



**MINUTES**

of the

**Ordinary Council Meeting**

held

**Tuesday 8 December, 2020**

in the

**Council Chambers**  
11-13 Waldeck Street, Dongara

I certify that this copy of the Minutes is a true and correct record of the meeting held on  
Tuesday 8 December 2020

Signed: .....  
Presiding Elected Member

Date: 23/2/21 .....

## Disclaimer

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

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

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

Shane Ivers  
**CHIEF EXECUTIVE OFFICER**

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# ORDINARY COUNCIL MEETING

held

**Tuesday 8 December, 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  
Councillor B Wyse  
Councillor G S Eva  
Councillor A J Gillam  
Councillor M Leonard  
Councillor I Scott  
Councillor H M Wells  
Councillor I F West

Shire President  
Deputy Shire President

#### **Staff**

Mr S D Ivers  
Mr P Traylen  
Mrs D K Chandler  
Mr B Jeans  
Mrs J Goodbourn  
Ms S J Clarkson  
Ms N A M'Leane

Chief Executive Officer  
Acting Manager Infrastructure & Development  
Acting Manager Corporate & Community  
Manager Development  
Senior Finance Officer  
Acting Senior Finance Officer  
Development & Executive Officer

#### **Approved Leave of Absence**

Nil.

#### **Apologies**

Nil.

#### **Gallery**

J Arden – Premier Circle, Dongara  
R Murray – Ocean Drive, Port Denison

### **3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

### **4. PUBLIC QUESTION TIME**

Nil.

### **5. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

## 6. PETITIONS AND DEPUTATIONS

The Chief Executive Officer received a request to from Robert Galluccio, owner of the Dongara Hotel Motel to be received as a deputation on Friday 5 December, 2020 with regards to item ID02-12/20 Shared Parking Arrangement – Dongara Hotel Site.

The request was approved by the Shire President and Chief Executive Officer.

Mr Galluccio presented to Council via Webex link. The main purpose of Mr Galluccio's deputation was to express his appreciation to Council considering the proposal as well as raising some concerns with monitoring carpark usage.

## 7. CONFIRMATION OF MINUTES

### 7.1. Minutes of the Ordinary Council Meeting held 24 November 2020

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

COUNCIL DECISION 011220:	
<b>MOVED: Cr Wyse</b>	<b>SECONDED: Cr Eva</b>
That the Minutes of the Ordinary Council Meeting, held 24 November 2020, as previously circulated, be adopted as a true and accurate recording of that meeting.	
<b>VOTING DETAILS:</b>	<b>Carried 8/0</b>

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

### **Functions, Meetings & Events**

23 November 2020	Attended the Northern Country Zone of WALGA meeting in Mingenew with Cr West and the CEO
26 November 2020	Met with the City of Greater Geraldton Mayor Shane Van Styn and CEO Ross McKim to discuss the proposed freight corridor
02 December 2020	Attended and presided over the Shire of Irwin Local Emergency Management Committee Meeting
04 December 2020	Attended the Shire of Irwin Christmas Dinner at the Irwin Recreation Centre
07 December 2020	Attended an announcement with the CEO by the Hon. Laurie Graham MLC and the Hon. Darren West MLC at the Dongara Denison Bowling and Recreation Club. The Club has been successful in securing a grant for synthetic turf bowling greens.

## 9. REPORTS

CORPORATE AND COMMUNITY		CC01-12/20
Subject:	CC01-12/20 Accounts for Payment	
Author:	S Clarkson, A/Senior Finance Officer	
Responsible Officer:	D Chandler, A/Manager Corporate & 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 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 November 2020.

### Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of November 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 CEO101 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 – December 2020*

CC01-12/20 Attachment 1: Accounts for Payment – November 2020

**Officer Recommendation:**

**OFFICER RECOMMENDATION AND COUNCIL DECISION 021220:**

**MOVED: Cr Leonard**

**SECONDED: Cr Gillam**

**That Council, receives the Accounts paid during November 2020 as presented in Attachment Booklet – December 2020, represented by:**

<b>Payment Type/Numbers</b>	<b>Total Amount</b>
<b>EFT 26608 – 26723</b>	<b>\$335,329.29</b>
<b>Muni Cheques – 32014 – 32019</b>	<b>\$49,923.46</b>
<b>Direct Debit – Telstra</b>	<b>\$1,862.85</b>
<b>Direct Debit – WA Treasury Corporation</b>	<b>\$65,350.56</b>
<b>Direct Debit – Solar Panel Repayments 11/20</b>	<b>\$1,947.66</b>
<b>Direct Debit – Insurance Premiums Repayment</b>	<b>\$28,344.32</b>
<b>Direct Debit – Credit Card</b>	<b>\$2,147.83</b>
<b>Direct Debit – Superannuation</b>	<b>\$14,549.94</b>
<b>Grand Total</b>	<b>\$499,455.91</b>

**VOTING DETAILS:**

**Carried 8/0**

CORPORATE AND COMMUNITY		CC02-12/20
Subject:	CC02-12/20 Monthly Financial Statements for the Period Ended 30 November 2020	
Author:	J Goodbourn, Senior Finance Officer	
Responsible Officer:	D Chandler, A/Manager Corporate & Community	
File Reference:	Minute Book	
Voting Requirements:	Simple Majority	

#### Council Role:

- ☐ **Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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- ☐ **Review** When Council reviews decisions made by Officers.
- ☐ **Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building 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 2020 to 30 November 2020.

#### Background:

The Monthly Financial Statements to 30 June 2021 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 November 2020 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

30/11/2020			YTD Actual	Variance to YTD Budget
	Operating Revenue		6,934,118	101%
	Operating Expenditure		(4,578,436)	101%
	Net Operating		2,355,682	
	Non-Operating Revenue		996,708	52%
	Non-Operating Expenditure		(1,005,026)	42%
	Net Non-Operating		(8,318)	
	Cash at Bank		5,194,261	
	Cash at Bank Restricted		563,644	
	Reserve Bank		1,295,608	
	Total Cash Funds		7,053,513	

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 – December 2020*

CC02-12/20 Attachment 1: Financial Statements for the Period Ended 30 November 2020

**Officer Recommendation:**

**OFFICER RECOMMENDATION AND COUNCIL DECISION 031220:**

**MOVED: Cr West**

**SECONDED: Cr Eva**

**That Council receives the Monthly Financial Statements for the period 1 July 2020 to 30 November 2020 as provided in Attachment Booklet – December 2020.**

**VOTING DETAILS:**

**Carried 8/0**

CORPORATE AND COMMUNITY		CEO01-12/20
Subject:	CEO01-12/20 Shire of Irwin Corporate Business Plan 2020-2024	
Author:	D Chandler, A/Manager Corporate & Community	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0062 Corporate Business Plan 2020	
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.
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#### Report Purpose:

For Council to consider adopting the Shire of Irwin Corporate Business Plan 2020-2024.

#### Background:

The *Local Government (Administration) Regulations 1996* requires local governments to adopt a Strategic Community Plan and a Corporate Business Plan. Council adopted the Strategic Community Plan 2017-2027 in June 2017 and towards the end of 2018, it was identified that a Corporate Business Plan in line with this Strategic Community Plan had not yet been adopted.

Given the mandate by Council to reduce employee costs through a restructure in late 2018, development of the Corporate Business Plan was put on hold. The recommended structure through this process was also put on hold due to the COVID-19 pandemic. At the commencement of 2020/21, the Shire has been in a better position, with the recommended structure almost in place, to develop the Corporate Business Plan.

In accordance with S7.12A (4) (5) of the *Local Government Act 1995*, the Shire submitted a report to the Office of the Auditor General addressing matters identified as significant and stating what action the Shire intends to take with respect to those matters. In the 2018/19 Performance Audit Report, the Shire included a recommended action to adopt a Corporate Business Plan by December 2020 to demonstrate the alignment of the Long Term Financial Plan 2018-2028 to the 2017-2027 Strategic Community Plan.

At the 25 August 2020 Ordinary Council Meeting, Council resolved, by absolute majority, to amend the 2020/21 Annual Budget to include an allocation to sole source *Localise* for the development of the Shire of Irwin Corporate Business Plan.

A Councillor workshop was held on Wednesday 23 September 2020 with both Councillors and relevant staff and was facilitated by the Localise consultant. This interactive workshop identified the key challenges and four year priorities for the Shire.

A second Councillor workshop was held on Wednesday 25 November 2020 to present the draft Corporate Business Plan. This workshop identified some adjustments to the plan and provided clarity around the implementation of the plan and ongoing review.

