



**AGENDA**

**FOR THE**

**SPECIAL COUNCIL MEETING**

**TO BE HELD ON**

**TUESDAY, 1 MAY 2012**

**PLEASE READ THE FOLLOWING DISCLAIMER BEFORE PROCEEDING**

Members of the public are cautioned against taking any action on Council decisions, on items in this Agenda in which they may have an interest, until such time as they have been advised in writing by Council staff.

# NOTICE OF MEETING

PLEASE BE ADVISED THAT A  
SPECIAL COUNCIL MEETING  
TO CONSIDER UNRESOLVED BUSINESS FROM  
THE ORDINARY MEETING OF COUNCIL 24  
APRIL 2012

COMMENCING AT 8.00AM

WILL BE HELD ON

TUESDAY, 1 MAY 2012

IN COUNCIL CHAMBERS AT  
13 WALDECK STREET, DONGARA WA



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Darren Simmons  
Chief Executive Officer

1 MAY 2012

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## **DISCLAIMER**

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

## Disclosure of Financial or Impartiality Interests Form

This form is provided to enable members and officers to disclose an interest in a matter in accordance with the requirements of Sections 5.65, 5.70 and 5.71 of the Local Government Act 1995 and Local Government (Administration) Regulation 34C

**To: Chief Executive Officer**

I hereby declare my interest in the following matter/s included on the Agenda paper for the Council/Committee meeting to be held on:

\_\_\_\_\_ (Date)

Item No.	Subject	Details of Interest	Type of Interest Impartial/Financial	Extent of Interest (see below)

*Extent of Interest only has to be declared if the Councillor also requests to remain present at a meeting, preside, or participate in discussions of the decision making process (see item 6 below). Employees must disclose extent of interest if the Council or Committee requires them to.*

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**NB:**

1. This notice must be given to the Chief Executive Officer prior to the meeting or at the meeting immediately before the matter in which you have declared an interest is discussed, Section 5.65(1)(a) & (b).
2. It remains Councillors'/Employees' responsibility to make further declaration to the Council if a matter arises during the course of a meeting and no previous declarations have been made.
3. It is a Councillors'/Employees' responsibility to ensure the interest is brought to the attention of Council/Committee when the Agenda item arises and to ensure that it is recorded in the minutes.
4. It remains the Councillor's responsibility to ensure that he/she does not vote on a matter in which a declaration has been made. The responsibility also includes the recording of particulars in the minutes to ensure they are correct when such minutes are confirmed.
5. It is recommended that when previewing the Agenda, Councillors mark Agendas with items on which an interest is to be declared and complete the declaration form at the same time.
6. Councillors may be allowed to remain at meetings at which they have declared an interest and may also be allowed to preside (if applicable) and participate in discussions and the decision making process upon the declared matter subject to strict compliance with the enabling provisions of the Act and appropriately recorded resolutions of the Council. Where Councillors request consideration of such Council approval the affected Councillor must vacate the Council Chambers in the first instance whilst the Council discusses and decides upon the Councillor's application.

***Remember: The responsibility to declare an interest rests with individual Councillors/Employees. If in any doubt seek legal opinion or, to be absolutely sure, make a declaration***

Office Use Only:

Date/Initials

1. Particulars of declaration given to meeting

\_\_\_\_\_

2. Particulars recorded in the minutes

\_\_\_\_\_

3. Signed by Chief Executive Officer

\_\_\_\_\_

## Leave of Absence Request Form

This form is provided to enable members and officers to apply for leave pursuant to the provisions of Section 2.25(4) of the Local Government Act 1995.

### To: Chief Executive Officer

I hereby give notice that at the ordinary meeting of Council on \_\_\_\_\_  
I intend to request that Council grant me a leave of absence for the following period:

From: \_\_\_\_\_ To: \_\_\_\_\_ (inclusive)

Councillor: \_\_\_\_\_  
(Please print name in full)

Signed: \_\_\_\_\_

### Guidance Notes to aid completion of Leave of Absence Request Form:

1. Once you have completed this form, please arrange for it to be delivered to the Chief Executive Officer (ideally before the commencement of the ordinary Council meeting at which the request is to be made)
2. If you are unable to attend the Council meeting at which the request for leave of absence is to be put forward, please complete this form and submit to the Chief Executive Officer as soon as is practicable, so that he can advise the Shire President to put forward the request on your behalf.
3. Any leave of absence approved by Council can only apply to subsequent meetings. Therefore, leave of absence cannot be granted for the ordinary Council meeting at which the approval is given.
4. Pursuant to the provisions of Section 2.25(4) of the Local Government Act 1995, an Elected Member who is absent throughout three (3) consecutive **ordinary** Council meetings, without first obtaining a leave of absence, is disqualified from continuing his or her membership of the Council.
5. Council cannot grant leave of absence in respect of more than six (6) consecutive ordinary meetings of the Council, without the approval of the Minister for Local Government.

