SHIRE OF IRWIN
DONGARA-PORT DENISON
A BRILLIANT BLEND

MINUTES

of the

Ordinary Council eMeeting

held

Wednesday 29 April 2020

via

Webex Video Conference

and in the

Council Chambers
11-13 Waldeck Street, Dongara

I certify that this copy of the Minutes is a true and correct record of the meeting held on Wednesday 29 April 2020

Signed: ……..
Presiding Elected Member

Date: ……..

Disclaimer

The Shire of Irwin advises that the purpose of an Ordinary Council Meeting is to discuss and, where possible, make resolutions about items appearing in the agenda. No person should rely or act on the basis of any decision, advice or information provided by a Member or Officer, or on the content of any discussion occurring during the course of the meeting. No person should rely on the decisions made by Council until formal written advice of the Council is received by that person.

The Shire of Irwin expressly disclaims any liability for any loss or damage whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

Shane Ivers
CHIEF EXECUTIVE OFFICER

The following public notice was released 22 April 2020, advising of the change of date for this meeting:

SHIRE OF IRWIN
DONGARA-PORT DENISON
A BRILLIANT BLEND

Change of Date for the April 2020 Ordinary Council eMeeting

In accordance with the *Local Government (Administration) Regulations 1996*, Regulation 12 (2), notice is hereby given of a change of date for the April 2020 Ordinary Council eMeeting.

The Ordinary Council eMeeting scheduled for Tuesday 28 April 2020 at 6.00pm, will now be held on

Wednesday 29 April, 2020 at 6.00pm

The Agenda Briefing will commence at 5.00pm and the Councillor Information Session will commence at 5.15pm.

Public involvement in the eMeeting shall be limited to ***written questions only***. Questions may be provided via email to Danika Chandler, Governance & Executive Coordinator dchandler@irwin.wa.gov.au no later than ***12pm Tuesday 28 April 2020.***

Please contact the Shire on 9927 0000 for further information.

Shane Ivers

Chief Executive Officer

PMB 21, 11-13 Waldeck Street Dongara WA 6525 | *t* 9927 0000 | *e* reception@irwin.wa.gov.au | www.irwin.wa.gov.au

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ORDINARY COUNCIL eMEETING

held

Wednesday 29 April 2020

at 6.00pm

MINUTES

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Members

Councillor M T Smith	President
Councillor B Wyse	Deputy President
Councillor G S Eva	
Councillor A J Gillam	*(via Webex)*
Councillor M Leonard	
Councillor I Scott	
Councillor H M Wells	*(via Webex)*
Councillor I F West	

Staff

Mr S D Ivers	Chief Executive Officer
Mr B Jeans	Manager Regulatory Services *(via Webex)*
Mrs J Goodbourn	Supervisor Finance *(via Webex)*
Mrs D K Chandler	Governance & Executive Coordinator *(via Webex)*
Mrs S Pratt-King	Coordinator Infra & Asset Services *(via Webex)*
Mr M Jones	Supervisor Parks & Gardens *(via Webex)*
Mrs S Taylor	Community Officer *(via Webex)*
Mrs S Potts	Coordinator Administration *(via Webex)*
Mr P Traylen	Supervisor Operations *(via Webex)*

Apologies
Nil.

Approved Leave of Absence
Nil.

Guests
Nil.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Public question asked at the 5 March Special Council Meeting
Pamela Hewer – Seahorse Loop, Port Denison: If the Shire goes ahead with the purchase, what legality is there around ratepayers choosing not to pay the rate increase specifically for the medical centre?

Response: As explained at the community consultation sessions, the Shire would prefer to separate the charge for the medical centre on the rates notice, but legally cannot. Therefore, any increase in rates for the medical centre, should there be one, would be part of the overall charge on land as per the *Rates and Charges (Rebates and Deferments) Act 1992* and the normal legal requirements for residents to pay their rates as stated on the rates notice applies. Standard penalties would apply for residents not paying, or paying in part, their rates.

Public question asked at the 24 March Ordinary Council Meeting
J Rossiter: Who designed these Council Chambers, what qualifications did they have and how much were they paid?

Response: The design was done by a Shire working group with the final drawings completed by both David O'Meara and Nordic Builders (BR 12483) and were certified by Structerre Consulting Engineers. David O'Meara was paid $4,059, Nordic Builders were paid $2,129 and Structerre Consulting Engineers were paid $1,375.

