



AGENDA

and

Notice of Ordinary Council Meeting

to be held

Tuesday 22 February, 2022

in the

Shire of Irwin Council Chambers

5.00pm – Agenda Briefing

5.15pm – Councillor Information Session

6.00pm – Ordinary Council Meeting

AGENDA & BUSINESS PAPERS

Welcome to the Ordinary Council Meeting of the Shire of Irwin.

Please be advised that Ordinary Council Meetings during 2022 will be held on the following dates in the Council Chambers at 11-13 Waldeck Street, Dongara, (unless otherwise advised) commencing at **6.00pm**.

DATES	
22 February 2022	26 July 2022
22 March 2022	23 August 2022
26 April 2022	27 September 2022
24 May 2022	25 October 2022
28 June 2022	22 November 2022
	12 December 2022

Members of the public are most welcome to attend the Agenda Briefing, the Councillor Information Session and the Ordinary Council Meeting.

Disclaimer

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

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



Shane Ivers
CHIEF EXECUTIVE OFFICER

Council Meeting Information

1. Your Council generally handles all business at Ordinary or Special Council Meetings.
2. From time to time Council may form a Committee, Working Party or Steering group to examine specific subjects and then report to Council.
3. Generally, all meetings are open to the public; however, from time to time Council will be required to deal with personal, legal and other sensitive matters. On those occasions Council will generally close that part of the meeting to the public. Every endeavour will be made to do this as the last item of business of the meeting.
4. **Public Question Time:** It is a requirement of the Local Government Act 1995 to allow at least fifteen (15) minutes for public question time following the opening and announcements at the beginning of the meeting. Should there be a series of questions the period can be extended at the discretion of the Presiding Member. If presenting questions to Council please note the following, as guided by the *Shire of Irwin Meeting Procedures Local Law 2016*:
 - Public Question Time occurs early in the meeting so please arrive at least 5 minutes before the advertised meeting start time (Ordinary Meetings are scheduled for a **6.00pm** start, unless otherwise advised).
 - Record your full name and suburb of residence on the Attendance Form available in the public seating area.
 - When invited by the Presiding Member to ask your question/s, please state your full name for the benefit of the minute taker and those present.
 - Only questions can be addressed to Council, not statements.
 - A minimum of 15 minutes is allocated to Public Question Time. A member has 2 minutes to submit a question.
 - You may ask up to 2 questions before other members of the public will be invited to ask their questions to ensure all have an equal and fair opportunity to ask questions.
 - The Presiding Member may elect for written questions to be responded to as normal business correspondence.
 - The Presiding member may decide that a question shall not be responded to where:
 - the same or similar question has been asked at a previous meeting and a response has already been provided;
 - a statement has been made and is not reformed into a question; or
 - a question is offensive or defamatory in nature and is not reformed into a question.
 - A question may be taken on notice by Council for a later response. Responses will be provided in writing to the member and a summary will be included in the agenda of the next meeting of Council.
 - Members of the public are encouraged to raise matters relating to operations and administration through the Shire's Customer Request system.
 - At a Special Meeting of Council, only questions relating to the purpose of that meeting may be raised.
 - Should you wish to provide written questions prior to the meeting so that an appropriate response can be prepared, please submit them at least 72 hours prior to the Council meeting at which you wish them to be presented.
5. **Councillors** may from time to time have a financial interest in a matter before Council. Councillors must declare an interest and the extent of the interest in the matter on the Agenda. However, the Councillor can request the meeting to declare the matter **trivial, insignificant or in common with a significant number of electors or ratepayers**. The Councillor must leave the meeting whilst the matter is discussed and cannot vote unless those present agree as above.
6. **Members of staff**, who have delegated authority from Council to act on certain matters, may from time to time have a financial interest in a matter on the Agenda. The Officer must declare that interest and generally the Presiding Member will advise the Officer if he/she is to leave the meeting.
7. Agendas are delivered to Councillors within the requirements of the Local Government Act 1995, i.e. seventy-two (72) hours prior to the advertised commencement of the meeting.
8. Agendas for Ordinary Meetings are available to the public from the Shire of Irwin Administration Centre and on the website www.irwin.wa.gov.au seventy-two (72) hours prior to the meeting.
9. Agenda items submitted to Council will include a recommendation for Council consideration. Electors should not interpret and/or act on the recommendations until after they have been considered by Council and ideally received written confirmation of the outcome. Please note the Disclaimer in the Agenda (page 3).
10. **Public Inspection of Unconfirmed Minutes (Reg 13):** A copy of the unconfirmed Minutes of Ordinary and Special Meetings will be available for public inspection at the Shire of Irwin Administration Centre and on the website www.irwin.wa.gov.au within ten (10) working days after the Meeting.

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ORDINARY COUNCIL MEETING

to be held

22 February 2022

at 6.00pm

AGENDA

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Members

Councillor M T Smith
Councillor I M Scott
Councillor G S Eva
Councillor A J Gillam
Councillor M Leonard
Councillor H M Palmer
Councillor E Tunbridge
Councillor B Wyse

Shire President
Deputy Shire President

Staff

Mr S D Ivers
Mrs D K Chandler
Mr M Jones
Mr B Jeans
Ms F Boksmati
Ms N A M'Leane
Mrs J Keene

Chief Executive Officer
Acting Manager Corporate & Community
Acting Manager Infrastructure & Development
Manager Development
Community Development Officer
Development & Executive Officer
Procurement & Administration Officer

Guests

Approved Leave of Absence

Apologies

Gallery

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

6. PETITIONS AND DEPUTATIONS

7. CONFIRMATION OF MINUTES

7.1. Minutes of the Ordinary Council Meeting held 13 December 2021

A copy of the Minutes of the Ordinary Council Meeting held 13 December 2021 have been provided to all Councillors under separate cover.

RECOMMENDED:
That the Minutes of the Ordinary Council Meeting, held 13 December 2021, as previously circulated, be adopted as a true and accurate recording of that meeting.

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY		CC01-02/22
Subject:	CC01-02/22 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. 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 receive the list of accounts paid under delegated authority during December 2021 and January 2022.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of December 2021 and January 2022.

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 payments from the municipal or trust fund.

Financial/Resource Implications:

Nil.

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 – 2031

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 – February 2022

CC01-02/22 Attachment 1: Accounts for Payment – December 2021 and January 2022

Officer Recommendation:

RECOMMENDED:

That Council receives the Accounts paid during December 2021 and January 2022 as presented in Attachment Booklet – February 2022, represented by:

Payment Type/Numbers	Total Amount
EFT 28163 – 28324	\$1,146,922.99
Muni Cheques – 32087 – 32093	\$41,401.08
Direct Debit – Telstra	\$4,609.17
Direct Debit – WA Treasury Corporation	\$79,883.59
Direct Debit – Solar Panel Repayments	\$3,895.32
Direct Debit – Credit Card	\$11,484.43
Direct Debit – Insurance Premium Repayments	\$67,135.90
Direct Debit – Land Use Agreement	\$1,041.66
Direct Debit – Superannuation	\$47,022.74
Grand Total	\$1,403,396.88

CORPORATE AND COMMUNITY		CC02-02/22
Subject:	CC02-02/22 Monthly Financial Statements for the Period Ended 31 December 2021	
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:

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Report Purpose:

To consider and receive the Monthly Financial Statements for the period 1 July 2021 to 31 December 2021.

Background:

The Monthly Financial Statements to 30 June 2022 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 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 December 2021 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

31/12/2021		YTD Budget	YTD Actual	Variance YTD to Budget
Operating Revenue		7,089,988	7,679,602	8%
Operating Expenditure		(3,721,099)	(5,850,924)	57%
Net Operating		3,368,889	1,828,678	
Non-Operating Revenue		10,000	0	-100%
Non-Operating Expenditure		(1,750,935)	(1,538,686)	-12%
Net Non-Operating		(1,740,935)	(1,538,686)	
Cash at Bank			2,828,007	
Cash at Bank Restricted			573,941	
Reserve Bank			1,483,532	
Total Cash Funds			4,885,480	

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:

Our Brilliant Future - Strategic Community Plan 2021 – 2031

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 – February 2022

CC02-02/22 Attachment 1: Financial Statements for the Period Ended 31 December 2021.

Officer Recommendation:

RECOMMENDED:

That Council receives the Monthly Financial Statements for the period 1 July 2021 to 31 December 2021 as provided in Attachment Booklet – February 2022.

CORPORATE AND COMMUNITY		CC03-02/22
Subject:	CC03-02/22 Monthly Financial Statements for the Period Ended 31 January 2022	
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.
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Report Purpose:

To consider and receive the Monthly Financial Statements for the period 1 July 2021 to 31 January 2022.

Background:

The Monthly Financial Statements to 30 June 2022 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 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 January 2022 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

31/01/2022		YTD Budget	YTD Actual	Variance YTD to Budget
Operating Revenue		7,089,988	7,775,819	10%
Operating Expenditure		(3,721,099)	(6,698,899)	80%
Net Operating		3,368,889	1,076,920	
Non-Operating Revenue		10,000	0	-100%
Non-Operating Expenditure		(1,750,935)	(1,731,084)	-1%
Net Non-Operating		(1,740,935)	(1,731,084)	
Cash at Bank			2,511,569	
Cash at Bank Restricted			573,941	
Reserve Bank			1,484,036	
Total Cash Funds			4,569,546	

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:

Our Brilliant Future - Strategic Community Plan 2021 – 2031

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 – February 2022

CC03-02/22 Attachment 1: Financial Statements for the Period Ended 31 January 2022.

Officer Recommendation:

RECOMMENDED:

That Council receives the Monthly Financial Statements for the period 1 July 2021 to 31 January 2022 as provided in Attachment Booklet – February 2022.

OFFICE OF CEO		CEO01-02/22
Subject:	CEO01-02/22 Request for Tender 1-2021/22 Provision of Cleaning Services	
Author:	J Keene, Procurement & Administration Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	4.00302	
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:

To seek Council approval to award Tender 1-2021/22 Provision of Cleaning Services.

