



MINUTES

of the

Ordinary Council Meeting

held

Monday 12 December 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 Monday 12 December, 2022

Signed:
Presiding Elected Member

Date:

Disclaimer

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

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

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

Monday 12 December 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

COUNCIL DECISION 011222:

MOVED: Cr Leonard

SECONDED: Cr Wyse

That Council, by Absolute Majority approve Councillor Scott to attend the 12 December 2022 Ordinary Council Meeting by teleconference.

VOTING DETAILS:

Carried by Absolute Majority 7/7

Members

Councillor M T Smith
Councillor I M Scott (*via mobile phone*)
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
Mr T Roper
Mr B Jeans
Mr P Bracegirdle
Kellee Sawle
Priscilla Clayton
Ms S J Clarkson
Ms C C Finlay
Mrs J Keene
Mr Mark Teale

Chief Executive Officer
Chief Operating Officer
Manager Development
Manager Community Services
Business Improvement & Governance Advisor
Executive Assistant
Acting Senior Finance Officer
Acting Executive Assistant
Procurement & Administration Officer
Community Emergency Services Manager

Guests

Nil.

Approved Leave of Absence

Nil.

Apologies

Gallery

Jon Arden – Premier Circle, Dongara
Greg Symons – Blenheim Road, Springfield
Steven Tweedie - Wilding Place, Bull Creek

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

Greg Symons, Blenheim Road, Springfield: Can Council support an application to build within the Water Corporation wastewater buffer zone, as the original correspondence suggested that this could be a possibility?

Response: The Shire President took the question on notice.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Councillor Eva submitted an application for a Leave of Absence for the period 9 January 2023 – 25 January 2023 (inclusive).

COUNCIL DECISION 021222:

MOVED: Cr Tunbridge

SECONDED: Cr Gillam

That Council grants Councillor Eva a Leave of Absence for the period 9 January 2023 – 25 January 2023 (inclusive).

VOTING DETAILS:

Carried by Absolute Majority 7/7

6. PETITIONS AND DEPUTATIONS

Nil.

7. CONFIRMATION OF MINUTES

7.1. Minutes of the Ordinary Council Meeting held 22 November 2022

A copy of the minutes of the 22 November 2022 Ordinary Council Meeting have been provided to all Councillors under separate cover.

COUNCIL DECISION 031222:

MOVED: Cr Leonard

SECONDED: Cr Eva

That the Minutes of the Ordinary Council Meeting, held 22 November 2022, as previously circulated, be adopted as a true and accurate recording of that meeting.

VOTING DETAILS:

Carried 8/8

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Functions, Meetings & Events

25 November 2022	Shire President attended Tidy Towns Presentation, Perth
08 December 2022	Shire President and CEO attended meeting with Mitsui
09 December 2022	Shire President and CEO attended the Lara Dalton and Sandra Carr Christmas function in Geraldton

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY		CC01-12/22
Subject:	CC01-12/22 Accounts for Payment	
Author:	S Clarkson, A/Senior Finance Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	2.00057	
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 November 2022.

Background:

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

- CC01-12/22 Attachment 1: Accounts for Payment – November 2022

Officer Recommendation:

COUNCIL DECISION 041222:

MOVED: Cr Palmer

SECONDED: Cr Eva

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

Payment Type/Numbers	Total Amount
EFT 29486 – 29604	\$489,926.58
Muni Cheques – 32126 – 32129	\$7,803.50
Direct Debit – Telstra	\$3,122.98
Direct Debit – WA Treasury Corporation	\$65,350.56
Direct Debit – Solar Panel Repayments	\$1,947.66
Direct Debit – Credit Card	\$12,835.78
Direct Debit – Rental Charges	\$2,600.00
Direct Debit – Insurance Premium Repayments	\$36,814.83
Direct Debit – N-Able Pty Ltd	\$621.00
Direct Debit – Australian Phone Company	\$225.23
Direct Debit – Bonds Administrator	\$2,160.00
Grand Total	\$623,408.12

VOTING DETAILS:

Carried 8/8

CORPORATE AND COMMUNITY		CC02-12/22
Subject:	CC02-12/22 Monthly Financial Statements for the Period Ended 30 November 2022	
Author:	S Clarkson, A/Senior Finance Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	2.00057	
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 2022 to 30 November 2022.