4. PUBLIC QUESTION TIME

The proposed procedure for the conduct of public question time at electronic council meetings (eMeetings) is in response to the change to the Local Government (Administration) Regulations 1996, regulations 14C and 14D in relation to meetings held by electronic means in a public or state emergency. The Shire's previously established procedure in relation to public questions remains in place with responses provided to the questioner prior to the release of the unconfirmed minutes, in which the response will also be published. Questions are to be submitted by 12pm the day before the Council eMeeting. This procedure will apply to all future Council eMeetings until the currently declared public health emergency declared under section 167 of the Public Health Act 2016 (and as extended by decision of the Minister for Health) ceases to be in effect.

COUNCIL DECISION 010420:

MOVED: Cr Scott **SECONDED: Cr Leonard**

That Council adopt the following procedure for the conduct of Public Question Time during all electronic Council Meetings (eMeetings) for the currently declared public health emergency for COVID-19, declared by the Minister for Health under section 167 of the *Public Health Act 2016*:

1. **Public Questions to be submitted in writing by no later than 12pm on the day prior to the Ordinary Council eMeeting;**
2. **Public Questions to be read by the Presiding Member at the eMeeting and either answered or taken on notice;**
3. **The questioner is to receive a response prior to the release of the unconfirmed minutes of the eMeeting.**

VOTING DETAILS: **Carried 8/0**

Questions received via email on Monday 27 April at 2.19pm:

Mr Rossiter, Point Leander Drive, Port Denison
Why hasn't the Shire leased the three accommodation units that are vacant in Kennedy Heights?

Response: The Shire has missed out on approximately $70,000 in potential revenue by not leasing out the Kennedy Heights properties, however the cost to get the properties to a suitable standard for tenants would have been approximately $80,000.

Mr Rossiter, Point Leander Drive, Port Denison
Why do the new website minutes archive back to March 2018, whereas the previous website archived back to 2005?

Response: The new website is still being populated, however archived minutes are available for public inspection at the Shire of Irwin Administration on Waldeck Street, Dongara, as per section 5.94(n) of the *Local Government Act 1995*.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS AND DEPUTATIONS

Nil.

7. CONFIRMATION OF MINUTES

7.1. Minutes of the Ordinary Council Meeting held 24 March 2020

A copy of the minutes of the 24 March 2020 Ordinary Council Meeting have been provided to all Councillors under separate cover.

COUNCIL DECISION 020420:	
MOVED: Cr West	**SECONDED: Cr Eva**
That the Minutes of the Ordinary Council Meeting, held 24 March 2020, as previously circulated and with the removal of J Rossiter from those present in the gallery, be adopted as a true and accurate recording of that meeting.	
VOTING DETAILS:	**Carried 8/0**

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Functions, Meetings & Events

27 March 2020	COVID-19 State Government Briefing Webinar
3 April 2020	COVID-19 State Government Briefing Webinar
7 April 2020	Local Emergency Management Committee Meeting regarding COVID-19
8 April 2020	Councillor Workshop – Drought Relief Funding

WALGA Quarterly Report
The WALGA Quarterly Report for the January to March period is provided in Attachment Booklet – April 2020. WALGA have obviously shifted their focus a great deal more recently as everyone grapples with the implications of the pandemic and its impact on all our operations.

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY	CC01- 04/20
Subject:	**CC01 - Accounts for Payment**
Author:	**S Clarkson, Finance Officer**
Responsible Officer:	**J Goodbourn, Supervisor Finance**
File Reference:	**Minute Book**
Voting Requirements:	**Simple Majority**

Council Role:

☐ **Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.

☒ **Executive** The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

☐ **Legislative** Includes adopting local laws, local planning schemes and policies.

☐ **Review** When Council reviews decisions made by Officers.

☐ **Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:
To receive the list of accounts paid under delegated authority during March 2020.

Background:
A list of accounts paid under delegated authority is attached showing all payments made during the month of March 2020.

Officer's Comment:
Nil

Consultation:
Nil

Statutory Environment:
The Local Government (Financial Management) Regulations 1996 provides as follows:

13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —

(a) the payee's name;
(b) the amount of the payment;
(c) the date of the payment; and
(d) sufficient information to identify the transaction.

(3) A list prepared under sub-regulation (1) or (2) is to be —

(a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
(b) recorded in the minutes of that meeting.

Policy Implications:
Under Delegation CEO3 Council has delegated authority to the Chief Executive Officer to authorise all payments by Council.

