



AGENDA

and

Notice of Ordinary Council Meeting

to be held

Tuesday 23 November, 2021

in the

Shire of Irwin Council Chambers

- 5.00pm – Agenda Briefing
- 5.15pm – Councillor Information Session
- 6.00pm – Ordinary Council Meeting

AGENDA & BUSINESS PAPERS

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

Please be advised that Ordinary Council Meetings during 2021 will be held on the following dates in the Council Chambers at 11-13 Waldeck Street, Dongara, (unless otherwise advised) commencing at **6.00pm**.

DATES	
23 February 2021	27 July 2021
23 March 2021	24 August 2021
27 April 2021	28 September 2021
25 May 2021	26 October 2021
22 June 2021	23 November 2021
	13 December 2021

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



Ordinary Council Meeting December 2021

The Shire of Irwin wishes to advise the December Ordinary Council Meeting will be held on **Monday, 13 December 2021**.

The Ordinary Council Meeting will be held in the Council Chambers at 11-13 Waldeck Street, Dongara, commencing at **6.00pm**, preceded by an Agenda Briefing Session and Councillor Information Session. The public are most welcome to attend these sessions commencing at **5.00pm**.

Please call 9927 0000 or email reception@irwin.wa.gov.au for further information.

Shane Ivers

Chief Executive Officer

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

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

Council Meeting Information

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

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ORDINARY COUNCIL MEETING

to be held

23 November 2021

at 6.00pm

AGENDA

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Members

Councillor M T Smith

Shire President

Councillor I M Scott

Deputy Shire President

Councillor G S Eva

Councillor A J Gillam

Councillor M Leonard

Councillor H M Palmer

Councillor E Tunbridge

Councillor B Wyse

Staff

Mr S D Ivers

Chief Executive Officer

Mrs D K Chandler

Acting Manager Corporate & Community

Mr B Jeans

Manager Development

Ms F Boksmati

Community Development Officer

Ms N A M'Leane

Development & Executive Officer

Guests

Approved Leave of Absence

Apologies

Gallery

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS AND DEPUTATIONS

Nil.

7. CONFIRMATION OF MINUTES

7.1. Minutes of the Ordinary Council Meeting held 26 October 2021

A copy of the Minutes of the Ordinary Council Meeting held 26 October 2021 have been provided to all Councillors under separate cover.

RECOMMENDED:

That the Minutes of the Ordinary Council Meeting, held 26 October 2021, as previously circulated, be adopted as a true and accurate recording of that meeting.

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY		CC01-11/21
Subject:	CC01-11/21 Accounts for Payment	
Author:	S Clarkson, A/Senior Finance Officer	
Responsible Officer:	D Chandler, A/Manager Corporate Community	
File Reference:	Minute Book	
Voting Requirements:	Simple Majority	

Council Role:

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

Report Purpose:

To receive the list of accounts paid under delegated authority during October 2021.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of October 2021.

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 – November 2021

CC01-11/21 Attachment 1: Accounts for Payment – October 2021

Officer Recommendation:

RECOMMENDED:

That Council receives the Accounts paid during October 2021 as presented in Attachment Booklet – November 2021, represented by:

Payment Type/Numbers	Total Amount
EFT 27912 – 28043	\$786,720.46
Muni Cheques – 32078 – 32084	\$37,030.20
Direct Debit – Telstra	\$80.00
Direct Debit – WA Treasury Corporation	\$137,512.51
Direct Debit – Solar Panel Repayments	\$1,947.66
Direct Debit – Credit Card	\$8,455.29
Direct Debit – Henry Road Bonds Administration	\$1,080.00
Direct Debit – Superannuation	\$17,074.02
Grand Total	\$989,900.14

CORPORATE AND COMMUNITY		CC02-11/21
Subject:	CC02-11/21 Monthly Financial Statements for the Period Ended 31 October 2021	
Author:	D Chandler, A/Manager Corporate & Community	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	Minute Book	
Voting Requirements:	Simple Majority	

Council Role:

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Report Purpose:

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

Background:

