



**MINUTES**

of the

**Ordinary Council Meeting**

held

**Monday 13 December, 2021**

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 13 December, 2021

Signed: .....  
Presiding Elected Member

Date: ..... 22/2/22 .....

## Disclaimer

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

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

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

Shane Ivers  
**CHIEF EXECUTIVE OFFICER**

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# ORDINARY COUNCIL MEETING

held

**Monday 13 December, 2021**

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**

<b>COUNCIL DECISION 011221:</b>	
<b>MOVED: Cr Wyse</b>	<b>SECONDED: Cr Leonard</b>
<b>That Council, by Absolute Majority approve Councillor Isabelle Scott to attend the 13 December 2021 Ordinary Council Meeting by teleconference.</b>	
<b>VOTING DETAILS:</b>	<b>Carried by Absolute Majority 8/0</b>

#### **Members**

Councillor M T Smith	Shire President
Councillor I M Scott ( <i>via Teleconference</i> )	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 M Jones	Acting Manager Infrastructure & Development
Mr B Jeans	Manager Development
Mr L Smith	Coordinator Recreation Services
Mrs F Boksmati	Community Development Officer
Ms N A M'Leane	Development & Executive Officer

#### **Guests**

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

#### **Apologies**

#### **Gallery**

Mr J Arden, Premier Circle

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

Mrs Barbara Smith, Fletcher Street, Port Denison: I visited the Shire Administration Office in March requesting a footpath for Fletcher Street be considered. Fletcher Street is used as a shortcut by vehicles between Carnarvon Street and George Street, the majority of residents are aged 60 and over, the large volume of vehicles makes it dangerous to walk on the road. Why has it taken until November to get a response?

Response: The urgent item within the request made in March 2021 was actioned May 2021 and confirmed by telephone. This item referred to the overgrown bushes at the Whelan Street and Fletcher Street intersection. It was at this same time telephone notification was provided that the Fletcher Street footpath would be submitted for consideration in the 2021/22 Budget. The 2021/22 Budget was adopted 24 August 2021 where an allocation was made for footpaths. During the months of September and October, the Shire finalised its construction program and unfortunately the Fletcher Street footpath was not successful against competing requirements. Notification was provided in the following month of November by email that the Fletcher Street footpath had been unsuccessful but would be considered in the next budget cycle.

### 4. PUBLIC QUESTION TIME

Nil.

### 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 23 November 2021

A copy of the minutes of the 23 November 2021 Ordinary Council Meeting have been provided to all Councillors under separate cover.

<b>COUNCIL DECISION 021221:</b>	
<b>MOVED: Cr Palmer</b>	<b>SECONDED: Cr Eva</b>
<b>That the Minutes of the Ordinary Council Meeting, held 23 November 2021, as previously circulated, be adopted as a true and accurate recording of that meeting.</b>	
<b>VOTING DETAILS:</b>	<b>Carried 8/0</b>

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

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

- |                  |  |
|------------------|--|
| 29 November 2021 | The Shire President visited the Irwin Bushfire Brigade to hand over the keys for the new light tanker fire truck.  |
| 4 December 2021  | The Shire President, Councillors and Staff attended 'Magic on Moreton'. The Hon. Melissa Price MP virtually opened the Moreton Terrace Revitalisation Project via video presentation with the ceremonial ribbon cutting being done by Mr Shane Love MLA. |
| 7 December 2021  | The Shire President, Councillors and Staff attended the Shire of Irwin Industry Leaders Workshop held in Perth.  |

## 9. REPORTS

### 9.1. Officer Reports

<b>CORPORATE AND COMMUNITY</b>		<b>CC01-12/21</b>
<b>Subject:</b>	<b>CC01-12/21 Accounts for Payment</b>	
<b>Author:</b>	<b>S Clarkson, A/Senior Finance Officer</b>	
<b>Responsible Officer:</b>	<b>D Chandler, A/Manager Corporate &amp; Community</b>	
<b>File Reference:</b>	<b>Minute Book</b>	
<b>Voting Requirements:</b>	<b>Simple Majority</b>	

#### Council Role:

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

#### Report Purpose:

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

#### Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of November 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 – December 2021  
CC01-12/21 Attachment 1: Accounts for Payment – November 2021