**Officer's Comment:**

A successful integrated planning and reporting process will deliver the following outcomes:

- a Strategic Community Plan that clearly links the community's aspirations with the Council's vision and long term strategy;
- a Corporate Business Plan that integrates resourcing plans and specific Council plans with the Strategic Community Plan; and
- a clearly stated vision for the future viability of the local government area.

The Shire of Irwin Corporate Business Plan 2020-2024 is now being presented to Council for adoption. Once adopted, the Corporate Business Plan will be made available to the community on the Shire of Irwin website and for staff on the Shire of Irwin intranet.

In accordance with the *Local Government (Administration) Regulations 1996*, Regulation 19DA, the Corporate Business Plan will be reviewed annually, however the first revision will occur straight after the review of the Strategic Community Plan proposed to commence in early 2021.

**Consultation:**

Given the importance of these overarching strategic plans that give the Shire of Irwin a framework for establishing local priorities that link to operational functions, the Shire engaged Localise, a consulting company with knowledge and experience in all aspects of the Integrated Planning & Reporting (IPR) framework.

Sybille Rodgers, Strategy Officer with the Department of Local Government, Sport & Cultural Industries has been kept informed of the Shire's progress with the Corporate Business Plan and will be notified as soon as the plan is adopted and made available on the Shire of Irwin website.

**Statutory Environment:**

*Local Government Act 1995*

- Section 5.56 Planning for the future
- Section 7.12A Duties of local government with respect to audits

*Local Government (Administration) Regulations 1996*

- Regulation 19DA Corporate business plans, requirements for

**Policy Implications:**

Nil.

**Financial/Resource Implications:**

The development of the Corporate Business Plan is included in the 2020/21 Annual Budget as per Council's resolution by absolute majority at the 25 August 2020 Ordinary Council Meeting.

**Strategic Implications:**

Strategic Community Plan 2017 – 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Strategy 4.2.2 Embrace the Integrated Planning and Reporting framework

**Attachments:**

*Attachment Booklet – Corporate Business Plan*

CEO01-12/20 Attachment 1: Shire of Irwin Corporate Business Plan 2020-2024

**Officer Recommendation:**

**COUNCIL DECISION 041220:**

**MOVED: Cr West**

**SECONDED: Cr Scott**

**That Council, by Absolute Majority, adopt the Shire of Irwin Corporate Business Plan 2020-2024 as presented in Attachment Booklet – Corporate Business Plan.**

**VOTING DETAILS:**

**Carried by Absolute Majority 8/0**

OFFICE OF THE CEO		CEO02-12/20
Subject:	CEO02-12/20 Strategic Community Plan & Revisions to Corporate Business Plan – Sole Sourcing	
Author:	D Chandler, A/Manager Corporate & Community	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0066 Strategic Community Plan 2020	
Voting Requirements:	Absolute Majority	

### Council Role:

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### Report Purpose:

For Council to consider sole sourcing Localise to facilitate the review of the Shire's Strategic Community Plan (SCP) and associated revisions to the Corporate Business Plan (CBP).

For Council to consider adopting a process for the review of the Shire's Strategic Community Plan and Corporate Business Plan revisions.

### Background:

The *Local Government (Administration) Regulations 1996* requires local governments to adopt a Strategic Community Plan and a Corporate Business Plan. The Shire's Strategic Community Plan 2017-2027 was adopted in June 2017.

The Shire engaged Localise to develop the Corporate Business Plan which was presented for adoption at this meeting. The Shire is now compliant with the 31 December 2020 deadline in accordance with the 2018/19 Performance Audit Report. To continue the streamlined, professional service provided by Localise, it is recommended to continue to engage Localise to ensure alignment of the Shire's integrated planning suite and effective implementation.

### Officer's Comment:

Under the current declared State of Emergency, purchasing below \$250,000 is governed by Council Policy CP20 Purchasing. Council Policy CP20 Purchasing stipulates criteria such as value for money and purchasing thresholds.

Engaging Localise for the review of the Strategic Community Plan and associated revision to the Corporate Business Plan is value for money even though this criteria is not explicitly stipulated in Council Policy CP20 Purchasing, as engaging Localise ensures consistency of the development of the Shire's integrated planning suite.

It is recommended that Council supports the continuity of this work by authorising the sole sourcing of Localise to the value of \$69,000 excluding GST. This purchasing value normally requires three written quotes.

A successful integrated planning and reporting process will deliver the following outcomes:

- a Strategic Community Plan that clearly links the community's aspirations with the Council's vision and long term strategy;
- a Corporate Business Plan that integrates resourcing plans and specific Council plans with the Strategic Community Plan; and
- a clearly stated vision for the future viability of the local government area.

To allow effective cohesion of all aspects of the Shire's integrated planning suite, Localise has proposed a streamlined process to effectively engage with the community and make the necessary revisions to the Strategic Community Plan and Corporate Business Plan. The following elements of the process are explained in detail:

#### Community engagement

The Community engagement program aims to refresh the Community Vision, such that it resonates and is owned by the Shire of Irwin community. The program will also gather community input into the 10 year and 4 year priorities (building on recent work on the Corporate Business Plan).

It is proposed that Council will review the proposed detail of the program in a February 2021 workshop, prior to the engagement starting in late February 2021.

It is important to incorporate a 'willingness to pay' element to the prioritisation questions, to avoid the common problem of generating a wish list. A wish list is what the community would like to have in the absence of any resource constraints.

It is intended to include items that are relevant to the Local Planning Strategy (LPS) review. There are good synergies between the LPS and SCP. It is an advantage to be able to synchronise the two reviews. In particular, the alignment of vision, values and aspirations, and the use of common assumptions such as population projections, enables a more integrated approach across services, infrastructure and land use planning. This will also ensure a seamless engagement experience for the community.

The engagement will involve a mixture of the following methods, detailed below:

- Community survey
- Face to face community workshops and/or drop-ins
- Community leaders' workshop

#### Community survey

A statistically valid survey of residents aged 16+ in the Shire of Irwin is proposed to be conducted by Key Research by telephone in February/March 2021, with a sample size of 200, representative of the demographics of the community. This will enable the Shire to capture a baseline of community perceptions for use in the development of the current review and then to subsequently monitor changes and trends over time as the plans are implemented. The exact questions are yet to be determined, but will include items such as:

- Factors that make Irwin and its localities special to the community
- Long term aspirations
- Relative importance of, and satisfaction with, services and facilities
- Activities that residents view as being the most important shorter term priorities
- Willingness to pay for desired improvements

#### Community workshops and/or drop-ins

It is planned to hold two community workshops or drop-ins. The activities will be highly engaging and interactive. The methods will ensure that everyone has a say, even the quiet ones. The detailed design will be completed over January.

### Community leaders' workshop

The process will include engagement with and via key community leaders across sport, culture and the arts, business, and community welfare. This group would engage across the strategic issues facing the community and have the ability to identify relevant community activity and any untapped potential for collaboration (within the community and between the community and the Shire).

The strongest SCPs have a broad ownership in the community, with a sense that the community is pulling together with a common vision and direction. No Shire can achieve the community vision on its own – strong partnerships across the community and between the Shire and community are critical success factors. Communities are at their weakest when over-reliant on the Shire and/or divided by different ideas about direction.

### SCP (and CBP revisions) guidance workshop

It will be critical to check back in with Council once the community engagement is complete, to seek guidance on the implications for the content of the plans (SCP and consequential revisions to the CBP). This part of the process will ensure that when the plans are being drafted, they are on track and will not require significant rework when it is too late in the project.

### Report back to the community

This is also the natural point to report the findings to the community. It is proposed to hold two summit workshops to present and discuss the engagement findings. Councillors could give their perspective on what they have heard and taken on board – this is far more meaningful for the community than hearing what the consultant thinks.

### Draft SCP and Revised Draft CBP

There will be a draft and final version of both the SCP and the revised CBP. A Council workshop will be held on the draft versions, prior to a short period of community consultation on the draft SCP.

### **Consultation:**

By adopting the process proposed by Localise, the Shire will meet strategic objectives of effective and collaborative community engagement.

### **Statutory Environment:**

#### *Local Government Act 1995*

- Section 5.56 Planning for the future
- Section 7.12A Duties of local government with respect to audits

#### *Local Government Act 1995*

### **3.57. Tenders for providing goods or services**

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

#### *Local Government (Function and General) Regulations 1996*

### **11A. Purchasing policies for local governments**

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.
- (2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).
- (3) A purchasing policy must make provision in respect of —
  - (a) the form of quotations acceptable; and

- (ba) the minimum number of oral quotations and written quotations that must be obtained; and
- (b) the recording and retention of written information, or documents, in respect of
  - (i) all quotations received; and
  - (ii) all purchases made.