Office Use Only:

Date/Initials

4. Particulars of leave of absence given to meeting

\_\_\_\_\_

5. Particulars recorded in the minutes

\_\_\_\_\_

6. Signed by Chief Executive Officer

\_\_\_\_\_

## Meetings Generally Open to the Public

### LOCAL GOVERNMENT ACT 1995 – SECT 5.23

#### 5.23. Meetings generally open to public

- (1) Subject to subsection (2), the following are to be open to members of the public —
  - (a) all council meetings; and
  - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
  - (a) a matter affecting an employee or employees;
  - (b) the personal affairs of any person;
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
  - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
  - (e) a matter that if disclosed, would reveal —
    - (i) a trade secret;
    - (ii) information that has a commercial value to a person; or
    - (iii) information about the business, professional, commercial or financial affairs of a person,where the trade secret or information is held by, or is about, a person other than the local government;
  - (f) a matter that if disclosed, could be reasonably expected to —
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
    - (ii) endanger the security of the local government's property; or
    - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
  - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
  - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.



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**AGENDA FOR THE SPECIAL COUNCIL MEETING  
TO BE HELD IN THE COUNCIL CHAMBERS ON  
TUESDAY, 1 MAY 2012  
COMMENCING AT 8.00AM**

- PRESENT:**
- |             |   |
|-------------|---|
| Councillors | Cr S C Chandler (Shire President)<br>Cr R T McClurg<br>Cr J A R Porteus<br>Cr B C Scott<br>Cr I F West  |
| Staff       | Mr D J Simmons – Chief Executive Officer<br>Mr G M Peddie – Director Corporate Services<br>Mr F A Neuweiler – Manager Community Development<br>Mr A S Wootton – Works Manager<br>Mrs C M Palmer - Executive Assistant (EA) (Minute Taker) |
- GUESTS:** -
- APOLOGIES:** Cr J B Fitzhardinge
- LEAVE OF ABSENCE:** Cr K J Hepworth, Cr M T Smith, and Mr G F Coaker – Town Planner

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- 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
  - 2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE**
  - 3. PUBLIC QUESTION TIME (MUST RELATE TO THE PURPOSE OF THE MEETING)**



**4. REPORTS**

**B.432**

**Subject:** Building Fees for Commercial Development  
**Proponent:** N/A  
**Reporting Officer:** Manager Community Development  
**File Reference:** Minute Book  
**Date Prepared:** 4 April 2012  
**Voting Requirements:** Absolute Majority

**Report Purpose:** To seek Council's consent to establish fees relating to the new Building Act 2011 and advertise the new fees in accordance with the Local Government Act 1995.

**Officers Recommendation:**

That Council consent to the setting of the following fees relating to building applications and advertise the fees in accordance with Section 6.19 of the Local Government Act 1995:

Service	Fee incl. GST
Request to provide certificate of Design Compliance Class 1 and 10	0.13% of estimated value, but not less than \$90
Request to provide certificate Design Compliance Class 2 - 9	0.9% of estimated value, but not less than \$180
Request to provide certificate of construction compliance	Minimum of \$240 for the first 2 hours, plus \$120per hour thereafter
Request to provide certificate of building compliance	Minimum of \$240 for the first 2 hours, plus \$120per hour thereafter
Amended Plan assessment Fee – Class 1 & 10	\$100
Amended Plan assessment Fee – Class 1b, 2 - 9	\$200
Provision of written advice confirming compliance with town planning and environmental health matters, and/or advising of town planning and environmental health requirements, prior to submission of an application for issue of building permit	\$150
Occupancy Permit	\$40.50
Building approval certificate	\$40.50

**Body / Background:**

The Building Act 2011 provides that an applicant can submit an uncertified building application for classes 1 and 10. Fees for these applications have been set by the Building Commission.

However, all building permit applications for 2-9 need to be certified. The service to assess the building standards and issue a certificate of design compliance (CDC) can be provided by a private certifier or local governments.

**Officers Comment:**

The fees for this service need to be set by each individual local government if they employ a Building Surveying Practitioner and wish to provide this service.

**Financial Implications:**

Proposed Fees:

<b>Service</b>	<b>Fee incl. GST</b>
Request to provide certificate of Design Compliance Class 1 and 10	0.13% of estimated value, but not less than \$90
Request to provide certificate Design Compliance Class 2 - 9	0.9% of estimated value, but not less than \$180
Request to provide certificate of construction compliance	Minimum of \$240 for the first 2 hours, plus \$120per hour thereafter
Request to provide certificate of building compliance	Minimum of \$240 for the first 2 hours, plus \$120per hour thereafter
Amended Plan assessment Fee – Class 1 & 10	\$100
Amended Plan assessment Fee – Class 1b, 2 - 9	\$200
Provision of written advice confirming compliance with town planning and environmental health matters, and/or advising of town planning and environmental health requirements, prior to submission of an application for issue of building permit	\$150
Occupancy Permit	\$40.50
Building approval certificate	\$40.50

**Statutory Environment:**

Section 6.19 of *the Local Government Act 1995*

**Policy Implications:** N/A

**CEO.474**

**Subject:** Delegation of Authority to Appoint an Acting Chief Executive Officer  
**Reporting Officer:** Chief Executive Officer  
**Date of Report:** 18 April 2012  
**File Reference:** PE.AU.1  
**Voting Requirements:** Absolute Majority

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**Report Purpose:**

For the Council to give consideration to delegating authority to the Chief Executive Officer to be able to make appointments to the position of Acting Chief Executive Officer during periods of absence not exceeding thirty-five (35) days.