**Officer Recommendation:**

**COUNCIL DECISION 031221:**

**MOVED: Cr Eva**

**SECONDED: Cr Gillam**

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

Payment Type/Numbers	Total Amount
EFT 28044 – 28162	\$1,512,119.04
Muni Cheques – 32085 – 32086	\$7,736.30
Direct Debit – Telstra	\$3,951.72
Direct Debit – WA Treasury Corporation	\$65,350.56
Direct Debit – Solar Panel Repayments	\$1,947.66
Direct Debit – Credit Card	\$2,752.53
Direct Debit – Bonds Administration	\$1,860.00
Direct Debit – Insurance Premium Repayments	\$67,135.90
Direct Debit – Land Use Agreement	\$1,041.66
<b>Grand Total</b>	<b>\$1,663,895.37</b>

**VOTING DETAILS:**

**Carried 8/0**



<b>CORPORATE AND COMMUNITY</b>		<b>CC02-12/21</b>
<b>Subject:</b>	<b>CC02-12/21 Monthly Financial Statements for the Period Ended 30 November 2021</b>	
<b>Author:</b>	<b>S Clarkson, A/Senior Finance Officer</b>	
<b>Responsible Officer:</b>	<b>D Chandler, A/Manager Corporate &amp; Community</b>	
<b>File Reference:</b>	<b>Minute Book</b>	
<b>Voting Requirements:</b>	<b>Simple Majority</b>	

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**Report Purpose:**

To consider and receive the Monthly Financial Statements for the period 1 July 2021 to 30 November 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 November 2021 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

30/11/2021	YTD Budget	YTD Actual	Variance YTD to Budget
Operating Revenue	7,089,988	7,373,032	4%
Operating Expenditure	(3,721,099)	(4,828,961)	30%
Net Operating	3,368,889	2,544,071	
Non-Operating Revenue	10,000	0	-100%
Non-Operating Expenditure	(1,750,935)	(2,485,741)	42%
Net Non-Operating	(1,740,935)	(2,485,741)	
Cash at Bank		3,131,793	
Cash at Bank Restricted		573,941	
Reserve Bank		1,483,028	
Total Cash Funds		5,188,762	

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 2021*

CC02-12/21 Attachment 1: Financial Statements for the Period Ended 30 November 2021

**Officer Recommendation:**

**COUNCIL DECISION 041221:**

**MOVED: Cr Leonard**

**SECONDED: Cr Eva**

**That Council receives the Monthly Financial Statements for the period 1 July 2021 to 30 November 2021 as provided in Attachment Booklet – December 2021.**

**VOTING DETAILS:**

**Carried 8/0**

<b>INFRASTRUCTURE &amp; DEVELOPMENT</b>		<b>ID01-12/21</b>
<b>Subject:</b>	<b>ID01-12/21 Delegated and Authorised Actions for November 2021 – Development</b>	
<b>Author:</b>	<b>B Jeans, Manager Development</b>	
<b>Responsible Officer:</b>	<b>M Jones, A/Manager Infrastructure &amp; Development</b>	
<b>File Reference:</b>	<b>3.00125</b>	
<b>Voting Requirements:</b>	<b>Simple Majority</b>	

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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 2021 to 30 November 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 – December 2021*

ID01-12/21 Attachment 1: Table of Delegated Actions for November 2021, Development

*CONFIDENTIAL Attachment Booklet – December 2021*

ID01-12/21 Attachment 2: Detailed Table of Delegated Actions for November 2021, Development

**Officer Recommendation:**

**COUNCIL DECISION 051221:**

**MOVED: Cr Gillam**

**SECONDED: Cr Palmer**

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

**VOTING DETAILS:**

**Carried 8/0**

<b>INFRASTRUCTURE &amp; DEVELOPMENT</b>		<b>ID02-12/21</b>
<b>Subject:</b>	<b>ID02-12/21 Proposed Shipping Container at Lot 150 (#17) Moreton Terrace, Dongara</b>	
<b>Author:</b>	<b>B Jeans, Manager Development</b>	
<b>Responsible Officer:</b>	<b>M Jones, A/Manager Infrastructure &amp; Development</b>	
<b>File Reference:</b>	<b>P1155, A9558</b>	
<b>Voting Requirements:</b>	<b>Simple Majority</b>	

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**Report Purpose:**

For Council to consider the proposed shipping container at Lot 150 (#17) Moreton Terrace, Dongara.

