and have forwarded an audit report to the Shire President as well as a management letter.

The audit report is included in the annual report with no matters, in the opinion of the auditors, to indicate significant adverse trends in the financial position or the financial management practices of the Shire and no other matters indicating non-compliance with Part 6 of the Local Government Act 1995, Local Government (Financial Management) Regulations 1996 or applicable financial controls of any other written law.

This year's Annual Report includes a number of new features, including a page on Risk Management, information regarding Bushfire Management, an updated information on Integrated Planning and Reporting (IPR) and an outline of the Service and Organisational Review.

It should be noted that the format of the Annual Report reflects the 2014/15 organisational structure, with projects and activities being reported on under the management service areas. Obviously 2015/16 will reflect the new structure, with the reported areas of: Customer Services, Community Capacity, Regulatory Services and Technical Services.

Of particular interest, following its inclusion in the 2014/15 Annual Report the funding allocations cartoon page "What we spend..." demonstrating the areas of expenditure for every \$1 in rates has received commendation from the Minister for Local Government (acknowledged in his speech at the 2016 WA Local Government Convention). Members of the public have also made enquiries as to whether this information is to be made available again this year. It is officer's intent to promote this particular page, in addition to its inclusion in the Annual Report, widely through local media, Facebook, the website etc.

**Stakeholder Engagement:**

Once the Annual Report has been accepted, Council is required to give local public notice of the availability of the Annual Report as soon as practicable.

**Financial/Resource Implications:**

There are no financial or budget implications.

**Statutory Environment:**

➤ *The Local Government Act 1995 Section 5.53 provides that the Annual Report is to contain the following:*

- A report from the Shire President;
- A report from the Chief Executive Officer;
- An overview of the plan for the future of the district made in accordance with Section 5.56, including major initiatives that are proposed to commence or continue in the next financial year,
- The financial report for the financial year;
- Such information as may be prescribed in relation to the payments made to employees;
- The auditor's report for the financial year;
- a matter on which a report must be made under section 29(2) of the *Disability Services Act 1993*; and
- details of entries made under section 5.121 during the financial year in the register of complaints, including —
  - (i) the number of complaints recorded in the register of complaints; and
  - (ii) how the recorded complaints were dealt with; and

(iii) any other details that the regulations may require; and

- Such other information as may be prescribed.
- *The Local Government Act 1995 Section 5.54 provides:*

5.54. Acceptance of annual reports

  - (1) Subject to subsection (2), the annual report for a financial year is to be accepted\* by the local government no later than 31 December after that financial year.  
\* Absolute majority required.
  - (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.
- *The Local Government Act 1995 Section 7.2 provides:*

The accounts and annual financial report of a local government for each financial year are required to be audited by an auditor appointed by each local government.
- *The Local Government Act 1995 Section 7.12A provides:*
  - (3) A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to —
    - (a) determine if any matters raised by the report, or reports, require action to be taken by the local government; and
    - (b) ensure that appropriate action is taken in respect of those matters.
  - (4) A local government is to —
    - (a) prepare a report on any actions under subsection (3) in respect of an audit conducted in respect of a financial year; and
    - (b) forward a copy of that report to the Minister,  
by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.
- *The Local Government (Audit) Regulations Section 10 provides:*
  - (1) An auditor's report is to be forwarded to the persons specified (Mayor or President, CEO and Minister) within 30 days of completing the audit.
  - (2) The report is to give the auditor's opinion on —
    - a) the financial position of the local government; and
    - b) the results of the operations of the local government
  - (3) The report is to include —
    - a) any material matters that in the opinion of the auditor indicate significant adverse trends in the financial position or the financial management practices of the local government;
    - b) any matters indicating non-compliance with Part 6 of the Act, the Local Government (Financial Management) Regulations 1996 or applicable financial controls in any other written law;
    - c) details of whether information and explanations were obtained by the auditor; and
    - d) a report on the conduct of the audit;
    - e) the opinion of the auditor as to whether or not the following financial ratios included in the annual financial report are supported by verifiable information and reasonable assumptions —

- (i) the asset consumption ratio; and
  - (ii) the asset renewal funding ratio.
- (4) Where it is considered by the auditor to be appropriate to do so, the auditor is to prepare a management report to accompany the auditor's report and to forward a copy of the management report to the persons specified (Mayor or President, CEO and Minister) with the auditor's report.
- *The Local Government Act 1995 Section 5.27 and 5.29 provides:*
- 5.27. Electors' general meetings*
- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- 5.29. Convening electors' meetings*
- (1) The CEO is to convene an electors' meeting by giving —
- (a) at least 14 days' local public notice; and
  - (b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.
- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.