The Monthly Financial Statements to 30 June 2022 are prepared in accordance with the requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996* and includes the following statutory reports:

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

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

Officer's Comment:

The financial position to the end of October 2021 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

31/10/2021		YTD Budget	YTD Actual	Variance YTD to Budget
Operating Revenue		7,089,988	7,143,302	1%
Operating Expenditure		(3,721,099)	(3,707,310)	0%
Net Operating		3,368,889	3,435,992	
Non-Operating Revenue		10,000	0	-100%
Non-Operating Expenditure		(1,750,935)	(1,552,565)	-11%
Net Non-Operating		(1,740,935)	(1,552,565)	
Cash at Bank			4,060,489	
Cash at Bank Restricted			573,341	
Reserve Bank			1,482,508	
Total Cash Funds			6,116,338	

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 – November 2021

CC02-11/21 Attachment 1: Financial Statements for the Period Ended 31 October 2021

Officer Recommendation:

RECOMMENDED:

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

CORPORATE AND COMMUNITY		CC03-11/21
Subject:	CC03-11/21 Amended Policy CP41 Financial Hardship for Declared State of Emergency	
Author:	D Chandler, A/Manager Corporate & Community	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00079	
Voting Requirements:	Absolute Majority	

Council Role:

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

For Council to consider amending policy CP41 Financial Hardship for a Declared State of Emergency.

Background:

In June 2020, local governments were requested by the WA Premier and Minister for Local Government to consider developing a policy to support communities in meeting the unprecedented challenges arising from the COVID-19 pandemic. The *Local Government (COVID-19 Response) Order 2020* was implemented and as a result, Council adopted Policy CP41 Financial Hardship for a Declared State of Emergency at the July 2020 Ordinary Council Meeting.

On 1 July 2021, the Local Government (COVID-19 Response) Amendment Order 2021 was issued to extend the Order to 2021-22 for local governments to continue to provide support to the community through the financial hardship policy.

In October 2021, the Officer of Auditor General (OAG) conducted performance audits of all WA local governments and examined the financial hardship support they had in place for ratepayers. A report on these findings was prepared and submitted to Parliament under provisions of section 25 of the *Auditor General Act 2006*.

Officer’s Comment:

The report from the OAG findings was then distributed to all local governments. It was recommended that LG entities ensure they:

1. Have a current Council-approved financial hardship policy that, if they want to charge the higher threshold of instalment interest, covers 2021-22 rates and
2. Actively promote the policy to their ratepayers and make the policy and application form publicly available

As a result of this report, the Shire has reviewed CP41 and made suggested amendments relating to the timing of its enforcement. This is to ensure that the Shire has a relevant policy in place to continue to support the whole community in a fair, equitable, consistent and dignified manner while treating all

members of the community with respect and understanding.

Once the amended policy has been adopted, the Shire will promote the policy and application form on the Shire of Irwin website.

Consultation:

WA Local Government Association (WALGA)
Office of the Auditor General for Western Australia

Statutory Environment:

Local Government (COVID-19 Response) Order 2020

Policy Implications:

Once adopted, the Shire will have a Financial Hardship Policy in place relevant to the 2021/22 financial year. This process will then be undertaken as part of budget preparations each year, if required.

Financial/Resource Implications:

This will impact on the 2021/2022 financial year. The amount will depend on how many people are assessed as suffering from financial hardship and the amount of penalty interest that is waived. This variant has been taken into account during the preparation of the 2021/2022 budget. This will be monitored throughout the year and captured as part of the annual budget review process.

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 - 2031
Strategy 4.3.2 Adopt and follow better practices and processes

Attachments:

CC03-11/21 Attachment 1: Local Government COVID-19 Financial Hardship Support - Office of the Auditor General.

CC03-11/21 Attachment 2: CP41 Financial Hardship for a declared State of Emergency

CC03-11/21 Attachment 3: Amended CP41 Financial Hardship for a Declared State of Emergency

Officer Recommendation:

RECOMMENDED:

That Council, by Absolute Majority, adopts the amended policy CP41 – Financial Hardship for a declared State of Emergency, presented as Attachment 1 in Attachment Booklet – November 2021.