Background:

Due to the expiry of the existing contract for Provision of Cleaning Services from 1 February 2019 to 1 February 2022, Public Tenders were invited from suitably experienced Contractors to undertake cleaning of 25 Council-owned facilities for a three (3) year term, with a possible two (2) year extension. The proposed procurement is relevant to both strategic objectives and operational requirements.

The request for tender document, RFT 1-2021/22 Provisions for Cleaning Services (Attachment 1) includes cleaning of the sites:

Council Facilities

- Shire Administration Centre
- Council Chambers & Planning & Infrastructure Offices
- Operations Depot
- Dongara Medical Centre
- Irwin Rec Centre
- Irwin Transfer Station
- Dongara Pavilion
- Dongara Denison Drive In Theatre

Public Conveniences

- Dongara Pavilion Public Toilets
- Dongara Town Park Ablutions
- Seaspray Public Ablutions
- Memorial Park Ablutions
- Irwin Rec Centre Concourse Toilets
- Port Denison Foreshore Facilities & Ablutions
- Fishing Boat Harbour Public Ablutions

- Recreation Jetty Ablutions
- South Beach Ablutions
- Fish Cleaning Trough
- Dongara Oval RV Dump Point

Coastal Nodes- Indian Ocean Drive

- Cliff Head Ablutions & Camping Facilities
- Big Freshwater Ablutions
- Knobby Head Ablutions

State-wide public notice was published in The West Australian Newspaper on 8 January 2022, with a tender closing date of 10 February 2022. A Site Inspection and Briefing was conducted on 18 January 2022, where three (3) tenderer representatives attended and minutes were recorded and issued to all tenderers on the Tender Register. No additional information was issued to tenderers via addendum.

Three Shire employees undertook the opening of tenders at 2:46pm on Thursday, 10 February 2022. Three (3) tender submissions were received and each submission was recorded in the Tender Register at the close of tenders.

An Evaluation Panel comprising of three (3) voting members, individually assessed the tender submissions. Each panel member completed a confidentiality declaration and a declaration of absence of interest before receiving any tender documentation. The evaluation panel members formally met on 15 February 2022 to develop the consensus evaluation of the respondents and make recommendations that resulted in the finalised Evaluation Panel Report, provided as Confidential Attachment 3.

Three submissions were received at the close of tender. Of these, two (2) submissions did not meet all required compliance criteria and were therefore excluded from further assessment. The remaining one (1) submission was then assessed against the qualitative criteria, before pricing was applied to determine the best value for money and most advantageous tender as recommended in the Evaluation Panel Report provided in Confidential Attachment 3.

Officer's Comment:

The submission by Respondent 1 met the qualitative criteria as set out in the Request for Tender (RFT) document, provided as Attachment 1. For full details of the scores and ranking refer to the RFT Evaluation Report provided as Confidential Attachment 3.

For further details regarding the compliance and qualitative criteria, refer to the attached RFT Evaluation Report provided as Confidential Attachment 3.

It is recommended that Council accepts the tender submission for Tender 1-2021/22 Provision of Cleaning Services, received from { }, named as 'Respondent 1.'

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 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) For the purposes of sub regulation (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:

Budget allocation for the service of cleaning council facilities as per Tender 1-2021/22 is provided for in the 2021/22 Annual Budget.

Budget allocation for the service of cleaning council facilities as per Tender 1-2021/22 will be provided for in the 2022/2023 draft budget preparation.

Provision for additional costs associated with the service of cleaning council facilities for the remainder of the current financial year has been provided for in the 2021/2022 Annual Budget Review, which will be presented for Council consideration in due course.

Strategy Implications:

Nil.

Attachments:

Attachment Booklet – February 2022

CEO01-02/22 Attachment 1: RFT 1-2021/22 Provisions for Cleaning Services

CEO01-02/22 Attachment 2: RFT 1-2021/22 Consensus Meeting Evaluation Matrix

CONFIDENTIAL Attachment Booklet – February 2022

CEO01-02/22 Confidential Attachment 3: Evaluation Panel Report provided under separate confidential cover as per s.23(2)(i)(iii) of the *Local Government Act 1995*.

Officer Recommendation:

RECOMMENDED:

That Council, by Absolute Majority;

- 1. Accepts the tender submission for Tender 1-2021/22 Provision of Cleaning Services, received from { }, named as 'Respondent 1' in the Evaluation Panel Report recommendation detailed in Confidential Attachment 3 and identified as the most advantageous, to the contract value of \$616,514.37 (including GST) for 3 years, with the option to continue for an additional 2 years to the contract value of \$431,834.02 (including GST), subject to the availability of Council approved funds;**
- 2. Accepts that if a contract should not be formed for Tender 1-2021/22 Provisions for Cleaning Services with Respondent 1 identified in Evaluation Panel Report recommendation shown in Confidential Attachment 3 as the most advantageous, then the Shire of Irwin will readvertise the tender;**
- 3. Delegates authority to the Chief Executive Officer to negotiate in relation to the contract for Tender 1-2021/22 Provisions for Cleaning Services as advertised and recorded in the Tender Register:**
 - a) Minor variations before entry into contract, in accordance with Regulation 20 of the *Local Government (Functions and General) Regulations 1996*.**
 - b) Variations after the contract has been entered into, limited to variations which do not change the scope of the contract and which do not increase the contract value beyond 10%, in accordance with Regulation 21A of the *Local Government (Functions and General) Regulations 1996*.**
 - c) Exercise the contract extension options as approved in Part 1 above, in accordance with Regulations 11(2)(j) and 21A of the *Local Government (Functions and General) Regulations 1996*; and**
- 4. Authorises the Chief Executive Officer in accordance with section 9.49A(4) of the *Local Government Act 1995*, to execute the contract for Tender 1-2021/22 Provisions for Cleaning Services.**

OFFICE OF CEO		CEO02-02/22
Subject:	CEO02-02/22 Port Denison Foreshore Concept Design Report, Extended Entry Statement Masterplan & Irwin River Walking Trail Amenity Upgrades Masterplan	
Author:	S Ivers, Chief Executive Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00272	
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:

The purpose of this report is for Council to adopt the Port Denison Foreshore Concept Design Report, Extended Entry Statement Masterplan & Irwin River Walking Trail Amenity Upgrades Masterplan and consider feedback received from the public.

Background:

In 2015, the Midwest Development Commission (MWDC) approved an Expression of Interest (EOI) submitted by the Shire of Irwin for funding for the Port Denison foreshore area. In preparation for the final submission during 2016, a series of Council workshops were conducted to consolidate ideas followed by further community consultation. As a result of these sessions, RPS Group Perth revised the 2013 foreshore concept masterplan with a budget estimate of \$12M excluding GST. RPS Group Perth was also engaged to carry out an economic evaluation for the purpose of the MWDC funding application. The application was submitted by the Shire of Irwin in September 2016. Late 2017, the Shire of Irwin was advised that the bid was unsuccessful.

Officer's Comment:

After the unsuccessful funding bid, Council opted to redo the Port Denison Foreshore Masterplan but with a fundamental shift in approach to embrace the natural beauty already present. In early 2018 the Shire of Irwin commissioned Josh Byrne & Associates (JBA) to develop concept designs for all five precincts of the Port Denison Foreshore based on the revised approach. JBA's work was informed by the findings and outcomes of the original RPS masterplan together with the evolving aspirations of the Shire and community. Rather than simply modernising the foreshore, JBA assisted the Shire with shifting its focus to the following attributes:

- Connection - create places that are walkable and have strong connections to re-engage the community with the foreshore, beach and natural environment
- Distinction - recognise and enhance expression of cultural heritage, meet the needs of the community, and create diverse spaces. Strengthen the unique character of the foreshore precincts. Emphasise themes related to maritime history, fishing, Indigenous History, biodiversity and the natural environment, and its long history as a seaside holiday destination.

- Accessibility - create welcoming, legible, and intuitive spaces for people of all ages and abilities. Incorporate flexible space that can be adapted for temporary and transitional uses. Provide high quality, continuous walking and cycling routes and establish pedestrian priority
- Visitation - create places of interest and enhance existing assets and environments to attract visitors. Create a civic heart to bring the community together.

JBA worked closely with Shire staff through a series of site visits and meetings ensuring the foreshore vision was further developed within the concept designs. The Port Denison foreshore work was expanded to include a masterplan for the amenity upgrade of the Irwin River walking trails and an entry statement masterplan to attract more visitors. In summary, the masterplan concept designs are:

- **Port Denison Foreshore Masterplan Concept Design Report** - the masterplan was developed from the connection, distinction, accessibility and visitation design principles mentioned above to incorporate five key precincts identified as: Grannies Beach, Foreshore Park, Foreshore Core, Boat Ramp and Obelisk.
- **Irwin River Walking Trail Amenity Upgrades Masterplan** - aims to enhance community wellbeing and highlight the unique qualities of Dongara/Port Denison. The Irwin River is an important natural asset for our twin towns.
- **Extended Entry Statement Masterplan** - aims to attract visitors into our town and improve the arrival experience to the Moreton Terrace and Brand Highway intersection.

In March 2021, JBA presented the masterplan concept designs at the Shire of Irwin's Public Consultation event. Considerable feedback was received from the community, which has informed the design in its development. JBA also engaged with the Wattandee tribe to understand the importance of the area to the Wattandee and how cultural references can be incorporated into the design.

The feedback from the Shire of Irwin's Public Consultation event was then presented by JBA to Council at a series of workshops where the respective masterplan concept designs were finalised with consideration to public comments. Once finalised, the Shire placed the masterplan concept designs onto the website for final public feedback by email. The masterplans were advertised in the Dongara Denison Local Rag and on social media with the feedback period from Monday 13 December 2021 to Friday 21 January 2022.

Referring to Attachment 4, there were 13 individuals who provided feedback plus a submission from the Irwin District Historical Society (IDHS). Reviewing the submissions and referring to Figure 1 below, 70% of the feedback was for the Foreshore Masterplan and 28% for the Irwin River Walking Trail Amenity Upgrades Masterplan.