**Policy Implications:**

Nil.

**Risk Implications:**

The likelihood of risk arising from Council accepting the annual report is expected to be rare and the consequences would be insignificant due to informing on last financial year events, therefore the risk implications are low.

The likelihood of risk arising from failure to conduct an Annual Meeting of Electors will result in non-compliance with the requirements of the Act is expected to be rare and the consequences would be moderate, 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

Strategy 4.2.3 Identify improved communication strategies to inform the community about the Shire's achievements and financial position.

**OFFICE OF THE CEO**

**CEO02 – 10/16**

**Subject:** Port Denison Foreshore Redevelopment Project  
**Reporting Officer:** Coordinator Organisational Performance  
**Responsible Executive:** Chief Executive Officer  
**File Reference:** PK.US.1  
**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, endorse and adopt the Port Denison Foreshore Redevelopment (PDFR) documents as presented.

**Officer's Recommendation:**

**That Council:**

- 1. Adopts the 'Port Denison Foreshore Redevelopment – Masterplan and Costings' as an informing strategy to guide operational planning and future decision making for the Port Denison Foreshore Masterplan precinct; and**
- 2. Endorses the 'Port Denison Foreshore Redevelopment – Business Case and Economic Evaluation' documents, as submitted by Shire staff to the Mid West Development Commission and subsequently the Department for Regional Development,**

**as provided in Attachment Booklet – October 2016.**

**Attachment:**

[Port Denison Foreshore Redevelopment – Masterplan and Costings](#)  
[Port Denison Foreshore Redevelopment – Business Case](#)  
[Port Denison Foreshore Redevelopment – Economic Evaluation](#)

**Background:**

Following the adoption of the Port Denison Foreshore Masterplan (PDFR) in October 2013, the Shire has been liaising with the Mid West Development Commission (MWDC) on a close and

continual basis in an effort to secure financial assistance towards the redevelopment of the Port Denison Foreshore area.

As a result of these communications it was apparent that the ideas as proposed in 2013 were not substantial enough to attract funding from both the MWDC as well as other main funding providers and as such the Councillors and staff have revisited the previously adopted concept plan between February and August 2016.

As part of this process, the 2013 concept plan has been modified including an expansion of the project scope to also include the area from the Point Leander Drive traffic bridge along the Irwin River, along Ocean Drive to Grannies Beach, being the northern boundary of the previous project area.

Due to these changes, in June/July 2016, the Shire undertook further community consultation in order to ascertain the level of community support towards the new direction being considered.

Based on the 158 collated survey responses received at the close of the community engagement period, feedback gained through organisational stakeholder liaison and resulting Councillor workshops, agreed amendments to the advertised concept plan were incorporated into a new masterplan (including indicative costings) so that a funding submission, in the required business case format including an associated economic evaluation could be prepared by the Shire's foreshore redevelopment consultants, RPS, and submitted to the MWDC for consideration.

In order to meet MWDC submission deadlines, and taking into account the additional community consultation and Councillor workshop impacts on such deadlines, Council staff and RPS have worked together to complete a business case and associated economic evaluation and, with Councillor support, submitted the business case, economic evaluation and masterplan to attract future funding for the project.

**Officer's Comment:**

With input received from the community during the creation of the revised Port Denison Foreshore and Dongara Port Denison Trails concept plans, it is felt that the community's needs and desires have been accommodated in the final outcome. As well as community engagement, there has been an emphasis on environmental and economic impacts as well as accommodating for tourism and social interaction.