**Background:**

The Shire received a Development Application for the placement and use of a refrigerated shipping container at Lot 150 (#17) Moreton Terrace, Dongara on 14 October 2021. The Shire's Local Planning Policy - Shipping Containers limits shipping containers in the Town Centre zone for a temporary 12-month period when used for non-habitable purposes. The proposed placement and use beyond the 12-month period is a variation to this Policy and therefore triggered the requirement for a Development Application and Council's consideration.

The subject property contains the IGA development and is located within the Town Centre zone.



The applicant advised that due to increased retail demand, the expansion plans for refrigerated storage for IGA has accelerated faster than anticipated and so the use of a refrigerated shipping container provides an interim solution.

The applicant sought verbal approval to place the shipping container on site early (following lodgement of the application) due to time constraints. The location of the shipping container is at the rear of the IGA building (see Attachment 1).

The property adjoining the northern boundary of the IGA building is owned by the applicant. The property adjoining west of IGA is owned by the Shire and is used as a carpark.

**Officer’s Comment:**

Local Planning Scheme

The Scheme does not specifically prescribe development requirements relating to shipping containers, however under Clause 5.27 refers to the Dongara Town Centre Plan for development guidance. With respect to any development application, there are the relevant planning matters prescribed in the Scheme (and the Planning Regulations) that can be taken into consideration. Of these matters, it has been identified that the refrigeration of the container could generate noise and may also create vibration. It is unclear if the level of noise would exceed those prescribed by the relevant Noise Regulations and so it is a recommendation that an approval should include a condition that addresses this to protect any potential impact of noise or vibration.

Local Planning Policy - Shipping Containers

The Policy provides guidance on the use and placement of shipping containers in the various zones of the Shire. The overall objective of the policy is to ensure shipping containers that are permitted for temporary or permanent use, are permitted in a manner where they are not visually prominent to public view and are maintained to a high standard to not diminish the amenity of the locality.

For the Town Centre zone, the Policy supports up to one shipping container on a lot for temporary use (maximum 12 months) only when associated with a commercial development. Additional requirements to this emphasise the placement of containers to be well screened from public view. It is believed that the proposal does meet the requirements and objectives by being placed in a screened location with



limited public view. Furthermore it has a clear purpose as additional refrigerated storage for the commercial development. The variation sought is an extension to the 12-month temporary period, which given its location and purpose, is considered to be an acceptable consideration.

#### Dongara Town Centre Precinct Plan

Whilst the Dongara Town Centre Precinct Plan aims to guide more substantial development, any development within the Town Centre is to be assessed against the objectives and intent of the Plan. It is considered the shipping container will not conflict with the objectives of the sub-precinct by way of its placement and associated predominant use of the site.

#### Concluding Statement

It is considered that the shipping container for refrigeration storage in its location on the lot will not present any undesirable amenity impacts as it is well screened and positioned from public view.

Whilst the position of the container is considered to not be visually prominent, it is still considered necessary to stipulate the temporary requirement of the container in the Town Centre. If permanent use is sought, the applicant can enclose the container within an approved outbuilding.

The applicant has indicated intention to seek more secure permanent refrigerated storage and therefore it is recommended the approval shall be a variation to extend the temporary period requirement from 12-months to 24-months, within which time the shipping container is either removed or enclosed. It is believed the additional time will afford the applicant time to make arrangements for storage.

It is recommended the shipping container be approved for a 2 year temporary period subject to conditions that ensure the protection of the amenity of surrounding landowners/occupiers.

Extension to the temporary approval could be considered on the basis of the applicant providing adequate confirmation and timing of a permanent refrigerated storage site/building being secured to replace the need for the shipping container.

#### **Consultation:**

The application was not advertised due to the location of the shipping container and surrounding landowners (Shire land to the west and applicant's property to the north). The visibility of the shipping container was not considered to present any visual amenity impacts to public view to require a public consultation process.

Section 3.8 of the Shire's Local Planning Policy - Shipping Containers advises that discretion is to be taken by the local government with respect to advertising.