CORPORATE AND COMMUNITY		CC04-11/21
Subject:	CC04-11/21 Community Assistance Scheme and Events Committee – Community Members	
Author:	F Boksmati, Community Development Officer	
Responsible Officer:	D Chandler, A/Manager Corporate Community	
File Reference:	3.0016	
Voting Requirements:	Absolute Majority	

Council Role:

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

For Council to consider appointing two (2) community members to the Community Assistance Scheme and Events (CASE) committee.

Background:

The role of the CASE committee is to administer, assist and evaluate the distribution of the Community Assistance Scheme funding within budgetary guidelines approved annually by Council. The Committee will assess applications received against the selection criteria before submitting the committee recommendation to Council.

The CASE committee also discuss and provide recommendations to event organisers to stimulate and encourage projects, events or activities to meet the needs of the community and offer the best opportunity to provide economic benefits and potential to market Dongara and Port Denison outside the Shire.

The CASE Committee Terms of Reference for Community Members, last amended 26 October 2021, states that the CASE committee will consist of up to five members and that membership will be:

- A/Manager Corporate Community;
- 2 x Elected Members; and
- 2 x Community Members.

At the October 2021 Ordinary Council Meeting, Cr Palmer and Cr Tunbridge were appointed as CASE committee delegates.

The Community Development Officer then advertised for Expressions Of Interest (EOI) to fill the committee positions held by community members. Two (2) EOI’s from were received, these two (2) candidates are now being presented to Council for review.

The candidates are:

- Ms Ann Heitman (re-nominated)
- Ms Judy Smith (new)

Officer’s Comment:

To ensure transparency, the candidates have been presented to Council to consider and appoint. Given the quality and suitability of the expressions of interest received and given that only two expressions of interest were received, it is recommended that these community member vacancies be filled unopposed.

Consultation:

Nil.

Statutory Environment:

Local Government Act 1995

- Section 5.8 Establishment of committees

Policy Implications:

C7 Financial Assistance Funding Policy

Community Assistance Scheme and Events Committee – Terms of Reference

Financial/Resource Implications:

At the August Ordinary Council Meeting, Council adopted the 2021/22 Budget including a \$30,000 allocation to the Community Assistance Scheme. The CASE committee will make recommendations to Council for the expenditure of this allocation.

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 - 2031

1.2 Arts, culture, heritage and recreation are valued

1.2.2 Support the Strong Sporting Culture that shapes the Shire of Irwin’s identity and lifestyle

1.2.3 Support community-initiated projects and activities

Attachments:

CONFIDENTIAL *Attachment Booklet – November 2021*

CC04-11/21 Attachment 1: Candidate profiles

Officer Recommendation:

RECOMMENDED:

That Council, by Absolute Majority, appoint Ann Heitman and Judy Smith as Community Members of the CASE Committee for a term of two (2) years, expiring October 2023 in line with the Local Government Ordinary Election.

OFFICE OF CEO	CEO01-11/21
Subject:	CEO01-11/21 Ordinary Council Meeting Dates 2022
Author:	N M’Leane, Development & Executive Officer
Responsible Officer:	S Ivers, Chief Executive Officer
File Reference:	2.0073
Voting Requirements:	Simple Majority

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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- 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 and set Ordinary Council Meeting dates for 2022.

Background:

As per Regulation 12 of the *Local Government (Administration) Regulations 1996*, Council is required to set the meeting dates for the next 12 months and make them available to the local public.

In the past, Council has held Ordinary Council Meetings on the fourth Tuesday of each month except for January and December. In 2021, there was no Ordinary Council Meeting scheduled for January.

Officer’s Comment:

It is recommended to hold Ordinary Council Meetings for 2022 on the fourth Tuesday of each month, except in January and December.

As per last year’s schedule, it is recommended that there be no Ordinary Council Meeting in January 2022.

The December 2022 Ordinary Meeting is recommended to be held on the second Tuesday in December to allow staff sufficient time to take appropriate action in regard to any Council decisions and prepare the minutes.