*Local Government (Function and General) Regulations 1996*

**11. When tenders have to be publicly invited**

- (1A) In this regulation —  
***state of emergency declaration*** has the meaning given in the *Emergency Management Act 2005* section 3.
- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
  - (a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or
  - (aa) the supply of the goods or services is associated with a state of emergency; or
  - (b) the supply of the goods or services is to be obtained through the WALGA referred Supplier Program; or
  - [(ba) deleted]
  - (c) within the last 6 months —
    - (i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or
    - (ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;
- or
- (d) the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government; or
- (e) the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or
- (ea) the goods or services are to be supplied —
  - (i) in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and (ii) by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;
- or
- (f) the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or
- (g) the goods to be supplied under the contract are —
  - (i) petrol or oil; or

(ii) any other liquid, or any gas, used for internal combustion engines;

or

(h) the following apply —

(i) the goods or services are to be supplied by —

(I) a person registered on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia Limited ABN 96 929 977 985; or

(II) a person registered with the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) ABN 50 134 720 362;

and

(ii) the consideration under the contract is \$250 000 or less, or worth \$250 000 or less; and

(iii) the local government is satisfied that the contract represents value for money;

or

(i) the goods or services are to be supplied by an Australian Disability Enterprise; or

(j) the contract is a renewal or extension of the term of a contract (the original contract) where —

(i) the original contract was entered into after the local government, according to the requirements of this Division, publicly invited tenders for the supply of goods or services; and

(ii) the invitation for tenders contained provision for the renewal or extension of a contract entered into with a successful tenderer; and

(iii) the original contract contains an option to renew or extend its term; and

(iv) the supplier's tender included a requirement for such an option and specified the consideration payable, or the method by which the consideration is to be calculated, if the option were exercised;

or

(ja) the contract is a renewal or extension of the term of a contract (the original contract) where —

(i) the original contract is to expire within 3 months;

and

(ii) the renewal or extension is for a term of not more than 12 months from the expiry of the original contract; and

(iii) the contract for renewal or extension is entered into at a time when there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;

or

(k) the goods or services are to be supplied by a pre-qualified supplier under Division 3.

(3) For the purposes of subregulation (2)(aa) a supply of goods or services is associated with a state of emergency if —

(a) the contract for the supply is entered into while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;

and

(b) the local government considers that the goods or services are required for the purposes of addressing a need arising from the hazard, or from the impact

or consequences of the hazard, to which the state of emergency declaration relates.

*Local Government (Function and General) Regulations 1996*

**12. Anti-avoidance provision for r. 11(1)**

- (1) This regulation applies if a local government intends to enter into 2 or more contracts (the contracts) in circumstances such that the desire to avoid the requirements of regulation 11(1) is a significant reason for not dealing with the matter in a single contract.
- (2) If this regulation applies, tenders are to be publicly invited according to the requirements of this Division before the local government enters into any of the contracts regardless of the consideration.

*CEO100 Tenders for Goods and Services – (Amended for a declared State of Emergency)*

**Condition a**

- a. Sole supplier arrangements may only be approved where a record is retained that evidences:
  - i. A detailed specification;
  - ii. The outcomes of market testing of the specification;
  - iii. The reasons why market testing has not met the requirements of the specification; and
  - iv. Rationale for why the supply is unique and cannot be sources through other suppliers;

**Policy Implications:**

- CP01 Localised Purchasing (Regional Price Preference Policy)
- CP20 Purchasing – Amended for a declared State of Emergency

**Financial/Resource Implications:**

This expenditure of \$69,000 excluding GST was approved as part of the CC03-10/20 Budget Review 2020/21 review process by Council Decision 041020 on 27 October 2020. Referring to item CC03-10/20 Attachment 1: Budget Review – Final in *Attachment Booklet – October 2020*, this item was listed under the Operating Expenditure particular “*Strategic Community Plan Consultancy*” for an amount of \$69,000.

**Strategic Implications:**

Strategic Community Plan 2017 – 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Strategy 4.2.2 Embrace the Integrated Planning and Reporting framework

**Attachments:**

Nil.

**Officer Recommendation:**

**OFFICER RECOMMENDATION AND COUNCIL DECISION 051220:**

**MOVED: Cr Scott**

**SECONDED: Cr Leonard**

**That Council, by Absolute Majority, authorises the Chief Executive Officer to execute a sole source purchase order with Localise to the value of \$69,000 excluding GST to progress with the Strategic Community Plan review and Corporate Business Plan revisions.**

**VOTING DETAILS:**

**Carried by Absolute Majority 8/0**

**OFFICER RECOMMENDATION AND COUNCIL DECISION 061220:**

**MOVED: Cr Wyse**

**SECONDED: Cr Leonard**

**That Council adopts the following process for the Strategic Community Plan (SCP) and Corporate Business Plan (CBP) to enable the Chief Executive Officer to make appropriate arrangements:**

- 1. Council SCP engagement workshop: Early-mid February 2021**
- 2. Conduct a statistically valid community survey: February-March 2021**
- 3. Design, prepare and facilitate two community workshops/drop-ins: February-March 2021**
- 4. Design, prepare and facilitate a community leaders' workshop: February-March 2021**
- 5. Council SCP and CBP revisions guidance workshop: Late March 2021**
- 6. Design, prepare and facilitate two community summit workshops: Early April 2021**
- 7. Council draft SCP and revisions to CBP workshop: Late April 2021**
- 8. Release draft SCP for 2-3 week submission period: May 2021**
- 9. Finalise plans and adoption by Council: Late June 2021**

**VOTING DETAILS:**

**Carried 8/0**

OFFICE OF CEO		CEO03-12/20
Subject:	CEO03-12/20 North of Surf Beach Sand Stabilisation - Sole Sourcing	
Author:	S Ivers, Chief Executive Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00157	
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:

That Council considers sole sourcing In-Situ Construction and Maintenance to extend northwards the existing sand stabilisation work done at Surf Beach in July 2019 for a further 150 metres.

#### Background:

In-Situ Construction and Maintenance (ICM) completed sand stabilisation work at Surf Beach in July 2019, which successfully endured the May 2020 severe storm event. Based on the success of the work to date, it is proposed to extend the stabilisation work another 150 metres north of Surf Beach. This section of coastline was severely damaged in the May 2020 severe storm event and is perhaps only one storm event away from impacting Ocean Drive road and associated infrastructure.

Under the Local Roads and Community Infrastructure (LRCI) Program, the Federal Government wrote to the Shire 30 October 2020 following the 2020-21 Federal Budget, where they committed to partner with local governments as local governments play a critical role as part of the national recovery from the COVID-19 pandemic, delivering local jobs, through local projects. As the closest tier of government to the people it serves, local governments remain an essential support for communities across Australia, helping them through this downturn and planning for the recovery. Under the initial funding available through the LRCI Program, local government areas such as Irwin have identified more than 2,200 projects, providing opportunities and support for local jobs, firms and procurement in all areas of the nation. The LRCI Program Extension will continue to assist local governments to deliver local road and community infrastructure projects, as well as create local job opportunities particularly where employment in other sectors has been negatively impacted. Under the LRCI Program Extension, Shire of Irwin will receive an additional funding allocation of \$261,054. This funding will be available from 1 January 2021, with the Program being extended until the end of 2021. Program Guidelines and Grant Agreements are currently being drafted and will be provided in the coming weeks.

#### Officer's Comment:

Under the current declared State of Emergency, purchasing below \$250,000 is governed by Council Policy CP20 Purchasing. Council Policy CP20 Purchasing stipulates criteria such as value for money and purchasing thresholds.

It is recommended that Council supports the continuity of this concept development work by authorising the sole sourcing of In-Situ Construction and Maintenance to the value of \$247,265 excluding GST. This purchasing value normally requires three written quotes. It is proposed to use the LRCI Program Extension to fund these works.

**Consultation:**

Nil.

**Statutory Environment:**

*Local Government Act 1995*

**3.57. Tenders for providing goods or services**

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

*Local Government (Function and General) Regulations 1996*

**11A. Purchasing policies for local governments**

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.
- (2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).
- (3) A purchasing policy must make provision in respect of —
  - (a) the form of quotations acceptable; and
  - (ba) the minimum number of oral quotations and written quotations that must be obtained; and
  - (b) the recording and retention of written information, or documents, in respect of
    - (i) all quotations received; and
    - (ii) all purchases made.

