



MINUTES

of the

Ordinary Council Meeting

held

Tuesday 23 August, 2022

in the

Council Chambers
11-13 Waldeck Street, Dongara

I certify that this copy of the Minutes is a true and correct record of the meeting held on Tuesday 23 August, 2022

Signed:
Presiding Elected Member

Date: 27/9/22

Disclaimer

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

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

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

Shane Ivers
CHIEF EXECUTIVE OFFICER

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ORDINARY COUNCIL MEETING

held

Tuesday 23 August, 2022

at 6.00pm

MINUTES

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President welcomed Councillors, Staff, Guests and members in the Gallery and opened the meeting at 6.00pm.

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

Shire President

Deputy Shire President

Staff

Mr S D Ivers

Mrs K Jackson

Mrs N A M'Leane

Ms S J Clarkson

Chief Executive Officer

Acting Manager Development

Development and Executive Officer

Acting Senior Finance Officer

Guests

Nil.

Approved Leave of Absence

Nil.

Apologies

Councillor B Wyse

Gallery

J Arden, Premier Circle

T Waters, Seahorse Loop

R Murray, Ocean Drive

R Wolczyk, Irwin Crescent

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

Question: R Wolczyk, Irwin Crescent, Dongara:

Is there an inclusion in this year's Budget for soak wells to be installed on Irwin Crescent to resolve the current drainage issue. The catchment of water after a large downfall is quite deep and Roy is concerned about community safety as there has been children playing in the water recently.

Response: This question was taken on notice.

Question: R Murray, Ocean Drive, Port Denison:

Can there be consideration for the overgrown shrubs in the Point Leander Drive roundabout (Grannies Beach) to be maintained as they are currently obstructing the view for traffic. There are also trees within the Grannies Beach carpark that block the view of traffic for motorists turning onto Point Leander Drive from the Ocean Drive intersection.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS AND DEPUTATIONS

Nil.

7. CONFIRMATION OF MINUTES

7.1. Minutes of the Ordinary Council Meeting held 26 July 2022

A copy of the minutes of the 26 July 2022 Ordinary Council Meeting have been provided to all Councillors under separate cover.

COUNCIL DECISION 010822:

MOVED: Cr Eva

SECONDED: Cr Leonard

That the Minutes of the Ordinary Council Meeting, held 26 July 2022, as previously circulated, be adopted as a true and accurate recording of that meeting.

VOTING DETAILS:

Carried 7/0

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Functions, Meetings & Events

8 August 2022	The CEO met with Peter Woronzow, Director General, Department of Transport and Richard Newton, Partner, GRA Partners.
11 August 2022	The Shire President and CEO met with representatives of Mitsui E&P.
11 August 2022	The Shire President, Councillor and Staff attended a Draft Budget Workshop.
22 August 2022	The CEO held a Briefing Session for the Industry Leaders Forum proposed for September 2022.

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY		CC01-08/22
Subject:	CC01-08/22 Accounts for Payment	
Author:	S Clarkson, A/Senior Finance Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	Minute Book	
Voting Requirements:	Simple Majority	

Council Role:

- ☐ **Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- ☒ **Executive** The substantial direction setting and oversight role of the Council e.g. 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 July 2022.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of July 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 – August 2022

CC01-08/22 Attachment 1: Accounts for Payment – July 2022

Officer Recommendation:

COUNCIL DECISION 020822:

MOVED: Cr Scott

SECONDED: Cr Gillam

That Council receives the Accounts paid during July 2022 as presented in Attachment Booklet – August 2022, represented by:

Payment Type/Numbers	Total Amount
EFT 29021 – 29130	\$734,123.42
Muni Cheques – 32114 – 32117	\$54,108.49
Direct Debit – Telstra	\$80.00
Direct Debit – WA Treasury Corporation	\$20,727.35
Direct Debit – Solar Panel Repayments	\$1,947.66
Direct Debit – Land Use Agreement	\$1,041.66
Direct Debit – Rental Charges	\$2,600.00
Direct Debit – Bonds Administrator	\$2,420.00
Direct Debit – Insurance Premium Repayments	\$36,987.96
Direct Debit – Superannuation	\$16,655.13
Grand Total	\$870,691.67

VOTING DETAILS:

Carried 7/0

CORPORATE AND COMMUNITY		CC02-08/22
Subject:	CC02-08/22 Monthly Financial Statements for the Period Ended 30 June 2022	
Author:	S Clarkson, A/Senior Finance Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	Minute Book	
Voting Requirements:	Simple Majority	

Council Role:

- ☐ **Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- ☒ **Executive** The substantial direction setting and oversight role of the Council e.g. 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 consider and receive the Monthly Financial Statements for the period 1 July 2021 to 30 June 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 June 2022 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

30/06/2022		YTD Budget	YTD Actual	Variance YTD to Budget
Operating Revenue		9,027,073	9,862,036	9%
Operating Expenditure		11,856,318	12,155,265	3%
Net Operating		20,883,391	22,017,301	
Non-Operating Revenue		10,000	0	-100%
Non-Operating Expenditure		(2,141,389)	(1,839,838)	-14%
Net Non-Operating		(2,131,389)	(1,839,838)	
Cash at Bank			3,039,295	
Cash at Bank Restricted			373,935	
Reserve Bank			1,392,831	
Total Cash Funds			4,806,061	

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 – August 2022

CC02-08/22 Attachment 1: Financial Statements for the Period Ended 30 June 2022.