The approval of accounts for payment and financial statements normally provided in January would be scheduled for consideration at the February 2022 meeting. With regards to the presentation of statements of financial activity to Council, Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, provides the following:

- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
 - (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*

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

To improve community engagement whilst maximising knowledge and information sharing, it is proposed to continue with the existing format for monthly meetings of Council – Agenda Briefing, Councillor Information Session (open to the public), Ordinary Council Meeting and Councillor Discussion Session (closed to the public).

Consultation:

Staff were consulted internally with regards to any events or potential risks that may affect any of the proposed dates, however none were identified.

Statutory Environment:

Local Government Act 1995

Local Government (Administration) Regulations 1996

- Regulation 12

Local Government (Financial Management) Regulations 1996

- Regulation 34

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.

Attachments:

Nil.

Officer Recommendation:

OFFICER RECOMMENDATION:

That Council hold the 2022 Ordinary Council Meetings in accordance with the following schedule:

MONTH	ORDINARY COUNCIL MEETING DATE
February	22
March	22
April	26
May	24
June	28
July	26
August	23
September	27
October	25
November	22
December	13

With meetings to be held in the Council Chambers at 13 Waldeck Street, Dongara, commencing at 6.00pm with the Agenda Briefing and Councillor Information Sessions commencing at 5.00pm, directly before each Ordinary Council Meeting.

INFRASTRUCTURE & DEVELOPMENT		ID01-11/21
Subject:	ID01-11/21 Delegated and Authorised Actions for October 2021 – Development	
Author:	B Jeans, Manager Development	
Responsible Officer:	P Traylen, A/Manager Infrastructure & Development	
File Reference:	3.00125	
Voting Requirements:	Simple Majority	

Council Role:

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

Report Purpose:

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

Background:

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

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

Officer’s Comment:

The table in Attachment 1 outlines the actions performed within the Development department under delegated authority or authorisation for the period 1 October 2021 to 31 October 2021.

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 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 – November 2021

ID01-11/21 Attachment 1: Table of Delegated Actions for October 2021, Development

CONFIDENTIAL Attachment Booklet – November 2021

ID01-11/21 Attachment 2: Detailed Table of Delegated Actions for October 2021, Development

Officer Recommendation:

RECOMMENDED:

That Council receives the Delegated and Authorised Actions for October 2021 as set out in Attachment 1 in Attachment Booklet – November 2021.

INFRASTRUCTURE & DEVELOPMENT		ID02-11/21
Subject:	ID02-11/21 Proposed Outbuilding at Lot 218 (#4) Dominican Close, Port Denison	
Author:	B Jeans, Manager Development	
Responsible Officer:	P Traylen, A/Manager Infrastructure & Development	
File Reference:	P1150, A1328	
Voting Requirements:	Simple Majority	

Council Role:

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

Report Purpose:

For Council to consider the proposed outbuilding at Lot 218 (#4) Dominican Close, Port Denison.

Background:

The Shire received a Development Application for an outbuilding at Lot 218 (#4) Dominican Close, Port Denison on 28 September 2021.

The subject property is 716sqm within the Residential R12.5 zone. A dwelling has recently been granted Development Approval on the property.



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

- 70sqm floor area
- 2.7m wall height
- 4.2m ridge height
- 1m side setback
- 1m rear setback

The proposal required a Development Application due to exceedance to the maximum floor area, and maximum wall height of the Residential Design Codes of WA (R-Codes).

The owner originally proposed an outbuilding with a wall height at 3m.

Officer’s Comment:

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 with Deemed to Comply – Yes/No
Maximum Floor Area	60sqm	70sqm	No
Maximum Wall Height	2.4m	2.7m	No
Maximum Ridge Height	4.2m	4.2m	Yes
Setback minimum – front	7.5m	7.5m	Yes
Setback minimum – rear	1m	1m	Yes
Setback minimum – side	1m	1m	Yes
Minimum Open Space Area	55% (393sqm)	Approx. 415sqm	Yes

Maximum Floor Area

The applicant seeks a minor exceedance to the maximum prescribed floor area. In respect to the Design Principle for outbuildings, the 10sqm increase in floor area is minor and it is considered this variation would not detract from the streetscape amenity or result in visual amenity impacts on neighbouring properties. The size configuration is not too dissimilar to a standard 6x10m domestic outbuilding that is within the prescribed floor area requirement.