*Local Government (Function and General) Regulations 1996*

**11. When tenders have to be publicly invited**

- (1A) In this regulation —

**state of emergency declaration** has the meaning given in the *Emergency Management Act 2005* section 3.
- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
  - (a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or
  - (aa) the supply of the goods or services is associated with a state of emergency; or
  - (b) the supply of the goods or services is to be obtained through the WALGA referred Supplier Program; or
  - [(ba) deleted]
  - (c) within the last 6 months —

- (i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or
- (ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;

or

- (d) the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government; or
- (e) the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or
- (ea) the goods or services are to be supplied —
  - (i) in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and (ii) by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;

or

- (f) the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or
- (g) the goods to be supplied under the contract are —
  - (i) petrol or oil; or
  - (ii) any other liquid, or any gas, used for internal combustion engines;

or

- (h) the following apply —
  - (i) the goods or services are to be supplied by —
    - (I) a person registered on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia Limited ABN 96 929 977 985; or
    - (II) a person registered with the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) ABN 50 134 720 362;
- and
- (ii) the consideration under the contract is \$250 000 or less, or worth \$250 000 or less; and
- (iii) the local government is satisfied that the contract represents value for money;

or

- (i) the goods or services are to be supplied by an Australian Disability Enterprise; or
- (j) the contract is a renewal or extension of the term of a contract (the original contract) where —
  - (i) the original contract was entered into after the local government, according to the requirements of this Division, publicly invited tenders for the supply of goods or services; and
  - (ii) the invitation for tenders contained provision for the renewal or extension of a contract entered into with a successful tenderer; and

- (iii) the original contract contains an option to renew or extend its term; and
- (iv) the supplier's tender included a requirement for such an option and specified the consideration payable, or the method by which the consideration is to be calculated, if the option were exercised;

or

(ja) the contract is a renewal or extension of the term of a contract (the original contract) where —

- (i) the original contract is to expire within 3 months;
- and
- (ii) the renewal or extension is for a term of not more than 12 months from the expiry of the original contract; and
- (iii) the contract for renewal or extension is entered into at a time when there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;

or

(k) the goods or services are to be supplied by a pre-qualified supplier under Division 3.

- (3) For the purposes of subregulation (2)(aa) a supply of goods or services is associated with a state of emergency if —
  - (a) the contract for the supply is entered into while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;
  - and
  - (b) the local government considers that the goods or services are required for the purposes of addressing a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates.

#### *Local Government (Function and General) Regulations 1996*

#### **12. Anti-avoidance provision for r. 11(1)**

- (1) This regulation applies if a local government intends to enter into 2 or more contracts (the contracts) in circumstances such that the desire to avoid the requirements of regulation 11(1) is a significant reason for not dealing with the matter in a single contract.
- (2) If this regulation applies, tenders are to be publicly invited according to the requirements of this Division before the local government enters into any of the contracts regardless of the consideration.

#### *CEO100 Tenders for Goods and Services – (Amended for a declared State of Emergency)*

##### **Condition a**

- a. Sole supplier arrangements may only be approved where a record is retained that evidences:
  - i. A detailed specification;
  - ii. The outcomes of market testing of the specification;
  - iii. The reasons why market testing has not met the requirements of the specification; and
  - iv. Rationale for why the supply is unique and cannot be sourced through other suppliers;

##### **Policy Implications:**

- CP01 Localised Purchasing (Regional Price Preference Policy)
- CP20 Purchasing – Amended for a declared State of Emergency:

## VALUE FOR MONEY

*Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the Shire of Irwin. It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, risk factors, sustainability, life cycle costing, and service benchmarks.*

*An assessment of the best value for money outcome for any purchasing should consider:*

- *all relevant costs and benefits, whole-of-life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;*
- *the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;*
- *capacity of supplier to supply goods/services within a required timeframe;*
- *financial viability and capacity to supply without risk of default. (Competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);*
- *a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable;*
- *the safety requirements associated with both the product design and specification offered by suppliers; and*
- *evaluation of risk when considering purchasing goods and services from suppliers.*

*Where a higher priced conforming offer is recommended, there should be clear and demonstrable benefits over and above the lowest total priced, conforming offer.*

## PURCHASING THRESHOLDS

*In determining the purchasing value, the following considerations are to be taken into account:*

- *All values are exclusive of the Goods and Services Tax (GST).*
- *The actual or expected value of the contract over the full contract period (including options to extend).*

Amount of Purchase	Model Policy
Up to \$5,000	Corporate credit card may be used as per MP01 Corporate Credit Card. Obtain at least one (1) verbal or written quotation. May include a RFQ and detailed specification as required.
\$5,001 - \$29,999	Corporate credit card may be used as per MP01 Corporate Credit Card. Obtain at least two (2) verbal or written quotations. May include a RFQ and detailed specification as required.
\$30,000 – \$49,999	Obtain at least two (2) written quotations. Recommend completion of a RFQ, detailed specification and evaluation.
\$50,000 - <b>\$249,999</b>	Obtain at least three (3) written quotations. RFQ, detailed specification and evaluation is required. Public Tender options at the CEO's discretion.
<b>\$250,000</b> and above	Conduct a public request for tender process or purchase through a tender-exempt arrangement.
Emergency purchases (not included in the budget)	Only applicable where authorised in advance by the President in accordance with s.6.8 of the Local Government Act 1995 and reported to the next ordinary Council meeting.
WALGA Preferred Supplier	The purchasing thresholds apply. For values over \$150,000 (tender exempt)

Program (PSP)	three (3) written quotations are required. RFQ, detailed specification and evaluation is required.
WALGA Services (excluding Preferred Supplier Program)	For the purchasing of WALGA Services, a minimum of two (2) written quotations is to be obtained and appropriately recorded. Confirmed via Purchase Order or Contract/Agreement.
LGIS Services	For the purchasing of LGIS Services, a minimum of one (1) written quotation is to be obtained and appropriately recorded. Confirmed via Purchase Order or Contract/Agreement.

### Financial/Resource Implications:

Utilise Local Roads and Community Infrastructure (LRCI) Program Extension up to a maximum value of \$250,000 excluding GST.

### Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 2.1.3 Identify, provide and manage Shire assets (including community infrastructure, Shire controlled reserves and freehold land) in accordance with agreed service levels.

### Attachments:

CONFIDENTIAL Attachment Booklet – December 2020

CEO03-12/20 Attachment 1: Surf Beach Stabilisation\_Rev 1

### Officer Recommendation:

OFFICER RECOMMENDATION	
<b>MOVED: Cr Wyse</b>	<b>SECONDED: Cr Gillam</b>
<p><b>That Council, by Absolute Majority, authorises the Chief Executive Officer to utilise the Local Road and Community Infrastructure (LRCI) Program Extension and execute a sole source purchase order with In-Situ Construction and Maintenance to the value of \$250,000 excluding GST to stabilise the sand north of Surf Beach for a distance of approximately 150 metres.</b></p>	

*The Shire President invited Cr Wyse, as the Mover, to speak to the motion. Cr Wyse declined.*

*The Shire President invited Cr Gillam, as the Seconder, to speak to the motion. Cr Gillam spoke for the motion.*

*The Shire President invited other Councillors to speak to the motion. Cr Leonard spoke for the motion.*

*Cr West moved an amendment to the motion to recognise that this is unbudgeted expenditure.*

*The amendment was seconded by Cr Scott.*

*Cr West, as the Mover, spoke to the amendment.*

*Formal debate followed with elected members speaking either for or against the amendment.*

*Cr West spoke to close the debate and the amendment was put and carried by Absolute Majority.*

**SUBSTANTIVE MOTION AND COUNCIL DECISION 071220:**

**MOVED: Cr West**

**SECONDED: Cr Scott**

**That Council, by Absolute Majority, authorises the Chief Executive Officer to utilise the Local Road and Community Infrastructure (LRCI) Program Extension and execute a sole source purchase order with In-Situ Construction and Maintenance to the value of \$250,000 excluding GST to stabilise the sand north of Surf Beach for a distance of approximately 150 metres and notes this is unbudgeted expenditure.**

**VOTING DETAILS:**

**Carried by Absolute Majority 6/2**

OFFICE OF CEO		CEO04-12/20
<b>Subject:</b>	<b>CEO04-12/20 Irwin River Walking Trails and Extended Entry Statement - Sole Sourcing</b>	
<b>Author:</b>	<b>S Ivers, Chief Executive Officer</b>	
<b>Responsible Officer:</b>	<b>S Ivers, Chief Executive Officer</b>	
<b>File Reference:</b>	<b>3.00158</b>	
<b>Voting Requirements:</b>	<b>Absolute Majority</b>	

### 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:

That Council supports sole sourcing Josh Byrne & Associates for the concept development of the Irwin River Walking Trails and Extended Entry Statement.