Financial/Resource Implications:
Nil

Strategic Implications:
Strategic Community Plan 2017 - 2027
Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles Strategy 4.3.2 Adopt and follow better practice processes

Attachments:
Attachment Booklet – April 2020
Attachment CC01 - Accounts for Payment – March 2020

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 030420:

MOVED: Cr Leonard **SECONDED: Cr Eva**

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

Payment Type/Numbers	Total Amount
EFT 25658 – 25796	$474,867.31
Muni Cheques - 31982 – 31986	$65,963.07
Direct Debit – Solar Panel Repayments 03/20	$1,947.66
Direct Debit – Insurance Premiums Repayments	$50,546.30
Direct Debit – Credit Card	$290.88
Direct Debit – Superannuation	$30,574.81
Direct Debit - Transport – PL270220 – PL230320	$46,882.60
Grand Total	$671,072.63

VOTING DETAILS: **Carried 8/0**

CORPORATE AND COMMUNITY	CC02-04/20
Subject:	**CC02 - Monthly Financial Statements for the Period Ended 31 March 2020**
Author:	**J Goodbourn, Supervisor Finance**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**Minute Book**
Voting Requirements:	**Simple Majority**

Council Role:

☐ **Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.

☒ **Executive** The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

☐ **Legislative** Includes adopting local laws, local planning schemes and policies.

☐ **Review** When Council reviews decisions made by Officers.

☐ **Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:
To consider and receive the Monthly Financial Statements for the period 1 July 2019 to 31 March 2020.

Background:
The Monthly Financial Statements to 31 March 2020 are prepared in accordance with the requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996* and includes the following statutory reports:

- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature & Type
- Explanation of Material Variances
- Net Current Funding Position

The Statements also include various other financial information not required by legislation, but for Council information.

Officer's Comment:
The financial position to the end of March 2020 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

31/03/2020		YTD Actual	Variance to YTD Budget
	Operating Revenue	7,415,329	-2%
	Operating Expenditure	(8,670,948)	4%
	Net Operating	(1,255,619)	
	Non-Operating Revenue	2,539,483	60%
	Non-Operating Expenditure	(2,372,162)	-11%
	Net Non-Operating	167,321	
	Cash at Bank	2,143,488	
	Cash at Bank Restricted	376,298	
	Reserve Bank	1,322,018	
	Total Cash Funds	3,841,804	

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

Consultation:
Nil.

Statutory Environment:
Local Government Act 1995
- Section 6.4 Financial report

Local Government (Financial Management) Regulations
- Section 34 Financial activity statement report provides as follows:

(1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail -
(a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
(b) budget estimates to the end of the month to which the statement relates;
(c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
(d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
(e) the net current assets at the end of the month to which the statement relates.

(2) Each statement of financial activity is to be accompanied by documents containing -
(a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
(b) an explanation of each of the material variances referred to in sub-regulation (1)(d); and
(c) such other supporting information as is considered relevant by the local government.

(3) The information in a statement of financial activity may be shown -
(a) according to nature and type classification;
(b) by program; or

(c) by business unit.

(4) A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be -

(a) presented to the council -

(i) at the next ordinary meeting of the council following the end of the month to which the statement relates; or

(ii) if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of the council after that meeting; and

(b) recorded in the minutes of the meeting at which it is presented.

Policy Implications:
Nil.

Financial/Resource Implications:
Any issues in relation to expenditure and revenue allocations or variance trends are identified and addressed each month.

Strategic Implications:
Strategic Community Plan 2017 - 2027
Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles
Strategy 4.3.2 Adopt and follow better practice processes

Attachments:
Attachment Booklet – April 2020
Attachment CC02 - Financial Statements for the Period Ended 31 March 2020

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 040420:
MOVED: Cr West **SECONDED: Cr Eva**
That Council receives the Monthly Financial Statements for the period 1 July 2019 to 31 March 2020 as provided in Attachment Booklet – April 2020.
VOTING DETAILS: **Carried 8/0**

CORPORATE AND COMMUNITY	CC03-04/20
Subject:	**CC03 – Basis of Rates 2020-2021**
Author:	**J Goodbourn, Supervisor Finance**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**Minute Book**
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 the rate base for the formation of the 2020-2021 Annual Budget.

Background:
In light of the current COVID-19 pandemic and declared state of emergency that Council consider requesting the Chief Executive Officer to develop the financial budget for the year 2020-2021 based on a nil increase in the rate in the dollar for all rating categories within the Shire of Irwin as well as a nil increase in Fees and Charges.

Officer's Comment:
To further our commitment to support the whole community to meet the unprecedented challenges arising from the COVID-19 pandemic, the Shire of Irwin recognises that these challenges will result in financial hardship for Shire of Irwin ratepayers. It is therefore proposed that there is no increase in the rate in the dollar for any of the rating categories within the Shire of Irwin in the 2020-2021 Annual Budget.