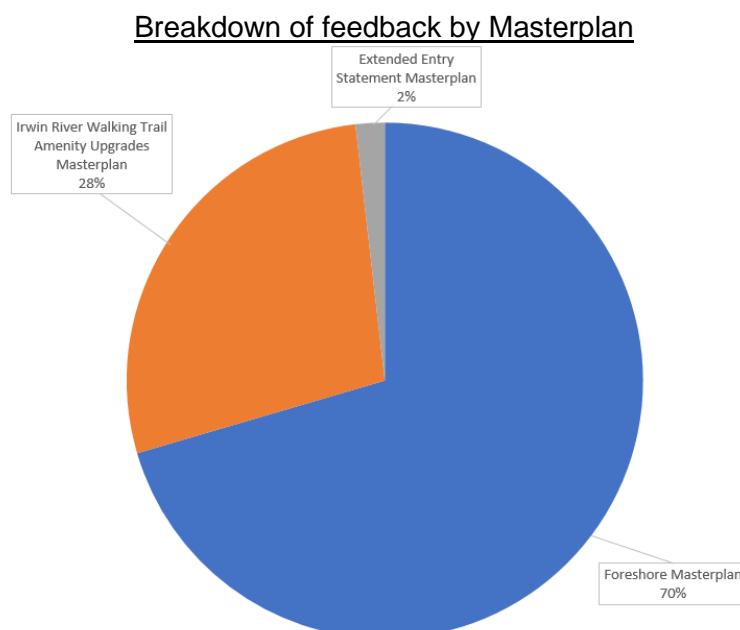


Figure 1.

Referring to Figure 2, 87% of the feedback from the public was overwhelmingly positive in the form of support, suggestions or general comments.

Breakdown by type of feedback

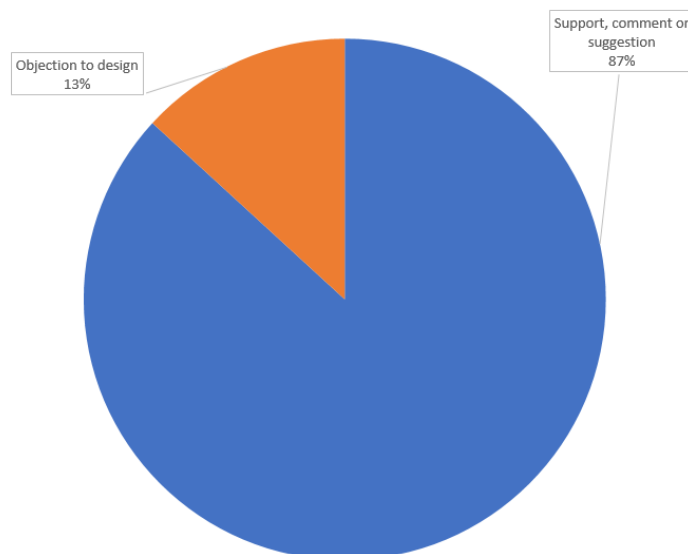


Figure 2.

Although the objections represented only 13% of the feedback, they were very constructive with some great ideas and consideration for Council. Referring to Figure 3 below, over 75% of objections came from 2 individuals plus the IDHS.

Breakdown of objections by Individual (names not shown)

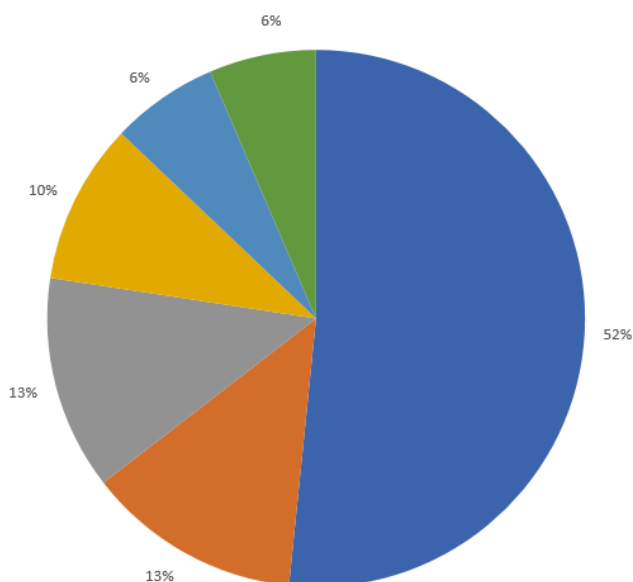


Figure 3.

Breakdown of feedback by objection type

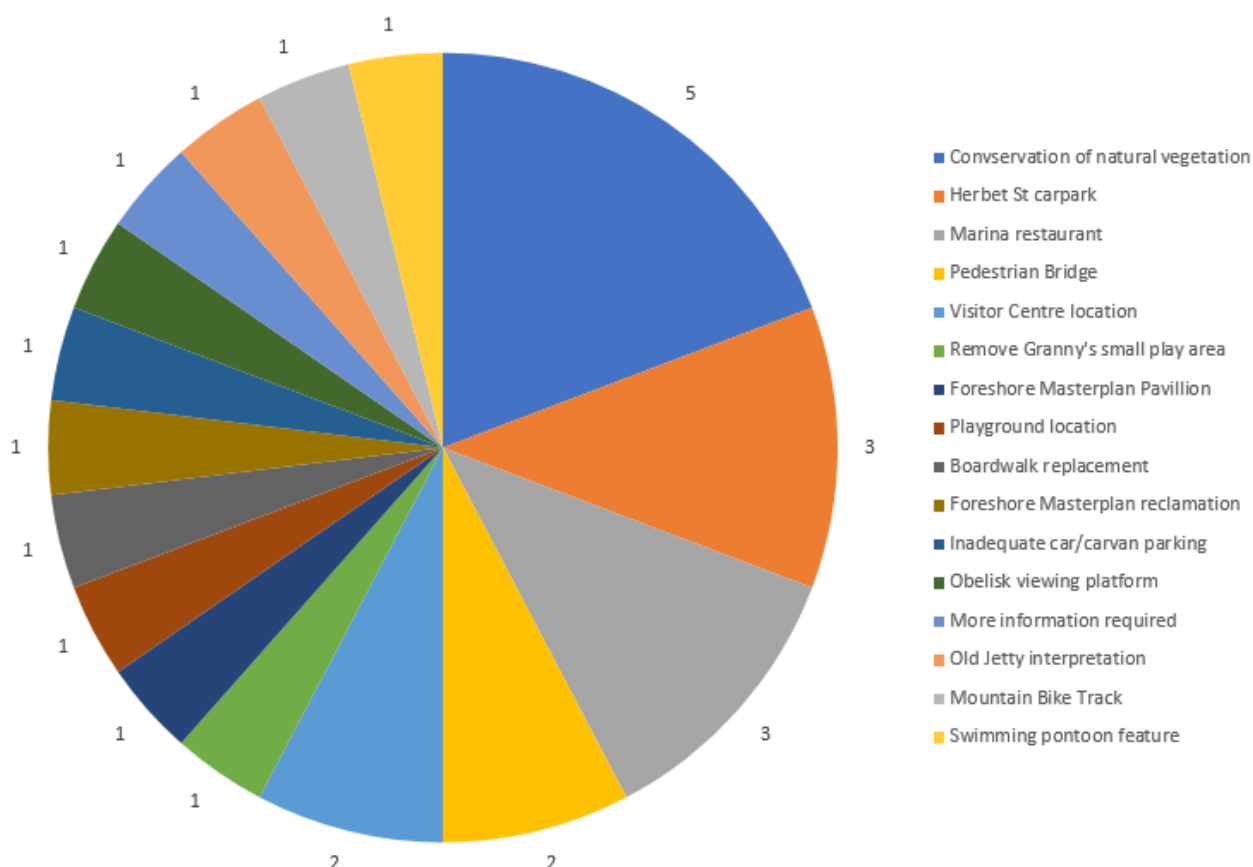


Figure 4.

It is recommended that Council adopts the masterplans and consider the community feedback during the final construction design phase. It is also recommended that the community has the opportunity to review and make comment on the final designs before any construction work commences. The final construction design phase is entirely dependent at this stage on the Shire successfully securing external funding. The funding may cover part of a precinct within a masterplan, an entire precinct within a masterplan, an entire masterplan, all masterplans, or any combination necessary to secure the funding.

Consultation:

- Shire Council and staff
- Shire of Irwin's Public Consultation event, March 2021
- Dongara Denison Local Rag advertising, Shire of Irwin website and social media from Monday 13 December 2021 to Friday 21 January 2022

Statutory Environment:

Nil.

Policy Implications:

Nil.

Financial/Resource Implications:

There are no immediate resource implications unless a funding opportunity becomes available, which then would be brought to Council for consideration through either the Annual Budget process, Budget Review process or a Council Report presented at an Ordinary or Special Council Meeting.

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 – 2031

Strategy 1.2.1 Recognise places of cultural and heritage value

Strategy 3.1.3 Identify, provide and manage Shire assets (including community infrastructure, Shire controlled reserves and freehold land) in accordance with agreed service levels

Strategy 3.1.4 Prepare cutting edge land use strategies to guide future development

Strategy 4.1.1 Enhance the Shire's profile through marketing initiatives and community engagement
Strategy 4.2.2 Embrace the Integrated Planning and Reporting framework
Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – February 2022 – Masterplans

CEO02-02/22 Attachment 1: Port Denison Foreshore Masterplan Concept Design Report

CEO02-02/22 Attachment 2: Irwin River Walking Trail Amenity Upgrades Masterplan

CEO02-02/22 Attachment 3: Extended Entry Statement Masterplan

CEO02-02/22 Attachment 4: Community Feedback

CONFIDENTIAL Attachment Booklet – February 2022

CEO02-02/22 Attachment 5: Community Feedback Detailed

Officer Recommendation:

RECOMMENDED:

That Council;

- 1. Adopts the following masterplans, presented as Attachments 1,2 and 3;**
 - a) Port Denison Foreshore Masterplan Concept Design Report**
 - b) Irwin River Walking Trail Amenity Upgrades Masterplan**
 - c) Extended Entry Statement Masterplan;**
- 2. Endorses the Chief Executive Officer to seek and make application for potential funding opportunities; and**
- 3. Should any funding opportunities enable all or parts of a masterplan construction to progress, consider the community feedback shown in Attachment 4, in the final design phase and then provide the community adequate opportunity to comment on the final designs before construction works commence.**

OFFICE OF CEO		CEO03-02/22
Subject:	CEO03-02/22 Local Government Reforms Submission	
Author:	S Ivers, Chief Executive Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0271	
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:

The purpose of this report is to seek Council approval to provide feedback/comments via the attached submission on the proposed Local Government Act reforms to the Department of Local Government, Sport and Cultural Industries.