### Background:

Josh Byrne & Associates (JBA) have been working on updating the concept design for the Foreshore Masterplan in preparation for Council review and later community consultation. During this process, JBA were also engaged by the Shire to produce an Entry Statement concept design at the Kailis Drive/Brand Highway intersection. Council reviewed the Entry Statement proposal and decided it was more practical to move the Entry Statement to the Moreton Terrace/Brand Highway intersection, as the passing traffic speed was much slower thereby increasing its effectiveness. JBA are currently working on finalising the Entry Statement concept design.

During the development of the proposed Entry Statement at the Moreton Terrace/Brand Highway intersection, it was identified that a large amount of pest plants block the view of the Irwin River from the Brand Highway and in fact these pest plants spoil both the visual amenity and access to the Irwin River in general. Removing the pest species would not only reduce fire risk, but dramatically improve the visual amenity and it is anticipated that it would be a very low cost to implement.

In undertaking both the Extended Entry Statement and Irwin River Walking Trails project, JBA would look to enhance the existing walking trail system in a way that will celebrate the area's unique cultural and natural identity. Importantly, the design work will be done in coordination with proposed DFES fire management requirements. The design would look to promote principles that protect and enhance biodiversity and the unique landscape of the area. This would include identification of weed species for removal, selection of appropriate revegetation species, supporting healthy and safe trees, plus collaboration with local community groups in protecting, managing and restoring degraded areas. JBA would also build on the design work already underway as part of the Moreton Terrace entry statement concept design.



Overall key design considerations are:

- Bushfire management
- Vegetation protection and ecological links
- Erosion and embankment control
- Access and egress
- Movement network, universal access, walking and cycling
- Historical context European and Indigenous
- Interpretive signage
- Budget, priorities, measurable progress

Key design considerations for the Extended Entry statement also include:

- Landscape treatment to verges leading to Moreton Terrace
- Removal of existing limestone signage
- Improved amenity around lawn area overlooking Irwin River
- Access and egress into BP rest stop
- Enhancing visual connection to Irwin River
- Target areas for weed removal and vegetation management plan

**Officer's Comment:**

Under the current declared State of Emergency, purchasing below \$250,000 is governed by Council Policy CP20 Purchasing. Council Policy CP20 Purchasing stipulates criteria such as value for money and purchasing thresholds.

Engaging Josh Byrne & Associates (JBA) for both the Irwin River Walking Trails and Extended Entry Statement concept design work is value for money even though this criteria is not explicitly stipulated in Council Policy CP20 Purchasing, as engaging JBA ensures consistency of the conceptual work from the Foreshore to the Entry Statement.

It is recommended that Council supports the continuity of this concept development work by authorising the sole sourcing of JBA to the value of \$41,600 excluding GST. This purchasing value normally requires two written quotes.

**Consultation:**

Nil.

**Statutory Environment:**

*Local Government Act 1995*

### 3.57. Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

#### *Local Government (Function and General) Regulations 1996*

#### **11A. Purchasing policies for local governments**

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.
- (2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).
- (3) A purchasing policy must make provision in respect of —
  - (a) the form of quotations acceptable; and
  - (ba) the minimum number of oral quotations and written quotations that must be obtained; and
  - (b) the recording and retention of written information, or documents, in respect of
    - (i) all quotations received; and
    - (ii) all purchases made.

#### *Local Government (Function and General) Regulations 1996*

#### **11. When tenders have to be publicly invited**

- (1A) In this regulation —  
**state of emergency declaration** has the meaning given in the *Emergency Management Act 2005* section 3.
- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
  - (a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or
  - (aa) the supply of the goods or services is associated with a state of emergency; or
  - (b) the supply of the goods or services is to be obtained through the WALGA referred Supplier Program; or
  - [(ba) deleted]
  - (c) within the last 6 months —
    - (i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or
    - (ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;
- or
- (d) the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government; or

(e) the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or

(ea) the goods or services are to be supplied —

(i) in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and (ii) by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;

or

(f) the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or

(g) the goods to be supplied under the contract are —

(i) petrol or oil; or

(ii) any other liquid, or any gas, used for internal combustion engines;

or

(h) the following apply —

(i) the goods or services are to be supplied by —

(I) a person registered on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia Limited ABN 96 929 977 985; or

(II) a person registered with the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) ABN 50 134 720 362;

and

(ii) the consideration under the contract is \$250 000 or less, or worth \$250 000 or less; and

(iii) the local government is satisfied that the contract represents value for money;

or

(i) the goods or services are to be supplied by an Australian Disability Enterprise; or

(j) the contract is a renewal or extension of the term of a contract (the original contract) where —

(i) the original contract was entered into after the local government, according to the requirements of this Division, publicly invited tenders for the supply of goods or services; and

(ii) the invitation for tenders contained provision for the renewal or extension of a contract entered into with a successful tenderer; and

(iii) the original contract contains an option to renew or extend its term; and

(iv) the supplier's tender included a requirement for such an option and specified the consideration payable, or the method by which the consideration is to be calculated, if the option were exercised;

or

(ja) the contract is a renewal or extension of the term of a contract (the original contract) where —

(i) the original contract is to expire within 3 months;

and

(ii) the renewal or extension is for a term of not more than 12 months from the expiry of the original contract; and

(iii) the contract for renewal or extension is entered into at a time when there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;

or

(k) the goods or services are to be supplied by a pre-qualified supplier under Division 3.

- (3) For the purposes of subregulation (2)(aa) a supply of goods or services is associated with a state of emergency if —
- (a) the contract for the supply is entered into while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;
  - and
  - (b) the local government considers that the goods or services are required for the purposes of addressing a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates.

#### *Local Government (Function and General) Regulations 1996*

#### **12. Anti-avoidance provision for r. 11(1)**

- (1) This regulation applies if a local government intends to enter into 2 or more contracts (the contracts) in circumstances such that the desire to avoid the requirements of regulation 11(1) is a significant reason for not dealing with the matter in a single contract.
- (2) If this regulation applies, tenders are to be publicly invited according to the requirements of this Division before the local government enters into any of the contracts regardless of the consideration.

#### *CEO100 Tenders for Goods and Services – (Amended for a declared State of Emergency)*

##### **Condition a**

- a. Sole supplier arrangements may only be approved where a record is retained that evidences:
  - i. A detailed specification;
  - ii. The outcomes of market testing of the specification;
  - iii. The reasons why market testing has not met the requirements of the specification; and
  - iv. Rationale for why the supply is unique and cannot be sourced through other suppliers;

##### **Policy Implications:**

- CP01 Localised Purchasing (Regional Price Preference Policy)
- CP20 Purchasing – Amended for a declared State of Emergency:

##### **VALUE FOR MONEY**

*Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the Shire of Irwin. It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, risk factors, sustainability, life cycle costing, and service benchmarks.*

*An assessment of the best value for money outcome for any purchasing should consider:*

- *all relevant costs and benefits, whole-of-life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution,*

*as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;*

- *the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;*
- *capacity of supplier to supply goods/services within a required timeframe;*
- *financial viability and capacity to supply without risk of default. (Competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);*
- *a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable;*
- *the safety requirements associated with both the product design and specification offered by suppliers; and*
- *evaluation of risk when considering purchasing goods and services from suppliers.*

*Where a higher priced conforming offer is recommended, there should be clear and demonstrable benefits over and above the lowest total priced, conforming offer.*

## **PURCHASING THRESHOLDS**

*In determining the purchasing value, the following considerations are to be taken into account:*

- *All values are exclusive of the Goods and Services Tax (GST).*
- *The actual or expected value of the contract over the full contract period (including options to extend).*

Amount of Purchase	Model Policy
Up to \$5,000	Corporate credit card may be used as per MP01 Corporate Credit Card. Obtain at least one (1) verbal or written quotation. May include a RFQ and detailed specification as required.
\$5,001 - \$29,999	Corporate credit card may be used as per MP01 Corporate Credit Card. Obtain at least two (2) verbal or written quotations. May include a RFQ and detailed specification as required.
\$30,000 – \$49,999	Obtain at least two (2) written quotations. Recommend completion of a RFQ, detailed specification and evaluation.
\$50,000 - <b>\$249,999</b>	Obtain at least three (3) written quotations. RFQ, detailed specification and evaluation is required. Public Tender options at the CEO's discretion.
<b>\$250,000</b> and above	Conduct a public request for tender process or purchase through a tender-exempt arrangement.
Emergency purchases ( <i>not included in the budget</i> )	Only applicable where authorised in advance by the President in accordance with s.6.8 of the Local Government Act 1995 and reported to the next ordinary Council meeting.
WALGA Preferred Supplier Program (PSP)	The purchasing thresholds apply. For values over \$150,000 (tender exempt) three (3) written quotations are required. RFQ, detailed specification and evaluation is required.
WALGA Services ( <i>excluding Preferred Supplier Program</i> )	For the purchasing of WALGA Services, a minimum of two (2) written quotations is to be obtained and appropriately recorded. Confirmed via Purchase Order or Contract/Agreement.
LGIS Services	For the purchasing of LGIS Services, a minimum of one (1) written quotation is to be obtained and appropriately recorded. Confirmed via Purchase Order or Contract/Agreement.