Officer Recommendation:

COUNCIL DECISION 030822:

MOVED: Cr Leonard

SECONDED: Cr Eva

That Council receives the Monthly Financial Statements for the period 1 July 2021 to 30 June 2022 as provided in Attachment Booklet – August 2022.

VOTING DETAILS:

Carried 7/0

OFFICE OF CEO		CEO01-08/22
Subject:	CEO01-08/22 Shire of Irwin 2022/23 Annual Budget	
Author:	S Ivers, Chief Executive Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0200	
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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- ☐ **Review** When Council reviews decisions made by Officers.
- ☐ **Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

To consider and adopt the Shire of Irwin Annual Budget ("Budget") for the 2022/23 financial year together with supporting schedules, including imposition of rates and minimum payments, adoption of fees and charges, setting of elected members fees for the year and other consequential matters arising from the budget papers.

Background:

The Shire of Irwin 2022/23 Budget has been compiled based on the principles contained in the Strategic Community Plan and the Shire of Irwin Strategic Resource Plan 2022-2037. The 2022/23 Budget has been prepared in accordance with the presentations made to Councillors at the two (2) budget workshops held 19 May 2022 and 11 August 2022.

The proposed differential general rates were approved by Council on 24 May 2022 and advertised for public comment. No submissions were received by 23 June 2022 when the public comment period closed.

At the 28 June 2022 Ordinary Council Meeting, Council resolved to make application to the Minister for Local Government to seek approval under s.6.33(3) of the *Local Government Act 1995* to impose a differential rate for UV Mining properties at more than twice the rate of UV Rural properties. Ministerial approval was received on 7 July 2022.

Officer's Comment:

The Budget has been prepared to include information required by the *Local Government Act 1995*, *Local Government (Financial Management) Regulations 1996* and Australian Accounting Standards. The main features of the 2022/23 Budget include:

- A 4.5% increase on rate revenue which applies to all differential general rate categories. Due to the annual UV valuation, the increase results in a 0.085% decrease on the rates in the dollar imposed in 2021/22.

- In accordance with the *Local Government (COVID-19 Response) Amendment Order 2022*, penalty interest is set at 7% and instalment interest charges remain at 5.5% with the financial hardship policy remaining in place.
- Household and commercial waste charges and charges for depositing refuse at the Shire of Irwin Transfer Station are proposed to increase by 16.7% and are itemised separately in the 2021/22 Budget. This is due to a significant increase in waste and landfill charges by the contractors.
- The operating budget includes an overall increase in estimated expenditure of 11% on last year's actuals (although individual line items may vary from this based on specific factors affecting each of these) and continues the focus on improved service delivery to the community.
- A capital works program totalling \$8.4M for investment in infrastructure, land and buildings, plant and equipment and furniture and equipment is planned. Expenditure on other infrastructure and in particular the proposed Milo Crossing upgrade (\$4M) is the major component to enable the Shire to pursue grant funding.
- The Net Current Assets opening position at 1 July 2022 is an estimated surplus of \$2,256,461. This surplus includes \$1,290,000 of unspent loan funds for plant financing, leaving the Net Current Assets closing position an estimated surplus of \$714.
- Budgeted transfers to Reserves include:
 - \$790 to the Staff Entitlement Reserve;
 - \$870 to the Port Denison Foreshore Redevelopment Reserve;
 - \$9 to the Rec Centre Equipment Reserve;
 - \$5 to the Sanitation Reserve
 - \$112 to the Coastal Management Reserve
 - \$174,960 to the Asset Management Reserve
 - \$33 to the Plant Replacement Reserve
 - \$89 to the Tourism Reserve
- Budgeted transfers from Reserves include:
 - There are no transfers from Reserves
- Principal additional grant funding for the year is estimated to be received from:
 - Regional Road Group - \$386,200
 - Roads to Recovery - \$171,877
 - Black Spot Funding - \$206,667
 - Community Water Supplies Partnership Program - \$100,000
 - Local Roads & Community Infrastructure Stimulus Funding - \$501,686
 - Federal Bridges Renewal Program & Industry Contributions - \$3,800,000

Consultation:

Internal consultation with all departments, followed by officer meetings at various times since April 2022.

Two budget workshops with elected members were held on 19 May 2022 and 11 August 2022.