It is proposed that fees and charges will also remain at the level at which they are currently set.

The economic impacts of COVID-19 will require the Shire of Irwin to review and reprioritise Strategic Community Plan objectives and reprioritise and rationalise budgets to ensure essential services are maintained.

Consultation:
Nil.

Statutory Environment:
Local Government Act 1995

- Section 6.2 Local Government to prepare annual budget

Policy Implications:
Nil.

Financial/Resource Implications:
Setting the rates in the dollar at a nil increase will have a financial impact on the preparation of the 2020-2021 Annual Budget.

Strategic Implications:
Strategic Community Plan 2017 - 2027
Strategy 2.2.1 Prepare for and manage natural disasters and environmental risks
Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles
Strategy 4.3.2 Adopt and follow better practice processes

Attachments:
Nil

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 050420:	
MOVED: Cr Scott	**SECONDED: Cr Leonard**
That Council, by Absolute Majority and in light of the current COVID-19 pandemic and declared state of emergency, requests the Chief Executive Officer to develop the financial budget for the year 2020-2021 based on a nil increase in the rate in the dollar for all rating categories within the Shire of Irwin as well as a nil increase in Fees and Charges.	
VOTING DETAILS:	**Carried by Absolute Majority 8/0**

OFFICE OF CEO	**CEO01-04/20**
Subject:	**CEO01 - Purchase of the Dongara Medical Centre**
Author:	**S Ivers, Chief Executive Officer**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**3.0668 Health & Medical Centre Services**
Voting Requirements:	**Absolute Majority**

Council Role:

☐ **Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.

☒ **Executive** The substantial direction setting and oversight role of the Council e.g. performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

☐ **Legislative** Includes adopting local laws and local planning schemes.

☐ **Review** When Council reviews decisions made by Officers.

☐ **Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:
For Council to:

- Receive and note the submissions made regarding the advertising for the proposed major land transaction to acquire the Dongara Medical Centre at 290 Point Leander Drive, Dongara
- Accept compliance with Section 6.20 Power to Borrow of the *Local Government Act 1995*
- Authorise the Chief Executive Officer to complete the loan application for the Dongara Medical Centre and execute the contract for the sale by offer and acceptance subject to approved finance.

Background:
Council previously resolved at the 5 March 2020 Special Council Meeting to support the Shire acquiring the Dongara Medical Centre at 290 Point Leander Drive, Dongara. To meet statutory requirements to proceed with the acquisition, the Shire in compliance with the Local Government Act 1995, executed the following:

- Local public notice for one month under Section 6.20 (2) (a) of the *Local Government Act 1995*.
- In accordance with Section 3.59 of the *Local Government Act 1995* for a major land transaction:
    - Gave statewide public notice for a period of 6 weeks of its proposal to enter into a major land transaction;
    - Prepared a business plan and made it available during this period;
    - Received one (1) public submission about the proposed transaction at the time this report was prepared. Should any new submissions be received by 28 April 2020, these will be presented to Council at the 29 April 2020 Ordinary Council eMeeting for consideration.

Officer's Comment:
The Shire has met all of its statutory obligations to proceed with the acquisition of the Dongara Medical Centre for $1,450,000 using a WA Treasury Corporation loan over a 20 year period.

The COVID-19 pandemic has not only underscored the importance of this facility within the community during this health crisis, but it has also introduced a new set of decision-making parameters. The minutes from the Special State Council Meeting held 27 March 2020 (Attachment 5) specifically requests that Local Governments consider the following actions, for those with the capacity to do so, to provide a coordinated and consistent response to the COVID-19 pandemic:

- Consider not increasing rates for the 2020-21 financial year
- Bring forward capital works and infrastructure spending with aggressive application of reserves and borrowing

Whilst there is still value in writing to the Minister and lobbying the necessary agencies for approval to charge a flat fee in the notice of rates to negate the need for the percentage rate increase, at this stage during the COVID-19 pandemic, no rate increase will be associated with this acquisition.

During the COVID-19 pandemic, neither corporate contributions or the sale of Shire-owned Kennedy Heights properties are likely to generate revenue to offset the loan.

It is proposed that the Shire does not generate funds from a rate rise to cover either the loan repayments or operating cost expenditure, but uses own-source funding less any pathology rent, WACHS rent and the Federal Assistance Grant component for the provision of medical services.