Background:

The Minister for Local Government has released details of sweeping reforms to the Local Government Act. The reforms are based on the findings and recommendations of a number of reports and consultation undertaken over the past five years, and represent the most significant package of reforms to local government in Western Australia since the *Local Government Act 1995* was introduced more than 25 years ago.

These reforms are based on extensive consultation undertaken over the last five years, and have been developed considering:

- The Local Government Review Panel Final Report (mid 2020)
- The City of Perth Inquiry Report (mid 2020)
- Department of Local Government, Sport and Cultural Industries (DLGSC) consultation on Act Reform (2017-2020)
- The Victorian Local Government Act 2020 and other State Acts
- The Parliament's Select Committee Report into Local Government (late 2020)
- Western Australian Local Government Association (WALGA) Submissions
- Direct engagement with local governments
- Correspondence and complaints
- Miscellaneous past reports.

A large focus on the new reform is oversight and early intervention where there are significant problems arising within a local government. The introduction of new intermediate powers for intervention will increase the number of tools available to more quickly address problems and dysfunction within local governments. This will deliver significant benefits for small business, residents and ratepayers, industry, elected members and professionals working in the sector.

The package is based on six major themes:

1. Earlier intervention, effective regulation and stronger penalties;
2. Reducing red tape, increasing consistency and simplicity;
3. Greater transparency and accountability;
4. Stronger local democracy and community engagement;
5. Clear roles and responsibilities; and
6. Improved financial management and reporting.

Central to the reforms will be new measures to proactively address dysfunction in local government earlier. This includes the establishment of a new Local Government Inspector, who will be appointed to investigate and manage complaints, and will have the powers of a standing inquiry. The Inspector will be supported by specialist independent monitors who can be appointed to work within a local government to resolve problems. Local governments will also be able to proactively request the assistance of monitors, who will have a range of expertise such as governance, financial management and conflict resolution. A separate Conduct Panel will replace the existing Standards Panel. The Conduct Panel will review more serious complaints and assess evidence provided by the Local Government Inspector. Penalties will be strengthened to ensure better standards of compliance and behaviour, including fines and suspensions for breaching the Act.

In an effort to improve transparency within the sector, the reform package includes a range of new measures including the requirement for all councils to record meetings and make them available online. New online registers will be set up to provide greater accountability to ratepayers covering areas such as leases, community grants, contracts and declared conflicts of interest. Significant changes will be made to strengthen democracy and facilitate more community engagement. This includes direct election of mayors in larger local governments, the introduction of preferential voting and new rules which will outline the number of elected members on any given council, based on population within the local government. Rules will also be tightened to ensure only legitimate residents or businesses are eligible to vote or run for council. This will help crack down on the use of 'sham leases'.

Other proposed reforms include:

- The introduction of a mandatory state-wide caretaker period for all local governments;
- A new requirement for all local governments to implement a rates and revenue strategy to provide ratepayers with greater clarity around the setting of rates of spending;
- The role and responsibilities of councillors and local government CEOs will be further defined in the Act, helping provide a clearer delineation between the functions of council and the CEO;
- Cutting red tape by streamlining procedures, approvals and local laws across local government. This will help to drive better efficiency and consistency across local governments, and deliver significant benefits for small business, community organisations, residents and ratepayers; and
- The package will build upon reforms introduced in the previous term of the McGowan Government, including new laws that work to improve transparency, cut red tape, and support jobs growth and economic development - ensuring that local government works for the benefit of local communities.

Officer's Comment:

Referring to CEO03-02/22 Attachment 1 "Local Government Reforms Submission", in summary Council supported most of the proposed reforms.

The reforms not supported by Council and generally similar to the position taken by other Northern Country Zone regional local governments:

- 3.5 Chief Executive Officer Key Performance Indicators (KPIs) be Published
- 4.3 Introduction of Preferential Voting
- 4.5 Tiered Limits on the Number of Councillors
- 5.4 Local Governments May Pay Superannuation Contributions for Elected Members
- 6.6 Audit Committees
- 6.7 Building Upgrade Finance

The reforms not supported by Council and generally not similar to the position taken by other Northern Country Zone regional local governments:

- 3.3 Clearer Guidance for Meeting Items that may be Confidential

- 5.8 CEO Recruitment

Further detail can be found in the referred attachment.

Consultation:

Councillors provided feedback regarding the proposed reforms at the 23 November 2021 Councillor Discussion Session. These comments were then compiled into the Detailed Local Government Reforms Table provided by DLGSC and then circulated via email 28 January 2022 to all Councillors for final comment by 1 February 2022. No further comment was received from Councillors.

Statutory Environment:

There are no statutory implications at this stage, but statutory implications will need to be considered by Council once the proposed reform legislation is passed by the Western Australian Parliament.

Policy Implications:

There are no policy implications at this stage, but policy implications will need to be considered by Council once the proposed reform legislation is passed by the Western Australian Parliament.

Financial/Resource Implications:

There are no budget implications at this stage, but financial implications will need to be considered by Council once the proposed reform legislation is passed by the Western Australian Parliament.

Strategic Implications:

Nil.

Attachments:

Attachment Booklet – February 2022

CEO03-02/22 Attachment 1: Local Government Reforms Submission

CONFIDENTIAL Attachment Booklet – February 2022

CEO03-02/22 Attachment 2: NCZ Collated Local Government Reforms Comments

Officer Recommendation:

RECOMMENDED:

That Council, pursuant to Section 5.20 of the *Local Government Act 1995* resolves to:

- 1. Endorses the comments on the Local Government Act reform in Attachment CEO03-02/22 Attachment 1 “Local Government Reforms Submission”; and**
- 2. Submits the comments on the Local Government Act reform in Attachment CEO03-02/22 Attachment 1 “Local Government Reforms Submission” to the Department of Local Government, Sport and Cultural Industries prior to 25 February 2022.**

INFRASTRUCTURE & DEVELOPMENT		ID01-02/22
Subject:	ID01-02/22 Delegated and Authorised Actions for December 2021 to January 2022 – Development	
Author:	B Jeans, Manager Development	
Responsible Officer:	S Ivers, Chief Executive Officer	
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 December 2021 to 31 January 2022.

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:

Our Brilliant Future - Strategic Community Plan 2021 – 2031

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 – February 2022

ID01-02/22 Attachment 1: Table of Delegated Actions for December 2021 to January 2022, Development

CONFIDENTIAL Attachment Booklet – February 2022

ID01-02/22 Attachment 2: Detailed Table of Delegated Actions for December 2021 to January 2022, Development

Officer Recommendation:

RECOMMENDED:

That Council receives the Delegated and Authorised Actions for December 2021 to January 2022 as set out in Attachment 1 in Attachment Booklet – February 2022.

INFRASTRUCTURE & DEVELOPMENT		ID02-02/22
Subject:	ID02-02/22 Big 4 Dongara Denison Beach Holiday Park – Revised lease area and initiate lease renewal	
Author:	B Jeans, Manager Development	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0091	
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:

- Supporting excising a portion of Reserve 25826 for amalgamation into Reserve 41088 to establish the Grannies Beach foreshore area; and
- Following the change of Reserve 25826, initiating the disposal of property process for a revised lease of Big 4 Dongara Denison Holiday Park which is operated by Phobos Nominees Pty Ltd.

Background:

At the November 2020 Ordinary Council Meeting, Council resolved to support the expansion of the Big 4 Dongara Denison Holiday Park (the Park) at the northern end and initiate the renewal of the lease.

The northern expansion of the reserve has been progressed with the survey boundaries updated. During this survey it was identified that the existing chalets were constructed approximately 3m west of the existing Reserve boundary. It was agreed to use this opportunity to formalise this encroachment so that the chalets formed part of the reserve managed by the Park (Reserve 25826). The below Landgate imagery depicts the new survey boundary (black line being previous boundary).



Following the progress of the northern expansion, through the community consultation phase of the development of the Strategic Community Plan, it has become clear that the community places a strong value with Grannies Beach. With concept development plans of Grannies Beach and the Port Denison Foreshore Masterplan, there is clear direction that the Shire must be in a position to manage and enhance the Grannies Beach precinct to meet the current and future needs of the community.

The Big 4 Dongara Denison Holiday Park (“the Park”) has operated on Reserve 25826 for over 20 years through a series of leases with the Shire. The current lease is due to expire in 2026 and the Lessee has requested a review and renewal of the lease.

Officer's Comment:

The process to excise a portion of Reserve 25826 into Grannies Beach Reserve 41088 is the same process that was carried out for the northern expansion. It is important that the expansion of the Grannies Beach reservation is secured prior to the Shire progressing with the lease renewal of the Park given the reserve change is affected by the disposal process.

Grannies Beach development

Grannies Beach development:
Recent consultation on the Strategic Community Plan project has strengthened the community's value of Grannies Beach. The Port Denison Foreshore Master Plan 2013 and subsequent revised concept designs for the foreshore reveals the need to expand on the Grannies Beach area in order for the space to achieve the intended use. The development of Grannies Beach will also incorporate adjacent Reserve 46561 with likely reconfiguration of parking and access.

Reserve Excision/Amalgamation

Reserve 25826 is managed by the Shire for the purpose of “Recreation, Camping & Caravan Park” and leased to the Park. Adjoining Reserve 41088 is managed by the Shire for the purpose of “Recreation” and forms the coastal land of Grannies Beach and Surf Beach that adjoins the Park.