Statutory Environment:

Local Government Act 1995

- Section 6.2(1) Local government to prepare annual budget
- Section 6.12(1) Power to defer, grant discounts, waive or write off debts
- Section 6.16 Imposition of fees and charges
- Section 6.32 Rates and service charges
- Section 6.45(3) Options for payments of rates or service charges
- Section 6.50 Rates or service charges due and payable

- Section 6.51 Accrual of interest on overdue rates or service charges

Local Government (Financial Management) Regulations 1996

- Regulation 68 Maximum interest component prescribed
- Regulation 70 Maximum rate of interest prescribed (Act s. 6.51)

Local Government (COVID-19 Response) Order 2020

- Section 6.13 modified Interest on money owing to local governments
- Section 6.33 modified Differential general rates
- Section 6.34 modified Limit on revenue or income from general rates
- Section 6.35 modified Minimum payment
- Section 6.36 modified Local government to give notice of certain rates
- Section 6.45 modified Options for payment of rates or service charges
- Section 6.51 modified Accrual of interest on overdue rates or service charges

Local Government (COVID-19 Response) Amendment Order 2021

Policy Implications:

Strategic Community Plan 'Our Brilliant Future' 2021-2031
Shire of Irwin Strategic Resource Plan 2022-2037

Financial/Resource Implications:

Specific financial implications are outlined in the Officer's Comment section of this report and are itemised in the Shire of Irwin 2022/23 Budget presented to Council for adoption.

Strategic Implications:

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 – 2022/23 Annual Budget – August 2022
CEO01-08/21 Attachment 1: Shire of Irwin 2022/23 Annual Budget

Officer Recommendation:

COUNCIL DECISION 040822:

MOVED: Cr Leonard

SECONDED: Cr Eva

PART A – MUNICIPAL FUND BUDGET FOR 2022/23

That Council, by Absolute Majority and pursuant to the provisions of Section 6.2 of the *Local Government Act 1995* and Part 3 of the *Local Government (Financial Management) Regulations 1996*, adopts the Shire of Irwin 2022/23 Annual Budget, as presented in Attachment Booklet – 2022/23 Budget – August 2022.

VOTING DETAILS:

Carried by Absolute Majority 7/0

COUNCIL DECISION 050822:

MOVED: Cr Scott

SECONDED: Cr Gillam

PART B – GENERAL AND MINIMUM RATES, INSTALMENT PAYMENT ARRANGEMENTS

That Council, by Absolute Majority;

- 1. For the purpose of yielding the deficiency disclosed by the Municipal Fund Budget adopted at Part A above and pursuant to sections 6.32, 6.33, 6.34 and 6.35 of the *Local Government Act 1995*, imposes the following differential general rates and minimum payments on Gross Rental and Unimproved Values:**

1.1 General Rates

- | | |
|---------------------------------|-----------------------------|
| • Residential (GRV) | 11.6140 cents in the dollar |
| • Commercial / Industrial (GRV) | 11.6140 cents in the dollar |
| • Rural (UV) | 1.4743 cents in the dollar |
| • Mining (UV) | 19.7240 cents in the dollar |

1.2 Minimum Payments

- | | |
|---------------------------------|---------|
| • Residential (GRV) | \$1,050 |
| • Commercial / Industrial (GRV) | \$1,050 |
| • Rural (UV) | \$1,050 |
| • Mining (UV) | \$1,050 |

- 2. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 64(2) of the *Local Government (Financial Management) Regulations 1996*, nominates the following due dates for payment in full or by instalments:**

- | | |
|---|-----------------|
| • Issue Date | 29 August 2022 |
| • <u>Option 1</u> – to pay in full by the date: | 3 October 2022 |
| • <u>Option 2</u> – to pay in two instalments | |
| 1 st half instalment due date: | 3 October 2022 |
| 2 nd half instalment due date: | 5 December 2022 |
| • <u>Option 3</u> – to pay in four instalments | |
| 1 st quarterly instalment due date: | 3 October 2022 |
| 2 nd quarterly instalment due date: | 5 December 2022 |
| 3 rd quarterly instalment due date: | 6 February 2023 |
| 4 th quarterly instalment due date: | 10 April 2023 |

- 3. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 67 of the *Local Government (Financial Management) Regulations 1996*, adopts an instalment administration charge where the owner has elected to pay rates (and service charges) through an instalment option of \$5 for each instalment after the initial instalment is paid (i.e. 3 x instalments = \$15.00).**
- 4. Pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 68 of the *Local Government (Financial Management) Regulations 1996*, adopts an interest rate of 5.5% where the owner has elected to pay rates and service charges through an instalment option.**
- 5. Pursuant to Section 6.51(1) and subject to Section 6.51(4) of the *Local Government Act 1995* and Regulation 70 of the *Local Government (Financial Management) Regulations 1996*, adopts an interest rate of 7% for rates (and service charges) and costs of proceedings to recover such charges that remain unpaid after becoming due and payable.**

6. In accordance with the Local Government (COVID-19 Response) Amendment Order 2022, interest on overdue and unpaid rates and instalment interest will not be charged during the 2022-2023 financial year to a person deemed to be suffering hardship as a result of the COVID-19 pandemic.

VOTING DETAILS:

Carried by Absolute Majority 7/0

COUNCIL DECISION 060822:

MOVED: Cr Tunbridge

SECONDED: Cr Leonard

PART C – FEES AND CHARGES FOR 2022/23

That Council, by Absolute Majority and pursuant to Section 6.16 of the *Local Government Act 1995*, adopts the Schedule of Fees and Charges as provided in the Shire of Irwin 2022/23 Annual Budget, presented in Attachment Booklet – 2022/23 Annual Budget – August 2022.