**Financial/Resource Implications:**

This expenditure of \$41,600 excluding GST was approved as part of the CC03-10/20 Budget Review 2020/21 review process by Council Decision 041020 on 27 October 2020. Referring to item CC03-10/20 Attachment 1: Budget Review – Final in *Attachment Booklet – October 2020*, this item was listed under the Operating Expenditure particular “*Consultant Fees – Extended Entry, River Trails, Foreshore Concept*” for an amount of \$60,000.

**Strategic Implications:**

Strategic Community Plan 2017 - 2027

Strategy 2.1.3 Identify, provide and manage Shire assets (including community infrastructure, Shire controlled reserves and freehold land) in accordance with agreed service levels.

**Attachments:**

*CONFIDENTIAL Attachment Booklet – December 2020*

CEO04-12/20 Attachment 1: 200921 Sol Projects\_JBA Return Brief

**Officer Recommendation:**

**OFFICER RECOMMENDATION AND COUNCIL DECISION 081220:**

**MOVED: Cr Leonard**

**SECONDED: Cr Eva**

**That Council, by Absolute Majority, authorises the Chief Executive Officer to execute a sole source purchase order with Josh Byrne & Associates to the value of \$41,600 excluding GST to develop the Irwin River Walk Trails and Extended Entry Statement concept designs.**

**VOTING DETAILS:**

**Carried by Absolute Majority 8/0**

INFRASTRUCTURE & DEVELOPMENT		ID01-12/20
Subject:	ID01-12/20 Delegated and Authorised Actions for November 2020 – Development	
Author:	B Jeans, Manager Development	
Responsible Officer:	P Traylen, A/Manager Infrastructure & Development	
File Reference:	3.00125	
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:

To inform Council of officer actions made under delegated authority and authorisation in the Development department.

#### Background:

To increase transparency this report has been prepared for Council and includes actions performed under delegated authority and authorisation for:

- Development approvals issued;
- Subdivision clearances issued;
- Building permits issued; and
- Health approvals issued.

#### Officer's Comment:

The table in Attachment 1 outlines the actions performed within the Development department under delegated authority or authorisation for the period 1 November to 30 November 2020.

The table in Attachment 2 provides further details in relation to actions performed under delegated authority and has been provided to Councillors under separate confidential cover.

#### Consultation:

Nil.

#### Statutory Environment:

*Local Government Act 1995*

*Planning and Development Act 2005*

- Part 10 Div. 2

Shire of Irwin Local Planning Scheme No.5

- Clause 11.3

*Public Health Act 2016*

*Building Act 2011*

**Policy Implications:**

Nil.

**Financial/Resource Implications:**

Nil.

**Strategic Implications:**

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Strategy 4.3.2 Adopt and follow better practice processes

**Attachments:**

*Attachment Booklet – December 2020*

ID01-12/20 Attachment 1: Table of Delegated Actions for November 2020, Development

*CONFIDENTIAL Attachment Booklet – December 2020*

ID01-12/20 Attachment 1: Detailed table of delegated actions for November 2020, Development

**Officer Recommendation:**

**OFFICER RECOMMENDATION AND COUNCIL DECISION 091220:**

**MOVED: Cr Scott**

**SECONDED: Cr Leonard**

**That Council receives the Delegated and Authorised Actions for November 2020 as set out in Attachment 1 in Attachment Booklet – December 2020.**

**VOTING DETAILS:**

**Carried 8/0**

*Prior to consideration, the Shire President advised Council that Cr Wells has declared an impartiality interest in item ID02-12/20, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, with the extent of the interest being that her employer transacts with the Dongara Hotel.*

*Cr Wells remained in the Council Chambers to participate and vote.*

INFRASTRUCTURE & DEVELOPMENT		ID02-12/20
Subject:	ID02-12/20 Shared Parking Arrangement – Dongara Hotel Site	
Author:	B Jeans, Manager Development	
Responsible Officer:	P Traylen, A/Manager Infrastructure & Development	
File Reference:	3.00156	
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 consider entering into a shared parking arrangement with the landowner of Lot 23 Moreton Terrace, Dongara, known as the Dongara Hotel to secure additional public car parking in the Dongara Town Centre.

#### Background:

It is clear, and even more pronounced in 2020 due to COVID-19 travel restrictions boosting local travel, that during busy periods the town centre struggles to cope with adequate and safe supply of car parking bays, in particular long bay parking. The supply of appropriately located and sized bays within the town centre is considered essential to support local businesses and encourage visitors into town.

The Shire does not own any vacant land within the core of the town centre that could be developed as a public car parking facility. The Dongara Hotel land (Lot 23 Moreton Terrace) is 1.5 hectares, covering a significant portion of the town centre and is ideally located in the main street core. The Shire has identified the opportunity to utilise existing Dongara Hotel customer car parking bays situated on Lot 23 Moreton Terrace for shared use by the general public.

#### Officer's Comment:

The subject portion of land on Lot 23 Moreton Terrace is indicated on the marked up aerial plan below and represents an approximate area of 2,000sqm. This proposed area was reduced from the initial investigation to the eastern area of the site abutting the adjacent yellow building commonly known as the Pop Up Shop.



Lot 23 currently provides 47 line marked car parking bays for customers of the Hotel/Motel and approximately (based on desktop review) 30 line marked car parking bays for customers of the Bar/Restaurant (the bays within the red marked subject portion of land).

#### Provision of car parking

Due to the Dongara Hotel being established in the mid-1800's, it has been difficult to obtain the earlier approvals (other than building approvals) that would indicate provision of car parking bays required by the Shire since that time. Previous Planning Schemes of the last 50 years would have likely set different requirements (if any) for the number of car parking bays to provide and even then there may have been past approvals for the reduced supply of car parking bays on site.

#### - Local Planning Scheme No.5 provisions

As a baseline, it is most appropriate to consider the car parking requirements from the Shire's current Local Planning Scheme as that would guide future acceptable development. As noted below in the 'Statutory Environment' section of the report, there are no specific car parking requirements for the site. As guidance however we can refer to the land uses of "Hotel" and "Tavern" from the "Town Centre" zone, as Lot 23 falls within the Town Centre precinct. The provisions for these land uses require a minimum car parking ratio of 1 bay per bedroom and 1 bay per 3sqm of Public Area. With the Hotel/Motel providing 28 rooms and the Bar/Restaurant Public Area being approximately 300sqm, this would equate to a minimum of 128 onsite customer car parking bays being required without the discretion of the local government to vary. Whilst there are 77 line marked bays provided on site, there is space onsite for several additional long and short bay parking. It is also noted that the 128 bay calculation is for maximum capacity, which for the site and its uses would be on very rare occasions. It is considered the current onsite car parking supply is sufficient to meet the demand for the existing uses.

#### - Car parking requirements under review

There has been a slow shift in the planning industry to the traditional method of determining the minimum provision of car parking bays for developments. Traditionally local governments would set their own minimum requirements with car parking ratios for different land uses or precincts within their district. However, as WALGA's recent study into this shows, it is clear that this method and the different ratios across local governments (more so within the urban areas) is no longer the most effective way to determine appropriate car parking for developments.

There are many facets to this WALGA study, however the more relevant aspect to this particular matter is the increasing agreed views amongst local governments and planners that car parking supply for development needs to consider more complex factors. These include factors such as fluid demands for customer parking to the specific land use, the business hours, the types of customers/vehicles attracted to the site and the impact (both positive and negative) of parking demand on nearby surrounding land uses. The more modern approach may be more subjective but it is more reflective of the needs.