Comments were sought from DPLH to confirm support behind this excision. DPLH were supportive of the Shire’s intent with regard to the expansion of Grannies Beach and increase of recreational use. No implications were raised in this early consultation.



Local Planning Scheme

Through the consideration of the reserve amalgamation, it was also identified that the Shire’s Local Planning Scheme (“the Scheme”) will need to be amended (current Scheme map below) to reflect the adjusted reserve boundaries. A review of the Special Use zoning for Reserve 46561 will also be part of this process. This can be achieved through the Shire’s review of the Local Planning Scheme or an Omnibus Amendment. The timing of this change will not compromise the intended development and uses of the reserves.



Disposal of Property (Lease process)

The Lessee has indicated the desire to renew the lease, which is due to expire in 2026. The Management Order of Reserve 25826 provides the Shire (subject to Minister for Lands consent being first obtained) with the power to lease for periods up to 21 years. The Local Government Act sets out a clear process for disposal of property which, following Section 3.58(3) of the Act, requires an up to date market valuation, public notice detailing the proposed disposition and Council consideration of any submissions prior to agreeing or disagreeing to the disposition.

Should Council support the Officer's Recommendation, a report will be presented back to Council following the process of public advertising for consideration of any submissions prior to determining whether to agree to the disposal of property.

Consultation:

Fowler Group of Companies (for Phobos Nominees Pty Ltd)

Department of Planning, Lands and Heritage (land use management, land use planning and coastal planning teams)

Statutory Environment:

Shire of Irwin Local Planning Scheme No.5

Land Administration Act 1997

51. Cancelling, changing etc. reserves, Minister's powers as to

Subject to sections 42, 43 and 45, the Minister may by order cancel, change the purpose of or amend the boundaries of, or the locations or lots comprising, a reserve.

Local Government Act 1995

3.58. Disposing of property

- (1) In this section —
dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or

- (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
 - and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
 - (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
 - (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

Policy Implications:

CP43 Disposal of Property

Financial/Resource Implications:

All costs associated with the reserve excision for the Grannies Beach location (such as survey costs and Landgate fees) are to be borne by the Shire of Irwin. This cost is approximately \$4,000. All costs associated with the subsequent disposal of property (such as public notice and market valuation) are to be borne by the Shire of Irwin and would equate to approximately \$3,000.

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 – 2031

Strategy 2.1.5 Leverage opportunity and investment, and promote retail development

Strategy 3.1.3 Identify, provide and manage Shire assets (including community infrastructure, Shire controlled reserves and freehold land) in accordance with agreed service levels

Attachments:

Attachment Booklet – February 2022

ID02-02/22 Attachment 1: Grannies Beach Survey Plan

Officer Recommendation:

RECOMMENDED:

That Council:

- 1. Authorises the Chief Executive Officer to progress the excision and amalgamation of Reserve 25826 into Reserve 41088 for the purposes of establishing a suitable area for the Grannies Beach precinct consistent with Attachment 1;**
- 2. In conjunction with 1. above, indemnifies the Minister for Lands against any costs incurred in the process;**
- 3. On completion of 1. above, authorises the Chief Executive Officer to give public notice of the property by way of leasing Reserve 25826 to Phobos Nominees Pty Ltd, in accordance with Section 3.58(3) of the Local Government Act 1995; and**
- 4. Accepts that costs of public notice and a market valuation associated with 3. above are to be borne by the Shire of Irwin.**

INFRASTRUCTURE & DEVELOPMENT		ID03-02/22
Subject:	ID03-02/22 Amendment to Proposed Outbuilding at Lot 1496 (#31104) Brand Highway, Bonniefield	
Author:	B Jeans, Manager Development	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	P1133, A3217	
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:

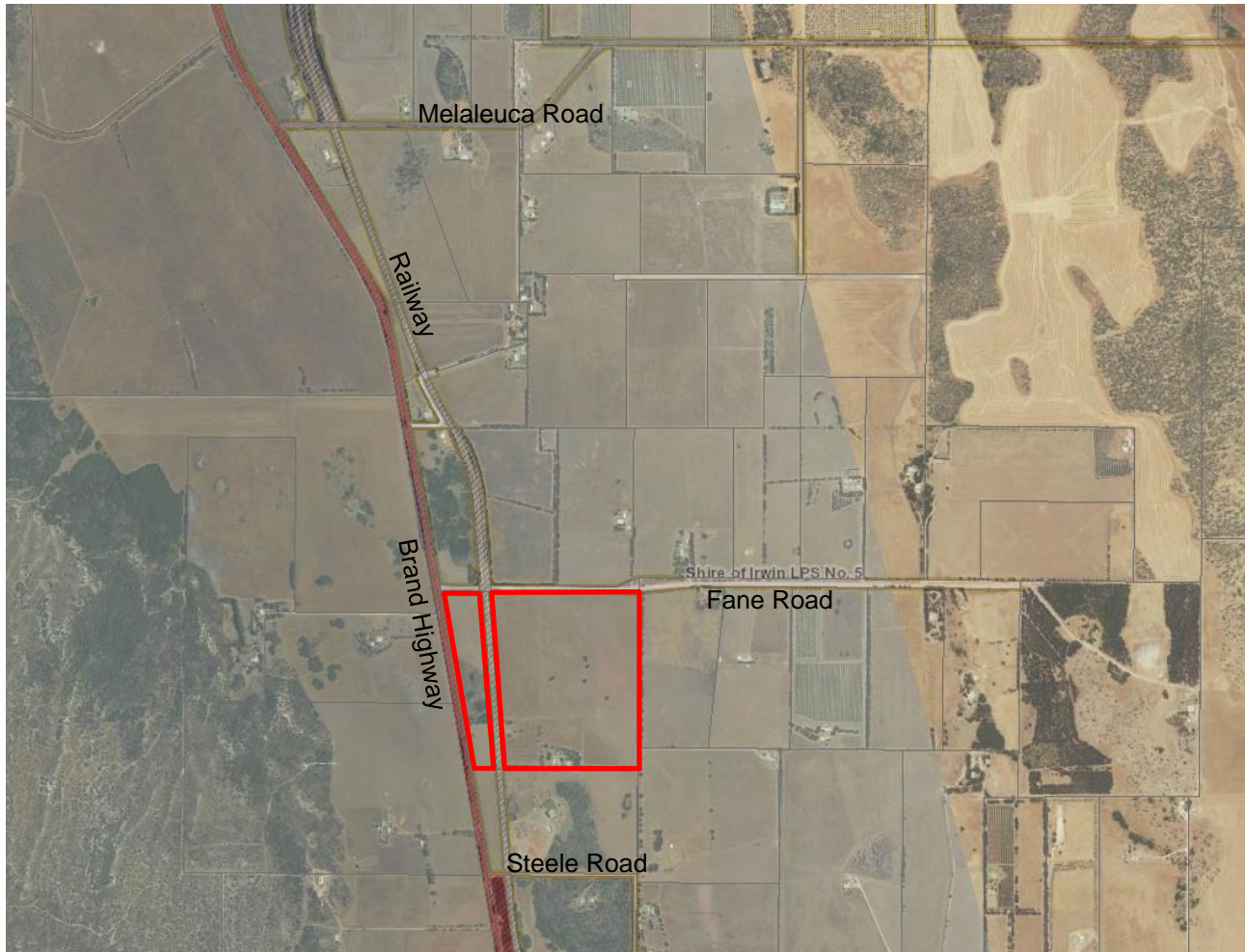
For Council to consider a minor amendment to the proposed outbuilding at Lot 1496 (#31104) Brand Highway, Bonniefield.

Background:

Council approved an outbuilding on Lot 1496 (#31104) Brand Highway, Bonniefield at the 26 October 2021 Ordinary Council Meeting. The Council Minutes to this item is attached (Attachment 2). The applicant is seeking approval to amend the 600sqm outbuilding (as per Attachment 2) in the following ways:

- Increase the length (short side) of the outbuilding by 2m.
- Increase the lean-to (which is not part of the outbuilding floor area) by an additional 1m.
- Reduce the southern side setback from 60m to 40m.

In summary the property is 39 hectares, located within the Rural Smallholdings zone and comprises of an existing dwelling and 150sqm domestic outbuilding. The previously approved outbuilding was 600sqm in area with an 8.36m ridge height.



Officer's Comment:

The Shire was approached by the Applicant late in 2021, enquiring on the process for a minor amendment to the approval. Clause 77 of the Deemed Provision of the Planning and Development (Local Planning Schemes) Regulations 2015 provides a mechanism for minor amendments, avoiding the need for an amended Development Application. The Regulations does not specify what 'minor' is, leaving that interpretation at the discretion of the local government. Due to the original proposal being presented to Council and requiring a detailed assessment, it was considered appropriate to present the amended proposal back to Council for determination.

Amendment to outbuilding floor area

The applicant seeks approval to amend the outbuilding from the recently approved 600sqm, increasing it up to 640sqm. This is to be achieved with a minor increase in the width of the outbuilding by 2m. As contained in the Council Report on the original proposal several factors such as visibility, positioning, the raised railway line and existing vegetation influenced the assessment of the perceived visual amenity impacts an outbuilding of such size would have. It is not considered the additional 2m in width for the proposal will not present any new or increased adverse amenity impacts on the locality.

The increase in aggregate outbuilding floor area is also not considered to result in an undesirable precedent being set with regards to maximum outbuilding floor areas. This is because the decision is based on the appropriate provisions of the Local Planning Scheme and planning framework that provide for relevant matters such as design, location, scale, compatibility and visual amenity. A similar sized outbuilding would not have the same assessment response if it were, for instance, more exposed to public view.

Reduced side setback

The applicant proposes reducing the side setback from 60m to 40m. The minimum side setback prescribed for the zone is 5m. It would be expected that outbuildings with a floor area below 200sqm would be more acceptable closer to the boundary. With the proposed large outbuilding, the 40m setback is well above the minimum and provides for adequate separation.