VOTING DETAILS:

Carried by Absolute Majority 7/0

COUNCIL DECISION 070822:

MOVED: Cr Eva

SECONDED: Cr Gillam

PART D – ELECTED MEMBERS' FEES AND ALLOWANCES FOR 2022/23

That Council, by Absolute Majority;

1. Pursuant to Section 5.99 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Administration) Regulations 1996*, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:
 - Shire President \$10,000
 - Councillors \$ 7,688
2. Pursuant to Section 5.98(5) of the *Local Government Act 1995* and Regulation 33 of the *Local Government (Administration) Regulations 1996*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:
 - Shire President \$20,000
3. Pursuant to Section 5.98A of the *Local Government Act 1995* and Regulation 33A of the *Local Government (Administration) Regulations 1996*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:
 - Deputy Shire President \$5,000

VOTING DETAILS:

Carried by Absolute Majority 7/0

COUNCIL DECISION 080822:

MOVED: Cr Leonard

SECONDED: Cr Scott

PART F – MATERIAL VARIANCE REPORTING FOR 2022/23

That Council, by Absolute Majority and in accordance with Regulation 34(5) of the *Local Government (Financial Management) Regulations 1996* and *AASB 1031 Materiality*, adopts the level to be used in statements of financial activity in 2022/23 for reporting material variances, to be 10% or \$10,000, whichever is the greater.

VOTING DETAILS:

Carried by Absolute Majority 7/0

INFRASTRUCTURE & DEVELOPMENT		ID01-08/22
Subject:	ID01-08/22 Delegated and Authorised Actions for July 2022 – Development	
Author:	N M’Leane, Development & Executive Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00125	
Voting Requirements:	Simple Majority	

Council Role:

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

Report Purpose:

To 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 July 2022 – 30 July 2022.

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 – August 2022

ID01-08/22 Attachment 1: Table of Delegated Actions for July 2022, Development

Officer Recommendation:

COUNCIL DECISION 090822:

MOVED: Cr Tunbridge

SECONDED: Cr Palmer

That Council receives the Delegated and Authorised Actions for July 2022 as set out in Attachment 1 in Attachment Booklet – August 2022.

VOTING DETAILS:

Carried 7/0

INFRASTRUCTURE & DEVELOPMENT		ID02-08/22
Subject:	ID02-08/22 Proposed Dwelling, Outbuilding and Ancillary Accommodation at Lots 765 & 766 Seahorse Loop, Port Denison	
Author:	K Jackson, Acting Manager Development	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	P1213, A1313, A1037 & WAPC62241	
Voting Requirements:	Simple Majority	

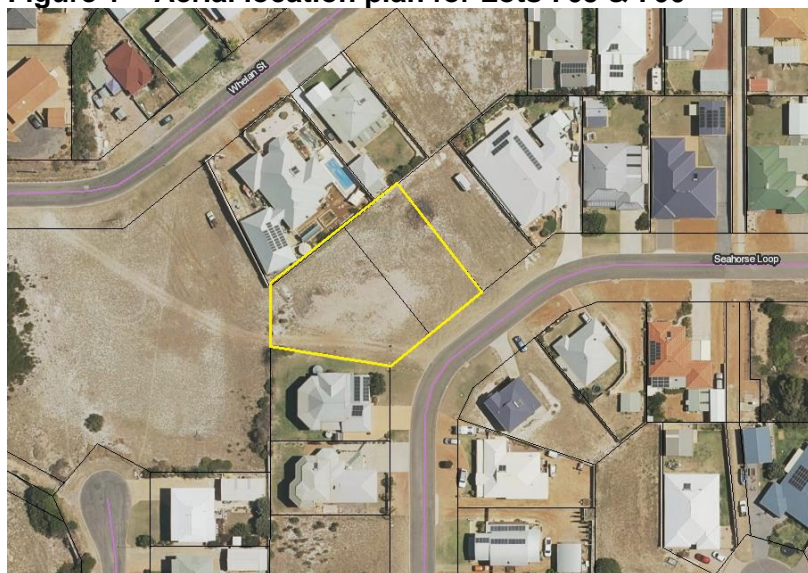
Council Role:

- ☐ **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 proposed dwelling, outbuilding and ancillary accommodation upon Lots 765 & 766 Seahorse Loop, Port Denison.