Background:

The Monthly Financial Statements to 30 June 2023 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 November 2022 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

30/11/2022	YTD Budget	YTD Actual	Variance YTD to Budget
Operating Revenue	7,361,001	7,691,764	4%
Operating Expenditure	(5,288,592)	(3,320,803)	-37%
Net Operating	2,072,409	4,370,961	
Non-Operating Revenue	3,890,804	4,373,211	12%
Non-Operating Expenditure	(2,600,873)	(556,434)	-79%
Net Non-Operating	1,289,931	3,816,777	
Cash at Bank		5,607,603	
Cash at Bank Restricted		373,935	
Reserve Bank		1,407,082	
Total Cash Funds		7,388,620	

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 – December 2022

- CC02-12/22 Attachment 1: Financial Statements for the Period Ended 30 November 2022.

Officer Recommendation:

COUNCIL DECISION 051222:

MOVED: Cr Tunbridge

SECONDED: Cr Leonard

That Council by Simple Majority, receives the Monthly Financial Statements for the period 1 July 2022 to 30 November 2022 as provided in Attachment Booklet – December 2022.

VOTING DETAILS:

Carried 8/8

OFFICE OF CEO		CEO01 12/22
Subject:	CEO01- 12/22 Local Government Report	
Author:	C Finlay, Acting Executive Assistant	
Responsible Officer:	Shane Ivers, Chief Executive Officer	
File Reference:	2.0075	
Voting Requirements:	Absolute Majority	

Council Role:

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Report Purpose:

For Council to resolve to undertake a representation review for the number of Councillors representing the Shire of Irwin.

Background:

The Shire of Irwin received correspondence on the 20 September 2022 from Hon John Carey MLA Minister for Housing; Lands; Homelessness; Local Government regarding the changes to council size due to the new proposed Local Government Reforms, which are soon to be legislated. As part of these reforms, the Department of Local Government, Sport and Cultural Industries (DLGSC) has advised that the Shire of Irwin under the proposed reforms will have to reduce the number of Councillor positions from the current eight (8) to a minimum of five (5) and a maximum of seven (7).

Work on a Bill to amend the Local Government Act 1995 (the Act) according to the Local Government Reforms is in progress, and a Bill is expected to be introduced into Parliament early 2023. With the anticipation that the reforms will be in place before the upcoming 2023 ordinary elections, the DLGSC has presented the Shire of Irwin two pathways to consider for making these election transition arrangements.

Voluntary Pathway

The Shire may formulate a plan to implement these changes on a voluntary basis. This pathway will require the Shire to make the steps outlined below, and could involve staging any larger changes in the number of councillors over two ordinary elections. This pathway provides the Shire with the greatest possible lead time to plan for next year’s ordinary elections. If this process is preferred, the Shire should, by 28 October 2022:

- Advise the DLGSC of the Shire’s intention to undertake a voluntary process. This advice should include a high-level plan outlining the potential changes to be implemented for the ordinary elections to be held in 2023 (and in 2025, if applicable); and
- Initiate a Ward and Representation Review to determine the specific changes to the structure of the council for the 2023 and 2025 ordinary elections, to be completed by 14 February 2023.

Significant effort is required to complete a Ward and Representation Review. The Ward and Representation Review would need to be finalised by 14 February 2023, to ensure that the timeframes set out in the Act can be practically met. While the Ward and Representation Review can consider the size of the Shire's council, and any wards, any changes should not diverge from the proposed reforms.

Reform Election Pathway

The Amendment Act will provide for all changes to be implemented through reform elections in 2023. This pathway would provide that all of the Shire's council offices can be declared vacant, any existing wards can be abolished, and the number of council offices would be set based on the reform proposals.

Elections would then be held to fill all council offices, with a split between two and four year terms as might be necessary to re-establish an ordinary election cycle: For local governments in band 1 or 2, the newly-elected council would then be able to consider whether to establish new wards through a future Ward and Representation Review.

It is also intended that the Amendment Act will contain provisions for the Reform Election Pathway to apply if the Shire:

- Does not advise of an intention to follow the Voluntary Pathway, or
- Decides to follow the Voluntary Pathway, but does not suitably complete a Ward and Representation Review by the dates outlined in this letter.