Without monitoring and documenting the car parking situation of Lot 23 or the Dongara Town Centre, we do not know the proportion of car parking bays on Lot 23 used exclusively by hotel customers and bays used for public parking. The proposal to secure shared public carparking on site is considered a reasonable outcome as it does not reduce the parking capacity of Lot 23 for their customers and it provides additional parking bays for visitors to the main street.

#### Land Use Arrangement

Due to the nature of the matter, there is a need to ensure flexibility. As the main street is redeveloped and land uses subsequently change, the arrangement will likely require review to remain relevant and warranted. An approach in the form of a written Land Use Agreement is proposed as it provides the flexibility for both parties with little to no commitment or restriction in the long term. On the contrary this form of arrangement provides little to no security.

Based on the current timing of the matter, a Land Use Agreement is recommended to establish the shared car parking arrangement. The Shire is not required to outlay any significant initial costs such as a reseal and so in the event the arrangement falls through, it could immediately revert back to 'business as usual' with only the ongoing maintenance costs and rates concession up to that date being committed to.

#### **Consultation:**

Relevant Shire staff

R, Galluccio for Peermont Holdings Pty Ltd (landowner of site)

## Statutory Environment:

### Shire of Irwin Local Planning Scheme No.5

The subject land is classified as a “Special Use” zone (SU24), permitting the below uses extracted from Schedule 4:

No.	LOCATION	LAND PARTICULARS	PERMITTED USES	SPECIFIC CONDITIONS
20	Brand Highway, Dongara	Lots 7, 8 and 13	+ Roadhouse + Managers Accommodation + Public Restaurant + Incidental uses to the permitted uses	
21	Brand Highway, Dongara	Lot 15	+ Roadhouse + Managers Accommodation + Public Restaurant + Incidental uses to the permitted uses	
22	Waldeck Street (Corner Brand Highway)	Lot 11	+ Tourist Accommodation + Public Restaurant + Shop + Reception Centre + Public Amusement + Incidental uses to the permitted uses + Residential Building	
23	Waldeck Street (north of Clementina Road)	Lot 12	+ Motel + Public Restaurant + Incidental uses to the permitted uses	
24	Moreton Terrace	Lot 23	+ Hotel + Motel + Tavern + Club Premises + Public Utility + Betting Agency + Telecommunications Infrastructure + Public Restaurant + Incidental uses to the permitted uses	

Clause 5.24 of the Scheme tables the development requirements, including car parking ratios, for a zone and/or land use. Clause 5.24 does not stipulate development requirements for the Special Use zone, noting the local government can apply provisions based on the predominant use in the locality in which the use is located. This section also refers to the application of Clause 5.32 of the Scheme which states the development requirements may be applied by the local government at its discretion.

ZONE	USE	Min Lot Area (m <sup>2</sup> )	Min Effect Frontage (m)	Min Boundary Setbacks (m)			Min Car Parking Spaces	Min Landscaping % of Site	Other Requirements
				Front	Rear	Side			
Light Industry and Marine Based Industry	Any Permitted Use	1000	25	11	7.5	As per Building Code of Australia	As determined by the Local Government	Clause 5.13 applies	
Rural Residential	Any Permitted Use (and see Schedule 13)	1ha to 4ha	50	15	7.5	5			
Rural Smallholdings	Any Permitted Use	Area D-15ha	50	15	7.5	5			
		Area G-20ha	50	15	7.5	5			
		Adjacent Irwin Townsite- 10ha	50	15	7.5	5			
General Farming	Any Permitted Use	Based on Locally Acceptable Farm Units and Local Planning Strategy		15	15	5			
Special Use	Any Permitted Use	As required under this Schedule or by the Local Government based on the Predominant use in the locality in which the use is to be located. Clause 5.32 applies							

## Policy Implications:

Nil.

### Financial/Resource Implications:

The Shire engaged a licensed property valuer to prepare a market valuation report at a cost of \$3,000. This report assisted the Shire by determining current land and rental values and was needed to facilitate the process for this type of arrangement for the subject land. The report indicates the subject portion of land (3,000sqm at the time of the valuation) to have a market value of \$750,000 and an annual gross rental value of \$37,500. That equates to a gross rental value of \$12.50 per square metre per annum or \$25,000 annual lease value for the revised/proposed 2,000sqm portion of land.

The draft Land Use Agreement sets costs for both parties. The draft proposes that the Shire take on the responsibility for the ongoing maintenance of the 2,000sqm shared parking space at an approximate cost (value) of \$1,500 per annum.

The draft Land Use Agreement also makes provision for a Shire contribution to the landowner to account for the loss of exclusivity of the 36 onsite car parking bays. It is proposed that the Shire and landowner contribute 50% each towards the shared use of this land. When taking into account the Shire's annual maintenance contribution of \$1,500 per annum, the proposed annual contribution in the draft arrangement would equate to \$14,000 per annum.

For comparison, the costs associated with the original 3,000sqm area has been listed below as well as a 1,000sqm area (18 bays only on eastern side).

	3,000sqm area	2,000sqm area (proposed)	1,000sqm area
Annual gross rental value at 50% contribution rate	\$18,750	\$12,500	\$6,250
Annual maintenance	\$2,250	\$1,500	\$750
<b>Final proposed Shire contribution per annum</b>	<b>\$21,000</b>	<b>\$14,000</b>	<b>\$7,000</b>

### Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 1.1.2 Partner with and advocate on behalf of commerce and industry to improve local infrastructure and services

### Attachments:

*Attachment Booklet – December 2020*

ID02-12/20 Attachment 1: Market Valuation Report

ID02-12/20 Attachment 2: WALGA Draft Parking Guidelines

*CONFIDENTIAL Attachment Booklet – December 2020*

ID02-12/20 Attachment 3: Dongara Town Centre GHD Plan

ID02-12/20 Attachment 4: Draft Land Use Agreement November 2020

**Officer Recommendation:**

*To allow further clarification from officers, Cr Wells moved to suspend Clause 10.2 of the Shire of Irwin Meeting Procedures Local Law 2016.*

**COUNCIL DECISION 101220:**

**MOVED: Cr Wells**

**SECONDED: Cr Leonard**

**That Council suspends Clause 10.2 of the Shire of Irwin Meeting Procedures Local Law 2016 at 6.24pm.**

**VOTING DETAILS:**

**Carried 8/0**

*Further clarification on the item was provided by the Chief Executive Officer and Manager Development.*

**COUNCIL DECISION 111220:**

**MOVED: Cr Gillam**

**SECONDED: Cr Wells**

**That Council reconvenes the meeting under Clause 10.2 of the Shire of Irwin Meeting Procedures Local Law 2016 at 6.31pm.**

**VOTING DETAILS:**

**Carried 8/0**

**OFFICER RECOMMENDATION AND COUNCIL DECISION 121220:**

**MOVED: Cr West**

**SECONDED: Cr Eva**

**That Council authorises the Chief Executive Officer to enter into a land use agreement with the landowner of Lot 23 Moreton Terrace, Dongara for the purpose of finalising 2,000sqm of shared parking arrangement utilising a portion of Lot 23 Moreton Terrace, Dongara, provided that any modification does not materially change the intent from the Draft Land Use Agreement – November 2020, provided as Attachment 4 in Confidential Attachment Booklet – December 2020.**

**VOTING DETAILS:**

**Carried 8/0**

*Prior to discussion, the Shire President advised Council that Cr Wyse has declared a Financial Interest in item ID03-12/20, pursuant to section 5.60A of the Local Government Act 1995 with the extent of the interest being that his business has the potential for financial gain regardless of who is awarded the contract.*

*Cr Wyse left the Council Chambers at 6.32pm.*

INFRASTRUCTURE AND DEVELOPMENT		ID03-12/20
Subject:	ID03-12/20 RFT 1-2020/21 Two Henry Road Construction Package 2 Tender Award	
Author:	S Pratt-King, Coordinator Infrastructure & Procurement	
Responsible Officer:	P Traylen, A/Manager Infrastructure & Development	
File Reference:	3.0215	
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:

Award Tender 1-2020/21 Two Henry Road Construction Package 2 – as advertised and recorded in the Tender Register.

#### Background:

The Shire of Irwin secured \$5,169,000 million dollars in grant funding for the design and construction of 12 independent living units to enable residents to age in place and live independently within the region. The construction of the first six (6) units, in stage 1 was completed in September 2020.

Public tenders were invited from suitably experienced contractors for the construction of stage 2, being six (6) new 2-bedroom, 1-bathroom independent living units on lots 08 – 13, 2 Henry Road Port Denison with associated services.