Figure 1 – Aerial location plan for Lots 765 & 766



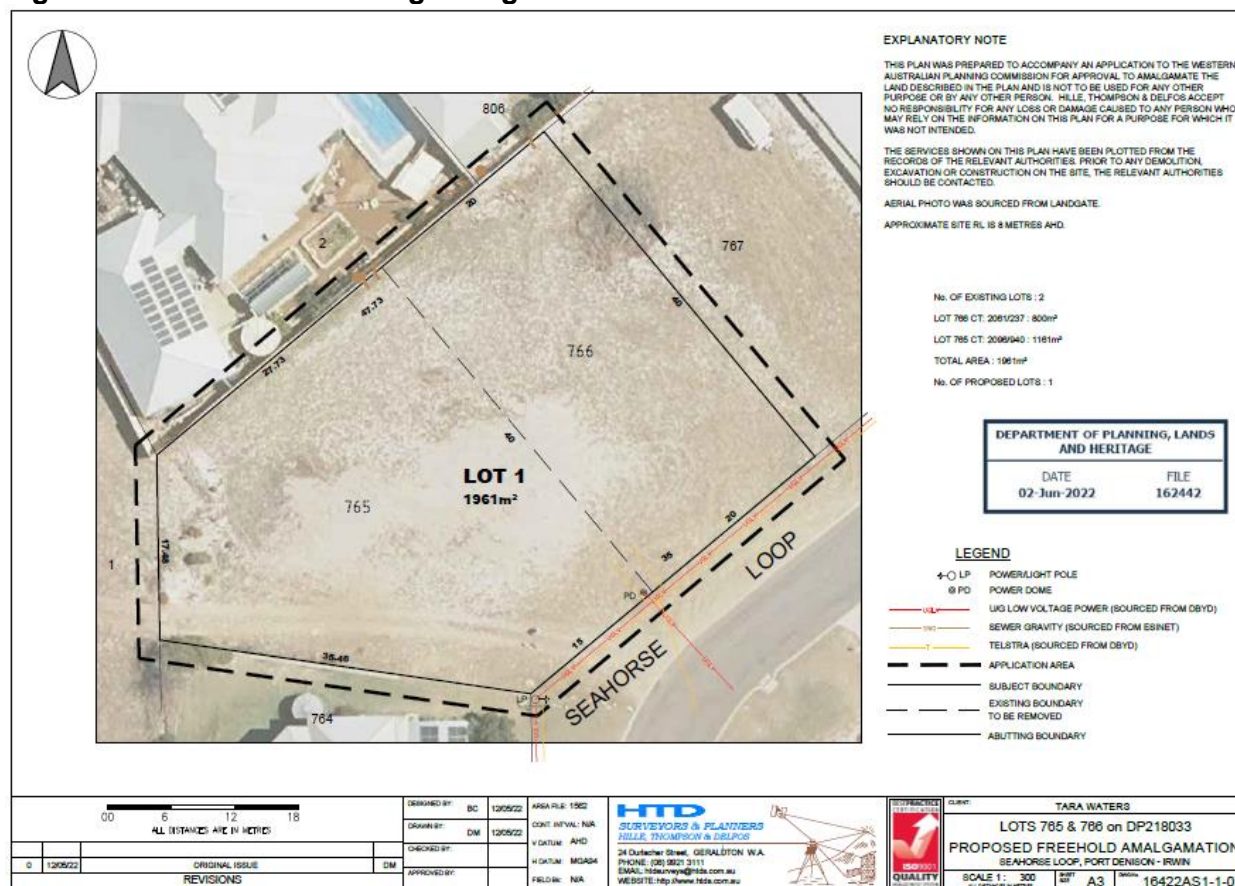
Background:

Amalgamation of Lots

The Shire received an application for the amalgamation of Lots 765 & 766 Seahorse Loop, Port Denison which was supported by the Shire under delegated authority. The application has now been approved by the WA Planning Commission on 19 July 2022 with no conditions requiring clearance from this authority.

The deposited plan has been lodged by HTD Surveyors and therefore it is only a matter of due process that a Certificate of Title will be issued for the newly amalgamated lot in the near future.

Figure 2 – Plan demonstrating amalgamation of lots



Development Application

The Shire has now received a Development Application for a dwelling, outbuilding and ancillary accommodation to be constructed upon the lots.

The amalgamated property will have a total land area of 1961m² and is zoned Residential R12.5.

The owner is seeking approval to construct the dwelling, outbuilding and ancillary accommodation simultaneously with the outbuilding and ancillary accommodation completed first with the construction of the dwelling completed within 2 years.

It is recommended by Shire staff that this can be afforded support by Council provided any approval is conditional to the following condition:

“Commencement of construction of the outbuilding and/or ancillary accommodation is only permitted once the dwelling has been completed up to, and including, the pouring of a concrete dwelling slab. The slabs of the dwelling, outbuilding and/or ancillary accommodation are permitted to be poured concurrently.”