Officer's Comment:

The Shire has responded to DLGSC on the 28 October 2022 of its intention to undertake Voluntary Pathway to reduce the number of the Councillors at the Ordinary Elections to be held October 2023.

The high-level plan is outlined in the table below;

Requirement/Action	Due Dates
Council resolves to undertake a representation review.	12 December 2022
Completion of six-week consultation period	27 January 2023
Draft review report is prepared, considered & adopted by Council	By 7 February 2023
Formal review report is submitted to the Advisory Board	14 February 2023

Consultation:

Shire of Irwin Council and the public by the Representation Discussion Paper

Statutory Environment:

Section 2.2(1) of the *Local Government Act 1995*

Policy Implications:

Nil

Financial/Resource Implications:

Nil

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 – 2031

Attachments:

Attachment Booklet – December 2022

- CEO01 12/22 Attachment 1: Representation Discussion Paper
- CEO01 12/22 Attachment 2: Public Notice

CONFIDENTIAL Attachment Booklet – December 2022

- CEO01 12/22 Attachment 3: Letter to Shire of Irwin from Hon John Carey MLA Minister for Housing; Lands; Homelessness; Local Government

Officer Recommendation:

COUNCIL DECISION 061222:

MOVED: Cr Eva

SECONDED: Cr Palmer

That Council by Absolute Majority;

1. **Endorses CEO01 12/22 Attachment 1 in Attachment Booklet – December 2022, the Representation Discussion Paper, for the purposes of seeking public submissions.**

Authorises the Chief Executive Officer to give local public notice of its intention to carry out a review of representation and invites submissions as required under Clause 6(1) of Schedule 2.2 of the Local Government Act 1995.

VOTING DETAILS:

Carried 8/8

INFRASTRUCTURE & DEVELOPMENT		ID01-12/22
Subject:	ID01-12/22 Delegated and Authorised Actions for November 2022 – Development	
Author:	B Jeans, Development & Executive Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00125	
Voting Requirements:	Simple Majority	

Council Role:

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Report Purpose:

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

Background:

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

- Development Approvals issued;
- Subdivision Clearances issued;
- Building Permits issued; and
- Health Approvals issued.

Officer's Comment:

The table in Attachment 1 outlines the actions performed within the Development department under delegated authority or authorisation for the period 1 November 2022 – 30 November 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 – December 2022

- ID01-12/22 Attachment 1: Table of Delegated Actions for November 2022, Development

CONFIDENTIAL Attachment Booklet – December 2022

- ID01-12/22 Attachment 2: Detailed Table of Delegated Actions for November 2022, Development

Officer Recommendation:

COUNCIL DECISION 071222:

MOVED: Cr Palmer

SECONDED: Cr Tunbridge

That Council receives the Delegated and Authorised Actions for November 2022 as set out in ID01-12/22 Attachment 1 in Attachment Booklet – December 2022.

VOTING DETAILS:

Carried 8/8

INFRASTRUCTURE & DEVELOPMENT		ID02-12/22
Subject:	ID02-12/22 Draft Local Planning Policies relating to Outbuildings and other non-habitable buildings	
Author:	B Jeans, Manager Development	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0354	
Voting Requirements:	Simple Majority	

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Report Purpose:

For Council to consider advertisement of the new draft local planning policies relating to outbuildings and other non-habitable buildings.

Background:

Over the past 18 months the Shire has identified the need to develop a local planning policy to deal with development proposals for outbuildings. The Shire's current local planning framework is not reflective or adequate appropriately dealing with outbuilding proposals. A Local Planning Policy will provide:

- Guidance on the supported size, scale, design and positioning of outbuildings on properties that extend beyond the limitations of the Residential Design Codes and Local Planning Scheme (further detailed below in Comment section);
- Ensure greater consistency for Shire officers dealing with development applications for outbuildings;
- Result in more streamlined efficient submission and assessment of development applications for outbuildings; and
- Provide clarity to residents and applicants on what outbuildings the Shire can support by way of Policy.

The research of development control for outbuildings in the Shire's current planning framework has resulted in the preparation of 3 local planning policies.

This report is seeking Council's support to initiate public advertising of the draft local planning policies. The public advertising period will allow for feedback to inform the final version of the policies, which will be a critical step in this particular case due to the policies being developed as new policies rather than as part of a review of existing policies with revisions made.