The Shire will regularly monitor the profitability of the operation and advise Council of any shortfall and the appropriate corrective actions. The costs associated with the corrective actions could be significant.

Consultation:
In accordance with Sections 3.59 and 6.20 of the *Local Government Act 1995*, the Shire advertised the proposed acquisition of the medical centre as per Attachment 2 – Public Advertisement of Proposal to Borrow and Attachment 4 – Public Advertisement of the intention to enter into a Major Land Transaction.

The Act requires a minimum period of one (1) month's local public notice for the proposal to borrow and a minimum of six (6) weeks statewide public notice for the intention to enter into a major land transaction. The Shire advertised the proposal for a period of 44 days – from 14 March to 28 April 2020 – for the major land transaction and for a period of 40 days – from 18 March to 28 April 2020 – for the proposal to borrow.

The Shire advertised in the following publications for the proposal to borrow:
- Dongara Denison Local Rag - 11 March 2020 edition;
- The Midwest Times - 18 March 2020 (Attachment 2)

The Shire advertised in the following publication for the major land transaction:
- The West Australian Newspaper – Saturday 14 March 2020 (Attachment 4)

A total of five (5) submissions have been received. The submissions have been tabled in the Schedule of Submissions (Attachment 3). It is recommended that Council note and receive the public submissions regarding the Shire acquiring the Dongara Medical Centre.

Statutory Environment:
Local Government Act 1995

- **Section 3.59 – Commercial enterprises by local governments**
  (2) Before it —
  (a) commences a major trading undertaking; or
  (b) enters into a major land transaction; or
  (c) enters into a land transaction that is preparatory to entry into a major land transaction, a local government is to prepare a business plan.

  (3) The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —
  (a) its expected effect on the provision of facilities and services by the local government; and

(b) its expected effect on other persons providing facilities and services in the district; and

(c) its expected financial effect on the local government; and

(d) its expected effect on matters referred to in the local government's current plan prepared under section 5.56; and

(e) the ability of the local government to manage the undertaking or the performance of the transaction; and

(f) any other matter prescribed for the purposes of this subsection.

(4) The local government is to —

(a) give Statewide public notice stating that —

(i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and

(ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and

(iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and

(b) make a copy of the business plan available for public inspection in accordance with the notice; and

(c) publish a copy of the business plan on the local government's official website.

(5) After the last day for submissions, the local government is to consider any submissions made and may decide to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed. * Absolute majority required.*

- **Section 6.20 – Power to borrow**

(1) Subject to this Act, a local government may —

(a) borrow or re-borrow money; or

(b) obtain credit; or

(c) arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit, to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.

(2) Where, in any financial year, a local government proposes to exercise a power under subsection (1) (power to borrow) and details of that proposal have not been included in the annual budget for that financial year —

(a) unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and

(b) the resolution to exercise that power is to be by absolute majority.

Local Government (Functions and General) Regulations 1996

- **Regulation 8A – Amount prescribed for major land transactions; exempt land transactions prescribed (Act s. 3.59)**

(1) The amount prescribed for the purposes of the definition of major land transaction in section 3.59(1) of the Act is —

(b) if the land transaction is entered into by any other local government, the amount that is the lesser of —

(i) $2 000 000; or

(ii) 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.

- **Regulation 10 - Business plans for major trading undertaking and major land transaction, content of**

(1) If a local government is required to prepare a business plan because of a major trading undertaking or major land transaction that it is to carry on or enter into jointly with another person —

(a) the business plan is to include details of the whole undertaking or transaction, even though the local government is not the only joint venturer; and

(b) the business plan is to include details of —

(i) the identity of each joint venturer other than the local government; and

(ii) the ownership of, and any other interests in, property that is involved in, or acquired in the course of, the joint venture; and

(iii) any benefit to which a joint venturer other than the local government may become entitled under or as a result of the joint venture; and

(iv) anything to which the local government may become liable under or as a result of the joint venture.

(2) In subregulation (1) —

***joint venture** means the major trading undertaking or major land transaction that is to be jointly carried on or entered into;*

***joint venturer** means the local government or another person with whom the local government is to carry on or enter into the joint venture.*

Policy Implications:
Nil

Risk Implications:
The risk implications were presented to Council at the 5 March 2020 Special Council Meeting Minutes (Attachment 1) and remain unchanged.

Financial/Resource Implications:
2020/21 budget allocation of $95,000 for medical centre loan repayments plus $110,000 for the operating costs, which includes the vehicle and housing subsidy for up to three residential doctors and all settlement costs.