Building Height

The applicant seeks to raise the wall height up to 2.7m. The application initially submitted proposed an outbuilding with a 3m wall height however this was reduced to 2.7m to be more in line with the Shire’s position for support of outbuildings in residential areas.

The minor increase in wall height is considerable 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. Comments are provided below in response to the objection received.

Consultation response

The neighbour consultation was carried out for opportunity to comment on the proposal and 2 written submissions were received; one in support and one objection.

The objection received covers a few aspects related to the R-Codes however it is considered these either can be addressed through the standard approval conditions or are not an actual impact when referring to the R-Codes Guidelines. Furthermore, it is worth noting that the assessment is only focusing on the additional 10sqm and additional wall height variations.

- *The outbuilding would have a significant visual impact on their property as that side is their entire outdoor living space.*

The proposed outbuilding meets the minimum setbacks and is well separated from neighbouring dwellings and formal outdoor living areas (approximately 8m separation). It is common and preferred for outbuildings to be located to the rear of residential properties. The outbuilding is not considered to be excessive in floor area and it is not raised excessively to surrounding land that would contribute to undesirable bulk and visual impact beyond that of an outbuilding that meets the Deemed to Comply

(DTC) provisions of the R-Codes.

- *The outbuilding would result in overshadowing the outdoor area and affecting direct winter sun.*

Clause 5.4.2 of the R-Codes provides for the assessment criteria of overshadowing. For R12.5 lots, development is permitted to cast a shadow (determined as of 21 June) up to 25% of the site area of the adjoining property and meet the DTC provision. When assessing the length of the shadow cast it is influenced by the sun's vertical angle and is cast from the north, therefore casting a shadow directly south of the development/structure. Following the assessment criteria of the R-Codes, the shadow from the outbuilding would be cast south wholly within the subject property and therefore the overshadowing provision is compliant.

- *The oversized outbuilding has 8 double windows and one ½ sliding door indicating it would more likely be used as an industrial workshop or for habitation. This would have a significant impact on my living (indoors and out) in terms of noise pollution.*

The applicant has indicated there is no intention to use the outbuilding for industrial or habitable purposes. The inclusion of windows may offer a more presentable outbuilding in a residential setting in comparison to an outbuilding with solid walls. The outbuilding design is considered to represent a domestic outbuilding.

A standard condition of outbuilding approvals reaffirms the permitted use, being incidental to the residential use of the land, and that the use is not to cause any nuisances such as noise. This has been included with the Officer's Recommendation.

- *The plans indicate guttering doesn't contain water runoff of the 70sqm roof space. Given our seasonal storms with significant rainfall in short timeframes, the overflow would likely have a negative impact on my property.*

The site plan shows stormwater collection (blue dotted line) from the outbuilding directed to on site soakwells at the front of the property. The stormwater catchment calculation on the site plan also takes into account impervious surfaces such as the paved/concrete areas which are levelled to fall to the front of the property.

A standard condition of outbuilding approvals is for stormwater to be appropriately retained on site. This is addressed further at the building permit stage to ensure stormwater is catered for.

Concluding Statement

The assessment of the minor variations proposed and objection comments received indicate that the outbuilding would not conflict with the Design Principle for outbuildings. The visual amenity on neighbouring properties has been reviewed and the concerns adequately addressed.

It is recommended the outbuilding be approved.

Consultation:

The application was referred to adjoining landowners in accordance with the R-Codes. Two submissions were received: one in support of the proposal and one objecting to the proposal.

The objection raised the following concerns:

- The outbuilding would have a significant visual impact on their property as that side is their entire outdoor living space.
- The outbuilding would result in overshadowing the outdoor area and affecting direct winter sun.
- The 25sqm NE corner behind the outbuilding with minimal access becoming a dumping area that will attract rodents and snakes.
- The oversized outbuilding has 8 double windows and one ½ sliding door indicating it would more likely be used as an industrial workshop or for habitation. This would have a significant impact on my living (indoors and out) in terms of noise pollution.
- The plans indicate guttering doesn't contain water runoff of the 70sqm roof space. Given our seasonal storms with significant rainfall in short timeframes, the overflow would likely have a negative impact on my property.