Officer's Comment:

The Shire relies on the Local Planning Scheme (“the Scheme”) and the Residential Design Codes (“the R-Codes”) when dealing with the Development Approval of outbuildings.

The R-Codes relating to outbuildings

Outbuildings in residential areas (such as the Residential and Town Centre Zone) that are associated with a dwelling are assessed against the requirements of the R-Codes – a State Planning Policy. The R-Codes section relating to outbuildings is Clause 5.4.3 (screenshot below) and covers requirements on:

- Floor area;
- Wall and ridge height;
- Setbacks; and
- Size in relation to open space and living requirements.

Design principles	Deemed-to-comply						
<i>Development demonstrates compliance with the following design principles (P)</i>	<i>Development satisfies the following deemed-to-comply requirements (C)</i>						
5.4.3 Outbuildings							
P3 Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.	C3 Outbuildings associated with a dwelling site address either: <ul style="list-style-type: none"> i. the standards for small outbuildings (A. Small outbuilding); or ii. the standards for large and multiple outbuildings (B. Large and multiple outbuildings). <div style="border: 1px solid #ccc; padding: 5px; margin: 5px 0;"> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #d9ead3; width: 20%; padding: 2px;">A. Small outbuilding</td> <td style="padding: 2px;"> (i) no more than one outbuilding per dwelling site; (ii) has no more than two boundary walls; (iii) does not exceed 10m² in area; (iv) does not exceed a wall and ridge height of 2.7m; (v) not located within the primary or secondary street setback area; and (vi) does not reduce open space and outdoor living area requirements in Table 1. </td> </tr> <tr> <td colspan="2" style="text-align: center; padding: 2px;">OR</td> </tr> <tr> <td style="background-color: #d9ead3; padding: 2px;">B. Large and multiple outbuildings</td> <td style="padding: 2px;"> (i) individually or collectively does not exceed 60m² in area or 10 per cent in aggregate of the site area, whichever is the lesser; (ii) set back in accordance with Table 2a; (iii) does not exceed a wall height of 2.4m; (iv) does not exceed a ridge height of 4.2m; (v) not located within the primary or secondary street setback area; and (vi) does not reduce the open space and outdoor living area requirements in Table 1. </td> </tr> </table> </div> <p>Notes:</p> <ul style="list-style-type: none"> i. An outbuilding wall that meets (ii) for small outbuildings does not contribute to the number or dimension of boundary walls under clause 5.1.3. ii. An existing outbuilding that meets the development standards for small outbuildings does not need to be set back in accordance with Table 2a for additional outbuildings that are proposed under B. Large and multiple outbuildings. iii. There are separate building code requirements that may also apply. 	A. Small outbuilding	(i) no more than one outbuilding per dwelling site ; (ii) has no more than two boundary walls ; (iii) does not exceed 10m ² in area; (iv) does not exceed a wall and ridge height of 2.7m; (v) not located within the primary or secondary street setback area; and (vi) does not reduce open space and outdoor living area requirements in Table 1 .	OR		B. Large and multiple outbuildings	(i) individually or collectively does not exceed 60m ² in area or 10 per cent in aggregate of the site area, whichever is the lesser; (ii) set back in accordance with Table 2a ; (iii) does not exceed a wall height of 2.4m; (iv) does not exceed a ridge height of 4.2m; (v) not located within the primary or secondary street setback area; and (vi) does not reduce the open space and outdoor living area requirements in Table 1 .
A. Small outbuilding	(i) no more than one outbuilding per dwelling site ; (ii) has no more than two boundary walls ; (iii) does not exceed 10m ² in area; (iv) does not exceed a wall and ridge height of 2.7m; (v) not located within the primary or secondary street setback area; and (vi) does not reduce open space and outdoor living area requirements in Table 1 .						
OR							
B. Large and multiple outbuildings	(i) individually or collectively does not exceed 60m ² in area or 10 per cent in aggregate of the site area, whichever is the lesser; (ii) set back in accordance with Table 2a ; (iii) does not exceed a wall height of 2.4m; (iv) does not exceed a ridge height of 4.2m; (v) not located within the primary or secondary street setback area; and (vi) does not reduce the open space and outdoor living area requirements in Table 1 .						