Strategic Implications:
Strategic Community Plan 2017 - 2027
3.1.2 Advocate for retention of existing and enhanced facilities and health and social support services
4.1.3 Maintain effective working relationships with relevant stakeholders

Attachments:
Attachment Booklet – April 2020
Attachment 1 – 5 March 2020 Special Council Meeting Minutes 6 March 2020, Item CEO01-03/20S
Attachment 2 – Public Advertisement of Proposal to Borrow
Attachment 3 – Schedule of Submissions
Attachment 4 – Public Advertisement of Major Land Transaction
Attachment 5 – Special State Council Meeting Minutes 27 March 2020

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 060420:

MOVED: Cr Scott **SECONDED: Cr Leonard**

That Council, by Absolute Majority;

1. **Receives the submissions as listed in the Schedule of Submissions as provided in Attachment Booklet – April 2020;**

2. **Resolves to proceed with the acquisition of the Dongara Medical Centre, 290 Point Leander Drive, Dongara as originally proposed and adopted at the 5 March 2020 Special Council Meeting, on the basis that:**
   a) **the Shire has complied with Section 3.59 (Commercial Enterprises by Local Governments) of the *Local Government Act 1995*; and**
   b) **the Shire has complied with Section 6.20 (Power to Borrow) of the *Local Government Act 1995;***

3. **Authorises the Chief Executive Officer to execute the WA Treasury Corporation loan application for the Dongara Medical Centre, 290 Point Leander Drive, Dongara with a loan value of $1,450,000 over a 20 year period; and**

4. **Authorises the Chief Executive Officer to appoint a Settlement Agent to execute a contract for the sale of the Dongara Medical Centre, 290 Point Leander Drive, Dongara, by offer and acceptance subject to approved finance, including the associated costs of settlement.**

VOTING DETAILS: **Carried by Absolute Majority 8/0**

REGULATORY SERVICES	**RS01 – 04/20**
Subject:	**RS01 - Local Heritage Survey**
Author:	**B Jeans, Manager Regulatory Services**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**3.0356**
Voting Requirements:	**Simple Majority**

Council Role:

☐ **Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.

☐ **Executive** The substantial direction setting and oversight role of the Council e.g. performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

☒ **Legislative** Includes adopting local laws and local planning schemes.

☐ **Review** When Council reviews decisions made by Officers.

☐ **Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:
For Council to support the advertisement of the draft Local Heritage Survey (formerly known as the Municipal Inventory of Heritage Places) and the draft Scheme Heritage List.

Background:
In early 2016 the Shire commenced the review of the existing Municipal Heritage Inventory. Tanya Henkel was appointed as the heritage consultant for the project. The Shire's Municipal Heritage Inventory was last reviewed in 2004.

Heritage Act and Local Heritage Surveys

The *Heritage of Western Australia Act 1990* required all local governments in Western Australia to compile, periodically update and review a Municipal Heritage Inventory (MHI). The MHI is to include a detailed list of all properties considered of significant heritage value, and includes a management category which ranks each property/place in accordance with their level of heritage significance. This usually ranges from Category (A or 1) to (E or 5-7) with Category (A or 1) being the most significant and includes State Heritage Listed properties.

In September 2018 the *Heritage Act of Western Australia 1990* was replaced by the new *Heritage Act 2018*. Under the new Act reference to MHI has been replaced by the term Local Heritage Survey (LHS). In accordance with the new Act, and similar to the previous *Heritage Act of Western Australia 1990*, Local Governments are required to prepare a LHS that captures places that are of cultural heritage significance in the Local Government area.

The *Heritage Act 2018* (The Act) references new guidelines which support the preparation of LHS for a district. Similar to the previous guidelines for the preparation of a MHI, the new LHS are to include the following:

- Criteria for the inclusion of places in the survey;
- Assessment process;
- Process for consultation with interested parties and with the public;

- Process for reviewing and updating the survey, and the frequency of review;
- Processes and mechanisms for making surveys available for the public; and
- Any other matter the Council considers appropriate.

Other changes under The Act and new guidelines are as follows:

- New name – Local Heritage Survey instead of Municipal Heritage Inventory;
- Level of significance - the definitions of each management category remains fundamentally unchanged; however, classifications have been simplified to numbers 1-5 (1 – Exceptional Significance, 2 – Considerable Significance, 3 – Moderate Significance, 4 – Little Significance/Historic, 5 - Archive);
- Date of Survey - the statement on the condition of a place should note the date of the survey on which the information is based; and
- Primary Local Government and Titles - the local government and title information have been included in each Place Record.