The Officer’s response to the submission received is contained above in the “Comments” section.

Statutory Environment:

Shire of Irwin Local Planning Scheme No 5

Outbuildings in the Shire are subject to Clause 5.18. The Development Requirements specific to outbuildings in the Residential zone is “as per the Residential Design Codes”.

State Planning Policy 7.3 Residential Design Codes (R-Codes)

Clause 5.4.3 of the R-Codes prescribes the development criteria for outbuildings in residential areas that are subject to an R-Code (i.e. R2.5 or R12.5). A Development Application is required where a proposal does not meet the Deemed to Comply criteria. Where this is the case, the proposal is then assessed against the relevant Design Principle to determine its suitability. Part 2 of the R-Codes covers this application and assessment process.

Part 5

5.4 Building design

Objectives

(c) 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.

Design principles Development demonstrates compliance with the following design principles (P)	Deemed-to-comply Development satisfies the following deemed-to-comply requirements (C)				
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). <table border="1" data-bbox="820 1361 1465 1839"> <tr> <td data-bbox="820 1361 1043 1839">A. Small outbuilding</td> <td data-bbox="1043 1361 1465 1839"> (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> </table> <p style="text-align: center;">OR</p> <table border="1" data-bbox="820 1973 1465 2136"> <tr> <td data-bbox="820 1973 1043 2136">B. Large and multiple outbuildings</td> <td data-bbox="1043 1973 1465 2136"> (i) individually or collectively does not exceed 60m² in area or 10 per cent in aggregate of the site area, whichever is the lesser; </td> </tr> </table>	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.	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;
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.				
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;				

	<p>(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.</p> <p>Notes: 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.</p>
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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 – November 2021
ID02-11/21 Attachment 1: Development Application Plans

Officer Recommendation:

RECOMMENDED:

That Council grants Development Approval for the proposed outbuilding at Lot 218 (#4) Dominican Close, Port Denison subject to the following conditions and advice notes:

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. The finished floor level of the outbuilding shall be at 11.40 or lower.**
- 3. All stormwater and drainage run off from all roofed and impervious areas is to be retained on-site to the satisfaction of the Shire of Irwin.**
- 4. The outbuildings shall be constructed or pre-painted with Colorbond (or similar product). The use of zincalume is not permitted.**
- 5. The outbuilding shall be used for purposes incidental and ancillary to the enjoyment of the dwelling on the land only, and shall not be used for human habitation, commercial or industrial uses.**
- 6. The development hereby approved must not create community safety concerns, or otherwise adversely affect the amenity of the subject locality by reason of (or the appearance or emission of) smoke, fumes, noise, vibration, odour, vapour, dust, wastewater, waste products or other pollutants.**

Advice Notes

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

INFRASTRUCTURE & DEVELOPMENT		ID03-11/21
Subject:	ID03-11/21 Amendment to Council Resolution relating to Proposed Outbuilding at Lot 206 (#3) Cardwell Gardens, Dongara	
Author:	B Jeans, Manager Development	
Responsible Officer:	P Traylen, A/Manager Infrastructure & Development	
File Reference:	P1144, A9097	
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 amending a condition relating to the overall ridge height of the proposed outbuilding at Lot 206 (#3) Cardwell Gardens, Dongara that was determined by Council at its October 2021 Ordinary Council Meeting (Decision 121021).

Background:

The Shire received a Development Application on 17 August 2021 for a dwelling and outbuilding at Lot 206 (#3) Cardwell Gardens, Dongara. The subject property (outlined red below) is 2,007sqm in area and located within the Special Residential zone.