Proposed draft Local Planning Policy LPP02 (Attachment 1) has been developed to deal with outbuildings associated with residential development in the Residential and Town Centre zones.

The Local Planning Scheme relating to outbuildings

Outbuildings in all zones are covered by Clause 5.18 of the Scheme, which provides an overarching objective provision to cover all outbuilding proposals, but more specifically lists maximum outbuilding floor areas in some zones (screenshot below).

5.18 OUTBUILDINGS

AMD 16 GG 30/10/15

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 .

Local Planning Policy LPP03 has been developed to deal with outbuildings in zones specifically listed in Clause 5.18 with floor areas.

Zones not listed in Clause 5.18 of the Scheme

Clause 5.18 does provide an overarching requirement for outbuildings in all zones however there is no stipulation of a maximum floor area allowed such as the industrial or commercial zones.

Local Planning Policy LPP04 has been developed to deal with outbuildings in the commercial and industrial zones, as well as other zones or reserves that do not fit within a category.

Current matters that need addressing relating to outbuildings

With respect to the current planning framework that applies to outbuildings in the Shire, the following are matters that need to be addressed:

- The maximum floor areas for outbuildings in the Scheme are accepted as being below the maximum commonly supported by the Shire and Council.
- The Scheme lacks any other outbuilding requirements relating to building heights and positioning that are commonly found in local planning policies, which results in subjectiveness and inconsistency.
- Clause 5.18 of the Scheme is not a well worded clause, making it difficult to interpret and implement.
- The R-Codes provides for maximum floor area and height criteria (known as the Deemed-to-comply requirements) that, if met, result in the outbuilding being exempt from Development Approval. However, there is only subjective criteria (known as the Design Principle) for the assessment of outbuildings that exceed the Deemed-to-comply requirements, which leaves proposals open to significant variation with no 'ceiling' to what can be the maximum.

The local planning policies can't deal with some matters with the Development Application requirements such as:

- The outbuilding requirements set out in the Scheme can't be altered or overridden by a Local Planning Policy but can be extended on.
- A Local Planning Policy can provide further guidance to a Scheme requirement or development matter not covered in detail by the Scheme.
- The Local Planning Policy can't introduce conflicting requirements to the R-Codes, only provide for variations for certain Deemed-to-comply requirements which are still deemed to be consistent with the Design Principle.

Draft Local Planning Policies

In summary the draft policies will address the above matters by:

- Increasing the Deemed-to-comply requirement of the R-Codes for the wall height of outbuildings from 2.4m to 2.7m to provide for additional shed clearance that doesn't trigger a Development Application. It was considered to be excessive and undesirable to increase more of the Deemed-to-comply (exemption) requirements of the R-Codes for outbuildings to the maximum amounts set in the Policy and to instead follow a Development Approval process.
- Setting maximum floor areas and building heights for outbuildings in Residential areas, that can be supported with a Development Application, that exceed the R-Codes Deemed-to-comply requirements.
- Introducing positioning/placement requirements for outbuildings that exceed the Deemed-to-comply requirements to ensure larger or taller outbuildings are positioned further back from the street and/or public/neighbour's view.
- Setting maximum floor areas for outbuildings in other zones in the Shire that exceed the Scheme requirements that can be supported with a Development Application and due process.
- Introducing maximum building heights, positioning requirements and other development requirements for outbuildings in other zones in the Shire that exceed Scheme requirements that can be supported with a Development Application and due process.
- Set out the consultation process for outbuildings such as neighbour referral.
- Set out the process for applications that seek a variation to the Policy.
- List relevant definitions to assist with the consideration and assessment of outbuilding proposals.

To summarise and clarify, the draft policies do not reduce the existing floor areas or heights of the existing outbuilding development requirements. The draft policies provide support and scope for outbuildings with increased areas and heights subject to specific provisions being met.

Consultation:

Public advertising will consist of a notice in the *Midwest Times*, the *Dongara-Denison Local Rag*, on the Shire website and in the Administration Office. Advertising will be conducted for a minimum of 21 days in accordance with Clause 4(2) of the Part 2 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

At the conclusion of the submission period any submissions will be presented to Council for its consideration for the adoption of the final versions of the policies.