Resulting from extensive stakeholder consultation, Shire staff and external consultants have refined the final draft with particular emphasis being made around the foreshore core rejuvenation, accommodation of recreational vessels, provision of amenities at grannies beach, upgrade of the current skate park facilities to provide for a transformed skate park and youth precinct in its current location, refurbished Denison House and pedestrian footbridge over the Irwin River.

With the endorsement of the plan it is considered that Shire staff can, in parallel to applying for funding from various sources, consider and plan for aspects of the concept within their future operational planning and budget requests.

On this basis, and due to the significant preparation work that has already been carried out, the Shire's business case has been referred by the Mid West Development Commission and 'fast tracked' into "Stage Gate #3" (i.e. business case consideration stage) of the Department of Regional Development-administered 'Stage Gate' regional development funding initiative.

To finalise this process, from a Shire of Irwin perspective, it is recommended that Council formally adopts the PDFR Masterplan and Costings and endorses the PDFR Business Case and Economic Evaluation in order to guide future decision making around the foreshore redevelopment project and assist in sourcing external funding for the proposed project.

**Stakeholder Engagement:**

The MWDC has been liaised with on a continuous basis throughout the creation of all three attachment documents given their likelihood to be one of the main funding providers for the project. The Department of Transport, Geraldton Fishermen's Cooperative, Dongara Professional Fishermen's Association, Lotterywest and Tourism WA have also been consulted.

The community, including local business owners, were involved through the community engagement period of 28 June – 11 July 2016. This was done via wide scale promotion of the plans in the Dongara Denison Local Rag, on Facebook, the Electronic Community Sign, Irwin Rec Signboard, printed flyers located at a large number of local businesses, door knocking Point Leander Drive residents and cross promotion at a 'Meet the People' session held on 30 June 2016.

Council also held three sessions where people could gain direct access to the consultants assisting the Shire with the plans, the responsible Shire of Irwin officer and Councillors.

Session 1 – Open Style Session @ Irwin Rec Stadium - Saturday, 2 July 2016 (8am – 1pm). Approximately 400 questionnaires & 300 maps handed out to Community Members.

Session 2 – Councillor Workshop @ Irwin Rec Function Room - Thursday, 7 July 2016 (6pm). Council Attendees: Cr West, Cr Smith, Cr Kennedy, Cr Leonard & Cr Scott. 29 Community Members.

Session 3 – Councillor Workshop @ Irwin Rec Function Room – Saturday, 9 July 2016 (10am). Council Attendees: Cr West, Cr Kennedy, Cr Leonard, Cr Scott & Cr Meares. 30 Community Members.

**Financial/Resource Implications:**

Whilst the attachments outline an indicative total costing of all proposed projects of \$20,261,652 (excluding GST) (\$12,048,860 – Port Denison Foreshore, \$8,212,792 – Dongara Port Denison Trails), each project will be considered on its merits with specific funding identified and secured.

**Statutory Environment:**

Local Government Act 1995.

**Policy Implications:**

An adoption of the attachments will guide Council's future decision making around the foreshore precinct and assist in sourcing external funding for the proposed project.

**Risk Implications:**

Given that this document outlines Council's broad intent for future redevelopment works within the Foreshore area, it is considered that the reputational risk associated with this report would be considered to have a minor measure of consequence and an unlikely measure of likelihood, resulting in an overall risk rating of low.

**Strategic Implications:**

Strategic Community Plan 2012 - 2022

Strategy 1.2.5 – Develop and implement a Foreshore Strategy, including the area from the Surf Beach to the Obelisk

**SHIRE PRESIDENT**

**CEO03 – 10/16**

**Subject:** Chief Executive Officer's Annual Performance Review  
**Reporting Executive:** Shire President  
**File Reference:** PE.RE.SIM01  
**Voting Requirements:** Simple Majority

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**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 complete the annual performance review of the Chief Executive Officer (CEO) and endorse the CEO's 2016/17 Performance Agreement.