#### **Statutory Environment:**

Shire of Irwin Local Planning Scheme No 5

Clause 2.3 of the Scheme prescribes the relationship of Local Planning Policies to the Scheme, whereby it is stipulated that a Local Planning Policy is to be given 'due regard' and used as 'guidelines' when making decisions.

The subject property is located within the "Town Centre" zone. The objectives of the zone are set out in Clause 4.2.3:

- a) *To encourage development of a high visual, functional and environmental standard, serving both Town and Rural residents and the development of new buildings and or the modification/restoration of existing buildings in a manner which is compatible with the existing streetscape, the local government's Townscape Plan and or any adjoining land use of heritage value, in terms of scale, height, design, building materials, location and visual façade appearance.*
- b) *To promote convenient and safe shopping facilities and relate these to the wide variety of civic, service, business, entertainment and social functions of the Town Centre.*
- c) *To encourage the wide range of compatible use within an accessible Town Centre which are necessary to promote this as a vibrant functional central node for the community it services.*



- d) *To provide for safe pedestrian movement and the safe efficient flow of traffic and the adequate provision of car parking facilities.*

Clause 5.27 of the Scheme prescribes the relevant development provisions of the zone:

*Clause 5.27.1 As per the development requirements of Dongara Town Centre Precinct Plan, Clause 5.24, and at the discretion of the local government where not specified.*

**Policy Implications:**

Shire of Irwin Local Planning Policy 01 Shipping Containers

Objective 2.2 of the Policy is relevant to the assessment:

*To ensure an acceptable quality of development is achieved that does not detrimentally impact on the amenity of neighbouring properties, the streetscape or the overall area.*

The Policy supports the temporary use (up to one year) of one shipping container on land within the Town Centre zone subject to Section 3.6 below:

Zoning	Maximum number of containers	Additional Requirements
Town Centre, Neighbour Centre and Service Commercial	One (1)	<ul style="list-style-type: none"><li>• No portion of the shipping container shall be visually prominent from any adjoining public place or road.</li><li>• Shipping containers shall not impact upon any parking or landscaping requirements.</li><li>• Shipping containers will only be approved in association with a commercial use and on a temporary basis for up to one year, in association with a current building permit.</li></ul>

Dongara Town Centre Precinct Plan 2009

The subject property is located within “Sub-Precinct 1 Moreton Terrace – Mainstreet”. Due to the minor and incidental nature of the development, the sub-precinct objectives and development requirements have little application to this particular proposal.

**Financial/Resource Implications:**

Nil.

**Strategic Implications:**

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

**Attachments:**

*Attachment Booklet – December 2021*  
ID02-12/21 Attachment 1: Development Plans

**Officer Recommendation:**

**COUNCIL DECISION 061221:**

**MOVED: Cr Eva**

**SECONDED: Cr Tunbridge**

**That Council grants Development Approval for the proposed refrigerated shipping container at Lot 150 (#17) Moreton Terrace, Dongara subject to the following conditions and advice notes:**

**Conditions**

- 1. The approval is valid to 13 December 2023, within which time the shipping container shall either be removed or enclosed within an approved outbuilding.**
- 2. The development plans, as date marked and stamped 'Approved', together with any requirements and annotations detailed thereon by the Shire of Irwin, are the plans approved as part of this application and shall form part of the development approval issued, except where amended by other condition of this approval.**
- 3. All stormwater and drainage runoff from all roofed and impervious area is to be retained on site to the satisfaction of the Shire of Irwin.**
- 4. The shipping container shall be maintained free of rust and kept in good condition.**
- 5. Access to and maintenance of the shipping container shall be wholly within the subject property.**
- 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.**
- 7. Any lighting device is to be positioned and shielded as not to cause any direct, reflected or incidental light to encroach beyond the property boundaries or cause any glare nuisance to any nearby residents or passing motorists.**

**Advice Notes**

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

**VOTING DETAILS:**

**Carried 8/0**

<b>INFRASTRUCTURE &amp; DEVELOPMENT</b>		<b>ID03-12/21</b>
<b>Subject:</b>	<b>ID03-12/21 Proposed Scheme Amendment for Additional Uses at Lot 16 Brand Highway, Dongara</b>	
<b>Author:</b>	<b>B Jeans, Manager Development</b>	
<b>Responsible Officer:</b>	<b>M Jones, A/Manager Infrastructure &amp; Development</b>	
<b>File Reference:</b>	<b>P1168, A8339</b>	
<b>Voting Requirements:</b>	<b>Simple Majority</b>	