Scheme Heritage List

The need for a Local Government to establish a "Heritage List" is separate to the LHS. The intent is to ensure that more significant heritage places identified by the Local Government are afforded additional protection through the *Planning and Development Act 2005* and Local Planning Schemes. Through the establishment of a "Heritage List" via "Deemed Provisions" and its relationship with the Shire's Local Planning Scheme No.5, places contained within the Heritage List are afforded expanded statutory requirements which include the following:

- Requirement for a development application for the demolition of a building(s) on a heritage listed place;
- The lodgement of a development application for single houses that are heritage listed; and
- Through Section 13 of the "Deemed Provisions" - grant Local Government the authority to protect the further deterioration of heritage listed buildings by issue of a Conservation Notice.

Because of the more expansive statutory provisions associated with places listed on a "Heritage List", the places that usually constitute a Local Government "Heritage List" are places that are afforded greater protection reflecting their significance. Typically, a Local Government "Heritage List" includes all heritage places on a LHS that are Management Category (1) (Exceptional Significance), which are often State Heritage Places, and in some cases Category (2) (Considerable Significance) places.

Officer's Comment:
The Heritage Consultant, conducted a very thorough review from 2016 to 2019 of the Shire's existing Municipal Heritage Inventory. In summary the review involved:

- Re-assessment of all 135 existing heritage places;
- Revising the document to align with the changes within the *Heritage Act 2018* and Heritage Regulations 2019;
- Coordinating site visits with landowners to photograph and update details contained in each place record, such as ownership, condition assessment, land/building use, recommended new management categories etc; and
- Addition of one new place (Place Record 136).

On paper it would appear there are significant changes to management categories across most places. These changes are a result of the new management category framework and therefore most places re-categorised have simply been updated to reflect this, and not as a result of increased or diminished heritage significance. The places with recommended management category changes from the 2004 MHI are listed and detailed in the table in Attachment 3.

With regard to the Heritage List, it is proposed to include all Management Category 1 and 2 places for the Local Heritage Survey. As noted above, this will activate the requirement for a development application to be submitted prior to any work being carried out, which will facilitate consideration of heritage matters.

Consultation:
The Heritage Consultant met and liaised with many landowners during the review and update of place records between 2016 and 2019. This transparent process should assist with the statutory public consultation detailed below.
Under the new *Heritage Act 2018*, Local Governments are required to appropriately advertise the LHS to ensure community engagement and feedback is provided. The Heritage Act does not specify the level of engagement required. The draft guidelines for preparing a LHS highlights the need for consultation but also do not specify timeframes for engagement. Accordingly, the timeframe for advertising of the LHS is to be undertaken at the Shire's discretion.

It is proposed to carry out the following consultation methods:
- Two public notices (one on commencement and one mid-way through the period) in the local newspaper;
- Shire website and Facebook media releases;
- Letters direct to landowners of places listed in the LHS and/or Heritage List; and
- Referral to the Heritage Council WA, Department of Planning, Lands and Heritage and the Irwin District Historical Society for feedback and advice.

It is proposed to carry out this consultation over a 42-day period.

Statutory Environment:
Heritage Act 2018

Part 8 of the Act sets the purpose and requirements of a Local Heritage Survey:

102. Term used: local heritage survey
In this Part —
local heritage survey *means a survey prepared under section 103(1).*

103. Local heritage survey
(1) A local government must prepare a survey of places in its district that in its opinion are, or may become, of cultural heritage significance.
(2) In preparing, or reviewing and updating, a local heritage survey, a local government must have regard to —
(a) the purposes set out in section 104; and
(b) guidelines published under section 105.
(3) Nothing in subsection (2) —
(a) derogates from the duty of the local government to exercise its discretion in a particular case; or
(b) precludes the local government from taking into account matters not set out in the guidelines.
(4) After preparing a local heritage survey, or reviewing and updating, a local heritage survey, a local government must —
(a) provide the Council with a copy of the local heritage survey; and
(b) make the local heritage survey available to the public.

104. Purposes of local heritage survey
The purposes of a local heritage survey by a local government include —
(a) identifying and recording places that are, or may become, of cultural heritage significance in its district; and
(b) assisting the local government in making and implementing decisions that are in harmony with cultural heritage values; and
(c) providing a cultural and historical record of its district; and
(d) providing an accessible public record of places of cultural heritage significance to its district; and
(e) assisting the local government in preparing a heritage list or list of heritage areas under a local planning scheme.