Prior to Council's consideration for adoption of the local planning policies, officers also intend to compile Guidelines to provide assistance to residents and applicants with the interpretation and application of the policies.

Statutory Environment:

Shire of Irwin Local Planning Scheme No.5

Part 2 of the Scheme sets out the Local Planning Policy Framework. The *Planning and Development (Local Planning Schemes) Regulations 2015 – Deemed Provisions* overrides the Local Planning Scheme where there is an inconsistency that is not an approved variation to the Deemed Provisions.

Planning and Development (Local Planning Schemes) Regulations 2015 – Deemed Provisions

4. Procedure for making local planning policy

- (1) *If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —*
 - (a) *publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of —*
 - (i) *the subject and nature of the proposed policy; and*
 - (ii) *the objectives of the proposed policy; and*
 - (iii) *where the proposed policy may be inspected; and*
 - (iv) *to whom, in what form and during what period submissions in relation to the proposed policy may be made;*
 - (b) *if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
 - (c) *give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*
- (2) *The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).*
- (3) *After the expiry of the period within which submissions may be made, the local government must —*
 - (a) *review the proposed policy in the light of any submissions made; and*
 - (b) *resolve to —*
 - (i) *proceed with the policy without modification; or*
 - (ii) *proceed with the policy with modification; or*
 - (iii) *not to proceed with the policy.*
- (4) *If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.*
- (5) *A policy has effect on publication of a notice under subclause (4).*
- (6) *The local government —*
 - (a) *must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and*
 - (b) *may publish a copy of each of those local planning policies on the website of the local government.*

5. Procedure for amending local planning policy

- (1) *Clause 4, with any necessary changes, applies to the amendment to a local planning policy.*
- (2) *Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.*

Policy Implications:

Nil.

Financial/Resource Implications:

Nil. The staff time required for the development of the Local Planning Policy will create efficiencies with Development Applications for outbuildings for customer service and planning staff.

Strategic Implications:

Strategic Community Plan 2021 - 2031

Strategy 2.1.1 Continuously improve approval processes

Attachments:

Attachment Booklet – December 2022

- ID02-12/22 Attachment 1: Draft Local Planning Policy LPP02 – Outbuildings and other non-habitable buildings in the Residential and Town Centre zone where the R-Codes apply
- ID02-12/22 Attachment 2: Draft Local Planning Policy LPP03 – Outbuildings and other non-habitable buildings relating to Clause 5.18 zones in the Scheme
- ID02-12/22 Attachment 3: Draft Local Planning Policy LPP04 – Outbuildings and other non-habitable buildings in commercial, industrial and other areas

Officer Recommendation:

COUNCIL DECISION 081222:

MOVED: Cr Leonard

SECONDED: Cr Gillam

That Council, pursuant to Part 2, Clause 5 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, resolve to publicly advertise the draft local planning policies relating to outbuildings and other non-habitable outbuildings as set out in ID02-12/22 Attachments 1, 2 and 3 in Attachment Booklet – December 2022 for a period of not less than 21 days.

VOTING DETAILS:

Carried 8/8

INFRASTRUCTURE AND OPERATIONS		ID03-12/22
Subject:	ID03-12/22 RFQ 04-2022/23 Supply and Delivery of 1 Wheel Loader	
Author:	J Keene – Procurement & Administration Officer	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	<u>3.00327</u>	
Voting Requirements:	Absolute Majority	

Council Role:

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

Report Purpose:

To seek Council approval to purchase a Wheel Loader and Motor Grader as endorsed by the Plant Replacement Program as per the 2022/23 Budget.

Background:

In April 2022, Council approved the request to make an application to the Western Australian Treasury Corporation for a loan for the purpose of purchasing Plant. In June 2022, the loan request was approved.

The Shire updated its 2022-23 Plant Replacement Program, in accordance with its review of its Strategic Community Plan (SCP) and developed its Long Term Financial Plan(LTFP). This identified the need to develop internal capacity for road maintenance renewal work, which also requires a need to upgrade the current equipment and purchase additional equipment. The 2022-23 Plant Replacement Program includes a new additional grader, renewal of the wheel loader and the prime mover with two side tippers. This would allow two grading teams, one for resheeting roads and the other for maintenance. This each year would improve gravel resheeting capacity from 15km to 30km and maintenance grading from 2 to 4 grades for each Shire road plus capacity for reforming sealed road shoulders such as Allanooka Springs Road. The acquisition of the above equipment plays a critical role in increasing the Asset Sustainability Ratio performance and in real terms supporting the Shire to meet its obligations in terms of road safety.