Conclusion

Whilst the amendment would further increase the outbuilding size, with the consideration of relevant matters specific to this proposal such as its location and visibility, it is considered that the minor amendment does not present additional concerns to what was previously considered.

It is recommended the amended proposal be granted Development Approval subject to the same conditions as originally imposed. From an administrative perspective, it is recommended that a revised approval superseding the original approval be granted.

Consultation:

The amended outbuilding was not advertised to nearby landowners due to the minor amendments proposed and no objections being previously received to the original proposal referral.

Statutory Environment:

Planning and Development (Local Planning Schemes) Regulations 2015

Clause 67 (which is to be read in place/conjunction of Clause 10.2 of the Scheme) provides for matters which are to be considered by the local government. Such matters which are considered relevant include:

(a) The aims and provisions of the Scheme

(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

*(n) the amenity of the locality including the following –
(ii) the character of the locality*

Shire of Irwin Local Planning Scheme No. 5

The subject property is within the Rural Smallholdings zone. The objective of the zone is:

“a) To provide for the use of land for minor rural pursuits, hobby farms, conservation lots and alternative residential lifestyle purposes where part-time income from cottage industries, home occupation and the use of land for agriculture may be derived.

b) To preserve and enhance landscape quality, environmental values and conservation attributes.”

An outbuilding is defined in the Scheme as:

“means a detached enclosed non-habitable structure, including garages, storage sheds, studios, games rooms and patios, but not carports, pergolas or structures that are connected to or form part of the main building (except with the Residential zone, where the Residential Design Codes’ definition for Outbuilding prevails).”

Outbuildings in the Shire are subject to Clause 5.18 of the Scheme. The Scheme sets a maximum outbuilding floor area for the Rural Smallholdings zone at 200sqm and provides more general provisions for outbuildings in all zones:

Clause 5.18 Outbuildings

The local government may approve Outbuildings consistent with the following development requirements. Outbuildings that are deemed to conflict or exceed the development requirements require planning approval and may be required to be advertised in accordance with Clause 9.4.

Zone	Development Requirements for Outbuildings
All relevant zones	The location, design, external colour and appearance, scale and bulk of the Outbuilding shall not have adverse amenity impacts on adjoining properties or the area when viewed from public roads.
Residential	As per the Residential Design Codes.

Special Residential	The aggregate maximum Plot Ratio Area (floor area) shall be 80m ² .
Rural Residential	The aggregate maximum Plot Ratio Area (floor area) shall be 100m ² .
Rural Smallholdings	The aggregate maximum Plot Ratio Area (floor area) shall be 200m ² .
General Farming	The aggregate maximum Plot Ratio Area (floor area) shall be 200m ² .

Table 5.24 of the Scheme prescribes setbacks for development in the Rural Smallholdings zone.

5.24 Zone/Use Development Table

Zone	Use	Min Lot Area (m ²)	Min Boundary Setbacks (m)			Other Requirements
			Front	Rear	Side	
Rural Smallholdings	Any Permitted Use	Area D – 15ha	15m	7.5m	5m	Nil

Clause 5.5 of the Scheme sets requirements relating to the consideration of Scheme variations:

5.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

5.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

5.5.2 In considering an application for planning approval under this Clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to
a) consult the affected parties by the following one or more of the provisions for advertising uses under Clause 9.4, and
b) have regard to any expressed views prior to making its determination to grant the variation.

5.5.3 The power conferred by this Clause may only be exercised if the local government is satisfied that –
a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 10.2; and
b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

Policy Implications:

Nil.

Financial/Resource Implications:

Nil.

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 – 2031
 Strategy 2.1.1 Continuously improve approval processes
 Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – February 2022
 ID03-02/22 Attachment 1: Amended Development Application
 ID03-02/22 Attachment 2: Council Decision 151021

Officer Recommendation:

RECOMMENDED:

That Council grant Development Approval for the outbuilding at Lot 1496 (#31104) Brand Highway, Bonniefield subject to the following conditions and advice notes:

Conditions

1. This approval supersedes the previous approval granted 26 October 2021.
2. The development plans, as date marked and stamped 'Approved', together with any requirements and annotations detailed thereon by the Shire of Irwin, are the plans approved as part of this application and shall form part of the development approval issued, except where amended by other condition of this approval.
3. All stormwater and drainage runoff from all roofed and impervious areas is to be retained on site to the satisfaction of the Shire of Irwin.
4. All soil disturbed as a result of the development shall be stabilised and retained on site.
5. The outbuilding shall not be used for human habitation.
6. The outbuilding is permitted to be used for storage and garaging purposes only associated with the permitted rural use of the land.
7. The outbuilding shall be constructed with a Colorbond (or similar) material for the external walls as depicted in the approved plans.
8. The outbuilding shall be constructed with a non-reflective roof material or finish to the satisfaction of the Shire of Irwin. Unpainted or untreated Zincolume is considered to be reflective and not permitted.
9. Existing vegetation and trees (identified on the plans) shall be retained and shall only be removed if dead, diseased or required by written instruction by the Shire of Irwin for compliance with the Firebreak Notice. If the vegetation is removed as a result of death or disease, vegetation with the same or similar visible characteristics shall be planted and maintained to the satisfaction of the Shire of Irwin.

Advice Notes

1. The landowner be advised that no additional outbuildings will be supported on the land under the Shire's current local planning framework.
2. If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
3. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
4. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.
5. The Western Australian Building Act 2011 requires a Building Permit to be obtained from the Shire before any work commences on the site.
6. It is the landowner's responsibility to ensure property boundaries and measurements are accurate and consistent with the surveyed property boundary.

INFRASTRUCTURE & DEVELOPMENT		ID04-02/22
Subject:	ID04-02/22 Proposed Outbuilding at Lot 243 (#26) Bayliss Road, Dongara	
Author:	B Jeans, Manager Development	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	P1172, A9132	
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 the proposed outbuilding at Lot 243 (#26) Bayliss Road, Dongara.

Background:

The Shire received a Development Application for an outbuilding at Lot 243 (#26) Bayliss Road, Dongara on 10 January 2022. The subject property is 2001sqm located within the Special Residential zone and backs onto the Brand Highway (property outlined in red below).



The owner is seeking approval for an outbuilding at their property with the summarised characteristics:

- 150sqm floor area
- 3.8m wall height
- 4.68m ridge height
- 2m rear and side boundary setbacks
- Located within Local Reserve and Restrictive Covenant (Landscape Buffer)

The proposal required a Development Application due to exceedance to the maximum floor area, variation to the minimum side and rear setbacks and the positioning of the outbuilding within the Local Reserve and Restrictive Covenant (Landscape Buffer). The owner was advised of the requirement to provide details of a dwelling to be included with this application, as an outbuilding cannot be approved on vacant land in the zone. This report will focus on the outbuilding component as the dwelling is fully compliant.

Officer's Comment:

An assessment summary in respect to the requirements of the Shire's Local Planning Scheme No. 5 (the Scheme) has been tabled below, with additional comments to the relevant criteria further below:

Development Criteria	Prescribed	Proposed	Complies – Yes or No
Maximum Floor Area	80sqm	150sqm	No
Maximum Wall Height	Not prescribed	3.8m	N/A
Maximum Ridge Height	Not prescribed	4.68m	N/A
Minimum Setback – front	20m	50m	Yes
Minimum Setback – rear	10m	2m	No
Minimum Setback – side	5m	2m	No

Maximum Floor Area

The Scheme prescribes a maximum outbuilding floor area for the Special Residential zone at 80sqm. Within this clause, it clearly states that a development application is required for an outbuilding proposal

that does not meet these requirements. This means that outbuilding proposals that exceed the maximum floor area requirement can be considered and approved, but only where they meet the overarching 'objective' provision.

Many existing outbuildings within the Special Residential zone, more specifically the Moreton Bay Estate, are 150sqm in area due to the previous Local Planning Scheme permitting up to 150sqm outbuildings and 200sqm in aggregate area. Whilst the current Scheme applies and no weight or precedence is given to a previous Scheme, consideration can be given to the established development of the area and what is to be determined as being appropriate and compatible with the locality.

The proposed outbuilding floor area is considered acceptable based on previous similar outbuilding proposals supported by Council.

Outbuilding heights

The Scheme does not stipulate maximum wall and ridge heights for outbuildings. The requirement applicable to outbuildings in all zones in Clause 5.18 does provide consideration for building height in respect to the bulk and scale of the structure. The proposed wall and ridge heights of the outbuilding are generally consistent with existing outbuildings approved within the zone.

Reduced setbacks

Table 5.24 of the Scheme sets out the minimum setbacks for dwellings and other buildings. When a proposal does not meet the minimum prescribed setbacks or development provisions, this triggers the need for a development application. The owner proposes to reduce the side setback from 5m to 2m and the rear setback from 10m to 2m. The reduced side setback does not present any concerns of undesirable visual amenity impacts to the Local Reserve facing south. The reduced rear setback results in the outbuilding being located within the Local Reserve (covered below). It is the Officer's view that there is insufficient justification for the outbuilding to be placed in the Local Reserve and its placement would be detrimental to the intent of the Local Reserve as a Landscape Buffer. It is the Officer's view that there is sufficient area to at least bring the outbuilding forward of the Local Reserve area, which would be consistent with the 10m minimum rear setback for the zone.

Placement within Local Reserve and Restrictive Covenant (Landscape Buffer)

The subject property, as well as all of the properties along the Brand Highway as part of the Moreton Bay Estate subdivision are subject to a Restrictive Covenant (Confidential Attachment 2). A Restrictive Covenant is:

"an agreement which restricts the use or enjoyment of a landowner's land for the benefit of other land or for the benefit of a public authority. A Restrictive Covenant not only binds the present landowner but also subsequent owners of that land, where the burden of the covenant is intended to run with the land."

It is clear this Restrictive Covenant (burdened area shown in hashed red below) is placed on the properties for the purposes of a 20m wide landscape buffer zone. The Restrictive Covenant restricts the landowners from removing any native vegetation within the 20m wide area unless the Shire approves for minor pruning or if dead/diseased and presenting a safety hazard. The Restrictive Covenant further states that no building shall encroach into this area unless the Shire provides consent. The Shire has not consented to any clearing on the lot.