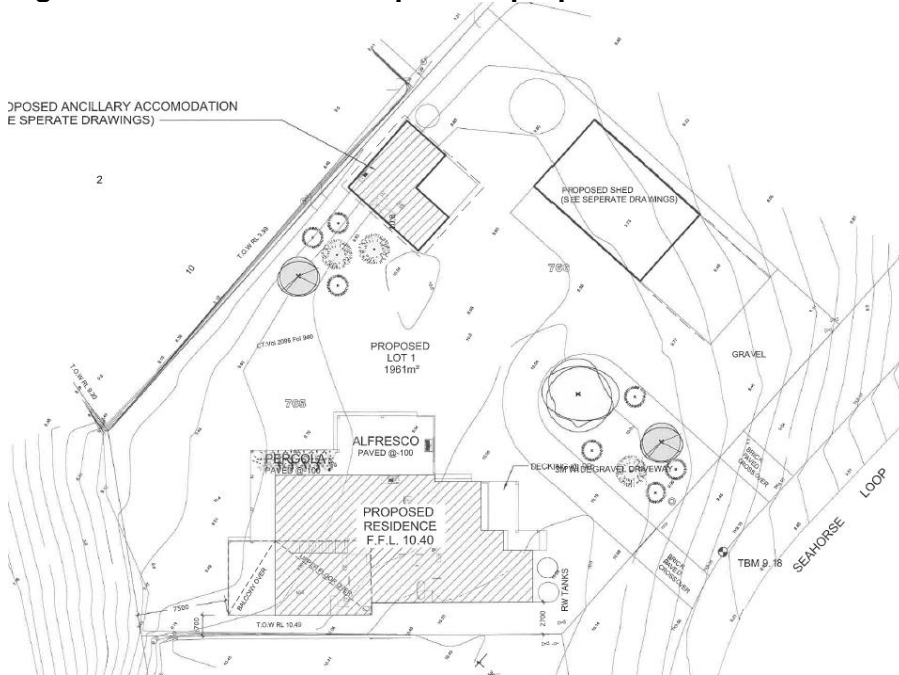
Officer's Comment:

As part of the assessment of this application, the overall design and coherence is considered important to ensuring that the amalgamated lot and the proposed development are in keeping with the existing streetscape, topography of the land and scale/density of the area. Each element of the application will be elaborated upon below.

A copy of the applicants site, floor and elevation plans for the dwelling has been included as **ID02-08/22 Attachment 1** and the outbuilding and ancillary accommodation as **ID02-08/22 Attachment 2**.

A copy of correspondence received from the applicant in support of their application has been included as **ID02-08/22 Attachment 3**.

Figure 3 – Extract from site plan for proposal

Dwelling

For the most part the dwelling complies with the intention of the Shire's Scheme and deemed provisions of the Planning and Development Regulations (Local Planning Schemes). There are some minor variations which include:

- A small part of the cone of vision for the rear balcony extends into the neighbouring property to the west which does not comply with the deemed to comply provisions of Section 5.4.1 of the Residential Design Codes (R-Codes). Given the applicant has provided a permanent screen along the western elevation of the balcony this is considered an acceptable variation.
- The ground level verandah does not comply with the deemed to comply provisions of Section 5.4.1 of the R-Codes which requires a setback of 7.5m to an outdoor active habitable space more than 500mm above natural ground level. It is a recommendation of this report that a permanent screen is provided along the western elevation of the verandah.
- The front setback of the house is 3.4m at its closest point from the front boundary when the deemed provisions of Section 5.1.2 of the R-Codes requires 3.75m. This is considered minor in nature and no change is recommended.
- The dwelling design features two rainwater tanks in the front setback area which is not considered compliant with section 5.4.4 C4.3 of the R-Codes which states that external fixtures can be considered provided they are:
 - i. are not visible from the street;
 - ii. are designed to integrate with the building; or
 - iii. are located so as not to be visually intrusive.

The proposed rainwater tanks are not considered to meet this criteria and it is recommended that they be removed from view from the street. The applicant has indicated that they intend to plant vegetation in front of these structures however having rainwater tanks in the front setback is a precedent that Shire staff believe should be avoided regardless of intended screening as the appearance of the front façade of a dwelling is meant to be the focus for development on any given lot.

The overall design, colours and materials for the proposed dwelling are of a high-quality and Shire staff support the construction of this structure.

Figure 4 – Artist impression of proposed dwelling



Outbuilding

The applicant seeks the construction of an outbuilding which features a 90m² enclosed area and a 60m² unenclosed area (carport). Given these are being constructed as one structure free standing from the dwelling they are being assessed and determined as one structure to provide coherence to consideration of design, scale and siting requirements whilst maintaining a view of the intention of the R-Codes in relation to built form in residential areas, view from the street and overall impact of structures upon the streetscape and surrounding landowners.

An assessment summary in respect to Clause 5.4.3 of the R-Codes has been tabled below, with additional comments to the relevant criteria further below:

Development Criteria	Prescribed	Proposed	Complies Yes/No
Maximum Floor Area	60sqm	90sqm	No
Maximum Wall Height	2.4m	3.6m from FFL 4.m from NGL at highest point	No
Maximum Ridge Height	4.2m	4.2m	Yes
Setback minimum – front	7.5m	15m	Yes
Setback minimum – rear	1m	13m	Yes
Setback minimum – side	1.5m	1.5m	Yes

- Associated with a dwelling site

As mentioned previously in this report it is a recommendation of approval for this application that a condition be applied requiring the concurrent pouring of slabs to ensure that the outbuilding is constructed in association with a dwelling upon the site.

- Maximum Floor Area

The applicant seeks to exceed the maximum prescribed floor area. In respect to the Design Principle for outbuildings, the 30sqm increase in floor area is not considered exceeding given the size of other local outbuildings within the area. The R-Codes do not specify a maximum floor area from carports. It is considered that the size of the outbuilding can be supported and would not set an undesirable precedent or affect the use and enjoyment of surrounding land. It would also not detract from the streetscape.