105. Guidelines for local heritage surveys

(1) The Council must issue guidelines about the preparation, review and periodic updating of local heritage surveys, including guidelines about the following —

(a) criteria for the inclusion of places in the survey;
(b) assessment processes;
(c) processes for consultation with interested parties and with the public;
(d) processes for reviewing and updating the survey, and the frequency of reviews;
(e) processes and mechanisms for making surveys available to the public;
(f) any other matter the Council considers appropriate.

(2) The guidelines must be published in the prescribed way.
(3) The Council may amend or revoke the guidelines.
(4) An amendment or revocation under subsection (3) must be published in the prescribed way.
(5) The guidelines are not subsidiary legislation for the purposes of the Interpretation Act 1984.

Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2 Part 3 of the Regulations sets out provisions relating to heritage protection and the requirement for local governments to establish and maintain a Heritage List.

7 . Terms used

In this Part —
***heritage area** means an area designated as a heritage area under clause 9;*
***heritage list** means a heritage list established under clause 8(1);*
***place** has the meaning given in the Heritage of Western Australia Act 1990 section 3(1).*
Note:
The purpose of this Part is to provide for the identification of places and areas of heritage value so that development in the Scheme can, as far as possible, be consistent with the conservation of heritage values.

8 . Heritage list

(1) The local government must establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.

(2) The heritage list —

(a) must set out a description of each place and the reason for its entry in the heritage list; and
(b) must be available, with the Scheme documents, for public inspection during business hours at the offices of the local government; and
(c) may be published on the website of the local government.

(3) The local government must not enter a place in, or remove a place from, the heritage list or modify the entry of a place in the heritage list unless the local government —

(a) notifies in writing each owner and occupier of the place and provides each of them with a description of the place and the reasons for the proposed entry; and
(b) invites each owner and occupier to make submissions on the proposal within 21 days of the day on which the notice is served or within a longer period specified in the notice; and
(c) carries out any other consultation the local government considers appropriate; and
(d) following any consultation and consideration of the submissions made on the proposal, resolves that the place be entered in the heritage list with or without modification, or that the place be removed from the heritage list.

(4) If the local government enters a place in the heritage list or modifies an entry of a place in the heritage list the local government must give notice of the entry or modification to —

(a) the Heritage Council of Western Australia; and
(b) each owner and occupier of the place.

Policy Implications:
Nil

Financial/Resource Implications:
The review of the Municipal Heritage Inventory to the extent of a draft document was budgeted and contracted to a Heritage Consultant from 2016 to 2019.

The advertisement process would incur some costs to the Shire. However, the cost will be absorbed within standard advertising costs.

Strategic Implications:
Strategic Community Plan 2017 - 2027
Strategy 3.2.1 Recognise places of cultural and heritage value

Attachments:
Attachment Booklet – Item RS01-04/20
RS01-04/20 Attachment 1 – Draft Local Heritage Survey

Attachment Booklet – April 2020
RS01-04/20 Attachment 2 – Draft Heritage List
RS01-04/20 Attachment 3 – Table of Management Category Changes

Officer Recommendation:

OFFICER RECOMMENDATION AND COUNCIL DECISION 070420:

MOVED: Cr Eva **SECONDED: Cr Wyse**

That Council authorises the Chief Executive Officer to:

1. **Advertise the draft Local Heritage Survey, provided as Attachment 1, for a period of 42 days;**

2. **Refer the draft Local Heritage Survey, provided as Attachment 1, to the Heritage Council WA for comment; and**

3. **Notify relevant affected landowners of the draft Scheme Heritage List, provided as Attachment 2, during the advertising period carried out as per point 1. of this recommendation.**

VOTING DETAILS: **Carried 8/0**

Cr Gillam ceased video contact at 6.17pm and re-joined with video at 6.18pm.

The Shire President paused the meeting during this time.

9.2. Committee Reports

9.2.1. Shire of Irwin Local Emergency Management Committee (LEMC)

The Minutes of the Shire of Irwin Local Emergency Management Committee (LEMC) meetings held 19 March 2020 and 7 April 2020 are provided as Attachment 9.2.1 in Attachment Booklet – April 2020.

COUNCIL DECISION 080420:	
MOVED: Cr Wyse	**SECONDED: Cr Leonard**
That Council accepts the minutes of the Shire of Irwin Local Emergency Management Committee Meetings held 19 March 2020 and 7 April 2020, provided in Attachment Booklet – March 2020.	
VOTING DETAILS:	**Carried 8/0**

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

Nil.

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

Nil.

14. CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 6.19pm.

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