Statewide public notice was given in The West Australian newspaper dated 17 October 2020, with the tender closing date of 13 November 2020.

Two employees undertook the opening of tenders at 8:30am on 19 November 2020.

An evaluation panel comprising three voting members of staff and one non-voting member of staff individually assessed each tender submission. Evaluation Panel Members formally met on 27 November

2020, developed the consensus evaluation, ranking of respondents and recommendation that resulted in the finalised Evaluation Panel Report, provided as Confidential Attachment 3.

Three tender submissions were received at the close of tenders. Of these, all three met the required compliance criteria and were assessed against the qualitative criteria, before pricing was applied in the evaluation to determine the best value for money and most advantageous tender as recommended in the Evaluation Report provided in Confidential Attachment 3.

**Officer's Comment:**

The recommended submission by Respondent A ranked the highest in the qualitative criteria as set out in the Request for Tender (RFT) document. Refer to the Tender Evaluation Final Scores and Ranking as provided in Confidential Attachment 3.

For further details regarding the compliance and qualitative criteria for all tenders submitted, refer to the attached Confidential Attachment 3.

**Consultation:**

The following organisations were consulted during the tender process:

- WA Local Government Association
- Department of Local Government, Sport and Cultural Industries

**Statutory Environment:**

*Local Government Act 1995*

**3.57. Tenders for providing goods or services**

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

*Local Government (Function and General) Regulations 1996*

**11A. Purchasing policies for local governments**

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.
- (2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).
- (3) A purchasing policy must make provision in respect of —
  - (a) the form of quotations acceptable; and
  - (ba) the minimum number of oral quotations and written quotations that must be obtained; and
  - (b) the recording and retention of written information, or documents, in respect of
    - (i) all quotations received; and
    - (ii) all purchases made.

*Local Government (Function and General) Regulations 1996*

**11. When tenders have to be publicly invited**

- (1A) In this regulation —

**state of emergency declaration** has the meaning given in the *Emergency Management Act 2005* section 3.
- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or

services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.

- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —

(a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or

(aa) the supply of the goods or services is associated with a state of emergency; or

(b) the supply of the goods or services is to be obtained through the WALGA preferred Supplier Program; or

[(ba) deleted]

(c) within the last 6 months —

(i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or

(ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;

or

(d) the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government; or

(e) the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or

(ea) the goods or services are to be supplied —

(i) in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and (ii) by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;

or

(f) the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or

(g) the goods to be supplied under the contract are —

(i) petrol or oil; or

(ii) any other liquid, or any gas, used for internal combustion engines;

or

(h) the following apply —

(i) the goods or services are to be supplied by —

(I) a person registered on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia Limited ABN 96 929 977 985; or

(II) a person registered with the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) ABN 50 134 720 362;

and

- (ii) the consideration under the contract is \$250 000 or less, or worth \$250 000 or less; and
- (iii) the local government is satisfied that the contract represents value for money;

or

- (i) the goods or services are to be supplied by an Australian Disability Enterprise; or
- (j) the contract is a renewal or extension of the term of a contract (the original contract) where —

- (i) the original contract was entered into after the local government, according to the requirements of this Division, publicly invited tenders for the supply of goods or services; and
- (ii) the invitation for tenders contained provision for the renewal or extension of a contract entered into with a successful tenderer; and
- (iii) the original contract contains an option to renew or extend its term; and
- (iv) the supplier's tender included a requirement for such an option and specified the consideration payable, or the method by which the consideration is to be calculated, if the option were exercised;

or

- (ja) the contract is a renewal or extension of the term of a contract (the original contract) where —

- (i) the original contract is to expire within 3 months; and
- (ii) the renewal or extension is for a term of not more than 12 months from the expiry of the original contract; and
- (iii) the contract for renewal or extension is entered into at a time when there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;

or

- (k) the goods or services are to be supplied by a pre-qualified supplier under Division 3.

- (3) For the purposes of subregulation (2)(aa) a supply of goods or services is associated with a state of emergency if —
  - (a) the contract for the supply is entered into while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government; and
  - (b) the local government considers that the goods or services are required for the purposes of addressing a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates.

#### **Policy Implications:**

CP20 – Purchasing

CP01 – Localised Purchasing (Regional Price Preference)

#### **Financial/Resource Implications:**

As per the requirements of the WA Country Health Service Grant Funding Agreement, the Shire has provided the land on which the units are to be built and are responsible for costs relating to internal project management, administration, advertising and regulatory approvals.

Budget provisions have been made in the 2020/21 Budget to undertake this project, in line with the

relevant grant conditions.

**Strategic Implications:**

Strategic Community Plan 2017 - 2027

Strategy 2.1.3 Identify, provide and manage Shire assets (including community infrastructure, Shire controlled reserves and freehold land) in accordance with agreed service levels.

Strategy 3.1.1 Identify and support services, events and programs for building capacity, social inclusion and wellbeing (including those catering for families, youth and seniors).

**Attachments:**

*Attachment Booklet – December 2020*

ID03-12/20 Attachment 1: RFT 1-2020/21 Two Henry Road Construction Package 2

ID03-12/20 Attachment 2: RFT 1-2020/21 Evaluation Matrix

*CONFIDENTIAL Attachment Booklet – December 2020*

ID03-12/20 Attachment 3: Evaluation Panel Report circulated as separate confidential attachment as per s.5.23(2)(ii)(iii)

**Officer Recommendation:**

**OFFICER RECOMMENDATION AND COUNCIL DECISION 131220:**

**MOVED: Cr Leonard**

**SECONDED: Cr Scott**

**That Council by Absolute Majority:**

1. Accepts the tender submission for Tender No. 1-2020/21 Two Henry Road Construction Package 2, received from Nordic Builders Pty Ltd, named as 'Respondent A' in the Evaluation Panel Report recommendation detailed in Confidential Attachment 3 and identified as the most advantageous, for a lump sum value of \$1,798,988.
2. If within 6 months of this resolution a contract is unable to be formed for Tender No. 1-2020/21 Two Henry Road Construction Package 2 as advertised and recorded in the Tenders Register with Respondent A identified in Evaluation Panel Report recommendation shown in Confidential Attachment 3 as the most advantageous, then the Shire of Irwin accepts the tender submission received from Respondent B, identified as the next most advantageous in the Evaluation Panel Report recommendation shown in Confidential Attachment 3.
3. Authorises the Chief Executive Officer to execute the contract for awarding Tender No. 1-2020/21 Two Henry Road Construction Package 2 as advertised and recorded in the Tenders Register in accordance with s.9.49A of the *Local Government Act 1995*.
4. Delegates the Chief Executive Officer in accordance with s.5.42(1) of the *Local Government Act 1995*, authority to negotiate minor variations to the contract for Tender No. 1-2020/21 Two Henry Road Construction Package 2 as advertised and recorded in the Tenders Register before and / or after its execution in accordance with Regulations 20 and 21A of the *Local Government (Functions and General) Regulations 1996*.

**VOTING DETAILS:**

**Carried by Absolute Majority 7/0**

*Cr Wyse re-entered the Council Chambers at 6.35pm.*

## 9.1. Committee Reports

### 9.2.1 Community Assistance Scheme & Events Committee

The minutes of the Community Assistance Scheme & Events (CASE) Committee Meeting held Tuesday 1 December 2020 have been provided as Attachment 9.2.1 in Attachment Booklet – December 2020.

#### OFFICER RECOMMENDATION AND COUNCIL DECISION 141220:

**MOVED:** Cr Gillam

**SECONDED:** Cr Eva

**That Council receives the Minutes of the Shire of Irwin Community Assistance Scheme & Events (CASE) Committee Meeting held 1 December 2020.**

**VOTING DETAILS:**

**Carried 8/0**

#### OFFICER RECOMMENDATION AND COUNCIL DECISION 151220:

**MOVED:** Cr Leonard

**SECONDED:** Cr Eva

**That Council approves the following funding allocations for the Community Assistance Scheme, Round One of the 2020/2021 financial year:**

ORGANISATION	PROJECT DESCRIPTION	GRANT
<i>Irwin District Historical Society</i>	<i>Heritage Walk Brochures</i>	<i>\$4,200</i>
<i>Dongara Pottery Club</i>	<i>Thungarra Fairy Garden Christmas decorations</i>	<i>\$450</i>
	<b>TOTAL</b>	<b>\$4,650</b>

**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 6.36pm.

An electronic copy of the Minutes are available for download from the Shire's website  
<https://www.irwin.wa.gov.au/council/council-meetings/agendas-minutes/2020-council-meetings>