The same properties also have the rear 10m of the lot as Local Reserve. Development in a Local Reserve is subject to prior Development Approval and consideration is given to the intended purpose of that Reserve. The Local Reserve and Restrictive Covenant are both in place for the purposes of a maintaining a landscape buffer and restricting building within this area.

From the Landgate imagery it is evident that a number of outbuildings have been constructed and approved within the Local Reserve and Restrictive Covenant areas. On review of the assessments of the Development Applications, it appears that the existence of these restrictions was not considered and was an oversight at the time.



Conclusion

The Shire advised the owner that the proposed position of the outbuilding both within the Local Reserve and Landscape Buffer was not supported. Whilst existing outbuildings in the estate within the Local Reserve and Landscape Buffer were previously approved, it was evident that this was an oversight. The Shire presented the owner with a reasonable supported alternative in which the outbuilding could be moved forward out of the Local Reserve (but within the Restrictive Covenant Landscape Buffer). The owner opted to maintain the original proposal on the awareness it would require Council's consideration with an Officer's Recommendation.

It is the Officer's view that there is insufficient justification to support the outbuilding in its proposed location. Acknowledging the past approvals, it is the view that the offered alternative position being 10m from the rear boundary and outside of the Local Reserve, is a fair outcome considering the intent of the Restrictive Covenant. It is the Officer's Recommendation that Council:

- refuse the proposed outbuilding for the reasons covered in this Report;
- approve the dwelling that is part of this application subject to standard conditions; and
- support the delegated approval of the outbuilding, should the owner wish to re-apply within a reasonable timeframe, subject to the modification of a minimum 10m rear setback and the reinstatement of indigenous tree species within the Local Reserve on the lot to replace the previously cleared trees.

Consultation:

The applicant provided support from the northern neighbour (in the form provided by the Shire) at Lot 242 for the proposed outbuilding being above 80sqm. No further neighbour consultation was considered necessary.

The Shire liaised with the applicant regarding the outbuilding placement within the Local Reserve and Landscape Buffer.

Statutory Environment:

Shire of Irwin Local Planning Scheme No. 5

The subject property is within the Special Residential zone. The objective of the zone is:

"To provide a low density residential living and working environment in which development and land use

is of a type and location compatible with the overall amenity of the area.”

The applicant proposes to place the outbuilding within the Local Reserve. Clause 3.4 prescribes the development provisions that apply within the Local Reserve:

- 3.4.1 *A person must not-*
a) *use a Local Reserve; or*
b) *commence or carry out development on a Local Reserve, without first having obtained planning approval under Part 9 of the Scheme.*
- 3.4.2 *In determining an application for planning approval the local government is to have due regard to*
a) *the matters set out in Clause 10.2; and*
b) *the ultimate purpose intended for the Reserve.*

Outbuildings in the Shire are subject to Clause 5.18 of the Scheme. The Scheme sets a maximum outbuilding floor area for the Special Residential zone at 80sqm and provides more general provisions for outbuildings in all zones:

Zone	Development Requirements for Outbuildings
All relevant zones	The location, design, external colour and appearance, scale and bulk of the Outbuilding shall not have adverse amenity impacts on adjoining properties or the area when viewed from public roads.
Residential	As per the Residential Design Codes.
Special Residential	The aggregate maximum Plot Ratio Area (floor area) shall be 80m ² .
Rural Residential	The aggregate maximum Plot Ratio Area (floor area) shall be 100m ² .
Rural Smallholdings	The aggregate maximum Plot Ratio Area (floor area) shall be 200m ² .
General Farming	The aggregate maximum Plot Ratio Area (floor area) shall be 200m ² .

Table 5.24 of the Scheme prescribes setbacks for “other buildings” in the Special Residential Zone.

Zone	Use	Min Lot Area (m ²)		Min Boundary Setbacks (m)			Other Requirements
				Front	Rear	Side	
Special Residential	Any Permitted Use	2000m ²	Single House	10m	10m	5m	All development must be located within an approved building envelope. All lots require connection to reticulated sewer.
			Other Buildings	20m	10m	5m	

Clause 5.26 covers general development requirements related to the Special Residential zone, which includes the provision of landscaping with development.

Planning and Development (Local Planning Schemes) Regulations 2015

Clause 67 of the Deemed Provisions of the Regulations set out the ‘Clause 10.2’ Matters, of which three matters are of particular relevance to the proposed outbuilding:

- (j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*
- (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (zb) any other planning consideration the local government considers appropriate.*

Policy Implications:

Nil.

Financial/Resource Implications:

Nil.

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 – 2031

Strategy 2.1.1 Continuously improve approval processes

Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – February 2022

ID04-02/22 Attachment 1: Development Application Plans

CONFIDENTIAL Attachment Booklet – February 2022

ID04-02/22 Attachment 2: Restrictive Covenant

Officer Recommendation:

RECOMMENDED:

That Council;

1. Refuse the proposed outbuilding component of P1172 at Lot 243 (#26) Bayliss Road, Dongara for the following reasons:
 - a) The construction of the outbuilding within the Local Reserve is detrimental to the intent and purpose of the Reserve to protect an adequate landscape buffer from development.
 - b) Approval of the outbuilding within the Local Reserve, when there is sufficient area on the appropriately zoned portion of the property, is inconsistent with the aim Clause 1.6(h) of the Scheme “safeguard and enhance the character and amenity of the built and natural environment...”.
 - c) The location of the outbuilding within the Local Reserve would have adverse amenity impacts due to the conflict with the intent of that Reserve as a Landscape Buffer, which is inconsistent with Clause 5.18 of the Scheme.
2. Grant Development Approval for the proposed dwelling component of P1172 at Lot 243 (#26) Bayliss Road, Dongara subject to the following conditions and advice notes:

Conditions

1. The landowner shall revegetate the Local Reserve area on the property with indigenous tree species within 3 months of occupation to the satisfaction of the Shire of Irwin and maintain these trees (including replacement in the event of death or disease) in perpetuity.
2. The development plans, as date marked and stamped ‘Approved’, together with any requirements and annotations detailed thereon by the Shire of Irwin, are the plans approved as part of this application and shall form part of the development approval issued, except where amended by other condition of this approval.
3. All stormwater and drainage run off from all roofed and impervious areas is to be retained on-site to the satisfaction of the Shire of Irwin.
4. The development shall be connected to the reticulated scheme water and sewer network.
5. Prior to occupation of the development, all vehicle crossovers must be designed and constructed (sealed, brick paving, bitumen, concrete) to the Shire’s standard crossover specification.

6. External clothes drying areas appurtenant to the dwelling shall be provided in a location such that they are screened from public view from the street and/or adjacent public areas.
7. Any lighting device is to be positioned and shielded as to not cause any direct, reflected or incidental light to encroach beyond the property boundaries or cause any glare nuisance to any nearby residents or passing motorists.

Advice Notes

1. With regard to Condition No 3, on application for a building permit a detailed design of stormwater collection and disposal system of developed areas is to be supplied.
2. If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
3. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
4. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.
5. The Western Australian Building Act 2011 requires a Building Permit to be obtained from the Shire before any work commences on the site.
6. It is the landowners responsibility to ensure property boundaries and measurements are accurate and consistent with the surveyed property boundary.

RECOMMENDED:

That Council;

1. Authorise the Chief Executive Officer to grant Development Approval for the outbuilding at Lot 243 (#26) Bayliss Road, Dongara should the landowner submit a new application of the outbuilding at a minimum 10m rear setback subject to the conditions and advice notes:

Conditions

1. The landowner shall revegetate the Local Reserve area on the property with indigenous tree species within 3 months of completion to the satisfaction of the Shire of Irwin and maintain these trees (including replacement in the event of death or disease) in perpetuity.
2. The development plans, as date marked and stamped 'Approved', together with any requirements and annotations detailed thereon by the Shire of Irwin, are the plans approved as part of this application and shall form part of the development approval issued, except where amended by other condition of this approval.
3. All stormwater and drainage run off from all roofed and impervious areas is to be retained on-site to the satisfaction of the Shire of Irwin.
4. The outbuildings shall be constructed or pre-painted with Colorbond (or similar product). The use of zincalume is not permitted.

- 5. The outbuilding shall be used for purposes incidental and ancillary to the enjoyment of the dwelling on the land only, and shall not be used for human habitation, commercial or industrial uses.**
- 6. The development hereby approved must not create community safety concerns, or otherwise adversely affect the amenity of the subject locality by reason of (or the appearance or emission of) smoke, fumes, noise, vibration, odour, vapour, dust, wastewater, waste products or other pollutants.**

Advice Notes

- 1. If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.**
- 2. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.**
- 3. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.**
- 4. The Western Australian Building Act 2011 requires a Building Permit to be obtained from the Shire before any work commences on the site.**
- 5. It is the landowners responsibility to ensure property boundaries and measurements are accurate and consistent with the surveyed property boundary.**

INFRASTRUCTURE & DEVELOPMENT		ID05-02/22
Subject:	ID05-02/22 Proposed Expansion of Seaspray Caravan Park, Dongara	
Author:	B Jeans, Manager Development	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00179	
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 the proposed expansion of Seaspray Caravan Park, Dongara.

Background:

The Shire has been approached by the Seaspray Caravan Park owner on further expansion options for the Seaspray Caravan Park. This is a follow on from the recent progress of the Local Development Plan (LDP) for the Seaspray Caravan Park, whereby Council adopted the revised LDP at its 24 September 2019 Ordinary Council Meeting (see Attachment 2). The approved LDP did not include the area of land outside of the existing Reserve boundaries of the Caravan Park.

Since the 2019 adoption of the LDP, the management order of the Reserve was also amended to support up to 50 year lease terms. The Park owner previously raised interest in expansion of the Park beyond the boundary of the approved LDP and outside of the relevant Reserve for the Caravan Park. To allow for Council's consideration of this expansion, the Shire advised the Park owner of the additional information required. Through this consultation process the expansion to the southern and south-western side of the existing Park was to be revised to be developed as caravan bay sites rather than chalets, due to the coastal risk and minimising impact on the elevated land.