**Officer's Recommendation:**

That Council delegate authority to the Chief Executive Officer the power to make appointments to the position of Acting Chief Executive Officer based on:

- (a) The Shire employee holding the substantive position of 'Director' and is designated a 'Senior Employee' by the Local Government Act 1995; and
- (b) Appointments being for no longer than thirty-five (35) days, with all other appointments to the position of Acting Chief Executive Officer referred to the Council for determination.

**Body/Background:**

The Local Government Act 1995 requires that a local government employ a person to be the Chief Executive Officer.

In the past where the CEO is scheduled to be absent from the Shire and unable to fulfil the statutory duties of the position of the CEO, a report has been presented to the Council recommending another employee be appointed to the role of Acting CEO during the identified period of absence.

The CEO, throughout the course of his employment with the Shire, will be entitled to take periods of annual and sick leave and may be absent from the Shire for other reasons, which will prevent him/her from fulfilling his statutory obligations. As a result of these circumstances occurring from time to time and for other circumstances it is advisable that a process be in place by which another employee of the Shire can be appointed to the role of Acting CEO.

In order to provide such a process it is open to Council to delegate the authority to the CEO to be able to appoint another employee of the Shire who is employed as the status of 'Director' and designated as a senior employee under the provisions of the Local Government Act 1995.

**Officer's Comment:**

The Local Government Act 1995 requires that it is the Council that has the power to appoint a person to the position of CEO. However, the power to appoint a person to the position of CEO on an acting basis may be delegated by the Council to the CEO.

Circumstances may arise relating to the permanent CEO being required to be absent from the Shire for various reasons such as annual or sick leave. In these circumstances it is appropriate that the CEO be delegated the authority to be able to appoint another employee of the Shire who is employed as a 'Director' and is designated as a Senior Employee of the City as per the Local Government Act 1995.

It is recommended that in accordance with good governance principles, the ability for the CEO to appoint a person to the Acting position of CEO should not be for periods of no more than thirty-five (35) days. All appointments for a Shire employee to act in the position of CEO greater than thirty-five (35) days must be referred to the Council for consideration.

**Financial Implications:**

Additional salary expenses associated with a higher duties payment as determined by the CEO

**Statutory Environment:**

Sections 5.36, 5.37, 5.39, 5.42 and 5.43 of the *Local Government Act 1995*

**Policy Implications:**

Nil.

**DCS.409**

**Subject:** Budget Review 2011/12  
**Reporting Officer:** Director Corporate Services  
**File Reference:** FM.BU.11.12  
**Date Prepared:** 18 April 2012  
**Voting Requirements:** Absolute Majority

**Report Purpose:**

To consider the budget review for the financial year 2011/12 and to determine whether or not to adopt the review, any parts of the review or any recommendations made in the review.

**Officers Recommendation:**

That Council adopts the review of the Shire of Irwin 2011/12 Budget and recommendations as contained within the attachment to DCS.409.

**Body / Background:**

Regulation 33A of the Local Government (Financial Management) Regulation 1996 requires Council to conduct a review of its budget between six and nine months into a financial year. The Regulation requires that the results be submitted to Council to determine whether to adopt the review and recommendations made. Within 30 days of the review a copy of the review and determination is to be provided to the Department of Local Government.

**Officers Comment:**

The Director of Corporate Services has undertaken a detailed review of the Shire of Irwin Annual Budget for 2011/12 and forecast the final results for the full year to 30 June 2012 based on actual results to 29 February 2012.

Attached is a Statement of Financial Activity projecting the estimated position as at 30 June 2012, which indicates an anticipated current net asset position of approximately \$461,300 at year end. A report follows the Statement summarising significant variances to the budget which results in the anticipated final position.

**Financial Implications:**

As noted in the review.

**Statutory Environment:**

**33A. Review of budget**

- (1) Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.
- (2A) The review of an annual budget for a financial year must -
  - (a) consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and
  - (b) consider the local government's financial position as at the date of the review; and
  - (c) review the outcomes for the end of that financial year that are forecast in the budget.
- (2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.
- (3) A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.

*\*Absolute majority required.*

- (4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

**Policy Implications:**

Nil

**5. CLOSURE**

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

\_\_\_\_\_.