**Council Role:**

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

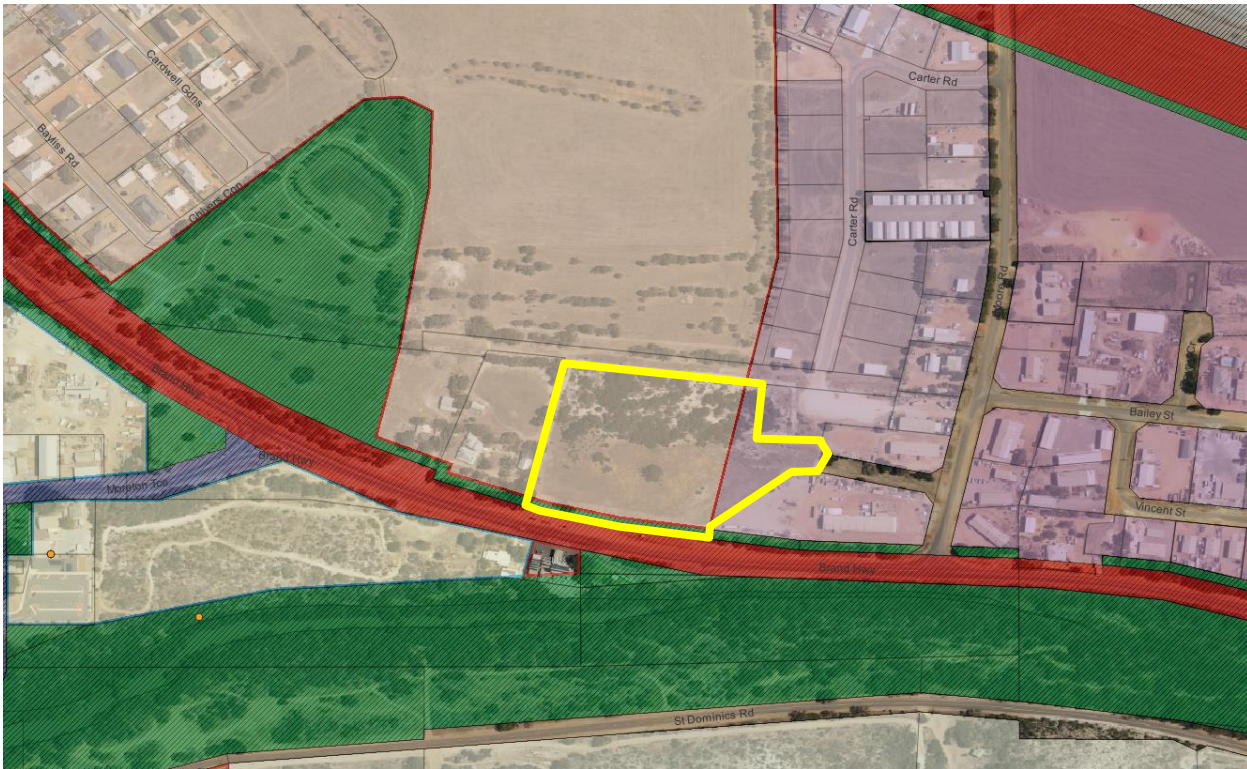
**Report Purpose:**

For Council to consider commencing the statutory process for the proposed scheme amendment for additional uses to support a roadhouse development at Lot 16 Brand Highway, Dongara.

**Background:**

The Shire received a Scheme Amendment application for a proposed roadhouse development at Lot 16 Brand Highway, Dongara on 23 November 2021.

The subject property is vacant, 3.37ha in area and is located just south of the Dongara town centre entry. The property has a split zoning of Light Industry, Special Residential and a small portion of Local Reserve.



The Scheme Amendment documentation details the intended development of the site, with an associated Concept Plan. Development of the site that is supported by the proposed Scheme Amendment is to include a 24/7 Roadhouse with supplementary uses and services.

The Shire has liaised with the applicant since mid-2020 on the development of a roadhouse at the site. In this time the Applicant has undertaken a detailed traffic impact assessment and liaised with Main Roads WA to ensure the proposed access/egress arrangements are supported.