The proposed expansion of the Park will involve two land tenure processes to support the development. This involves amending the Reserve boundaries and closing a portion of the Church Street road reserve on the north-western section. The Shire instructed the Park owner to prepare a revised LDP showing the expansion proposed with supporting information. The process of the revised LDP, should it be supported for advertising, could coincide with the other requirements such as the road closure and request to the DPLH for expansion of Reserve boundaries.

It is noted that should the revised LDP be approved and Reserves amalgamated, a lease renewal will then follow through a disposal of land process. It is only once all of these are in place, that expansion can occur.

Officer's Comment:

The expansion proposed for the Seaspray Caravan Park involves several different processes to be

undertaken by the Shire. The processes related to the expansion are:

- The closure of a portion of the Church Street road reserve;
- The amalgamation of portions of the Reserve surrounding the existing Park;
- The revision of the Local Development Plan to reflect the expansion; and
- The commencement for the disposal of land (lease renewal) reflective of the approved expanded Park.

For the purposes of creating efficiency of dealing with these associated processes, the Shire has collated these into a single report for Council's consideration. It should be noted that points 1 and 2 above must be finalised prior to the LDP (point 3) being approved. The lease renewal (point 4) only occurs once points 1 to 3 are completed. Each of the above points have been separately detailed in the body of this report.



Expansion – Church Street Road Reserve



The Park owner is seeking expansion into the Church Street road reserve. The area shown in red on the aerial plan is the area of road reserve that the Park owner has interest in managing going forward and would be reflected in the final LDP. This would involve amalgamating the area in red with Reserve 38046. As can be seen on the aerial, the subject area is mostly developed as part of the Park and so the expansion would help formalise this as part of the Park owner's responsibility. To be clear this would not be amalgamated into the freehold (private ownership) lot of the Park.

No development is proposed within this portion on the LDP. The land subject of the road closure is identified in the Shire's Coastal Hazard Risk Management and Adaptation Plan 2016 (CHRMAP) as being under threat from coastal erosion (high risk priority) and inundation (extreme risk priority). The Park owner is aware of this, as it was covered during the previous approval of the LDP where development must account for a managed retreat approach.

Internal consultation within the Shire has revealed no plans for the redesign or development of Church Street in this section of road reserve. Taking into account the CHRMAP, it is likely any future works will follow with interim protection measures to respond to imminent coastal risks and a longer-term managed retreat approach. There will be no change or loss of vehicle access or parking.

The closure of the portion of Church Street road reserve is not considered to result in any adverse impacts for current or future uses by the Shire. The road closure would result in the Park owner being responsible for the ongoing management and future remediation works.

Expansion – Adjoining Reserve



The second element of the proposed expansion involves the amalgamation with the adjoining Reserve to the west, south and east (shown in blue above). The adjacent Reserve (Reserve 38046) is for the purpose of 'recreation and foreshore management'. To permit the development for 'caravan park and camping' purposes and ability for a lease, these areas are required to be amalgamated into Reserve 25412 which is permitted for that purpose and the power to lease. The changes to Crown Reserves go through an approval process with the Minister for Lands which is administered by the Department of Planning, Lands and Heritage.

Expansion – Local Development Plan (LDP)

The LDP alone won't permit development outside of the existing Caravan Park Reserve and lease boundary. The revised LDP would provide the guidance of development in these areas however "on the ground" development will only be permitted once the adjacent Reserves are amalgamated and a renewed lease is in place.

Part 6 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the requirements relating to Local Development Plans (LDP). As mentioned above, the purpose of a LDP is to set out specific and detailed development requirements for the future development of the subject site. One example of a site specific development requirement that has been applied to the current LDP is the condition that no additional chalets will be permitted until the connection of the reticulated sewer system is made. The Park owner has indicated that the design for the sewer has been completed and, depending on Water Corporation resources, should be in a position to proceed with headworks within 6 months.

The proposed LDP looks to expand on the chalet sites in the north-eastern area and caravan sites to the south. One concern with the placement of these sites is that several abut the proposed LDP and amended Reserve boundary, requiring bushfire mitigation areas (such as asset and hazard protection zones) being located outside of their management/leased area. To reduce encroachment and mitigate future management complications, it is recommended these mitigation areas (and development in general) be contained within the LDP boundary. This should reflect the area to be managed and leased by the Park owner and will clearly define land outside of this which should not be disturbed or used as part of the Park in any way. Dependent on the advice from DFES and DPLH on the bushfire management for the LDP, further amendments may be required in this regard.

Another concern with the expansion areas is the notation on the LDP that all undeveloped areas be cleared and replaced with grass. Whilst this may assist with fuel load reduction, maintenance of landscaping, provide enhancement to the park and reduce sand drift, it is considered more appropriate

site development to retain clusters of remnant vegetation.

Other conditions/development requirements can include building type/design, landscaping, access provisions, foreshore management etc. It is proposed to identify and refine these requirements at the time of adoption following the consideration of any submissions and agency advice. Another planning consideration will be the appropriate zoning of the expanded area. Currently the Park is confined to the Special Use Zone and surrounded by Local Reserve in the Shire's Local Planning Scheme. An amendment to the Local Planning Scheme will be required to formalise the expansion and it will be recommended to be a requirement on the Park owner prior to expansion development.

More generally, it is considered the LDP is prepared in a format acceptable to be initiated for advertising.

Disposal of Land (lease renewal)

The Officer's Recommendation includes the commencement of the disposition of the land which would not commence until the completion of the expansion and approval of the LDP. The new lease will require renewal to reflect the expanded area of Park, which will involve a market rent valuation and consideration of a longer lease term.

Concluding Statement

The expansion of Seaspray Caravan Park has effectively been in progress for several years. In this time a revised LDP was adopted, the Park owner has progressed the extension and connection of sewer to the Park and the management order for the Reserve has been extended to allow for up to 50 year lease terms.

The processes involved with the proposed expansion have been collated for Council's consideration to improve efficiency and ensure a holistic approach is taken. The LDP application provides an appropriate planning tool that can combine and facilitate these various processes to avoid duplication and errors as a result of multiple processes progressing through several pathways at once.

It is proposed to combine the required advertising process of the LDP with the road closure advertising requirements. In the event the road closure or adjoining reserves are not supported or require modification, the LDP would be amended to reflect this.

The Officer Recommendation is in support of initiating the advertisement of the LDP and road closure. Following this Council will be presented with any submissions and the final LDP for adoption.

Consultation:

Relevant internal staff
Department of Planning, Lands and Heritage

A public advertising process is required for the road closure and the revised Local Development Plan. Ongoing consultation will also occur with the relevant State agencies to progress the Reserve amalgamation element of the proposal.

Statutory Environment:

Shire of Irwin Local Planning Scheme No 5

The LDP subject area involves a mix of zones and reservations.



Planning and Development (Local Planning Schemes) Regulations 2015

Part 6 of the Deemed Provisions of the Regulations prescribes the requirements and process relating to a Local Development Plan, including the advertising requirements.

*Local Government Act 1995
Land Administration Act 1997 (LAA)*

Section 51 of the LAA relates to the amalgamation of the Reserve.

51. Cancelling, changing etc. reserves, Minister's powers as to

Subject to sections 42, 43 and 45, the Minister may by order cancel, change the purpose of or amend the boundaries of, or the locations or lots comprising, a reserve.

Part 5 of the LAA refers to matters relating to public roads. Section 58 of the LAA sets out the legal requirements for local governments in relation to close a public road permanently.

58. Closing roads

(1) When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.

(2) When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.

(3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.

(4) On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and

- (3) —
- (a) *by order grant the request; or*
 - (b) *direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*
 - (c) *refuse the request.*
- (5) *If the Minister grants a request under subsection (4) —*
- (a) *the road concerned is closed on and from the day on which the relevant order is registered;*
- and
- (b) *any rights suspended under section 55(3)(a) cease to be so suspended.*
- (6) *When a road is closed under this section, the land comprising the former road —*
- (a) *becomes unallocated Crown land; or*
 - (b) *if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.*

Section 87 of the LAA provides a way of disposal after road closures, such as amalgamation with adjoining properties.

Land Administration Regulations 1998 (LAR)

Regulation 9 of the LAR outline the procedural requirements of local governments in closing public roads.

9. Local government request to close road permanently

(Act s. 58(2)), requirements for

For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request —

- (a) *written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require; and*
- (b) *sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed; and*
- (c) *copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government's comments on those submissions; and*
- (d) *a copy of the relevant notice of motion referred to in paragraph (c); and*
- (e) *any other information the local government considers relevant to the Minister's consideration of the request; and*
- (f) *written confirmation that the local government has complied with section 58(2) and (3) of the Act.*

Policy Implications:

Nil.

Financial/Resource Implications:

Should Council support the recommendation and adopt the road closure, the costs associated with the closure process such as surveying is to be borne by the applicant.

The Shire will need to indemnify the Minister for Lands of all costs and charges in association with the closure.

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 – 2031
Strategy 2.1.1 Continuously improve approval processes.

Attachments:

Attachment Booklet – February 2022

ID05-02/22 Attachment 1: Proposed revised Local Development Plan

ID05-02/22 Attachment 2: Approved Local Development Plan

ID05-02/22 Attachment 3: Road Closure Plan

Officer Recommendation:

RECOMMENDED:

That Council:

- 1. Resolves to commence the road closure process for a portion of Church Street, Dongara, as per Attachment 3, in accordance with Section 58 of the *Land Administration Act 1997*;**
- 2. Resolves to submit an application with the Department of Planning, Lands and Heritage for the approval to amalgamate the portions of Reserve 38046 into Reserve 25412;**
- 3. Resolves to advertise the revised Local Development Plan in accordance with Clause 50 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015; and**
- 4. Indemnifies the Minister for Lands against any costs incurred in the road closure and reserve excision/amalgamation process that is consistent with the bounds of the proposed Local Development Plan.**

9.2. Committee Reports

Nil.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

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

14. CLOSURE