**Shire President's Recommendation:  
That Council:**

- 1. Having undertaken the Chief Executive Officer's 2016 annual performance review, acknowledges and congratulates the Chief Executive Officer for his hardworking and positive administration of the Shire of Irwin particularly in regards to statutory compliance, budget and audit management, corporate planning and customer focused leadership;**
- 2. Agrees to amend the Chief Executive Officer's total reward package by awarding a 1.5% increase in accordance with the 12 April 2016 Determination of the Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Elected Members; and**
- 3. Authorises the Shire President to execute the CEO's 2016/17 Performance Agreement on behalf of Council.**

**Attachment:**

Draft 2016/17 CEO Performance Agreement provided under confidential separate cover to elected members.

**Background:**

The CEO commenced employment with the Shire of Irwin on 6 September 2010 and completed his first 5-year contract term on 5 September 2015.

As a result of successful negotiations between the then Shire President (as authorised by Council) and the CEO, the CEO commenced a second 5-year contract term on 6 September 2015.

With the completion of the first year of the second 5-year contract term on 5 September 2016, it is incumbent on Council to undertake an annual CEO performance review in accordance with statutory and contractual obligations.

**Shire President's Comment:**

In order to facilitate the CEO's annual performance review, and at Councillors' request, I engaged The Futures Group's principal, Ms Kerry Neil, to meet personally (one-on-one) with all Councillors and the CEO with these meetings being conducted on 12 and 13 September 2016.

Following these meetings, Ms Neill prepared a confidential CEO Performance Report that has been provided to all Councillors and the CEO and informed an informal discussion held between Councillors and the CEO on 11 October 2016.

In line with all performance review processes, the report outlined areas of strong performance by the CEO and areas requiring improvement. In this regard, it is pleasing to note that Councillors and the CEO alike welcomed the opportunity to identify strengths and weaknesses and committed to working closer together for the benefit of the Irwin community.

In addition to reflecting on the year under review, the 2016 annual review process has seen the joint development by Councillors and the CEO of a 2016/17 Performance Agreement for the CEO which identifies key performance indicators and provides a performance rating scale to assist the 2017 CEO Performance Review.

**Stakeholder Engagement:**

All Councillors and the CEO.

**Financial/Resource Implications:**

A 1.5% increase in the CEO's total reward package has been recommended and has been provided for in the Shire's 2016/17 Budget.

**Statutory Environment:**

Local Government Act 1995

**Policy Implications:**

Nil.

**Risk Implications:**

Where a CEO's annual performance review process is not undertaken, it is not unreasonable to expect a major measure of consequence combined with a possible measure of likelihood leading to a risk rating of high.

By undertaking and completing the CEO's annual performance review as part of Council's broader local government oversight function, a moderate measure of consequence and rare measure of likelihood could be anticipated resulting in low risk rating.

**Strategic Implications:**

Applicable across the entire Strategic Community Plan 2012-2022 and broader integrated planning framework.



## **9.2 COUNCIL COMMITTEE REPORTS**

### **9.2.1 Receipt of Heritage Advisory Minutes**

#### **HERITAGE ADVISORY COMMITTEE MINUTES**

That Council receives the Minutes of the Heritage Advisory Committee meeting held 16 September 2016, as provided within the Attachment Booklet – October 2016.

### **9.2.2 Receipt of Economic Development Advisory Committee (EDAC) Minutes**

#### **ECONOMIC DEVELOPMENT ADVISORY COMMITTEE MINUTES**

That Council receives the Minutes of the Economic Development Advisory Committee (EDAC) meeting held 21 September 2016, as provided within the Attachment Booklet – October 2016.

### **9.2.3 Receipt of Community Assistance Scheme Committee Minutes**

#### **COMMUNITY ASSISTANCE SCHEME COMMITTEE MINUTES**

That Council receives the Minutes of the Community Assistance Scheme Committee held 7 October 2016, as provided within the Attachment Booklet – October 2016.

### **9.2.4 Receipt of Asset Management Advisory Committee Minutes and Adoption of Recommendations En Bloc**

#### **ASSET MANAGEMENT ADVISORY COMMITTEE MINUTES**

That Council receives the Minutes of the Asset Management Advisory Committee held 10 October 2016, as provided within the Attachment Booklet – October 2016.