**Officer’s Comment:**

Scheme Amendment process

The Scheme Amendment proposes to rezone the site to a Special Use zone. Special Use zones are often favourable in scenarios where a site is proposed to be developed for a specific use. A Special Use zone differs to the common zones in the Shire as it is not a zone listed in the Zoning Table where land use permissibility is defined. A Special Use zone permits one or a few specific uses to the property (listed in Schedule 4 of the Scheme) and these uses are the only land uses permitted on that site. Whilst the creation of Special Use zones should be applied in limited cases, it does provide the benefit of assurance to the specific land use and development that will occur on that site. In this case, a “Roadhouse” is not listed in the Zoning Table and so a Scheme Amendment is required in any case.

Council’s consideration is required for the ‘initiation’ and classification (basic, standard or complex) stage of the Scheme Amendment. The initiation triggers the referral to WAPC for confirmation that the scheme amendment is complex and may progress to advertising. Prior to public advertising the Shire is required to refer the Amendment to the EPA for consideration.

Following EPA’s consent to advertise, the Shire will arrange for advertising to be undertaken. On completion of public advertising and consideration of submissions from the public and agencies, a report to Council will then be presented for consideration to adopt. The final adoption of a Scheme Amendment sits with the WAPC.

Development Controls

Whilst the Scheme Amendment stage is an appropriate time to consider the suitability of land uses proposed, the specifics of the development itself can be further addressed at the Development Application stage. The Development Application stage can delve further into stormwater management requirements, waste management, more detailed traffic design, building design, signage and landscaping. The Applicant has submitted some of the key supporting studies such as the Traffic Impact

Statement based on early concept designs to ensure the intended development is possible on the site and a Bushfire Attack Level (BAL) Assessment to ensure the bushfire risk is acceptable.

With regard to the balance of the site that is not part of the roadhouse development area, the Applicant proposes the implementation of a Local Development Plan. This is considered an appropriate measure to assess and introduce relevant development controls, particularly with the adjoining residential zoned land. The Applicant has indicated the light and service industry uses proposed are reflective of this.

#### Local Reserve

With regard to the Local Reserve along the frontage of the property, the Applicant proposes to remove this reservation and rezone as part of the Special Use zone. The basis for this is acknowledged as part of the frontage will be required for access/egress points however on review it is recommended this Local Reserve be retained to provide consistency along Brand Highway with future landscaping requirements. The end 'on the ground' result of crossovers and landscaping in this Local Reserve area will be similar, it just provides certainty for the Shire of what is developed in the reserve area. To clarify, the Local Reserve is a reservation in the Local Planning Scheme only and is not reserve land under Shire ownership/management.

#### Concluding Statement

It is recommended the Scheme Amendment be supported for commencement to advertise with modification to not rezone the Local Reserve portion (as per refer to Attachment 2). The site is considered to be an ideal location for a roadhouse development, being adjacent to the highway on the eastern side and close to the industrial precinct. Further to this, the current split zoning of Special Residential and Light Industry for the site is not a practical use for the site.

#### **Consultation:**

The *Planning and Development (Local Planning Schemes) Regulations 2015* prescribe the minimum requirements for advertising of scheme amendments.

As per Regulation 38, a complex scheme amendment is to be advertised for a minimum 60 days and is to be published in several ways including notice in the local newspaper, hard copies available for viewing at the Shire's administration, advertisement on the Shire's website and written notice to public agencies.

#### **Statutory Environment:**

Planning and Development Act 2005  
Planning and Development (Local Planning Schemes) Regulations 2015  
Shire of Irwin Local Planning Scheme No 5

The subject property is currently "split-zoned" with a Special Residential and Light Industry zoning. The site also contains reservation across the frontage which is intended as a landscape buffer/enhancement to the highway.

The objectives of the Special Use Zone are covered in Clause 4.2.10 of the Scheme:

- a) *To provide specifically for a designated use or combination of uses which would not otherwise sit comfortably within any other zone in the Scheme.*
- b) *To provide for concentrated and integrated development within each Special Use zone.*

The proposed predominant use of 'Roadhouse' is defined in the Scheme:

*"means land and a building or buildings used primarily as a service station, but with a supplementary use as a restaurant, take away food outlet or as a shop providing an approved, limited range day to day travel commodities and services may include motor vehicle repairs."*

A Roadhouse is not a listed use in the Zoning Table.