- Wall Height

The applicant seeks to raise the wall height up to 3.6m from the finished floor level of the outbuilding and 4m from natural ground level at the highest point at the front of structure. Outbuildings with a wall height of over 3m is common within the Shire's residential areas accommodating for boats, caravans and other tall vehicles which reflects the coastal location of Port Denison. The increase in wall height is considered to meet the Design Principle for outbuildings, whereby it is not considered it will have a visual amenity impact on the streetscape or neighbouring properties.

It is considered that the wall height can be supported given the precedent of wall heights previously supported by Council.

- Materials

The applicant has indicated that the roof will be constructed with zincalume. The use of zincalume is more suited to industrial and commercial applications and it has been common practice for the Shire to condition buildings within the residential zone to be constructed with colorbond (or similar) or that when zincalume is installed that this is painted following installation.

Ancillary Accommodation

- Associated with a dwelling site

As mentioned previously in this report it is a recommendation of approval for this application that a condition be applied requiring the concurrent pouring of slabs to ensure that the outbuilding is constructed in association with a dwelling upon the site.

- Setbacks

The ancillary accommodation complies with all provisions of the Shires Scheme and R-Codes except for the proposed rear setback. The required rear setback for ancillary accommodation is 6m per the requirement of Section 5.5.1 and Table 1 of the R-Codes. The application proposes a setback of 1.3m. The adjoining landowner to the rear has been consulted and has raised an objection to the reduced setback with comments provided in Consultation portion of this report below.

Given the additional land area now available through the amalgamation of the lots is it not considered that there is sufficient justification to warrant such a significant departure from the required setback distances. It will be recommended as part of the officers recommendation that the ancillary accommodation be relocated to 3m from the rear boundary. This is considered an appropriate compromise given that the Shire does not wish for the ancillary accommodation to become more prominent in the front streetscape and to maintain amenity between the habitable portions of neighbouring properties where design decisions were based on the general siting requirements imposed for an R12.5 zoned lot.

Figures 5 & 6 - View from Seahorse Loop looking towards adjoining lot to the west



Figure 7 & 8 – View looking across development site (left), development across the road (right)



Consultation:

The application has been referred to adjoining landowners in accordance with the R-Codes and the Scheme. One submission has been received to date with the advertising period concluding on 22 August 2022. The Council will be updated should further submissions be received.

The objection received was in relation to the reduced setback of the ancillary accommodation and raised the following concerns:

- *Will encroach on our Privacy in general on our own property.*
- *We will lose all privacy to our swimming pool area.*
- *Noise is also a reason for properties to comply with R Code setbacks. That's the reason our main Bedroom is at the rear.*
- *Noting Lots 765&766 now has a combined area of 1961m2 There's absolutely no justification to be awarded a closer to boundary set back as there's more than ample room to adequately fit their proposed two habitable dwellings and one outbuilding using R Code standard rear setbacks, without intrusion to our Right to privacy.*
- *Note this is a habitable dwelling that we are being asked to be closer to our boundary than standard R Codes setback this not acceptable at all.*

As per comments made previously in this report it is recommended that the ancillary accommodation is moved to 3m from the rear property boundary. This is considered an appropriate distance to take into consideration the requirements of the R-Codes and the objection raised.

Statutory Environment:

The property is zoned Residential R12.5 under Shire of Irwin Local Planning Scheme No 5 (the 'Scheme'). The following information is provided as it is considered the most relevant statutory information relevant to the variations being placed before the Council for consideration.

Outbuildings

Outbuildings in the Shire are subject to Clause 5.18 of the Scheme as well as section 5.4.3 of State Planning Policy 7.3 Residential Design Codes Volume 1. Section 5.4.3 of the R-Codes prescribes the deemed-to-comply provisions for outbuildings in residential areas that are subject to an R-Codes.

Figure 9 – Extract from Section 5.18 Outbuildings from Scheme

5.18 OUTBUILDINGS <i>AMD 16 GG 30/10/15</i>	
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 .

Figure 10 – Extract from R-Codes of Section 5.4.3 Outbuildings (Deemed-to-comply)

C3 Outbuildings associated with a **dwelling site** address either:

- the standards for small outbuildings (A. Small outbuilding); or
- the standards for large and multiple outbuildings (B. Large and multiple outbuildings).

A. Small outbuilding	<ol style="list-style-type: none"> no more than one outbuilding per dwelling site; has no more than two boundary walls; does not exceed 10m² in area; does not exceed a wall and ridge height of 2.7m; not located within the primary or secondary street setback area; and does not reduce open space and outdoor living area requirements in Table 1.
OR	
B. Large and multiple outbuildings	<ol style="list-style-type: none"> individually or collectively does not exceed 60m² in area or 10 per cent in aggregate of the site area, whichever is the lesser; set back in accordance with Table 2a; does not exceed a wall height of 2.4m; does not exceed a ridge height of 4.2m; not located within the primary or secondary street setback area; and does not reduce the open space and outdoor living area requirements in Table 1.