The owner is seeking to construct an outbuilding at their property with the summarised characteristics:

- 90sqm floor area
- Finished floor level raised 0.1m
- 4m wall height
- 5.21m ridge height
- 1.5m rear setback
- 1.5m side setback

Development Approval is required for all development in the Special Residential zone. The owner proposes an outbuilding that exceeds the maximum floor area and minimum boundary setbacks prescribed by the Shire's Local Planning Scheme. There are no prescribed maximum wall and ridge heights for outbuildings outside of the Residential (R-Code) zone.

Council granted Development Approval for the outbuilding at its October 2021 Ordinary Council Meeting (Decision 121021) subject to the ridge height being reduced to 4.8m based on the Officer's Recommendation. New information has come to light from the landowner and shed company that has led to Council's reconsideration on the ridge height being sought.

Officer's Comment:

Following Council's determination being sent to the landowner, the Shire was in contact with the landowner to progress the building permit application. It was at this stage where the landowner was in contact with the shed company NuSteel that the Shire was notified the reduced ridge height would be problematic and a costly adjustment.

NuSteel advised the Shire that in March 2021 they investigated sheds in the Moreton Bay Estate to determine the appropriate size and height shed. It was at this time in March that NuSteel ordered shed materials to match a 5.21m ridge height which was generally consistent with existing sheds. The Shire did not receive an application for the shed until August 2021.

Since approximately June 2021, in the absence of policy guidance, the Shire has consolidated the planning provisions for sheds that would be supported above the requirements of the Local Planning Scheme. Since this time all new applicants have been advised of this and the process for applications being presented to Council.

In this particular case, it is apparent that there was genuine intention to comply with Shire requirements and the timing of this inconveniently overlapped with the change in assessment of residential outbuildings. Based on the circumstances of this situation, it is recommended that the additional ridge height originally sought can be accommodated.

Consultation:

Adjoining/nearby landowners

The proposal was advertised to adjoining and nearby landowners in accordance with Clause 9.4.3(a) of the Scheme. This resulted in referral letters to neighbouring properties being sent with a 14 day comment period provided.

One submission was received in support of the proposal but also noting concerns of overflow from the water tank from the shed.

Statutory Environment:

Planning and Development (Local Planning Schemes) Regulations 2015

Clause 77 of Schedule 2 of the Deemed Provisions provides for the amendment or cancellation of a development approval

77. Amending or cancelling development approval

(1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —

(a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;

(b) to amend or delete any condition to which the approval is subject;

(c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;

(d) to cancel the approval.

(2) An application under subclause (1) —

(a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and

(b) may be made during or after the period within which the development approved must be substantially commenced.

(3) Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.

(4) The local government may determine an application made under subclause (1) by —

(a) approving the application without conditions; or

(b) approving the application with conditions; or

(c) refusing the application.

Shire of Irwin Local Planning Scheme No. 5

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

“To provide a low density residential living and working environment in which development and land use is of a type and location compatible with the overall amenity of the area.”

An outbuilding is defined in the Scheme as:

“means a detached enclosed non-habitable structure, including garages, storage sheds, studios, games rooms and patios, but nor carports, pergolas or structures that are connected to or form part of the main building (except with the Residential zone, where the Residential Design Codes’ definition for Outbuilding prevails).”

Outbuildings in the Shire are subject to Clause 5.18 of the Scheme. The Scheme sets a maximum

outbuilding floor area for the Special Residential zone at 80sqm and provides an overarching general provision for outbuildings in all zones:

Clause 5.18 Outbuildings

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

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

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

5.24 Zone/Use Development Table

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

Policy Implications:

Nil.

Financial/Resource Implications:

Nil.

Strategic Implications:

Strategic Community Plan 2017 – 2027
Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – November 2021
ID03-11/21 Attachment 1: October Ordinary Council Meeting Minute Reference 121021 and Development Plans

Officer Recommendation:

RECOMMENDED:
That Council, in accordance with Clause 77(1)(b) of Schedule 2 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, amend Condition 10 of Development Approval P1144 (Decision 121021 of the October 2021 Ordinary Council Meeting) for the proposed outbuilding at Lot 206 (#3) Cardwell Gardens, Dongara to permit a maximum overall ridge height of 5.21m.

9.2. Committee Reports

Nil.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

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

14. CLOSURE