#### **Policy Implications:**

State Planning Policy 3.7 – Planning for Bushfire Protection



The land is located within a designated Bushfire Prone Area. A Bushfire Attack Level (BAL) Assessment report has been included, indicating BAL-12.5 to BAL-19 can be achieved across the site.

**Financial/Resource Implications:**

Nil.

**Strategic Implications:**

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

Shire of Irwin Local Planning Strategy 2017

The subject site is captured in Policy Area B of the Strategy. There are no strategic objectives for the specific location of proposed land use. The site does fall within the 100yr Floodplain Development Control Area, whereby requirements for development in the floodplain are covered by Clause 5.16 of the Scheme.

**Attachments:**

Attachment Booklet – December 2021  
ID03-12/21 Attachment 1: Scheme Amendment Documentation  
ID03-12/21 Attachment 2: Schedule of Modifications

**Officer Recommendation:**

**COUNCIL DECISION 071221:**

**MOVED: Cr Leonard**

**SECONDED: Cr Wyse**

**That Council:**

1. Pursuant to Section 75 of the *Planning and Development Act 2005*, prepares Amendment No. 19 to Shire of Irwin Local Planning Scheme No. 5, in accordance with the Schedule of Modifications (Attachment 2), to amend the local planning scheme by:
  - a) Rezoning portion of Lot 16 Brand Highway, Dongara from Special Residential and Light Industry zones to the Special Use zone;
  - b) Inserting Lot 16 Brand Highway, Dongara as “No. 30” within Schedule 4 – Special Use Zones along with the associated Permitted Uses and Special Conditions as listed below:

No.	Location	Land Particulars	Permitted Uses	Specific Conditions
30	Brand Highway, Dongara	Lot 16	+ Roadhouse + Restaurant + Car Park + Convenience Store + Manager’s Accommodation + Incidental uses to the permitted uses Discretionary Uses + Fast Food Outlet + Industry – Light + Industry – Service	1. Development Approval is required for development and/or use of the property, which shall generally follow that depicted on the Concept Plan. 2. Transport Impact Statement to be prepared and implemented. Assessment to be approved by MRWA and Council prior to development. 3. Bushfire Management Plan to be prepared and implement. Plan to be approved by Council prior to development. Preparation of a “Risk Management Plan” required at Development Approval stage. 4. Landscaping Plan to be prepared and implemented. Plan to be approved by Council and include landscaping within

			+ Showroom + Warehouse	the 10m wide Local Reserve (POS) area abutting the northern boundary of the Brand Highway and a 10m wide landscaped buffer adjacent to the western boundary. 5. Development of the balance of the property to be subject to the preparation of a Local Development Plan to the satisfaction of the Shire.
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c) Amend the Scheme maps accordingly.

2. Pursuant to Regulation 34 and 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves that Amendment No. 19 to Local Planning Scheme No. 5 is a complex amendment for the following reason:
  - a) An amendment that is not addressed by any local planning strategy.
3. Pursuant to Regulation 37(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, submit the proposed amendment to the Western Australian Planning Commission for consent to advertise;
4. Pursuant to Section 81 of the *Planning and Development Act 2005*, refers Amendment No. 19 to Local Planning Scheme No. 5 to the Environmental Protection Authority for assessment prior to advertisement;
5. Subject to consent from the Western Australian Planning Commission, prepares notice and advertises Amendment No. 19 to Local Planning Scheme No. 5 for a period of not less than 60 days pursuant to Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
6. Notes that a further Report will be presented to a future Council Meeting, following advertising of Amendment No. 19 to Local Planning Scheme No. 5, seeking resolution whether to not support or support Amendment No. 19 to Local Planning Scheme No. 5 (with or without modification).

VOTING DETAILS:

Carried 8/0

**9.2. Committee Reports**

Nil.

**10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

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

Nil.

**12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION**

Nil.

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

Nil.

**14. CLOSURE**

There being no further business, the Presiding Member declared the meeting closed at 6.09pm.

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

<https://www.irwin.wa.gov.au/council/council-meetings/2021-council-meetings>