#### **ASSET MANAGEMENT ADVISORY COMMITTEE RECOMMENDATIONS TO COUNCIL**

That Council:

- 1. Endorses the Manager Technical Services' selection and subsequent purchase of the 'Assetic' Asset Management System as per the 2016/17 budget provisions; and**
- 2. Subject to adopted budget provision, endorses the one year light fleet strategy based on a whole of life asset management process, as presented to the Asset Management Advisory Committee meeting held on Monday 10 October 2016.**

**9.2.5 Receipt of Events Committee Minutes and Adoption of Recommendations En Bloc**

**EVENTS COMMITTEE MINUTES**

**That Council receives the Minutes of the Shire of Irwin Events Committee meeting held 11 October 2016, as provided within the Attachment Booklet – September 2016.**

**EVENTS COMMITTEE RECOMMENDATIONS TO COUNCIL**

**That Council:**

- 1. Given that the Shire was not successful in receiving external funding for the Retro Festival, continues to support the provision of \$10,000 from the allocated budget item for the event in April;**
- 2. By Absolute Majority, allocates \$3,000 from the Area Promotion budget provision for the supply and installation of a new Drive-In sign, subject to grant funding of \$10,000 being secured through Lotterywest; and**
- 3. That the amended Events Committee Terms of Reference, as included in the attachment booklet, be accepted.**

**10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**10.1 Amendment to the Dog Act 1976 to define a ‘dog’**

**Cr Meares’ Motion**

**That Council, in order to address the existing uncertainty and ambiguity concerning the application of the Dog Act 1976 (as amended) to dingoes kept within a domestic setting, undertake the following action:**

- 1. Requests the State Government, through the Minister for Local Government, to initiate an amendment to the Dog Act 1976 as follows:  
“Part 1 - Preliminary  
Section 3. Terms used  
In this Act, a Dog is defined as *Canis Familiaris*, *Canis Lupus* or derivatives of *Canis Familiaris* and *Canis Lupus*.”**
- 2. Writes to local members of State Parliament to seek their support for the proposed amendment; and**
- 3. Seeks the support of the Western Australian Local Government Association (WALGA) of the proposed amendment, through the Northern Country Zone of WALGA.**

**Background:**

On 10 October 2016 Cr Meares submitted an email to the CEO outlining the following:

“The Dog Act 1976 does not define a dog. In legal advice obtained by the Shire of Irwin it was established that to apply the Dog Act 1976 to dingoes would in likelihood be unsuccessful.

It is also likely that, in the absence of a definition of a dog in the Dog Act, if the provisions of the Act were legally challenged by a domestic dog owner, the challenge would in likelihood also be successful.

It is Council’s current policy to establish and adopt a local law to control domestic animals not currently captured by law. The gazetting of local laws is expensive and does not create a statewide solution to this particular anomaly in law.

In correspondence with Local Government and various WA Government ministers, it is apparent that neither local government nor the state has any legislative control over dingoes or dingo crosses kept in a domestic environment.

The definition of a dingo in the Biosecurity and Agricultural Management Act 2007 (BAM Act) includes the dingo (*Canis Lupus*) and the dingo/dog hybrid (*Canis Lupus/Canis Familiaris*) cross.

Dingoes are native animals but exempt from keeping laws associated with other native animals. Dingoes and dingo/domestic dog hybrids can be kept in a domestic environment as pets without registration or a licence.

Dingoes cannot be advertised, sold or supplied without a supply permit issued under the BAM Act 2007.

Of interest is that the blue and red heeler are derived from a dingo cross with the Northumberland Blue Merle Drovers Dog and therefore fall under the description of a dingo in the BAM Act.

Dingoes are a declared species, they can be destroyed by property owners where they pose a threat to livestock and livelihood (as can domestic dogs).”

**Officer’s Comment:**

The CEO is in support of the motion as presented.

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

Nil.

**12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION**

Nil.

**13. MATTERS BEHIND CLOSED DOORS**

Nil.

**14. CLOSURE**

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

\_\_\_\_\_.