In accordance with s.11(2)(b) of the *Local Government (Functions and General) Regulations 1996* quotes were invited for the supply of 1 Motor Grader as a tender exempt purchase through the WALGA Preferred Supplier Program on Friday 14 October 2022. The request VP331245 was issued to the category of Heavy Plant Machinery Equipment -Earthmoving Equipment (PSP006-09) to 27 suppliers. The RFQ closed on Friday 28 October 2022. 15 suppliers viewed the request, two suppliers declined the request without reading, 12 suppliers read the request and 9 responses were submitted.

A review of the submissions for compliance was completed and 3 submissions were deemed non-compliant. An evaluation panel of four shire employees formally met on 3 November 2022 to review the remaining six (2) submissions against the qualitative criteria, before pricing was applied to determine the best value for money and most advantageous response.

Officer’s Comment:

The submission by Respondent 9 met the qualitative criteria as set out in the RFQ document. For full details of the scores and ranking refer to the RFQ Evaluation Report for final scores and ranking as provided in Confidential Attachment 2.

It is recommended that Council award RFQ 02-2022/23 to Respondent 9 to the value of \$348,500.00 (ex GST) with the additional options to the value of \$23,758.48 (ex GST) subject to the availability of Council approved funds.

Consultation:

Nil

Statutory Environment:

Local Government Act 1995

Policy Implications:

CP01 Localised Purchasing (Regional Price Preference Policy)

CP20 Purchasing – (Amended for a declared State of Emergency)

Financial/Resource Implications:

As per approved item in the 2022/23 Budget allocation for the value of \$530,000 (ex GST).

Strategic Implications:

Strategic Community Plan 2021 – 2031

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- December 2022

- ID03-11/22 Attachment 1: RFQ Supply and Delivery of 1 Wheel Loader

CONFIDENTIAL Attachment Booklet- December 2022

- ID03-11/22 Attachment 2: Evaluation Panel Report circulated as separate confidential attachment as per s.5.23(2)(ii)(iii)

Officer Recommendation:

COUNCIL DECISION 091222:

MOVED: Cr Palmer

SECONDED: Cr Eva

That Council by Absolute Majority,

1. **Accepts the submission for RFQ 04-2022/23 Supply and Delivery of 1 Wheel Loader, received from West Trac Pty Ltd, named as ‘Respondent 9’ in the Evaluation Report recommendation detailed in CONFIDENTIAL Attachment Booklet- December 2022 and identified as the most advantageous, to the value of \$348,500.00 (ex GST) with the additional options to the value of \$23,758.48 (ex GST) subject to the availability of Council approved funds.**
2. **Delegates authority to the Chief Executive Officer to negotiate in relation to the contract additional options.**
3. **Accepts that if a contract should not be formed for RFQ 04-2022/23 Supply and Delivery of 1 Wheel Loader with ‘Respondent 9’ identified in Evaluation Panel Report recommendation shown in CONFIDENTIAL Attachment Booklet- December 2022 as the most advantageous, delegates authority to the Chief Executive Officer to negotiate with ‘Respondent 8’ or ‘Respondent 2’ who was compliant with the request and ranked as the next most advantageous.**

VOTING DETAILS:

Carried 8/8

9.2 Committee Reports

9.2.1 Shire of Irwin Local Emergency Management Committee Meeting 30 November 2022

The minutes of the Shire of Irwin Local Emergency Management Committee Meeting held Wednesday 30 November 2022 have been provided as Attachment 9.2.1 in Attachment Booklet – November 2022

COUNCIL DECISION 101222:

MOVED: Cr Tunbridge

SECONDED: Cr Leonard

That Council receive the Minutes of the Shire of Irwin Local Emergency Management Committee Meeting held Wednesday 30 November 2022 provided as Attachment 9.2.1 in Attachment Booklet – December 2022.

VOTING DETAILS:

Carried by Absolute Majority 8/8

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 6:15pm

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>