The objectives of Section 5.4 of the R-Codes are stated as:

- To design buildings and landscape to minimise adverse impact on the privacy of adjoining dwellings and private open space.*
- To optimise comfortable living, access to sunlight and solar energy to facilitate sustainable housing development with particular regard for place and local conditions.*
- To maintain the amenity of streetscapes and views along the street by ensuring that associated outbuildings and other fixtures attached to buildings do not detract from the streetscape and are not visually intrusive to neighbouring properties or adjoining public spaces."*

The design principle for outbuildings is stated as:

"P3 Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties."

Ancillary Accommodation

Ancillary Accommodation is subject to Section 5.11 of the Scheme which states:

"The local government may approve Ancillary Dwelling as provided for in the Zoning Table and the following development requirements.

- 5.11.1 *A maximum of one (1) ancillary dwelling is permissible on any one lot where permitted in the Zoning Table.*
- 5.11.2 *The ancillary dwelling is to be sited within 20m from the main dwelling to avoid future subdivision pressure and to minimise constraints on adjoining uses.*
- 5.11.3 *The lot on which the ancillary dwelling is proposed is to have an area of not less than 800m².*
- 5.11.4 *In the Special Residential zone the maximum Plot Ratio (floor area) is 80m².*
- 5.11.5 *In the Rural Residential, Rural Smallholdings and General Farming zones the maximum Plot Ratio (floor area) is 100m².*
- 5.11.6 *A maximum of two (2) habitable rooms, one (1) kitchen, one (1) laundry and one (1) bathroom shall be provided. A minimum of one (1) car parking space shall be provided.*

- 5.11.7 *The location, design, external colour and appearance, scale and bulk of the ancillary dwelling shall not have adverse amenity impacts on adjoining properties or the area when viewed from public roads.”*

Ancillary accommodation is also required to meet the requirements of Section 5.5.1 of the R-Codes which states:

“Ancillary dwelling associated with a single house and on the same lot where:

- i. the lot is not less than 350m² in area;*
- ii. there is a maximum plot ratio area of 70m²;*
- iii. parking is provided in accordance with clause 5.3.3 C3.1;*
- iv. ancillary dwelling is located behind the street setback line;*
- v. ancillary dwelling is designed to be compatible with the colour, roof pitch and materials of the single house on the same lot;*
- vi. ancillary dwelling does not preclude the single house from meeting the required minimum open space and outdoor living area; and*
- vii. ancillary dwelling complies with all other R-Code provisions, only as they apply to single houses, with the exception of clauses:*
 - (a) 5.1.1 Site area;*
 - (b) 5.2.3 Street surveillance (except where located on a lot with secondary street or right-of-way access); and*
 - (c) 5.3.1 Outdoor living areas.”*

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 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – August 2022

ID02-08/22 Attachment 1: Development Application Plans – Dwelling

ID02-08/22 Attachment 2: Development Application Plans – Outbuilding and Ancillary Accommodation

ID02-08/22 Attachment 2: Covering letter from applicant

Officer Recommendation:

COUNCIL DECISION 100822:

MOVED: Cr Leonard

SECONDED: Cr Eva

That Council grants Development Approval for the proposed dwelling, outbuilding and ancillary accommodation upon Lots 765 & 766 Seahorse Loop, Port Denison in accordance with the following:

Conditions

- 1. 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.**
- 2. Commencement of construction of the outbuilding and/or ancillary accommodation is only permitted once the dwelling has been completed up to, and including, the pouring of a concrete dwelling slab. The slabs of the dwelling, outbuilding and/or ancillary accommodation are permitted to be poured concurrently.**
- 3. Permanent screening is to be installed along the western elevation of the proposed ground floor verandah per the requirements of Section 5.4.1 C1.1 (ii) of the Residential Design Codes Volume 1.**
- 4. Rain water tanks are to be relocated within the property as to ensure that they are not viewable from the street.**
- 5. The ancillary accommodation is to be reorientated 90 degrees clockwise to a minimum setback of 2m from the rear property boundary. The front elevation of the ancillary accommodation facing the road must incorporate at a minimum one major opening to the satisfaction of the local government.**
- 6. The roof of all structures shall be constructed with coated metal sheeting (or similar product) or be painted and maintained to a finish to reduce reflectivity and to match with or be complimentary to the proposed house.**
- 7. 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.**
- 8. All soil disturbed shall be retained within the property.**
- 9. Any lighting device is to be positioned and shielded as not to 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.**
- 10. 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.**
- 11. A Landscaping Plan shall be submitted and approved by the Shire of Irwin prior to commencement of construction.**
- 12. The outbuilding and ancillary accommodation shall be used for purposes incidental and ancillary to the enjoyment of the dwelling on the land only, and shall not be used for commercial or industrial uses.**

- 13. 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.**

VOTING DETAILS:

Carried 7/0

9.2. Committee Reports

Nil.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

Nil.

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

Nil.

14. CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 6.17pm.

An electronic copy of the Minutes are available for download from the Shire's website.

<https://www.irwin.wa.gov.au/council/council-meetings/2022-council-meetings>